



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 DISCUSSION
JULY 10, 2014

2539 Telegraph Avenue

EIR Scoping Session and Project Preview for Use Permit 2013-0061 to allow demolition of existing one-story commercial building and construction of 6-story mixed use building with 65 rental dwelling units, 6,000 square feet of ground-floor commercial space, and an 8-car parking garage.

I. Application Basics

A. Land Use Designations:

- General Plan: Avenue Commercial, Medium Density Residential
- Zoning: C-T (Telegraph Avenue Commercial) and R-3 (Multiple Family Residential)

B. Zoning Permits Required:

- Use Permit to demolish a main building (BMC Section 23C.08.050.A);
- Use Permit to construct a Mixed Use Development (BMC Section 23E.56.030.A);
- Use Permit to create over 1,500 square feet of new floor area (BMC Section 23E.56.050.A.2);
- Use Permit to allow building height of five stories and 65 feet (BMC Section 23E.56.070.B.3);
- Administrative Use Permit for installation of elevator mechanical equipment protruding beyond the height of the roofline (BMC Section 23E.04.020.C)

C. Approvals Requested Under State Density Bonus Law:

- Increase maximum building height from five stories and 65 feet to six stories and 70 feet
- Allow bay windows and stairwell to encroach 3 feet into required 15-foot setback on Regent Street
- Reallocate building volume from 2nd through 5th stories (as shown in “base project” design) to 6th story (as shown in proposed design), thereby increasing setbacks on 2nd through 5th stories while increasing number of units on 6th story

D. CEQA Determination:

An Environmental Impact Report (EIR) is being prepared.

E. Parties Involved:

- Applicant Daniel Backman, Lowney Architecture
360 17th Street, Suite 100
Oakland, CA 94612
- Property Owner Panoramic Interests
2116 Allston Way, Suite 1
Berkeley, CA 94704

