

**Jacob, Melinda**

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**Subject:** FW: Corrected letter regarding the June 25 Council Meeting  
**Attachments:** 2015 06 17 Ltr, Dean to City Manager and Council, Rescheduling of Community Benefits Mtg on June 25.docx

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**From:** Shirley Dean [<mailto:shirley.dean@sbcglobal.net>]  
**Sent:** Wednesday, June 17, 2015 5:27 PM  
**To:** Daniel, Christine; All Council  
**Cc:** Zoning Adjustments Board (ZAB)  
**Subject:** Corrected letter regarding the June 25 Council Meeting

Ms. Daniel  
Mayor Bates and Members of the City Council

Earlier I sent you a letter regarding rescheduling the Council meeting of June 25. There was an error in the dates in that letter.

As this seems to be one of those days when I can't do anything right, I re-sent you a copy of the same letter with the wrong date.

I have not attached a corrected letter. Please accept my sincere apologies for the 2 previous e-mails.

Shirley Dean

June 17, 2015  
CORRECTED VERSION

Christine Daniel, City Manager  
Mayor Bates and Members of the City Council  
via e-mail

I am writing to tell you of my strenuous objection to the scheduling of a Council meeting on June 25 to consider significant community benefits that will be required of Downtown building projects over 75 feet. One of those buildings, 2211 Harold Way is not only the largest single building proposed to be constructed in Berkeley, it would be the tallest building (194 feet) in our Downtown, and, as such, has generated considerable interest, to say the least. As you know, 2211 Harold Way is currently under active consideration by both the Zoning Adjustments Board and Landmarks Preservation Commission.

Yet, you have scheduled this item for discussion at 5:00 pm, a time when most residents cannot attend. You certainly must know that many, many residents will want to comment, and those that manage to get there at 5:00 pm will be given a whole one minute to say a few words. Because of this completely insufficient speaking time, many will present written remarks that quite evidently you will ignore, as I have been led to understand, you intend to proceed to take a vote that very night with no time taken to either consider what was said verbally or review what is given to you in writing.

To make matters worse, you well know that the Zoning Adjustments Board (ZAB) is meeting on that same date in Council Chambers where you would normally be meeting. The ZAB meeting starts at 7:00 pm and on their agenda is action to certify the Environmental Impact Report (EIR) regarding 2211 Harold Way. Can this be a coincidence of which no one is aware?

How will ZAB Members even know of your decision regarding community benefits or understand its nuances? Will a staff member drive from your meeting on Sacramento Street to the ZAB meeting on Martin Luther King, Jr. Way, and even find a parking space there in such a short time frame? For that matter how will the people attending and making comment at your meeting now have to rush to another location in time to make comment on the same project at another location? How will ZAB Members be able to fully understand and analyze a project once they do receive the information of your action? The community benefits required of these five tall buildings in the Downtown is certainly part of the EIR from the standpoint of how various parts of a specific proposal can be mitigated and/or would fall into the category of "overriding considerations" where the merits of the project outweigh the adverse impacts. Also, since these five buildings are such an important planning issue, shouldn't the Planning Commission have the opportunity to comment on these benefits?

You have known for the past three years since the adoption of 2010 Measure R, the Downtown Area Plan and Amendments to the Zoning Code in 2012, that the subject of significant community benefits needed to be addressed. Understandably adopting what they will be is not something you do on the fly, but you can't all of a sudden do it on one night, through the votes of two different legislative bodies, within a few short hours of each other. To do so, is

not only unfair, it is undemocratic and stands as an embarrassment to an entire community as well as invites unintended consequences.

Yes, I know the Mayor presented a proposal a few weeks ago, but now is the time that the community has to react to that proposal. Or, who knows, there may be other proposals presented since you have been accepting a lot of supplemental material handed out at the meeting and which give no opportunity for adequate community review. And, as we all now know, yet another design has just been presented which we all are scrambling to understand. Every meeting residents go to, there is a change. At some point, we have to reach an understanding regarding what exactly is under consideration.

