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[^0]Office of the City Manager

PUBLIC HEARING March 12, 2019

To: Honorable Mayor and Members of the City Council
From: Dee Williams-Ridley, City Manager
Submitted by: Timothy Burroughs, Director, Planning \& Development Department
Subject: ZAB Appeal of 2701 Shattuck Avenue, Use Permit \#ZP2016-0244

## RECOMMENDATION

Conduct a public hearing and, upon conclusion, adopt a Resolution affirming the Zoning Adjustments Board (ZAB) decision to approve Use Permit \#ZP2016-0244 to construct a 5-story, 62-foot tall, mixed-use building with 57 dwelling units (including five Very Low Income units), a 600-square-foot ground-floor quick-service restaurant, and $21{ }^{1}$ parking spaces, and dismiss the appeal.

## FISCAL IMPACTS OF RECOMMENDATION

None.

## CURRENT SITUATION AND ITS EFFECTS

On December 13, 2016, Bay Rock Multifamily, LLC submitted an application for Use Permit \#ZP2016-0244 to construct a 5 -story, 62-foot tall, mixed-use building with 57 dwelling units. Several months later, on January 6, 2018, a revised proposal was submitted that included five affordable units in the building, and requested a density bonus under the State Density Bonus Law (DBL). ${ }^{2}$.

On June 29, 2018, after seven rounds of Incomplete Application comments from staff, the application was deemed complete.

On July 26, 2018, the ZAB held a Preview for the project and provided general comments to the applicant.

On August 16, 2018, the Design Review Committee (DRC) conducted a Preliminary Design Review (PDR) of the project, provided comments to the applicant, and continued the PDR to September 20, 2018. In response to DRC comments, the applicant made revisions to the building design and presented the revisions to the DRC on September 20. At that meeting, the DRC completed the PDR and forwarded a favorable

[^1]recommendation for the project to the ZAB with conditions and recommendations for Final Design Review (FDR).

On November 8, 2018, the ZAB conducted a public hearing for the Use Permit application. After hearing public comments and holding discussion, and adding Condition \#11, the ZAB approved the Use Permit by a vote of 7-1-0-1 (Yes: Clarke, Kahn, O'Keefe, Olson, Pinkston, Selawsky, Wright; No: Sheahan; Abstain: None; Absent: Kim).

On November 20, 2018, staff issued the notice of the ZAB decision. On December 3, 2018, Todd Darling and Linda Jensen Darling, the neighbors residing at 2106 Derby Street, filed an appeal of the ZAB decision with the City Clerk. On February 26, 2019, staff posted the public hearing notice at the site and two nearby locations, and mailed notices to property owners and occupants within 300 feet of the project site, and to all registered neighborhood groups that cover this area. This public hearing is required to resolve the appeal.

## BACKGROUND

The site is in the CS-A, South Area Commercial zoning district, along a commercial thoroughfare on Shattuck Avenue that is developed with a wide range of building types and uses. Bordering the site to the east is a neighborhood in the R-2, Two-Family Residential zoning district, consisting mostly of 1 -story, single-family residences and 2story, multi-family residences. Several large mixed-use and residential projects have been approved and constructed or are proposed nearby the subject site, in the C-SA district, within last several years:

- Constructed (approved in 2012), "Parker Apartments", 1.5 blocks north of the site at 2598-2600 Shattuck Avenue - 5 -story, 60 '-tall mixed-use project of two buildings with 155 units;
- Constructed (approved in 2015), a residential modular housing project on the adjacent parcel to the south at 2711 Shattuck Avenue - 4-story, 50'-tall building with 22 units;
- Under construction (approved in 2016), "The Roost", 3 blocks north of the site, and west of Shattuck Avenue at 2029-2035 Blake Street - 5 -story, 60'-tall mixeduse building with 82 units;
- ZAB Project Preview held on October 11, 2018, a proposal for a mixed-use building one block north of the subject site at 2628 Shattuck Avenue - 6 -story, 65 '-tall building with 78 units.

The 2701 Shattuck project site under appeal has had two development proposals since the early 2000's which were approved but never built: a 3 -story, 17-unit project in 2002 and a 5 -story, 24 -unit project in 2007. Both were mixed-use proposals which were approved with reduced setbacks and increased lot coverage compared to the base allowed by zoning.

In 2013, the ZAB considered a proposal for the subject site that was very similar to the current project being appealed - it was a 5 -story, mixed-use building with 67 dwelling units (as opposed to the 57 units in the 2018 project). The 2013 project was denied because the ZAB was unable to make findings for approval. In the staff report, the denial findings focused on the building being out of scale and incompatible with the residential neighborhood to the east, and a failure of the applicant to adopt design alternatives suggested by the ZAB that would remedy these issues. (See Attachment 4, ZAB Preview Staff Report). The 2013 project also met with strong neighbor opposition. The project did not include a density bonus.

