



# 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

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FOR BOARD ACTION  
JUNE 27, 2013

## 1931-35 Addison Street

**Use Permit #12-10000042 to construct a mixed-use building with 7,240 square feet of ground level commercial space and 69 residential units (a mix of studio, one, two, and three bedroom units) and basement level parking for 9 vehicles and 48 bicycles.**

### I. Background

#### A. Land Use Designations:

- General Plan: DT – Downtown
- Zoning: C-DMU – Downtown Mixed Use District Buffer

#### B. Zoning Permits Required:

- Use Permit for construction of a new mixed use building, 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 an increase in the maximum height of the building from 50 feet to 60 feet, under BMC 23E.68.070.A
- 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
- Use Permit to allow payment of in-lieu fee for Useable Open Space, under BMC Section 23E.68.070.D.3
- Use Permit to reduce vehicle parking space requirements, under BMC Section 23E.68.080.D
- Administrative Use Permit to allow architectural projections (e.g. elevator enclosures) to exceed the height limit, under BMC Section 23E.04.020.C

**C. CEQA Determination:** Project is eligible for streamlined review for infill projects pursuant to CEQA Guidelines Section 15183.3. The project is found to have no significant effects on the environment that have not either already been analyzed in a prior EIR or that are more significant than previously analyzed, or that uniformly applicable development policies would not substantially mitigate. Pursuant to Public Resources Code Section 21094.5, CEQA does not apply to such effects. (See Attachment 3 for Appendix N, Infill Environmental Checklist Summary, and Appendix M, Satisfaction of Performance Standards per Public Resources Code Section 21094.5.)

**D. Parties Involved:**

- Applicant Rony Rolnizky Architect, 121 Devonshire Way, San Francisco, CA 94131
- Property Owner Avi Nevo, 1935 Addison LLC, 2073 Addison Street, Berkeley, CA 94704

