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May 7, 2015

Prakash Pinto
Chair, Zoning Adjustment Board
City of Berkeley
2134 Martin Luther King Jr. Way
Berkeley, CA 94704

Dear Mr. Pinto,

We are writing to respectfully request that the ZAB delay temporarily its consideration of the EIR certification for the Harold Way Project. The Berkeley High Safety Committee has brought concerns to our attention about whether the project developers have addressed their comments regarding the proposed impact of the project on the BHS community. We would like the opportunity to review their concerns and, if appropriate, provide an opinion to the ZAB regarding the EIR certification from the District's perspective. We cannot do that prior to our May 20 meeting, so our request is that you delay action on this item only until after our May 20 meeting.

To be clear, we do not mean by this letter to express any opinion on the merits of the project or the EIR certification process. We only seek your cooperation in delaying temporarily the EIR certification until we have an opportunity to review the matter at our May 20 meeting.

Please circulate this letter to the other members of the ZAB.

Respectfully,

A handwritten signature in black ink that reads "Donald Evans".

Donald Evans
Superintendent

A handwritten signature in black ink that reads "Judy Appel (dt)".

Judy Appel
President, Board of Education

cc: Christine Daniel
Enid Camps, BHS Safety Committee Chair
Alan Shannon
Greg Powell

Summary of Public Comments at April 15, 2015 Community Benefits Workshop

General Questions/Comments:

- How does the child care mitigation fee work?
- What affordability level of affordable housing does 10% represent?
- Current fee level is \$20,000 to get out of building low income housing; will Nexus study be released before the next vote?
- Is City Council or ZAB going to demand developers submit pro forma's to show much money it costs to develop the project and how much profit will be generated, to know how much the City can really ask for and get from these projects? Will they hire someone independent to evaluate these numbers who has the cities best interests at heart? (crowd cheered)
- Is it true the housing proposed is only affordable to people at upper end of income bracket? (crowd cheers)
- When developers promise benefits how are they held accountable, how are benefits enforced?
- Do we look at detriments existing businesses i.e. Ace Hardware, Landmark Theater, grocery store in east Oakland and things like that? Isn't it detriment to get rid of those things? Can't that be counted against the development?
- Any way the community can rise up and say we don't want these tall buildings at all?
- Significant benefits- Project Labor Agreement- is that a mutual benefit? You get better workers, more safety, well coordinated job, no labor unrest. Big benefit for the developer as well, and who can build a big building without those things?
- In Green Standards, little understanding about water. 5 new buildings and no provisions for additional water. Will sewer lines need to be replaced?
- What does open space mean?
- Green Code and LEED, do they take into account, points taken away if they take full cost accounting i.e. if workers take single occupancy cars to work? Embedded energy in the buildings they tear down? Energy needed to make materials for the new building?
- Buildings Trades council speaker: Project Labor Agreement- enforce labor standards. Language says basic standards. Making sure Berkeley residents get to do work on these projects, make sure that language is in there. They do things like make sure people get training for jobs. She says Project Labor Agreement is a community benefit.
- Who is driving community benefits in Richmond? There are numerous groups working together to advocate for a Community Benefits Agreement for the UC Global Campus. Who is leading the process in Berkeley?
Jesse responds: City Council is developing a policy around community benefits. He is here to get feedback for May 5 meeting, there are many interest groups participating.
- Is there any consideration for capacity of public safety officers? Is that in zoning code?
- Should we leave if we only see detriments to these projects? What's the point in engaging in this conversation if we don't want these buildings?

- There has been a fundamental lack of planning for the public health needs of the new Downtown. Alta Bates has been said to close in the future. Health needs, including a public hospital is a community benefits that should be addressed.
- If reason for buildings is to reduce carbon footprint because they are denser and near public transportation, need to fund free mass transit in Berkeley. Reducing climate change with tall market rate buildings raises rents and pushes ordinary working people out of the city who then have to drive in to work. We should insist on a set percentage of affordable housing IN the building as built, at an amount that cannot be bought out with in lieu fee. 30-50% affordable housing is what we should get.
- ACE Hardware, Berkeley Vacuum shop, other businesses in that block, when they look for a new site it is at least 2x as much. Need to compensate them and make sure they stay in business.

Specific Ideas on Community Benefit Priorities:

- Affordable housing at an affordability level below 50% of the Area Median Income
- Need to look at the detriment that projects create in displacing existing businesses
- Project Labor Agreements should be considered a “mutual benefit” between the project developer and community
- Should we be approving new high-rises when we are in a drought? They will undoubtedly add to our existing water shortage. Need to consider impacts and establish standards to conserve and reuse water in new projects
- Benefits to youth such as providing a space for youth tutoring and mentorship.
- Public hospital and public health services in the Downtown
- Free clean mass transit
- 30-50% affordable housing built in the project, no in-lieu fees
- Relocate businesses impacted by development and ensure a new reasonable rent
- We should be requiring benefits that serve the most people possible
- More public swimming pools, including heated and saltwater pools
- Farmers market in the old Iceland building
- Arts and culture
- Increased funding in the SOSIP fund
- Funding for public safety resources
- Flexible permanent arts space including a live stage and movie theater
- Public gathering spaces
- Transparency of process important/need to do better outreach so entire city is represented in this process
- Real enforcement of community benefit requirements important. A needs of assessment based on community needs should be conducted to get a sense of priorities in determining community benefits package. Need to look at and verify developers financials to determine how much we can get from these projects. No waiver of developer fees should be allowed.
- We need a cutting edge state of the art plan for Downtown. We should tap into the intellectual capital of the University to develop a visionary plan
- Should require local hiring for construction and service/retail jobs in projects

- Should build more office space
- Should require zero net energy buildings from these high-rise developments. Need to build for future
- Should invest in fixing our public buildings such as Old City Hall and the Veterans Building
- Should save the Shattuck Cinemas
- Should require measures to reduce glare so that people can see the sky at nighttime
- We should preserve the view of the Golden Gate Bridge from the Campanille
- Need more public restrooms Downtown
- No toxic products should be used in buildings to protect people with chemical sensitivities
- Should require that developers adopt a park, like Civic Center Park and pay for improvements to the park
- Require 1% for the arts from Downtown projects
- Affordable housing for teachers
- Create a fund to help clean up West Berkeley air quality
- Streetscape improvements for bikes, pedestrians, pedestrian walkways and pathways
- Family sized housing should be required in new projects
- Should require the inclusion of renewable energy generation such as solar in projects

Results from Voting Exercise

Each attendee was given 10 dots in order to vote for which community benefit priorities are important for them. Attendees were encouraged to affix the dots to the sign representing the priority important to them. Based on the comments made above, we put up signs through the walls of the meeting room with each community benefit labeled so that people can get up and vote with their dot stickers. Below represents the results of the voting, with the categories that received the most votes in **bold**.