Figure 1: Vicinity Map

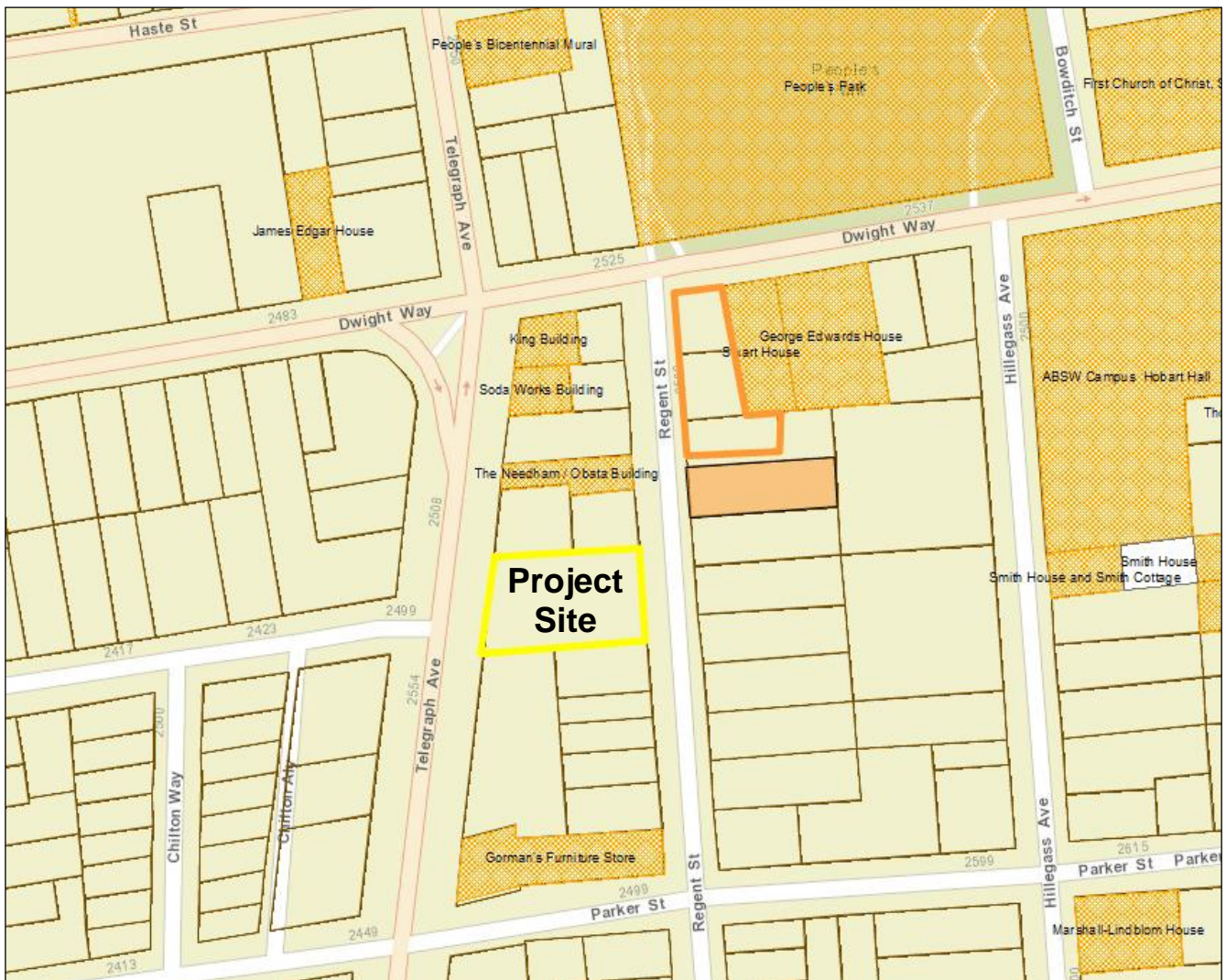


Table 1: Land Use Information

Location		Existing Uses	Zoning District	General Plan Designation
Subject Property		Offices	C-T, R-3	Avenue Commercial, Medium Density Residential
Surrounding Properties	North	Restaurant/retail (2529 Telegraph); 8-unit apartment building (2520 Regent)	C-T, R-3	Avenue Commercial, Medium Density Residential
	South	Restaurant/retail (2565-89 Telegraph); Triplex (2526-30 Regent)	C-T, R-3	Avenue Commercial, Medium Density Residential
	East	16-, 17- and 22-unit apartment buildings (2521-31 Regent)	R-3	Medium Density Residential
	West	4-story, 45-unit mixed-use building (2550 Dwight), restaurant/retail building (2556 Telegraph)	C-T	Avenue Commercial

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Alcohol Sales/Service	N	None requested.
Creeks	N	No protected creeks or culverts within 40 feet of subject property.
Density Bonus	Y	Density bonus of 17 units requested.
Historic Resources	Y	Demolition of National Register-eligible building proposed (not a designated City landmark).
Affordable Housing	Y	Project will provide 6 units affordable to "Very Low Income" households.
Oak Trees	N	None on subject property.
Seismic Hazards	N	Subject property is not mapped within a designated seismic hazard area.
Soil/Groundwater Contamination	TBD	Currently under investigation as part of EIR process.
Green Building Score	Y	Based on a preliminary checklist, the project would qualify for a GreenPoint Rated score of 135, which would be roughly equivalent to a LEED Gold rating.

Table 3: Project Chronology

Date	Action
December 30, 2013	Application submitted.
April 27, 2014	Application deemed complete.
July 3, 2014	LPC conducts demolition referral and EIR scoping session.
July 10, 2014	ZAB conducts EIR scoping session and project preview.
July 17, 2014	DRC conducts preliminary design review.

Table 4: Development Standards

(Note: Items in ***bold italics*** are requested under density bonus law.)

