

SUPPLEMENTAL COMMUNICATIONS PART 2

Landmarks Preservation Commission
1947 Center Street
Berkeley, CA 94704

Received
JUL 05 2023
Land Use Planning

July 5, 2023

Commission Members:

My name is Steven Schuyler. I am 59 years old and disabled. I live at the Oxford Plaza Apartments located at 2175 Kittredge Street, Berkeley, CA 94704, directly next door to the California Movie Theater that you are considering structural alteration (#LMSAP2022-0011) for demolition of a portion of the theater.

I have a concern and I want to bring your attention to page 93 of your July 6, 2023 Staff Report where you are requesting a waiver to put bike racks on the sidewalk out front which you clearly acknowledge is "quite physically constrained."

The first thing I want to point out is that I was the ONLY citizen to attend the meeting about this project at your last online meeting. At that meeting I attempted to raise my concerns about how this project and all the people that this building being here will bring here would have a detrimental effect on the neighborhood and I was told by the chair of the commission that my concerns were "Not in our purview."

I submit to this commission that you have now made what happens on the sidewalk in your purview simply by including it in your report by the fact that you are now requesting a waiver to put bike racks on a sidewalk that you acknowledge is not big enough for them!

It seems that the reason for wanting to put the bike racks on the sidewalk is because if you put them inside, it would interfere with the 'Green Room' and dressing area inside the theater.

With all the reports that were compiled for this project, it seems that you failed to determine the composition of the residents in my building where we have lived since 2009. If you had, you would see that there is myself who has cerebral palsy, 2 fully blind and one who is partially blind and 2 people who are in wheelchairs who live here.

In a March 7th, 2023 email from Geneva of Rhodes Planning Group, after expressing my concerns to her she stated, "For ADA access, every City sidewalk must have a path of travel of at least 3 feet in order to accommodate wheelchairs, which the project will comply with

So, now you are asking for a waiver to put bike racks on a sidewalk that is no wider than 4 plastic garbage cans!

What concerns me and is a bit confusing is that you seem to be struggling to find a place to put bike racks on the sidewalk, but on the other hand it seems feasible to you to have 350+ people come to the theater in addition to the 300-500 people who will be living there coming and going on the same sidewalk that can't fit a bike rack!

So, by putting the sidewalk in your report, you are now putting it in play as being in your purview.

It is very disturbing and of grave concern that you are willing to consider creating a detrimental challenge to the lives of the disabled people in this neighborhood who have been here for 14 years all for the sake of other people's entertainment!

And, I must also add that there is already a building under construction and the effect that the people from that building on our neighborhood will have is yet to be seen and now you want to add to it with your project which will create a choke point for us in my building!

I am asking this commission to take a step back and re-examine this part of your plan and take extreme serious consideration to how this entire situation will forever destroy the lives of the people in my building if you were to decide to move forward with your current plans!

I will remain hopeful that the members of the commission will use your good judgement and common sense and be willing to use kindness, compassion, understanding and most of all respect for those of us who already live here when making all of your decisions on this project moving forward.

With Gratitude,



Steven Schuyler
2175 Kittredge Street #318
Berkeley, CA 94704

7/5/23, 12:11 PM

Gmail - Followup to California Movie Theater Project ...



Steven Schuyler <sschuyler94704@gmail.com>

Followup to California Movie Theater Project ...

Geneva Hesner <geneva@rhoadesplanninggroup.com>

Fri, Jan 27, 2023 at 4:08 PM

To: "sschuyler94704@gmail.com" <sschuyler94704@gmail.com>

Cc: Mark Rhoades <mark@rhoadesplanninggroup.com>, "Gong, Sharon" <SGong@cityofberkeley.info>

Hi Steven,

Thank you for attending the public meetings for the California Theater Project and for reaching out with your questions.

We have provided answers to your questions below, however, please note that most of the concerns you mention below are not project-specific concerns (scooters riding on sidewalks, parked scooters obstructing sidewalks, width of sidewalks). These are citywide issues that all of Berkeley deals with and are therefore the responsibility of the City of Berkeley to address or enforce.

1. The City sidewalk and streets are called the public "right of way" (ROW) and are publicly owned by the City. Projects are not allowed to build on the sidewalk, and projects can only build behind the property line. Because the project is proposing to keep the historic façade and entryway, the sidewalk width will remain the same as it is now. The only way the sidewalk could be widened is if it encroached into the street. Only the City of Berkeley has the authority to do this because it is the public right of way.
 1. For ADA access, every City sidewalk must have a path of travel of at least 3 feet in order to accommodate wheelchairs, which the project will comply with.
2. The project will not provide scooters. The project will provide secure parking for residents' scooters/bikes within the building. Because the project will provide the parking within the building, we do not expect the residents to park their scooters outside on the sidewalk.
3. You are correct that scooters are not allowed on public sidewalks, but as you know, people ignore this rule throughout the City. Because the sidewalk is the public right of way, the project has no ability or authority to enforce the City's rules on scooters.
4. The project will have a dedicated leasing staff onsite. While they will be able to attend to all the needs inside of the building, they will not be able to enforce any rules outside of the building because, again, the sidewalk is open to the public and only the City has the authority to enforce laws.
5. The ground floor will have a performing arts theater. It will operate in the same way as the existing movie theater, which had operated on Kittredge Street for over a century. Special event permits are only required if the event is held on the street, sidewalk, or other public area.
6. The Berkeley Fire Department reviews and approves the project plans multiple times throughout the entitlement and building processes. The project will be constructed according to the California Building Code, which includes all fire safety measures. The project will comply with all applicable fire safety measures in the law and will accommodate any other reasonable requests from BFD for additional fire & life safety measures.