PLEASE NOTE: Voting began when the first 10-15 ideas had been generated. As additional ideas were generated they were placed on the wall for voting. However, because some attendees voted early and then left, they were not present when additional ideas were put forward. As a result, please consider data from only the MOST POPULAR items to be even somewhat reliable indicators of community sentiment. Low vote counts are entirely unreliable. It may be that the benefit was not popular, or it may simply be that the benefit was introduced late, when many “voters” had already left the meeting. Also, voting was not carefully monitored. It is possible that some people may have voted more than 10 dots. There was one anecdotal report of this “over voting.” At a minimum those over-votes still would reflect a strong sentiment in the community. *The voting exercise was designed primarily to provide an interactive forum for attendees to think about their preferences, and only secondarily as a very approximate means of looking at community sentiment.*

Community Benefit Category	Poll count
Office Space	4
Public hospital planning for hospital medical needs	36

Arts & Culture	62
Flexible arts space including live stage and/ or movie theater	26
Relocation assistance displaced community resources	10
Free electric mass transit in Berkeley	46
Teen benefits	7
Services for homeless or other vulnerable/underserved populations	25
Public safety	8
Affordable on-site housing (beyond required 10% or fee) (30-50%)	91
Project labor agreements	45
SOSIP Projects (Streets and Open Space Improvement Plan)	14
Local hire for construction/retail/service employees	31
Street vitality	1
Renovate Veterans Building and City Hall	55
Walkability Features	4
Infrastructure (Sewers, runoff)	12
Maker/Art Space	2
Community Space for students	1
Public restrooms downtown	16
Ecological restoration ³	3
Adopt a park including ongoing maintenance	9
Family sized housing	2
Teacher (workforce) housing	1

Relocation expenses paid to displaced merchants	16
Freshwater heated pool	8
Free public Wi-Fi	12
Historic renovations to Shattuck Hotel	2
Darker skies	5
Drop in health center	2
Greywater systems- renewable energy, higher green building standards than already acquired by law (ex. Net Zero energy, LEED Platinum)	15
Landmark theater (Shattuck Cinemas)	75
These projects can have no benefits	7

Additional Comments Submitted in Writing

Additional comments submitted in writing are summarized below and attached.

- Off-site Significant Community Benefits:
 - A. Provide 1% or 2% of construction cost to public art and culture fund, administered by the Civic Arts Commission.
 - B. Provide funding for arts and cultural grant fund (similar to UC Chancellors Grant Fund), to be administered by the Civic Arts Commission
 - C. Provide annual funding for performing arts organizations, to continue 10, 12, 15 years, amount to be determined by Council based on evaluation of pro forma document.

- Ongoing fee payment should be allowed instead of a one-time lump sum payment, for example additional funding for affordable housing can be paid over time.
- Require that the developer fund studies on the effect of the project on existing businesses
- Establish new cultural venues and provide funding to support existing cultural venues
- Funding for community open space, landscaping, Downtown streetscape improvements
- Shuttle service connecting people between commercial districts and BART stations
- Fund the seismic retrofit of Old City Hall
- Provide funding for city infrastructure and services (sewers, reduce storm water runoff, transit services, police, fire)
- What tax and permitting deferments and waivers are offered to developers?

- Do the ZAB, Planning Commission, Design Review Committee think holistically about water, traffic, sewer impacts with projects?
- Coordinating shuttles/transit with UC Berkeley?
- A significant community benefit would be a Berkeley GO Round (Similar to Emery Go Round) ongoing funding for mini buses for traveling around Downtown to North Berkeley, South Berkeley and other neighborhoods
- Adopt a park, ongoing maintenance over 30 years tied to a significant % of a projects cost with increases for cost of living
- Provide funding for the rehabilitation of Willard Pool and pay for its operation over the years

STATEMENT IN OPPOSITION TO 2211 HAROLD WAY EIR CERTIFICATION

--Enid Camps, Co-Chair, Berkeley High Safety Committee

I am a BHS parent and co-chair of the Berkeley High School (BHS) Safety Committee and I am writing to oppose the 2211 Harold Way Project on the basis of an incomplete and critically deficient EIR. While the School Board has yet to consider and pass a resolution on this project, the Safety Committee independently is concerned that the 2211 Harold Way Project will have a severe and adverse impact on Berkeley High School.

BHS is the Berkeley's only public high school, and has well over 3,000 students, who arrive each morning from every community in Berkeley. BHS is about 400 feet from 2211 Harold Way. It is a 2-minute walk from Harold Way. Our 3,000 plus students travel to school each morning by bike, car, bus, or on foot on streets that surround the Harold Way project, and on Harold Way, itself. Harold Way, Allston, Shattuck, and Kittredge streets figure prominently in the student commute to school. The main school entrances on Milvia and Allston streets are in close proximity to the construction site. There are a significant number of BHS classrooms along Milvia street that will be impacted by noise for years, unless that impact is mitigated.

Yet *nowhere*, in the entire draft EIS, is there any mention of the project's impact on BHS, and the health, safety and welfare of BHS students. *Nowhere*, for example, does the EIR specifically address the project's impact on the traffic flow and traffic congestion around BHS, or access to the school's main entrances and drop off zones during construction, or on the air quality, noise, heating, cooling, and lighting of nearby Berkeley High School.

The EIR's omission of Berkeley High as a Project impact is particularly glaring because the 2211 Harold Way project is situated within the BHS School Zone—whether that zone is defined as everything within a 600 foot radius of the school, as the City told us, or whether it is defined by California law as everything within 1,500 feet of the school. (See Penal Code, section 626 (c)(2)(B)[defining safe school zone].)

As discussed below, the FINAL EIR "Response to Comments document" http://www.cityofberkeley.info/Planning_and_Development/Zoning_Adjustment_Board/2211_Harold.aspx (see pages 90-106) largely sweeps our traffic, safety, noise and pollution concerns under the rug. I attach to my letter, and incorporate here as Exhibit A, a letter I received from the BHS Facility and Operations Manager setting out his concerns with the City's Response to Comments. It is plain that because the EIR fails to address the Project's significant impacts on BHS, or any mitigation measures for those impacts, it cannot lawfully be certified. I urge the Board to reject the EIR and direct the City and/or an independent contractor to specifically study the impacts of the project on Berkeley High in consultation with the School and its Harold Way Project Impact and Mitigation Assessment Response Team.

The Environmental Impact Report is Deficient and Should Not Be Certified

Legal Background Accessed: An environmental impact report (EIR) must identify and focus on “significant environmental effects” of a proposed project. (Pub. Res. Code, 21100(b)(1).) In its analysis of a project’s significant environmental impacts, an EIR must discuss both direct and indirect effects of the project, analyze foreseeable project impacts and describe and analyze the project’s significant cumulative impacts. (See also Pub.Res. Code 21083(b).) Direct impacts include noise, dust, heavy equipment traffic associated with construction of a project, and traffic congestion among other things. (See Pub. Res. Code 21060.5; 14 Cal.Code Regs 15064(d)(1), 15360; *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019 [finding inadequate EIR’s assessment of impact of traffic noise on school]; *Gray v. County of Madera* (2008) 167 Cal. App.4th 1099 [noise and traffic impacts must be analyzed and mitigated if significant].) Indirect effects can include such things as school facility requirements brought about by a project development’s population impact, or a change in the pattern of land use. (14 Cal. Code Regs 15131(a)& (b); 15358(a)(2); see also *El Dorado Union High School. Dist. v. City of Placerville* (1983) 144 Cal. App.3d 123.) A project impact is significant even if the project’s impacts are individually limited, as long as they are cumulatively considerable or will cause substantial adverse effect on human being. (See also Pub.Res. Code 21083(b); *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019.) The environment refers to physical conditions “existing within the area which will be affected by a proposed project,” and includes both natural and man-made conditions. (Pub. Res. Code 21060.5, 14 Cal.Code Regs 15360, 15064(d)(1).) To assess the impact of a proposed project on the environment, the lead agency examines the changes to existing environmental conditions that would occur in the affected area if the proposed project were implemented. (14 Cal. Code Regs 15126.2(a).) Under 14 Cal. Code Regs 15065, a project impact is significant if it has the potential to degrade the quality of the environment. Under 14 Cal. Code Regs 15126.2(a), an EIR should analyze any significant effects the project might cause by bringing development and people into the area affected. (14 Cal. Code Regs 15126.2(a).) An EIR, should when looked at as a whole, provide a reasonable, good faith disclosure and analysis of the project’s environmental impacts. (*Laurel Heights Improvement Ass’n v. Regents of Univ. of Cal.* (1988) 47 Cal.3d 376, 392.) Each public agency shall mitigate or avoid significant effects on the environment, for project it carries out or approves whenever it is feasible to do so. (Pub. Res. Code 21002.1(b), 21100(b)(3); 14 Cal. Code Regs 15126.4.) The EIR must also describe a reasonable range of alternatives to the project, or to its location, that could feasibly attain the project’s basic objectives while reducing or avoiding any of its significant impacts. (Pub. Res. Code 21100 (b)(4) 14 Cal Code Regs 15126.6.)

