



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 ACTION
JUNE 25, 2015

2211 Harold Way Mixed-Use Project

Certification of the Final Environmental Impact Report for a proposed 18-story mixed-use development in Downtown Berkeley (please see page 3 of this report for full details of the project). Consistent with *CEQA Guidelines* Section 15090, the ZAB must certify that the Final EIR has been completed in compliance with CEQA and reflects the lead agency's independent judgment; the Final EIR must be reviewed and considered prior to approving the project (the action item before the ZAB on June 25 is for certification of the Final EIR only; consideration of project approvals will be at a later date). This item was continued from April 23 to allow analysis and incorporation of the Design Review Committee (DRC) Recommended Alternative.

I. Application Basics

A. CEQA Determination: An Environmental Impact Report (EIR) has been prepared.

B. Parties Involved:

- Applicant Rhoades Planning Group
505 17th St., 2nd Floor
Oakland, CA 94612
- Property Owner HSR Berkeley Investments, LLC
11100 Santa Monica Blvd., Suite 880
Los Angeles, CA 90025
- Architect MVEI
3 MacArthur Place, Suite 850
Santa Ana, CA 92707
- Historical Consultant architecture + history, LLC
San Francisco, CA
- Urban Design Consultant Taecker Planning and Design, LLC
Berkeley, CA

C. Permits Required:

- Structural Alteration Permit, under BMC Section 3.24.200 (Landmarks Preservation Ordinance)
- Use Permit to demolish a main building used for non-residential purposes, under BMC Section 23C.08.050.A
- Use Permit to construct a Mixed Use Development, under BMC Section 23E.68.030.A
- Administrative Use Permit to allow over 2,000 square feet of Full Service Restaurant space, under BMC Section 23E.68.030.A
- Use Permit to allow service of distilled spirits incidental to food service, under BMC Sections 23E.16.040.A and 23E.68.030.A
- Administrative Use Permit to allow service of beer and wine incidental to food service, under BMC Section 23E.68.030.A
- Administrative Use Permit to allow amplified live entertainment incidental to food service, under BMC Section 23E.68.030.A
- Use Permit to construct over 10,000 square feet of new floor area, under BMC Section 23E.68.050
- Use Permit to allow building height of over 120 feet but not more than 180 feet, under BMC Section 23E.68.070.B.2
- Administrative Use Permit to allow mechanical penthouse to exceed maximum building height, under BMC Section 23E.04.020.C

Figure 1: Vicinity Map



II. Background/Environmental Review Process

As noted above, an Environmental Impact Report (EIR) has been prepared for this project. Table 1, below, lists the notices released, documents circulated, and associated meetings and hearings held as part of the EIR process.

Table 1: Key Milestones in EIR Process

Task/Event	Date
Publication of Notice of Preparation (NOP)	May 19, 2014
LPC Scoping Session	June 5, 2014
ZAB Scoping Session	June 12, 2014
Close of 30-day NOP comment period	June 19, 2014
Publication of Draft EIR	October 6, 2014
DRC Draft EIR Comment Session	November 4, 2014
LPC Draft EIR Comment Session	November 6, 2014
ZAB Draft EIR Comment Session	November 13, 2014
Close of Draft EIR comment period	December 1, 2014 ¹
Publication of Response to Comments Document	March 30, 2015 ²
ZAB hearing on Final EIR certification (item continued)	April 23, 2015
Publication of the Addition to the Final Environmental Impact Report and response to Comments Document: DRC Recommended Alternative	June 15, 2015
ZAB hearing on Final EIR certification	June 25, 2015

Notes:

1. The Draft EIR comment period was originally scheduled to end on November 19, but was extended until December 1, 2014 (for a total review period of 56 days).
2. The RTC Document was published 24 days before the ZAB hearing on certification.

III. Project Description

The proposed project is an 18-story mixed-use development located in Downtown Berkeley, with 302 dwelling units, a six-theater cinema, about 10,500 square feet of ground-floor commercial space, and a 171-space underground parking garage. The project's primary street frontage would be along Harold Way, although it would also front on portions of Allston Way and Kittredge Street. The project is primarily 12 stories in height, with five-story portions within 15 feet of the street frontages, and an 18-story "tower" located at the southwest corner of the site, near Harold Way and Kittredge Street.

The project includes demolition of the existing 1959 "Hink's Building" (a.k.a. Postal Annex), located at the corner of Harold and Allston Ways, and removal of a portion of the Shattuck Hotel building (primarily the 1926 Walter Ratcliff addition fronting on Harold Way and Kittredge Street, and the portion of the 1913 addition extending west of the

hotel along Kittredge Street). Some alteration/excavation of the area beneath the retail stores along Shattuck Avenue would also occur in order to create additional space for new cinemas.

IV. Final EIR

The City of Berkeley completed a Response to Comments Document (RTC) for this project, pursuant to the California Environmental Quality Act (CEQA). The Final EIR consists of the Draft EIR (circulated for public comment from October 6 to December 1, 2014) and the RTC Document (circulated on March 30, 2015).

