



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
- Project Preview -

FOR BOARD PREVIEW AND ADVISORY COMMENT
JUNE 8, 2017

3031 Adeline Street

Pre-application Project Preview for a project that would: (1) demolish an existing approximately 1,000 square foot, one-story, commercial structure; and (2) construct a 42,348 square foot, five-story, 57 foot tall, mixed use building with 42 residential units, 4,324 square feet ground floor commercial space (general retail and/or food service), 38 automobile and 21 bicycle parking spaces.

I. Background

A. Land Use Designations:

- General Plan: Avenue Commercial (AC)
- Zoning: Commercial, South Area (C-SA)
- South Berkeley Area Plan

B. Zoning Permits Required (Preliminary List):

- Use Permit with a Public Hearing, under Berkeley Municipal Code (BMC) Section 23E.52.030.A, to construct a mixed use development over 5,000 sq. ft.;
- Use Permit with a Public Hearing, under BMC Section 23E.52.070.D.7, to exceed the maximum height limit of 36 feet and three stories for mixed use building;
- Use Permit with a Public Hearing, under BMC Section 23E.52.070.D.7, to exceed 45% lot coverage;
- Use Permit with a Public Hearing, under BMC Section 23E.52.070.D.7, to modify the front, side, street side and rear yard setbacks;
- Use Permit with a Public Hearing, under BMC Section 23E.52.070.D.7, to allow reduction of the required off-street parking spaces; and,
- Administrative Use Permit, under BMC Section 23E.04.020.C, to allow architectural features to exceed the height limit in a commercial district.

C. Concessions/Waiver Pursuant to State Density Bonus Law (Preliminary List):

- To exceed the height/story limit of 36'/3 stories to propose 57'/5 stories in the C-SA District.

D. CEQA Determination: To Be Determined.

E. Parties Involved:

- Applicant Moshe Dinar, P.O. Box 70601, Oakland
- Property Owner Maxaco-LLC, 2550 Appian Way, Suite 201, Pinole

