



Z O N I N G A D J U S T M E N T S B O A R D

S T A F F R E P O R T

FOR BOARD PREVIEW
AUGUST 8, 2013

2701 Shattuck Avenue

Use Permit #12-1000039 to construct a 30,079 sq. ft., five story, 60-foot tall, mixed-use building to include 70 residential units, a 1,969 sq. ft. full serve restaurant with incidental service of beer and wine, and 35 parking spaces.

I. Application Basics

A. Land Use Designations:

- South Shattuck Strategic Plan
- Zoning: C-SA, Commercial, South Area

B. Permits Required:

- Administrative Use Permit, under BMC §23E.04.020, to allow mechanical penthouses, elevator equipment rooms, and other architectural elements to exceed the height limit by 12-feet;
- Use Permit, under BMC §23E.52.030.A & under BMC §23E.52.070.D.7, to construct a mixed-use building with greater than 5,000 square feet gross floor area;
- Administrative Use Permit, under BMC §23E.52.030.A, to establish a full-service restaurant over 1,000 square feet;
- Use Permit, under BMC §23E.16.040 & BMC §23E.52.030.A, to allow the incidental service of beer and wine, within a full-service restaurant;
- Use Permit, under BMC §23E.52.050, to construct over 3,000 square feet gross floor area; and
- Use Permit, under BMC §23E.52.070.D.5, to allow more stories (5 proposed, 4 maximum), greater height (60-feet proposed, 50-feet allowed), reduced front yard setback on Derby (0 proposed, 15-foot minimum) , reduced street-side setback on Shattuck (0 proposed, 6 to 15-foot minimum) reduced rear yard setback along the southern property line (0 proposed, 15-foot minimum) and greater lot coverage (79% proposed, 40% maximum).

C. CEQA Determination: The project is exempt from the provisions of the California Environmental Quality Act (CEQA) under §15332, In-Fill Development.

D. Applicant: Muhammad A. Nadhiri, Axis Development Group, 580 California Street, 16th Floor, San Francisco, CA 94104

Figure 1: Vicinity Map

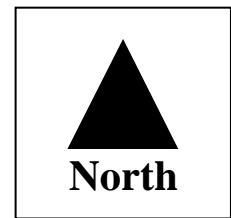
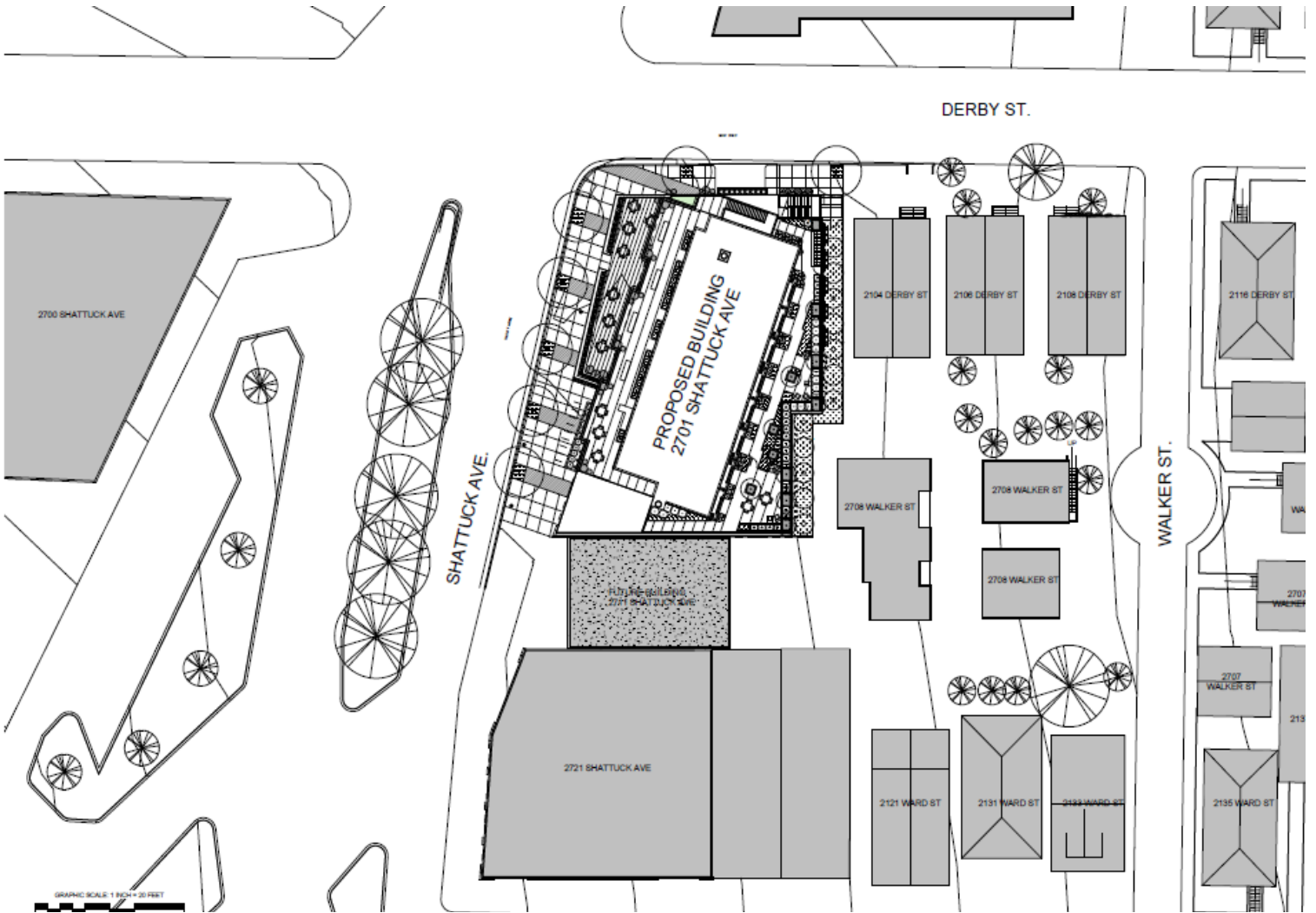