Standard BMC Sections 23E.68.070-080		Proposed Total	Permitted/Required	
			C-T District	R-3 District
Site Area (sq. ft.)		16,679	No standard	5,000 min.
Gross Floor Area (sq. ft.)		67,180	75,056	No standard
Floor Area Ratio		4.03	4.5	No standard
Dwelling Units	Total	65	No standard	No standard
	Affordable	6	0 if housing fee is paid; 6 for full fee waiver	
Building Height	Average (ft.)	70	65 (with Use Permit)	35
	Stories	6	5 (with Use Permit)	3
Building Setbacks (ft.)	Telegraph	0	0	N/A
	Regent	12	N/A	15
	North and South Sides	Ground floor: 0 Floors 2-6 (except west portion): 16	0 where abutting C-T; 5 where abutting R-3	1 st -2 nd stories: 4 3 rd story: 6
Usable Open Space (sq. ft.)		2,646 ¹	2,600	N/A ²
Parking	Auto	8	0	2 ³
	Bicycle	65	0	0

¹ Does not include inaccessible landscaped areas on 2nd floor podium and Regent Street frontage. Design of these areas to be refined during design review process.

² R-3 open space standard does not apply as only a small portion (less than 25 percent) of 10 of the project's units is located within the R-3 District.

³ Project includes about 1,900 square feet of residential floor area within R-3 District, which is subject to a parking requirement of 1 space per 1,000 square feet.

II. Background

As noted above, an Environmental Impact Report (EIR) is being prepared for this project. This is based on the fact that the existing building, which is proposed to be demolished, has been determined to be eligible for the National Register of Historic Places based on its long association with the Center for Independent Living, which has played a highly influential role in the disability rights movement.⁴ The building is listed on the California Register of Historical Resources. Pursuant to CEQA Guidelines Section 15164.5, demolition of a listed or eligible historical resource is presumed to be a potentially significant impact requiring preparation of an EIR.

In addition to the demolition, the Draft EIR will also address potential impacts to nearby historical resources (see Figure 1 above), along with any potentially significant impacts in other areas. Based on preliminary analysis, it appears that the project's significant effects would be limited to demolition of an historical resource, air quality, and noise.

This scoping session is being conducted pursuant to the California Environmental Quality Act ("CEQA") Guidelines, Section 15083 ("Early Public Consultation"), which states:

"Prior to completing the draft EIR, the lead agency may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project. ... Scoping has been helpful to agencies in identifying the range of actions, alternatives, mitigation measures, and significant effects to be analyzed in depth in an EIR and in eliminating from detailed study issues found not to be important."

As discussed above, the purpose of this scoping session is to solicit input from the ZAB and other interested community members as to what topics the EIR should address. This input will be considered as the Draft EIR is prepared. The scoping session is also an opportunity for the ZAB to learn more about the project description and the EIR process. Anticipated dates for key milestones in the EIR process are shown below on Table 5.

III. Site/Project Description

The project site is located on Telegraph Avenue at Blake Street, one block south of Dwight Way. The site is a through lot with frontage on Telegraph Avenue on the west, and Regent Street on the east. The total area of the site is 16,679 square feet (.38 acres). The property is located in the C-T District, except for a 20-foot strip along Regent Street, which is zoned R-3.

⁴ For further information, see Historic Resource Evaluation at http://www.cityofberkeley.info/uploadedFiles/Planning_and_Development/Level_3_-_LPC/2014-07-03_LPC_ATT1_2539%20Telegraph_Historic%20Resource%20Evaluation.pdf.

Table 1: Key Milestones in EIR Process

(Note: Dates in *italics* are tentative.)

