

2274 Shattuck Mixed-Use Project (United Artists Theater)



#ZP2023-0079

City Council Appeal

April 22, 2025

Sharon Gong, Principal Planner

Zoning Map



Legend



AC Transit Bus Route

C-DMU: Downtown Mixed-Use District

Core: C-DMU Core Sub-Area

Buffer: C-DMU Buffer Sub-Area

Corridor: C-DMU Corridor Sub-Area

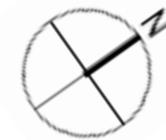
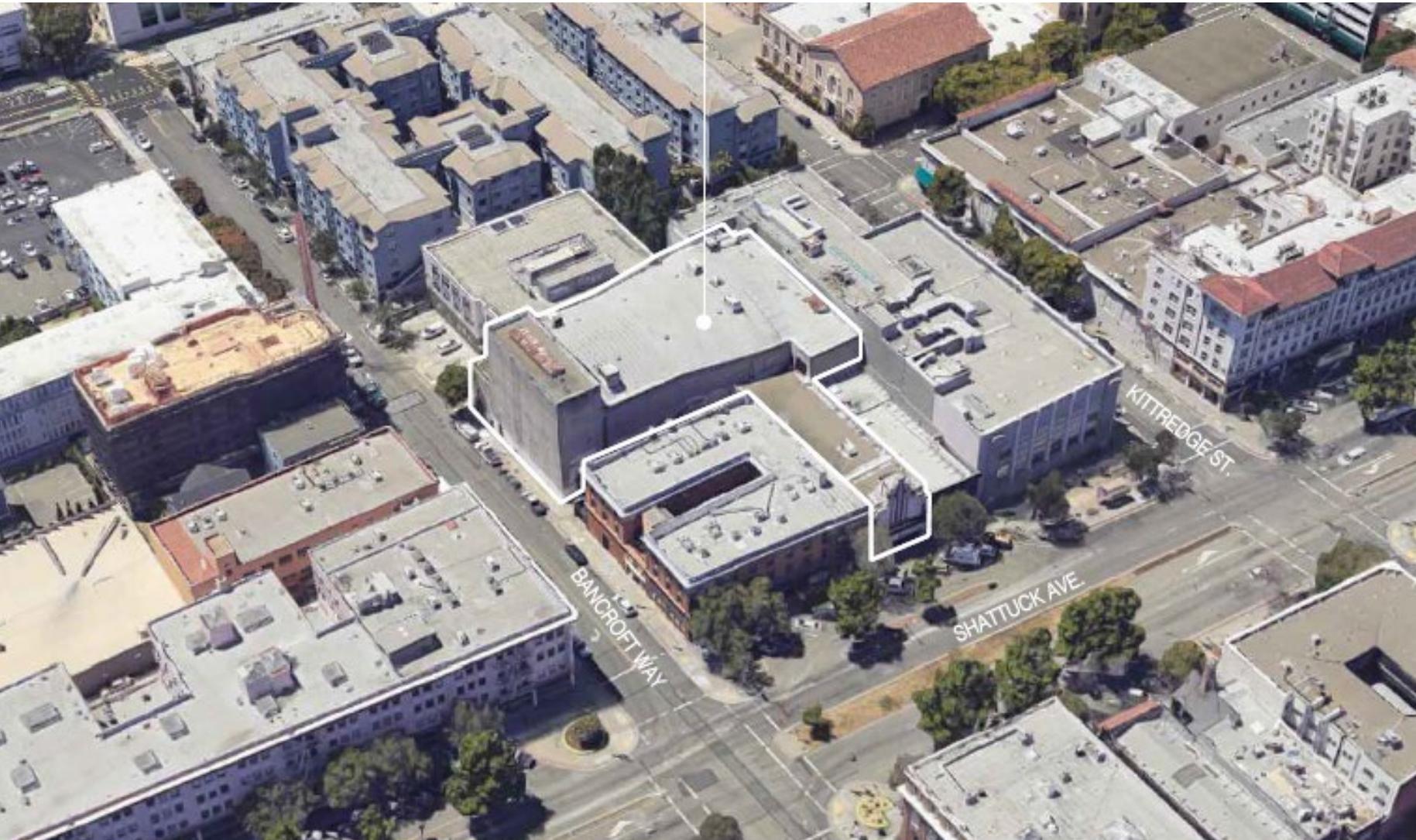
Outer Core: C-DMU Outer Core Sub-Area



