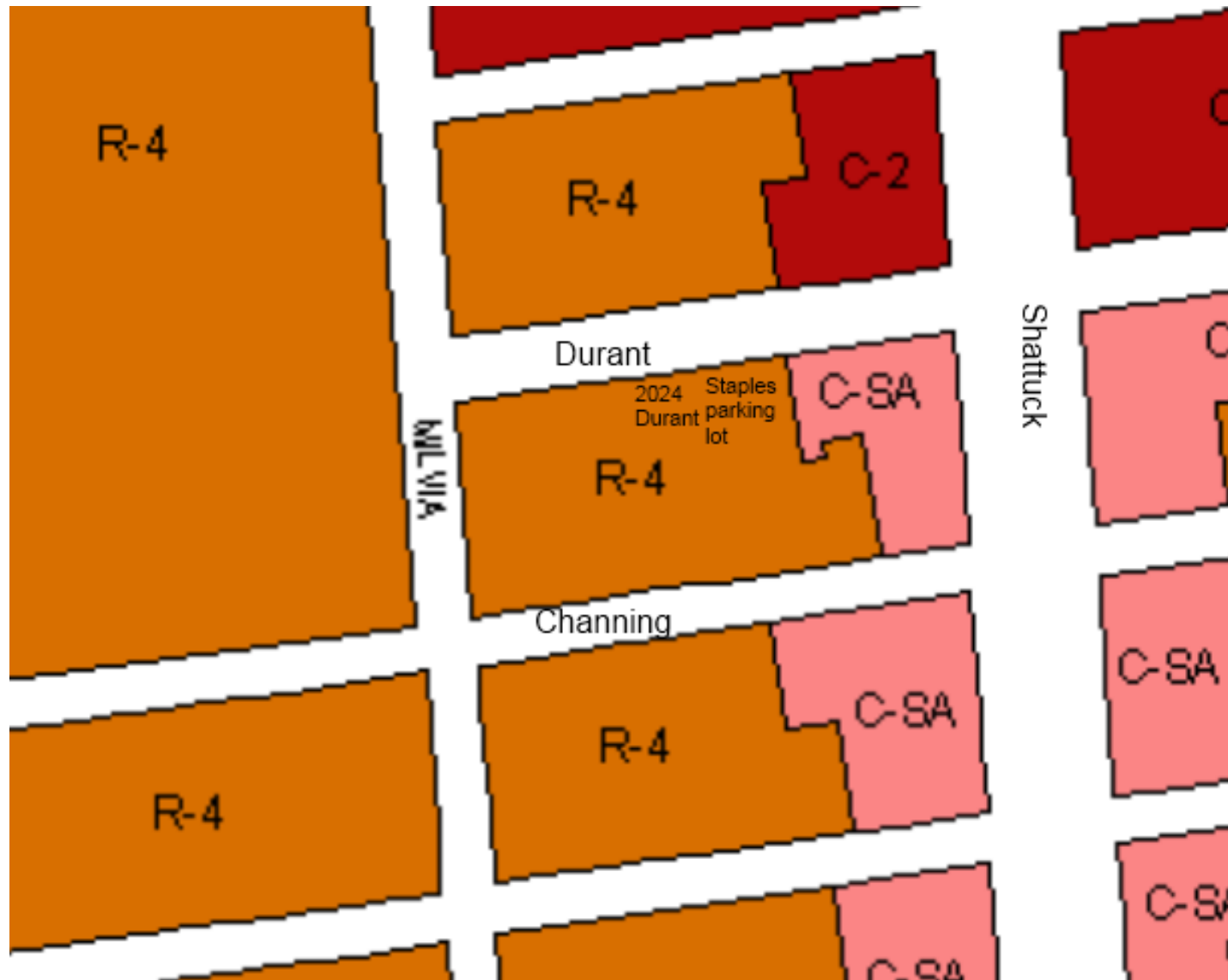


B.M.C. 23B.32.040: Findings for Issuance and Denial and Conditions

- A. The Board may approve an application for a Use Permit... **only upon finding** that the[project]...under the circumstances of the particular case...**will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood ...or be detrimental or injurious to property and improvements of the... neighborhood**

The R-4 residential neighborhood



The Downtown Area Plan

- The Downtown Area Plan outlines what is appropriate for and compatible with the R-4/R-3 residential neighborhood.
- The citizens of Berkeley negotiated for seven years to create the DAP and voted for the DAP (it's the will and vision of the citizens and city)
- Increased density and heights → Core and Corridor
Decreased density and heights → R-4/R-3 neighborhood

DAP Policy LU-7.1

“Policy LU-7.1: Neighborhood Protections.

