

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Use Permit #ZP2022-0116- Oppose- "IS-MND shortcut" f

From: LYNN SHERRELL <lynnsherrell@sbcglobal.net>
Sent: Wednesday, October 7, 2026 6:40 PM
To: Zoning Adjustments Board (ZAB) <Planningzab@berkeleyca.gov>
Cc: Humbert, Mark <MHumbert@berkeleyca.gov>
Subject: Use Permit #ZP2022-0116- Oppose- "IS-MND shortcut" f

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Dear Zoning Adjustments Board

If Chuck DeLeue were still with the city, the traffic bottle neck on Shattuck between Russell and Ellis would be of grave concern. I support bicycles, and am a cyclist myself. This proposal sits almost on the Russell bicycle path, and would only exacerbate the traffic problem. Cars are still permitted vehicles on our roads. Traffic must move. Gridlock of frustrated drivers who must stop every block is a recipe for accidents and deaths.

I oppose the IS-MND Shortcut for Use Permit #ZP2022-0116. a full EIR is required.

Lynn Sherrell Attorney at Law
2141 Emerson St.
Berkeley, CA 94705
510-843-6060
lynnsherrellattorneyatlaw.com

Certified Specialist Estate Planning Trust and Probate Law, Board of Legal Specialization, State Bar of California

There is no attorney-client relationship absent an executed agreement.

Jacob, Melinda

Subject: FW: FORMAL OBJECTION to the Staff Recommendation and Adoption of the IS-MND for Use Permit #ZP2022-0116 (2900-2920 Shattuck Avenue) — October 8, 2026, Hearing (Item 7A)

From: Saliki, Singeh <SSaliki@berkeleyca.gov>

Sent: Wednesday, October 7, 2026 3:55 PM

To: Larisa Cummings <pidicummings@gmail.com>

Cc: Rabiah Kabir <rabiahk@alumni.stanford.edu>; skehrer@comcast.net <skehrer@comcast.net>; Mor <Mor.goldberger@gmail.com>; Julian <Juliangrzn@gmail.com>; Reed Dillingham <reed.dillingham@gmail.com>; Les Shipnuck <shipnuck@gmail.com>; Lynn Cooper <cooperlb0108@gmail.com>; Ching/Battles <battles.ca@sonic.net>; P Dillingham <paul.y.dillingham@gmail.com>; Dave Auerbach <dave.auerbach@gmail.com>; Bartlett, Ben <BBartlett@berkeleyca.gov>

Subject: Re: FORMAL OBJECTION to the Staff Recommendation and Adoption of the IS-MND for Use Permit #ZP2022-0116 (2900-2920 Shattuck Avenue) — October 8, 2026, Hearing (Item 7A)

Hello Larisa,

I confirm receipt of your comment. Best regards,

Singeh Saliki, AICP (she/her)

Senior Planner

Planning and Development, Land Use Division

ssaliki@berkeleyca.gov

From: Larisa Cummings <pidicummings@gmail.com>

Sent: Wednesday, October 7, 2026 2:43 PM

To: Saliki, Singeh <SSaliki@berkeleyca.gov>

Cc: Rabiah Kabir <rabiahk@alumni.stanford.edu>; skehrer@comcast.net <skehrer@comcast.net>; Mor <Mor.goldberger@gmail.com>; Julian <Juliangrzn@gmail.com>; Reed Dillingham <reed.dillingham@gmail.com>; Les Shipnuck <shipnuck@gmail.com>; Lynn Cooper <cooperlb0108@gmail.com>; Ching/Battles <battles.ca@sonic.net>; P Dillingham <paul.y.dillingham@gmail.com>; Dave Auerbach <dave.auerbach@gmail.com>; Bartlett, Ben <BBartlett@berkeleyca.gov>

Subject: Re: FORMAL OBJECTION to the Staff Recommendation and Adoption of the IS-MND for Use Permit #ZP2022-0116 (2900-2920 Shattuck Avenue) — October 8, 2026, Hearing (Item 7A)

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

To the Members of the Zoning Adjustments Board and Planning Staff:

Please disregard the email sent earlier today and accept this *amended* formal letter of objection regarding the Planning Staff's recommendation to approve Use Permit #ZP2022-0116 and adopt the Initial Study/Mitigated Negative Declaration (IS-MND) for the proposed 11-story mixed-use development at 2900-2920 Shattuck Avenue.

