



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
SEPTEMBER 14, 2017

2190 Shattuck Avenue

Review and comment on the Draft Environmental Impact Report for Use Permit #ZP2016-0117 to redevelop a 19,967 square-foot (0.46-acre) site at the northwest corner of Shattuck Avenue and Allston Way with a proposed 211,590 Square foot, 18-story building with 274 residential units above approximately 10,000 square feet of ground floor retail space. Approximately 103 parking spaces would be provided in a two-level subterranean garage accessed from Allston Way.

I. Application Basics

A. CEQA Determination: A Draft Environmental Impact Report (EIR) was prepared and is available for public comment until September 25, 2017. Copies of the Draft EIR are available for review at the City of Berkeley Planning and Development Department, 1947 Center Street, 2nd Floor, Berkeley. Copies are also available at the Berkeley Main Public Library Reference Desk, 2090 Kittredge Street, or online at https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/2190_Shattuck.aspx.

B. Land Use Designations:

- General Plan: DT – Downtown
- Zoning: C-DMU Core – Downtown Mixed-Use District, Core Sub-Area

C. Owner and Applicant:

Owner: PR III Shattuck LLC
2190 Shattuck Avenue
Berkeley, CA 94704

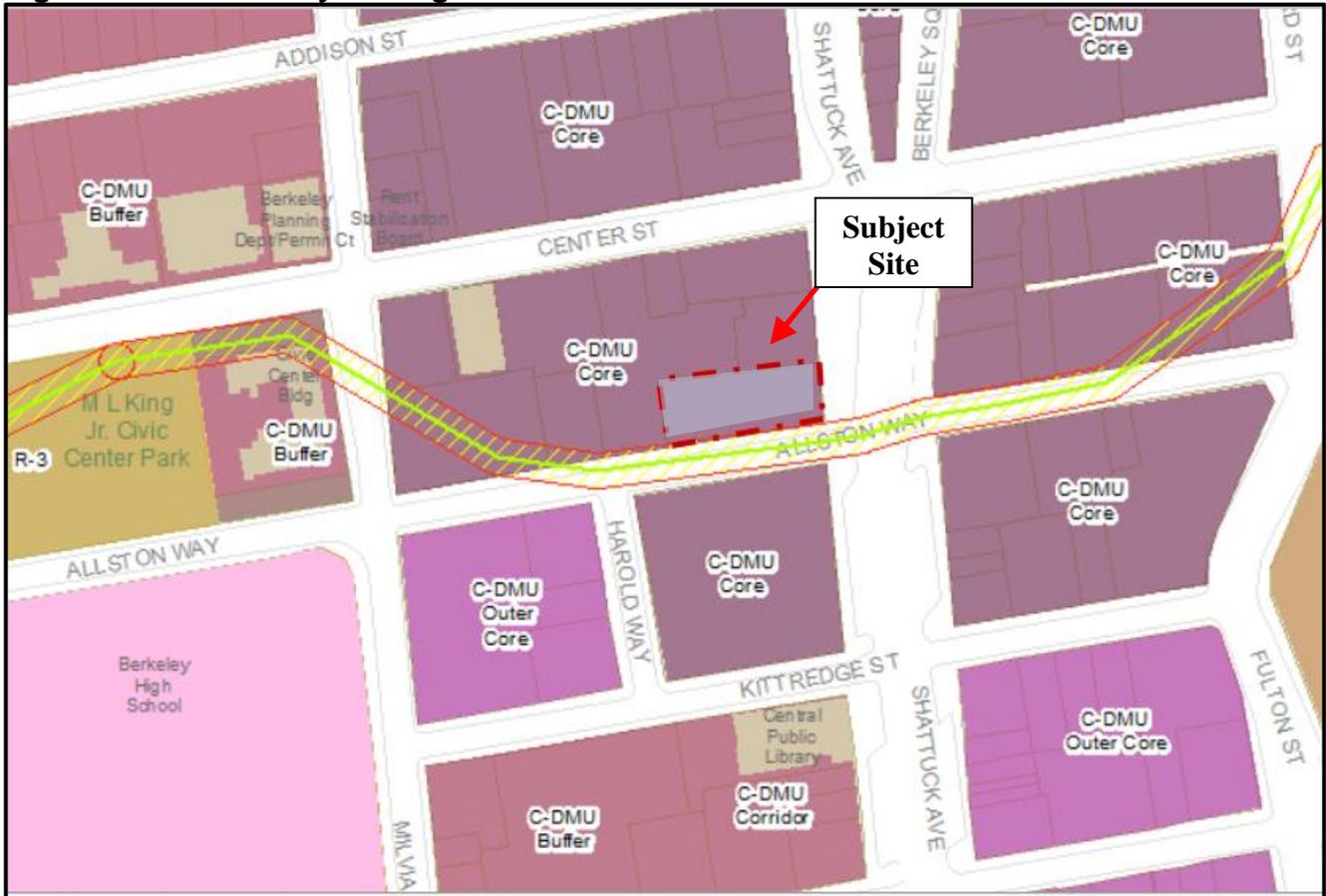
Applicant: Mill Creek Residential
Don Peterson
411 Borel Avenue, Suite 405
San Mateo, CA 94402