Please let me know if you have any more questions.

Thank you,

Geneva

7/5/23, 12:11 PM

Gmail - Followup to California Movie Theater Project ...

Geneva Hesner

Associate Planner/Project Manager

Rhoades Planning Group

geneva@rhoadesplanninggroup.com

(510) 545-4341

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lot. To incorporate the 50% density bonus, the building needs many additional floors to accommodate the extra residential floor area/ dwelling units allowed under SDBL. Because this site is a small downtown lot, there is no area to expand the building horizontally, so it had to expand vertically. Because the base project reached the maximum allowable height limit for the C-DMU Core zoning district, the proposed project would not be able to add any density bonus units without this waiver.

➤ **RESIDENTIAL BICYCLE PARKING – SHORT TERM**

The proposed project requests a waiver for this development standard because there is no publicly accessible space on the property to place outdoor bike racks, and the supportive spaces for the commercial and residential areas are already extremely constrained in the interior of the building. The streetscape along Kittredge in front of the project is quite physically constrained as well. The theater will need a loading zone for patrons, and underground vaults in the sidewalk take up the rest of the space. The project is amenable to providing outdoor bike parking, however there is no physical space that could accommodate the bike racks. The project intends to work with Public Works to see how many spaces can physically be accommodated and will install those that are feasible. However, all seven planned bike racks may not fit. As a result, the project requests a waiver for its short-term residential bicycle parking requirement.

➤ **COMMERCIAL BICYCLE PARKING**

The proposed project requests a waiver for this development standard because there is no publicly accessible space on the property to place outdoor bike racks, and the commercial theater space is extremely constrained. The project dedicates as much space as possible for the theater use and building a commercial bicycle storage room would take away valuable square footage from necessary theater amenities such as the green room or dressing rooms. As a result, the project requests a waiver for its commercial bicycle parking requirement.

Table 8: Rationale for Concessions Requested

➤ **RESIDENTIAL USEABLE OPEN SPACE**

The proposed project has a base project that complies with Residential Useable Open Space standard. That code-compliant base project provides 11,680 SF of Residential UOS. Because this site is a small downtown lot, there is very little space to dedicate to side yards for useable open space on the ground floor. The proposed project does provide UOS on the ground floor, but it is for the commercial theater use (as required).



July 3, 2023

Landmarks Preservation Commission
City of Berkeley
Berkeley, CA

Re: 2113 Kittredge Street, Structural Alteration Permit (#LMSAP2022-0011)

Dear Commissioners:

The Art Deco Society of California, a non-profit located in Berkeley, has reviewed staff recommendations on the proposed design for the housing project at 2113 Kittredge Street (described throughout the project as 2115 Kittredge), the former California Theatre.

We still believe the current design is not compatible with the historic character of the Art Deco building (as outlined in a previous letter, dated April 19, 2023) because of its oversized proportions.

The proposed housing project/tower, at 18 stories and 212 feet high in its entirety, is more than three times taller than the California Theatre. LPC staff, while noting that the Secretary of Interior's standards clearly advise that any new addition to a historic building must be "**subordinate to the historic building**," noted in its analysis that "the other aspects of the proposed design and the general context of the site could minimize the effects of the proposed massing and help to retain the historic façade's visual prominence at the pedestrian level."

In a 1997 reprint and update of the original 1976 Secretary of the Interior's standards, they **clearly advise against: "Designing a new addition so that its size and scale in relation to the historic building are out of proportion, thus diminishing the historic character."**

Last December, when staff asked the project owners/architects to add a setback that would ensure more visual prominence of the theatre's façade, they came back with a modification that increased the setback but also increased the height of the building to its oversized proportions.

The building now has an amenities floor that further diminishes the historic character of the building with its outsized proportions. Instead of being visually subordinate to the historic building, as the Secretary of Interior Standards requires, the amenities floor now appears as the dominant feature.

In addition to the incompatible massing of this project, the architects plan to remove the neon tubing from the neon sign and marquee, and replace it with LED rope lighting. **The landmark designation from the City of Berkeley clearly states that the neon tubing, sign and marquee are “character defining features” which are protected as part of the LPC’s landmarking of the façade.**

The project architects state that they will replace the neon of the CALIFORNIA sign with LED neon rope lighting, which does not use glass nor neon gas, and is technically false neon. It has none of the aesthetically pleasing elements of real neon, which has a warmer glow, and its overall usage in this sign would mar and significantly diminish its historic character. The reader board panels of the marquee could potentially be replaced with LED lighting, if it does not interfere with the chaser action of the neon tubing around the letters CALIFORNIA. If the neon tubing is in disrepair, there are several well regarded neon sign repairers and preservationists in the Bay Area whom the ADSC is happy to recommend.