**Figure 1: Vicinity Map**

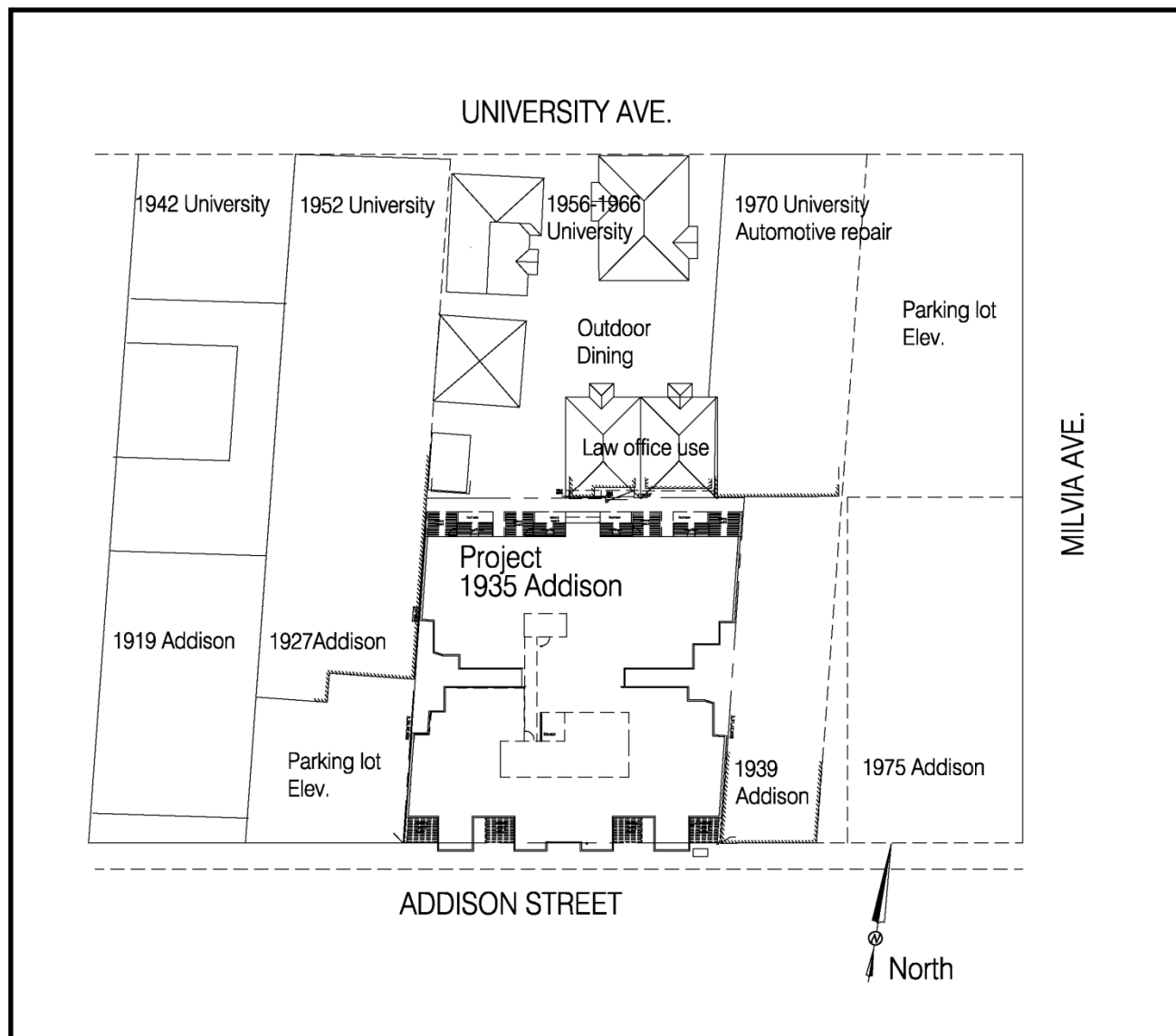
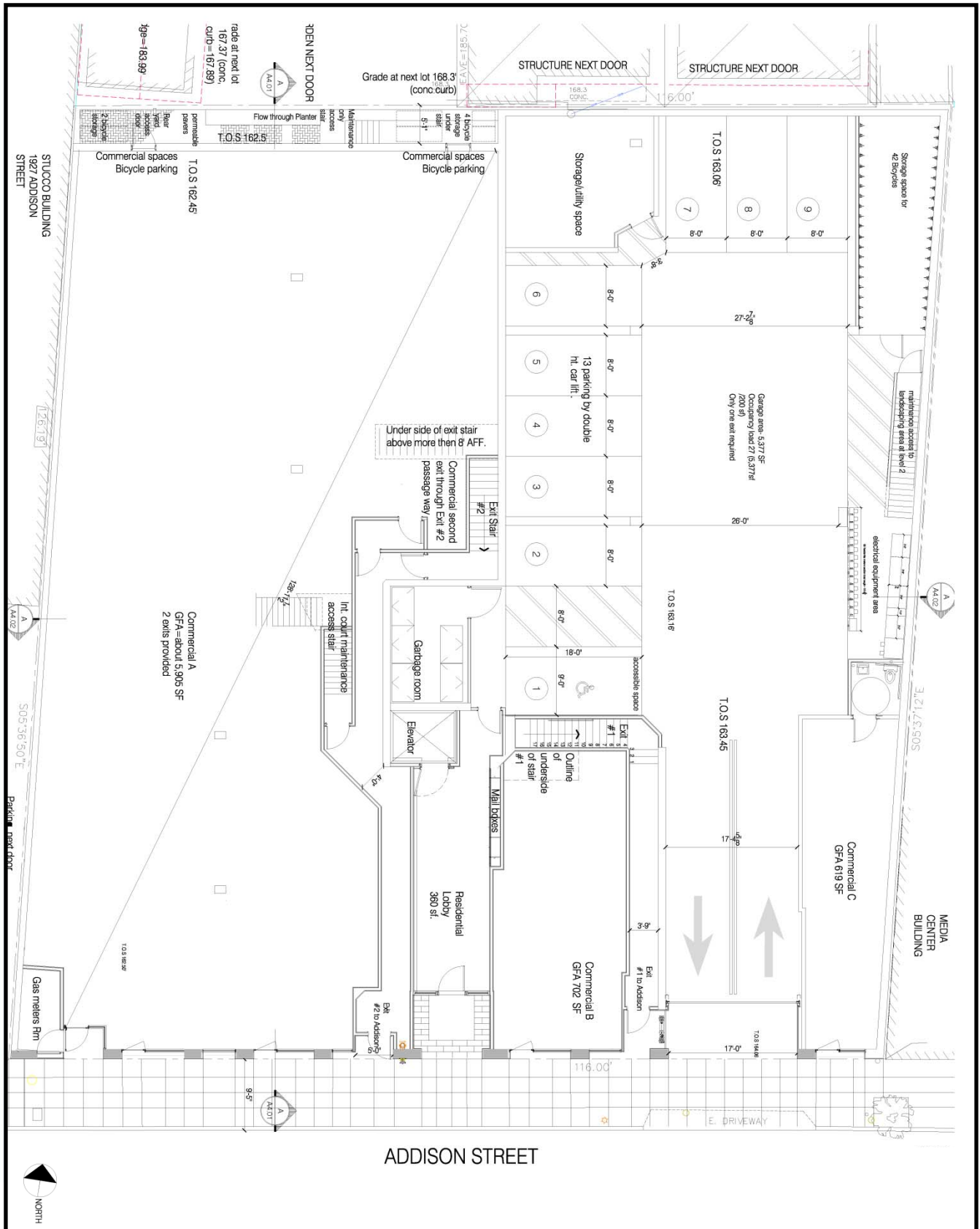