While the City of Berkeley is under clear pressure to meet state housing mandates, the planning staff's report for the October 8, 2026, hearing contains critical technical, legal, and environmental gaps. There is "substantial evidence" generating a "fair argument" under California law that this project will cause significant, unmitigated impacts. Consequently, the City must reject the IS-MND and require a full **Environmental Impact Report (EIR)**.

The specific, legally binding flaws in the staff report and project design include:

1. Inadequate Mitigation of Documented Hazardous Toxins (CEQA Violation)

The staff report recommends adopting the MND by relying entirely on standard, non-site-specific soil remediation protocols under Mitigation Measure HAZ-1. This completely dismisses the formal enforcement correspondence issued by the [California Department of Toxic Substances Control \(DTSC\)](#). The DTSC explicitly stated that the site's historical footprint as an auto body facility requires a comprehensive **Preliminary Endangerment Assessment (PEA)** to map subsurface volatile organic compound (VOC) vapor risk. By failing to require a PEA prior to permit approval, the City lacks the empirical evidence needed to claim these environmental impacts are fully mitigated.

2. Failure to Adequately Analyze and Mitigate Aesthetic and Microclimate Impacts

While the project utilizes the California State Density Bonus law to achieve its 11-story (125-foot) massing, the scale of this structure directly adjacent to a low-rise, one- and two-story residential neighborhood introduces acute, localized environmental impacts. The IS-MND fails to adequately analyze or mitigate severe microclimate changes, including prolonged sidewalk shading and wind-tunnel dynamics along the Shattuck Avenue corridor. Because these physical changes to the environment are not properly evaluated or minimized by the proposed conditions of approval, the IS-MND's findings of "less than significant impact" are unsupported by substantial evidence.

3. Improper Segmentation of Cumulative Toxic Excavation Risks

Under CEQA Guidelines Section 15130, a lead agency must analyze a project's cumulative environmental impacts alongside other closely related past, present, and reasonably foreseeable future projects. The IS-MND evaluates this project in an artificial vacuum. It fails to calculate the cumulative localized toxic dust and diesel particulate matter (DPM) exposure caused by multiple, concurrent deep-soil excavations occurring within a 1,000-foot radius of the Ashby BART corridor.

4. Violation of Objective Local Public Safety Standards (Loading Infrastructure Deficit)

While California Assembly Bill 2097 restricts the city from enforcing minimum vehicle *parking* requirements, Senate Bill 330 explicitly preserves the City's authority to enforce objective local design and safety standards. The project provides zero designated off-street commercial loading zones for a 242-unit building. Forcing daily commercial e-commerce delivery trucks and rideshare vehicles to block active transit lanes and the designated bicycle lane on Shattuck Avenue directly violates the City's objective public safety and traffic flow regulations, creating a predictable, unmitigated hazard.

5. Absence of Mathematical Baselines for Structural Vibration Impacts

The IS-MND concludes that construction-related noise and vibration impacts will be less than significant, yet this conclusion lacks quantitative support. The administrative record does not include localized mathematical modeling or vibration propagation baselines evaluating how deep structural shoring, pile driving, and massive concrete pours will impact the structural integrity of the adjacent, unreinforced historic masonry commercial buildings lining South Shattuck and our homes on Newbury Street. A simple promise to monitor vibration post-approval does not satisfy CEQA's requirement to analyze impacts prior to project approval.

6. Failure to Reconcile Project Design with Advisory Committee Directives

Although the Design Review Committee (DRC) operates as an advisory body under Berkeley Municipal Code Title 23, its formal recommendations represent the City's designated expert architectural evaluation. The DRC previously raised critical concerns regarding the building's street-level interface, massing transitions, and pedestrian safety impacts. The Planning Staff's recommendation to approve the project without incorporating binding conditions that resolve the DRC's adverse design findings creates an imbalanced and legally vulnerable record, signaling that the City has failed to minimize the project's localized environmental impacts to the maximum extent feasible.

For these reasons, the Zoning Adjustments Board must deny the adoption of the IS-MND and order a comprehensive Environmental Impact Report. Please ensure this letter is integrated into the permanent administrative and legal record for Use Permit #ZP2022-0116.