Figure 1: Vicinity Map

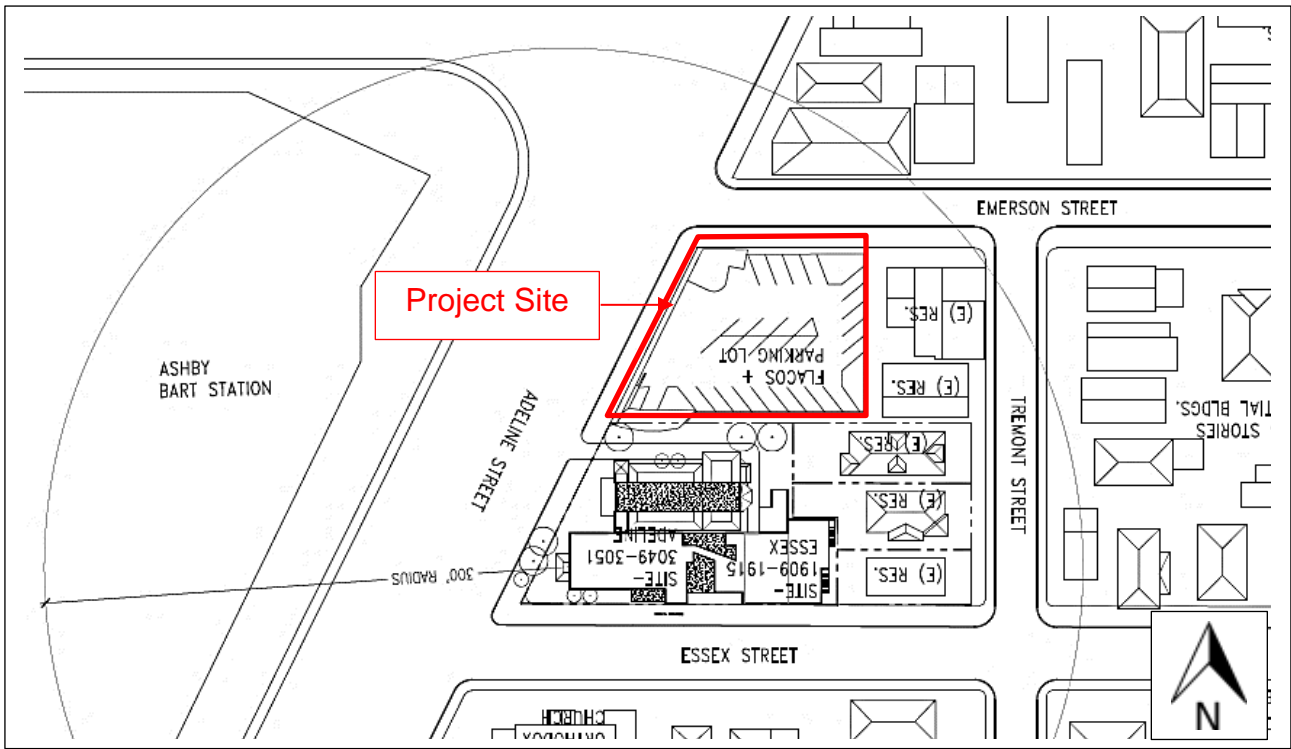


Figure 2: Zoning Map

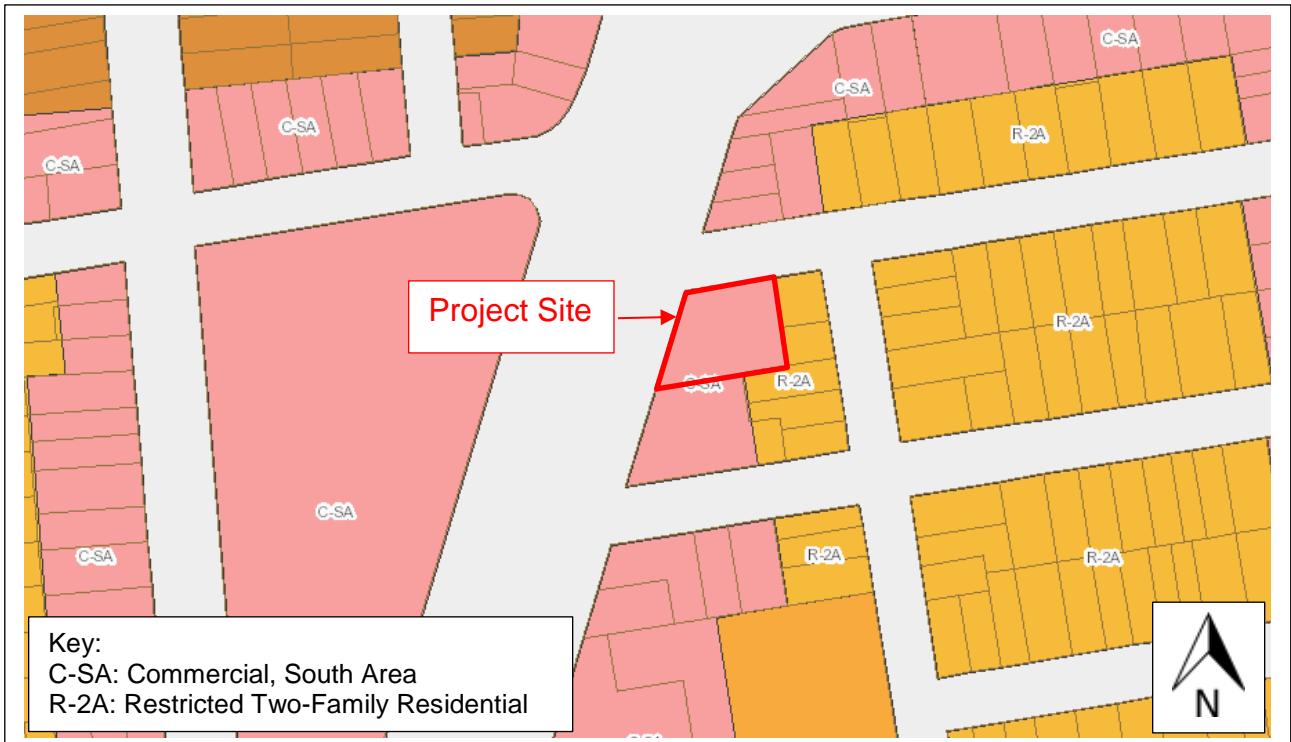


Figure 3: Site and First Floor Plan (For scaled plans, please see Attachment #1)