Figure 2: Site Plan



**Table 1: Land Use Information**

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Auto repair garages	C-DMU Buffer	Downtown
Surrounding Properties	North	Retail/Office/"Food Court"	C-DMU Buffer	Downtown
	South	Office	C-DMU Buffer	Downtown
	East	Office	C-DMU Buffer	Downtown
	West	Parking Lot, Office	C-DMU Buffer	Downtown

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
Density Bonus	No	The project qualifies for a density bonus, but the applicant has chosen not to include density bonus units.
Encroachments into Public Right-of-Way	Yes	The project proposes bay encroachments into the public right-of-way and will apply for an encroachment permit through Public Works.
Historic Resources	No	The garages to be demolished do not meet the criteria for the California Register or a City of Berkeley Landmark. The project proposes to demolish non-residential buildings which are 40 or more years old and abuts historic resources, therefore, it was referred to the LPC for consideration.
Below Market Rate Units	Yes	The project includes 10% or 7 Below Market Rate (BMR) units.
Seismic Hazards	No	Site is not mapped within any hazard zones.
Soil/Groundwater Contamination	Yes	The project site is included on a list compiled pursuant to Section 6962.5 of the Government Code. Remediation of the project site has been completed; standard soil/groundwater conditions of approval (Soil and Groundwater Management Plan) will deal with the likelihood of encountering residual contamination during construction activity.
Green Building	Yes	Project approval is conditioned to meet LEED Gold or higher.

**Table 3: Project Chronology**

Date	Action
October 23, 2012	Application submitted
February 7, 2013	LPC Demo Referral Meeting
April 18, 2013	DRC Preliminary Meeting
May 9, 2013	LPC Design Review Referral Meeting
May 30, 2013	Application deemed complete
June 13, 2013	Public hearing notices mailed/posted
June 27, 2013	ZAB hearing
July 29, 2013	PSA deadline <sup>1</sup>

1. Project must be approved or denied within 60 days after being determined to be exempt from CEQA, or 60 days after adoption of a negative declaration, or 180 days after adoption of an EIR (Govt. Code §65950).

**Table 4: Development Standards**

<b>Standard</b> BMC Sections 23.68.070-080		<b>Existing</b>	<b>Addition/ (Reduction)</b>	<b>Proposed Total</b>	<b>Permitted/ Required</b>
Lot Area (sq. ft.)		3,600+10,830	Lot Merge	14,430	---
Gross Floor Area (sq. ft.)	Commercial	11,516	(4,276)	7,240	---
	Residential	0	58,245	58,245	---
Floor Area Ratio		0.79	3.7	4.49	---
Dwelling Units	Total	0	69	69	---
	Affordable	0	7	7	---
Building Height	Average (ft.)	16	44	60	50 60 (with Use Permit) <sup>(1)</sup>
	Maximum (ft.)	17	46.2	63.2	---
	Stories	1	5	6	---
Building Setbacks (ft.) <sup>(2)</sup>	Front	0	No change	0	0 - 5 max. (where building height ≤ 20') 0 (where building height >20')
	Rear	5	No change	5	0 (where building height ≤ 20') 5 (where building height >20')
	Left Side	0	No change	0	0 (0-65' from lot frontage)
	Right Side	0	No change	0	5 (>65' from lot frontage where building >20' in height)
Lot Coverage (%)		79	18	97	---
Usable Open Space (sq. ft.) <sup>(3)</sup>		0	4,935	4,935	5,520 total (80 per unit)
Parking	Automobile <sup>(4)</sup>	0	9	9	11 commercial (1.5:1,000 sq. ft.) 23 residential (1:3 units)
	Bicycle	0	0	48	4 commercial (1:2,000 sq. ft.)