Figure 2: Ground Floor Plan

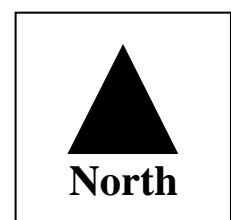
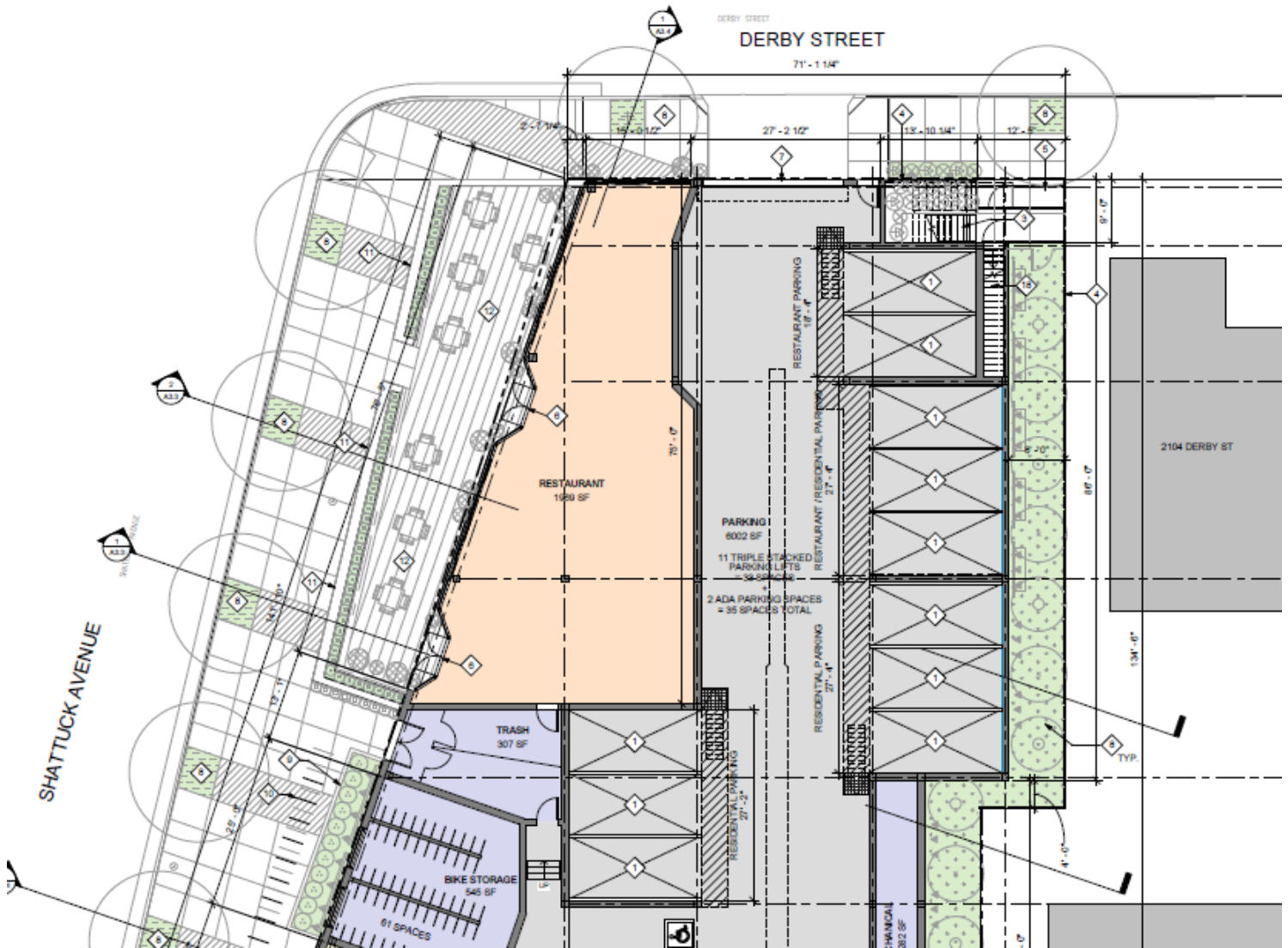