Reasons Why the 2211 Harold Way EIR is Inadequate:

(1) The EIR is inadequate because it fails to properly describe and evaluate the Project as being situated in a school zone

The adequacy of an EIR analysis necessarily depends in the first instance on a clear and adequate description of the project and the project area impacted. The 2211 Harold Way project description appears to begin and end with its assessment that it is situated in a “fully urbanized” commercial down town area. (See Draft EIR, Appendix A, dated 5/19/14, at pp. 2, 42.)

Notably absent, however, is any mention that the Harold Way Project is situated within a school zone, in proximity to Berkeley High School about one block or 400 feet away. California law defines a "safe school zone" as an area within 1,500 feet of a school, including that area within 60 minutes before or after the school day. (See Penal Code 626 (c) (2).) Regardless of whether that definition or the City’s definition of a school zone (anything within a 600 foot radius of the school) is applied, the Project EIR does not take into consideration its school zone impacts. Schools are sensitive environments with noise, pollution, and traffic planning thresholds that are different from and lower than what is tolerated in commercial use areas.¹

In addition, the Harold Way Project should have specifically considered its specific impact on BHS traffic and pedestrian safety issues and goals —matters that are a part of the BHS Safety Plan, and of high priority to the school community. (See also Safe Routes to School at http://guide.saferoutesinfo.org/engineering/the_school_zone.cfm) [for traffic purposes, a school zone should start “at the [school’s] front door and encompasses the campus and as many blocks as possible that surround the school and have a high concentration of school-generated traffic” . . . and usually include at least “one to two blocks around the school”].)

Instead, consistent with its “urban” or “downtown” plan perspective, the Project EIR looks at some surrounding streets, and makes erroneous assumptions about traffic issues and traffic patterns around BHS. The BHS Safety Committee has spent the last two years studying the issues and is well familiar with the traffic issues in the area that the EIR fails to consider from a “school zone” perspective. (See also Safe Routes at http://guide.saferoutesinfo.org/engineering/the_school_zone.cfm) [a school walk zone is generally that area “1/2 mile or 1-mile out from an elementary school, sometimes further for middle and high schools” that is engineered to encourage students to walk and bicycle to school safely].)

¹ The EIR states it examined “possible exposure of sensitive receptors to toxic air contaminants” (App. A, p. 83) and notes that certain population groups like children are more sensitive to air pollution (App. A, p. 94). Yet, nowhere does the report mention possible air pollution effects of the children who attend nearby Berkeley High School. In listing “other public agencies whose approval is required, the EIR states “None. Although the University of California at Berkeley has no permitting authority over the project, the Draft EIR will be provided to the University for comment.” (Appendix A p. 43.) No effort was taken to similarly inform Berkeley High, although it is far closer than Cal.

The 2211 Harold Way Project EIR should be substantially revised and reconsidered with studies that meaningfully address and mitigate its school zone impacts in terms of traffic, noise, pollution and other effects. Otherwise the Project will undermine, not advance, educational goals, and the promotion of safe and efficient routes for student pedestrian and bicyclists.

(2) The EIR is inadequate because the Project relies upon a *Downtown Plan* that does not specifically assess the significant impact on Berkeley High School

The Downtown Plan upon which the draft EIR relies on for infill analysis and streamlining its CEQA review requirements, also apparently does not mention Berkeley High, even though the DEIR's environmental checklist acknowledges that "all answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project level, indirect as well as direct, and construction as well as operational impacts." (See e.g., Appendix A, p. 55.)

Whatever "infill" or other similar exemptions may apply to the commercial downtown area, these exemptions do not logically apply to the school zone also impacted by the project. The EIR for the Downtown Plan apparently does not consider any specific impacts on BHS, other than the impact on possible student population growth for the City of Berkeley as a whole. The "significance of an impact may vary with the setting." (14 Cal.Code Regs 15064.(b).) Again, the requirements of a school differ markedly from the requirements for commercial areas. Whatever norms the downtown plan established for "commercial" Berkeley should not determine the impacts on BHS and the school zone around it, particularly with respect to traffic congestion, student safety to and from school, classroom noise, and pollution both during and after construction.

(3) The EIR is inadequate because there is substantial new information which shows the traffic, noise, and pollution effects will be more significant than described in the downtown plan or Project EIR

The impact assessments regarding traffic, noise and pollution related to the traffic counts done on Milvia and conducted on December 3, 2013 are obsolete and therefore unreliable. There can be no substantial evidence that would support a conclusion that the 2013 traffic studies have any relevance to existing traffic patterns on Milvia. Even if there could be a valid infill designation for a project within a school zone (see above), state law does not sanction the approval of an infill EIR project undertaken pursuant to a city planning decision state law when there is

substantial new information shows the effects will be more significant than described in the prior environmental impact report. (Pub. Resources Code 21094.5.)²

In this case, traffic patterns for the school have changed markedly since the traffic counts were done in 2013. The *2211 Harold Way Traffic and Parking Study* dated July 7, 2014 and designated as Appendix C relies on traffic counts done on “Tuesday December 3, 2013.” (See Appendix C, Section 2.3, p.10.) However, the school’s “M” building was completed in March 2014—a fact that increased traffic on Milvia and substantially changed traffic patterns at the school. Because of the reconstruction of a significant part of the school campus (M building and adjoining new field uses), Milvia is now the school’s major traffic corridor as well as its designated main drop off zone for students.

Traffic congestion and noise on Milvia related to 2211 Harold Way therefore stands to impact: (a) Safety of students entering and exiting school from Kittredge, Allston or Durant (the streets leading to Milvia entrances); (b) 16 classrooms in the M building, 12 of which have windows that open over Milvia for climate control; (c) Classes and other school activities in the school’s D building which houses Administration offices on the first floor along Milvia and the library, media center/computer rooms and three classrooms on the second floor along Milvia; (d) Classrooms and other school activities in the D building which also fronts Allston to Kittredge; (e) The E building which houses the gym, dance studio, and the pool.

The EIR therefore should not be certified because its studies are obsolete and do not provide the basis for accurate impact or mitigation assessments.

(4) The EIR is inadequate because it fails to adequately take into account the Project impacts of cumulative noise on a sensitive school environment during and after construction

Noise is a considered a direct environment impact of a project requiring assessment by the EIR. (See Pub. Res. Code 21060.5, 14 Cal.Code Regs 15064(d)(1), 15360; *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019 [finding inadequate EIR’s assessment of impact of traffic noise on existing school]; Cf. 5 Cal. Code Regs., 14001 [in planning new educational facilities “the district shall consider environmental factors of light, wind, noise, aesthetics, and air pollution in its site selection process”].)

