



Office of the City Manager

47

INFORMATION CALENDAR

July 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

Subject: LPO NOD: 2580 Bancroft Way/#LMSAP-2019-0006

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 in order to revise a previously-approved SAP for this property. This action is subject to a 15-day appeal period, which began on July 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 July 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.

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 – #LMSAP2019-0006 for 2580 Bancroft Way



L A N D M A R K S
P R E S E R V A T I O N
C O M M I S S I O N

N O T I C E O F D E C I S I O N

ATTACHMENT 1, part 1

DATE OF COMMISSION DECISION: July 2, 2019
DATE NOTICE MAILED: July 8, 2019
APPEAL PERIOD EXPIRATION: July 23, 2019
EFFECTIVE DATE OF DECISION (Barring Appeal or Certification): July 24, 2019¹

2580 Bancroft Way

Structural Alteration Permit #LMSAP2019-0006 to remove a Condition of Approval from a previously-approved Structural Alteration Permit #LMSAP2017-0007.

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

APPLICANT: Blair Sweeney, The Mark at Berkeley, LLC, 315 Oconee Street, Athens, GA 30601

ZONING DISTRICT: C-T, Telegraph Avenue Commercial District

ENVIRONMENTAL REVIEW STATUS: Categorically exempt from environmental review pursuant to Section 15061(b)(3).

The application materials for this project are available online at:

<http://www.cityofberkeley.info/zoningapplications>

ADOPTED RESOLUTION IS 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:

YES: ABRANCHES DA SILVA, ADAMS, ALLEN, CRANDALL, FINACOM, O'MALLEY, SCHWARTZ

NO: NONE

ABSTAIN: NONE

ABSENT: CHAGNON

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.

If no appeal is received, the landmark designation will be final on the first business day following expiration of the appeal period.

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.

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2. 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 include 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.

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.

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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), 1947 Center Street, between 8 a.m. and 4 p.m., Monday through Friday.

ATTACHMENTS:

1. Resolution and Exhibit A

ATTEST: 

Fatema Crane, Secretary
Landmarks Preservation Commission

cc: Residents
City Clerk
Applicant: Blair Sweeney
The Mark at Berkeley, LLC
315 Oconee Street
Athens, GA 30601

Property Owner: The Mark at Berkeley, LLC
P.O. Box 130339
Carlsbad, CA 92013

RESOLUTION BY THE LANDMARKS PRESERVATION COMMISSION TO GRANT STRUCTURAL ALTERATION PERMIT #LMSAP2019-0006 AND, THEREBY, TO AMEND PREVIOUSLY-APPROVED STRUCTURAL ALTERATION PERMIT #LMSAP2017-0007 IN ORDER TO REMOVE CONDITION OF APPROVAL #9 REQUIRING SALVAGE AND RE-USE OF GLASS BLOCKS PRIOR TO DEMOLITION OF THE BANCROFT CENTER BUILDING ON THE PROPERTY LOCATED AT 2580 BANCROFT WAY

WHEREAS, on October 4, 2018, the Landmarks Preservation Commission approved Structural Alteration Permit #LMSAP2017-0007 to demolish the rear portion of the Fred Turner Building, a City Landmark located at 2580 Bancroft Way, and to construct a new, mixed-use building expansion on this site; and

WHEREAS, #LMSAP2017-0007 included Condition of Approval #9 requiring the project proponent to salvage, re-use and offer to the public for re-use, the glass blocks featured in the Bancroft Center Building, a non-historic building located on the same site as the Fred Turner Building and proposed for demolition; and

WHEREAS, on October 25, 2018, the Zoning Adjustments Board approved the demolition of the Bancroft Center Building under Use Permit #ZP2017-0083; and

WHEREAS, on May 21, 2019, the City issued building permit #B2018-02805 to demolish the Bancroft Center Building; and

WHEREAS, the project proponent began demolition activity and discovered that the subject glass blocks are under high pressure and prone to explosion; and

WHEREAS, on June 20, 2019, the project proponent submitted Structural Alteration Permit #LMSAP2019-0006 requesting that the Commission remove Condition of Approval #9, citing the volatile and potentially dangerous nature of the glass blocks and their unsuitability for re-use by the project proponent and the public; and

WHEREAS, on June 21, 2019, City posted and mailed notices more than ten days in advance of the July 2, 2019 Structural Alteration Permit public hearing; and

WHEREAS, on July 2, 2019, the Landmarks Preservation Commission held a public hearing on the matter and, after closing the hearing, voted 7-0-0-1 to approve the project proponent's request, to remove Condition of Approval #9 from the previously-approved Structural Alteration Permit #LMSAP2017-0007, and to grant Structural Alteration Permit #LMSAP2019-0006. (Vote: Yes: Abranches Da Silva, Adams, Allen, Crandall, Finacom, O'Malley, Schwartz; No: none; Abstain: none; Absent: Chagnon; one vacancy)

NOW THEREFORE, BE IT RESOLVED by the Landmarks Preservation Commission that Structural Alteration Permit #LMSAP2019-0006 is hereby duly granted, and previously-approved Structural Alteration Permit #LMSAP2017-0007 is hereby amended as shown in Exhibit A to remove Condition of Approval #9.

