



Z O N I N G
A D J U S T M E N T S
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P R O J E C T S T U D Y S E S S I O N

FOR BOARD REVIEW AND COMMENT
SEPTEMBER 10, 2015 – 6:00 P.M.

2211 Harold Way Mixed-Use Project

Use Permit #13-10000010 for a mixed-use development, up to 18 stories in height, containing 302 dwelling units, approximately 10,877 square feet of ground-floor commercial space, a ten-theater cinema complex (approximately 641 seats), and 177 underground parking spaces, located in Downtown Berkeley. The project includes removal of the 1926 addition and portions of the 1913 addition to the landmarked Shattuck Hotel.

I. Application Basics

A. Land Use Designations:

- a. General Plan: Downtown Area Plan
- b. Zoning: C-DMU Core, Commercial Downtown Mixed Use; Core Sub-Area

B. Zoning Permits Required:

- 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
- Use Permit to allow building height over 120 feet more than 120 feet in width under BMC Section 23E.68.070.C.1

C. Other Permits Required:

- Design Review and Structural Alteration Permit to allow alteration and construction on a designated landmark site, under BMC Sections 23E.10.020 and 3.24.200

D. CEQA: The ZAB certified the Final Environmental Impact Report (EIR) prepared to evaluate the potentially significant environmental impacts of the proposed project, pursuant to the California Environmental Quality Act, at their June 25, 2015 meeting.

E. 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

Table 1: Project Chronology

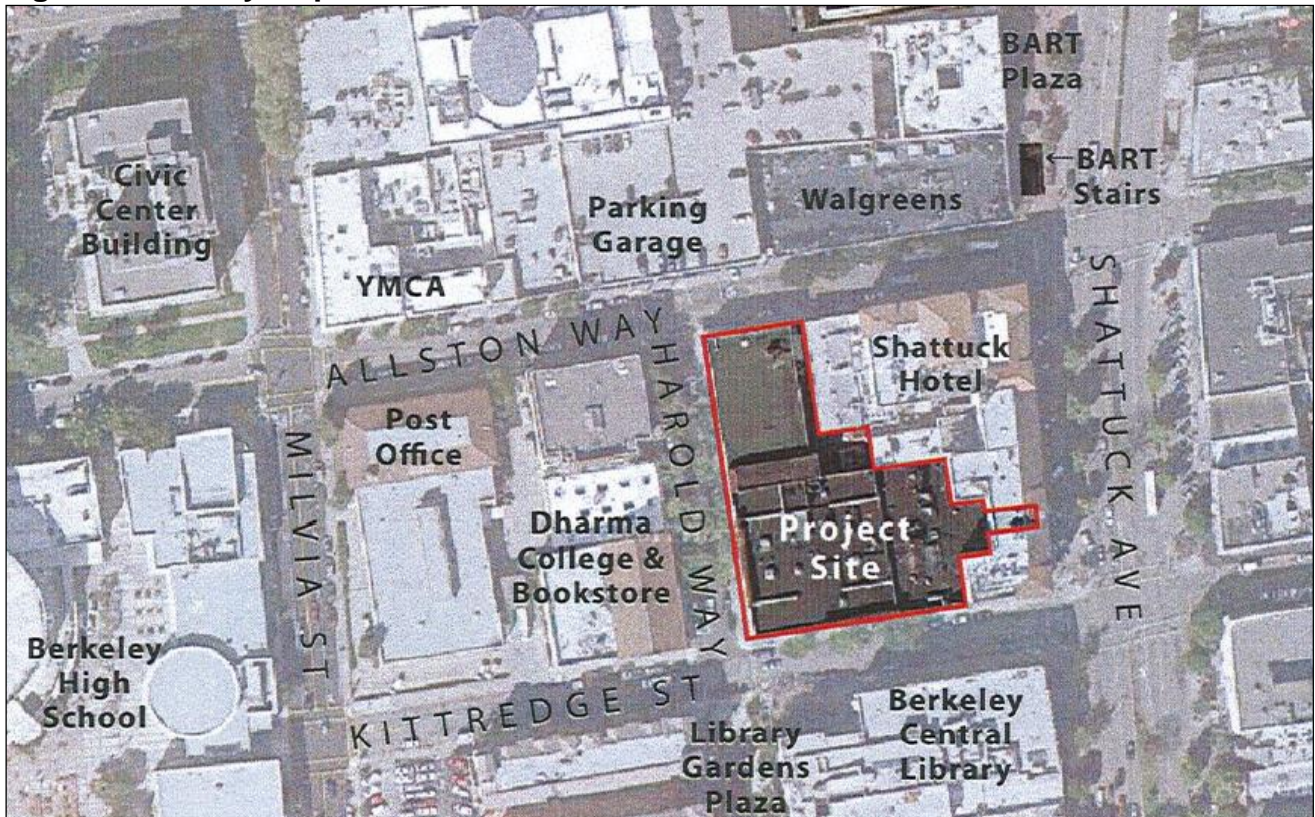
Date	Task/Event
December 21, 2012	Application for Consideration Submitted
January 9, 2013	Pre-Application Submitted
February 21, 2013	DRC Preview
February 27, 2013	Use Permit (UP) and Structural Alteration Permit (SAP) Applications Submitted
March 7, 2013	LPC Preview