Seek to **reduce development pressures** in residential-only areas, to promote the preservation and rehabilitation of older structures – and to conserve the scale of their historic fabric...

- a) Maintain the R-2A zoning designation and **downzone R-4 areas to R-3 (as shown in Figure LU-1), except for the north side of Dwight Way east of Shattuck Avenue.**”

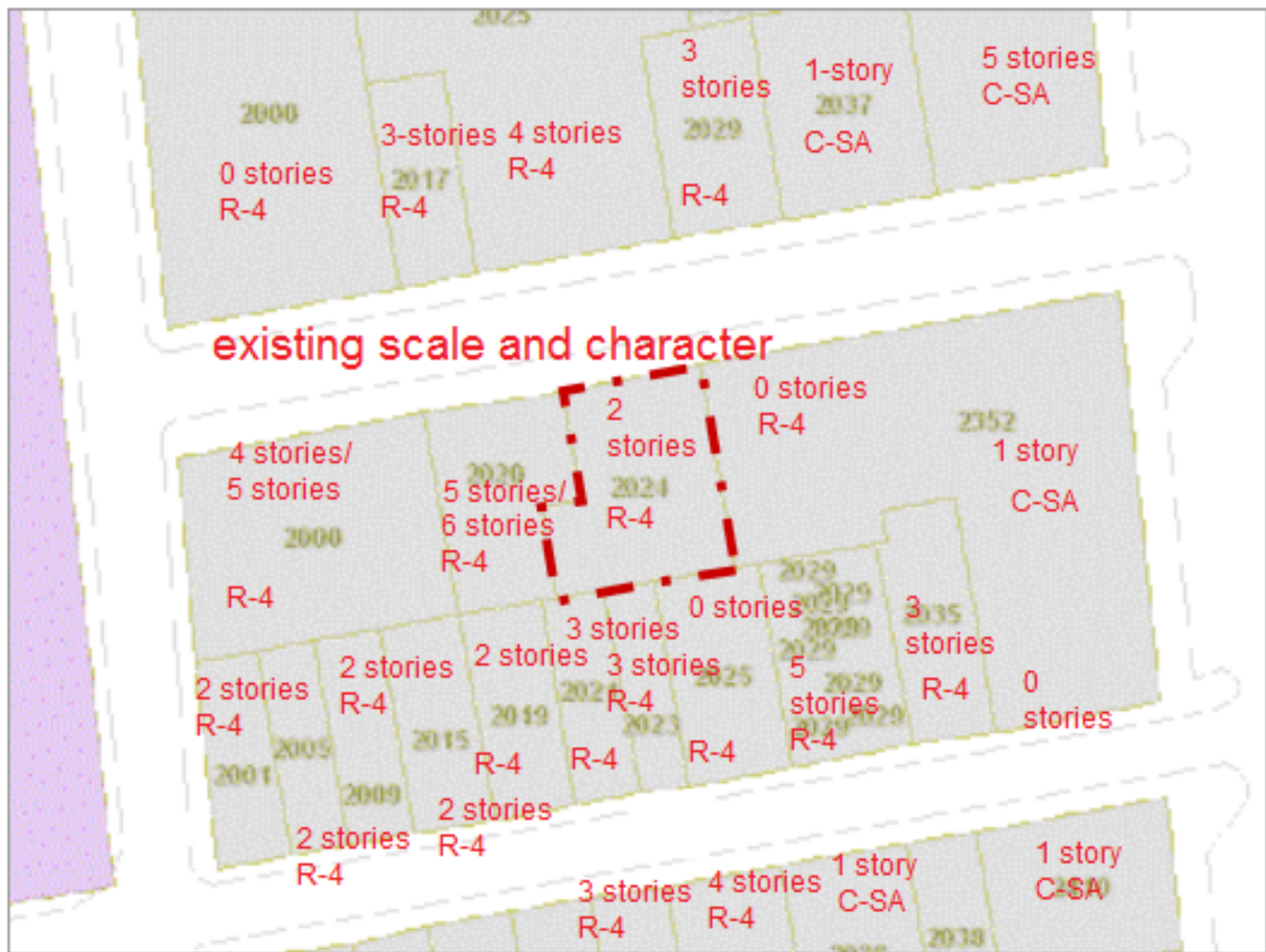
DAP R-4 to R-3 downzoning

- "Residential Neighborhoods. Few opportunity sites exist in residential-only areas, but **when development does occur, it will be subject to residential zoning...maintain the scale and character of these residential areas. To reduce development pressures that could result in inappropriate development, Plan policies call for downzoning the southwest portion of the Downtown Area from R-4 to R-3.**"