The current proposal was submitted in 2016, and differed from the 2013 proposal in that it had been re-designed to address the previous denial findings by accepting the design alternatives suggested by the ZAB in 2013. In addition, by invoking Density Bonus law, the developer is entitled to a bonus of 15 units, as well as waivers for height, reduced setbacks, and lot coverage to accommodate the inclusion of the bonus units. Concessions necessary for financial feasibility of the project to provide the affordable units were also granted. (See Attachment 5, ZAB Hearing Staff Report and Project Plans for details.) Furthermore, the current project was eligible for approval according to the State Housing Accountability Act (HAA). Pursuant to the HAA, the ZAB could not deny the project, nor approve it at a reduced density (number of units), because the findings for "specific adverse impact" could not be made. ${ }^{3}$

At the November 8, 2018 ZAB hearing, given that the project building envelope and density, including waivers for height, reduced setbacks, and lot coverage, were entitled to the project via DBL and the HAA, the ZAB attempted to alleviate persistent neighbor concerns over privacy, massing, and access to sunlight by negotiating design adjustments to the portions of the building closest to the eastern neighboring properties. ${ }^{4}$ The applicant agreed to a condition of approval that was added to the permit that requires substantive changes to the building design, to be presented to and approved by the DRC at FDR, which occurs prior to the application for building permits. Draft plans of the revised design have been submitted, and are attached for the City

[^2]Council's consideration. ${ }^{5}$ (See Attachment 1, Exhibit B, Revised Project Plans revisions are clouded and labeled "Revised per Condition \#11".)

## ENVIRONMENTAL SUSTAINABILITY

The project approved by the ZAB is in compliance with all State and local environmental requirements.

## RATIONALE FOR RECOMMENDATION

The issues raised in the appellant's letter and staff's responses follow. For the sake of brevity, the appeal issues are not re-stated in their entirety. Please refer to the attached appeal letter (Attachment 2, Appeal Letter) and the letter referenced in the appeal letter (Attachment 3, Supplemental Communications Letter) for the full text.

Issue 1: $\quad$ City Public Meeting Regulations. The appellants assert that project plans were not made available for public review for a sufficient time period. The City calls for a 30 -day review period before the public hearing; the plans were made available seven days before the hearing, on November 8, 2018.

Response 1: The appellant is incorrect about the City's requirements. Public Notice Requirements are specified in the Berkeley Municipal Code (BMC), Section 23B.32.020. The project was noticed in accordance with this section - postcard hearing notices were mailed to all property owners and occupants within 300 ' of the site and to interested organizations 14 days prior to the hearing (on October 25, 2018), and Notices of Public Hearing were posted at and near the project site on the same day. The postcards and on-site notices provided the link to the project webpage that contains up-to-date application materials, ZAB materials, and all ZAB Preview and DRC materials as of that date. As is also customary and set forth in the City's Commissioners' Manual, the ZAB agenda and

[^3]links to the November $8^{\text {th }}$ hearing materials were posted on the project webpage one week prior the hearing on November 1, 2018.

BMC Sections 23B.32.020.C and F state that the public notices or mailed notices may be for a longer time period than 14 days, up to 30 days maximum, when required by State law or extended by the Zoning Officer and/or Board, for applications of major significance. The Board did not take any action to extend the notice period for this project application, so notices were sent and posted 14 days prior to the hearing in accordance with the ordinance.

At the suggestion of a neighbor (now the Appellant), staff revisited the site on Friday, November 2, 2018, eight days after the initial posting of notices, to verify that the notices were still in place. Upon revisiting the site, staff noted that the notices were taken down by an unknown party. Staff re-posted all of the notices on the next business day, Monday, November 5, 2018.

The plan set that was included with the November 8 ZAB materials on the web page was submitted by the applicant on October 30, 2018, and reflected minor changes to the building design that were made in response to comments made by the DRC during PDR. Otherwise, these plans were substantially similar to the plans that had been available to the public since the July 26, 2018 ZAB Preview, and substantially similar to the plans that had been publicly available since the August 16 and September 20 DRC PDR meetings. Thus, a version of the project plans that were essentially the same as the plan set seen by the ZAB on November $8^{\text {th }}$ was available at least four months prior to the hearing. Moreover, the public had opportunities to speak on the project proposal at the July 2018 ZAB Preview, as well as two separate DRC meetings, prior to the November 2018 ZAB decision hearing. Finally, Planning Department staff contact information is publicly available at all times for anyone who needs assistance finding specific information about any application.