There is time to reverse this nightmare schedule so that we can all sit back and call it a mere error, rather than what it appears to be - ramming home a project for the benefit of a wealthy Los Angeles developer.

If you must, keep your schedule for June 25, but allow a reasonable time for public comment at a time when most of the public can be present. On matters of great controversy or community interest, in order to give yourself time to contemplate and fully understand what has been put before you, hear the testimony and take no action until a subsequent meeting. Request that the ZAB reschedule any item on their June 25 agenda having to do with 2211 Harold Way to a time that you have completed your action on determination of significant community benefits for buildings exceeding 75 feet in the Downtown. The Mayor can call a Special Meeting of the City Council to do this.

I greatly appreciate your consideration of this letter, and look forward to your positive action to do the right thing.

Sincerely

Shirley Dean  
510-524-3223

cc: Chair Pinto and Members of the Zoning Adjustments Board

**Jacob, Melinda**

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**Subject:** FW: Letter re scheduling of Council and ZAB on June 26  
**Attachments:** 2015 06 17 Ltr, Dean to City Manager and Council, Rescheduling of Community Benefits Mtg on June 26.docx

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**From:** Shirley Dean [<mailto:shirley.dean@sbcglobal.net>]  
**Sent:** Wednesday, June 17, 2015 5:19 PM  
**To:** Daniel, Christine; All Council  
**Cc:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: Letter re scheduling of Council and ZAB on June 26

Ms. Daniel,  
Mayor Bates and members of the City Council

Earlier I sent you a letter with incorrect information. I have attached a corrected letter for your consideration. I should have double checked my information. I humbly apologize for the error.

Shirley Dean

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June 17, 2015

Christine Daniel, City Manager  
Mayor Bates and Members of the City Council  
via e-mail

I am writing to tell you of my strenuous objection to the scheduling of a Council meeting on June 26 to consider significant community benefits that will be required of Downtown building projects over 75 feet. One of those buildings, 2211 Harold Way is not only the largest single building proposed to be constructed in Berkeley, it would be the tallest building (194 feet) in our Downtown, and, as such, has generated considerable interest, to say the least. As you know, 2211 Harold Way is currently under active consideration by both the Zoning Adjustments Board and Landmarks Preservation Commission.

Yet, you have scheduled this item for discussion at 5:00 pm, a time when most residents cannot attend. Additionally, you have scheduled a mere 30 minutes to consider this item before you take up another extremely important item, the consideration of recommendations from the Homeless Task Force, which is scheduled for 5:30 pm on that same date. At the very least, this deserves a National Award in Poor Planning. You certainly must know that many, many residents will want to comment, and those that manage to get there at 5:00 pm will be given a whole one minute to say a few words. Because of this completely insufficient time, many will present written remarks that quite evidently you will ignore, as I have been led to understand, you intend to proceed to take a vote that very night with no time taken to either consider what was said verbally or review what is given to you in writing.

To make matters worse, you well know that the Zoning Adjustments Board (ZAB) is meeting on that same date in Council Chambers where you would normally be meeting. The ZAB meeting starts at 7:00 pm and on their agenda is action to certify the Environmental Impact Report (EIR) regarding 2211 Harold Way. Can this be a coincidence of which no one is aware?

How will ZAB Members even know of your decision regarding community benefits or understand its nuances? Will a staff member drive from your meeting on Sacramento Street to the ZAB meeting on Martin Luther King, Jr. Way, and even find a parking space there in such a short time frame? For that matter how will the people attending and making comment at your meeting now have to rush to another location in time to make comment on the same project at another location? How will ZAB Members be able to fully understand and analyze a project once they do receive the information of your action? The community benefits required of these five tall buildings in the Downtown is certainly part of the EIR from the standpoint of how various parts of a specific proposal can be mitigated and/or would fall into the category of "overriding considerations" where the merits of the project outweigh the adverse impacts. Also, since these five buildings are such an important planning issue, shouldn't the Planning Commission have the opportunity to comment on these benefits?