- (1) Parapets may exceed the height limit above by up to five (5) feet as of right (BMC §23E.68.070.A)
- (2) All setbacks may be modified by a Use Permit (BMC §23E.68.070.C)
- (3) In lieu of providing some of the required open space, an applicant may pay an in-lieu fee to help fund the Streets and Open Space Improvement Plan (SOSIP) (BMC §23E.68.070.D.3)
- (4) The vehicle parking space requirements may be reduced or waived through payment of an in-lieu fee to be used to provide enhanced transit service (BMC §23E.68.080.D)

## II. Project Setting

### A. Neighborhood/Area Description:

The properties (1931-35 Addison Street) are located in the buffer sub-area of the Downtown Mixed Use zoning district. The neighborhood is a mix of commercial uses, including offices, food service establishments, and automobile repair garages.

### B. Site Conditions:

The subject site is comprised of two separate parcels (1931 Addison and 1933-35 Addison) located on the north side of the street, mid-block between Milvia Street to the east and Martin Luther King, Jr. Way to the west, and University Avenue to the north and Center Street to the south.

The parcel at 1931 Addison is a 3,600-square foot, quadrilateral lot that is 30 feet by 120 feet. The parcel at 1933-35 Addison is a 10,320-square foot, quadrilateral lot that is approximately 86 feet by 126 feet. Both properties are developed with one-story masonry automobile repair garages.

## III. Project Description

The project proposes a lot line adjustment to merge the two parcels, demolish the two existing garages, and construct a mixed-use, six-story building with 7,240 square-feet of ground level commercial space, 69 dwelling units, and basement level parking for 9 automobiles and 48 bicycles. The project also includes two outdoor courts above the garage level, private balconies on the fifth and sixth floors, and a roof top deck and laundry facilities.

The dwelling units include ten (10) studio units, five (5) one-bedroom units, fifty-three (53) two-bedroom units, and one (1) three-bedroom unit. Ten percent of the residential units, or seven units, dispersed through the building, will be affordable to Very Low Income households: those earning less than 50 percent of the area median income (AMI). The applicant has chosen not to include density bonus units.<sup>1</sup>

## IV. Community Discussion

**A. Neighbor/Community Concerns:** Prior to submitting the application to the City, a pre-application poster was erected by the applicant in October 2012. On June 13, 2013, the City mailed notices to adjoining property owners and occupants, and to interested neighborhood organizations. As of the writing of this staff report, staff has received one letter of support from John Gordon, property owner of the Landmark, Structure of Merit Bertin properties site—1252-60 University Avenue—located immediately to the north of the subject property. See Attachment 5 for a copy of the letter.

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<sup>1</sup> In-lieu of providing the Very Low Income affordable units, the applicant may elect to pay the affordable housing impact fee consistent with BMC §22.20.065.

## **B. Committee Review:**

1. Landmarks Preservation Commission: The project involves demolition of commercial garages, one of which was constructed in 1931, the other 1925. Pursuant to BMC Section 23C.08.050.C, any application for a Use Permit to demolish a non-residential building that is 40 or more years old shall be forwarded to the Landmarks Preservation Commission (LPC) for review prior to consideration of the Use Permit. The applicant hired an architectural historian who prepared a historic evaluation of the buildings (DPR 523A Primary Record and 523B Building, Structure, and Object Record). The historic evaluation concluded, and staff concurred, that the buildings do not appear to meet California Register nor City of Berkeley Landmark criteria. At the February 7, 2013 LPC meeting, the LPC followed staff recommendation and took no action to initiate a Landmark or Structure-of-Merit designation.

Staff brought the project before the LPC on May 9, 2013 as a design review referral to assess the interfacing of the project at the rear property line with the Landmark, Structure of Merit Bertin properties site, located at 1252-60 University Avenue. Commissioners offered individual comments on the project. One Commissioner felt that the proposed building should be one story lower and have a greater rear setback to reduce shading on the property to the north. Another Commissioner requested the applicant present careful articulation on the rear façade at Final Design Review. The LPC as a whole did not find detriment with the project.