Issue 2: $\quad$ Deceptive Plans. The appellants assert that the project plans are purposefully drawn to minimize impact and detriments, and omit information to hide significant impacts in terms of setbacks, massing, shadows, and height. The applicants chose to show shadows at 2 p.m., but not 3 p.m. when significant shadows begin to occur.

Response 2: The applicant submitted plans that adequately met the City's submittal requirements for permit applications. Land Use Planning submittal requirements include: site plans, floor plans, sections, and elevations that are drawn to scale by a licensed architect; street elevations; and
photo simulations from at least four angles that demonstrate maximum impact on views from surrounding properties. The applicant also submitted 3D renderings from additional viewpoints, which are not required, but are typical of a project of this size.

The zoning permit application submittal requirements ask for shadow diagrams that depict shadows which would occur on the summer and winter solstices, and on the date of application, for three times during the day - two hours after sunrise, noon, and two hours before sunset. The applicant has supplied diagrams for these times and for additional times throughout the day. Shadow diagrams for every two hours from sunrise to sunset for each of the dates were submitted, and include the time period of 3 p.m. and later for each date. (See Attachment 1, Exhibit B, Revised Project Plans, sheets S1.0 to S1.4.)

Issue 3: $\quad$ Affordable Units and In-Lieu Fees. The appellants assert that the detriments resulting from the project outweigh the benefits to the public from four affordable units or the in-lieu fee paid to provide fewer affordable units.

Response 3: Pursuant to BMC Section 22.20.065, the project is subject to the local Affordable Housing Mitigation Fee (AHMF). The Affordable Housing Mitigation Fee is currently $\$ 34,884$ for every market rate unit in the project if paid at issuance of a building permit or $\$ 37,962$ if paid at the time a certificate of occupancy is issued. The AHMF ordinance allows an applicant to choose whether to provide Below Market Rate (BMR) units, up to $20 \%$ of the total project units, in-lieu of payment of the full fee. The applicant proposes to provide five ( $9 \%$ of the total) Very Low Income (VLI) units and pay the fee for the remainder ( $11 \%$ ) of the requirement. The applicant has indicated that they intend to pay the fee amount of approximately $\$ 1$ million for the remainder, which would be placed in the City's Housing Trust Fund, which helps to fund affordable housing projects in the City.

Issue 4: CEQA: The appellants assert that the character of the neighborhood should be protected by CEQA, and CEQA should apply to the project.

Response 4: The project is exempt from further review under the California Environmental Quality Act (CEQA) under Categorical Exemption Class 32, found in CEQA Guidelines section 15332 ("In-Fill Development Projects").

Issue 5: $\quad$ Ground-floor Units. The appellants assert that the project appropriates much of the pedestrian space on the sidewalk along the Shattuck Avenue project frontage with private gardens for the ground-level units
and commercial bike racks, without public input, to build an oversized project that provides no front setback and violates other City Codes that require setbacks for ground-level dwelling units.

Response 5: The interface between the ground-floor units and the public sidewalk along Shattuck Avenue was discussed at the ZAB Preview and both DRC meetings, where the public was invited to express any concerns about the project. The bike racks proposed to be outside the lobby on the Shattuck Avenue sidewalk have also been shown on the plan set for all of these meetings. Several solutions were discussed to improve the transition from private to public space at this building frontage, and the layout with raised planting beds and integrated public seating shown on the approved plan set were reviewed by the ZAB, the DRC and the Public Works (PW) department prior to the project's approval on November 8, 2018. Additionally, the DRC will conduct a Final Design Review, and PW will review the plans once more for approval of an encroachment permit prior to the issuance of any building permits.

The project site is in the C-SA (South Area Commercial) zoning district, which refers to the R-4 zoning district yard standards for a mixed-use building. The project is a density bonus proposal, which entitles the project to a waiver for the front yard to be 0 feet, where 15 feet is normally required, in order to accommodate the density bonus units on the site. Though other districts such as the C-NS (North Shattuck Commercial) district may have restrictions for residential uses located on the ground floor near the right of way, ${ }^{6}$ the C-SA District has no such restrictions on ground-floor residential uses, and the project is compliant with all yard standards for the site.

Issue 6: Dormitory Housing. The appellants assert that the design of the building encourages a transient student population that is not consistent with the family character of the existing neighborhood, and is an ad hoc dormitory for U.C. Berkeley without U.C. programs or supervision, which will bring raging parties next to families with toddlers.

Response 6: State law prohibits the City from discriminating among or against types of residents in its approval of new housing. The HAA also prohibits the City from denying approval of the project based on subjective standards or hypothetical concerns about future residents. The 2701 Shattuck project was approved based upon the project's satisfaction of approval findings and all development standards under State law and the municipal code. Concerns about the post-construction operation of the

[^4]building could be addressed by provisions in the Berkeley Municipal Code for the protection of public peace, morals and welfare (nuisance). Any violations of the municipal code can be reported to the City department that handles code enforcement.