Exhibits

A: Amended Structural Alteration Permit #LMSAP2017-0007

ATTACHMENT 1 ,
PART 3
FINDINGS AND CONDITIONS

OCTOBER 4, 2018

2580 Bancroft Way

Structural Alteration Permit #LMSAP 2017-0007 with amendment by Resolution of the Landmarks Preservation Commissionⁱ

PROJECT DESCRIPTION

The application proposes to partially demolish, to make alterations and to repair and rehabilitate the architectural features of a designated City Landmark structure and site: the Fred Turner Building at 2546-2554 Bancroft Way. Alterations include adaptive re-use of the central archway as the main entrance for the resulting expanded development and construction of a multi-story building addition.

CEQA FINDINGS

1. The City hereby makes the findings required by the California Environmental Quality Act that are set forth in **Exhibit A** hereto, which are incorporated herein by reference.
2. The City hereby adopts monitoring program for the mitigation measures that are set forth in **Exhibit B** hereto, which are incorporated herein by reference.

LANDMARKS PRESERVATION ORDINANCE FINDINGS

Pursuant to Berkeley Municipal Code Sections 3.24.260.C.1.a, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The proposed project would not adversely affect the prominent exterior architectural features of the Fred Turner Building. The proposed partial demolition would remove the rear half of the historic building (including original building material), but would retain the building's primary public façade, original street-facing storefronts and central archway. The building's historical identity would be retained and perceptible notwithstanding the considerable scope of proposed demolition work at the rear of the building. The adaptive re-use of the building in the proposed manner is found to be an effective and appropriate measure of rehabilitation, which ensures a prolonged and active life for this City Landmark site.
2. The aesthetic value of the Turner Building is reflected in its Arts and Crafts architectural design, details and exterior building materials. Its special character can be linked to its associations with the building architect, Julia Morgan, and her particular execution the building's design program and setting. The proposed partial removal and rehabilitation project would not adversely affect any of these special qualities, and would ensure that the character-defining features, design integrity and historical use would be retained, repaired and/or re-adapted with appropriate care and respect for authenticity.

FINDINGS REGARDING THE SECRETARY OF THE INTERIOR'S STANDARDS FOR REHABILITATION

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

1. The project will change the use of the Landmark buildings from commercial to mixed-use, which includes the continued use of the remaining Turner Building as commercial tenant spaces. The introduction of a dense, multi-story residential component will result in physical changes to the building, its setting and the space and spatial relationships therein. This change in use is found to retain the commercial use while supporting the adaptive re-use of the building within the current development context.
2. The historic character and distinctive features of the street-facing façade of the Turner Building will be retained and preserved; however, approximately half of the building (rear portion) will be removed and replaced with a larger, multi-story addition that will result in a loss of the low-scale spatial composition that historically characterized the building and property. While this change in spatial composition is not the preferred model for further development of the site, it is found to be an effective adaptive re-use of the site within the current development context.
3. The proposed building expansion is designed in a manner that will effectively distinguish the new construction from the historic work (e.g.: different design program, building setbacks), and does not include conjectural elements which would create a false sense of historical development.
4. The Turner Building was constructed in 1940, and no subsequent work or alterations were found to have acquired historical significance in their own right.
5. The project does not propose altering or removing any of the distinctive materials, features, finishes or construction techniques or examples of craftsmanship found on the main, street-facing façade of the Turner Building.
6. The character-defining features of the Turner Building's main, street-facing façade (such as stucco siding, decorative copper-clad window hoods and ornamentation, arched arcade entrance, fenestration pattern, and materials) will be retained and preserved. Deteriorated features will be repaired and replaced in accordance with the National Park Service Preservation Briefs, as a condition of this permit approval.
7. The proposed project would demolish approximately half of the Fred Turner Building, resulting in damage to some of the building's historic materials. As a condition of approval for this permit, no chemical or physical treatments will be undertaken. If chemical or physical graffiti removal treatments are needed as construction progresses, a standard condition will ensure that they be undertaken using the gentlest means possible and that treatments that cause damage to historic materials not be used.
8. There are no known archaeological resources located at this site nor are any anticipated to be discovered as the result of ground disturbance. If any archaeological material is found during project construction, conditions of approval included herein require

implementation of proper mitigation measures, which ensure compliance with this Standard.

