



Z O N I N G A D J U S T M E N T S B O A R D S T A F F R E P O R T

FOR BOARD PREVIEW
December 12, 2013

2501-2509 Haste & 2433 Telegraph – El Jardin

Use Permit #12-1000012 to demolish a 6,950 square foot retail building at 2433 Telegraph Avenue and to construct a 89,054 square foot, 69’/6-story, mixed-use building to include 79 dwelling units, 30,356 square feet of commercial floor area and no off-street parking spaces.

I. Application Basics

A. Land Use Designations:

- General Plan: Avenue Commercial
- Area Plan: Southside Plan
- Zoning: C-T, Commercial-Telegraph

B. Permits Required:

- Use Permit, BMC §23C.08.050, to demolish the non-residential building at 2433 Telegraph Avenue;
- Administrative Use Permit, under BMC §23E.04.020, to allow mechanical penthouses, elevator equipment rooms, and other architectural elements, to extend to 87’;
- Use Permit, under BMC §23E.04.050.E, to reduce the rear yard setback from 15’ to zero;
- Use Permit, under BMC §23E.56.030.A & under BMC §23E.56.050.A, to construct a mixed-use building; and
- Use Permit, under BMC §23E.56.080.C, to eliminate the existing parking space.

C. Waivers/Reductions of Development Standards Pursuant to Government Code 65915(e):

- To allow greater height (69’ proposed, 50’ maximum); and
- To allow more stories (6 proposed, 4 maximum).

D. Concession Pursuant to Government Code 65915(d):

- To allow more floor area (89,054 square feet proposed, 65,625 square feet maximum).

E. CEQA Determination: Pending

F. Applicant: Kirk Peterson, Kirk E. Peterson & Associates Architects, 5253 College Avenue, Oakland CA 94608

G. Web Access: DRC and ZAB staff reports are available via the internet: http://www.ci.berkeley.ca.us/Planning_and_Development/Zoning_Adjustment_Board/2501_Haste.aspx