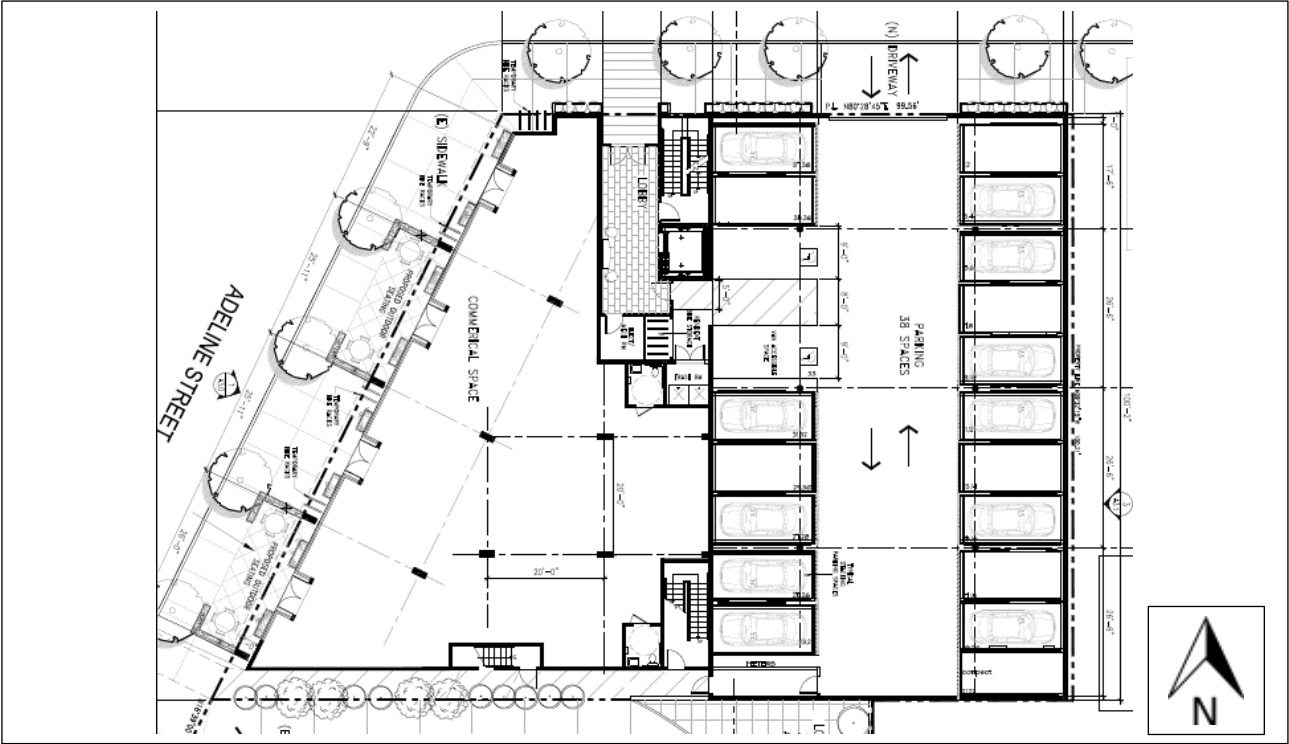


Figure 4: Second Floor Plan (For scaled plans, please see Attachment #1)

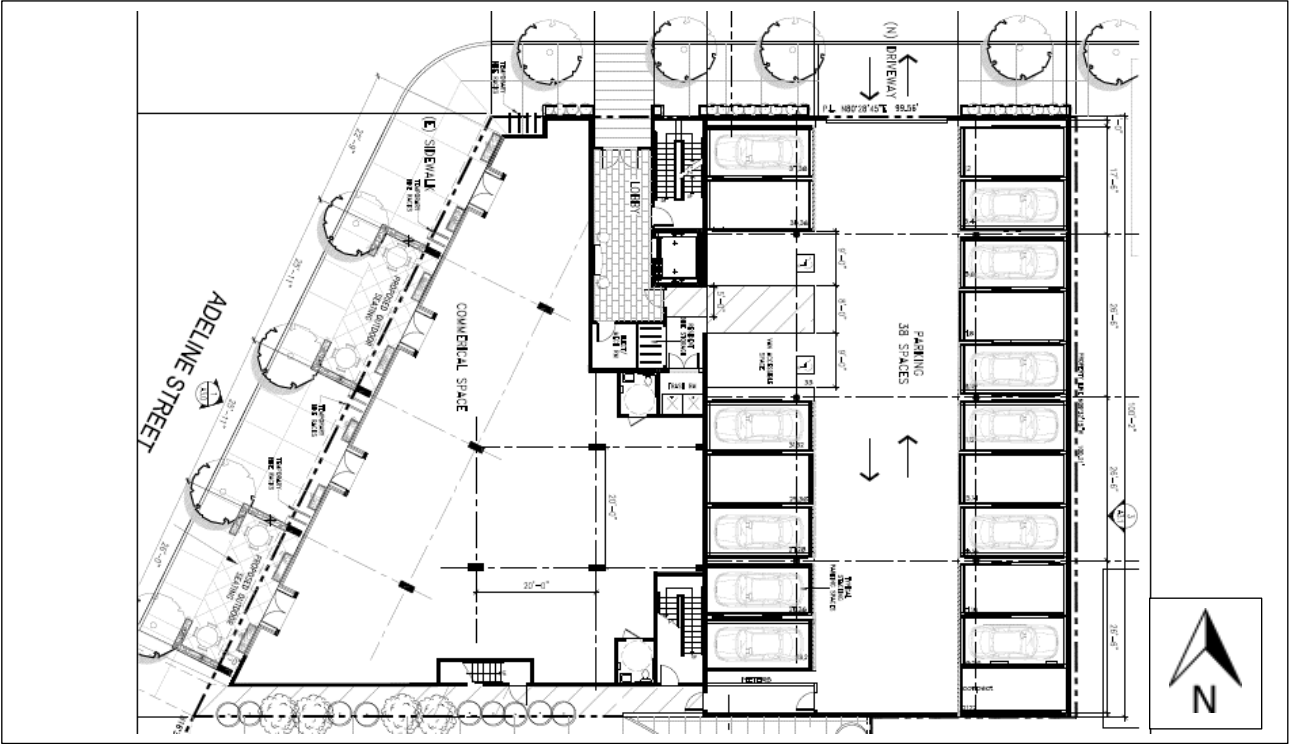


Figure 5: Adeline Street Elevation (Facing West)