Noise is a particularly important factor for school uses. Students have an inalienable right to

² The Public Resources Code **21094.5**. (a) (1) If an environmental impact report was certified for a planning level decision of a city or county, the application of this division to the approval of an infill project shall be limited to the effects on the environment that (A) are specific to the project or to the project site and were not addressed as significant effects in the prior environmental impact report or (B) substantial new information shows the effects will be more significant than described in the prior environmental impact report. A lead agency’s determination pursuant to this section shall be supported by substantial evidence.

attend safe, secure and peaceful campuses in order to promote learning. (Cal. Const., art. I, § 28, subd. (c).) In addition to CEQA, many California statutes, including those related to health and safety and general plans, recognize the seriousness of noise impact and the government's duty to mitigate noise impacts. (See e.g. Cal. Health & Safety Code 46000 (e) ["The State of California has a responsibility to protect the health and welfare of its citizens by the control, prevention, and abatement of noise"]; Cal. Health & Safety Code 46000 (f) ["All Californians are entitled to a peaceful and quiet environment without the intrusion of noise which may be hazardous to their health or welfare."]; see also Government Code 65302 relating to general plans requires: ["A noise element that shall identify and appraise noise problems in the community" and shall analyze current and projected noise levels for "major local streets."]; Berkeley Code, 13.40.010 [finding "Every person is entitled to an environment in which the noise is not detrimental to his or her life, quality of life, health, or enjoyment of property].)

The City response to Comment is plainly insufficient when it says the Noise impacts relevant to BHS are discussed in Appendix A and mitigated for the reasons indicated in that document, and because BHS is a minimum of 415 feet away from the Project.

- (i) The Response Comment dismissing any noise impact on BHS, because BHS is about 400 feet away from the project site is inconsistent with the data in the Draft EIR which lists the construction noise at 500 feet from the site as 71 dBA---well over the 60 dBA threshold for schools. (DEIR, Appendix A, pp. 155-156.)
- (ii) The Response comment (p. 104) that noise impacts are mitigated because "Berkeley High School is almost entirely occluded by intervening buildings" between the Project and BHS is not supported by substantial evidence. Even if a minor portion of the noise impact might possibly be absorbed by buildings across from BHS, there are no buildings between the bulk of the 18-story project and BHS to absorb any noise.
- (iii) Construction Noise: The EIR fails to specifically address the staging for the construction of the 18- story building, and the movement of vehicles past sensitive noise receptors such as the school during that construction. To the extent the Draft EIR makes general comments about noise impact, it is clear that any mitigations of these impacts are unsuitable for BHS as a school/sensitive noise receptor. The Draft EIR notes: "NOI-5: Construction Noise: Businesses and residences throughout the Downtown Area would be intermittently exposed to high level of noise throughout the planning horizon (elevating noise levels "by 15 to 20 dBA or more, a significant impact" to adjacent businesses and residences). As a mitigation measure the Report states that "the applicant shall develop a site specific noise reduction program which shall include appropriate time limits for construction (7:00 AM to 7:00 PM on weekdays..."). (See Appen. A, p. 149.) Of course, while the 7 a.m.-7 p.m.

construction may be acceptable for working residents, it creates a maximum impact on the school during normal school hours. Though the Report concludes this “impact would remain significant and unavoidable,” no mitigation impacts for the school are discussed, such as performing the work with the loudest impacts over the summer when school is not in session. Alternatives such as project redesigns to minimize sound impact specifically on BHS are not discussed. Moreover, kicking the noise can down the road is not acceptable for an EIR. The courts have found EIRs inadequate when they fail to adequately analyze a Project's impacts on noise and traffic because they improperly deferred mitigation measures. (See e.g. *Gray v. County of Madera* (2008) 167 Cal. App.4th 1099 [noise and traffic impacts must be analyzed & mitigated if significant].)

- (iv) Post-Construction Noise: Post construction noise estimates are also problematic particularly with respect to noise on the high school's Milvia-facing classrooms. Post construction noise estimates conclude the “project would introduce new residential land uses adjacent to local roadways, potentially exposing sensitive receptors to noise levels that would exceed those considered compatible with exterior residential land uses.” (DEIR, Appen. A, p. 152.) Again, no specific study is done for Berkeley High School, much less Milvia street, a main thoroughfare for the Harold Way Project. BHS is not mentioned in the list of noise-sensitive uses. Noise increases generated by traffic, service vehicles or building uses cumulative to existing street noise must specifically be studied and mitigated before the EIR is approved.

- (v) Traffic noise: For its final conclusion regarding noise impact, the study purports to rely upon a valid peak hour traffic volumes study for streets other than Milvia surrounding Berkeley High (Allston between Milvia and MLK and Kittredge between Project Driveway and Milvia) apparently to calculate street noise from added traffic. Not only does the study incorrectly assume that peak traffic hours on Allston and Kittredge would be in the afternoon instead of at morning drop off, it concludes that the entire 18-story project with a parking garage on Kittredge for 171 cars, **will net exactly 1 new trip on Allston, and 13 new trips on Kittredge.** (DEIR, Appen. A, p. 153.) The Berkeley High Safety Committee has studied traffic impacts on BHS for the last two years. Based upon its study, the EIR assertion seems implausible and unreliable, particularly because the likely path for most vehicles exiting the 2211 Harold Way garage on Kittredge is Kittredge to Milvia, rather than the only alternative: Kittredge to Shattuck. Erroneous roadway traffic studies undermine the plausibility of all traffic and noise related conclusions based upon those same traffic studies.

(vi) The holding in *Los Angeles Unified School Dist. v. City of Los Angeles* (1997) 58 Cal.App.4th 1019) is instructive with respect to the studies done by the City.

*“Likewise, the relevant issue to be addressed in the EIR on the plan is not the relative amount of traffic noise resulting from the project when compared to existing traffic noise, but whether any additional amount of traffic noise should be considered significant in light of the serious nature of the traffic noise problem already existing around the schools. We do not know the answer to this question but, more important, neither does the City; and because the City does not know the answer, the information and analysis in the EIR regarding noise levels around the schools is inadequate.” The EIR also fails to take into account “the significance of an activity may vary with the setting.” (Guidelines, § 15064, subd. (b).) **It does not necessarily follow, and the EIR does not establish, an increase in the decibel level from 72.1 to 75.4 would have the same effect on a hearer trying to study in a classroom as a hearer waiting for a bus on a street corner.”***

Based upon the above, the EIR conclusion that potential noise impacts do not require further study in an EIR” (DEIR, App.A, p. 157) is not supported by substantial credible evidence and cannot be relied upon. The EIR certification should be denied until proper studies are conducted on all noise-related impacts, and their cumulative effects reliably assessed and mitigated.

(5) The EIR is inadequate because it fails to access traffic congestion impacts on Berkeley High School during the School’s peak traffic period

The EIR does not study traffic impacts along Milvia, the school’s one designated major drop off zone, or the traffic impacts of the project specifically on Berkeley High School. (DEIR, App. A, p. 266.) These are material omissions. Moreover, the responses are ambiguous, implausible, inadequate, and insufficient as follows:

Ambiguous response: The Response to Comments (p. 104) states that “[c]onstruction activities... are not anticipated to impact student drop-off facilities on Milvia . . . [or] that construction activities would block streets adjacent to Berkeley High School.” This response is ambiguous and legally insufficient for EIR purposes.