Issue 7: $\quad$ Traffic and Safety. The appellants allege that the lack of visibility around the corner would cause car accidents because the project has zero setback on Shattuck Avenue and Derby Street. The lack of parking in the building to the south that just finished construction causes its residents to pull around the corner to Derby and park illegally to visit the new building. A new parking lot at 2701 Shattuck with a few dozen parking spaces and an entrance on Derby will cause cars to queue up to park. Cars driving fast and turning right onto Derby will crash into waiting cars. Also the zero setback on Derby provides exiting cars with no visibility to pull out, increasing the likelihood of cars turning the corner to hit them. There has been no discussion of a traffic study to validate the safety of the design.

Response 7: The applicant submitted a Transportation Assessment (TA) for the project, which was reviewed and deemed adequate by the City's Transportation Division. The TA concluded from an analysis of the site plan that the proposed driveway location would provide adequate sight distance between vehicles exiting the garage and pedestrians / vehicles on Derby Street. ${ }^{7}$ In addition, the TA concluded that the site plan provides sufficient accommodation of access and circulation for pedestrians, bicyclists, transit riders, and motor vehicles. Further, at the November 8 hearing the ZAB directed the applicant to remove three parking stackers or nine parking spaces (in response to neighbor comments on the deficiency of light and privacy for the adjacent residents), which would reduce the number of vehicle trips in and out of the parking lot from the number of trips for the original proposal, and thus further reduce the potential for safety issues at that corner.

Issue 8: $\quad$ Height, Shadow and Privacy. The appellants allege that the stair on the north side of the building and the roof deck, if considered with the proposed trees and rooftop structures, create a 6-story building (and not a 5-story building, as described in the staff report) which will reach a height of 70 feet. The shadow studies did not factor in the trees and rooftop structures. The north stair and the roof deck are open areas where 2701 Shattuck residents will congregate and look down upon adjacent residents' yards. It also increases the shadows on adjacent properties, and is unattractive. It will depress adjacent property values,

[^5]increase shadow, decrease light, and decrease privacy for these adjacent properties.

Response 8: The north stair on the project is an exterior stairway that provides access to and emergency egress from the roof deck and all floors of the building. Typically, neither unenclosed stairs nor landscaping (no matter how tall) are considered to be a "story" by definition in the municipal code. ${ }^{8}$ In response to neighbor concerns for privacy expressed at the first DRC meeting, more screening (permeable) was added to the north stair, which increased the built height for the stair at the roof level. Nevertheless, the stair remains unenclosed and does not constitute a sixth story. The enclosed portions of the building reach five stories, and the height of the building, as measured to the top of the parapet, per definition of height in the municipal code, is $62^{\prime}-4^{\prime \prime}$. ${ }^{9}$

The submitted shadow studies project shadows for all permanent, built elements of the building, but not for soft elements such as plants, trees, or roof deck furniture. This is not unusual, as such soft elements are not permanent, and can change unpredictably in massing and height over time. Furthermore, these elements do not span or cover the entire rooftop area of the building, and therefore would not cause a significant increase in shade compared to the entirety of the permanent, built structure. (The shadow impacts from the building are analyzed in the November 8, 2018 ZAB Hearing Staff Report, Attachment 5, page 19.)

Privacy impacts from the building, including any impacts produced by the north exterior stair, were discussed extensively at both DRC meetings, where the DRC suggested that a setback of the landing at the fifth floor and increased screening on the stair volume be added to the design to address the neighbors' privacy concerns. These revisions were included in the ZAB-approved plans. In addition, at the November 8 ZAB hearing, the ZAB directed the applicant to eliminate some of the interior, ground-floor parking so that the eastern ground-floor wall could be moved away from the neighbors, to provide greater privacy and light to these residents. Additional requirements by the ZAB are contained in Condition \#11 of the Use Permit to remedy privacy, light, and massing

[^6]concerns from the neighbors. (See Attachment 1, Exhibit A, Findings and Conditions.)

Issue 9: $\quad$ Solar Access and Air Flow. The appellants allege that the project will cause their home to lose 5-6 hours of daylight per day. Their solar panels will be shaded by the building during peak sunlight hours, and will cost them lost revenue from potential energy sales to East Bay Community Energy. It will cause neighbors to use more indoor heating because of the lack of sunlight, cause more seasonal affective disorder, and cause neighbors to lose their ability to grow food in back porch gardens. The project is too massive and tall, and blocks the natural breeze that blows from west to east, causing detriments to gardens, and an increase in summer heat and the need for air conditioning.