You have known for the past three years since the adoption of 2010 Measure R, the Downtown Area Plan and Amendments to the Zoning Code in 2012, that the subject of significant community benefits needed to be addressed. Understandably adopting what they will

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I greatly appreciate your consideration of this letter, and look forward to your positive action to do the right thing.

Sincerely

Shirley Dean  
510-524-3223

cc: Chair Pinto and Members of the Zoning Adjustments Board

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: Letter re scheduling of Council and ZAB on June 26

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**From:** Daniel, Christine  
**Sent:** Wednesday, June 17, 2015 5:08 PM  
**To:** 'Shirley Dean'; All Council  
**Cc:** Zoning Adjustments Board (ZAB); Numainville, Mark L.  
**Subject:** RE: Letter re scheduling of Council and ZAB on June 26

Dear Ms. Dean, the Community Benefits item is scheduled to be discussed by the City Council on Thursday, June 25<sup>th</sup> at a Special Meeting commencing at 5:00 p.m. The meeting will be held at Longfellow School. The Zoning Adjustments Board (ZAB) will meet on Thursday June 25<sup>th</sup>, at the Maudelle Shirek Building, commencing at 7:00 p.m. The ZAB agenda includes consideration of the EIR for the 2211 Harold Way project; that item will be agendized to be heard no earlier than 8:00 p.m. by the Board. The ZAB's consideration of the Use Permit for the 2211 Harold Way project will occur no earlier than their meeting in July. The Homeless Task Force presentation to the City Council is scheduled for Tuesday June 23d at 5:30pm, at a Work Session to be held at the Maudelle Shirek Building. I hope this information is helpful. - Christine

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**From:** Shirley Dean [<mailto:shirley.dean@sbcglobal.net>]  
**Sent:** Wednesday, June 17, 2015 2:59 PM  
**To:** Daniel, Christine; All Council  
**Cc:** Zoning Adjustments Board (ZAB)  
**Subject:** Letter re scheduling of Council and ZAB on June 26

June 17, 2015

Christine Daniel, City Manager  
Mayor Bates and Members of the City Council  
via e-mail

I am writing to tell you of my strenuous objection to the scheduling of a Council meeting on June 26 to consider significant community benefits that will be required of Downtown building projects over 75 feet. One of those buildings, 2211 Harold Way is not only the largest single building proposed to be constructed in Berkeley, it would be the tallest building (194 feet) in our Downtown, and, as such, has generated considerable interest, to say the least. As you know, 2211 Harold Way is currently under active consideration by both the Zoning Adjustments Board and Landmarks Preservation Commission.

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be is not something you do on the fly, but you can't all of a sudden do it on one night, through the votes of two different legislative bodies, within a few short hours of each other. To do so, is not only unfair, it is undemocratic and stands as an embarrassment to an entire community as well as invites unintended consequences.

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I greatly appreciate your consideration of this letter, and look forward to your positive action to do the right thing.

Sincerely

Shirley Dean  
510-524-3223

cc: Chair Pinto and Members of the Zoning Adjustments Board

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: meeting conflict

-----Original Message-----

From: Charlene Woodcock [<mailto:charlene@woodynet.net>]  
Sent: Wednesday, June 17, 2015 4:11 PM  
To: Zoning Adjustments Board (ZAB); Zarnowitz, Sally  
Cc: Powell, Greg  
Subject: meeting conflict

Greetings.

I find that the Landmarks Commission is scheduled to vote on the permits for 2211 Harold Way on the evening of July 9.

The ZAB is scheduled to meet at the same time and may vote on the permits for Patrick Kennedy's project on Telegraph on the former Center for Independent Living site.

I hope one of the two will reschedule so that Berkeley residents who are concerned with both of these projects will be able to attend both meetings.

