



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
DECEMBER 8, 2016

1900 FOURTH STREET

Review and comment on the Draft Environmental Impact Report for Use Permit #ZP2015-0068 and Structural Alteration Permit #LMSAP2015-0005 to redevelop a 96,267 square-foot site (Spenger's Parking Lot) with a proposed 5-story, 191,362 square-foot mixed use development, containing 155 dwelling units, approximately 30,000 square feet of retail or restaurant use, and a 372-space parking garage, located on a designated City of Berkeley Landmark, West Berkeley Shellmound.

I. Application Basics

A. CEQA Determination: An Environmental Impact Report (EIR) has been prepared and is available for public comment until January 12, 2017. See "Background" section below for further information.

B. Parties Involved:

- Applicant West Berkeley Investors, LLC, 550 Hartz Avenue, Suite 200, Danville, CA 94526
- Applicant Representative Rhoades Planning Group, 1611 Telegraph Avenue, Suite 200, Oakland, CA 94612
- Property Owner Ruegg & Ellsworth, 2437 Durant Avenue, Berkeley, CA 94704
- Architects TCA Architects, 19782 MacArthur Boulevard, Suite 300, Irvine, CA 92612
BCV Architects, 1527 Stockton Street, San Francisco, CA 94133
- Archaeological Consultant Archeo-Tec Inc., 5283 Broadway, Oakland, CA 94618

C. Permits Subject to review by the Zoning Adjustments Board (ZAB):

- Demolition Permit, per BMC Section 22.12.060 to allow demolition of the existing commercial building.
- Use Permit, per BMC Section 23E.64.030.A to allow new retail sales uses greater than 7,500 square feet.
- Use Permit, per BMC Section 23E.64.030.A to allow a quick or full service restaurant use.
- Use Permit, per BMC Section 23E.64.030.A to allow a mixed-use development over 20,000 square feet.
- Use Permit, per BMC Section 23E.64.050.B.1 to allow creation of floor area greater than 5,000 square feet.
- Use Permit, per BMC Section 23E.64.060.A to allow restaurant operation from 7 a.m. to 1 a.m. on Fridays and Saturdays.
- Administrative Use Permit, per BMC Section 23E.64.030.A to allow alcoholic beverage service of beer and wine incidental to food service.
- Administrative Use Permit for rooftop equipment and architectural elements that would exceed the District's high limit, under 23E.04.020.C.

D. Permit Subject to review by the Landmarks Preservation Commission (LPC):

- Structural Alteration Permit (SAP), per BMC Section 3.24.260 to allow construction activities with the potential to affect a designated City of Berkeley Landmark site that is part of a group of several properties designated for their location within the potential boundaries of the West Berkeley Shellmound. As per BMC Section 23E.12.020, the LPC has the responsibility for design review of projects which involve landmarks.

E. Approvals Requested Under State Density Bonus Law: The Project applicant is requesting a waiver/modification of the four-story and 50-foot height limit development standards under the State Density Bonus Law (Government Code Section 65915(e)) and this will be processed by the City in conjunction with the permits described above.

Figure 1: Vicinity Maps



II. Background

On February 10, 2016, the City circulated a Notice of Preparation (NOP) notifying responsible agencies and interested parties that an EIR would be prepared for the Project and indicated the environmental topics anticipated to be addressed in the EIR. Two public scoping sessions were held for the Draft EIR. The Landmarks Preservation Commission scoping session was held on March 3, 2016 and the Zoning Adjustments Board scoping session was held on March 10, 2016. The NOP and the comments received during the scoping period are included in Appendix A of the Draft EIR; a summary of comments received at the March 10 ZAB meeting is the second to last entry in that Appendix. Those comments were reviewed and addressed as appropriate as part of the preparation of the Draft EIR.

