

March 11, 2025

To: Berkeley City Council  
From: Landmarks Preservation Commission

Re: Appeal Response Letter, 2500-2512 San Pablo Avenue Landmark Designation

**Executive Summary of Appeal Response Letter: 2500-2512 San Pablo Avenue Landmark Designation**

The LPC recommends the city council deny the appeal based on the substantial evidence supporting the landmark designation. The LPC's decision was made in accordance with applicable regulations and recognizes the building's historical and cultural importance. In response to several concerns raised by the applicants regarding procedural issues, the validity of the notice, and the landmark status, the LPC shares the following:

1. **Notice and Procedural Issues:** The LPC took extra precautions to ensure proper noticing by reopening the hearing in December, addressing potential typographic errors from the October meeting. The city council should seek a legal opinion from the city attorney on whether the notice to the property owner was legally sufficient. If deemed deficient, the matter should be remanded for proper notice and rescheduling.
2. **Senate Bill 330 (SB330):** SB330, which limits zoning changes for housing, is irrelevant in this case since no construction or alteration permits have been applied for, and landmarking does not affect the property's potential for new development.
3. **Downzoning and "Taking" Argument:** The appellant's claim that landmarking constitutes downzoning or an unlawful taking is inaccurate. Landmarking is not prohibited by SB330 and the intent of the legislation was to prevent changes after applications for new housing, not to stop communities from designating landmarks.
4. **Landmark Worthiness:** LPC's unanimously decided to designate the property as a landmark, based on its architectural significance. We relied in large part on a 2021 historical evaluation that deemed the building an excellent example of storefront commercial architecture and a strong candidate for National Register consideration. The building's historical integrity and architectural style were key factors in the LPC's decision. The LPC also found the building has cultural significance, particularly its role in the East Bay Music Row and as a venue for important local musicians. The property also has cultural value as the home of various woman-founded businesses over the years.
5. **Not Required for Landmark Status:** The appellant implies the building is not worthy of Landmark status because its architect and builder is unknown, the building is not found to be in "excellent" but rather "good" or "fair" condition, and similar buildings can be found in the City and other cities in the east bay. These are not required prerequisites for Landmark status.

Thank you for taking the time to review the LPC Decision to Landmark 2500-2512 San Pablo Avenue. We'd like to respond to several issues raised by the appellant to assist you in your deliberations.

### **Notice and Procedural Issues**

Relating to noticing and procedural issues raised by the appellant, please note that upon the advice of staff and by request of the owner's representative, the Commission opened the hearing on October 7th, 2024 and then delayed deliberation. Out of an abundance of caution, we repeated the October initiation process in December to remedy any concerns about typographic errors in the Notices for the October meeting. During that time, the application authors updated the application with further research from the archives of the Berkeley Architectural Heritage Association, notices were sent out as required by staff and the hearing was rescheduled and duly noticed.

With respect to the appeal, the city council should have the city attorney offer its opinion as to whether the planning department provided the necessary and legal notice to the owner of the property. It should seek a written opinion from the city attorney. If the city attorney deems the notice was legal and proper and contained no deficiencies, the bulk of the appeal by the property owner should be denied by the city council. The notice argument is the bulk of the appellant's argument.

If the city council does not have the benefit of the city attorney's opinion on this matter at the time of the council hearing, the city council should continue the matter to another city hearing date in order to obtain the city attorney's opinion on the adequacy of notice. Should the city attorney agree with the appellant and find the notice deficient, the city council should remand the matter back to the landmark commission so that proper notice can be given and the matter set for another hearing before the commission.

### **Senate Bill 330 Not Applicable**

It is important to note that the owner, appellant, has not applied for any permits for construction or alteration of the property and therefore Senate Bill 330 is inapplicable in this matter. The State of California does not prohibit cities, counties, and local governmental agencies, from their ability to landmark properties in cases where there are no permits applied for or applications deemed complete by a city planning department.

90 National Park Service, National Register Bulletin: How to Apply the National Register Criteria for Evaluation

(Washington, D.C.: United States Department of the Interior, 1997).