DAP Goal LU-7

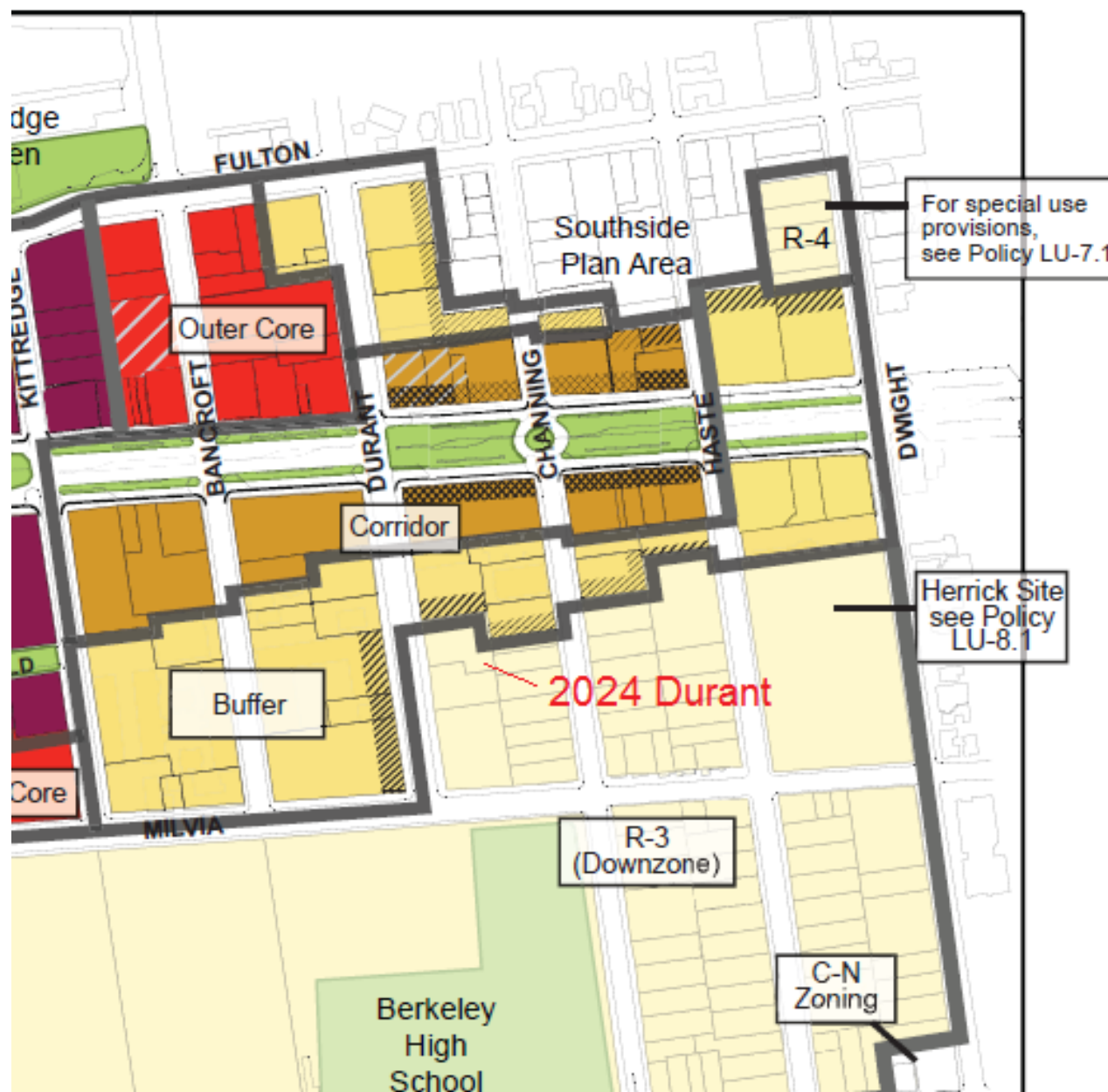
- “GOAL LU-7

MAINTAIN THE EXISTING SCALE AND
CHARACTER OF RESIDENTIAL- ONLY AREAS.”



DAP Draft: 2024 Durant (R-3 downzone)