Figure 2: Ground Floor Plan

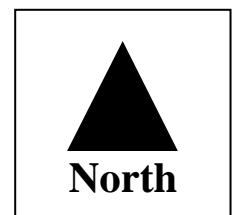
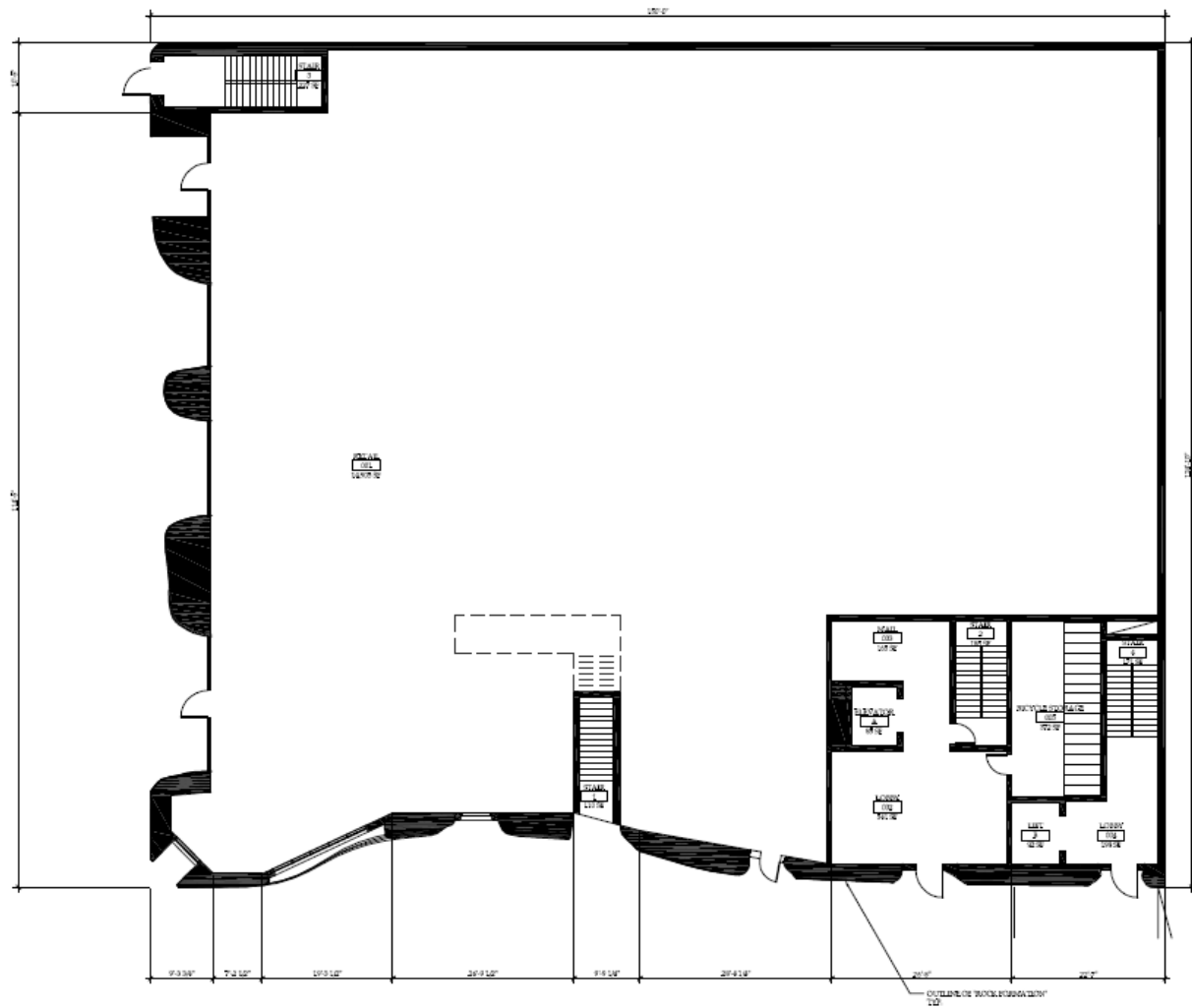


Figure 3: Haste Street Elevation



Figure 4: Telegraph Avenue Elevation



Table 1: Special Characteristics

Characteristic	Explanation
Affordable Housing	This project is subject to the City's Affordable Housing Mitigation fee.
Alcohol Service/ Food Service	None Proposed
BMC 17.08 Creeks	No creek or culvert exits within 300' of the site.
Density Bonus	Pending
Green Building: - LEED - Solar Ready	Pending
Green House Gasses	Potential impact to be determined.
Historic Resources	On April 4, 2013, the demolition of 2433 Telegraph Avenue was referred to the LPC. Because the building did not appear to meet California Register or City of Berkeley Landmark Preservation Ordinance criteria, the LPC took no action with regard to the building pursuant to Section 23C.08.050.C. On August 22, 2013, the ZAB approved Use Permit & Variance #07-1000023 to allow the relocation of the Woolley House Landmark building, from 2509 Haste Street to 2506 Dwight Way.
Oak Trees	No Coast Live Oak trees are located on the site.
Seismic Hazards	Site is not within area mapped for liquefaction, landslide, or fault rupture zone.
Soil/Groundwater Contamination	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites). Standard Conditions of Approval would apply.
Traffic	Potential impact to be determined.
Transit	AC Transit: F Transbay and the 1/1R, 49, 51 & 52 Local serve the site. BART: The Ashby & Downtown Berkeley stations are roughly 1 mile to the southwest or northwest of the site.
Transportation Demand Management	Pending