Sincerely,

Larisa Cummings

2913 Newbury Street

On Wed, Oct 7, 2026 at 1:53 PM Larisa Cummings <pidicummings@gmail.com> wrote:

To the Members of the Zoning Adjustments Board and Planning Staff:

Please accept this formal letter of objection regarding the Staff Report recommendation to approve Use Permit #ZP2022-0116 and adopt the Initial Study/Mitigated Negative Declaration (IS-MND) for the proposed 11-story mixed-use development at 2900-2920 Shattuck Avenue.

While the City of Berkeley is under clear pressure to meet state housing mandates, the planning staff's report for the October 8, 2026, hearing contains critical technical, legal, and environmental gaps. There is "substantial evidence" generating a "fair argument" under California law that this project will cause significant, unmitigated impacts. Consequently, the City must reject the IS-MND and require a full **Environmental Impact Report (EIR)**.

The specific, legally binding flaws in the staff report and project design include:

1. Deflection of State Regulatory Warnings Regarding Hazardous Toxins

The staff report recommends adopting the MND by relying entirely on standard, non-site-specific soil remediation protocols under Mitigation Measure HAZ-1. This completely dismisses the formal enforcement correspondence issued by the [California Department of Toxic Substances Control \(DTSC\)](#). The DTSC explicitly stated that the site's historical footprint as an auto body facility requires a comprehensive **Preliminary Endangerment Assessment (PEA)** to map subsurface volatile organic compound (VOC) vapor risk. By failing to require a PEA prior to permit approval, the City lacks the empirical evidence needed to claim these environmental impacts are fully mitigated.

2. Abuse of Urban In-Fill Streamlining Over "Unusual Circumstances"

Staff attempts to fast-track environmental review by categorizing this 11-story (125-foot) tower as a routine in-fill development under [CEQA Guidelines Section 15332](#). However, forcing an 11-story tower directly adjacent to a low-rise, one- and two-story residential neighborhood constitutes an "unusual circumstance" under CEQA case law. The structural massing introduces severe, unstudied microclimate impacts—such as extreme sidewalk shading and wind-tunnel dynamics—that a simple IS-MND cannot legally brush aside.

3. Illegal Segmentation of Cumulative Toxic Excavation Risks

Under CEQA, a lead agency cannot evaluate a project in an artificial vacuum. The staff report fails to analyze cumulative health risks. It completely ignores the localized toxic dust and diesel particulate matter (DPM) exposure caused by multiple, simultaneous deep-soil excavations occurring within a 1,000-foot radius of the Ashby BART corridor, including adjacent active pipeline developments at [3000 Shattuck Avenue](#) and [2955 Shattuck Avenue](#).

4. Omission of Quantifiable Public Safety Hazards (Loading Infrastructure Deficit)

While [California Assembly Bill 2097](#) allows the developer to eliminate residential vehicle parking, **Senate Bill 330** preserves the City's right to modify projects that violate objective public safety standards. The project provides zero designated off-street commercial loading zones for 242 units. Forcing daily e-commerce delivery trucks (Amazon, UPS, FedEx) and rideshares to block active transit and bicycle lanes on narrow Shattuck Avenue creates an unmitigated, quantifiable public safety hazard.

5. Absence of Mathematical Structural Vibration Baselines

The report claims construction-related noise and vibration impacts will be "less than significant." This is a groundless conclusion unsupported by mathematical modeling. The report fails to evaluate the severe, prolonged vibration impacts that deep structural shoring and massive concrete pours will inflict on the structural integrity of the adjacent, unreinforced historic masonry commercial buildings lining South Shattuck.

6. Disregard for Design Review Committee (DRC) Adverse Findings

Under **Berkeley Municipal Code Title 23**, the [Design Review Committee](#) is tasked with enforcing street-level design safety standards. The staff report glosses over the DRC's previously issued unfavorable recommendations regarding the building's massive bulk, density, and scale, presenting an imbalanced and legally vulnerable narrative to the ZAB.

Conclusion and Request for Action

For these reasons, the Zoning Adjustments Board must deny the adoption of the IS-MND and order a comprehensive Environmental Impact Report. Please ensure this letter is integrated into the permanent administrative and legal record for Use Permit #ZP2022-0116.

Sincerely,

Larisa Cummings

2913 Newbury Street