Figure 3: Shattuck Avenue Elevation



Figure 4: Derby Street Elevation



Figure 5: East Elevation



Table 1: Land Use Information

Location		Existing Uses	Zoning District	General Plan Designation
Subject Property		Commercial: Former Auto Dealer	C-SA	Avenue Commercial
Surrounding Properties	North	Medical Office: DaVita Dialysis	C-SA	Avenue Commercial
	South	Commercial: Vacant parcel ¹ & UC Storage	C-SA	Avenue Commercial
	East	Single-Family Residential (along Derby Street)	R-2	Low-Medium Density Residential
		Multi-Family Residential (to the Southeast)	C-SA & R-2	Avenue Commercial & Low-Medium Density Residential
West	Berkeley Fire Department Station #5 Commercial: Auto Dealer	C-SA	Avenue Commercial	

Table 2: Special Characteristics

Characteristic	Applies?	Explanation
Affordable Housing	Yes	6 permanently affordable dwellings for very-low income households or a payment of \$1.4 Million to provide for affordable housing ² .
Alcohol Service/ Food Service	Yes	1 Full-service restaurant is proposed, with incidental service of beer and wine.
Arts District	No	
Bike Planning		The City's Bike Plan designated Milvia Street (1 block to the west) and Russell Street (3 blocks to the south) as Bike Priority Streets; Adeline Street has a dedicated bike lane.
Creeks	No	Derby Creek is located in a culvert approximately 770' southwest of the site.
South Shattuck Strategic Plan (1998)	Yes	Strategy Two applies, see section IV.D
Density Bonus	No	None requested. However, if requested, based on the characteristics of this project, the base project would have 34 units to allow a max density of 46 dwellings.
Green Building: -Score -Electric Vehicle Charging System -Solar Ready	Yes Yes Yes	-LEED Silver rating as defined by the U.S. Green Building Council. -Implemented via Conditions of Approval -Implemented via Conditions of Approval
Historic Resources	No	There are no locally designated historic resources within a 300' radius.
Oak Trees	No	No Coast Live Oak trees are located on the site.
Seismic Hazards	No	Site is not within area mapped for liquefaction, landslide, or fault rupture zone.
Soil/Groundwater Contamination	No	The project site is not listed on the Cortese List (an annually updated list of hazardous materials sites). In addition, the Phase 1 and 2 Reports prepared for this site did not identify any recognized Environmental Conditions on the project site (as defined by ASTM E1527-05).
Transit		AC Transit: F & 800 Transbay and the 18 Local serve the site. BART: The Ashby Berkeley station is within ½ mile of the site.