Table 2: Land Use Information

Location	Existing Uses	Zoning	General Plan Designation
Subject Property	2-story Commercial Building Vacant Parcel (former Berkeley Inn) 2-story Residential Building	C-T	Avenue Commercial
Surrounding Properties	North Commercial: Rasputin Music		
	South Commercial: Amoeba Records		
	West Sequoia Building Site		
East	UC Housing/ Anna Head School	R-S	High-Density Residential

Table 3: Project Chronology

Date	Action
October 16, 1989	The Woolley House was designated a City of Berkeley Landmark.
November 9, 1987 1990	The Berkeley Inn was designated a City of Berkeley Landmark. Fire damages the Berkeley Inn; the building was subsequently demolished.
April 19, 2012	Use Permit UP #12-1000012 Application Submitted.
April 4, 2013	The demolition of 2433 Telegraph Avenue was referred to the LPC. Because the building did not appear to meet California Register or City of Berkeley Landmark Preservation Ordinance criteria, the LPC took no action with regard to the building pursuant to Section 23C.08.050.C.
June 20, 2013	DRC: Preview/advisory Comments.
July 11, 2013	LPC: Public Hearing to Approve Structural Alteration Permit to allow the relocation of the Woolley House to Dwight/Regent.

August 22, 2013	ZAB: Public Hearing to Approve Use Permit & Variance to allow the relocation of the Woolley House Dwight/Regent.
November 26, 2013	ZAB: Public Hearing Notice Released.
December 12, 2013	ZAB: Public Hearing to Preview Project.

Table 4: Development Standards

Standard BMC Sections 23E.56.070 & 23E.56.080		Existing Conditions	Proposed	Permitted/ Required	
Lot Area (SqFt)		18,750			
-2433 Telegraph		6,950	18,750	N/A	
-2501 Haste		8,800			
-2509 Haste		3,000			
Parking: Autos and Bikes (SqFt)		173	0	N/A	
- Residential Floor Area (SqFt)		3,100	58,698	No Limit	
- Retail (SqFt)		7,714	30,356	No Limit	
Gross Floor Area (SqFt) - Total		10,814	89,054	65,625	Req DB or Variance
Floor Area Ratio		0.58	4.75	3.5	
Dwelling Units		1	79	N/A	
Building Footprint (SqFt)		6,605	18,725	No Limit	
Lot Coverage		35.2%	99.9%	No Limit	
Building Height	Average Height	N/A	69'-3"	50' max	60' w/ Use Permit
	Stories	2	6	4 max	5 w/ Use Permit
Building Setbacks	East Property Line (Rear)			15'	Use Permit to Reduce
	Telegraph Avenue (Front)	N/A	0		
	Haste Street (Street Side)				None Required
	North Property Line (Interior Side)				
Roof-top Projections	Stairwell/lobby	N/A	87	Requires Use Permit (see Section IV.E)	
	Roof-top Trellis				
Usable Open Space (SqFt)		215	16,514	3,160	
2nd floor			2,167		
3rd floor			0		
4th floor		N/A	1,392		
5th floor			802		
6th floor			1,334		
Roof Deck			10,819		
Parking	Automobile - Total	1			
	- Dwelling Units	1	0	None Required	
	- Retail	0			
	Bicycle	0	tbd	15	

II. Project Setting & Description

A. Vicinity: The site is located on Telegraph Avenue in the C-T Telegraph Avenue Commercial District. There are retail and other commercial buildings along Telegraph Avenue to the north, south and west of the site. To the east is the UC Anna Head housing development that provides housing for over 400 students in a 6-story dormitory building. To the west of the site the ZAB recently approved the construction of a mixed-use development with 42 residential units and 5,791 sq. ft. of commercial space to include a full and quick serve restaurant within a four story building known as the New Sequoia. To the north is a one and 2-story building that houses Rasputin Music. To the south is a one-story building across Haste that houses Amoeba Records.