Prepared: May 04, 2011



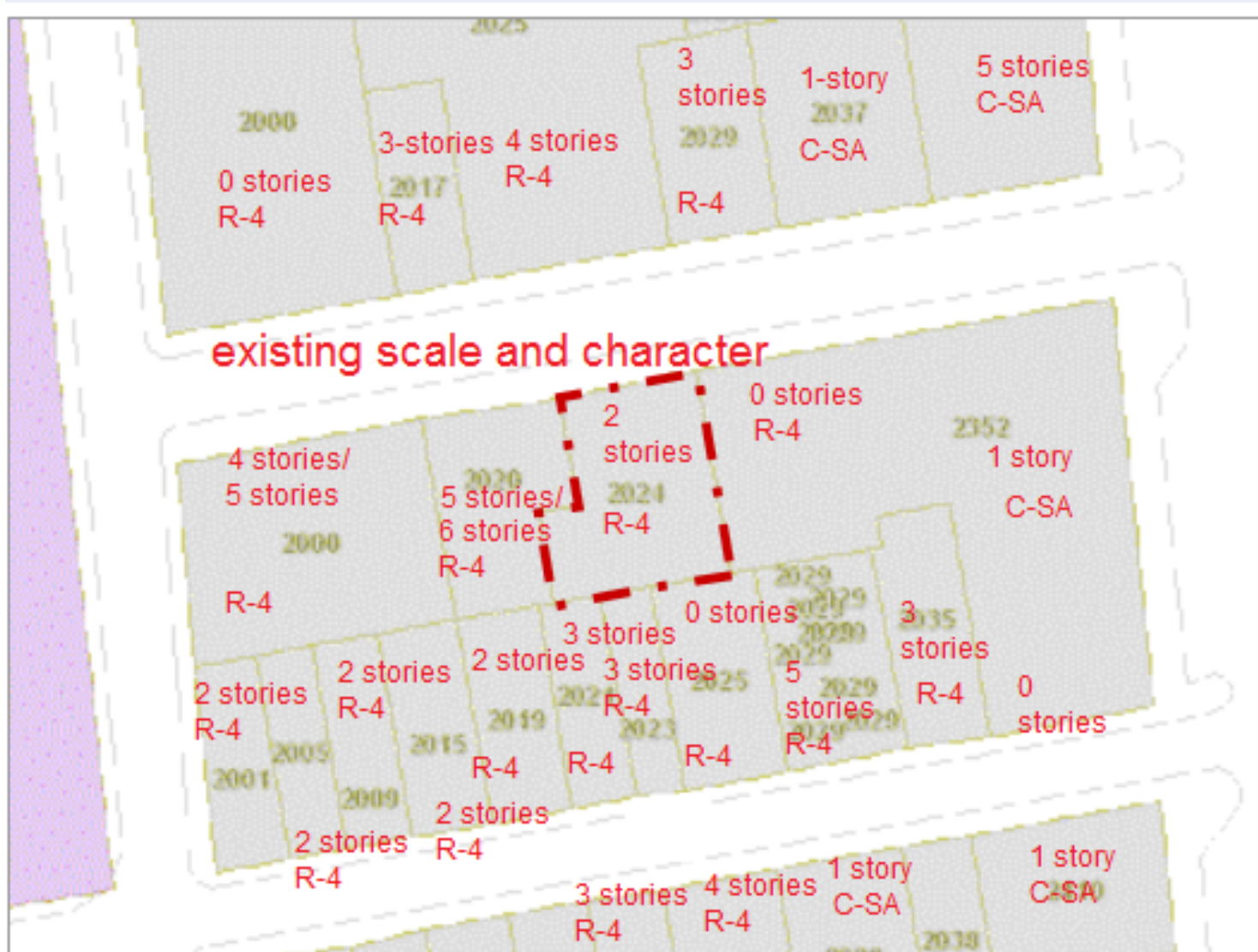
Neighbors should have been notified

- The low-income seniors next door can't afford to hire legal counsel and do not monitor hard-to-find city notices on the city website everyday
- If notified, we would have sued within the 90 days allowed and could have won due to internal inconsistencies in the DAP which are in violation of state law.

No upzoning for smooth transitions

- Staples has a lease to 2038, the parking lot is zero stories, Staples is one story, a six-to-eight story building at 2024 Durant would create a sharp transition for thirty years