Thank you.

Charlene M. Woodcock  
2355 Virginia Street  
Berkeley 94709

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW:

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**From:** Rose L. Glickman [<mailto:rglick@berkeley.edu>]  
**Sent:** Tuesday, June 16, 2015 8:01 PM  
**To:** Zoning Adjustments Board (ZAB)  
**Subject:**

Why has the council scheduled two important meetings at the same time on June 25?

Please reschedule the City Council Meeting --or-- have the ZAB reschedule their meeting. This is unfair and a hardship for the public to participate in our public process regarding these important public issues and public welfare decisions.  
sincerely, Rose Glickman

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: 2211 Harold Way, story poles

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**From:** Charlene Woodcock [<mailto:charlene@woodynet.net>]  
**Sent:** Tuesday, June 16, 2015 6:28 PM  
**To:** Zoning Adjustments Board (ZAB); All Council; Burns, Anne M; Zarnowitz, Sally  
**Cc:** Margots999 via Sustainable Berkeley Coalition  
**Subject:** 2211 Harold Way, story poles

To the Landmarks Protection Commission, Design Review Commission, Zoning Adjustments Board, and the Berkeley City Council:

Thus far the developers of 2211 Harold Way have ignored the multiple public requests for story poles to demarcate the dimensions and height of this proposed building project. I request that the City Council require HSR Berkeley Investments, LLC, to provide us with this information as the city considers their proposal.

There are numerous licensed contractors that provide this service. Google brings up, for example:

<http://californiastorypoles.com/> and <http://cstorypoles.com/>

We need a professional licensed contractor. We need the process to be verifiable by members of the public and publicly announced to make sure all who are concerned with this project are notified of the time period story poles will be in place and able to view the raising of story poles to demonstrate the size of this proposed building.

Thank you.

Charlene M. Woodcock  
2355 Virginia Street  
Berkeley 94709

Jacob, Melinda

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: June 25 Council significant Community Benefits

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**From:** Rob Wrenn [mailto:robwrenn@comcast.net]  
**Sent:** Tuesday, June 16, 2015 4:29 PM  
**To:** All Council  
**Cc:** Zoning Adjustments Board (ZAB)  
**Subject:** June 25 Council significant Community Benefits

June 16, 2015

Dear Mayor and City Council,

**Re: Significant Community Benefits - Reply to Mark Rhoades**

In his e-mail to the City Council of May 27, in the packet for the June 25 special meeting of the Berkeley City Council, Mark Rhoades recycles the discredited argument that Landmark Theatres' Shattuck Cinemas would close were it not for the Berkeley Plaza project proposed for 2211 Harold Way downtown. Far from being the saviors of Shattuck Cinemas, the developers pose a potential threat to their survival.

He cites a brief e-mail sent by Landmark CEO Ted Mundorff to Joseph Penner of Hill Street Realty on April 15, 2013. Mr. Rhoades writes "Certainly Landmarks Theatres would like to maintain their presence in Downtown but their ability to do so is NOT likely given the theater box configuration that exists." Yet, in an interview on March 3 of this year with Berkeleyside, Mr. Mundorff makes clear that Landmarks plans to stay in Berkeley whether the Berkeley Plaza project goes forward or whether the building remains as it is now.

He says: "We are not planning to leave Berkeley". He goes on to say: "We have every intention to stay in Berkeley until 2018. If we continue to attract customers and good film, we would indeed exercise the option for the additional term" (i.e. they would extend their lease). He concludes by saying: "I am happy to get a new theater if the space and terms work [emphasis added] for Landmark. I am also happy to stay as is."