Response 9: The project meets development standards for height as set forth in State law and the municipal code. Shadow impacts from new buildings must be expected, and are typically analyzed in the staff report for consideration by the ZAB to inform their decision on projects. The ZAB, via their approval of the project, has determined that the shadow impacts from the proposal to be acceptable in return for the benefits provided by other aspects of the project, within the constraints imposed by development standards for the property and State law.

Likewise, for air flow, any impacts from new buildings, whether it be blocked air flow or new air flow streams created, must be expected. It is anticipated that the shade from the building would help to lower summer heat and reduce the need for air conditioning inside adjacent homes.

As for light access for solar panels, the California Solar Rights Act does not include provisions to protect solar access, though it does recognize the possibility of a "solar easement" to be created. ${ }^{10}$ The Solar Shade Control Act protects solar access from shading by plants and trees, but does not preclude private development which may cast shadows on solar panels. ${ }^{11}$

[^7]Issue 10: Flooding and Derby Creek. The appellants allege that the project site is located on top of Derby Creek. No studies have been submitted for excavation on top of the creek or impact to neighboring properties.

Response 10: Staff consulted with the City Public Works Department prior to the November 8 hearing. PW staff confirmed that the subject property is not in a City creek buffer area because the storm drain on Derby Street intercepts the water from what was known as Derby Creek, which is shown on a historic City creek map (source date, 1850). The storm drain was constructed many years ago, and the creek channel which was once Derby Creek was filled. Thus, the creek protection requirements (such as setbacks for construction) under BMC section 17.08 do not apply to the property. The Building and Safety Division will require a geotechnical report (which analyzes the soils on the site and informs site excavation and foundation design) prior to the issuance of building permits.

In conclusion, the project meets all of the findings necessary for approval of the permit. Therefore, staff recommends that the City Council uphold the ZAB decision to approve the project with the attached Revised Plans and Conditions of Approval.

## ALTERNATIVE ACTIONS CONSIDERED

Pursuant to BMC Section 23B.32.060.D, the Council may (1) continue the public hearing, (2) reverse, affirm, or modify the ZAB's decision, or (3) remand the matter to the $Z A B$.

## Action Deadline:

Pursuant to BMC Section 23B.32.060.G, if the disposition of the appeal has not been determined within 30 days from the date the public hearing was closed by the Council (not including Council recess), then the decision of the Board shall be deemed affirmed and the appeal shall be deemed denied.

CONTACT PERSONS
Timothy Burroughs, Director, Planning \& Development Department, (510) 981-7437 Steven Buckley, Land Use Planning Manager, (510) 981-7411
Sharon Gong, Project Planner, (510) 981-7429

Attachments:

1. Draft Resolution

- Exhibit A: Findings and Conditions
- Exhibit B: Revised Project Plans, received February 5, 2019

2. Appeal Letter, dated received December 3, 2018
3. Supplemental Communications Letter to ZAB, dated November 5, 2018
4. ZAB Preview Staff Report, dated July 13, 2017

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5. ZAB Hearing Staff Report and Project Plans, dated November 11, 2018
6. Index to Administrative Record
7. Administrative Record
8. Public Hearing Notice

## 2701 SHATTUCK AVENUE



## 2701 SHATTUCK AVENUE <br> BERKELEY, CA

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| PROJECT DIRECTORY |  |
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| developer: | 2701 SHATTUCK BERKELEY, LLC Cupertino ca soil STUART GRUENLL CEOO STTAATT@AYYROCKCOM 408761.3598 |
| ARCHITECT: | HDO ARCHITECTS . PLANNERS WALNUT CREEK, CALIFORNIA 94597 CONTACT: RANDY HARRIS 925.256.6042 EXT: 16 CONTACT: ALFREDO YNIGUEZ AYNIGUEZ-@HDOARCHITECTS.COM 925.256.6042 EXT: 19 |
| $\underbrace{\text { ENGINEER }}_{\text {civil }}$ |  |
| LANDSCAPE ARCHITECT: | BRUCE JETT ASSOCIATES 3ALTARNDA ROAD,SUITE 201 ORINA, CA 94563 <br>  925.254 .5422 |


| PROJECT DESCRIPTION |
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| 2701 SHATTUCK AVENUE IS A PROPOSED MIXED USE DEVELOPMENT AT THE CORNER OF SHATTUCK AVENUE AND DERBY STREET IN BERKELEY. THE PROJECT IS A MULTI-STORY WOOD CONSTRUCTION OVER A CONCRETE PODIUM THAT INCLUDES 57 RESIDENTAL UNL A 600 SQUARE FOOT STREET LEVEL CAFE SPACE, 21 PARKING WAIVERS. |