Implausible response: It is simply implausible to assume that the traffic and noise from construction and later from the Project’s planned garage on Kittredge near Milvia will not impact the school’s traffic on Milvia, or the school’s main entrances on Milvia, or the classrooms that face Milvia. Milvia is one of two access points to Harold Way and is less than 400 feet from the project. (It is not realistic to think that all of the heavy equipment necessary for this project will be situated in a way to block businesses and bus lines on Shattuck instead of amassing on Milvia.)

Inadequate response: When the Project planners state they will provide detours for cars during construction or that the school has three other entrances for students other than on Milvia, this does not address BHS traffic congestion/safety issues at all. The school's major drop off zone for cars and the bike lane is on Milvia, close to the planned construction. The school has no other significant drop off zones or cross walks across from school entrances. Furthermore, how will BHS students who also walk, bike, and scooter to school safely navigate "traditional" detours. Additional traffic congestion and detours can only make it more difficult for our students to get to school safely and on-time, unless these impacts are mitigated.

In fact, the 2211 traffic impact mitigation measures are the opposite of what a well planned traffic plan would be for BHS—even if it may be satisfactory for downtown commercial interests. A well-planned vision would include consideration of mitigation features to ensure that BHS and also nearby Washington elementary school students can get to school safely and on time. It should not ignore impacts on the School and reengineer traffic in the surrounding area without assessing the routes necessary for students to get to school and access the main entrances of the school building. The location of the garage and additional traffic on Milvia, noise, and large trucks, may indeed dissuade biking and walking to school.

Insufficient Response: The Response to Comment is also insufficient for EIR purposes because it relies on traffic studies on streets other than Milvia that are close to BHS. Moreover, these traffic studies are implausible on their face in terms of net auto trips and net new trips generated by the project and net new trips. (See e.g, prior discussion regarding the alleged "1" new trip generated by the 18-story, multi-use, 171-parking space structure.)

Implausible response on traffic counts: The BHS Safety Committee has been studying the traffic around BHS for two years and is well familiar with the traffic patterns and congestion around BHS, particularly from 8 to 8:30 a.m.

The EIR's traffic data is nearly inscrutable in its entirety, including vague discounts for mitigation impacts irrelevant to Berkeley High, and is not consistent with Safety Committee observations. The conclusion that the project would not generate more than 100 new auto trips during the pm peak hour is unsupported with respect to traffic congestion impacts on Berkeley High for two reasons: (1) The peak hour traffic around Berkeley High occurs in the morning, not the afternoon, during drop off to and from the school. Milvia street, the school's main drop off zone, is highly accessed by car travel to and from the school via Allston, Kittredge, and Durant in the morning; (2) It is implausible that the 2211 Harold Way Project will generate less than the 100 net auto trips. The 2211 Harold Way project has 302 units and 171 parking spaces. In other words the project has 131 fewer spaces than apartment units. Traffic in terms of commuters leaving for work in the morning or cars circling the block in search of parking will add to traffic congestion around Berkeley High (and the ability of students to get to school safely and on time). Likewise, the additional traffic from vehicles during construction and delivery vehicles afterwards servicing 2211 Harold Way Project will be part of the real BHS traffic equation.

Incomplete Response with respect to traffic circulation: The EIR also absolves itself from conducting a Congestion Management study of any type because it does not forecast the project "to generate more than 100 net new automobile trips during the pm peak hour." (Appendix C, p. 2.) While Milvia and Allston may not technically qualify as regionally significant roadways, the

City of Berkeley, as the lead agency, may still require the project sponsor to evaluate circulation, safety, and other transportation impacts on a more extensive roadway network that includes facilities that are locally, but not regionally significant.

(6) Failure to Evaluate 2211 Impact on the BHS Teacher Parking/Teacher recruitment:

Although CEQA does not require parking impacts be done for infill projects located in transit priority areas, it is highly debatable whether the concept of infill for a commercial downtown area can or should be applicable to a school zone within a down town—particularly when significant impacts to the school are also not considered in the downtown plan prepared for the area. This is the case with respect to Berkeley High and the downtown plan.

Accordingly, the Zoning Board should hold the City EIR accountable for analyzing the foreseeable significant indirect impact of the project on the parking available for BHS school faculty and staff, and the school's ability to keep and hire quality teachers in the severe absence of parking that will be caused by the project.

BHS currently has 160 parking places for approximately 280 teachers and staff. By design, 2211 Harold Way has 302 units and 171 parking spaces; In other words the project has 131 fewer spaces than apartment units. Given this parking shortfall it is foreseeable that BHS faculty and staff will be unable to find suitable nearby parking as 2211 Harold Way residents and their visitors compete for scarce street parking near the school. (Although the data points are unclear, the Parking impact study also supports a parking impact on teachers and staff. It concludes the “forecast peak period parking demand” is 414 from the apartment uses alone, and that “forecast peak period parking demand is expected to exceed proposed parking supply.”) (Appendix C, at p. 72.)

It is one thing for the City to discourage car use by residents in commercial down town area by limiting parking. It is another matter entirely to assume that teachers who cannot afford to live near Berkeley High on current salaries can also reasonably take alternate transportation to get to and from school on a daily basis.

It is therefore foreseeable that lack of parking could significantly impact the ability of BHS to keep and attract quality teachers to the school. This foreseeable outcome would be flatly inconsistent with the goals of Berkeley residents who have prioritized an interest in quality education and educational facilities. The residents of Berkeley have passed funding to enable Berkeley schools to maintain favorable teacher/student ratios and to upgrade school facilities so that students have a school environment highly conducive to learning.

In any event, the EIR also failed to examine the changes to existing (environmental) parking conditions that would occur in the affected area if the proposed project is built. (See generally, 14 Cal. Code Regs 15126.2(a); see also 14 Cal. Regs 14126.2(d).) Regardless of whether parking is considered an indirect impact as set forth above, the lack of parking also will have a cognizable and significant effect on: (1) air quality -- which is impacted as teachers will need to search for longer periods of time for parking around the school; and (2) foreseeable school facility construction in the form of necessary parking structures for faculty and staff cars. (See *El Dorado Union High School Dist. v. City of Placerville* (1983) 144 Cal. App. 3d 123.) Just as development which leads to population growth and potential school overcrowding can require the project EIR to assess project impact in terms of new classroom facilities required, project development which results in the need for construction of new school facilities in terms of teacher parking is likewise subject to EIR requirements. In fact, the Berkeley Development Plan recognizes as a possible impact, the need for new school facilities as a result of downtown development. To this end it provides that in Mitigation Measure SVC-5: “The City and the BUSD will continue to work in concert to evaluate the impacts of new development on BUSD facilities.” (http://www.ci.berkeley.ca.us/Planning_and_Development/Home/BERKELEY_DRAFT_GENERAL_PLAN_EIR_4C_Community_Services.aspx) . Had the City consulted BHS about the impact of 2211 Harold Way on BHS facilities some mitigation efforts for parking impacts could have been discussed.