You can find the full interview here:

<https://docs.google.com/document/d/16HSaVPiyDQXPiRKDvEmwYSd6aSsTVLK3z5Ev8GCDu1w/edit> It appeared in the comments section below Emilie Raguso's article, "Berkeley officials seek feedback on 'community benefits' that was posted on Berkeleyside on April 14, 2015:<http://www.berkeleyside.com/2015/04/14/berkeley-officials-seek-feedback-on-community-benefits/>

Mr. Mundorff indicates that their view regarding the necessity of stadium seating has changed: "When discussions started a while back, stadium seating was the only option in theatre exhibition. Today, it has changed and non-stadium can work". He also says: "If there is a new theatre, one objective would be to have a better viewing experience though the viewing in the Shattuck is pretty darn good."

The real problem is that the developers and Landmark Theatres have not yet reached an agreement on the number of theaters or on the terms of a lease. Mr. Mundorff says: "I do not have any terms for a new theatre. We are always happy to stay as is" and later: "I do not have an auditorium count for the proposed new theatre." It's clear that he is saying that, as of March 3, no deal has been made regarding "space and terms". And no deal had been made as of May when the Shattuck Cinemas manager released information related to the volume of business at the cinemas. There is no indication that things have changed since then.

Hopefully discussions are continuing between Landmark and the developers, though Mr. Rhoades makes not mention of this in his e-mail.

What's known about proposed lease terms comes from the developers' October 2014 community benefits submittal. In that document, it's revealed that Landmark currently pays \$2 a square foot and that the developers wanted, as of then at least, to increase this by 75% to \$3.50 a square foot. One could imagine that a big increase like that, especially if they're not even getting the same amount of space, might not work for Landmark.

The Shattuck Cinemas manager has stated in a May 6 e-mail that box office admissions have increased 25% since 2008 and grew 2% between 2013 and 2014. She stated that the cinemas attract 275,000 to 300,000 people every year. With the downtown population growing, and with the continued increase in the UC student body, one can reasonably expect that there will continue to be lots of customers for the cinemas. Not everyone wants to wait for movies to come out on Netflix; many people still like the experience of watching a film on a big screen in a theatre.

The Shattuck Cinemas opened in 1988 and have certainly made a significant contribution to the revitalization of Berkeley's downtown that has occurred during the last 25 years. Many of their customers come from outside Berkeley because the Shattuck Cinemas show a mix of films that can't be found elsewhere in the East Bay. Many of these customers patronize other downtown businesses when they come to Berkeley to see a film. Many have a meal, snack or drink in a local restaurant or bar before or after the film. The closure of the cinemas would damage the downtown economy and harm local businesses, especially restaurants favored by cinema patrons.

Berkeley's Downtown Area Plan recognizes the importance of the theaters and calls for retaining and supporting Downtown's cinemas (Policy LU 1.2b) and even calls for expanding them (Policy ED 1.7a). Approving a use permit for 2211 Harold Way without a deal in place between Landmark and the developers to guarantee the viability of the cinemas in the new building would clearly be inconsistent with the Downtown Area Plan. Approval of a use permit should be conditioned on having an agreement in place with Landmark on "space and terms".

sincerely,

Rob Wrenn, former member of the Planning Commission and Downtown Plan Advisory Committee

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: JUST SAY NO

-----Original Message-----

From: Sally Goldman [<mailto:sjsg@berkeley.edu>]  
Sent: Sunday, June 14, 2015 11:30 AM  
To: Zoning Adjustments Board (ZAB); Wengraf, Susan  
Cc: Sally Goldman  
Subject: JUST SAY NO

To whom it may concern,

As a long-time resident of Berkeley, I am writing to you to express my unhappiness at the proposed new building at 2211 Harold Way in Berkeley. Berkeley does not need a building of this size ANYWHERE. Such a proposed project is too big and too intrusive ruining views, and overwhelming the rest of the downtown area. It cuts off light [something that has not been considered in other cases—viz. the building at Fulton between Kittredge and Alston Way, which turned a bright open area —although sadly undeveloped, into a dark and gloomy one] to large parts of the downtown, destroys the ambience of downtown Berkeley [which with its arts development, if finally starting to come back] and caters to wealthy developers and landlords. Whatever happened to our zoning board one that used to care for the city and people of Berkeley, but now is at the beck and call of corporate America and big-buissness?