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| A0.1A | Zoning a supporting calculations |
| A0.1B | density bonus calculations |
| A0. 2 | RESILENTIALLLLOOR AREAS SUMMARY BASE PROIECT |
| A0.3 | BASE PROJECT |
| A0.4 | PROPOSED DENSITY BONUS PROJECT EXITTNG |
| A1.1 | EXIITING CONDITIONS |
| ${ }_{\text {A }}{ }_{\text {A } 1.1}{ }^{\text {a }}$ | SITE PLAN GROUND LIOR Plan |
| ${ }_{\text {A2.1/ }}^{\text {A2, }}$ | GROUND FLOOR PLAN MEZZANIE PLAN |
| A2.2 | podum Level floor plan |
| A2, 3 | THIRD LLVEL FLOOR PLAN |
| A2,4 | FOURTH LEVEL FLOOR PLAN |
| A2.5 | FIITH LEVEL FLOor PLAN |
| A2.6 | ROOF PLAN |
| A3. 1 | Exterior elevations |
| ${ }^{\text {A3.1A }}$ | EXTERIOR ELEVATION (MEWED FROM |
| A3. 2 | Exterior elevations |
| A3. 3 | buliding sections |
| A3.4 | builing sections |
| A8. 1 | UNIT A PLANS |
| A8. 2 | UNIT B PLANS |
| A8. 3 | UNIT C PLANS |
| A8.4 | UNTT D PLANS |
| A8.5 | ENLARGED LobBY PLANS |
| A9. 1 | 3 d Views |
| A9.2 | 3 DVEWS |
| A9. 3 | 3 VVEWS |
| A9.4 | 3 DVIEWS |
| A10.1 | window assembly |
| S1.0 | Shadow study - afternoon |
| S1.1 | SHADOW STUDY - SEASONAL |
| S1.2 | SHADOW STUDY - JUNE 21 |
| 51.3 | SHADOW STUDY - MARCH 21 AND SEPTEMBER 21 |
| S1.4 | SHADOW STUDY - DECEMBER 21 |




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CALCULATIONS

STEP 1: BASE PROJECT


TEP 1.2 CALCULATE AVERAGE UNIT SIZE


 57 UnITS PROPOSED
STEP 1 I.2C DIIIDE TOTAL PROPOSED DENSITY PROJECT FLOOR AREA BY NUMBER
DF
26,388 SF/57 UNITS $=463$ SFUNIT

STEP 1.3 CALCULATE NUMBER OF BASE PROJECT UNITS



- ALLOWED 43 UNITS, BUT, DESIGNED TO 42 UNII

STEP 2: PROPOSED DENSITY BONUS PROJECT

STEP 2.1 DETERMINE PROPOSED NUMBER AND INCOME LEVEL OF



$4120 \times 42=(4.62)$
$5=5$ AFFORPABLE UNTTS

$\%$ granted for density bonus
\# BAs Prouect unis:
${ }_{42}^{35 \%}$
STEP 2.3 CALCULATE NUMBER OF BONUS UNITS BY APPLYING THE
PERCENTAGE FROM STEP 2.2 TO BASE PROUECT.
\#bonus unts Allowed


\# Units Proposed with density bonus: 57 UNITS

WAVERS:

1. HEIGHT- BMC 23E.52.07..B.2.2 TO EXCEED THE HEIIGH AND STORY WHRRE 50' AND 4 STORIES ARE REOUIH BMCS 23E.0.0.020 TO HAVE ARCHITECTURAL
WHICHEXCED AIITRICTS HEIGHTLMIT.


- REDEED RONT SETBACK


| REDUCED REAR SETBACK |
| :--- |
| OFG INCHES ON ALLELLO |


(NO WAIVRA ARE REOUIIED FOR THE EAST SIDE SETBACK NOR
THE USEABLE OPEN SPACE PER UNIT)

STEP 3: PROPOSED DENSITY BONUS PROJECT WITH WAIVERS AND CONCESSIONS
step 3: ZAB Acts on the proposed density bonus project
3.1 LIST OF CONCESSIONS (ALLOW 2) AND WAVERS:




NOTES:

1. DEESITY BONUS FLOOR AREA AND gROSS FLOOR AREA (SHEET AO.2) ARE
CALCULATED PER STATE LAW AND LOCAL OROINANEE.

AVERAGE UNIT SIIE WITH CONCESSIONS AND WAIVRS:
28,213 SF / 57 UNITS $=495$ SFIUNIT



## dencity

DENSITY
BONUS
ALCULATIONS







\section*{| LEGEND |
| :--- |
| $\square$ COMMERCIAL |
| $\square$ PARKING |
| $\square$ RESIDENTAL |
| $\square$ TRASH |
| $\square$ OPEN SPACE |
| $\square$ LANDSCAING |
| $\square$ CIRCULATION |
| $\square$ ROOFTOP ELEMENTS |
| WALL |
| PROPERTY LINE |}



draning RESIDENTIAL
FLOOR AREA
SUMMARY




(2) $\frac{\text { PODDUMLEVEL }}{1 / 166^{-1}=1-01}$ $\qquad$



(6) $\frac{\text { BAAE PROJECT - FOURTHLEVEL }}{1 / 16^{\circ}=1-1^{-0}}$

(5) $\frac{\text { BAAE PROJECT }- \text { THIRD LEVEL }}{1 / 16^{=}=1-\mathbf{n}^{\prime \prime}}$

(3) $\frac{\text { BASE PROJIECT-MEZZANINE LEVEL PLAN }}{1 / 16 " 1}$

(2) $\frac{\text { ASSE PROSECT - GROUND FLOOR PLAN }}{1116 "=1-0.0}$

(1) $\operatorname{BASE}$ PROUECT - UNDERGROUND PARKING PLAN



BUILDING AREA LEGEND $\square$ COMMERCIAL

## $\square$ PARKING

$\square$ RESIDENTIAL
$\square$ OPEN SPACE
ROOFTOP ELEMENTS





BUILDING AREA LEGEND $\square$ COMMERCIAL
$\square$ PARKING $\square$ RESIDENTIAL $\square$ OPEN SPACE $\square$ ROOFTOP ELEMENTS



|  | \%ann |
| :---: | :---: |
|  | ${ }^{\text {crea }}$ |
| 310 | T/18 |
| $1 / 16^{\prime \prime}=$ | =1'-0" |
|  | ( |
| AO | 0.4 |



8 ViEW EAST ON DERBY


7 VIEW WEST ON DERBY




$0 \underset{\substack{\text { CONTEXTMAP } \\ 12=1 \\=1.00}}{\text { Ma }}$


VIEW SOUTH ON SHATTUCK
$12^{2}=1=1-100$






VIEW North at derby ano shattuck
$12^{2}=1-1-00$


drawng
EXISTING
CONDITIONS






KEY NOTES
(2) ELLEVATOR
(3) STAIR
(4) ${ }^{6}$ O"O HIGH ORNAMENTAL

5) $5_{\text {RESIIENTALL }}$ SNTRY
${ }^{6}$ 6 CAFE ENTRY
) GARAGE DOOR WITH VISUAL
 DOOR. SOUND ANA LIGH
CONTROLS IN GRAGE.
8 8 NEW TREE.
(9) SLANTER LANDSCAPE DRAWINGS
(10) HEAVY DUTY DERO HOOP
(1) (E)ACTRANSIT BUS STOR
(12) OUTDOOR SEATNG AREA,
(13) ExTERIOR STAIR
(14) parapetralilig
(15) MECHANICAL CHASE
(16) barbeque
17) Not USED
(18) FIRE ACCESS STAIR
(19) METAL ROOF MATCH SIDING
(20) TRASH CHUTE

| LEGEND |
| :---: |
| COMMERCIAL PARKING RESIDENTIAL UTILITY OPEN SPACE LANDSCAPING CIRCULATION ROOFTOP ELEMENTS <br> WALL PROPERTY LINE |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |









drowng
ROOF
PLAN





(2) $\frac{\text { EXTERIOR ELEVATION-NORTH }}{118^{"}} 11-0^{\prime \prime}$



Mernot
(2) COMMERCIAL ENTRY
3) parking garage door
(4) not used
(5) Exterior stair
(6) Ralling /parapet
( ) elevator overrun
8) PLANTER SEELANDSCAPE PLANS
(9) TREE $_{\text {SEELANDSCAPE PLANS }}$
(10) Awning
111) not used
(12) not used
(13) signage
(14) ROOFTOP MECHANICAL
(15) $\begin{gathered}\text { PERFORATED METAL } \\ \text { SECURITY FENCE W GATE }\end{gathered}$

(2) Painted stucco
(3) METAL FLUSH panels
(4) CAST-N.PLACE CONCRETE
(5) COMPOSITE WOOD PANEL
COMOR: PARKLLEX $A$ AMER" \& RUB
(6) ARCHTECTURAL metal detalls (7) Storefront glazing window
(8) perforated metal
(9) metal louvers
(10) DARK Anooized metal windows


EXTERIOR
ELEVATIONS






(6) WEST ELEVATION OF UNIT A2

(5) $\frac{\text { EAST ELEVATON OF UNIT A2 }}{1 / 2^{\prime \prime}=1-1 \cdot 0^{\prime}}$ $\qquad$