March 14, 2013	ZAB Preview
November 2013	LPC/DRC SF Walking Tour
May 19, 2014	Notice of Preparation (NOP) Released
June 5, 2014	LPC Scoping Session
June 12, 2014	ZAB Scoping Session
October 6, 2014	Publication of Draft EIR
March, April, May, July, October 2014	LPC and DRC Subcommittees
November 4, 2014	DRC DEIR Comment Session
November 6, 2014	LPC DEIR Comment Session
November 13, 2014	ZAB DEIR Comment Session
December 1, 2014 ¹	Close of Draft EIR Comment Period
December 11, 2014	ZAB hearing on Community Benefits
November 20 and December 18, 2014	DRC Preliminary Design Comment
January 8, 2015	ZAB Hearing on Community Benefits
February 26, 2015	LPC Preliminary Design Comment
March 12, 2015	ZAB Passed Community Benefits Referral to Council
March 19, 2015	DRC Preliminary Design Comment
March 30, 2015 ²	Publication of Final EIR/Response to Comments Document
April 16, 2015	DRC Preliminary Design Recommendation
April 23, 2015	ZAB Hearing on Final EIR Certification
May 7, 2015; June 4, 2015	LPC Preliminary Design Review
May 14, 2015	ZAB Hearing on Final EIR Certification Continued
June 15, 2015	Addition to Final EIR: Alternative Published
June 25, 2015	ZAB Final EIR Certification
July 9, 2015	LPC SAP Continued
July 14, 2015 ³	Council Adopts Resolution on Community Benefits
August 13, 2015	LPC SAP Approved
August 27, 2015	ZAB Study Session
September 10, 2015	ZAB Study Session
September 30, 2015	<i>Anticipated ZAB Hearing</i>

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.
3. Prior to passing a resolution on July 14, 2015, the City Council discussed systems for new downtown projects over 75 feet in height to provide significant community benefits on April 7, May 26, and June

25, 2015.

Figure 1: Vicinity Map



II. Project Description

The proposed Project is an 18-story mixed-use development with the following main project components:

- 302 dwelling units
- A 10-theater cinema
- Approximately 10,877 square feet of ground-floor commercial (retail and restaurant) space, and
- A 177-space underground parking garage with 74 bicycle parking spaces.