Figure 6: Emerson Street Elevation (Facing North)

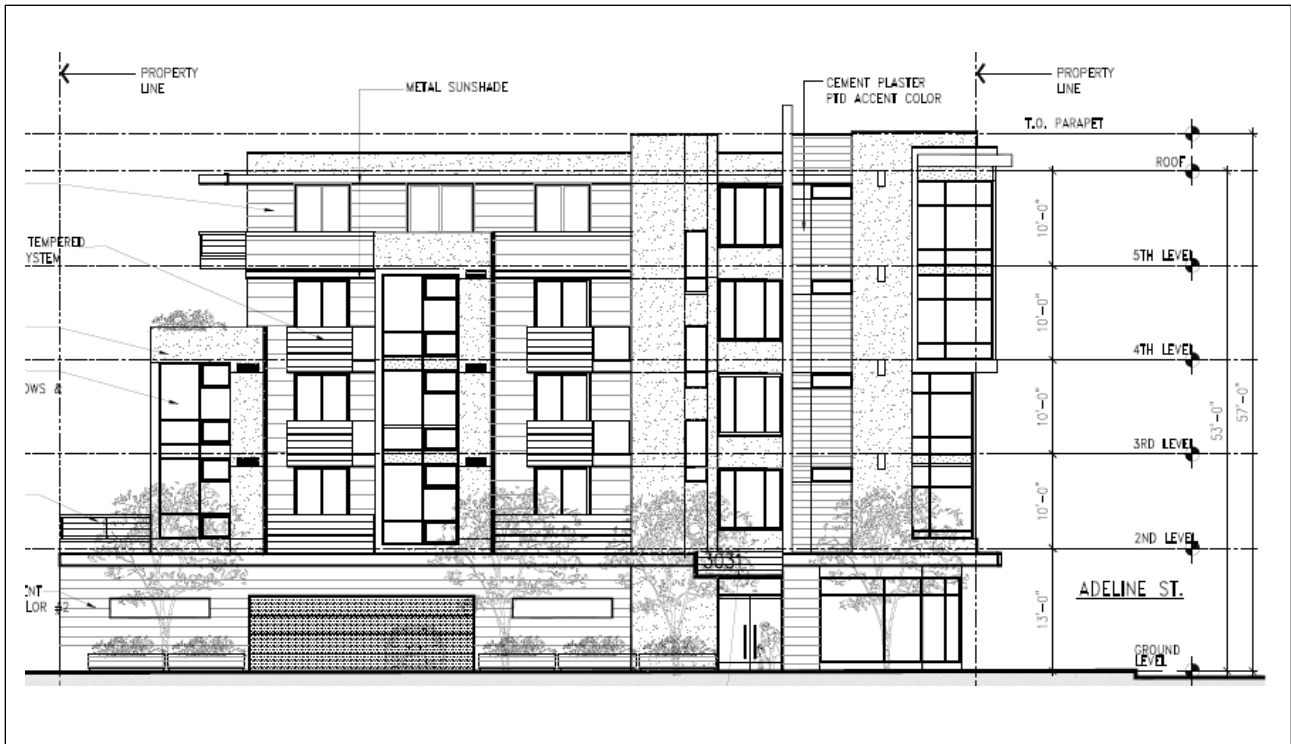


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Carry-out food service and surface parking lot	C-SA	Avenue Commercial
Surrounding Properties	North	Mixed-use building. Retail use on the ground floor and residential use on the second floor.		Avenue Commercial
	South	A mixed use building.		Avenue Commercial
	East	Single- and multi-family residential uses	R-2A	Low Density Residential
	West	Ashby BART Station	C-SA	Avenue Commercial

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	Yes	This project is subject to this ordinance.
Creeks	No	The site is not near a mapped creek or a creek culvert.
Density Bonus	Yes	This project would provide 11% (or 2 units) of the base project as affordable to "Very Low Income" households and is therefore eligible for a 35% density bonus with accompanying modifications in accordance with California Government Code Section 65915(c)(3) (see Section V.A and V.B for details).
Green Building Score	Yes	The applicant submitted a GreenPoint checklist for the project. The minimum required points are 50 out of a possible 381 points. The project checklist indicates a score of 73 points.
Historic Resources	No	The existing structure is not listed as a Landmark or Structure of Merit on the City of Berkeley Historic Resources, however the site to the south contains a two-story City of Berkeley Landmark (the former Hull Undertaking Company). See Section IV. B.
One Percent for Public Art	Yes	This project is subject to this ordinance.
Rent Controlled Units	No	There are no rent controlled units on the property.
Residential Preferred Parking (RPP)	Yes	The site is in a RPP area; the project would not be eligible for RPP permits.
Transit	Yes	The site is within approximately one-half block of a number of AC Transit stops, including the 80 and 81 Rapid lines one block from the project site. There are also bus stops within one block of the site that provide access to different AC Transit bus routes including one all-nighter route (Route 800), as well as the BART Station that confronts the site to the west.

