

INFORMATION CALENDAR April 23, 2019

To: Honorable Mayor and Members of the City Council

From: Dee Williams-Ridley, City Manager

Submitted by: Timothy Burroughs, Director, Planning and Development Department

Subject: LPO NOD: 2300 Shattuck Avenue, #LMSAP2019-0001

INTRODUCTION

The attached Landmarks Preservation Commission Notice of Decision (NOD) is presented to the Mayor and City Council pursuant to Berkeley Municipal Code/Landmarks Preservation Ordinance (BMC/LPO) Section 3.24.240.A, which requires that "a copy of the Notice of Decision shall be filed with the City Clerk, and the City Clerk shall present said copy to the City Council at its next regular meeting."

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC/Commission) has approved a Structural Alteration Permit (SAP) for the subject City Landmark property. This action is subject to a 15-day appeal period, which began on April 8, 2019.

BACKGROUND

BMC/LPO Section 3.24.300 allows City Council to review any action of the Landmarks Preservation Commission in granting or denying a Structural Alteration Permit. In order for Council to review the decision on its merits, Council must appeal the Notice of Decision. To do so, a Council member must move this Information Item to Action and then move to set the matter for hearing on its own. Such action must be taken within 15 days of the mailing of the Notice of Decision, or by April 23, 2019. Such certification to Council shall stay all proceedings in the same manner as the filing of an appeal.

If the Council chooses to appeal the action of the Commission, then a public hearing will be set. The Council must rule on the application within 30 days of closing the hearing, otherwise the decision of the Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Commission and make its own decision, the attached NOD is deemed received and filed.

LPO NOD: 2300 Shattuck Avenue, #LMSAP2019-0001

ENVIRONMENTAL SUSTAINABILITY

Landmark designation provides opportunities for the adaptive re-use and rehabilitation of historic resources within the City. The rehabilitation of these resources, rather than their removal, achieves construction and demolition waste diversion, and promotes investment in existing urban centers.

POSSIBLE FUTURE ACTION

The Council may choose to appeal the decision, in which case it would conduct a public hearing at a future date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

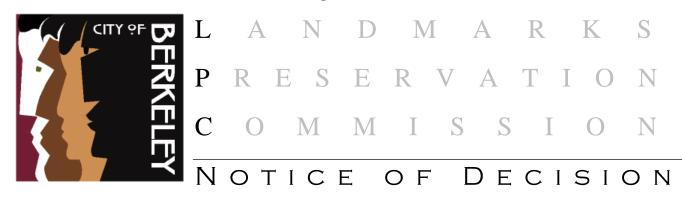
There are no known fiscal impacts associated with this action.

CONTACT PERSON

Fatema Crane, Landmarks Preservation Commission Secretary, Planning and Development, 510-981-7410

Attachments:

1: Notice of Decision - #LMSAP2019-0001 for 2300 Shattuck Avenue



DATE OF BOARD DECISION: March 7, 2019

DATE NOTICE MAILED: April 8, 2019

APPEAL PERIOD EXPIRATION: April 23, 2019

EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): April 24, 2019¹

2300 Shattuck Avenue The Corder Building

Structural Alteration Permit #LMSAP2019-0001 to install new security fences and gates at the rear of, and to replace all upperstory windows on, a City Landmark building.

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the Structural Alteration Permit for this project.

APPLICANT: Andrea Chelotti, The Bay Architects, 1840B Alcatraz Avenue, Berkeley, CA 94703

ZONING DISTRICT: Commercial Downtown/Mixed Use (C-D/MU)

ENVIRONMENTAL REVIEW STATUS: Categorically exempt from environmental review pursuant to Section 15331 of the CEQA Guidelines for Historical Resource Rehabilitation.

The Application materials for this project are available online at: http://www.cityofberkeley.info/zoningapplications

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

¹ Pursuant to BMC Section 1.04.070, if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day. Pursuant to BMC Section 3.24.190, the City Council may "certify" any decision of the LPC for review, within fifteen days from the mailing of the NOD. Such certification shall stay all proceedings in the same manner as the filing of a notice of appeal.

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COMMISSION VOTE: 8-0-0-0 (one vacancy)

YES: ABRACHAS DA SILVA, ADAMS, ALLEN, CHAGNON, CRANDALL, FINACOM,

O'MALLEY, SCHWARTZ

NO: None

ABSTAIN: None

ABSENT: None

TO APPEAL THIS DECISION (see Section 3.24.300 of the Berkeley Municipal Code):

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

- 1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
- 2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
- 3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
 - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less.
 - b. The fee for appeals of affordable housing projects (defined as projects which provide 50 percent or more affordable units for households earning 80% or less of Area Median Income) is \$500, which may not be reduced.
 - c. The fee for all appeals by Applicants is \$2500.

STRUCTURAL ALTERATION PERMIT ISSUANCE:

If no appeal is received, the Structural Alteration permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time. Information about the Building Permit process can be found at the following link: http://www.ci.berkeley.ca.us/permitservicecenter/.

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NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

- 1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
- You must appeal to the City Council within fifteen (15) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
- 3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
- 4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
- 5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

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LANDMARKS PRESERVATION COMMISSION NOTICE OF DECISION LMSAP2019-0001 2300 Shattuck Avenue April 8, 2019 Page 4 of 4

PUBLIC COMMENT:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Fatema Crane, at (510) 981-7410 or fcrane@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 2120 Milvia Street, between 8 a.m. and 4 p.m., Monday through Friday.