- (7) **The EIR is inadequate because it has not been prepared with a sufficient degree of analysis or clarity to provide decision-makers with the information needed to make an intelligent judgment concerning all of the project’s significant environmental impacts and alternatives. (See 14 Cal. Code Regs 15151.)** T

The purpose of an EIR is to provide the public with detailed information about the effect that a proposed project is likely to have on the environment, to list the ways in which the significant effects of a project might be minimized, and to identify alternatives to the project. (Pub. Res. Code 21002, 21002.1(a), 21061, 21100, 21150; 14 Cal. Code Regs 15362.) It is designed to be an informational document for public use, and should give the public and public agencies the information they need to make informed decision. (See *In re Bay-Delta Programmatic Env’tl Impact Report Coordination Proceedings* (2008) 43 Cal.4th 1143, 1162.) An EIR should be written in a way that readers are not forced “to sift through obscure minutiae or appendices” to find important components of the analysis. (*San Joaquin Raptor Rescue Ctr. v. County of Merced* (2007) 149 Ca. App.4th 645, 659.) In addition to being vague, it is unclear that the EIR has described a reasonable range of alternatives to the project, or to its location, that could feasibly attain the project’s basic objectives while reducing or avoiding any of its significant impacts. (Pub. Res. Code 21100 (b)(4) 14 Cal Code Regs 15126.6.)

(8) Berkeley High School should be consulted in the preparation of a new EIR which considers, studies and mitigates environmental impacts upon the school

A new EIR should require that BHS be consulted as part of a meaningful assessment of the project impacts and mitigation measures.

EXHIBIT A

Response to Safety Committee from BHS Operations Manager re: EIR response of developers

On Apr 13, 2015, at 4:06 PM,

David Kirwin <davidkirwin@berkeley.net> wrote:

BHS Safety Committee,

Over the weekend I read some of the EIR for the Harrold way project and share concerns that the impact on BHS was almost completely ignored or disregarded. While my lack of time prohibits an adequate understanding of the project to allow me to have an opinion on the project itself once completed, I am looking at the impacts of construction on BHS. The noise, pollution, and traffic especially, seem to be inadequately addressed at best.

I envision there will be thousands of truck trips associated with construction of the proposed project to deliver required equipment and materials, to haul away demolition debris and the earth required to be removed for a foundation to support this project. The EIR gives no indication of the travel path of all this heavy truck traffic. If Harrold Way is closed, it seems clearly disingenuous at best for the 'Response to Comments' to suggest that there would be no significant impact to traffic at roads or intersections along the high school. If I am correct in my assumption that Harrold Way can only be accessed via Allston or Kittredge what possible path of travel for all these truck trips exists without using the intersections on Milvia next to our campus? On Milvia, from Allston to Kittredge is the BHS 'D' bldg which houses school administration, classrooms, our library, and computer center. All of these areas as well as the gym and dance rooms have windows over Milvia. Not only is noise and pollution an issue throughout the school day, but even though there is a bike lane there, the west side of Milvia is the main vehicular drop-off and pick-up zone for students and athletics. This is because it is the only curbside stretch of significance on the high school perimeter that is a no parking zone. The new M Building on Milvia between Bancroft and Durant also has 16 classrooms, 12 of which have windows opening over Milvia. Likewise the G & H Bldgs have classrooms with windows opening over MLK & Allston Way. The only street bordering BHS without classrooms that would

be directly impacted by either construction traffic, or increased traffic due to "temporary" road closures is Channing at the south end of campus.

Some of the EIR's 'Response to Comments' cite that there is a building in the path of travel of sound waves of the proposed project and the M building. Though true, this response does not adequately address the noise impact to the school as a whole, or the thousands of students trying to learn in classrooms facing the proposed project.

In the EIR's 'Response to Comments' about traffic, the respondent fails to adequately define projected traffic impacts to and from intersections bordering the BHS campus. What is actually projected, or meant by "temporary closures of Allston Way or Kittredge"? These roads between campus and Shattuck are extremely vital to the current traffic mediation pattern associated with the daily arrival and departure of close to 3,600 students, teachers, staff, and visitors. The campus is also home to Berkeley Community Theater which seats 3,400. Citing there is a TMP review process does not define the expected traffic impacts of the proposed construction, or what mitigations have been analyzed.

The EIR must, at minimum, specify project related traffic impact, including the construction period, - which roads and intersections may be restricted or closed, for what periods of time, and what months of the year; the number of expected truck trips per day during specific phases of construction, and what months this is likely to occur. From that, a general idea of noise and pollution impacts should also be approximated. Diesel trucks create indoor air pollution whether or not building windows are opened or closed. There is more noise with windows open, but even with closed windows we have had issues and complaints with vehicle exhaust being pulled in by our rooftop HVAC air handlers from even short periods of trucks idling curbside along our buildings.

In general, I wish I had adequate time to understand all the impacts this proposed project would have on the high school campus. I have to rely upon a clear concise EIR, and others to help me go through it. With the current EIR, and what I have learned from it, I have almost no idea of what to expect, or how the campus can be better prepared for it. Because of the importance of the high school to the city as a whole, please try to find adequate information on how the school, students, and staff will be affected by this Harrold Way construction proposal. Currently these important considerations are beyond my understanding.

Thank you for your time,

David Kirwin
BHS Facility & Operations Manager
1980 Allston Way
Berkeley Ca 94704
510 644-4567

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Save the Shattuck, please!

From: SavingShattuck Cinemas [<mailto:savingshattuck@gmail.com>]
Sent: Friday, April 24, 2015 1:24 AM
To: Berkeley Mayor's Office; Maio, Linda; Moore, Darryl; Anderson, Maxwell; Arreguin, Jesse L.; Capitelli, Laurie; Wengraf, Susan; Worthington, Kriss; Droste, Lori; City Clerk; Zoning Adjustments Board (ZAB); SavingShattuck Cinemas
Subject: Fwd: Save the Shattuck, please!

This email from the Albany community member is addressed to the Mayor and City Council.

----- Forwarded message -----

From: drew todd <drewbug1@hotmail.com>
Date: Thu, Apr 23, 2015 at 8:37 PM
Subject: Save the Shattuck, please!
To: drew todd <drewbug1@hotmail.com>
Cc: "savingshattuck@gmail.com" <savingshattuck@gmail.com>

Dear Berkeley Mayor and City Council:

My family and I live in nearby Albany, but we frequently visit downtown Berkeley, spending both time and money there. About three or four venues attract us to your downtown with regularity, none more so than the Shattuck Landmark theater complex. We've lived in cities big and small, and never before have we been so fond of a movie theater.

The selection of movies -- from absolute art films that are not intended to make profits to a broad array of foreign titles to reissues of classic films -- inspires us to keep coming back. The staff is incredibly friendly and committed -- and I understand that Landmark offers relatively good benefits to its employees. Typically we dine out in the area and/or grab a drink afterwards, none of which would happen in your downtown were the Shattuck shut down.

We are very concerned about this development and so we urge you to keep the Shattuck Cinemas right where it is for the great benefit of Berkeley and the surrounding communities.

Thank you.

Drew Todd and family

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: In defense of the Shattuck Theater

From: Janet King [<mailto:j.a.king@sbcglobal.net>]
Sent: Saturday, April 25, 2015 6:20 PM
To: Zoning Adjustments Board (ZAB)
Cc: All Council
Subject: In defense of the Shattuck Theater

As a long-time Berkeley resident (I moved here in 1969 to attend CAL and never left!), I strongly object to the plan to demolish the Landmark Shattuck Theatre as part of the development plan for 2211 Harold Way. I also request a special Berkeley City Council meeting to address this project. The proposed project, construction of an 18 story tower with 302 "market rate" condominiums, would forever alter the character and relevance of our blooming and vibrant downtown cultural center.

This architecturally superb theatre, which I still think of as "The Hinks Building," is a central gem of the Berkeley Arts District and draws people from all around the Bay Area. The Shattuck is unique, in that it shows documentaries, indies, and top foreign films.