Aerial Plan View – Existing



Aerial 3D View – Existing



Historic Resource

- SB 330 Preliminary Application vested site's historical resource status – NOT a City Landmark – November 2022
- Landmarks Preservation Commission (LPC) designated UA Theater a City Landmark, March 2024
- Distinguishing features that shall be preserved and restored:
 - upper portion of Shattuck Ave. building façade in relation to overall height and massing of façade
 - architectural and decorative features of upper portion of Shattuck Ave. building façade
- LPC considered request to designate whole building, but chose to designate only the building façade and its decorative detail



AB 1633 and CEQA Exemption

- AB 1633: effective January 2024, revised Housing Accountability Act (HAA) – developers can claim violation of HAA if local agency fails to determine exemption from CEQA when project is eligible
- March 2024: Applicant submitted AB 1633 Notice and technical reports to support exemption
- October 2024:
 - Staff determined project eligible for Infill Development exemption
 - Project would preserve / restore character-defining feature (upper façade) – does not meet criteria for historical resource *exception* to the exemption



Project Approved by ZAB, December 12, 2024

Demolish existing movie theater:

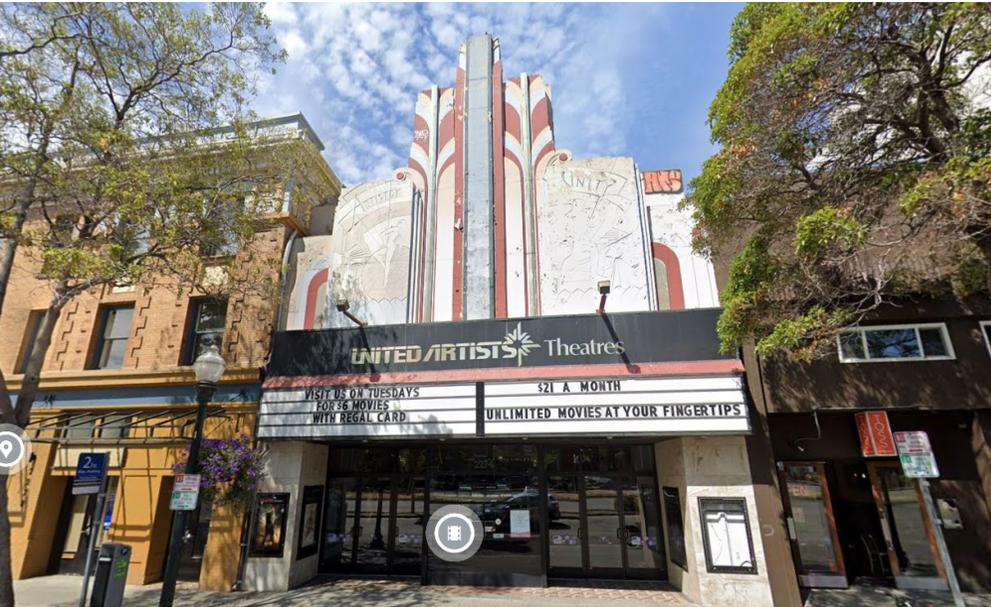
- Preserve and restore/renovate Shattuck façade and theater lobby

Construct Mixed-Use Residential Building:

- 17 stories, 183 feet in height, plus 5-foot parapet
- 227 dwelling units – 32 studios, 49 two-bedroom, 80 three-bedroom, 66 four-bedroom
- 634 bedrooms total
- 23 VLI density bonus qualifying units
- ~8,000 square feet of usable open space – ground-floor common space, private patios, roof deck
- 72-space bike room
- ~900-square-foot, ground-floor café



Proposed Project – Preserve/Restore Façade



Proposed



Existing

Appeal Point 1: Historic Resource Status

Appellant:

The UA Theater is a "mandatory" historic resource via its listing in the CRHR; the historic status encompasses more than the facade.