This RTC Document includes:

- An introduction, which describes the purpose and organization of the document, as well as a summary of the environmental review process;
- A list of the agencies, organizations, and individuals that submitted written comments, and notes the verbal comments received at the three public meetings on the Draft EIR;
- Reproductions of all written comments and transcripts of verbal comments, and responses to CEQA-related comments received; and
- Revisions to the text and graphics of the Draft EIR in light of comments received and responses provided.

Hard copies of the Draft EIR were provided to ZAB members on October 6, 2014, and hard copies of the RTC were provided to ZAB members on March 30, 2015. In addition, hard copies of these documents were made available for review at the Planning Department (2120 Milvia St.), the City Clerk's office (2180 Milvia St.) and at the Central Library reference desk (2090 Kittredge St.) and posted on-line at:

http://www.ci.berkeley.ca.us/Planning_and_Development/Zoning_Adjustment_Board/2211_Harold.aspx

Sixty-six written letters were received on the Draft EIR, and a total of approximately 55 members of the public, commission members or board members provided verbal comments on the Draft EIR at the three public meetings. As noted above, the RTC Document provides responses to the CEQA-related comments received. Where multiple comments were received on a topic, "Topical Responses" were provided and cross referenced throughout the RTC Document. Topical Responses included:

- Project Visual and Historic Compatibility Impact;
- Westward View from Campanile Way;
- Adequacy of the Draft EIR Alternatives; and
- Demolition of the Shattuck Cinemas.

Revisions to the Draft EIR were necessary in light of the comments received and the responses provided. These revisions clarified materials in the Draft EIR; they did not provide significant new information or change the conclusions of the analysis.

A. ENVIRONMENTAL EFFECTS

The Final EIR identifies significant environmental impacts that will result from implementation of the proposed project and where feasible, recommends mitigation measures to reduce impacts to a less-than-significant level. Impacts determined to be less than significant or less than significant with the implementation of City of Berkeley Standard Conditions of Approval and/or recommended mitigation measures were identified for the following topics:

- Aesthetics¹
- Agricultural and Forest Resources
- Air Quality
- Biological Resources
- Cultural Resources (excluding historic resources)
- Geology and Soils
- Greenhouse Gas Emissions
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Land Use and Planning
- Mineral Resources
- Noise
- Population and Housing
- Public Services
- Recreation
- Utilities and Service Systems

These topics were evaluated in the Infill Environmental Checklist which was circulated with the Notice of Preparation and included in Appendix A of the Draft EIR.

¹ Pursuant to Senate Bill 743, 2013, aesthetic impacts of a mixed-use residential/commercial project (to the extent they are not also historic resource impacts) on an infill site within a transit priority area, such as the proposed project, may not be considered significant impacts on the environment.

Potential transportation and traffic impacts and impacts to historic resources were analyzed in the Draft EIR. While the proposed project would increase existing traffic levels on local roadways, potential impacts were either found to be less than significant or would be reduced to less-than-significant levels with mitigation.

The proposed project would partially obscure views of the Golden Gate and Alcatraz Island from the base of the UC Berkeley Campanile and Campanile Way; however, this impact was found to be less than significant. The proposed project would include alteration of the setting of the adjacent landmarks; however, this impact was found to be less than significant with mitigation. The proposed project would include removal of the 1926 addition to the Shattuck Hotel and partial removal of the 1913 addition; the associated impacts were found to be significant and unavoidable, as the mitigation measures identified in the EIR would not reduce the impacts to a less-than-significant level.

B. ALTERNATIVES

The *CEQA Guidelines* require analysis of a reasonable range of alternatives to the project, and these alternatives should avoid, or substantially lessen, any of the significant effects of the project and should attain most of the project's basic objectives, when feasible. The range of alternatives required in an EIR is governed by a "rule of reason" that requires the EIR to set forth only those alternatives necessary to permit a reasoned choice. The Draft EIR analyzed three alternatives:

1. The No Project Alternative would eliminate all project impacts without mitigation, but would not meet any of the project objectives.
2. The Preservation Alternative would eliminate the four potential cultural resource impacts with mitigation; however, while it would meet most of the project objectives, it would not fully achieve all of them.
3. The Contextual Design Alternative would eliminate three of the four potential cultural resource impacts with mitigation; however, it would not eliminate demolition impacts, and while it would meet most of the project objectives, it would not fully achieve all of them.
4. The DRC Recommended Alternative would reduce one of the four potential cultural resource impacts with mitigation; it would not eliminate demolition impacts; however, it would meet the project objectives.