The Draft EIR for the 1900 Fourth Street Project is currently available for public review. The public comment period for the Draft EIR began Wednesday, November 16, 2016 and ends Thursday, January 12, 2017 at 5:00 p.m. The City has extended the public comment period past the 45 day minimum (to 57 days) to accommodate holiday closures. On November 16, 2016, the Draft EIR was distributed to ZAB and LPC members, and notification was sent to various public agencies, property owners and tenants within 300 feet of the Project site, and other interested parties. The Notice of Availability was also posted at the perimeter of the Project site. In addition to the ZAB hearing tonight, a public hearing to receive comments on the Draft EIR at the Landmarks Preservation Commission was held on December 1, 2016. See Table 1 below for key milestones in the EIR process. In addition, the Design Review Committee is scheduled to conduct preliminary design review on December 15, 2016.

The Notice of Availability and Draft EIR may be viewed at the following online location: http://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/1900_Fourth.aspx. Paper copies are available for review at the Office of the City Clerk and at the City of Berkeley Central Library reference desk. Copies are also available for review and the Zoning Counter at the Permit Service Center.

The purpose of tonight's meeting is to review and comment on the Draft EIR. No action on the Project is required at this time. The Final EIR, which consists of the Draft EIR and the Response to Comments document, will return to the ZAB for a decision on certification. Following certification of the Final EIR, the LPC can deliberate on the Structural Alteration Permit, and the ZAB can deliberate on the Use Permit.

Table 1: Key Milestones in the EIR Process

(Note: Dates in *italics* are tentative)

Task/Event	Date
Notice of Preparation (NOP) released	February 10, 2016
DRC Project Preview	February 18, 2016
LPC Draft EIR Scoping Session	March 3, 2016
ZAB Draft EIR Scoping Session	March 10, 2016
End of 30-day NOP comment	March 14, 2016
Publication of Draft EIR and Notice of Availability	November 16, 2016
LPC Draft EIR Comment Session	December 1, 2016
ZAB Draft EIR Comment Session	December 8, 2016
Preliminary Design Review	December 15, 2016
Close of Draft EIR comment period	January 12, 2017
Publication of Response to Comments on Draft EIR	<i>Spring 2017</i>
ZAB hearing on EIR certification	<i>Spring/Summer 2017</i>
LPC hearing on SAP	<i>Spring/Summer 2017</i>
ZAB hearing on UP	<i>Summer 2017</i>

III. Project Description

The approximately 2.21-acre 1900 Fourth Street Project site occupies the block surrounded by Hearst Avenue to the north, Fourth Street to the east, University Avenue to the south, and the Union Pacific Railroad (UPRR) corridor to the west. The Project site is located within the Fourth Street shopping area in West Berkeley. The site is also part of a group of several properties designated by the City of Berkeley’s Landmarks Preservation Commission as a Landmark site due to its association with the West Berkeley Shellmound.

The proposed Project would result in demolition of the existing 900 square-foot, one-story structure and approximately 350-space surface parking lot on the Project site and redevelopment of the site with a mix of residential and commercial uses within two separate buildings totaling 191,362 gross square feet, as well as associated parking and circulation, open space, landscaping, and utility improvements. The proposed Project would include development of 155 residential units and 30,000 square feet of retail and restaurant space as well as 372 parking spaces within a parking garage. Building heights along Fourth Street would be lower and setback from the street frontage, while

the five-story building components would be concentrated at the interior of the site and along the UPRR corridor and University Avenue/Fourth Street frontages. Maximum proposed building heights would be 71 feet to the top of the parapet at its greatest extent, which is the measurement required and defined by the Zoning Ordinance (Section 23F.04.010, "Height of Building, Maximum"). The roofline would generally be 60 feet above grade. A total of approximately 13,032 square feet of open space would be provided at the ground level, second-story, and rooftop.

The proposed Project would be built on a deep foundation secured by pre-cast, pre-stressed concrete piles or drilled displacement piles in order to reach the stiffer clay soils that are present below the weaker shallow soils that underlie the site. Alternatively, shallow-footing foundation elements supported on underlying geopiers or drilled concrete displacement columns may be used. No pile driving would occur. Foundation depths are anticipated to range between 4 and 12 feet. Piles may extend up to a maximum of 50 feet below grade.