D. Zoning Ordinance Permits Required:

- Use Permit for construction for demolition of a non-residential building, under BMC 23C.08.050.A;
- Use Permit for construction of a new main building with mixed-use development, under BMC 23E.68.030;
- Use Permit for construction of >10,000 sq. ft. gross floor area, under BMC 23E.68.050;

- Use Permit to allow a maximum height of up to 180 feet, under BMC 23E.68.070.B;
- Use Permit to allow that portion of the building over 120 feet to be greater than 120 feet in width when measured at the widest point on the diagonal in plan view, under BMC 23D.68.070.C; and
- Administrative Use Permit to allow architectural projections (e.g. elevator enclosures) to exceed the height limit, under BMC 23E.04.020.C.

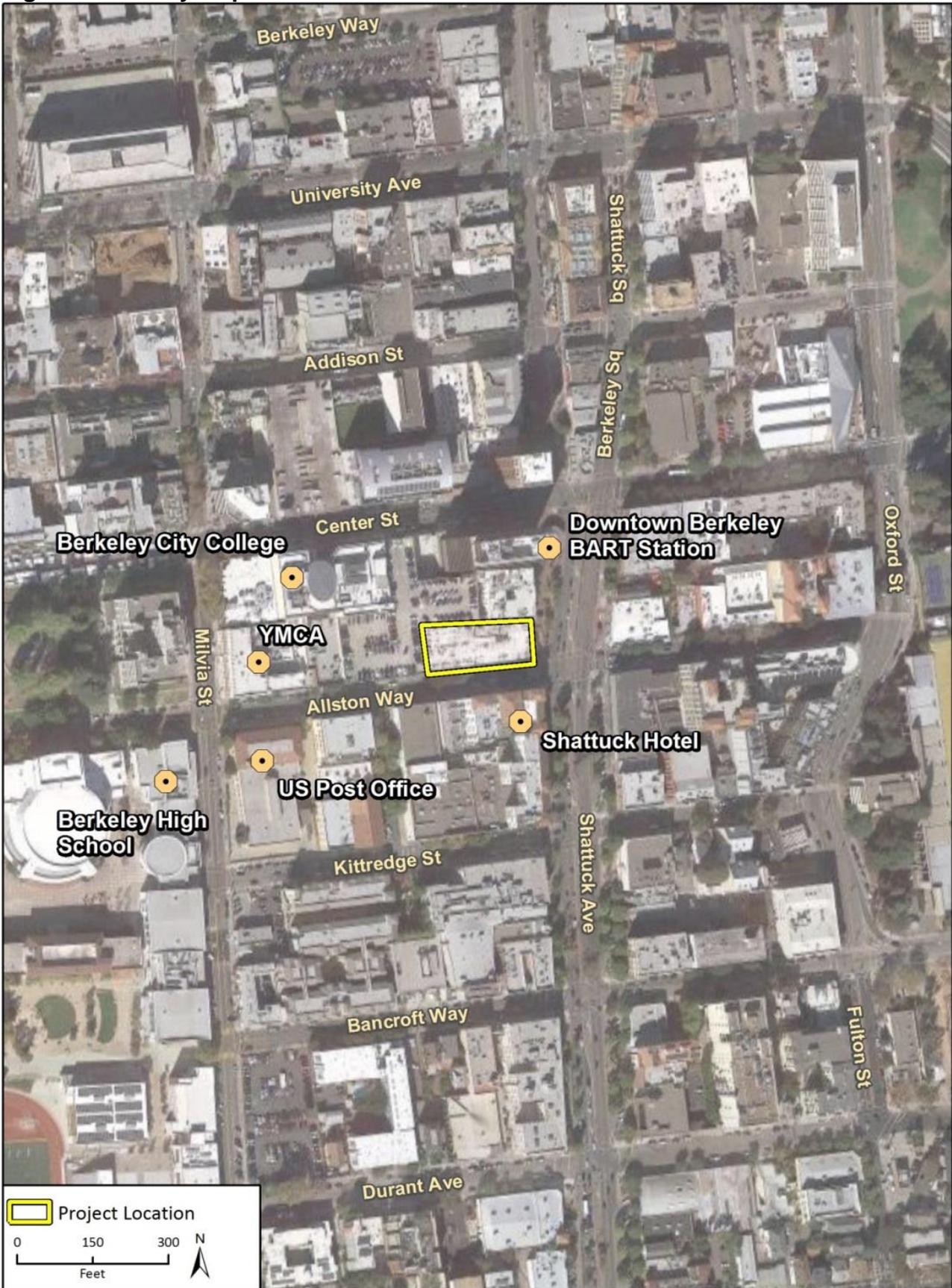
Figure 1 : Site Vicinity/Zoning District Detail