¹ On February 25, 2010, the ZAB approved a Use Permit #09-1000077 to construct a residential building with 22 residential hotel rooms within a 8,821 square foot, four-story, residential building with no off-street parking spaces.

² Resolution 66,015-N.S. lowered the fee from \$28,000 per market rate unit to \$20,000.

Table 3: Project Chronology

Date	Action
May 10, 2001	Zoning Adjustments Board: Approved 16-unit project (Use Permit 00-1000083)
October 10, 2002	Zoning Adjustments Board: Approved 17-unit project (Use Permit 02-7000044)
July 2007	City Council: Approved 29-unit project (Use Permit 04-1000014)
November 22, 2010	Application submitted for 69-unit Housing Project
December 13, 2012	DRC: Preview
February 27, 2013	Applicant: Design Revision
March 21, 2013	DRC: Preliminary Design Review
April 18, 2013	DRC: Preliminary Design Review: Unfavorable Recommendation
April 29, 2013	Applicant: Design Revision
May 16, 2013	Applicant: Design Revision
June 20, 2013	DRC: Preliminary Design Review: Unfavorable Recommendation
July 10, 2013	Applicant: Application Revised
July 18, 2013	DRC Preview: See Section IV.A for details
July 25, 2013	136 Public Notices were sent to adjoining property owners and occupants, and to interested neighborhood organizations, covering a notice area of 300-feet.
August 8, 2013	ZAB: Public Hearing to Preview the project.
August 15, 2013	DRC: Preliminary Design Review

Table 4: Development Standards

Standard BMC Section 23E.52.070 & .080	Existing	Proposed	Permitted/ Required		
Lot Area (SqFt)	11,932	11,932	N/A		
Parking : Autos and Bikes (SqFt)	8,919	6,002	No Limit		
- Residential Floor Area (SqFt)	N/A	28,806	No Limit		
- Retail (SqFt)	2,818	0			
- Food Service (SqFt)	0	1,969			
Gross Floor Area (SqFt) - Total	2,818	30,775	46,948 max		
Floor Area Ratio	0.24	2.56	4.00 max		
Dwelling Units	Total	70	N/A		
	Studio (307-345 SqFt)	70			
	Affordable		tbd	6.4 or Pay \$1.4 Mil	
	Market Rate		tbd	N/A	
Building Footprint (SqFt)	2,818	10,619	4,695	Requires Use Permit (see Section IV.B)	
Lot Coverage	24%	89%	40%		
Building Height	Average	16'	60'		50' max
	Stories	1	5		4 max
Building Setbacks	Derby Street (Front)	66'	0		15' min
	South Property Line (Rear)	0	0		15'-19' min
	Shattuck Avenue (Street Side)	0	0		6'-14' min
East Property Line (Interior Side)	N/A	8'-37'	4'-10' min		
Landscaped yard along eastern property line	0	1,164	N/A		
Usable Open Space (SqFt)		3,785	2,800 min		
- Podium (SqFt)	N/A	2,155	N/A		
- Roof (SqFt)		1,630	N/A		
- Private (SqFt)		0	N/A		
Automobile - Total		35	32 min		
- Dwelling Units	N/A	31	29 min		
- Retail		0	0		
- Food Service		4	3 min		
Bicycle		61	1 min		

II. Project Setting & Description

- A. Vicinity:** The development pattern of the area surrounding the project site is mixed, urbanized, and consists of a wide range of commercial and residential uses. With the exception of the 60' tall UC Storage building at the corner of Ward Street (south of the project site along Shattuck Avenue), the predominate building pattern along this portion of Shattuck Avenue and in the immediate vicinity is one to three story buildings with varied lot coverage.