IV. Draft EIR and Associated Initial Study

Pursuant to the California Environmental Quality Act (CEQA), an EIR is required when a Project may have a significant impact on the physical environment, and that impact cannot be reduced to a less-than-significant level through mitigation. The Draft EIR is intended to inform decision-makers and the general public of Project impacts and potential alternatives that would avoid or reduce those impacts. The Draft Initial Study, included as Appendix B to the Draft EIR, indicates that significant effects of the proposed Project would be limited to the topics of Cultural (Archaeological) Resources, Traffic and Circulation, Air Quality, and Noise and Vibration. All other impacts were examined in the Initial Study and were found to be less than significant (either with or without mitigation). Therefore, the Draft EIR evaluates only the aforementioned environmental topics in detail.

As discussed in further detail below, the Draft EIR identified level of service impacts at four study intersections that could not be reduced to a less-than-significant level through mitigation during Cumulative Plus Project Conditions. These intersections are: 1) Fourth Street/Hearst Avenue; 2) Sixth Street/Hearst Avenue; 3) Sixth Street/University Avenue; and 4) San Pablo Avenue/University Avenue.

All other significant impacts were found to be less-than-significant, or less than significant after implementation of mitigation measures. The potential impacts discussed in the Draft EIR are summarized below.

- A. Cultural Resources.** Cultural resources are analyzed in Section IV.A, Cultural Resources in the Draft EIR. The Project site is part of the West Berkeley Shellmound (City Landmark #227). As described in the Draft EIR, while National Register or California Register-eligible Shellmound deposits have not been identified within the Project site during previous excavations, ground-disturbing

activities associated with Project construction could unearth previously unidentified intact Shellmound deposits that contribute to the resource's significance under the National Register and California Register. These impacts would have a substantial adverse change on a historical resource due to the destruction of those critical aspects of integrity that qualify it as a City Landmark and for listing in the National Register and California Register. Implementation of a multi-part mitigation measure would be required to reduce this impact to a less-than-significant level. This measure requires surveying of the site using ground-penetrating radar (GPR); training for construction crews in cultural awareness and sensitivity; evaluation and review of utility plans by a qualified archaeologist; and monitoring of all ground-disturbing activities by an archaeologist and a representative of the Ohlone tribe. On-site monitoring of ground disturbance by an archaeologist and Ohlone representative would ensure that: 1) if archaeological deposits are identified during excavation, these would be evaluated, documented, and studied in accordance with standard archaeological practice, and 2) archaeological deposits and human remains would be treated in accordance with appropriate State codes and regulations and according to culturally appropriate norms acceptable to the Ohlone Most Likely Descendant.

In addition to the mitigation measures summarized above, two measures resulting from AB 52 consultation and one City recommended measure are identified that would further lessen impacts to historical archaeological resources through compensation, avoidance, and public outreach. These measures are not required to reduce these impacts to a less-than-significant level, but will be incorporated into the conditions of approval for the Project. The Project applicant will: 1) donate money to the Ohlone Indian Tribe for improvements and maintenance of the Ohlone Cemetery in Fremont; 2) create a GIS database designating areas of archaeological sensitivity, to be used for future project planning purposes within the City of Berkeley; and 3) fund and maintain a publically accessible, permanent display within the City Landmark boundary of the West Berkeley Shellmound that describes the archaeological and cultural significance of the site.