Centerline Culverted Creek

Culverted Creek Setback

Figure 2: Vicinity Map



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IEC Fig 2 Project Location

II. Site/Project Description

The 19,967 square-foot (0.46-acre) project site, assessor's parcel number 57-2026-004-05, is located at 2190 Shattuck Avenue, on the northwest corner of Shattuck Avenue and Allston Way, in the Downtown area of the City of Berkeley. The site has frontage on Shattuck Avenue and Allston Way, and is adjacent to the southern edge of the Bay Area Rapid Transit (BART) Plaza associated with the Downtown Berkeley BART station. It is accessible by several bus lines operated by the Alameda-Contra Costa Transit District (AC Transit), including lines 6, 7, 12, 18, 25, 49, 51B, 52, 65, 67, 88, 800, 851, and F, along with shuttle buses serving the University of California, Berkeley and Lawrence Berkeley National Laboratory.

The project site is entirely covered by a two-story, approximately 38,700 square-foot retail and office building currently occupied by a Walgreens store on the ground floor. The site slopes approximately five feet downward from east to west. The project site is surrounded primarily by Downtown Berkeley commercial and institutional development in buildings ranging in height from one story (the Fresco Mexican Grill building at 2177 Shattuck Avenue) to 14 stories (the 180-foot First Savings/Great Western Building at 2150 Shattuck Avenue). In 2015, an 18-story mixed use building was approved by the City one block south, on a site at 2211 Harold Way; this site is on the western portion of the block defined by Harold Way, Allston Way, Shattuck Avenue and Kittredge Street. In 2016, the Zoning Adjustments Board approved plans for a 16-story, 334-room hotel, with conference center, to be built on the Bank of America site at 2129 Shattuck, approximately one block north of the subject site.

The project would involve demolition of the existing retail and office building and construction of an 18-story, approximately 211,590 square-foot mixed-use building. On the ground floor, the proposed building would have commercial retail space with a floor area of approximately 10,000 square feet, an adjacent community area, and a residential lobby. The retail space would front on the BART Plaza and wrap around to Allston Way. The applicant anticipates that Walgreens would return to the site after construction and occupy the ground-floor retail space. On the upper floors, the building would have 274 apartment units, ranging in size from studios to two-bedroom units. The upper floors would step back from Shattuck Avenue.

Motor vehicle parking would be provided in a two-level underground garage with 103 parking spaces, including five car share spaces. One hundred (100) bicycle parking spaces would be provided, including 94 spaces for residents and six for commercial users.

The project would include 21,924 square feet of residential useable open space on rooftop terraces and gardens and private balconies for residents, and 224 square feet of privately owned public open space at the retail entrance. Other improvements within and facing the public right-of-way may include seating and other pedestrian amenities at the BART Plaza, in coordination with planned BART improvements at that site; enhanced stone paving on the sidewalk, planted trees, and bike racks; and a Community Art Space adjacent to the building lobby.

Please see the attached Notice of Availability of a Draft EIR (NOA) (Attachment 1) and project plans (Attachment 2) for more project information. The NOA and other project materials including the plan set are also available on the project website at:

https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/2190_Shattuck.aspx.

III. Background

On January 5, 2017, 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. A public scoping session was held for the Draft EIR at the ZAB hearing of January 26, 2017. The NOP and the comments received during the scoping period are included in Appendix A of the Draft EIR and a transcript of the verbal comments from the scoping hearing are included in Appendix B of the Draft EIR. A summary of comments received is also included in Section 1, *Introduction*, of the Draft EIR.