In 2010, at 2711 Shattuck (abutting the site to the south) the City approved a use permit to allow the construction of a residential building with 22 residential hotel rooms within a 8,821 square foot, four-story, residential building with no off-street parking spaces.

In 2012, at 2598 Shattuck Avenue/2037 Parker Street (1 block north of this site), the City approved a use permit to allow the construction of a mixed-use development with two 5-story mixed-use buildings at 2598 and 2600 Shattuck Avenue and one 3-story residential building at 2037 Parker Street, with a total of 155 dwelling units, 22,905 square feet of ground floor commercial space, and at least 170 parking spaces.

The R-2 District abutting the site to the east along Derby Street includes one and two-story buildings with front yard setbacks that range from nine to 15-feet. Abutting the site to the east on Walker Street, the District includes a complex of three, two-story stucco buildings with eight residential units. The majority of the remaining buildings along Walker Street are two-story, single-family dwellings.

Most of the neighborhood to the east and northwest, and small portions of the neighborhood to the southwest, participate in the Residential Preferred Parking program, which limits non-permit parking to two hours.

- B. Site Conditions:** Presently, most of the site is an asphalt parking lot with one building, signage and lighting for auto sales. Two driveways access the site from Derby Street and one from Shattuck Avenue. The existing buildings may be demolished per a building permit issued in 2007. While the site was a used car dealership in the past, for much of the last 10-15 years, the site was only occasionally used for car storage.
- C. Approved Projects:** In May 2001, the Board approved a use permit to allow the demolition of the existing buildings³ and the construction of a 3-story, 50-foot, 25,000 square foot, mixed-use building with 16 dwelling units and 3,200 square feet of commercial floor area. This project was granted use permits to reduce the setbacks along each street frontage, the rear and the interior side yards, reduce off-street parking and increase the allowed lot coverage.

³ Per Section 23C.08.050.C of the Zoning Ordinance, the proposed demolition was referred to the Landmarks Preservation Commission on March 5, 2001. At this meeting, the Landmarks Preservation Commission had the option to initiate the buildings for consideration as City of Berkeley Landmarks or Structures of Merit. In addition, the Landmarks Preservation Commission had the opportunity to forward comments to the Board. The Landmarks Preservation Commission declined to initiate the buildings or forward comments to the Board on the proposed demolition. To date, no separate application to initiate Landmark status has been submitted. A demolition permit was issued by the City in 2007.

On October 10, 2002, the Zoning Adjustments Board approved Modification to Use Permit #00-10000083, to add one dwelling unit. According to the applicant, for the project to be economically feasible the project was later modified to increase the number of dwellings units. Despite the modification to increase the number of units and enhance project feasibility, the applicant was unable to proceed with the project.

The project approved in 2007, allowed a five-story, 34,894 square foot building with 24 dwelling units over ground floor commercial spaces along Shattuck Avenue and 24 parking spaces (23 in triple lifts) accessed from Derby Street. This project was granted use permits to exceed the height/story limit, reduce the setbacks along each street frontage, the rear and interior side yards, reduce off-street parking and increase the allowed lot coverage.

- D. Design Revisions:** On October 25, 2012, a use permit application was submitted for a 29,000 square foot, five-story, 54-foot tall mixed-use building with a 5,700 square foot, two-story full serve restaurant with incidental service of beer and wine, and 41 ground floor parking spaces, with three residential floors and 69 residential units, above.

From December 2012 to June 2013, this project was revised to increase the number of dwellings to 70, reduce the floor area of the proposed full serve restaurant, and to vary the setback and design of the eastern elevation.

On July 10, 2013, the entire project was revised. The new project would involve the construction of a 34,056 square foot, five story, 60-foot tall, mixed-use building to include 70 residential units, a 2,056 square foot full serve restaurant with incidental service of beer and wine, and 35 parking spaces. On July 25, 2013, the floor area of the full serve restaurant was lowered to 1,969 square feet, and the total floor area was lowered to 30,079.

- E. Neighbor/Community Outreach:** The applicant held neighbor meetings on April 20 and July 31, 2013 (see attachment 1 for details). Prior to the submittal of the project application on February 13, 2013, the yellow pre-application poster was erected on the site. On July 25, 2013, the City mailed 136 notices to adjoining property owners and occupants, and to interested neighborhood organizations. All comments may be found in Attachment 3.