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### **Not a "Downzoning" or "Taking"**

Appellant also argues that landmarking the property constitutes an impermissible "downzoning" and an unjust "taking" of property. If this argument were to hold water, then no property in the State of California would ever be subject to landmarking status. Clearly, the intent of the legislature in passing SB330 was not to destroy the ability of communities to landmark properties. The intent of SB330 was to prevent additional rules being applied to properties/applications *after* they were submitted so as to slow or prevent much needed housing from being approved. Since this designation occurs *prior* to any proposed project

or application being submitted, the LPC is well within its purview and is being proactive in designating significant pieces of Berkeley's history as Landmarks and Structures of Merit. Landmark Designation, contrary to the appellant's assertion, does not eliminate the Property's ability for new development. Designation status does not preclude the owner from submitting an application to expand the footprint or height of the building. If an application is submitted, the proposed project would be deemed on its merits at that time and its consistency with the Secretary of Interior's Standards for Rehabilitation.

### **Landmark Worthiness – Architectural Design and Cultural Value**

As for the appellant's view that the property is not landmark worthy due to lack of substantial evidence, the appellant, in their appeal, concedes the property is worthy of a Structure of Merit designation. The LPC unanimously voted to designate the property as a Landmark instead of a Structure of Merit for good reason. The building was included in a 2021 historical research and evaluation study for the proposed Blake Street Apartments Project at 2527 San Pablo Avenue Berkeley by Evans & De Shazo Inc. for several properties including the 2500 San Pablo Ave/Dwight Way building. In that report 2500 San Pablo Ave/Dwight Way was **one of only two buildings found eligible for National Register** consideration owing to their architectural design, which the report stated is, "an excellent example of Storefront Commercial Architecture and Classical Revival architectural style during Berkeley's commercial development in the early decades of the 20th century." The report goes on to state that, "An assessment of integrity found that the 1907 storefront commercial building **retains all seven aspects of integrity** which is detailed within the associated Historic Resource Evaluation "HRE" report"(see attachment 1). LPC Commissioners Enchill and Orbuch used this report, along with additional research, as the basis for the Landmark Application. Based on the research and evaluation study, additional research conducted, and findings included in the application submitted, as well as a Staff report which recommended favorable action, the Commission found **substantial evidence** that the building was worthy of Landmark status. pursuant to Berkeley Municipal Code Sections 3.24.110.A.(1)(b) and (c), 3.24.110.A.2 and 3.24.110A.(2).

While the appellant implies the building is not worthy of Landmark status because its *architect and builder is unknown*, the building is *not found to be in "excellent" but rather "good" or "fair" condition*, and *similar buildings can be found in the City and other cities in the east bay*, these are **not required prerequisites for Landmark status**. The LPC and a third-party architectural historian both found the structure to qualify as "an excellent example of Storefront Commercial Architecture and Classical Revival architectural style during Berkeley's commercial development in the early decades of the 20th century." It is also one of a few intact examples left on an ever-changing San Pablo Avenue.

Last, the building has **Cultural Value** (3.24.110A.(2)) as it is associated with the East Bay Music Row. The site boasts a long history of hosting music clubs including the San Pablo Ave Folk and Rock Music Clubs - Cabale, Cabale Creamery, Good Buddy, Caverns West, Questing Beast Tito's Babylon, and Long Branch Saloon and was considered a "seminal address" responsible for local folksingers Joe McDonald and Barry Melton becoming Country Joe and the Fish. Bands that frequented Long Branch Saloon included Elvin

Bishop Group, New Riders of the Purple Sage (Jerry Garcia's vehicle for playing pedal steel guitar), Tower of Power, Eddie Money, The Tubes and many more. By hosting venues for live entertainment beginning during the sixties and seventies, the property played a functional role in furthering a cultural movement that flourished in clubs and bars of Berkeley and the surrounding area since World War 2. Also, the building has and continues to be the home of several famous east bay woman-founded, own and run businesses including the Brick Hut Cafe and most recently, Good Vibrations (which has been privately owned/run since 2007).

Thank you for your consideration, the Landmarks Preservation Commission has approved this letter via vote and it is signed by our Chairwoman.