2. Design Review Committee: The project went before the Design Review Committee (DRC) on April 18, 2013 for preliminary design review. The project received a favorable recommendation to ZAB (4-3-0-0), with the following conditions and specific direction for Final Design Review.

### **Conditions:**

- Refer to LPC for advisory comments because of rear interface with Landmark, Structures of Merit (see above).
- Landscape plan at Final Design Review should have design the useable open space to be more “useable”.

### **Recommendations/Comments:**

- Provide shade on roof.
- Show all rooftop equipment.
- Bedroom units at the back of the two side light wells do not have adequate light, especially on the lower floors.

## **V. Issues and Analysis**

### **A. Key Issues:**

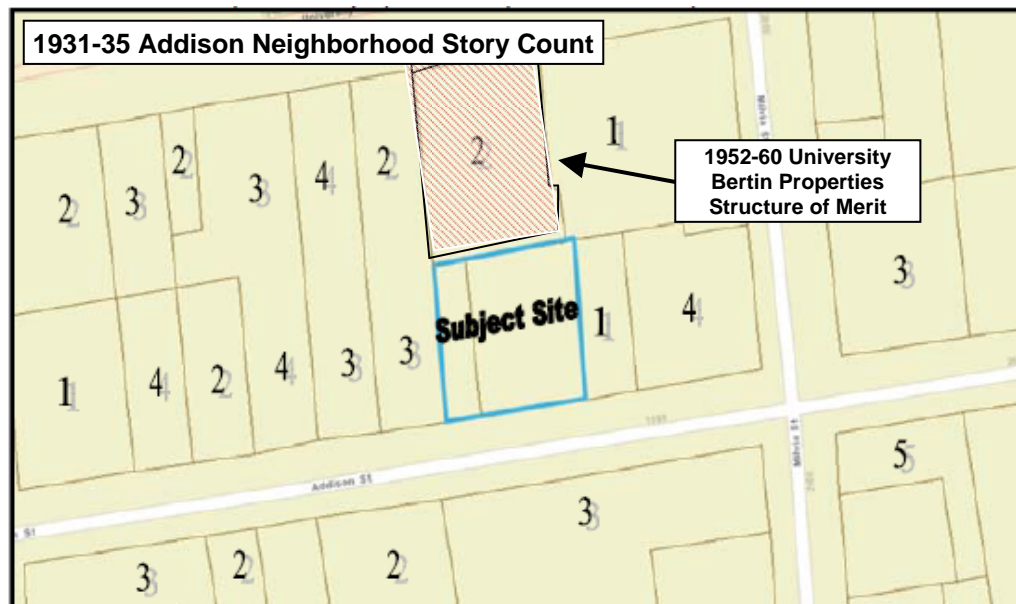
1. CEQA Determination: On January 4, 2013 the Secretary for the California Natural Resources Agency adopted CEQA Guidelines implementing Public Resources Code



Section 21094.5 and 21094.5.5 (SB 226—Infill Streamlining) developed pursuant to SB 226 (Simitian, 2011) . The purpose of the guidelines is to streamline the CEQA process for qualifying urban infill projects that meet the newly adopted standards by limiting the topics subject to review at the project level where the effects of infill development have been addressed in a planning level decision or by uniformly applicable development policies.<sup>2</sup>

Pursuant to the newly adopted guidelines, staff has determined that the project is eligible for the streamlining procedures in that:

- (1) It is located in an urban area on a site that has been previously developed and that adjoins existing qualified urban uses on at least seventy-five percent of the site's perimeter.
  - (2) It satisfies the performance standards provided in Appendix M—see Attachment 3; and
  - (3) At 208 units per acre, it is a residential project with a density greater than 20 units per acre within the boundaries of the MTC/ABAG metropolitan planning organization for which a Sustainable Communities Strategy (Plan Bay Area) will be, but is not yet in effect. Plan Bay Area is an integrated long-range transportation and land-use/housing plan for the San Francisco Bay Area that will serve as a Sustainable Communities Strategy that will coordinate land use and transportation in the regional transportation plan. The plan is due for adoption in summer 2013.<sup>3</sup>
2. Neighborhood Compatibility: The neighborhood is a commercial district with a range of one- to five-story buildings. See vicinity map below for story count of adjacent buildings. The subject site is located within, and surrounded by, the buffer area of the newly implemented Downtown Mixed-Use District. The Downtown Mixed-Use Core is located to the east, across Milvia Street.