LPC and DRC project subcommittees attended a San Francisco high-rise walking tour in 2013 and met throughout 2014 to review project design alternatives. Following the release of the Draft EIR, the project was presented for design review to the City's Design Review Committee (DRC) on November 20, 2014, December 18, 2014, and to the Landmarks Preservation Commission (LPC) on February 26, 2015. The project was presented for

additional design review to the DRC on April 16, 2015. In response to comments and direction provided at the above-referenced meetings by the DRC and LPC, the project applicant prepared an alternative project design for consideration by the LPC on May 7, 2015 and June 4, 2015: the DRC Recommended Alternative. (See discussion under section V.A Design of this report, below)

The DRC Recommended Alternative is similar to the proposed project (302 residential units above ground floor retail or restaurant and cinema use), but alternative architectural treatments are proposed; the building massing is shifted slightly toward the southwest corner of the site; and the square footages and details of several project components would be incrementally changed. The location of the project, demolition plan, and excavation plans would remain unchanged. City staff determined that this alternative project design should be included in the CEQA review for the project, and the *Addition to the Final Environmental Impact Report and Response to Comments Document: DRC Recommended Alternative* was circulated on Monday, June 15, 2015. This document describes and analyzes the DRC Recommended Alternative in comparison to the proposed project. All CEQA issue topics, including Cultural Resources, are included. City staff has determined that this additional alternative (which proposes to lessen impacts to Aesthetics², Cultural Resources and Greenhouse Gas Emissions) does not constitute the addition of “significant new information” to the project EIR, and instead clarifies and amplifies the information contained in the Draft EIR.

Other than the No Project Alternative, the Preservation Alternative is identified as the Environmentally Superior Alternative as it would provide the greatest reduction in environmental impacts while meeting most of the project objectives.

C. CERTIFICATION

Consistent with *CEQA Guidelines* Section 15090, the ZAB must certify that the Final EIR has been completed in compliance with CEQA and that the Final EIR reflects the lead agency’s independent judgment. Certification is required prior to the City taking action on the project. Because the Landmark Preservation Commission (LPC) must take action prior to a ZAB action on the Use Permit, we ask that the ZAB certify the EIR separate from any action on the project. Doing so will allow the LPC to rely upon the EIR when it takes action on the Structural Alteration Permit, anticipated in early July. The attached findings are only for the purpose of certification of the Final EIR for the project. Additional Findings of Fact and Statement of Overriding Consideration are required when action is taken on the project, and will be provided to the LPC and ZAB when they are asked to take action on the Use Permit.

² Pursuant to Senate Bill 743, 2013, aesthetic impacts of a mixed-use residential/commercial project (to the extent they are not also historic resource impacts) on an infill site within a transit priority area, such as the proposed project, may not be considered significant impacts on the environment.

V. Other Elements of Project Review

Other elements of project review are moving forward, including project design and significant community benefits.

A. Design

As the project is proposed to be constructed on a designated City Landmark site, the LPC has responsibility for design review under BMC Section 23E.12.020. At their April 16, 2015 meeting the DRC forwarded a favorable preliminary design review (PDR) recommendation for the DRC Recommended Alternative to the LPC for further discussion, including several design conditions. Conditions continuing to be discussed, among others, include: the general quality of and percentage of window openings on the shoulder glazing; the cornice designs; and, the raising of balloons to mark the height and mass. While the LPC discussed this Alternative at its May 7, 2015 and June 4, 2015 meetings, they declined to forward a PDR recommendation prior to taking action on the Structural Alteration Permit.

B. Significant Community Benefits

On April 7 and May 5, 2015, the Mayor and City Council received public comment regarding significant community benefits that are required for development projects over 75 feet in Berkeley's Downtown.³ A special meeting for this issue has been scheduled for 5:00 p.m. on June 25, 2015, at the Longfellow Middle School Auditorium (1500 Derby Street). Please check the City Council's page of the City of Berkeley's website for additional information: http://www.ci.berkeley.ca.us/Clerk/City_Council/City_Council_Agenda_Archive_Information.aspx

C. Campanile Way

The EIR analysis recognizes Campanile Way as a historical resource contributing to the significance of the UC Berkeley Campus, and acknowledges that the project would partially obscure some of the views west. However; as noted above, this impact was found to be less than significant because enough of the view would remain to convey Campanile Way's significance and justify its eligibility for the National Register. On April 2, 2015 the Landmarks Preservation Commission recognized the significance of Campanile Way and declined to approve a City of Berkeley landmark application submitted for the property which included broadly described "unobstructed views west" as features to be preserved. The Commission decision was appealed and is scheduled to be heard by the City Council at its June 30, 2015 meeting.

³ On March 12, 2015, the Zoning Adjustments Board passed a motion requesting the City Council develop a structure for the community benefits. The Action Item before City Council on April 7 was placed there by Mayor Bates and Councilmembers Arreguin, Capitelli and Moore.

VI. Recommendation

Staff recommends that the ZAB review, accept public comment, and certify the Final EIR for the 2211 Harold Way Mixed-Use Project.

Action on the Use Permit is will not take place at this time. The Structural Alteration Permit is anticipated to be heard by the LPC in July, 2015; the Use Permit will be scheduled to be heard by the ZAB subsequent to LPC action, as well as after direction from the City Council on Significant Community Benefits is provided to the ZAB.

Attachments:

1. Resolution to Certify the Final EIR for the 2211 Harold Way Mixed-Use Project, dated June 25, 2015
2. Public Hearing Notice
3. Correspondence Received

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