Table 3: Development Standards

Standard BMC Sections 23E.52.070-080 ¹ & 23D.40.070-080		Existing	Proposed Total	Permitted/Required	
				Standard	Density Bonus
Lot Area (sq. ft.)		12,257	No Change	N/A	N/A
Gross Floor Area (sq. ft.)		1,000	36,290	49,028 max.	N/A
Floor Area Ratio		.23	2.96	4 max.	N/A
Dwelling Units	Total	0	42	22 ²	Density Bonus/Use Permit
	Affordable	0	2 ³	2 and fee payment	N/A
Building Height (ft.)	Average	12	41	N/A	Use Permit/ Waiver
	Maximum	12	57	36 max.	
	Stories	1	5	3 (6 with UP)	
Building Setbacks (ft.)	Front (Emerson St.)	0	0	15 min. (0 with UP)	
	Rear (south)	0	0	19 min. (0 with UP)	
	Left Side (interior)	0	0	10 min. (0 with UP)	
	Street Side (Adeline St.)	0	0	14 (0 with UP)	
Lot Coverage		4%	92%	45% % max.	
Usable Open Space (sq. ft.) ³		0	8,114	1,680 sq. ft. min. (0 with UP)	N/A
Vehicle & Bicycle Parking		See Table 5			

II. Project Setting

A. Neighborhood/Area Description: The project is located on the east side of Adeline Street between Emerson and Essex Streets, directly across from the Ashby BART Station. The abutting properties to the east are generally one-, two- and three-story residential buildings. Building on the north side of Emerson Street is a two-story building with commercial uses on the ground floor and residential uses above. South of the project site is a two-story City of Berkeley Landmark (the former Hull Undertaking Company) that is on a separate parcel.

The neighborhood surrounding the project site is both commercial and residential, and is focused around various commercial uses on Adeline Street and Ashby Avenue. These commercial portions along Ashby Avenue and Adeline Street include low-rise non-residential buildings occupied by many small businesses, including restaurants, dry cleaners, retailers, and household services. The housing stock in the adjacent residential portion is varied and includes small, one-story duplexes and garden-style multi-unit developments along with multi-story apartment buildings from the pre-war and mid-century eras.

- B. Site Conditions:** The approximately 12,257 square feet subject property is roughly rectangular and houses a 1,000 square feet single-story commercial building currently used for carry-out food establishment (Flacos). The balance of the site is paved and utilized as 18 parking spaces.

III. Project Description

The project would demolish the existing 1,000 square feet single-story commercial building to construct a new five-story, mixed-use building. The new building would have the following main components:

- 42 dwelling units, including 18 studio apartments, 19 one-bedroom apartments, and five two-bedroom apartments;
- 4,324 square feet of ground floor commercial space designed for retail and potentially restaurant use;
- 8,114 square feet of useable open space to be located on the second-story podium and a rooftop deck. Additional usable open space would also be provided in private balconies accessible from a few units; and
- 38 vehicle parking spaces and 54 bicycle parking spaces.

The ground floor of the main building facing Adeline Street would include retail/restaurant space. Entrances to the residential lobby, bike storage room, and parking garage would be provided from Emerson Street.

IV. Community Discussion

- A. Neighbor/Community Concerns:** Prior to submitting this preliminary application to the city, the applicant invited interested neighborhood organizations as well as owners and occupants within 300 feet of the project for preview meeting. The meeting was held on April 24, 2014, and attended by 30 people. Based on the comments received, the applicant reduced the height of the building from 6 to 5 stories and the number of dwellings from 50 to 42 units.

On May 25, 2017, the City mailed 211 public hearing notices to property owners and occupants within 500-feet of the site, to interested neighborhood organizations, and posted notices within the neighborhood in six locations.

- B. Landmarks Preservation Commission:** The project would involve demolition of an existing approximately 1,000 square feet commercial building over 40 years in age. Pursuant to BMC Section 23C.08.050.C, the proposed demolition would require a use permit and would be referred to the Landmarks Preservation Commission (LPC) for review prior to consideration of the use permit by the ZAB.

- C. Background:** On May 28, 2015, the City approved a lot split (Certificate of Compliance 15-06) to separate the site containing the parking lot and the 1,000 square feet

commercial building from the larger site that also included the former Hull Undertaking Complex to the south that is now on a separate parcel.