<sup>2</sup> The updated Guidelines can be found: [http://opr.ca.gov/s\\_sb226.php](http://opr.ca.gov/s_sb226.php)

<sup>3</sup> For more information on Plan Bay Area, see: <http://onebayarea.org/regional-initiatives/plan-bay-area.html>

The project, which requests a Use Permit to exceed the 50-foot height limit to a maximum of 60-feet, is taller than, but not out of scale with the existing development pattern of the neighborhood and will be proportionate with the new development opportunities in the C-DMU. The Landmarks Preservation Commission reviewed the project for its interface with the Landmark, Structure of Merit property to the rear and found no detriment.

3. Sunlight/Shadows: The project proposes to construct a six-story, 60-foot structure on what currently houses two one-story brick buildings. As such, the project will create greater shadowing impacts over existing conditions. To assess the shadowing impacts, the applicant submitted shadow studies for the project (see Attachment 2). The studies illustrate that under current conditions, the neighboring properties receive minimal shading impacts from the existing development on the subject site; shading impacts increase with the planned development.

Throughout the year, the parking lot immediately to the west of the project will experience morning shading and the upper stories of the office building located at 1975 Addison will experience afternoon shading. The biggest shading impact will be on the courtyard of 1945-1966 University. In order to minimize shading impacts, the proposed building steps back from the rear property line at the fifth (7' setback) and sixth (9'-1" setback) floors. The courtyard will still experience shading impacts, particularly around midday during the winter. However, as the courtyard already is predominantly shaded during this time from the existing structures, the increase in shading on this commercial property is to be expected in the Berkeley downtown urbanized area. Shadow impacts are, therefore, found to be non-detrimental.

4. Parking/Traffic: The project proposes 9 vehicle parking spaces in the basement level garage. This is twenty five spaces less than the 34 spaces required (11 commercial, 23 residential). In accordance with the City's Climate Action Plan, as well as to advance more general sustainability goals, the new C-DMU zoning district employs strategies to reduce vehicle reliance and promote alternative modes of transportation. In accordance with these policies, the District allows the reduction of parking spaces in exchange for an in-lieu fee payment per every waived space. The in-lieu fee will support a fund established by the City to provide structured parking in the downtown or be used for a variety of enhanced transit and transportation demand management programs based on Downtown Area Plan Policy AC-1.3.<sup>4</sup>

Additionally, as required by the new zoning standards and as conditioned in the project approval, parking spaces will be leased separately from the units; occupants of the building will not be eligible for Residential Parking Permits (RPP); and the property owner will be required to provide one of the following transportation benefits at no cost to every residential unit: a pass for unlimited local bus transit service, or a

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<sup>4</sup> On May 21, 2013, the Council adopted Resolution No. 66,178-N.S. setting the in-lieu parking fee for the Downtown Plan Area in a graduated range from \$15,000 to \$30,000 per space, with spaces 1-5 costing \$15,000 per space, spaces 6-15 costing \$20,000 per space, spaces 16-25 costing \$25,000 per space and spaces 26 and up costing \$30,000 per space.

functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted unlimited monthly local bus pass.

The project also includes 48 secure bicycle parking spaces in the basement level; only 6 spaces are required by the District provisions. The abundance of bicycle parking, the provision of transit passes, the ineligibility for RPPs, as well as the project's proximity to public transit, jobs, goods and services, and the University, will help reduce car ownership and help ensure that parking demand does not exceed the project's parking supply.

Traffic impacts for the projected Downtown build out was analyzed as part of the Final Environmental Impact Report for the Berkeley Downtown Area Plan (April 2009, State Clearinghouse Number 2008102032). The subject project was included in the projected build out (it would bring the total of approved housing units within the Downtown Area to 448, which is less than 15% of the anticipated 3,100 new units). The Traffic Engineer determined that, due to the small scale of this project, significance criteria are not expected to be exceeded for any intersections or residential streets, and a Traffic Impact Analysis was not required.

Staff, therefore, does not believe that there will be undue parking and traffic impacts to the neighborhood.

## **B. General and Area Plan Consistency:**

General Plan Policy Analysis: The 2002 General Plan contains several policies applicable to the project, including the following:

1. 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.
2. Policy UD-17 Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
3. Policy UD-24 Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.