The Draft EIR for the proposed project is currently available for public review. The public comment period for the Draft EIR began on August 10, 2017, and ends on September 25, 2017, at 5:00 p.m. See Table 1 below for key milestones in the EIR process. The Notice of Availability of a Draft EIR was mailed to responsible agencies, interested parties and a 300-foot radius around the project site. Staff posted six notices at and around the project site. Copies of the Draft EIR are available for review Monday through Friday, between the hours of 8:30 a.m. and 4:00 p.m. at the City of Berkeley Planning and Development Department, 1947 Center Street, 2nd Floor, Berkeley. Copies are also available at the Berkeley Main Public Library Reference Desk, 2090 Kittredge Street or online at https://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/2190_Shattuck.aspx.

The purpose of tonight’s meeting is to review and comment on the Draft EIR. No action will be taken on the Project 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 ZAB can deliberate on the Use Permit.

Table 1: Key Milestones in the EIR Process (dates in *italics* are tentative)

Task/Event	Date
Notice of Preparation (NOP) released	January 5, 2017
EIR Scoping Session at ZAB	January 26, 2017
End of 30-day NOP comment period	February 6, 2017
Publication of Draft EIR and Notice of Availability	August 10, 2017
Close of Draft EIR comment period (5:00 p.m.)	September 25, 2017
ZAB hearing on Final EIR certification	<i>Fall/winter 2017</i>
ZAB hearing on Use Permit	

IV. Draft Infill Environmental Impact Report (EIR)

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 EIR is intended to inform decision makers and the general public of project impacts and potential alternatives that would avoid or reduce those impacts. Following is a summary of key points from the proposed project's Draft EIR:

A. Streamlined CEQA Process for Infill Projects. The project qualifies for "streamlined review" under CEQA Guidelines Section 15183.3, which is intended "to streamline the environmental review process for eligible infill projects by limiting the topics subject to review at the project level where the effects of infill development have been addressed in a planning level decision or by uniformly applicable development policies."¹ In order to be eligible for streamlined review, a project must be located on an urbanized site, satisfy certain performance measures, and be consistent with the policies of a "sustainable communities strategy" adopted for the project area.²

When a project qualifies for streamlined review, but would have new potentially significant impacts that were not addressed in the prior planning level decision or that cannot be "substantially mitigated by uniformly applicable development policies," such impacts must be analyzed through the normal EIR review process. In the case of the proposed project, the primary planning level decision is the adopted Downtown Area Plan, and the referenced environmental documentation is the 2009 Downtown Area Plan Final EIR. These streamlining provisions are discussed further in sections 1 through 3 of the Draft EIR and in the Draft Infill Environmental Checklist (Appendix A of the Draft EIR).

B. Environmental Effects. The Draft Infill Environmental Checklist, included as Appendix A to the Draft EIR, indicates that the potentially significant effects of the proposed project would be limited to the topics of Air Quality, Cultural Resources, Geology and Soils, Hydrology and Water Quality, Land Use and Planning, Noise and Vibration, and Transportation and Traffic. All other impacts are examined in the Infill Environmental Checklist and were found to be less than significant (either with or without mitigation).

Regarding aesthetics, the Infill Environmental Checklist (Appendix A to the Draft EIR) found that the scale and general intensity of proposed development on the site would fall within that analyzed under the DAP EIR and that although the project would have an adverse effect on scenic views available from Campanile Way, the proposed project would not have project-specific significant impact as defined by CEQA on aesthetics. Pursuant to California State law (Senate Bill 743, 2013), potential aesthetic impacts of a qualifying infill project may be considered adverse, but not significant. (Aesthetic impacts do not include impacts on historical resources, and those are analyzed as a part of the review of impacts to cultural resources.)

¹ CEQA Guidelines Section 15183.3(a).

² "Sustainable Communities Strategy" (SCS) refers to a greenhouse gas emission reduction strategy adopted by a metropolitan planning organization pursuant to Government Code Section 65080. In the case of Downtown Berkeley, the applicable SCS is found in [Plan Bay Area](#), which was adopted by the Association of Bay Area Governments and the Metropolitan Planning Commission in July 2013.