Substantial demolition of the theater would cause a substantial adverse change in its historic significance; therefore, the historic resource exemption exception applies.

Appeal Point 1: Historic Resource Status

Response:

- The whole building is on the CRHR and is an historic resource
- Substantial evidence:
 - Historic Resource Evaluation – significant loss of integrity “negates the property’s ability to convey significance”
 - Project Impact Analysis (PIA)
 - Character-defining feature (upper Shattuck façade) preserved in the Project
 - Project consistent with Secretary of Interior Standards for Rehabilitation

Appeal Point 1: Historic Resource Status

Response (Cont'd):

- **Upon consideration of all evidence on the record:**
 - Project application materials, plans and technical reports
 - Peer reviews of submitted technical reports and historic resource reports
 - Revised PIA prepared by the City's Consultant
 - LPC designation and findings
 - City Attorney guidance
 - City Council's deliberations in closed session
- **Staff determined:**
 - **Project is eligible for Infill Exemption**
 - **Historical Resource *exception* to the exemption does not apply**

Appeal Point 2: DAP Consistency

Appellant:

The categorical exemption is not consistent with the Downtown Plan, including policies for the protection and expansion of historic theaters that specifically reference UA Berkeley (Theater).

Appeal Point 2: DAP Consistency

Response:

- Policy ED-1.7 broadly encourages retention and expansion of cinema, live theater and music venues
- Project complies with the Policy by preserving what is feasible
- Preserving / rehabilitating the entire building is not feasible
- ZAB found Project consistent with General Plan and Downtown Area Plan

Appeal Point 3: Project Description

Appellant:

The project description relied upon in ZAB's review is not finite or stable, and is inadequate for consideration for categorical exemption, per the applicant's recent public assertions that the application will be substantially modified.

Appeal Point 3: Project Description

Response:

- The CEQA exemption applies to use permit approved by ZAB
- Any substantial change to the project as approved by ZAB would require Use Permit Modification
 - New staff review (new CEQA determination)
 - New decision by the ZAB on the modified project
- No application to modify the project has been submitted

Appeal Point 4: No Public Review

Appellant:

There was a potential “due process violation” in the ZAB proceedings, based on a representation in the applicant’s letter to ZAB that “the City approved the Class 32 categorical exemption in October of 2024 after deliberation by the City Council and in consultation with the City Attorney”, where there has been no public review before any City Council deliberation regarding the subject categorical exemption.

Appeal Point 4: No Public Review

Response:

- Common practice for exemption determinations to be made by staff
- Staff reviewed the Project in accordance with AB 1633
- City Council met in closed session September 2024 to discuss potential litigation related to the Project under CEQA
- No public discussion regarding the CEQA determination is required by AB 1633/HAA

Appeal Point 5: Technical Reports

Appellant:

The ZAB was not provided with all relevant City reports from architectural historians regarding the UA Berkeley (Theater).

Appeal Point 5: Technical Reports

Response:

- City Consultant's peer review of the historic resource reports and revised PIA publicly released w/ CEQA Determination Letter on October 4, 2024.
- The reports staff used for CEQA determination were not necessary for ZAB to approve / disapprove the Project's use permit.
- All technical reports publicly available well in advance of the hearing on December 12, 2024.

Conclusions

CEQA Findings:

- Staff determined that project is exempt from CEQA under the Infill Exemption

Housing Accountability Act:

- Project cannot be denied, nor the density be reduced unless findings of “specific adverse impact” to public health and safety can be made

Permit Streamlining Act / Senate Bill 330, Housing Crisis Act:

- Tonight’s hearing is the 4th out of 5 that the City can conduct for a decision on the project

City Council Action:

- 1) Continue; 2) Reverse, affirm, or modify ZAB approval; 3) Remand to ZAB