- The “hole” argument about being stuck between taller buildings also applies to properties such as 2020 Durant--if new owners wanted to build a new building it would be limited to three stories, and could be stuck between a six-to-eight story building at 2024 Durant and an existing four-to-five story building at 2000 Durant

There's already enough Buffer from Shattuck



The DRC said 8 stories is inappropriate.

Six stories is also inappropriate.

- “The DRC...felt that eight stories at this location **appears to be in conflict with what was envisioned in the buffer area.**”

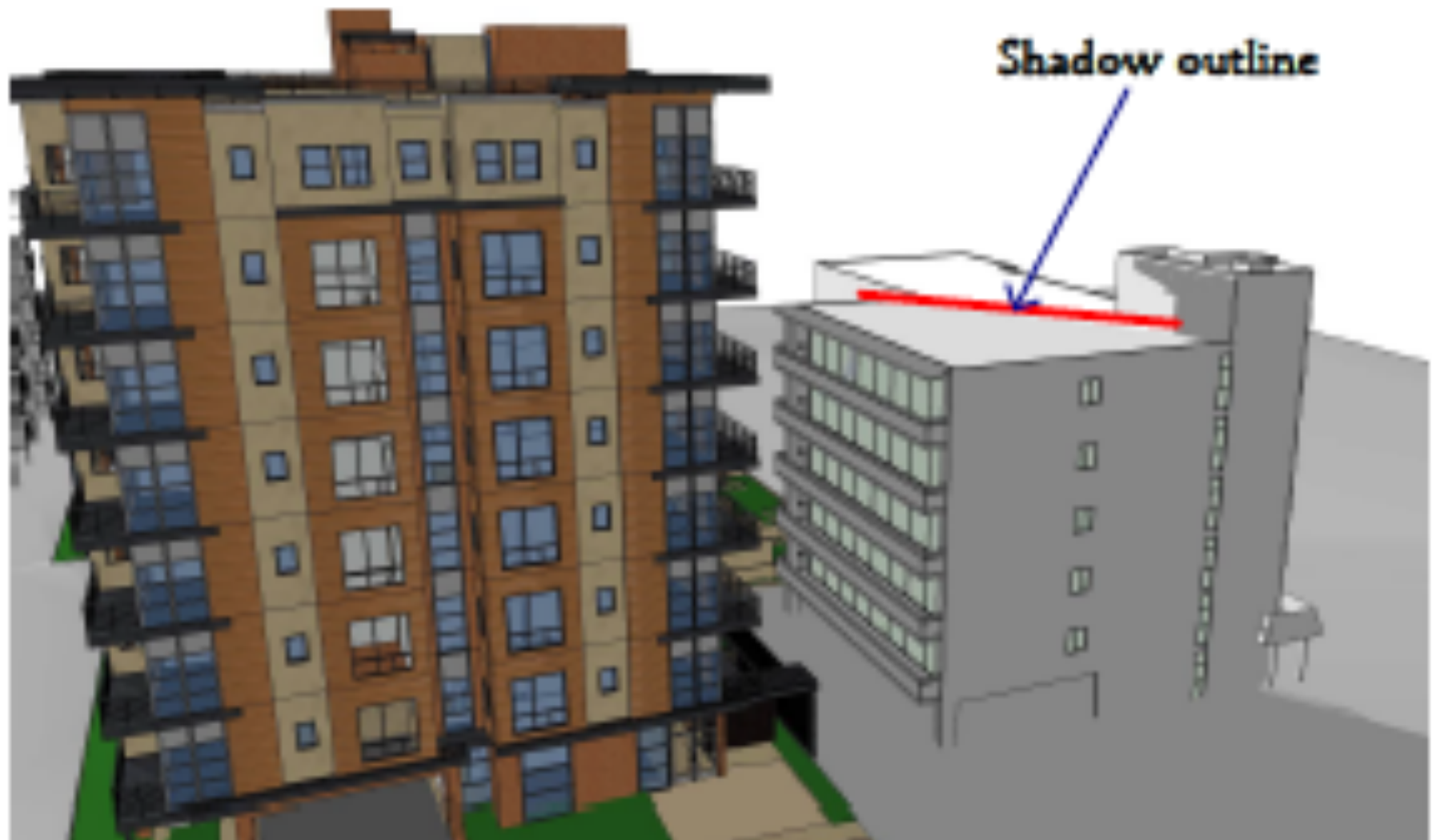
(2013-02-28 ZAB Staff Report)