In addition, potentially significant impacts found in Hydrology and Water Quality and Land Use and Planning were studied further in other sections; specifically, Geology and Soils and Cultural Resources, respectively. Therefore, the Draft EIR evaluates only Air Quality, Cultural Resources, Geology and Soils, Noise and Vibration, and Transportation and Traffic in detail. Mitigation is identified to reduce impacts related to Air Quality, Cultural Resources, Geology and Soils, and Transportation and Traffic to less than significant levels. The Draft EIR identifies a significant and unavoidable impact related to temporary construction Noise and Vibration.

The potentially significant impacts and mitigation measures are summarized below.

Section 4.1, *Air Quality*, identifies four potential air quality impacts from the project:

1. Impact AIR-1 (significant but mitigable): Project Construction Emissions. Construction of the project would generate increases in localized air pollutant emissions. This impact would be reduced to less than significant levels through compliance with Bay Area Air Quality Management District (BAAQMD) regulations and implementation of BAAQMD-recommended measures for reducing construction emissions of PM₁₀ and PM_{2.5}, as listed in Mitigation Measure AIR-3 from the DAP EIR.
2. Impact AIR-2 (less than significant): Operational Emissions. Operational activities associated with the project would not exceed BAAQMD regional air quality standards. No mitigation required.
3. Impact AIR-3 (less than significant): Sensitive Receptors. Onsite sensitive receptors would not be exposed to substantial levels of Toxic Air Contaminates (TAC) that would significantly impact human health. No mitigation required.
4. Impact AIR-4 (less than significant): Population Growth. The project would contribute to population growth but would be consistent with the growth assumptions in the BAAQMD's current 2017 Clean Air Plan. No mitigation required.

Section 4.2, *Cultural Resources*, identifies three potential impacts from the project:

1. Impact CUL-1 (significant but mitigable): Historic Resources. The project design would adversely affect the setting of nearby historical resources, including the adjacent Shattuck Hotel and the greater proposed Shattuck Avenue Downtown Historic District. This impact would be reduced to less than significant levels through design modifications to enhance the compatibility of the project with surrounding historic resources, as listed in Mitigation Measures CR-1a and CR-1b.
2. Impact CUL-2 (less than significant): Vibration Impacts to Historic Structures. Construction activities would not produce potentially damaging ground vibration in the vicinity of existing historic resources. No mitigation required.
3. Impact CUL-3 (less than significant): Obstruct Views from Historic Cultural Landscapes: The project would not result in a substantial adverse change to the cultural landscape of the Classical Core of the UC Berkeley campus. No mitigation required.

Section 4.3, *Geology and Soils*, identifies two potential impacts from the project:

1. Impact GEO-1 (significant but mitigable): Foundation Instability. The project would occur within 25 feet of the Strawberry Creek culvert, resulting in a potentially unstable building foundation. This impact would be reduced to less than significant levels through the review and approval of a site-specific geotechnical investigation as well as final engineering and design plans, as listed in Mitigation Measure GEO-1.
2. Impact GEO-2 (significant but mitigable): Underground Transit Tunnels. The project would occur within the zone of influence of the adjacent Bay Area Rapid Transit (BART) station and tunnels, potentially resulting in damage to, or destabilization of, the project and transit facility. This impact would be reduced to less than significant levels through compliance with all applicable BART standards, as listed in Mitigation Measure GEO-2.

Section 4.4, *Noise and Vibration*, identifies five potential impacts from the project:

1. Impact N-1 (significant and unavoidable): Construction Noise: Project construction would temporarily generate high noise levels on and near the project site. Construction noise levels would intermittently exceed City standards for construction noise in commercial zones, particularly in the first months of construction during excavation and construction of the foundation system. Although mitigation is required, impacts would remain significant and unavoidable.
2. Impact N-2 (less than significant): Construction Vibration. Project construction would temporarily generate high vibration levels on and adjacent to the project site. However, vibration levels would not exceed levels that may cause structural damage to historic buildings. In addition, vibration-causing construction activities would be scheduled to inconvenience the least amount of people at nearby land uses. No mitigation required.
3. Impact N-3 (less than significant): On-site Operational Noise. Operational activities associated with the project would not exceed ambient noise levels at nearby noise-sensitive receptors. No mitigation required.
4. Impact N-4 (less than significant): Operational Roadway Noise. The increase of vehicle trips from the project would be incremental and would not result in a substantial traffic noise increase. No mitigation required.
5. Impact N-5 (significant but mitigable): Residential Noise. New residential units on the project site would be subject to noise levels in excess of the City of Berkeley noise compatibility guidelines. This impact would be reduced to less than significant levels through the provision of forced-air mechanical ventilation per Mitigation Measure NOI-1 in the DAP EIR and the installation of sound insulating materials, as listed in Mitigation Measure N-5.

Section 4.5, *Transportation and Traffic*, identifies nine potential transportation/traffic impacts from the project:

1. Impact T-1 (less than significant): Intersection Level of Service. The increase in vehicle trips from the project would not change the acceptable level of service at all intersections near the project site. No mitigation required.
2. Impact T-2 (less than significant): Vehicle Miles Traveled. Vehicle trips generated by the project would be in an area with low existing vehicle miles traveled. In addition, public transit would accommodate a substantial portion of the project's travel demand. The project would not result in a significant increase to the amount of vehicle miles traveled in the area. No mitigation required.
3. Impact T-3 (significant but mitigable): Physical Roadway Impacts During Construction. Construction activities would result in partial roadway closures and the relocation of a bus stop. This impact would be reduced to less than significant levels through the preparation and implementation of a construction traffic management plan, as listed in Mitigation Measure T-3.
4. Impact T-4 (significant but mitigable): Traffic Hazards. The project's driveway would introduce potential conflicts between vehicles accessing the site, pedestrians using the north-side sidewalk of Allston Way, and a nearby bus layover zone. This impact would be reduced to less than significant levels through the implementation of traffic safety measures, as listed in Mitigation Measure T-4.
5. Impact T-5 (significant but mitigable): Loading Activity Conflicts. Commercial and passenger loading activity associated with the project would introduce potential conflicts with other automobiles, buses, bicyclists, and pedestrians. This impact would be reduced to less than significant levels through the implementation of a loading monitoring and management plan, as listed in Mitigation Measure T-5.
6. Impact T-6 (less than significant): Waste Collection Traffic Conflicts. Garbage, recycling, and green waste generated by the project would be placed curbside on Allston Way for periodic collection. While storage bins would present a minor and temporary obstacle for pedestrians, they would not substantially affect pedestrian circulation on Allston Way. No mitigation required.
7. Impact T-7 (significant but mitigable): Emergency Access. Construction activities would result in partial roadway closures which would potentially impede emergency access to the project site. This impact would be reduced to less than significant levels through the preparation and implementation of a construction traffic management plan, as listed in Mitigation Measure T-3.
8. Impact T-8 (significant but mitigable): Transit Operations. The project would not generate a substantial increase in transit ridership that results in result in overcrowding on local or regional transit systems. However, the temporary closure of an AC Transit bus stop and layover zone would impede transit access during construction. Traffic conflicts with vehicles entering and leaving the proposed driveway and with loading activity also could delay buses on Allston Way. This impact would be reduced to less than significant levels through the implementation of measures to preserve local bus access during construction

and to minimize traffic and loading conflicts with buses during operation, as listed in mitigation measures T-3, T-4, and T-5.

9. Impact T-9 (significant but mitigable): Pedestrian And Bicycle Circulation. Construction activities would result in temporary impacts to bicycle circulation, and the proposed driveway would introduce pedestrian safety hazards. This impact to pedestrian and bicyclist circulation would be reduced to less than significant levels through the preparation and implementation of a construction traffic management plan and traffic safety measures, as listed in mitigation measures T-3 and T-4.

C. 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 two alternatives:

1. No Project Alternative. Consistent with Section 15126.6(e)(2) of the CEQA Guidelines, under the No Project Alternative, the project site would remain in its existing condition and continue to operate as a two-story commercial building.
2. Reduced Parking Alternative. Under the Reduced Parking Alternative, the project site would provide fewer off-street parking spaces for vehicles but the same intensity of residential and commercial development. The garage would include 58 parking spaces as compared to 103 parking spaces under the proposed project. As a result, the two-level subterranean parking garage proposed by the project would be reduced to either a one-level garage or two-level garage that is reduced in size.

Other than the No Project Alternative, the Reduced Parking Alternative would be the environmentally superior alternative. Chapter 6, *Alternatives*, of the Draft EIR includes a complete discussion of these alternatives and of alternatives that were rejected for various reasons.

V. 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 pertaining to environmental issues under CEQA will be recorded and responded to in the Response to Comments document, which is tentatively scheduled for publication in the fall of 2017.

Attachments:

1. Notice of Availability of the Draft EIR
2. Project Plans, dated August 30, 2017
3. Correspondence Received