Public comment on this project has been rushed through without adequate notice or public input. Sadly, in the past several years (beginning with The Rialto on Gilman Street) 7 movie theaters have closed in Berkeley, once a haven for cinema.

I do plan to attend the special City Council session on May 5th.

Sincerely,
Janet King
1116 Walnut St.
Berkeley

From: Zoning Adjustments Board (ZAB)
Subject: FW: 2211 Harold Way Mixed-use building plan

From: Patricia Donnelly [<mailto:pidonnelly@gmail.com>]
Sent: Monday, April 27, 2015 2:47 PM
To: Zoning Adjustments Board (ZAB)
Cc: Moore, Darryl
Subject: 2211 Harold Way Mixed-use building plan

To Whom It May Concern -

I am a Berkeley resident who works at UC Berkeley. Today I read in The Daily Californian about the plan for a mixed-use building at 2211 Harold Way.

PLEASE DO NOT APPROVE THIS PLAN!

Aside from the proposed height of the building that will surely obscure views of the Bay from UC Berkeley, there are many reasons to oppose any such plan.

- Does anyone really believe that building these 302 residential units will lower rents in Berkeley? Those days are over.

- We already have the Shattuck Cinemas. So the new cinema complex is not going to necessarily draw any more consumers. We can already see that businesses have trouble surviving in downtown Berkeley. What makes anyone think the 10,000 square feet of commercial space will be occupied?

- Parking. 302 residential units, most of which will have more than one occupant (because rents will still be high) means 171 parking spaces is not enough even for the residents of the building. So where are all the consumers of the cinema and 10,000 square feet of commercial space going to park? If you have ever attempted to go to the nearby Berkeley Public Library, the YMCA or the CoB Permit Office, you will know how difficult it is to find a parking space.

Please don't visit this horror on us. Focus on helping businesses afford the commercial rent spaces on Shattuck. Focus on finding ways to extend the hours of the Berkeley Public Library. Focus on finding ways to support Berkeley High School. Please don't build this monstrosity.

Thanks -

Patricia I. Donnelly
pidonnelly@gmail.com
1318 Derby Street
Berkeley, CA 94702

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Please Save Shattuck Cinemas and Habitot

From: Daniel Barash [<mailto:danielbarash2020@yahoo.com>]
Sent: Tuesday, April 28, 2015 9:43 PM
To: Zoning Adjustments Board (ZAB); All Council
Subject: Please Save Shattuck Cinemas and Habitot

Please do not support any development effort that could jeopardize Shattuck Cinemas and Habitot. Both are very important cultural resources for my family. If a mixed use housing project could be built that would accommodate both of these businesses, I would support this. But displacing these two Berkeley institutions is not healthy for the cultural vitality of Downtown Berkeley.

Respectfully yours,

Daniel Barash

Daniel Barash
Director
The Shadow Puppet Workshop
2226 Sacramento Street
Berkeley, CA 94702
Phone: 301.646.3231
Email: info@shadowpuppetworkshop.com
Website: <http://www.shadowpuppetworkshop.com>

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 2211 Harold Way

From: Charlene Woodcock [<mailto:charlene@woodynet.net>]
Sent: Sunday, May 03, 2015 9:14 PM
To: Zoning Adjustments Board (ZAB)
Subject: 2211 Harold Way

To: Members of the Berkeley Zoning Adjustments Board

From: Charlene M. Woodcock

Re: Problems with the EIR for 2211 Harold Way/Residences at Berkeley Plaza

The revised EIR for this huge building fails to address the impact of its construction and use on the 3000-student population of Berkeley High School, its teachers, and staff, as it must do given its location within the school zone. It would tower over the Public Library, the Post Office, the YMCA, and be within the school zone of Berkeley High School. It is totally out of scale with Berkeley's historic core. Its construction over a 2-4 year period would hinder access to downtown Berkeley, close sidewalks, remove parking spaces, intensify the already-congested traffic in downtown, and create noise and pollution during its construction that doubtless would exceed levels permitted within a school zone. It would add significant density to the downtown population without providing the inclusionary housing needed in Berkeley. This project would also harm the broader community, since it would demolish two thriving cultural resources, the Shattuck Cinemas and the Habitot Childrens' Museum.

I request that the Zoning Adjustments Board delay the vote on the revised EIR for 2211 Harold Way until the School Board has put the matter on its agenda, reviewed the EIR, scheduled public discussion, and heard from the BHS Safety Committee about the significant impact the construction and future presence of a 194-foot tall building housing 302 units would have on Berkeley High School and Washington Elementary School.

Thank you.

Charlene M. Woodcock
2355 Virginia St.
Berkeley 94709

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Serious concerns about 2211 Harold Way EIR

From: Erin Diehm [<mailto:erindiehm@hotmail.com>]
Sent: Sunday, May 03, 2015 9:34 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg
Cc: sustainableberkeleycoalition@gmail.com
Subject: Serious concerns about 2211 Harold Way EIR

May 3, 2015

Dear Berkeley Zoning Adjustment Board,

As a Berkeley resident, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before before the Final EIR is certified and the project approved.

Sincerely,
Erin Diehm
erindiehm@hotmail.com
857-472-1953 (m)

From: Zoning Adjustments Board (ZAB)
Subject: FW: Harold Way EIR

From: Tree Fitzpatrick [<mailto:tree.fitzpatrick@gmail.com>]
Sent: Sunday, May 03, 2015 8:37 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg; sustainableberkeleycoalition
Subject: Harold Way EIR

As a Berkeley resident, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in its analysis of the city infrastructure and emergency services, such as how this building would impact water/sewage/traffic/fire-engines, as just a few examples.

The Harold Way proposed EIR is significantly deficient in addressing the health safety and welfare of Berkeley High School Students, teachers and other staff. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before before the Final EIR is certified and the project approved.

The proposed Harold Way EIR does not address any environmental impact to people who actually live even closer to this proposed building than the high school. I, for example, live closer to the proposed building than Berkeley high's distance from the proposed building. There is no mention in the entire EIR of the residents who live within a block of the proposed building. To list only some apartments within a block of the Harold Way proposed building: Gaia Building, Library Gardens, Oxford Plaza, apartments over stores on Shattuck across the street from the Shattuck Hotel and kitty corner (there are apartments above both buildings on the corner of Kittredge and Shattuck, closer to this building than the h.s. There is absolutely no discussion of the impact on the human beings who already live within a block of this proposed building. If the high school community merits the ZAB's closer scrutiny of the EIRs insufficient mitigation of impact, surely the humans who live within one block of the project also deserve careful attention in the EIR.

I don't know how many people who live within one block of this proposed building but I venture to guess it is far more than the BHS community of 3,000.

Thank you for your attention.

Sincerely,
Tree Fitzpatrick, JD, MS.
2175 Kittredge St, Apt 615
Berkeley, CA 94704

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Final EIR of 2211 Harold Way

From: Donald Goldmacher [<mailto:donald.goldmacher@gmail.com>]
Sent: Sunday, May 03, 2015 8:32 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg
Cc: sustainableberkeleycoalition@gmail.com
Subject: Final EIR of 2211 Harold Way

To the Zoning Adjustment Board

As a Berkeley resident, I am very concerned that the 2211 Harold Way Final EIR is critically deficient in addressing the health, safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before the Final EIR is certified and the project approved.