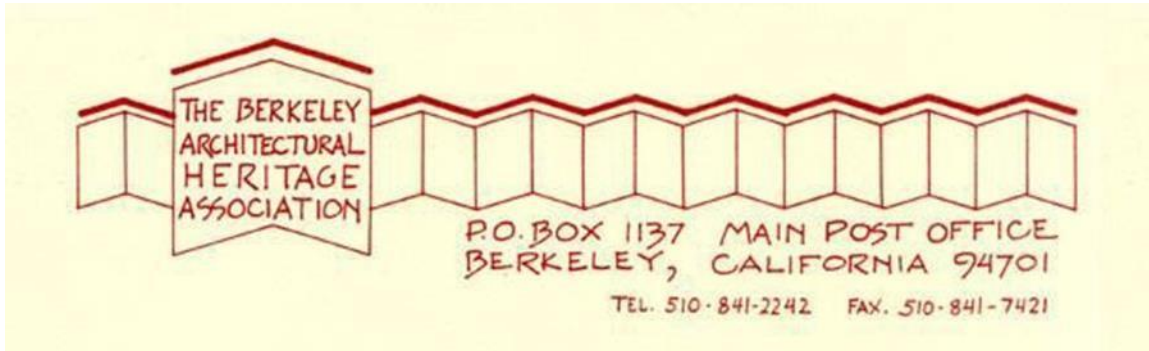
The ADSC would like to remind the LPC that on page 6 of the Landmark Designation, the LPC approved as character defining features: **Two rectangular neon signs on a projecting prow with stylized lettering that each spell out CALIFORNIA, projecting prow/angled marquee, surrounded in neon tubing, and a Lyre shaped center metal piece covered in neon tubing.** The tubes that spell out CALIFORNIA on the marquee were configured to act as chasers, and flashed one after the other, in sequence. If using LEDs on the marquee interferes with this action, then the entire signage should be restored in neon.

The architects also propose LED light strips that run in verticals along the façade of the new building, which we believe would only further accentuate the non-historic addition/building. The architects even stated in their proposal that the LEDs would draw the eye up vertically. The ADSC supports the proposed LED lighting that focuses on the Art Deco elements of the historic façade, but not the proposed vertical strips on the contemporary addition, nor the lighting fixtures that are proposed or their placement. We suggest hiding the lighting fixtures inside the niches or other spots on the façade of the theatre.

We hope that the LPC commissioners will review this project closely and carefully and realize the full extent that your actions are having upon the City of Berkeley and its remaining historic buildings.

Sincerely,

Therese Poletti
Preservation Director
Art Deco Society of California



July 3, 2023

LPC Chairperson Enchill
Landmarks Preservation Commission

Mr. Jordan Klein, Director
Department of Planning
1947 Center Street, 3rd Floor
Berkeley, CA 94704

Ms. Fatema Crane, Secretary
Landmarks Commission
1947 Center Street, 3rd Floor
Berkeley, CA 94704

VIA E-MAIL

Re: BMC 3.24.250 and Landmarks Commission Jurisdiction

Dear Director Klein, Secretary Crane, Landmarks Commission Chairperson Enchill and Commissioners:

The Berkeley Architectural Heritage Association wishes to draw your attention to the misinterpretation of several sections of the Berkeley Municipal Code with respect to the activity of the Landmarks Commission (LPC).

BMC 3.24.350 states, in relevant part:

3.24.350 Applicability of provisions.

A. No application for a permit to construct, alter or demolish any structure or other feature on a site, filed subsequent to the day that an application has been filed, or a resolution adopted to

initiate designation of the said site as a landmark, an historic district, or a structure of merit, shall be approved while proceedings are pending on such designation. . .

B. The provisions of this chapter shall be inapplicable to the construction, alteration or demolition of any structure or other feature on a proposed landmark site, historic district or structure of merit site, where a permit for the performance of such work was issued prior to the day that an application has been filed or a resolution adopted to initiate the designation of the said landmark site or historic district. . . (Ord. 5686-NS § 1 (part), 1985; Ord. 4694-NS § 15, 1974)

The meaning of these paragraphs is clear. Paragraph A generally suspends the approval of building permits while a landmarks application is under consideration by the LPC. Paragraph B limits the jurisdiction of the LPC when a building permit was issued prior to the receipt of a duly constituted landmarks application.

However, nowhere in these paragraphs is the LPC prevented from deliberating on a landmarks application in the case where a building permit has not been issued. Clearly, under Paragraph B, the LPC is thus fully entitled to consider a landmarks application when a building permit has been applied for, but not approved.

We urge you to apply this conclusion to landmark applications in process currently and in the future.

Sincerely,

Leila H. Moncharsh

Leila H. Moncharsh
President, BAHA