On September 3, 2015 the Landmarks Preservation Commission (LPC) designated the Hull Undertaking Complex (excluding 3031 Adeline Street) as structure of merit for its architectural example of Story Book style architecture and as the work of notable architects; and for its cultural value as associated with the larger context of the funeral and wedding industries in the City. The project site was excluded from the designation.

V. Issues and Analysis

A. Density Bonus: Based on the applicant’s commitment to provide 11 percent of the base project, or two¹ units, affordable to Very Low Income Households², the proposed project is entitled to a density bonus of 35%, two concessions/ incentives under Government Code Section 65915. As shown in Table 5 below, under the City’s density bonus procedures, the project’s “base project” was calculated at 16 units and three stories. Because the project would include two Very-Low Income units, the project qualifies for a density bonus of 35% percent, or six units, which would increase the total allowable units to 22. In addition to the additional dwellings that are possible using the Density Bonus, the applicant plans to request a use permit to allow two additional stories to accommodate 10 unit addition units per floor, to provide a total of 42 units.

Table 4: Base Project, Density Bonus

Floor	Base Project		Proposed Project	
	Residential Gross Floor Area (GFA)	Base Units	Total Units (Base + Density Bonus Units +UP)	Residential GFA with DBU
1 st	575	0	0	832
2 nd	5,350	8	11 – base	8,305
3 rd	5,350	8	11 – base + Density Bonus Units	8,305
4 th	0	0	10 – Use Permit	7,059
5 th	--	--	10 – Use Permit	6,312
Totals:	11,275	16	42	30,813
Average Unit Size:	Base: 704 sq. ft.		Proposed: 739 sq. ft.	
Qualifying Units per CA Gov’t Code 65915(f)	Desired Density Bonus	Required % Very Low Income	Raw # (11% of base units)	Rounded
	35%	11%	1.76	2
2 VLI Units allows for:			Rounded Up	Total (Base+DBU)
5.60 Density Bonus Units (DBU)			6 DBU	22 Units

¹ The applicant would either pay the required Affordable Housing Mitigating Fee, or provide additional BMR units as part of the project’s requirement to meet the City’s Affordable Housing Mitigation Requirement.

² AMI = Area Median Income; 50% AMI refers to rents affordable (charging no more than 30 percent of household income) to tenants earning 50 percent of the AMI.

The project is also entitled under density bonus law to two “concessions or incentives” unless the ZAB finds that the concessions are “not required in order to provide for affordable housing costs.”³

B. Bulk and Massing: The five stories would be concentrated on the west (fronting Adeline) and the height steps down from five- to three-stories towards the east and south to provide a horizontal transition to the neighboring two- and three-story buildings. Even with the proposed stepping down, however, the overall building height is still significantly greater than the height of buildings in the neighborhood.

At the ground level, the project provides no street and side yard setbacks, where a minimum of 15 and 10 feet setbacks are required, along Emerson and Adeline, respectively. The project also provides no interior side yard setback along the eastern site boundary, where 10 feet is required or a rear yard setback where a minimum of 19 feet is required. As shown in Table 4, the applicant is requesting a use permit to modify all setbacks.

Figure 7 below illustrates the base project, the density bonus units, and additional floor through a concession request.

Figure 7: Base Project with Density Bonus and Use Permit Request

Floor	Base Project Units	Proposed Project Units	
5 th		10	Key Use Permit Floors Base Project (5) + Bonus Units (6) Commercial
4 th		10	
3 rd	8	11	
2 nd	8	11	
1 st	0	0	

As stated in Section V.A above, the base project for this project would be 16 units, the density bonus would allow six additional dwellings, and the use permits would allow for additional floors to contain 20 additional dwellings, for a total of 42 dwellings. Unlike waivers required to accommodate the density bonus units, the City retains discretion over granting the floor increase and associated units requested through a Use Permit.

Previous direction to staff from the City Attorney had been that additional discretionary height that might otherwise be requested with a Use Permit was not allowed for projects taking advantage of State Density Bonus Law. However, a determination by the City Attorney and the Planning Director diverges from past procedures in that project applicants may now request a Use Permit for additional height as allowed by the zoning district in addition to the density bonus (projects like 1950 Addison Street

³ Government Code Section 65915(d).
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and 2902 Adeline Street were approved with Use Permits for additional stories). Unlike the waivers required to accommodate the density bonus units, the ZAB retains discretion over granting the height increases and associated units as well as the use permits to eliminate required setbacks.

