



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 DISCUSSION
JANUARY 8, 2015

2211 Harold Way

Continued review and comment on the community benefits package proposed by the project sponsor for a proposed 18-story, mixed-use building in Downtown Berkeley. Proposed benefits include a project labor agreement, new cinemas to replace the existing ones, transportation demand management features, a public plaza, and Harold Way streetscape improvements. The project would include 302 dwelling units, a six-screen cinema complex, about 10,500 square feet of ground-floor commercial space, and a 171-space underground parking garage.

I. Background

On December 11, 2014, the ZAB opened a public hearing on the applicant's proposal for "significant community benefits" pursuant to BMC Section 23E.68.070.B; see December 11 report for further information and staff analysis on the benefits requirement and the proposed benefits. The ZAB accepted public testimony regarding this topic, provided direction to the applicant and staff, and continued the hearing to January 8, 2015 to allow further public testimony and ZAB discussion. ZAB members requested that the applicant and/or staff provide the following information at the next meeting (staff updates are provided for each item):

- ZAB request: The applicant should come prepared to discuss the status of discussions or agreements with Landmark Theatres and Habitot Children's Museum (two of the current tenants at the site whose existing facilities would be removed by the project). In addition, staff should reach out directly to these organizations to learn the status of these discussions, and share this information with the ZAB, or invite representatives of the organizations to attend the next ZAB meeting and share it directly.

Staff update (Landmark): Staff contacted Landmark's corporate offices and spoke with Michael Fant, Landmark's Vice President of Real Estate and Development. Mr. Fant stated that Landmark has been in discussions with the applicant for several months, and that, while no agreement has yet been

reached, he anticipates an agreement will be reached in the near future. Mr. Fant also stated that Landmark has requested modifications to the plans for the new theaters, and the applicant has recently presented revised plans to Landmark which incorporate many of the requested changes. Staff has requested that Mr. Fant attend the next ZAB meeting, but he has not confirmed his attendance as of this writing. Staff has also asked the applicant to request that a representative from Landmark attend the meeting.

Staff update (Habitot): Staff contacted Habitot director Gina Moreland to determine the current status of discussions between the applicant and Habitot (see attached e-mail). Ms. Moreland stated that no agreement has been made, nor have any recent discussions with the applicant occurred, except that the applicant stated he would be willing to meet with Ms. Moreland before the next ZAB meeting. As far as staff is aware, no meeting has occurred as of this writing.

- ZAB request: Provide information on how many construction workers will be Berkeley residents.

Staff update: Staff met with the applicant and representatives of the Building and Construction Trades Council of Alameda County (BCTCAC) to discuss this issue and other aspects of the project labor agreement on December 17, 2014. The BCTCAC representatives stated that the agreement includes provisions for local hiring, but they did not have specific details as to the percentage or number of Berkeley residents within each trade or apprentice program, or the local hiring/dispatch procedures. At the conclusion of the meeting, the applicant committed to providing this information prior to or at the ZAB meeting; it has not been provided as of this writing.

- ZAB request: Verify that none of the proposed community benefits are being used to qualify for the project for a LEED Gold rating, which is a minimum requirement for Downtown projects.

Staff update: The applicant has provided the attached draft GreenPoint Rated and LEED checklists; the City allows either checklist to be used (see BMC Section 23E.68.085.A). The GreenPoint Rated checklist shows the project would achieve a score of 125, where 120 is equivalent to LEED Gold, and the LEED checklist shows the project would achieve a score of 66, where 60 is the minimum for a Gold rating. If approved, the project would be subject to a condition requiring verification of the applicable minimum score by a qualified consultant prior to issuance of a building permit.

On the GreenPoint Rated checklist, the applicant has claimed two points for traffic calming features such as bulb-outs, and two points for bicycle parking, both of which are part of the proposed benefits package. As discussed in the December 11, 2014 staff report, it is possible these features may not be counted as community benefits as they are either already required or standard practice for major projects in the Downtown. If the applicant can demonstrate

that these are significant benefits beyond what is otherwise required, they could not be counted toward the minimum green building score, and the applicant would need to demonstrate that the project still meets the minimum score without these features. As noted above, the current GreenPoint Rated checklist exceeds the minimum score by five points.

The GreenPoint Rated checklist also includes a credit for stormwater treatment features. Staff is working to clarify with the project applicant whether this credit includes the stormwater treatment basins in Harold Way, which the applicant states are only for runoff from the public right-of-way and not from the project, or whether the credit is limited to treatment of the private runoff (in which case the public basins could be considered “beyond what is otherwise required”).

The LEED checklist includes two points for “Transportation Demand Management”, one point for “Access to Civic and Public Spaces”, and four points for “Stormwater Management”. Staff is working to clarify with the project applicant whether these items overlap with items in the benefits package. As discussed above, if it is determined that these items include features in the benefits package, they could not be counted toward the minimum green building score. Alternatively, if they are needed to achieve the minimum score, they would need to be removed from the benefits package.

- ZAB request: The scope of the economic peer review report (which is intended to verify the cost figures in the applicant’s benefits package) should be provided to the ZAB, and the report should not be started until after the ZAB provides further comments on the benefits package on January 8.

Staff update: The scope of work for the peer review is attached, and generally includes developing and applying a methodology for quantifying the value of the proposed benefits, and comparing the benefits to other metrics such as other City fees, percentage of total project costs, and value creation. The scope of work is intentionally somewhat open-ended, in order to reflect the iterative nature of the community benefits process. At this writing, work has not begun on the report, however, it is possible that work may begin prior to January 8 in order to expedite future completion of the report. Any work prior to January 8 would be done with the understanding that the applicant is responsible for paying for any increase in the scope of the report based on additional ZAB comments. Furthermore, if work begins prior to January 8, the report would still be in its early stages and it would not be difficult to revise the scope of the report based on ZAB comments provided on January 8.

II. Recommendation

Staff recommends that the ZAB:

1. Accept additional public comment on the proposed community benefits package;

2. Provide direction to staff on any further analysis it would like on the benefits package; and
3. Provide feedback to the applicant on whether it believes the finding in Section 23E.68.090.E (see December 11 staff report) can be made, and if not, what changes to the benefits package (i.e., different or additional benefits) might be necessary.

Attachments:

1. E-mail from Habitot director
2. Draft green building checklists
3. Scope of work for economic peer review
4. Correspondence received

Staff Planner: Aaron Sage, AICP; asage@cityofberkeley.info (510) 981-7425