(2) $\frac{\text { SOUTHEELEVATION OF UNIT A2 }}{1 / 22^{\prime \prime}=1-0^{\prime \prime}}$






(4) SECTION PERSPECTVE OF UNIT B2

(3) $\frac{\text { NORTH ELLEVATION OF UNIT B2 }}{1 / 22^{2}=1-0^{2}}$

(2) $\frac{\text { SOUTHELEVVATION OF UNIT B2 }}{12^{\prime \prime}=1} 1$

(1) $\frac{\mathrm{UNIT} \text { B2 PLAN }}{1 / 22^{\prime \prime}}=1-\mathrm{tan}^{\prime \prime}$



5 SOUTH LLEVATION OF UNITC




[^8]

SECTIONAL PERSPECTVE OF UNITC







drowng
$3 D$ VIENS



3D VIEW LOOKING WEST ON DERBY
STRET


3 DVEW OF DERBY STREET EXIT


3D VIEW FROM WALKER STREET


3 UVIEW OF DERBY FACADE

##  1120 





3D VIEW OF FOURTH FLOOR OPEN
SPACE


3D VIEW OF PODIUM OPEN SPACE





©

(B)




[^0]:    
     (3) PLANT SPACING

[^1]:    ${ }^{1}$ This number (21) reflects the amount of parking in the project after removing nine spaces (three parking lifts), in order to move the ground-floor east wall westward, per Condition \#11 of the permit approved by the ZAB on November 8, 2018.
    ${ }^{2}$ Government Code section 65915 et seq.

[^2]:    ${ }^{3}$ Housing Accountability Act, California Government Code Section $65589.5(\mathrm{j})$. The HAA requires that findings for "specific adverse impact" must be made to deny or approve with reduced density a project that is compliant with applicable, objective general plan and zoning standards. The HAA applies to projects that have also received modifications to standards that are granted as waivers or concessions under DBL.
    ${ }^{4}$ Because the building envelope was ensured by waivers through DBL, and the number of units was entitled to the project via the HAA, the ZAB only had the ability to influence building design elements such as color, materials, and minor adjustments to the massing that would not affect these entitlements. The ZAB also allowed a reduction in parking to below the minimum requirement per zoning standards (eliminate three parking lifts/nine spaces) to reduce the massing on the ground level on the eastern side of the building in order to address neighbor concerns. See Condition \#11, Attachment 1, Exhibit A, Findings and Conditions, for details of revisions to be made by the applicant prior to FDR.

[^3]:    ${ }^{5}$ Condition \#11: Final Design Review. The Project requires Final Design Review (FDR) approval by the Design Review Committee. Plans presented at FDR shall include the following design changes:
    A. Eliminate the three south parking lifts along east wall (between floorplan reference lines D and E) and align the exterior podium wall with eastern wall of utility room, creating an approximately 18 'wide setback from the east property line; provide at grade planting in the expanded setback area to the satisfaction of the DRC. (Sheet A2.1)
    B. Move podium railing/parapet to the inside (west) edge of the planting beds so that the planting beds are east of it, to soften the wall edge; detail to be worked out at FDR. (Sheet A2.2)

    In addition, the applicant shall consider revising the project to address the following design changes for presentation to the DRC at FDR:

    - Better screening on the north stairs and the eastern open space decks to increase privacy;
    - Utilize robust plants that grow quickly to provide immediate privacy to east of the site;
    - Find a solution for greater privacy on east windows for both residents and neighbors; and
    - Explore ways to reduce the apparent massing of the north stair as experienced from the street; consider pulling the stair mass closer into the building.

[^4]:    ${ }^{6}$ The C-NS district requires that in a mixed-use building, no residential use may be located on the ground floor within 20 feet of a property line adjoining a public right-of-way.

[^5]:    ${ }^{7} 2701$ Shattuck Transportation Assessment, by Kittleson and Associates, dated March 2, 2017, p. 10 .

[^6]:    ${ }^{8}$ A "story", per Berkeley Municipal Code, section 23F, is "That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building between the floor of the topmost floor and the ceiling or roof above". ${ }^{9}$ Per Berkeley Municipal Code, section 23F, the height of a building with a parapet is measured from the average level of the highest and lowest point of that portion of the lot covered by the building to the top of the parapet wall.

[^7]:    ${ }^{10}$ The Solar Rights Act comprises the following California codes of law: California Civil Code Sections 714 and 714.1, California Civil Code Section 801-801.5 (solar easements), California Government Code Section 65850.5, California Health and Safety Code Section 17959.1, California Government Code Section 66475.3, and California Government Code Section 66473.1.
    ${ }^{11}$ Government Code, Sections 25980-25986.

[^8]:    NORTH ELEVATION OF UNIT
    $1 / 2=1-1 .-10$