C. Modification of Residential Development Standards: The applicant is requesting Use Permits to modify the C-SA District Development Standards as shown in Table 4 for height/stories, lot coverage, and setbacks. The required Findings, as set forth in 23E.52.090.C, are as follows⁴:

1. To encourage utilization of public transit and existing off-street parking facilities in the area of the proposed building;
2. To permit consistency with the building setbacks existing in the immediate area where a residential building setback would not serve a useful purpose;
3. To facilitate the construction of affordable housing as defined by the U.S. Department of Housing and Urban Development (HUD) Guidelines; and,
4. To provide consistency with the purposes of the District as listed in Section 23E.52.020.

Height/Stories: If the proposed project complied with the District Height and story limits, without the allowances under the State Density Bonus, the project would result in 16 dwellings (36 fewer units). With the application of State Density Bonus Law, the project would result in 22 dwellings within three stories (20 dwellings fewer). With the additional use permits to increase the height and the story limits, the project would result in 42 dwellings. Staff believes that the additional floors would further Finding #3 by providing additional housing units in close proximity to public transit services, thereby contributing towards the City's fair share housing goal established by ABAG, by 20 additional dwellings. In addition, the additional floors would further Finding #4 in that the project would be consistent with the District Purposes by creating residential development for persons who desire both the convenience of location and more open space than is available in the Downtown (Purpose E) and would locate mixed-use development (retail/office/residential) on appropriate sites in the District (Purpose H).

Lot Coverage: If the lot coverage limit of 45% and the 3-story height limit were applied to this project, and the project did not include a density bonus, the resulting building would have 26 fewer units (this is based on the resulting floor area & average unit size proposed by this project), which would not take full advantage of the site's location which is well served by public transit services. The proposed increase in lot coverage from 45% to 92% would enable the construction of the proposed project.

Setbacks: The front and street yard reductions along Emerson and Adeline Streets, respectively, would support the pedestrian-orientation of the area by creating storefronts and outdoor seating to activate the streetscape, and would also justify the yard reduction to continue the building line established along Emerson and Adeline Streets. While the application of R-4 Development standards to mixed-use projects for setback to *all* yards and the lot coverage limitation is unique to the C-SA District, the City's position on other recent projects in this District (2902 Adeline), is that strict

⁴ The ZAB shall find that the proposed use or structure satisfies at least one of the four general purposes.
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adherence to these standards would result in development that would underutilize the available land in the District.

Regarding the required findings to increase height and lot coverage, and to reduce setbacks, staff believes that because the proposed project would add 42 dwelling units, 4,324 square feet of commercial space and 38 off-street parking spaces in a location that is planned for mixed-use development and is well served by public transit, the additional density would further each of the four findings noted above. Also, the project would realize the City's plans for redeveloping underutilized sites in a way that would increase the quality of the built-in environment and provide new housing and commercial opportunities along a major corridor that is well served by public transit services. The increased population and new street level retail, and the removal of a surface parking lot, would enhance the attractiveness and vitality of the area.

D. Affordable Housing: As stated in Table 2 above, the proposed project is subject to the City's Affordable Housing Mitigation Fee (BMC Section 22.20.065), which requires that the project: (1) set aside a number of units that is equivalent to 20%⁵ of the market rate units at rental rates affordable to Low-Income and Very Low-Income Households; or (2) pay mitigation fee equal to 20% of the market rate units in the project; or (3) provide less than 20% and pay a proportionately reduced fee. Projects that include Low-income and Very Low-Income Units, including Qualifying Units proposed for the density bonus, would qualify to pay a discounted fee if providing fewer than the number of units equal to 20% of the market rate units in the project. In this case, the applicant has not specified how they intend to comply with BMC Section 22.20.065.

E. Parking: As illustrated in Table 6 below, per the Zoning Ordinance, the project requires 31 vehicle spaces for the 31,206 square feet of residential use (at 1 vehicle space per 1,000 square feet) and 7 vehicle spaces for the 4,324 square feet of general commercial space (at 1 vehicle space per 500 square feet minus the first 1,000 square feet). The project is proposing a total of 38 spaces, which meets the District requirements. However, the applicant will request flexibility to amend the development program in the future to include restaurant use in the project, which could result in a shortfall (restaurant use requires 1 space per 300 square feet, and if fully developed with food service, the site would need to provide 10 spaces for the commercial use and 31 for the residential use, resulting in a 3 space shortfall). The application of any of these alone, or in combination, would address the potential shortfalls:

1. A density bonus waiver for a reduction in residential parking requirements as discussed in Issue B above; w
2. A Use Permit to allow for the reduction on required residential off-street parking spaces pursuant to BMC Section 23E.52.080.E. To do so, the ZAB must find that the reduction will not substantially reduce the availability of on-street parking in the vicinity of the use; and

⁵ Per BMC Section 22.20.065.D, 10% shall be reserved for "Low-income Household" whose income is no more than 80% of AMI and 10% shall be reserved for "Very Low-Income Household" whose income shall be no more than 50% of AMI. All units provided in lieu of fee must be reserved as affordable units for the life of the project.
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3. Under Govt. Code §65915(p)(2), if a development includes the maximum percentage of low-income or very low income units and is located within one-half mile of a major transit stop, as defined in subdivision (b) of Section 21155 of the Public Resources Code, and there is unobstructed access to the major transit stop from the development,⁶ then, upon the request of the developer, the City cannot not impose a vehicular parking ratio, inclusive of handicapped and guest parking, that exceeds 0.5 spaces per bedroom. Because this project may have 47 bedrooms, per this section, the City cannot require 31 spaces but would be limited to requiring only 24 vehicle spaces for the 42 dwellings (47 bedrooms). If the applicant made a request under this section, the project would result in parking surplus of 7 spaces as show in in Table 5 below.