B. Site Conditions: The existing site is made up of 3 parcels. The first, along the northern portion of the site contains a building known as the “Galaxxi Building.” This building was last used for retail use, and is a 1-story w/mezzanine concrete building with a flat roof. At the corner of Haste and Telegraph is the site of the former Berkeley Inn. This building was demolished in the 1990’s and has remained vacant. The last portion of the site, at the southeast corner, is the site of the Woolley House. The Woolley House is a 2-story wood clad building that was originally residential but was used most recently by the Telegraph Avenue Association as an office.

C. Neighbor/Community Outreach: The applicant held a neighbor meeting in April 2012. On November 26, 2013, the City mailed 477 notices to adjoining property owners and occupants, and to interested neighborhood organizations. Letters may, if any, may be found in Attachment 3.

D. Design Review: As noted in Table 3, the Design Review Committee (DRC) conducted a preview of the project in June, 2013; the DRC was generally positive and offered advisory comments on elements requiring further development. The DRC asked the applicant to look more carefully at how this project will work with Telegraph Avenue in general, as well as how it interfaces with adjacent parcel lines. Although only preliminary zoning information was included in the submittal, the DRC voiced some concern that the overall mass may create too much impact on the neighborhood. More detailed information on significant building elements, unit plans, and open space design will be submitted for Preliminary Design Review, as well as a much more detailed presentation as to how this project will fit into its Telegraph Avenue context. A summary of advisory comments follow for reference.

- Design concept looks fun.
- Reduce number of floors by one – too large for the neighborhood.
- Some windows are buried in the ‘base’. Look carefully at the floor plans.
- Concerned that adjacent property to the north is only 5’ away from the property line.
- East façade is only 16’ between two buildings and is too flat and plain. Look at more articulation.
- Show how this building works with Telegraph.
- Pits gather trash.
- Plans and interiors should have more information and more detail.
- Put open space on the Telegraph side of the project and cover the rest with solar panels.

To date the applicant has not presented a revised design to respond to the comments offered by the DRC.

E. Project Description: The project would provide approximately 29,000 square feet of commercial floor area within a 15,021 square foot basement and a 14,905 square foot ground floor. The residential lobby and a 372 square foot bike storage room would occupy a portion of the ground floor along Haste Street. The residential units would be located on the 2nd through 6th floors, distributed as shown in Table 5:

Table 5: Number and Type of Units, by Floor

Unit Type	1-bed	1-Bed+	2-bed	3-bed	Total
Average Unit Size (Sq Ft)	606	782	872	1,134	
2 nd Floor	14	1	1	2	18
3 rd Floor	12	2	2	2	18

4 th Floor	11	2	2	1	16
5 th Floor	11	1	2	1	15
6 th Floor	8	1	2	1	12
Total	56	7	9	7	79

All residential floors would be separated from the northern and eastern property lines by 5’.

Usable open space would be provided at the 2nd, 4th, 5th, 6th floors and on the roof. (See Table 4 for the areas).

III. Issues and Analysis

A. Consistency with C-T District and Avenue Commercial Designation:

Consideration of the project in general, and the applicant’s request to exceed the height/story limit, is guided by the City’s General Plan and the C-T Findings, which offer the following:

- Policy LU-3 Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
- Policy LU-27 Avenue Commercial Areas, Action F: Encourage sensitive infill development of vacant or underutilized property that is compatible with existing development patterns.
- Policy H-16 Transit-Oriented New Construction: Encourage construction of new medium and high density housing on major transit corridors and in the Downtown consistent with zoning and compatible with the scale and character of these areas.
- Policy UD-16 Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
- Policy UD-22 Regulating New Construction and Alterations: Regulate new construction and alterations to ensure that they are individually well-designed and that they are so designed and located as to duly respect and where possible enhance the existing built environment.
- C-T Purpose Q: Ensure that new buildings, additions and renovations harmonize with and enhance the unique character of the District
- Policy H-19 Regional Housing Needs: Encourage housing production adequate to meet the housing production goals established by ABAG’s Regional Housing Needs Determination for Berkeley.
- Policy EM-5 “Green” Buildings: Promote and encourage compliance with “green” building standards.
- Policy UD-33 Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.
- Policy UD-26 Pedestrian-Friendly Design: Architecture and site design should give special emphasis to enjoyment by, and convenience and safety for, pedestrians.