JUST SAY NO!!!

Sally Goldman  
[sjsg@berkeley.edu](mailto:sjsg@berkeley.edu)

1182 Arch Street  
Berkeley CA

Jacob, Melinda

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: [sustainable-berkeley-coalition] June 25 Community Benefits mtg

-----Original Message-----

From: Kate Harrison [<mailto:kate@kateharrisonconsulting.com>]  
Sent: Friday, June 12, 2015 6:39 PM  
To: [charlene@woodynet.net](mailto:charlene@woodynet.net); All Council  
Cc: Zoning Adjustments Board (ZAB); [sustainable-berkeley-coalition@googlegroups.com](mailto:sustainable-berkeley-coalition@googlegroups.com)  
Subject: Re: [sustainable-berkeley-coalition] June 25 Community Benefits mtg

Great letter, Charlene.

Sent from my Verizon Wireless 4G LTE smartphone

Charlene Woodcock <[charlene@woodynet.net](mailto:charlene@woodynet.net)> wrote:

>Dear Mayor and City Council Members,

>

>Before Significant Community Benefits can be proposed for any new development in Berkeley, it is essential that a rigorous financial analysis be made by an independent entity of the costs and the profit the developer will realize in the construction and then the sale or ongoing rental income from the units. Without such analysis and a just assessment of the detriments caused by the project, there is no basis for an assessment of the capacity of the developer first to mitigate those detriments and then to provide Berkeley with benefits of significant value to the community.

>

>We now have a surfeit of \$3,000-\$5,000 p/month rentals. Berkeley's most crucial need in 2015 is for affordable housing, both for low income and middle income residents, in inclusionary residential buildings. As Mayor DeBlasio noted in his Berkeley conversation with Robert Reich, New York City requires 30% affordable units in all new developments, to ensure that low-income housing is available in all parts of the city. This is an admirable requirement and one that I'm sure most Berkeleyans would support, as a way to sustain our ethnically, economically, culturally diverse population.

>

>It is also essential that all developers of multi-unit residential buildings to be required to strive for net zero energy in their project design, as the state of California will require in just four years. Berkeley already has numerous large residential buildings under construction which will not come near meeting this soon-to-be-required standard. That is to say, we are seeing the city fill up with projects that will be a drain on our water and energy resources when we should be requiring much greater energy efficiency and water conservation and graywater systems in all new buildings.

>

>There is no way to mitigate the detriments that would result from the 2211 Harold Way project—the demolition of Habitot, valued by Berkeley families in its convenient location, and the Shattuck Cinemas, patronized by 275,000 to 300,000 people a year. The 2211 Harold Way project is hugely out of scale with the graceful, mostly 2-story buildings in Berkeley's historic district. The increased traffic congestion and disruption of downtown business, apart from the loss of Habitot and the Shattuck Cinemas, will be devastating during the two-to four-year construction period when sidewalks and streets will need to be closed for this absurdly large project. And it's doubtful the noise and pollution can be mitigated, as required by the location in the Berkeley High school zone. The spraying of huge amounts of

water on construction projects is the usual way to control dust and other types of air pollution. Most of us think that an inappropriate solution, especially during a drought. How then will the dust and air pollution be mitigated?

>

>I find that people who don't go downtown much like to talk about the need to "revitalize" downtown. They don't realize that the Arts District and especially the Shattuck Cinemas have accomplished the revitalization of downtown in recent years. People come from all over northern California to attend the excellent array of films at the Cinemas and enjoy our downtown restaurants. What we need now is not more people downtown but much better public transit, a serious plan to reduce greenhouse gases, and an improved physical and social infrastructure to accommodate those already here. And of course we need affordable housing in all parts of our city.