Table 5: Parking Development Standards

Standard BMC Sections 23E.52.070-080 & 23D.40.070-080		Existing	Proposed Total	Permitted/Required	
				Standard Ratio	Min
Parking	Automobile		38		
	Commercial: Rest.	18		1/300 sq. ft.	0
	Commercial: General	N/A		2/1,000 sq. ft.	7
	Residential	N/A		1/1,000 sq. ft.	31
	Total	18		-	38
	Bicycle				
	Commercial	0	4	1/2000 sq. ft.	2
	Residential	0	22	None required	
	Total	0	26	3 min.	
	Density Bonus Standard (Gov't Code Sec. 65915(p)(2))				
Parking	Automobile		38		
	Commercial: Rest.	18		1/300 sq. ft.	0
	Commercial: General	N/A		2/1,000 sq. ft.	7
	Residential	N/A		.5/bedroom	24
	Total	18		-	31
	Bicycle				
	Commercial	0	4	1/2000 sq. ft.	2
	Residential	0	22	None required	
	Total	0	26	3 min.	

Although it cannot be factor in considering parking reduction under Gov't Code Sec. 65915(p)(2), Staff notes reduction of off-street parking space at this location is supportable because the site is located directly across the street from the Ashby BART Station and is within 0.25 miles of several AC Transit line stops (F, 80, 81, and 800).

⁶ Per Public Resources Code Section 211559(b), a major transit stop includes major transit stops that are included in the applicable regional transportation plan; a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

In the past, the neighbors have expressed concern that street parking in the neighborhood is a challenge and a reduction in required resident parking will intensify this issue. The applicant will be required to submit Traffic Impact Analysis (TIA) when a formal application is submitted.

There is a balance to achieve between planning towards a transit-oriented, car independent society and the realities of car ownership and the real estate—both off- and on-street—required to park them. Staff requests feedback from the ZAB to assess whether a change in development program in the future could be supported and/or whether it is anticipated to create undue detriment in the availability of parking and related 'looking for parking' congestion in the project vicinity.

F. General Plan: The 2002 General Plan contains several policies applicable to the project. The following are provided to guide ZAB in its advisory comments and suggestions.

1. Policy LU-3—Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7—Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy LU-27 Avenue Commercial Areas: Maintain and improve Avenue Commercial areas, such as University, San Pablo, Telegraph, and South Shattuck, as pedestrian-friendly, visually attractive areas of pedestrian scale and ensure that Avenue areas fully serve neighborhood needs as well as a broader spectrum of needs.
4. Policy UD-17 Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
5. Policy UD-16—Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
6. Policy UD-24—Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
7. Policy UD-32—Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.
8. Policy H-19—Regional Housing Needs: Encourage housing production adequate to meet the housing production goals established by ABAG's Regional Housing Needs Determination for Berkeley.
9. Policy LU-23—Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.

G. Area Plan: The South Berkeley Area Plan, adopted in 1990, also contains several policies applicable to the project, including the following:

1. Housing Element Policy 3.7: Encourage the construction of new affordable housing units.
2. Housing Element Policy 3.10: Locate higher density housing in area with easy access to retail activity, the workplace, and public transportation.
3. Housing Element Policy 5.2: Ensure that useable open space improvements are integrated into new housing and mixed use developments.
4. Land Use Policy A. 1: Preserve the character and quality of life of residential areas.
5. Land Use Policy C.1.2: Regulate mixed development to ensure compatibility with adjacent residential neighborhoods.

VI. Recommendation

Staff recommends that the ZAB hold a public hearing, and then provide advisory comments regarding the use of State Density Bonus Law to waive parking for the density bonus units, the increase in height and stories that may be allowed by a use permit, the reduction in usable open space that may be allowed by a use permit, and the overall bulk and mass of the building. Staff also requests that the ZAB provide advisory comments to staff on issues and analyses that the ZAB would like to see discussed when a formal application is submitted to the City and the project is presented to the ZAB.

Attachments:

1. Applicant Statement and Project Plans, received May 22, 2017
2. Notice of Public Hearing
3. Correspondence Received

Staff Planner: Immanuel Bereket, IBereket@cityofberkeley.info, (510) 981-7425