Staff Analysis: Please see discussion under Key Issue 2 above.

4. Policy H-1 Low and Moderate Income Housing: Increase the number of housing units affordable to low- and moderate-income Berkeley residents.
5. 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.

Staff Analysis: As noted earlier, the project would provide seven units affordable to Very Low Income households and a total of 69 dwelling units. The project will, therefore, help the City to meet its affordable and general housing goals.

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

Staff Analysis: Please see discussion under Key Issue 3 above.

7. Policy H-13 Energy Efficiency: Improve the safety and energy efficiency of new and existing homes and apartments.
8. Policy EM-5 "Green" Buildings: Promote and encourage compliance with "green" building standards.
9. Policy UD-33 Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.

Staff Analysis: Pursuant to BMC Section 23E.68.085 and Policy LU-2.1 of the Downtown Area Plan (see below), building construction will attain a LEED Gold rating or higher as defined by the U.S. Green Building Council (USGBC).

Downtown Area Plan Policy Analysis: The Downtown Area Plan, adopted in March 2012, also contains several policies applicable to the project, including the following:

1. Policy ES-2.1 – Contributions Required of All Development: New buildings and substantial additions, regardless of height, shall provide the following public benefits, except as noted for historic rehabilitations and adaptive re-use of existing buildings.

Staff Analysis: The project provides all public benefits that were required by Council in the C-DMU zoning, including LEED Gold rating or equivalent, on-site public open space, car share spaces, and transit passes. These benefits are required in the proposed conditions of approval.

2. Policy LU-3.1 – Housing Needs: Accommodate a significant portion of Berkeley's share of regional housing growth as defined by Regional Housing Needs Assessments (RHNA) within the Core Area, Outer Core, Corridor, and Buffer areas, as compared with other appropriate areas in Berkeley.
3. Policy LU-3.2 – Housing Diversity & Affordability: Offer diverse housing opportunities for persons of different ages and incomes, households of varying size and the disabled, and give Downtown a significant role in meeting Berkeley's continuing need for additional housing, especially affordable housing.

Staff Analysis: The project will construct 69 dwelling units, including seven that are available for households of Very Low Income (less than 50% of the AMI). The project is located in the Downtown Buffer area that is well serviced by public transportation and is within walking/biking distance to the UC Berkeley campus.

4. Policy LU-4.1: Transit-Oriented Development: Encourage use of transit and help reduce regional greenhouse gas emissions, by allowing buildings of the highest appropriate intensity and height near BART and along the Shattuck and University Avenue transit corridors.

Staff Analysis: The project helps encourage transit use and reduce greenhouse gas emissions from motor vehicles by constructing additional housing in close proximity to transit, jobs, basic goods and services, and the UC campus, and by providing car share spaces and transit benefits. The six story building would allow the highest appropriate intensity and height in a prime transit location that is one block south of the University Avenue transit corridor and two blocks west of the Shattuck Avenue transit corridor.

5. Policy LU-4.2: Development Compatibility: Encourage compatible relationships between new and historic buildings, and reduce localized impacts from new buildings to acceptable levels. The size and placement of new buildings should: reduce street-level shadow, view, and wind impacts to acceptable levels; and maintain compatible relationships with historic resources (such as streetwall continuity in commercial areas).

Staff Analysis: As discussed earlier, the LPC did not object to the demolition of the existing buildings or find detriment from the project on the adjacent Landmark/Structure of Merit property. Due to the location of the property on the north side of the street, shadows on the public right-of-way will be minimal. View impacts will be acceptable given that there are no substantial public vistas currently available across the site. Wind impacts would be less than significant, based on analysis conducted for the Downtown Plan EIR (see Policy LU-1.5).

## VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, Staff recommends that the Zoning Adjustments Board:

APPROVE Use Permit #12-10000042 pursuant to Section 23B.32.040 and subject to the attached Findings and Conditions (see Attachment 1).

### Attachments:

1. Findings and Conditions
2. Project Plans, received May 30, 2013
3. Photo Simulations, received June 18, 2013
4. Appendix N, Infill Environmental Checklist Summary, per Public Resources Code Section 21094.5
5. Notice of Public Hearing
6. Correspondence Received

**Staff Planner:** Leslie Mendez, lmendez@ci.berkeley.ca.us, (510) 981-7426