**Attachments:**

1. Evans and DeShazo report excerpt on "Integrity", pp. 77-79
2. Evans and DeShazo Full HRE Report?

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Integrity

The following section provides specific integrity-related details regarding the 1907 storefront commercial building (EDS-08) and the 1926 storefront commercial building (EDS-11).

- **Location.** The 1907 storefront commercial building (EDS-08) remains in its original location where the building was constructed, and the 1926 storefront commercial building (EDS-11) remains in its original location where the building was constructed. Therefore, the 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) retain integrity of location.

- **Design.** The 1907 storefront commercial building (EDS-08) retains the original with Storefront Commercial Architecture and Classical Revival design within a period of significance of 1907, including nine original symmetrical storefronts, and canted corner storefront with glazed and wood-framed front recessed entries, wood-framed single and double-doors flanked by display windows set on a knee walls and topped with fixed and hopper transom wood windows, brick masonry laid out in a running bond pattern, a stone masonry beltcourse, dentil, frieze boards with decorative triglyph, molded cornices, and pilasters. These storefronts have a high degree of design integrity and the building has only minor changes to the canted storefront doors. The 1926 storefront commercial building (EDS-11) retains its original Storefront Commercial and Classical Revival design elements, including light-colored brick masonry laid out in a running bond pattern, smooth plaster, and a symmetrical six-bay "storefront", a series of divide-light metal fixed and awning style transom windows, decorative square pilasters with square caps and articulated bases, an entablature that runs the length of the façade, a brick cornice laid out in a stack bond pattern, and dentil set above the architrave.

Therefore, the 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) retain integrity of design.

- **Setting.** The setting along San Pablo Avenue as well as in west and southwest Berkeley where the 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-

11) are located has changed since the early 1900s. However, many of the original buildings from the period between 1907 and 1926 are still present along San Pablo Avenue. In addition, the urban and commercial business area of San Pablo Avenue that is associated with the 1907 building and 1926 building remains intact. Also, the surrounding neighborhood has maintained its local urban setting with small businesses and houses constructed from ca. 1900 to ca. 1950, which is still present today. Therefore, the 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) retain integrity of setting.

- **Materials.** The 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) retain both retain a high degree of original materials from the date that each building was constructed. The 1907 storefront commercial building (EDS-08) retains materials from its original construction including glazed and wood-framed windows, wood-framed single and double-doors, wood-framed display windows, stucco/plaster knee walls, brick masonry facades, and fixed and hopper wood transom windows. The 1926 storefront commercial building (EDS-11) retains materials that include brick masonry, divide-light metal fixed and awning style transom windows, and plaster walls. Therefore, the 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) retain integrity of materials.

- **Workmanship.** Workmanship is evidenced by a skill or craft from a particular period or region. The 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) each retain a high degree of workmanship of woodworking and masonry from the early 1900s. The masonry storefronts, including pilasters and decorative entablatures, and original windows and trim work on both the 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) are excellent examples of workmanship. Therefore, the 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) retain integrity of workmanship.

- **Feeling.** Feeling is the quality that a historic property has in evoking the aesthetic or historic sense of a past period. The 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) each evoke the feeling of Storefront Commercial Architecture and Classical Revival design from their respective periods of significance. Also, both buildings, as part of a small business district in the early 1900, contribute to the feeling of a property from the past and their respective periods of significance. Therefore, the 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) retain integrity of feeling.

- **Association.** The 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) are both currently associated with retail and commercial business. As such, they retain their original association as retail and commercial properties on San Pablo Avenue. The 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) also remain associated with Storefront Commercial Architecture and Classical Revival design. Therefore, the 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) retain integrity of association.

An assessment of integrity found that the 1907 storefront commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) retain all seven aspects of integrity. Since the 1907 storefront

commercial building (EDS-08) and 1926 storefront commercial building (EDS-11) were found to meet Criterion C and retain integrity, they are considered to be historic properties for the purpose of Section 106 of the NHPA; therefore, in compliance with Section 106, an assessment of effects was completed in the section below.