III. Project Description

The ground floor would contain a 1,969 square foot full serve restaurant, auto and bike parking within a 6,500 square foot garage, and a 219 square foot residential lobby. The full serve restaurant would be located at the northwest corner of the site with two entrances onto Shattuck Avenue. 35 off-street parking spaces (33 provided via parking lifts) would be within the eastern portion of the ground floor, with access to Derby Street via a 20-foot driveway. 61 bicycle parking spaces would be provided in a secure room abutting Shattuck Avenue to the south of the restaurant with access to the garage. The residential lobby would be at the southwest corner of the site. Along the eastern property line would be an 8-foot wide landscaped yard.

The second floor would contain 16 dwellings, a 690 square foot community room, and a 2,155 square foot open space area. The third, fourth and fifth floors would each contain 18 dwellings. All residential floors would be separated from the eastern property line and the residential District to the east by at least 16-feet at the northeast corner of the site to as much as 41-feet at the southeast corner of the site. A 1,630 square foot open deck would be created on the roof, located along Shattuck Avenue. This roof deck would be separated from the eastern property line and the residential District to the east by 60-feet at the northeast corner of the site to as much as 80-feet at the southwest corner of the site.

An enclosed stair and elevator room at roof-top trellises would project above the roof by as much as 12-feet.

IV. Issues and Analysis

A. Design Review: As noted in Table 3, the prior version of the project was reviewed by the DRC 4 times but did not received a favorable recommendation. On July 18, 2013, The Design Review Committee (DRC) held a preview of the new design. The Committee was asked to give specific advisory comments and recommendations on how the new design addressed unresolved issues from the previous design. The summary of comments offered by the DRC follow:

Building Design

- Show how materials and forms in the penthouse are integrated into the design of the whole building.
- Still very concerned with large windows facing east; lower sections could be translucent on this elevation.
- Push the upper-level stair at the north end (Derby) toward Shattuck as much as possible.
- Restaurant window on Derby that folds up is great, but would also like to see this on Shattuck.
- Accurately show all roof top mechanical equipment, especially for the restaurant space.
- Be careful that design is not too busy. It should be elegant.

Materials

- Consider how graffiti will be handled on exposed concrete base or consider tile.
- Show materials accurately in the renderings – board-formed concrete usually looks rougher.
- Look carefully at the finish and final detailing of the perforated metal – it has gathered considerable dirt on nearby buildings.
- Tile may be too dark.
- Wood in rooftop trellis may not hold up well – consider metal.
- Not sure that corrugated metal is appropriate here. (minority)

Landscape

- Recommend more substantial landscape edge on the podium.
- Consider a gate at the north end to keep larger gathering in the wider portion of the podium open space.
- Look carefully at lighting in the outdoor spaces, especially on the east side.
- Open space is more usable; community room is in a good location at the wide end of the podium space.
- Look at a more detailed plant palette. Make sure that the plants on the podium and roof deck will thrive.
- Roof deck needs more shade than the vines on the trellis can provide.
- Organize more quiet spaces for readings in the open spaces.
- Look carefully at furnishings in the open spaces to reinforce design and programming.

Unit Design

- Would be better to see outside from the bed rather than have a separation.
- Look carefully at location of washer/dryer vents – may want to switch location with closet.

The design presented to the DRC on July 18 differs from the plans presented to the ZAB (dated July 29, 2013). The changes made to respond to DRC comments are summarized below:

- Open wood stair enclosure on the Derby side of the building was shifted 2' closer to the Shattuck corner to increase the separation from the residential neighborhood to the east.
- Plan changes allowing for more space right inside the garage entrance, as well as a perforated metal pedestrian door added next to the garage door, to increase pedestrian visibility and safety at the garage entrance.
- Windows on the east elevation have translucent glazing for the lower 42" to preserve privacy of the adjacent neighbors.
- The area of the elevator/stair tower on the north side of the project was reduced on the east elevation to allow for more landscape on the podium level.
- Straight run stair has been added to the podium level for fire access to rear units. East setback can be more fully planted as a result.
- Rooftop exhaust has been relocated to the north end of the building for the restaurant use and is set in from the parapet and screened; rooftop exhaust shown on the south side of the building will be used for required garage exhaust.
- Restaurant windows on the Shattuck elevation now slide open for better relationship between inside and outside seating.
- Parapet/railing on Shattuck at the roof deck has been refined and now has a consistent edge.
- Color palette has been modified; wall tile is lighter and horizontal siding has a warmer, red tone.
- Unit A plan was revised to allow light to extend further into sleeping area.
- Better defined seating areas were added to open space.