>

>Sincerely,

>

>Charlene M. Woodcock

>2355 Virginia Street

>Berkeley 94709

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>You received this message because you are subscribed to the Google Groups "Sustainable Berkeley Coalition" group.

>To unsubscribe from this group and stop receiving emails from it, send an email to [sustainable-berkeley-coalition+unsubscribe@googlegroups.com](mailto:sustainable-berkeley-coalition+unsubscribe@googlegroups.com).

>To post to this group, send email to [sustainable-berkeley-coalition@googlegroups.com](mailto:sustainable-berkeley-coalition@googlegroups.com).

>To view this discussion on the web visit <https://groups.google.com/d/msgid/sustainable-berkeley-coalition/F247493D-ED97-41CF-8713-AC65DE0F6302%40woodynet.net>.

>For more options, visit <https://groups.google.com/d/optout>.

Jacob, Melinda

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: June 25 Community Benefits mtg

-----Original Message-----

From: Charlene Woodcock [<mailto:charlene@woodynet.net>]  
Sent: Friday, June 12, 2015 6:18 PM  
To: All Council  
Cc: Zoning Adjustments Board (ZAB); Margots999 via Sustainable Berkeley Coalition  
Subject: June 25 Community Benefits mtg

Dear Mayor and City Council Members,

Before Significant Community Benefits can be proposed for any new development in Berkeley, it is essential that a rigorous financial analysis be made by an independent entity of the costs and the profit the developer will realize in the construction and then the sale or ongoing rental income from the units. Without such analysis and a just assessment of the detriments caused by the project, there is no basis for an assessment of the capacity of the developer first to mitigate those detriments and then to provide Berkeley with benefits of significant value to the community.

We now have a surfeit of \$3,000-\$5,000 p/month rentals. Berkeley's most crucial need in 2015 is for affordable housing, both for low income and middle income residents, in inclusionary residential buildings. As Mayor DeBlasio noted in his Berkeley conversation with Robert Reich, New York City requires 30% affordable units in all new developments, to ensure that low-income housing is available in all parts of the city. This is an admirable requirement and one that I'm sure most Berkeleyans would support, as a way to sustain our ethnically, economically, culturally diverse population.

It is also essential that all developers of multi-unit residential buildings to be required to strive for net zero energy in their project design, as the state of California will require in just four years. Berkeley already has numerous large residential buildings under construction which will not come near meeting this soon-to-be-required standard. That is to say, we are seeing the city fill up with projects that will be a drain on our water and energy resources when we should be requiring much greater energy efficiency and water conservation and graywater systems in all new buildings.

There is no way to mitigate the detriments that would result from the 2211 Harold Way project—the demolition of Habitot, valued by Berkeley families in its convenient location, and the Shattuck Cinemas, patronized by 275,00 to 300,000 people a year. The 2211 Harold Way project is hugely out of scale with the graceful, mostly 2-story buildings in Berkeley's historic district. The increased traffic congestion and disruption of downtown business, apart from the loss of Habitot and the Shattuck Cinemas, will be devastating during the two-to four-year construction period when sidewalks and streets will need to be closed for this absurdly large project. And it's doubtful the noise and pollution can be mitigated, as required by the location in the Berkeley High school zone. The spraying of huge amounts of water on construction projects is the usual way to control dust and other types of air pollution. Most of us think that an inappropriate solution, especially during a drought. How then will the dust and air pollution be mitigated?

I find that people who don't go downtown much like to talk about the need to "revitalize" downtown. They don't realize that the Arts District and especially the Shattuck Cinemas have accomplished the revitalization of downtown in recent years. People come from all over northern California to attend the excellent array of films at the Cinemas and enjoy our

downtown restaurants. What we need now is not more people downtown but much better public transit, a serious plan to reduce greenhouse gases, and an improved physical and social infrastructure to accommodate those already here. And of course we need affordable housing in all parts of our city.