Task/Event	Date
Notice of Preparation (NOP) released (see Attachment 1 for copy)	June 27, 2014
LPC Scoping Session	July 3, 2014
ZAB Scoping Session	July 10, 2014
End of 30-day NOP comment	July 28, 2014
Publication of Draft EIR	<i>Late September, 2014</i>
LPC & ZAB Draft EIR Comment Sessions	<i>October, 2014</i>
Close of Draft EIR comment period	<i>Early November, 2014</i>
Publication of Response to Comments on Draft EIR	<i>Late October/early November</i>
ZAB hearing on Final EIR certification	<i>December 11, 2014</i>

The proposed project involves demolition of the existing one-story commercial building on the site, and construction of a 6-story mixed use building with 65 student-oriented, rental dwelling units, 6,000 square feet of ground-floor commercial space, and an 8-car parking garage, including a request for a density bonus (see discussion below for further details). Based on the current floor plans, the project would accommodate a total of 145 residents, with two to four beds per unit. Access to the garage would be provided via a driveway from Telegraph; no vehicular access to/from Regent Street is proposed.

Please see attached Notice of Preparation and project plans for further project information.

IV. Discussion

A. Density Bonus/Concession:

As noted earlier, the project includes a request for a density bonus and concessions under State law (Government Code Section 65915). Under the “base project,” or the project with the maximum allowable residential density without additional Use Permits or density bonus, a four-story building with 48 units could be built on the site; this building would have commercial space and parking on the ground floor, and three residential floors with 16 units each. Because the applicant has committed to provide 11 percent of the base project, or six units, as below-market-rate units affordable to households earning no more than 50 percent of the Area Median Income, the project would qualify for a density bonus of 35 percent, or 17 units. These BMR units would also satisfy the requirements of the City’s Affordable Housing Mitigation Fee (BMC Section 22.20.065).

The 17 bonus units could be accommodated almost entirely in a fifth story with 16 units, but one unit would have to be a “penthouse” unit located on the sixth floor, unless the required setback on Regent Street were waived. Alternatively, a partial fifth floor could be created and additional units could be placed on the sixth floor.

In addition to the two additional floors described above, the applicant has requested a concession to “reallocate” to the sixth story some of the building volume that would otherwise be located on stories 2-5 of the base project. This would increase the setbacks on the lower stories while increasing the number of units on the top story. The applicant argues that this would create a more elegant and livable design for the project’s residents, while decreasing shading and bulk impacts on the neighboring buildings. Assuming the theoretical “penthouse” unit on the sixth floor were located on the west (Telegraph) side of the building, this concession request would increase the height of the building’s Regent Street façade from five to six stories, while decreasing its width.

Staff will provide complete density bonus calculations and a financial analysis of the requested concession prior to the final public hearing on the project.

B. Natural Light Within Dwelling Units:

Staff has informed the applicant of the City Council’s “Policy Statement on Habitable Space Guidelines” of April 30, 2013. Based on the current plans, ten of the 29 sleeping areas on each floor would not have their own windows, but would instead “borrow” light from adjacent areas. The applicant is aware that the ZAB and DRC have expressed concerns about this type of arrangement on previous projects, but believes these areas will still receive adequate light based on the size of the main windows, the lack of full partitions between the windowless areas and the rest of the unit, and other factors. Staff anticipates that there will be ongoing discussion of this issue during the DRC process.

C. Parking:

The project is located in the C-T District, which does not require off-street parking, and which prohibits the issuance of Residential Preferential Parking (RPP) permits for new dwelling units. The eight parking spaces proposed would be used primarily by employees of the commercial space.

The project includes a bike room with 65 spaces. There is currently no bicycle parking requirement for dwelling units. Bike racks would also be provided in the public right-of-way and would be intended primarily for retail customers and residential visitors.

V. Recommendation

Staff recommends that the ZAB provide comments on the scope of the EIR, as well as general comments on the project that the applicant should consider prior to returning to the ZAB for final action. The ZAB may make a motion reflecting the comments of the

ZAB as a whole, and/or individual ZAB members may offer comments. All comments will be recorded and considered during the preparation of the EIR.

Attachments:

1. Notice of Preparation of EIR
2. Project Plans

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