ATTACHMENTS:

- 1. Approved Findings and Conditions
- 2. Project Plans, received JANUARY 9, 2019

Fatema Crane, Secretary Landmarks Preservation Commission

ATTEST:

cc: City Clerk

Applicant: Andrea Chelotti

The Bay Architects 1840B Alcatraz Avenue Berkeley, CA 94703

Owner: Jay Lakireddy

2278 Shattuck Avenue Berkeley, CA 94703

ATTACHMENT 1

FINDINGS AND CONDITIONS

2300 Shattuck Avenue The Corder Building

Structural Alteration Permit LMSAP#2019-0001

To install new security fences and gates at the rear of, and to replace all upper-story windows on, a City Landmark building.

CEQA FINDINGS

1. The project <u>is</u> categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15331 of the CEQA Guidelines ("Historic Resource Restoration/Rehabilitation"). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not cause a substantial adverse change to the significance of a historical resource.

SECRETARY OF THE INTERIOR'S STANDARDS FINDINGS

Regarding the Secretary of the Interior's Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

- 1. This property will be used as it was historically with no change to its distinctive materials, features, spaces, and spatial relationships.
- 2. The historic character of this property will be retained and preserved. The removal of distinctive materials or alteration of features, spaces, and spatial relationships that characterize this property has been avoided in the approved design.
- 3. This property will continue to be recognized as a physical record of its time, place, and use as a result of the approved project. No changes that would create a false sense of historical development, such as adding conjectural features or elements from other historic properties, will be undertaken.
- 4. No changes to this property that have acquired historic significance in their own right are proposed.
- 5. This project will not affect distinctive materials, features, finishes, and construction techniques or examples of craftsmanship that characterize this property. The

proposed window replacement is limited to deteriorated window sashes, which will be replaced with sashes of a similar design.

- 6. Any deteriorated historic features will be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature will match the old in design, color, texture, and, where possible, materials. No replacement of missing features will occur and, therefore, no documentary and physical evidence will be required.
- 7. Chemical or physical treatments, if appropriate, would be undertaken using the gentlest means possible as a condition of this permit, though none are anticipated with this project.
- 8. Any archeological resources at this site will be unaffected by the proposed work which includes no excavation.
- 9. Exterior alterations, or related new construction will not destroy historic features, significant amounts of historic materials, or the spatial relationships that characterize the property. The new work (e.g. fence and gate installation) will be differentiated from the old and will be compatible with the historic materials, features, size, scale and proportion, and massing to protect the integrity of the property and its environment.
- 10. New additions and adjacent or related new construction (e.g. fence and gate installation) will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.

LANDMARK PRESERVATION ORDINANCE FINDINGS

- 1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property. Specifically:
 - The proposed installation of new fences and gates at the rear of the property will not result permanent or irreparable damage to the Coder Building. These new security features are designed with differentiated materials and muted color(s), and are modest in scale. Owing to these qualities, this project will no adversely affect the exterior architectural features, special character, or the special historical, architectural and aesthetic interests and value of this City Landmark building.

STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Landmarks Preservation Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Permit, under the title 'Structural Alteration Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Plans and Representations Become Conditions

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

3. Subject to All Applicable Laws and Regulations

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Zoning Adjustments Board or Zoning Officer, Building and Safety Division, Public Works Department and other affected City divisions and departments.

4. Exercise and Lapse of Permits (Section 23B.56.100)

- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- A. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

5. Indemnification Agreement

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

ADDITIONAL CONDITIONS

The following additional conditions are attached to this Permit:

- **6. Chemical Treatments.** Any chemical treatments needed as construction progresses will be undertaken using the gentlest means possible.
- 7. Landscape and planting elements. Prior to submittal of any building permit for this project, the applicant shall revise the project plans to include landscape screening and plantings adjacent to Durant Avenue public right-of-way (south) and the abutting property at 2037 Durant (west), in accordance with the Downtown Berkeley Design Guidelines (2012) for *Parking Lots* and in alignment with Berkeley Municipal Code Section 23E.28.070.D and E for Location and Screening of *Parking Spaces and Driveways*.
- **8. Automatic landscape irrigation**. Prior to submittal of any building permit for this project, the applicant shall prepare and submit project plans that include automatic irrigation for the new, required planting areas.
- **9. Final window design**. Prior to submittal of any building permit for this project, the applicant shall submit revised project plans that include: 1) clear glazing for all windows on the north, east and south facades; and 2) new windows to match the existing style and details, including ogees. The applicant shall provide a sample or model window for final approval by staff.
- **10. Administrative Use Permit approval**. Prior to submittal of any building permit for this project, the applicant shall obtain an Administrative Use Permit for, at a minimum, the proposed fence located on a property line which exceeds six feet in height (Berkeley Municipal Code Section 23E.04.040 Fences and Other Unenclosed Accessory Structures).
- 11. Traffic Engineering review. Prior to issuance of any building permit for this project, the applicant shall obtain plan check approval by the City's Traffic Engineer (TE) to determine compliance with the TE's minimum safety and engineering standards.

AT ALL TIMES

12. Irrigated, water efficient landscape. The property owner shall maintain automatic irrigation and drainage facilities adequate to assure healthy growing conditions for all required planting and landscape. The landscape shall be drought-tolerant, where appropriate, and achieve maximum water efficiency.