The DRC will again review the project on August 15, 2013.

B. Modification of Residential Development Standards: The applicant has requested Use Permits to modify the development standards as shown in Table 3 for height/stories, lot coverage, and setback. Consideration of this request is guided by the required Findings set forth in 23E.52.090.C, as follows⁴:

- 1) To encourage utilization of public transit and existing off-street parking facilities in the area of the proposed building;
- 2) To permit consistency with the building setbacks existing in the immediate area where a residential building setback would not serve a useful purpose;
- 3) To facilitate the construction of affordable housing as defined by the U.S. Department of Housing and Urban Development (HUD) Guidelines;
- 4) To provide consistency with the purposes of the District as listed in Section 23E.52.020.

As no parking waiver is needed for this project, Finding #1 does not apply, leaving Findings 2, 3, & 4 as applicable to this project. Finding #2 specifically addresses building setbacks; Finding 3 may be used to address height and stories, lot coverage, and setback, as noted below. The consideration of the applicant's request to allow additional height, reduced setbacks, and greater lot coverage focuses below on how strict adherence to the standards would reduce the number of dwellings.

Height/Stories: Regarding height/stories, staff believes that the additional floor would further Finding #3 above by providing additional housing units, which in turn will allow for more revenue for the City's Housing Trust Fund. For example, if the project complied with the District Height & Story Limit, the resulting project would have 18 fewer units (this is the number of units on the fifth floor). Should the ZAB not allow the extra floor, the loss of dwelling units would reduce the project's contribution to the City's Housing Trust Fund by \$360,000, and would reduce the project's contribution towards the City's fair share housing goal established by ABAG, by 18 dwellings.

Lot Coverage: Regarding Lot Coverage, staff believes that the proposed increase from 40% to 79% would also further Finding #3 above by providing additional housing units, which in turn will allow for more revenue for the City's Housing Trust Fund. For example, if the project complied with the Lot Coverage Limit, but otherwise offered the same building height and setback as the project, the resulting building would have 24 fewer units (this is based on the resulting floor area & average unit size proposed by this project). Should the ZAB not allow the increased lot coverage of 79%, the resulting loss in dwelling units would reduce the project's contribution to the City's Housing Trust Fund by \$480,000, and would reduce the project's contribution towards the City's fair share housing goal established by ABAG, by 24 dwellings.

If the lot coverage limit of 40% and the 4-story height limit were applied to this project, the resulting building would have 36 fewer units (this is based on the resulting floor area & average unit size proposed by this project); the resulting loss in dwelling units would reduce the project's contribution to the City's Housing Trust Fund by \$720,000, and would reduce the project's contribution towards the City's fair share housing goal established by ABAG, by 36 dwellings.

⁴ The Board shall find that the proposed use or structure satisfies at least one of the four general purposes.

Setback: Regarding Setbacks, staff believes that allowing reduced setbacks would also further purpose three above by providing additional housing units, which in turn will allow for more revenue for the City's Housing Trust Fund. If the project complied with the Setbacks Limits, but otherwise offered the same building height and lot coverage as the project, the resulting project would have 16 fewer units. The loss in dwelling units would reduce the project's contribution to the City's Housing Trust Fund by \$320,000, and would reduce the project's contribution towards the City's fair share housing goal established by ABAG, by 16 dwellings.

Regarding the Shattuck Avenue setback, the significant sidewalk width at this corner ($\pm 35'$), along with the improvements proposed within the public right-of-way, would support the pedestrian-orientation of the District and would justify the yard reduction to continue the building line established along Shattuck Avenue. The reduction to the rear yard setback abutting the commercial parcel to the south would not serve a useful purpose to the Commercial District, but may to the residential parcels to the east by providing a view of Shattuck Avenue and to retain solar access in the afternoons. However, the City's practice here is to not require a setback to this yard. While the application of R-4 Development standards to mixed-use projects for setback to *all* yards and the lot coverage limitation is unique to the C-SA District, the City's position on other recent projects in this District is that strict adherence to these standards would result in development that would underutilize the available land in the District.

C. General Plan Consistency: The 2002 General Plan contains several policies applicable to the project:

- Policy H-19 Regional Housing Needs: Encourage housing production adequate to meet the housing production goals established by ABAG's Regional Housing Needs Determination for Berkeley.

By providing 70 dwelling units, the project would assist the City's efforts to meet the ABAG fair share housing goal.

- Policy EM-5 "Green" Buildings: Promote and encourage compliance with "green" building standards.
- Policy UD-33 Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.

The project would be constructed to LEED Silver, would be wired for Electric Vehicle Charging and for rooftop solar.

- Policy UD-27 Relation to Sidewalk: Projects generally should be designed to orient the main entrance toward the public sidewalk, not a parking lot, and avoid confronting the sidewalk with a large windowless wall or tall solid fence.
- Policy UD-28 Commercial Frontage: Commercial buildings on streets with public transit generally should have no appreciable setback from that street's sidewalk, except in the case of occasional plazas or sitting areas that enhance the area's pedestrian environment.

The proposed project mostly abuts the r-o-w, except at building entrances. All pedestrian entrances abut the Shattuck Avenue frontage, and the project does not present large windowless walls.

- Policy UD-32 Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

Shadow studies were prepared for the project, and are attached to this report (attachment 1). These studies depict the shading expected as a result of this project in March, June, September and December. In these studies, shading impacts to the residential properties to the east does not occur until 2 PM. The off-site shading impacts from this site are minimized by the upper floor setbacks, which range from 16-feet to 41-feet.

In addition, the 2002 General Plan contains several policies applicable to the project that will be addressed at the conclusion of the design review process:

- Policy LU-3 Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
- Policy LU-23 Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.
- Policy LU-27 Avenue Commercial Areas, Action A: Require ground-floor commercial uses to be oriented to the street and sidewalks to encourage a vital and appealing pedestrian experience.
- Policy H-16 Transit-Oriented New Construction: Encourage construction of new medium and high density housing on major transit corridors and in the Downtown consistent with zoning and compatible with the scale and character of these areas.
- Policy UD-16 Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
- Policy UD-22 Regulating New Construction and Alterations: Regulate new construction and alterations to ensure that they are individually well-designed and that they are so designed and located as to duly respect and where possible enhance the existing built environment.
- Policy UD-23 Design Review: Ensure that the design review process ensures excellence in design and that new construction and alterations to existing buildings are compatible with the best elements of the character of the area.
- Policy UD-26 Pedestrian-Friendly Design: Architecture and site design should give special emphasis to enjoyment by, and convenience and safety for, pedestrians.

D. South Shattuck Strategic Plan: Strategy Two applies to this project to “Encourage the reuse of vacant and underdeveloped Shattuck sites as mixed-use buildings with commercial frontage and affordable residential above, concentrating particularly on opportunity sites that could significantly revitalize the area”. To do so, the plan calls for “development that is compatible with zoning requirements and the scale of the development on adjacent residential streets”, and for buildings taller than three stories, the plan calls for a design that takes “into consideration the land use and urban design context, including the use and scale of abutting properties, and adjacent residential properties’ need for access to light and air”. Particular to this site is the plan’s designation of the subject site as an ‘additional key’ opportunity site for redevelopment.

Analysis of the project in light of the above will be addressed at the conclusion of the design review process

IV. Recommendation

Hold a public hearing, take public comment, and provide comments to the applicant and the public.

Attachments to this report:

1. Project Plans and Applicant Statement Dated July 25, 2012
2. Public Hearing Notice, dated July 25, 2013
3. Correspondence

Staff Planner: Greg Powell, gpowell@ci.berkeley.ca.us (510) 981-7414