- B. Traffic and Circulation.** Traffic and circulation impacts are discussed in Section IV.B, Traffic and Circulation of the Draft EIR. A total of seven intersections were evaluated during the weekday AM and PM peak hours and weekend (Saturday) peak hour during Existing, Near-Term, and Cumulative conditions. The Draft EIR identified four potential traffic impacts that could occur with implementation of the Project during Cumulative Plus Project Conditions; no impacts were identified during Near-Term Conditions. Under Cumulative Plus Project Conditions, the proposed Project would increase vehicle trips and intersection level of delay at the intersections of Fourth Street/Hearst Avenue (Intersection #2); Sixth Street/Hearst Avenue (Intersection #3); Sixth Street/University Avenue (Intersection #6); and San Pablo Avenue/University Avenue (Intersection #7). Installation of a traffic signal at the Fourth Street/Hearst Avenue intersection is recommended as a mitigation measure; however, the City has no program to fund and install a signal at this

location. Signal timing changes at the three remaining intersections are recommended as mitigation; however, secondary impacts would occur (e.g., safety conflicts or adverse effects to other signals along the applicable corridor). Therefore, the level of service impacts at these four study intersections would be significant and unavoidable.

Improvements to the at-grade railroad crossing are recommended to minimize potential adverse effects related to queuing and would improve conditions for pedestrians. This measure is not required to reduce this impact to a less-than-significant level, but is recommended to be incorporated into the conditions of approval for the Project.

- C. Air Quality.** Section IV.C Air Quality in the Draft EIR identified one potential impact that could occur with implementation of the proposed Project during Project construction. Project construction could generate air pollutant emissions that could violate air quality standards; however, standard construction-period mitigation measures recommended by the Bay Area Air Quality Management District would reduce this impact to a less-than-significant level. Operation-period air quality impacts would be less than significant.
- D. Noise and Vibration.** Section IV.D Noise and Vibration in the Draft EIR identified potential impacts associated with operation and construction period noise and vibration.

Operation Period. The proposed Project would locate residential land uses in an area that, based on the City's Noise and Land Use Compatibility Guidelines, is generally considered an unacceptable noise environment for residential land uses. The Project applicant would be required to implement measures to reduce the interior noise level to within acceptable standards (e.g., installation of mechanical ventilation systems). Installation of recommended systems and verification of effectiveness by an acoustical engineer would reduce this impact to a less-than-significant level.

In addition, two recommended measures are identified that would further lessen impacts related to operation-period noise. The first measure would require the Project applicant to disclose the proximity of the rail corridor to future tenants and ensure that the property manager provides public education materials to future residents regarding rail safety. The second would result in the implementation of vibration reduction design measures to reduce groundborne vibration levels within the buildings. These measures are not required to reduce these impacts to a less-than-significant level, but are recommended to be incorporated into the conditions of approval for the Project.

Construction Period. Noise from construction activities would result in a substantial temporary or periodic increase in ambient noise levels in the Project vicinity above levels existing without the Project. Implementation of a site-specific noise reduction program, including notification to neighbors and posting contacts for noise-complaints on-site, would reduce this impact to a less-than-significant level.

E. Alternatives. The CEQA Guidelines require analysis of a reasonable range of alternatives to the Project, which would feasibly attain most of the Project's basic objectives and avoid, or substantially lessen, any of the significant effects of the Project. 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. It should be noted that with the exception of transportation-related level of service impacts at four intersections in the cumulative scenario all of the impacts identified for the proposed Project can be mitigated to a less-than-significant level. The Draft EIR analyzes 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 Reduced Commercial Use alternative would eliminate one significant unavoidable impact (the level of service impact at Sixth Street/Hearst Avenue during Cumulative Plus Project conditions) and would still achieve all of the Project objectives, although some to a lesser extent.
3. The Reduced Building Density alternative would eliminate two significant unavoidable impacts (the level of service impacts at Fourth Street/Hearst Avenue and Sixth Street/Hearst Avenue during Cumulative Plus Project conditions), and would achieve most, but not all, of the Project objectives and some to a lesser extent.

Other than the No Project Alternative, the Reduced Building Density 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.

VI. Recommendation

Staff recommends that the ZAB hold a public hearing to allow public comment on the Draft EIR and also provide comments on the Draft EIR. The ZAB may make a motion reflecting the comments of the ZAB as a whole, and/or individual ZAB members may offer comments. All comments will be recorded and responded to in the Response to Comments document, which is tentatively scheduled for publication in Spring 2017.

Attachments:

1. Notice of Availability
2. Correspondence Received

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