- “Recommendations:
8 floor/4 floor massing, is a nice proportion generally, **but not in such a sensitive buffer area.**”

(Action Summary For Design Review Committee Meeting, December 13, 2012)

B.M.C. 23B.32.040: Findings for Issuance and Denial and Conditions

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The seniors will lose 80% of the available sunlight

- Sunrise is usually between 5:30AM and 7AM—by 11AM the sun will nearly be overhead, then will pass over the building, so the seniors at most may have 30 minutes to 1 hour of direct sunlight a day

Architectural floor plan of the first floor of a building. The plan shows a central corridor (111) with stairs (#1 and #2) and various rooms including units 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, and 112. There are also common areas like a lobby (110), trash room (112), and a terrace (E). The plan includes dimensions, room labels, and callouts for materials and finishes. A callout box on the right states: "Floors 1-5: The balcony window is the only window for 3 out of 4 east-facing units". Red arrows point from this box to the balcony area of unit 101.

Key features and callouts include:

- STEEL ENTRY CANOPY ABOVE
- WD HANDRAIL
- GSM BALCONY GUARD PANEL OVER STL BALUSTRADES
- PERFORATED STL PANELS ON (E) SANDBLASTED & REPAINTED STL BALCONY FRAME
- PERFORATED STL PANELS ON (E) SANDBLASTED & REPAINTED STL BALCONY FRAME
- IPE WOOD SLAT SOLAR SHADE ON STEEL FRAME MOUNTED ON GALV STL BARN DOOR TRACK @ BALCONY EDGE TYP
- STEEL SUNSHADE ABOVE TYP
- MFR FINISH & PAINT OVER