Project plans were provided to ZAB on August 27, 2015 and can also be found at:

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

II. Significant Community Benefits

A. Background

The proposed project, if approved, would be one of five new buildings in the C-DMU District allowed to exceed the 75-foot height limit (BMC Section 23E.68.070.B). The following finding must be made for such projects:

BMC Section 23E.68.090.E: In order to approve a Use Permit for buildings over 75 feet in height under Section 23E.68.070.B, the Board must find that the project will provide significant community benefits, either directly or by providing funding for such benefits to the satisfaction of the City, beyond what would otherwise be required by the City. These may include, but are not limited to: affordable housing, supportive social services, green features, open space, transportation demand management features, job training, and/or employment opportunities. The applicable public benefit requirements of this Chapter shall be included as conditions of approval and the owner shall enter into a written agreement that shall be binding on all successors in interest.

This finding is derived from the following policy of the Downtown Area Plan (DAP):

Policy LU-2.2: Additional Community Benefits for Buildings Exceeding 75 Feet. Developers of buildings in excess of 75 feet must provide significant community benefits beyond what would otherwise be required. These may include: affordable housing, supportive social services, green features, open space, transportation demand features, job training, and/or employment opportunities. The applicable public benefit requirements shall be included as conditions of approval and the owner shall enter into a written agreement that shall be binding on all successors in interest.

ZAB held hearings how community benefits might be measured, categorized and prioritized at meetings on December 11, 2014, January 8, 2015 and March 12, 2015. On March 12, 2015, ZAB passed the Community Benefits Referral to City Council. The City Council held hearings on community benefits on April 7, May 26, and June 25, 2015. On July 14, 2015, Council adopted Resolution No. 67,172-N.S. to establish a process and standards for evaluating "significant community benefit" packages for buildings over 75 feet in the downtown (Attachment 1).

B. Proposed Significant Community Benefits Package

For projects that have been in the permitting process for more than two years prior to the date of the adoption of the resolution (including the 2211 Harold Way Mixed-Use Project), the Council Resolution establishes a per square foot payment:

- \$100 per square foot rentable residential square footage between 75 and 120 feet, and

- \$150 per square foot rentable residential square footage between 121 and 180 feet.

Table 1 below outlines the applicable payment for the proposed Project.

Table 1: 2211 Harold Way Significant Community Benefit Payment Per Level

Starting Height	Level	Total Residential Sq. Ft.	\$ Fee Per Level
73'8"	8	14,014	1,404,100
83'4"	9	14,041	1,404,100
93'0"	10	14,041	1,404,100
102'8"	11	14,041	1,404,100
112'4"	12	14,041	1,404,100
Total 75' to 120':		70,249	7,020,500
122'0"	13	8,390	1,258,500
131'8"	14	8,400	1,260,000
141'4"	15	8,400	1,260,000
151'0"	16	8,400	1,260,000
160'8"	17	4,874	731,100
170'4"	18	4,896	734,400
Total 120' to 180':		43,360	6,504,000
TOTAL FEE			13,524,500

Subject to evaluation of the ZAB, the applicant proposes the payment be directed to the following significant community benefits (Attachment 2):

- Project Labor Agreement (PLA): \$6 Million. Total project construction is estimated to cost \$120 million, and the cost of the full PLA is estimated to be between 5% (\$6 million) and 10% (\$12 million) of project construction. The City Council resolution states that a PLA shall entitle the applicant to a credit of 5% of the construction cost, and as such the PLA could count as \$6 million of the community benefit fee.
- Movie Theater: \$17.85 Million. Construction of the ten movie theater complex, an arts and culture benefit, is estimated to cost \$16.5 million. In addition, an estimated rent subsidy of \$1.35 million is required; this number captures the rent subsidy for the first 20 years of operation, but would be necessary in perpetuity.

- Additional Cash Payment: \$350,000. The project will provide an additional \$350,000 cash payment as part of the significant community benefit package. The applicant recommends that \$250,000 of this be provided to Habitat Children's Museum which is relocating as a result of the proposed Project.

III. Recommendation

Staff recommends that the ZAB provide advisory comments.

Attachments:

1. City Council Resolution
2. Applicant Memorandum
3. Public Meeting Notice
4. Recent Project Correspondence

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