

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 2211 Harold Way

From: Sustainable Berkeley Coalition [<mailto:sustainableberkeleycoalition@gmail.com>]
Sent: Tuesday, May 12, 2015 1:00 PM
To: Zoning Adjustments Board (ZAB); Powell, Greg; Allen, Shannon
Cc: sustainableberkeleycoalition@gmail.com
Subject: Fwd: 2211 Harold Way

The Sustainable Berkeley Coalition has been alerting members of the community that their communications to the Zoning Adjustment Board and other boards and commissions are not being forwarded to the city board and commission members as required by the city and outlined in the online directions to the community. The Sustainable Berkeley Coalition has recommended to the community to copy sustainableberkeleycoalition@gmail.com so the the city online websites can be checked for confirmation.

You are reminded as per the city statement under the ZAB website <http://www.ci.berkeley.ca.us/zoningadjustmentsboard/> that it is your responsibility to relay all communications from the public. The forwarded email is not posted as communication from the public.

The Secretary of the commission is responsible for relaying all communications from the public to the members of the commission. The Secretary's contact information is listed below.

Contact:
Zoning Adjustment Board Secretary
Land Use Planning
(510) 981-7410
E-mail: ZAB@CityofBerkeley.info

Mailing Address:
Zoning Adjustments Board Secretary
Land Use Planning Division
2120 Milvia Street, 2nd Floor
Berkeley, CA 94704

----- Forwarded message -----

From: Ellen Strong <honetzy1@gmail.com>
Date: Mon, May 11, 2015 at 8:32 AM
Subject: 2211 Harold Way
To: ZAB@cityofberkeley.info
Cc: sustainableberkeleycoalition@gmail.com

As a Berkeley resident, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before the Final EIR is certified and the project approved.

Ellen Strong

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 2211 Harold Way EIR: Recent design changes & needed revisions to EIR

From: Shela Ray [<mailto:sray@spacework.com>]
Sent: Tuesday, May 12, 2015 11:57 AM
To: Zoning Adjustments Board (ZAB); Zarnowitz, Sally; Burns, Anne M
Subject: 2211 Harold Way EIR: Recent design changes & needed revisions to EIR

Secretaries, please distribute this to members of ZAB, LPC and DRC.

Members of ZAB, LPC, DRC & Staff,

The Draft EIR used the January 2014 plans for this project. The design has changed significantly recently and these changes have not been adequately referenced or evaluated in the Final EIR submittal.

In particular, as of the February 2015 design revision, the 'north shoulder' was pulled back 23' in consideration of the view from the Campanile, AND the 'south shoulder' appears to have been raised by 4 stories/40 feet! This destroys the gradual step back at 5th and 12th floors that is supposed to respect the Shattuck Hotel and conform to the Downtown design guidelines which stipulate 'no abrupt changes in height.' This is discussed in the EIR. Now the height of the south shoulder is only two floors shorter than the main tower, creating in effect a double tower, clearly overwhelming the Shattuck Hotel.

The change to the South shoulder is not adequately described in the Feb 2015 submittal:

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_ZAB/2015-02-18_RESUB_Design%20Options_2211%20Harold.pdf

- North Shoulder has been reduced by 23' relocating the units to the South shoulder.

The submittal quantifies the change to the north shoulder but not to the south shoulder. This higher south shoulder design was also presented in the packages to DRC and LPC in April and May. The submittals failed to include revised elevation plans which would show exact heights to scale in relation to the adjacent buildings. These have been requested by LPC, so there should be more accurate information forthcoming.

https://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_LPC/2015-05-07_LPC_ATT2.a_2211%20Harold_Project%20Design%20Plans.pdf

Once the revised plans are completed, the EIR should be revised and this change re-evaluated. There are a number of references to the step backs and the 12-story portions of the building. Building elevations, street strip elevations and photo simulations are no longer accurate.

The design barely made it provisionally out of DRC, has just begun review by LPC, and public criticism and input are growing. Since major design changes are still being made, and such changes are currently under review, it would be premature to certify this inaccurate 'final' EIR.

I have also come across, in researching this, that, especially for designs that are changing frequently, a City may choose to delay certifying a final EIR and certify it 'concurrent with project approval' - (City of Santa Monica, Bergamot Transit Village).

Thank you for considering these issues.

Shela Ray

May 6, 2015

ZAB Secretary

Zoning Adjustment Board

Land Use Planning Division (Attn: ZAB Secretary)
2120 Milvia Street
Berkeley, CA 94704
Via e-mail: zab@ci.berkeley.ca.us

RE: Supplemental Comments on the 2211 Harold Way Mixed Use Project Environmental Impact Report (Harold Way EIR) AGENDA ITEM #6 (April 23, 2015) carried forward to May 14, 2015 Meeting

SUMMARY: The Harold Way EIR cannot be approved by Berkeley until after the “significant community benefits” associated with the project are identified within the EIR and then examined for their environmental effect

Based upon further review of the EIR, I wanted to follow up on several issues raised in my oral and written comments (attached) before the Zoning Adjustment Board (ZAB) on Thursday (April 22, 2015). I particularly want to focus on the EIR’s own conclusions regarding the need to identify and evaluate significant community benefits prior to the adoption of the EIR. To have the Council approve the project without having considered the environmental effects of these “significant community benefits” would result in the Board taking discretionary action without the benefit of environmental review.

Identification of Significant Community Benefits is Critical in Order to Determine if the EIR’s Project Objectives are met

In addition to significant community benefits being a required “condition of [project] approval”¹ as noted in my initial comments, the EIR itself describes achievement of these community benefits as one of the “Project Objectives” stating:

The objectives of the applicant for the proposed 2211 Harold Way Mixed-Use Project are to: 1. Implement the Downtown Area Plan and Street & Open Space Improvement Plan by leveraging the full development potential under Zoning Ordinance standards in order to generate the revenue necessary to provide all of the community benefits envisioned in the Downtown Area Plan, plus additional community and public benefits proposed in the project application, and maintaining project financial feasibility.² (emphasis added)

It is thus unclear how the EIR can determine if the project meets its required “project objective” without consideration of the issue of significant community benefits, particularly as this criteria is then carried over to the CEQA required “alternatives analysis.”³

Secondly, significant community benefits could include actions that have a physical effect on the environment, and thus need to be evaluated under CEQA. As noted in my comments, this could include

¹ Berkeley Municipal Code Section 23E.68.090

² Draft EIR, Section 2.5 Project Objectives, p. 2-57

³ For example, the adequacy of “generat[ing] the revenue necessary to provide all of the community benefits envisioned in the DAP” appears to be used as a criteria in evaluating the “Preservation Alternative” but there is no analysis as to how this analysis was done or the criteria used. (Draft EIR, p. 5-16)

actions proposed by the developer as well as physical improvements identified in Section 23E.68.090. The EIR itself also identifies potential physical changes associated with the provision of significant community benefits such as the Street & Open Space Improvement Plan (SOSIP).⁴ Almost all of SOSIP's proposals involve physical alteration to the Berkeley cityscape.

Third, in preparing the EIR, the City has relied on the provisions of Senate Bill 226 (Stats. 2011, Ch. 469) which provide for a streamlined environmental review of infill projects. As noted in my comments, Senate Bill 226 also notes that in determining the "significant effect" of an infill project, an infill project is defined as both "the project or project site." The EIR itself reconfirms this requirement, noting that in filling out the Infill Environmental Checklist that is necessary in order to qualify for the infill exemption;

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts. (emphasis added)⁵

Once again, this reconfirms the necessity to evaluate "significant community benefits" within the confines of the EIR.

Fourth, in order for the Harold Way project to be approved, the significant community benefits must be specifically identified by the Board and become a "condition of [project approval]." Thus these benefits are inherently feasible and known outcomes of the project. Under the Berkeley Municipal Code, the Board is precluded from adopting "speculative" community benefits.

Finally, there is no requirement in the Berkeley Municipal Code that "significant community benefits" are limited solely to the Downtown area. Instead, in its discussions regarding community benefits the City Council specifically determined that community benefits need not be limited to the Downtown area.⁶ Thus it is quite possible that these benefits could occur outside the geographic boundaries that were used in preparing the Downtown Plan's EIR.

Accordingly, it is premature at this time for the Board to adopt the EIR.

Respectfully,

James Hendry

jameshendry@sbcglobal.net

ATTACHMENT

- Comments on the 2211 Harold Way Mixed Use Project EIR submitted to ZAB on April 22nd, 2015

⁴ Draft EIR, Section 2.5 Project Objectives, p. 2-57

⁵ See Appendix A (p. 55), where the EIR seeks to document its compliance with the adopted CEQA Appendix M (Infill Environmental Checklist) requirements.

⁶ Presentation to City Council on the Downtown Plan, Berkeley City Council meeting of March 6, 2012

May 10, 2015

ZAB Secretary
Zoning Adjustment Board
Land Use Planning Division (Attn: ZAB Secretary)
2120 Milvia Street
Berkeley, CA 94704
Via e-mail: zab@ci.berkeley.ca.us

Request to Defer Consideration of the Harold Way Mixed Use Project Environmental Impact Report (Harold Way EIR) AGENDA ITEM #6 (April 23, 2015) carried forward to May 14, 2015 Meeting

Dear Board Members:

I am requesting that you defer consideration of the Harold Way EIR until after the Berkeley City Council has considered and resolved the issue of “significant community benefits.”

At the May 5, 2015 City Council meeting held to discuss significant community benefits, Mayor Bates stated and the entire City Council agreed that there needed to be further discussion of these benefits in subsequent meetings. Deferral of final EIR adoption would allow “significant community benefits”, likely to change the physical attributes and environmental impacts of downtown projects, to be considered as appropriate in the CEQA process. Councilmember Wengraf specifically sought staff clarification of whether the Council would, in determining community benefits, be engaging in “discretionary” decision-making, which requires consideration in the EIR process. As the EIR will likely need to be reconsidered once these benefits are included in the project design, there is little benefit to approving the project EIR now.

The Council’s decision to continue considering significant community benefits creates another public forum in which the public must participate. Requiring the public to simultaneously follow the City Council benefits’ process in addition to the EIR and on-going meetings of the Landmarks Preservation Commission creates a public participation overload that benefits neither the public nor decision-makers.

Thus, I respectfully request that the Harold Way EIR be deferred until the City Council has resolved the issue of significant community benefits.

Sincerely,



Kathryn Harrison

Jacob, Melinda

Subject: FW: 2211 Harold Way

From: Ellen Strong [<mailto:honetzy1@gmail.com>]
Sent: Monday, May 11, 2015 8:31 AM
To: Allen, Shannon
Cc: sustainableberkeleycoalition@gmail.com
Subject: 2211 Harold Way

As a Berkeley resident, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before the Final EIR is certified and the project approved.

Ellen Strong

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Cut your Bayflicks email marketing/newsletter costs in half

From: Courtney Wilson [<mailto:c.wilson@honestmailoutreach.net>]
Sent: Monday, May 11, 2015 10:52 AM
To: Zoning Adjustments Board (ZAB)
Subject: Cut your Bayflicks email marketing/newsletter costs in half

Hi,

I thought you might be interested in trying out HonestMail.net for your Bayflicks email marketing/newsletters. We typically charge half of what our competitors such as Constant Contact, iContact, Vertical Response, and MailChimp charge ([See our plans and pricing](#)) simply by keeping our overhead low. You will still get great deliverability, features and round the clock phone support. You can see our [detailed features list competitive comparison](#).

Switching to us is easy as we provide support to help you move over any lists, campaigns, and signup forms. We even let your send to up to 25k of your current lists in our free trial to get comfortable with us before you pay. If you would like to talk further please let me know or you can go ahead and [signup for a free trial](#).

Best regards,

Courtney Wilson
Honest Mail Marketing
373 Park Avenue S. 6th Floor
New York, NY 10016
P: 212 252-2182 ext 5
E: c.wilson@honestmailoutreach.net
<http://honestmail.net>

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Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 2211 Harold Way discussion: Correction

From: Charlene Woodcock [<mailto:charlene@woodynet.net>]
Sent: Monday, May 11, 2015 6:17 AM
To: City Clerk; Berkeley Mayor's Office; Maio, Linda; Moore, Darryl; Anderson, Maxwell; Arreguin, Jesse L.; Capitelli, Laurie; Zarnowitz, Sally; Wengraf, Susan; Worthington, Kriss; Droste, Lori; Zarnowitz, Sally; Zoning Adjustments Board (ZAB); Burns, Anne M; Powell, Greg; Allen, Shannon; Jacob, Melinda; Amoroso, Alexander; Merker, Mary Ann
Subject: 2211 Harold Way discussion: Correction

To: City Council members, city commission members

Re: Berkeley's Shattuck Cinemas

Council member Lori Droste and ZAB member Denise Pinkerton have recently opined on the declining economic state of movie attendance in public discussions of the developer proposal to demolish the Shattuck Cinemas in favor of a hugely out-of-scale building in Berkeley's historic core.

This opinion requires correction with reference to Berkeley and East Bay attendance at the Shattuck Cinemas, which draw people to downtown Berkeley from all over the East Bay. Far from being in decline, Shattuck Cinemas' attendance over recent years has steadily increased and they are the major contributor to the vibrancy of our downtown which has been the stated goal of the council in the past.

It is of crucial importance that the facts be considered by council and commission members rather than vague and unfounded opinions on the critical role of the Cinemas and their 25 employees in the economic health of our city as well as its cultural enrichment.

In an email on May 6 Shattuck Cinemas manager Kimberlee West reports the following:

"My theatre attracts 275,000 to 300,000 people every year. This has an irrefutable impact on Berkeley merchants."

"I also want to share with you some facts rebuking concerns over the sustainability and longevity of having a movie theatre in our downtown. Despite the fact that the movie exhibition industry was down nationally, Shattuck Cinemas grew 2% last year (2014 over 2013 calendar). Since 2008 we have increased box office admissions at the Shattuck 25%. Our theatre is thriving and is a mainstay of a prosperous and growing cultural community."

Please correct the record so that the community can have a rational discussion about the detriment to Berkeley residents posed by the proposed demolition of our very successful and highly valued Shattuck Cinemas. And please note that the notion of somehow replacing them in the proposed 2211 Shattuck Way development is not credible. At no point have the developers indicated a commitment to replacing the ten screening rooms their plan would destroy, let alone to providing the painstaking design and intelligent and successful management the theatres enjoy. Nor have they indicated how the Shattuck Cinemas would be held intact with no income over the three to four years of construction. The Fine Arts Building is a monument to the false promises of for-profit developers.

Sincerely,

Charlene M. Woodcock
2355 Virginia Street
Berkeley 94709