Donald Goldmacher
donald.goldmacher@gmail.com

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: EIR Certification

From: Kelly Hammargren [<mailto:kellyhammargren@gmail.com>]
Sent: Sunday, May 03, 2015 11:04 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg; sustainableberkeleycoalition@gmail.com
Subject: EIR Certification

To the Zoning Adjustment Board,

As a Berkeley resident, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before before the Final EIR is certified and the project approved.

From: Zoning Adjustments Board (ZAB)
Subject: FW: Impact of 2211 Harold

From: JJ [<mailto:jai@mightysmallfilms.com>]
Sent: Sunday, May 03, 2015 8:19 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg; sustainableberkeleycoalition@gmail.com
Subject: Impact of 2211 Harold

As a Berkeley resident, homeowner & local native, I urge the School Board to contact the Zoning Adjustment Board and request that the Zoning Adjustment Board delay a vote on the EIR for 2211 Harold Way project that is situated in a school zone until the School Board can put the matter on its agenda, review the EIR, and hear from the community and the BHS Safety Committee regarding the significant impact of that Project on Berkeley High School and Washington Elementary School.

This project will put yet more pressure on local students and families, and will be an additional drain on limited water resources (particularly during the long demolition and construction) and other services, is outsized at 18 stories (five stories is the limit to achieve net-zero green), is too close to earthquake faults, will cut sunshine to nearby buildings & residents, and eliminates a well loved & utilized theater that hosts film festivals and other community events, as well as screens foreign and independent films beneficial to students learning & culture. More luxury housing is not needed and will be detrimental to Berkeley, raising rents on both commercial & residential spaces.

The Berkeley Fire Department has yet to deal with highrises of the proposed size of 2211 Harold. Who will pay for the extra training, equipment and taller fire truck aerals needed to respond to fires and emergencies in this and other proposed highrises? 2211 Harold's size is five times higher than other downtown or UC buildings.

Best Regards,

JJ Noire
1711 Channing Way
Berkeley, CA

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Final EIR of 2211 Harold Way needs to address the safety of Berkeley High School students

-----Original Message-----

From: Judy [<mailto:lupine15@gmail.com>]

Sent: Sunday, May 03, 2015 9:52 PM

To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg;

sustainableberkeleycoalition@gmail.com

Cc: sustainableberkeleycoalition@gmail.com

Subject: Final EIR of 2211 Harold Way needs to address the safety of Berkeley High School students

To the Zoning Adjustment Board:

The 2211 Harold Way EIR is critically deficient in addressing the health, safety and welfare of Berkeley High School Students. Berkeley High serves over 3000 students from the City of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and is located in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School. Please consult with the BHS Safety Committee, and with Facilities and Operations before before the Final EIR is certified and the project is approved.

Thank you,

Judy Schwartz

From: Zoning Adjustments Board (ZAB)
Subject: FW: REGARDING 2211 HAROLD WAY

From: margots999@aol.com [<mailto:margots999@aol.com>]
Sent: Sunday, May 03, 2015 9:32 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg; sustainableberkeleycoalition@gmail.com
Subject: REGARDING 2211 HAROLD WAY

As a Berkeley resident, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before before the Final EIR is certified and the project approved.

Margot Smith
1300 A SHATTUCK AVE
BERKELEY 94709
510-486-8010
margots999@aol.com

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Comment on 2211 Harold Way EIR

From: Deb Mathieu [<mailto:suedewheels@hotmail.com>]
Sent: Sunday, May 03, 2015 9:29 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg
Subject: Comment on 2211 Harold Way EIR

As a Berkeley resident, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before before the Final EIR is certified and the project approved.

Sincerely,

Deborah A Mathieu

From: Zoning Adjustments Board (ZAB)
Subject: FW: Giant high rise planned for 2211 Harold Way right next to BHS

From: James Mcfadden [<mailto:jpmcfadden925@yahoo.com>]
Sent: Sunday, May 03, 2015 9:06 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg
Cc: sustainableberkeleycoalition@gmail.com
Subject: Fw: Giant high rise planned for 2211 Harold Way right next to BHS

Zoning Adjustment Board,

The below email was sent to the Berkeley School Board and concerns the impact of the planned massive high rise construction at 2211 Harold Way on the safety and learning environment of our children at Berkeley High School. This construction is in a school zone and will directly impact the students and teachers at BHS. How can you possibly allow construction to proceed with out an EIR that addresses our children's safety?

Dr. James McFadden

----- Forwarded Message -----

From: James Mcfadden <jpmcfadden925@yahoo.com>
To: "judyappel@berkeley.net" <judyappel@berkeley.net>; "BeatrizLeyvaCutler@berkeley.net" <BeatrizLeyvaCutler@berkeley.net>; "karenhemphill@comcast.net" <karenhemphill@comcast.net>; "tyalper@berkeley.net" <tyalper@berkeley.net>; "joshdaniels@berkeley.net" <joshdaniels@berkeley.net>; "jessebarber@students.berkeley.net" <jessebarber@students.berkeley.net>; "carloskuceja@students.berkeley.net" <carloskuceja@students.berkeley.net>; "boardofed@berkeley.net" <boardofed@berkeley.net>
Cc: "sustainableberkeleycoalition@gmail.com" <sustainableberkeleycoalition@gmail.com>
Sent: Sunday, May 3, 2015 8:39 PM
Subject: Giant high rise planned for 2211 Harold Way right next to BHS

Dear Berkeley School Board,

As a father of a BHS sophmore (and Berkeley resident) I was shocked to learn that a giant 18 story high rise was being planned within hundreds of feet of BHS and that no one at the ZAB had considered the impact on BHS students or teachers. There is nothing in this project's environmental impact report (EIR) to address this massive construction in a school zone. The noise generated during construction, the dust generated during construction, the disruption of traffic and parking during construction, the restricted access to the library, but most of all the threats to student safety from massive truck traffic transporting construction materials - none of this was considered in the EIR. This monster construction is in a school zone and therefore student safety must be considered. It's the School Board's responsibility to identify and mitigate these threats to our children's safety and learning environment. How is BHS going to deal will all the construction noise? Is the School Board planning on allocating money to deal with safety? What will be done about the health hazards from our children breathing the dust from building demolition and construction? The School Board needs to get on top of this ASAP. You need to contact the ZAB and make sure that our concerns, which revolve around our children's safety and learning environment, are addressed. I frankly don't know how such massive construction is in any way compatible with school zone safety. Please slow this process down. Please put our children ahead of developer's profits. Please contact the ZAB now!

Dr. James McFadden

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Final EIR of 2211 Harold Way needs to address the safety of Berkeley High School students

From: rod miller [<mailto:j3rp21@gmail.com>]
Sent: Sunday, May 03, 2015 10:29 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg; sustainableberkeleycoalition@gmail.com
Subject: Final EIR of 2211 Harold Way needs to address the safety of Berkeley High School students

To the Zoning Adjustment Board:

The 2211 Harold Way EIR is critically deficient in addressing the health, safety and welfare of Berkeley High School Students. Berkeley High serves over 3000 students from the City of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and is located in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School. Please consult with the BHS Safety Committee, and with Facilities and Operations before the Final EIR is certified and the project is approved.

Thank you,

Rod Miller

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 2211 Harold Way

From: Charlene Woodcock [<mailto:charlene@woodynet.net>]

Sent: Sunday, May 03, 2015 10:29 AM

To: Berkeley Mayor's Office; Maio, Linda; Moore, Darryl; Anderson, Maxwell; Arreguin, Jesse L.; Capitelli, