



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
JULY 13, 2017

2777 SHATTUCK AVENUE

Appeal of Design Review Committee Decision to approve Final Design Review (#DRCF2017-0005) for the project to construct a 4,427 square foot addition to an existing building to serve a new full service auto dealership.

I. Background

A. Land Use Designations:

- General Plan: AC – Avenue Commercial
- Zoning: C-SA – South Area Commercial

B. Zoning Permits Required:

- Final Design Review, under BMC Section 23E.12.040.C

C. CEQA Determination: Categorically exempt pursuant to section 15301 (“Existing Facilities”) and does not apply to any exceptions stated in section 15300.2 (“Exceptions”) of the CEQA Guidelines.

D. Parties Involved:

- | | | |
|--------------|---------------------|-----------------|
| • Applicant | Mauricio De la Pena | |
| • Appellants | Steven Finacom | Ernest Machen |
| | Gary Lapow | Jane Kitchel |
| | George Kilingsworth | Ann Foley |
| | Thomas Ferrell | Christine Byrne |
| | Bruce Powelson | Lucy Clark |
| | Rose Ann Cochran | Pam Speich |

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Commercial/Retail	C-SA, R-2	AC, Avenue Commercial, LMDR, Low Medium Density Residential
Surrounding Properties	North	Restaurant	C-SA	AC, Avenue Commercial
	South	Commercial/Retail	C-SA	AC, Avenue Commercial
	East	Multi-unit Residential	R-2	LMDR, Low Medium Density Residential
	West	Parking lot	C-SA	AC, Avenue Commercial

Table 2: Project Chronology

Date	Action
April 24, 2015	Use Permit & Design Review Application submitted
July 9, 2015	LPC meeting for Design Review Committee Referral (no action taken)
July 16, 2015	DRC hearing for Preliminary Design Review (continued)
August 31, 2015	Submittal of Revised Design (Service access from Shattuck)
September 25, 2015	Use Permit & Design Review Application Deemed Incomplete
October 21, 2015	Use Permit & Design Review Application deemed complete
April 7, 2016	LPC meeting for Design Review Committee Referral (no action taken)
April 21, 2016	DRC hearing for Preliminary Design Review (forwarded favorable recommendation)
June 9, 2016	ZAB hearing, Continued
July 28, 2016	ZAB hearing, Continued
September 8, 2016	ZAB hearing, Use Permit Approved
February 7, 2017	City Council Meeting, No Action Taken
February 28, 2017	City Council Meeting, No Action Taken. Per 23B.32.060.G, the Board's approval of the Use Permit was deemed affirmed and the appeal was thus denied.
May 18, 2017	DRC Final Design Review Meeting, Approved with Conditions
June 1, 2017	Appeal of DRC Decision
June 29, 2017	Public hearing notices mailed/posted
July 13, 2017	ZAB hearing on Appeal
	ZAB Deadline to Act on Appeal

II. Project Setting

The project site sits on the Shattuck Avenue commercial corridor and is surrounded by retail uses to the North and South. Residential uses abut the property to the east and are comprised mostly of bungalows and some larger scale residences. This site is adjacent to the Adeline Corridor Plan Area and that effort is now in process. More detailed

information on that process is available at the following link:
<http://www.ci.berkeley.ca.us/AdelineCorridor/>

III. Approved Project

Use Permit #ZP2015-0102 allowed the establishment of a full service auto dealership, including auto sales, repair and maintenance, in an existing building; to construct a 4,427 square-foot addition to the building for auto access and service; and to use a portion of the existing 31-space surface parking lot at 2747 Adeline Street for dealership parking, car display, and inventory.

The plans presented to the DRC for Final Design Review approval reflected construction level details of the more preliminary plans that were presented to the ZAB and DRC. Final Design Review is to confirm the colors, materials and other details, but not the overall massing, design program or site layout. For this project, staff reviewed the plans and deemed them consistent in this manner with the plans approved by the DRC during preliminary design review.

IV. Community Discussion

A. Neighbor/Community Concerns: Members of the community spoke at the May 18, 2017 Design Review Committee meeting. Nine members of the community spoke in opposition and expressed concern with the encroachments over the property line on the Adeline site, the desire for more landscape, especially more street trees, on the Stuart Street frontage of the parking lot for Sconeledge, and pedestrian safety in general.

B. Commission / Committee Review: On December 3, 2015, LPC approved the designation of the site as a Landmark, Structure of Merit. The property owner appealed that decision, and on March 15, 2016, City Council voted to overturn the LPC decision. The project returned to the LPC on April 7, 2016 for recommendations on how the proposed improvements might affect any potential historic resources on the site. They confirmed that the new design is consistent with the Secretary of the Interior Standards. The majority of the LPC thought the garage width was appropriate and the design changes in general appeared to be responsive to the neighbor's concerns from the initial design submittal.

This project was before the Design Review Committee (DRC) in July 2015 for Preliminary Design Review and again in April 2016 where it received a favorable recommendation to the Zoning Adjustments Board (ZAB) with conditions and specific recommendations for Final Design Review.

The Use Permit was approved by ZAB on September 8, 2016. That decision was appealed by neighbors on September 28, 2016. This appeal was on two City Council agendas, February 7, 2017 and February 28, 2017 where no motions passed. As such, the Zoning Adjustments Board's decision was affirmed.

This project returned to the DRC on May 18, 2017 for Final Design Review. (Attachments 1 and 2) The Committee reviewed the details, colors, and landscape for the project, as well as the applicant's response to any specific direction given at Preliminary Design Review, but stayed within the approved use permit parameters. Drawings included in the approved Use Permit were attached for the DRC's reference. (Attachment 3) A summary from that review, including conditions of approval are below for your reference.

Final Design Review was approved with the following conditions: MOTION (Edwards, Linvill) VOTE (5-0-0-1) Kahn – absent.

Conditions:

- *Consistent correct plans shall be submitted to the Design Review Planner for review and approval before building permit sign-off. Plans shall show clarity for painting, plantings, irrigation, lighting, and signage.*
- *Provide a green fence on both sides of the driveway on Stuart unless prohibited by any existing utilities or safety conditions; green fences at the Stuart sidewalk edge should have some openness for increased visibility and safety.*
- *Lighting in the parking area by Sconehedge shall be upgraded for safety.*
- *Traffic Engineer shall review safety signage at driveway entrances; provide on sidewalk at curb cuts consistent with Traffic Engineer approval.*
- *Landscape shall be irrigated.*
- *Move wheel stops back so cars don't hit planters.*
- *Planters on Stuart shall be higher (18") so green fence will be more viable.*
- *Garage door shall have more horizontal sections.*
- *HONDA signage should be more centered in that horizontal band section.*

Recommendations:

- *Increase planter width on Stuart.*
- *Neighbors did raise concern of planters/landscape on the public right-of-way. Staff confirmed that this condition was indicated in the approved use permit drawings.*
- *Proposed color palette appears to be appropriate. Lighter shade should extend south until curved wall ends into Sconehedge storefront.*
- *Recommend a more rectilinear service entrance sign.*

VI. Response to Appeal Issues

As described above, Final Design Review for this project was on May 18, 2017. The Design Review Committee approved Final Design Review with conditions. The motion, vote, conditions, and recommendations are located above. That approval was appealed on June 1, 2017 to Zoning Adjustments Board. (See Attachment 4)

The issues raised in the appeal letter, and staff's responses, are listed below. For the sake of brevity, the appeal issues are not re-stated in their entirety; please refer to the

attached appeal letter for full text and to the applicant's response to the appeal issues (See Attachment 5).

1. **“The DRC and the public were given conflicting, erroneous and confusing project descriptions by the applicant and staff” (page 1 of the attached appeal).**

Staff Response: There were some minor differences and conflicts between the drawings included in the packet and the slide presentation at the meeting. This is common at Final Design Review where some renderings and slides from earlier stages in the design process are presented for context. The Committee reviewed the project drawings submitted and noted any discrepancies, covering any inconsistencies or errors with conditions included in their approval.

2. **“The Committee impermissibly approved inferior accommodations for the disabled in the project plans” (page 2 of the attached appeal).**

Staff Response: Accessible parking spaces located on the site plan appear to be consistent with the approved use permit drawings, however, Building & Safety will ultimately review this for code compliance in the building permit phase.

3. **“The landscaping maintenance proposed by the applicant is inadequate and does not conform to City standards” (page 2 of the attached appeal).**

Staff Response: There appeared to be some confusion during the applicant's presentation as to whether there would be irrigation for the new landscape areas. The Committee resolved this issue by adding a condition of approval that landscape shall be irrigated.

4. **“several portions of the “triangle” parking lot currently encroach into publicly owned property and the public right-of-way along Adeline Street and the 2000 block of Stuart Street” (page 3 of the attached appeal).**

Staff Response: This existing condition is clearly shown on the approved use permit drawings and the parking layout submitted at Final Design Review. When questions came up at the DRC meeting, Staff did point out the same condition on the approved Use Permit drawings and noted that although encroachments over and into the Public Right-of-way are shown on use permit drawings, approval for these encroachments are through Public Works. Public Works is being routed on all building permits for their review. A revised site plan has been included with the applicant's response letter and reflects recent changes to their parking layout on the “triangle” parking lot in response to Public Works review. Parking and vehicle display areas have been relocated and do not extend over the property line. New light standards proposed have also been removed as there is adequate light from existing fixtures. (See Attachment 5).

5. **“The applicant proposed a six foot screen / fence along the Stuart Street side of the parking lot on the property which would make that parking lot for Sconehege customers unsafe and, by reducing site lines, also endanger**

pedestrians crossing the Sconehege driveway on the public sidewalk” (page 3 of the attached appeal).

Staff Response: The DRC added a condition of approval for more openness and visibility into that parking area. The fence has been added on both sides of the curb cut entrance, but lowered to four foot in height.

6. **“The applicant did not present, and the Committee did not review, any signage for the multiple parking areas on the property” (page 3 of the attached appeal).**

Staff Response: Safety and directional signage is typically reviewed during the building permit plan check phase by the City’s Transportation Planner and not included in Final Design Review as with business signage. There is smaller directional signage, less than 8 square foot in sign area, that is included in our Sign Ordinance and can be additional to the permanent building signage. Staff will defer to Public Works and Transportation for any safety and public welfare issues.

7. **“Illustrations accurately showing the signage should have been available for public and Committee review before a vote.” (page 4 of the attached appeal).**

Staff Response: Signage was accurately shown on the applicant’s Final Design Review submittal. The applicant reduced the size of two wall signs facing Shattuck in response to Staff’s review of the Final Design Review submittal in order for the signage to better fit within the existing horizontal trim bands. Copies of the revised signage were distributed to each Committee member and included in the slide presentation. This change reduced the visual impact of the signage, and as such, the Committee included this change into their approval. That document is attached for your reference. (See Attachment 2.)

8. **“Substantial new landscaping...and additional street trees along the...sidewalk frontage of the property along the 2100 block of Stuart Street... was requested and expected by the neighborhood. However, this landscaping was not present” (page 4 of the attached appeal).**

Staff Response: The approved drawings show one new street tree just east of the entrance into the Sconehege parking area. The City Forester does not recommend an additional street tree between the parking entrance and the corner because of the proximity to the corner. Additional lower landscaped areas are also not feasible in this location due to the amount of existing utilities and parking meters, but Staff will continue to review the final landscape plan during the building permit phase and work to increase landscape edges where possible.

9. **“along the 2000 block of Stuart Street frontage of the “triangle” site the sidewalk is severely damaged and unsafe because of tree roots, and haphazard repair patching.” (page 4 of the attached appeal).**

Staff Response: Typically, standard improvements to the sidewalk as part of a construction project is handled by Public Works during the building permit and construction phases and not in Final Design Review. Public Works is reviewing the building permits and have requested that any sidewalk in disrepair be replaced in accordance with BMC16.04.010.

10. “there was no discussion and review at the DRC meeting of the delivery locations. The location was not show on the plans presented to the Committee” (page 5 of the attached appeal).

Staff Response: Conditions of approval for vehicle and parts delivery were included in the Use Permit and are being reviewed in the building permit phase in a comprehensive Vehicle Operations Plan. These deliveries will be in the Public Right-of-way on Adeline Street and do not affect the final building details and landscape plan reviewed at Final Design Review. The Transportation Division is reviewing the final building permits.

VII. Recommendation

A. Because of the project’s consistency with the approved Use Permit, staff recommends that the Zoning Adjustments Board **UPHOLD** the Design Review Committee’s Final Design Review #DRCF2017-0005 approval pursuant to Section 23E.08 and 23E.12 and subject to the conditions of approval in Section V above and **DISMISS** the Appeal.

Attachments:

1. Project Plans, received May 10, 2017
2. Materials Sheet with Revised Signage, received May 18, 2017
3. Approved Use Permit Drawings dated September 8, 2016
4. Appeal Letter, dated June 1, 2017
5. Applicant’s Response to the Appeal Issues, including revised Site Plan, dated July 6, 2017
6. Public Hearing Notice
7. Correspondence Received

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