- Policy UD-27 Relation to Sidewalk: Projects generally should be designed to orient the main entrance toward the public sidewalk, not a parking lot, and avoid confronting the sidewalk with a large windowless wall or tall solid fence.
- Policy UD-28 Commercial Frontage: Commercial buildings on streets with public transit generally should have no appreciable setback from that street's sidewalk, except in the case of occasional plazas or sitting areas that enhance the area's pedestrian environment.
- Policy LU-27 Avenue Commercial Areas, Action A: Require ground-floor commercial uses to be oriented to the street and sidewalks to encourage a vital and appealing pedestrian experience.
- Policy UD-23 Design Review: Ensure that the design review process ensures excellence in design and that new construction and alterations to existing buildings are compatible with the best elements of the character of the area.
- Policy UD-32 Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

B. Demolition Ordinance: The demolition of 2433 Telegraph Avenue is subject to approval of a Use Permit, per Section 23C.08.050 of the Zoning Ordinance. The findings to approve follow:

1. Is required to allow a proposed new building or other proposed new Use;
2. Will remove a building which is unusable for activities which are compatible with the purposes of the District in which it is located or which is infeasible to modify for such uses;
3. Will remove a structure which represents an unabatable attractive nuisance to the public; or
4. Is required for the furtherance of specific plans or projects sponsored by the City or other local district or authority. In such cases, it shall be demonstrated that it is infeasible to obtain prior or concurrent approval for the new construction or new use which is contemplated by such specific plans or projects and that adhering to such a requirement would threaten the viability of the plan or project.

To approve this Use Permit, the ZAB must make one of the above findings.

C. Compliance with the C-T District Development Standards. The C-T District limits building height/stories to 50'4 stories and allows a maximum Floor Area Ratio of 3.5. However, the project exceeds the height, stories and FAR limits (69'-3" height, 6 stories, 4.75 FAR proposed). The ZAB may approve a Use Permit to increase a project's maximum height to 65'5 stories if it makes both of the following findings:

1. At least 50% of the total building floor area is designed for residential use; and
2. The project will not result in a significant reduction in sunlight on Telegraph Avenue sidewalks.

At least 50% of the total floor area is devoted to residential use, so this project will comply with #1. Regarding #2, shadow studies are presented within attachment 1 (pages 11-13) to show the project shadows. Staff suggests that the ZAB review these studies to consider the shadow impacts to the sidewalks along Telegraph Avenue.

To exceed the 65'/5 limit, this project requires either a State Density Bonus or a Variance. To proceed, the applicant must choose which option to pursue, and provide supporting documentation.

D. Compliance to Setback when Adjacent to Residential District. When a Commercial lot abuts a Residential District (as in this case), Section 23E.04.050.C, requires a setback of 10', or 10% of the depth of the lot, whichever is greater. In this case the lot depth is 150', and the minimum required setback is thus 15'. As the ground floor setback is zero, and upper floor setback is 5', a Use Permit would be required to reduce the rear yard setback from 15' to zero. To approve this Use Permit, the ZAB must find that such smaller yard would provide greater privacy or improved amenity to a lot in the residential District. Staff suggests that the ZAB review the proposed setback in relation to the 6-story building to the east to determine if the proposed setback is appropriate.

V. Recommendation

HOLD a Public Hearing to preview the project, to solicit community comments, and to provide comments to the Staff and to the applicant.

Attachments to this report:

1. Plans and Applicant Statement
2. Public Hearing Notice, Dated November 26, 2013
3. Correspondence

Staff Planner: Greg Powell, gpowell@ci.berkeley.ca.us (510) 981-7414