9. While implementation of mitigating design measures (e.g.: building design and programmatic differentiation, building setbacks, distinctive colors and materials) would work in part to meet the intent of this Standard, the scale of the proposed building expansion is such that it will measurably alter, and as such would adversely affect, the scale and proportion of the one-story Landmark building. The project would not comply with this Standard such that even with mitigation measures, these impacts would be significant and unavoidable.
10. If the proposed multi-story building expansion were removed from this site in the future, the character-defining, street-facing façade with commercial tenant units, central archway and overall appearance at the street level of the Turner Building would be preserved intact. However, due to the considerable scope of proposed demolition, which includes approximately the rear half of the building, a future restoration project would likely not restore the rear portion of the building.

ZONING ORDINANCE DESIGN REVIEW STANDARDS

Pursuant to BMC Chapter 23E.12.020, the Landmarks Preservation Commission of the City of Berkeley finds the project as proposed substantially conforms with the Southside Area Plan Design Guidelines (2011) in that the project:

1. General Guidelines - Respects and incorporates the Commission's desired characteristics which are reflective of the historic Fred Turner building and other historical developments in the Southside neighborhood.
2. Building Massing & Height – Proposes a continuous zero-foot setback adjacent to sidewalk and increased building height for the Telegraph Subarea where it exceeds the suggested story height of a maximum of five stories and proposes eight stories, and has evaluated potential shadow impacts as suggested.
3. Building Design & Façade – Reflects the attention to detail that is characteristic of older, historic buildings in Southside, incorporates elements of pedestrian-scale and interest at the ground-level street frontage, employs an overall building composition featuring a base-middle-top design, and repairs and rehabilitates the street-facing façade of the Turner Building.
4. Storefronts – Reflects the traditional storefront rhythm and proportions found throughout the Telegraph Subarea, and provides complementary level of detailing reflective of the historic character of the buildings in the Subarea.
5. Roof Shape & Lines – Retains the Turner Building roof parapet, features a cornice design detail, and screens rooftop mechanical equipment.
6. Materials – Employs a selection of high-quality, textured façade materials, and preserves the existing high-quality exterior materials on the Turner Building street facade.

7. Signs & Awnings – Locates signs and awnings so as to reveal and not obscure architectural building details.
8. Lighting – Exterior lighting will be controlled and further reviewed as a condition of this permit approval.
9. Streetscape Design – Will install, repair and replace street trees and sidewalks in accordance with Public Works Engineering standards and ADA requirements.
10. Security Gates/Grilles – Security gates and similar devices will be reviewed as a condition of this permit approval to ensure compliance with guidelines for location and placement, concealment when not in use, and visual permeability.

HISTORIC PRESERVATION & DESIGN REVIEW CONDITIONS

1. **Project plans.** Project shall conform to plans, facades restoration specifications, and photographs, dated May 1, 2018 and received August 24, 2018, references to re-used glass blocks shall be excluded.
2. **Final Design Review.** Pursuant to BMC Section 23E.12.040.C, prior to submittal of any building permit for this project, the project proponent shall obtain Final Design Review approval from the Landmarks Preservation Commission.
3. **Mitigation monitoring & reporting program.** The project proponent shall adhere to and demonstrate compliance with this plan to the satisfaction of the Zoning Officer. The project proponent shall bear the cost of monitoring to ensure compliance with the plan; a deposit of not less than \$10,000 may be required prior to building permit submittal in order to secure the services of a third-party monitor.
4. **Chemical Treatments.** Any chemical or physical graffiti removal treatments needed as construction progresses shall be undertaken using the gentlest means possible.
5. **Historic façade restoration.** Historic façade restoration shall be completed in accordance with the National Park Service Preservation Briefs.
6. **Signage program.** For Final Design Review, the project proponent shall submit complete signage details, including colors, materials, letter heights, dimensions, placement on building, and installation details. All materials will be matte unless otherwise noted.
7. **Exterior lighting detail.** For Final Design Review, the project proponent shall submit lighting details showing all proposed site and building lighting. Exterior lighting, including for signage, shall be downcast and not cause glare on the public right-of-way and adjacent parcels.
8. **Security gates and grilles.** For Final Design Review, the project proponent shall submit all exterior security gate and grill details, including in the exterior entry courtyard, for review and approval.

9. ~~**Bancroft Center demolition – glass block.** Any unused glass block panels shall be salvaged intact and stored by the project proponent for at least six months during which time the project proponent shall make the panels available to artists and publicize the availability within the local artist community. This condition was removed by Resolution of the Landmarks Commission on July 2, 2019.~~

10. **Bancroft Center demolition – photographic documentation.** Prior to issuance of any building permit for this project, the applicant shall provide photographic document of the subject structure that records its existing conditions and any historic and character-defining features.

ⁱ On July 2, 2019 the Landmarks Preservation Commission adopted a Resolution that approved Structural Alteration Permit #LMSAP2019-0006 and, thereby, revised this Structural Alteration Permit to remove Condition of Approval #9.