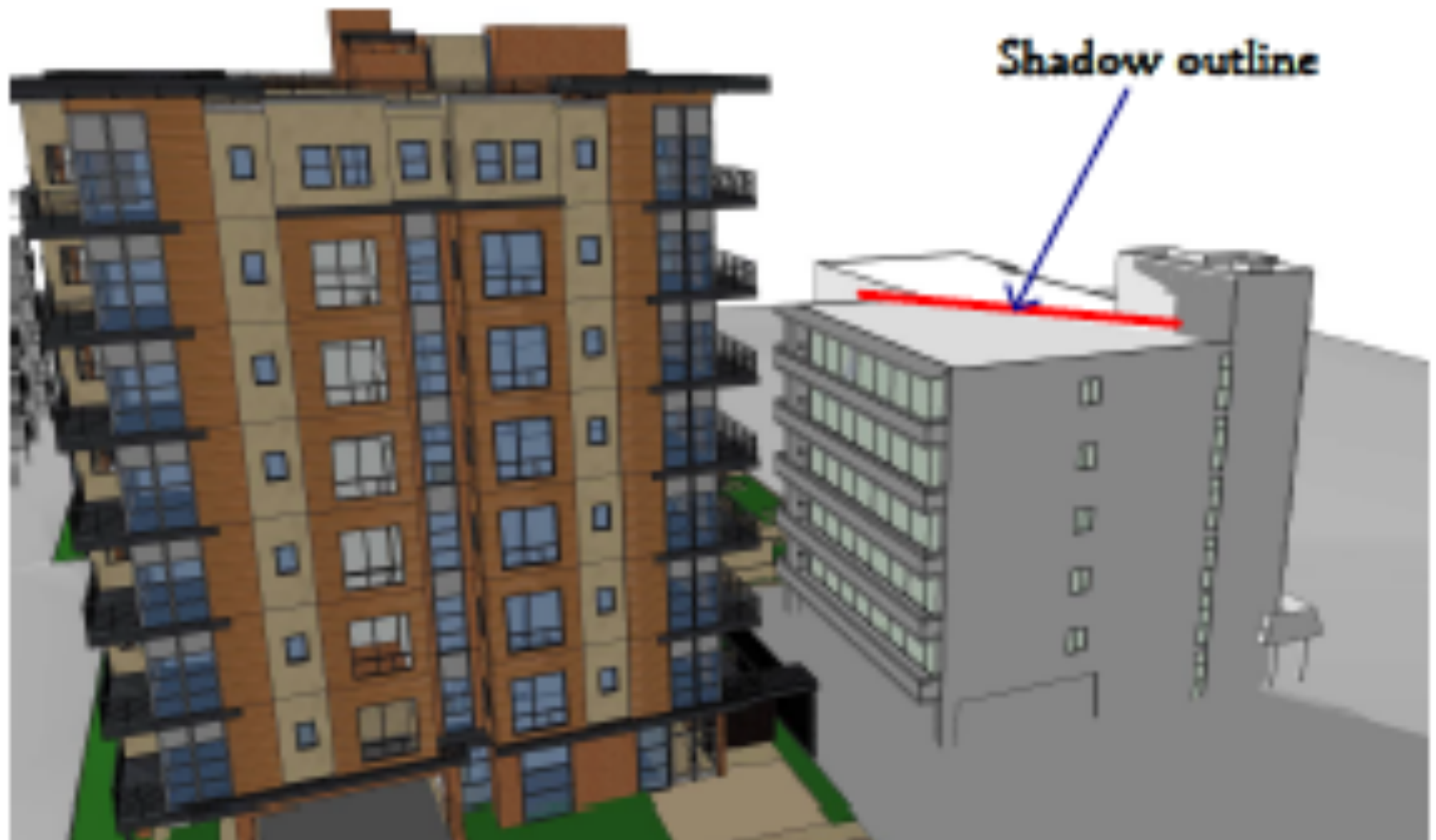
Dimensions and room labels are provided throughout the plan.

Construction on two buildings and lots simultaneously is too disruptive for the neighborhood

- There will be many construction hazards and potential health detriments due to simultaneously building this double-lot project which includes a six-to-eight story building at 2024 Durant and a four-story building at 2025 Channing.

Use Permits requested by the developer

- Use Permit for construction of dwelling units, under BMC Section 23E.68.030
- Use Permit for construction of >10,000 sq. ft. gross floor area, under BMC Section 23E.68.050
- Use Permit for demolition of a non-residential dwelling unit, under BMC Section 23C.08.050.A
- Use Permit to allow a front yard setback of greater than five feet, under BMC Section 23E.58.070.C
- Use Permit to allow a front yard setback less than five feet when confronting a residentially zoned property, under BMC Section 23E.04.050.E
- Use Permit to reduce the required 20-foot setback where the building exceeds 45 feet, on an interior side or rear lot line that abuts a residentially zoned lot, under BMC Section 23E.58.070.C.2
- Use Permit to reduce the required 5-foot setback on the portion of the building greater than 65 feet from lot frontage and more than 20 feet in height, under BMC Section 23E.68.070.C
- Administrative Use Permit to allow architectural projections (e.g. elevator enclosures) to exceed the height limit, under BMC Section 23E.04.020.C



Two church groups would like to buy the church building for their own use



B.M.C. 23B.32.040: Findings for Issuance and Denial and Conditions

There will be too many severe detriments to the health, peace, safety, general welfare, and comfort of the neighbors from the project—the project and the requested use permits need to be rejected by ZAB (B.M.C. 23B.32.040)