Sincerely,

Charlene M. Woodcock  
2355 Virginia Street  
Berkeley 94709

**Jacob, Melinda**

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: Bates/Cap INsignificant benefits proposal

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**From:** Tree Fitzpatrick [<mailto:tree.fitzpatrick@gmail.com>]  
**Sent:** Friday, June 12, 2015 12:28 PM  
**To:** All Council; sustainableberkeleycoalition; Zarnowitz, Sally; Zoning Adjustments Board (ZAB)  
**Subject:** re: Bates/Cap INsignificant benefits proposal

I have to question the intelligence and analytical skills of a mayor and councilmember who appear to be in a rabid rush to give Mark Rhoades that Harold Way build permit, selling the city's soul in the process. Why the heck are you two public servants hell bent on using a formula that gives the developer huge windfalls and gives the city close to nothing, and nothing significant?

How can you think you will get away with it?

Where did you get your proposed "significant", but trivial, square footage fees? And how can you possibly think you can apply fees to all downtown projects when each project will have wholly different financial considerations. The amount paid for the land, the fees paid or points promised to lobbyist, and other costs such as construction, marketing and mitigation of damage to the community, will vary from project to project.

There are no uniform proposed developments downtown. There can be no uniform formula to assess what amounts to wholly insignificant community benefits.

Mitigation before community benefits are assessed and mitigation costs cannot reduce community benefits.

Sincerely

,  
[Tree Fitzpatrick](#)  
, JD, MS

Jacob, Melinda

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**From:** Zoning Adjustments Board (ZAB)  
**Subject:** FW: my june 1st public info request

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**From:** Tree Fitzpatrick [<mailto:tree.fitzpatrick@gmail.com>]

**Sent:** Friday, June 12, 2015 11:27 AM

**To:** Manager, C; Zoning Adjustments Board (ZAB); Amoroso, Alexander; All Council; sustainableberkeleycoalition

**Subject:** re: my june 1st public info request

On June 1st, I hand-delivered a hard copy of a public records request. I had the receptionist on the 5th floor of city hall give me a receipt for I do not trust city staff to follow the law.

CA law requires that City of Berkeley notify me within ten days, in writing, when the records I requested will be available. The law suggests the records be made available within ten days but recognizes it might take longer.

I requested documents from Nov, 2011 until the current day regarding all correspondence between city manager, any city staff including zoning and planning staff, council and the consultant hired to do a current Nexus study on housing costs and other matters typically included in a Nexus study like job market considerations and population growth.

I don't want to see your private work product. I am interested in correspondence that would explain why the Nexus study, which needs to be updated and determines the range of affordable housing mitigation fees Berkeley can assess. I am concerned that city staff has deliberately kept the Nexus study from being completed as promised it would be last December, then last April. Kriss Worthington even asked about when the Nexus study would be available at a council meeting in April and Ms. Daniel said it would be available in June. It's june. What's the delay?

irregardless of why I want the info, I am entitled to public records. And correspondence about the Nexus study related to housing and employment is a public record.

It has now been 11 days. If you go by business days, that means your office, Ms. Daniel, will be notifying me in writing on Monday when I can review these request. CA law does not say ten business days, just ten days, which means my written notice about my records request is overdue.

Please comply with the CA public records act properly. I think the city manager's office has deliberately prevented the Nexus study from being completed so Mark Rhoades can get a build permit for Harold Way while the obscenely low \$20K affordable housing mitigation fee stands. That fee was lowered when the economy was down. The economy is up and there is no good justification for maintaining that absurdly low fee. It's an unjust giveaway to the developers who will receive many millions in windfall profits that should rightly be shared with the community -- we own the right to give them extra building height and the developers have to pay for that with meaningfully significant community benefits.

And it is probably illegal to issue a build permit when there is no current Nexus study. Get it together. Get that study done and reset the affordable housing mitigation fee.

And please let me know asap when I can come review all correspondence between city staff and the Nexus consultant. Your ten days are up.

Thank you.

Love rays,  
Tree Fitzpatrick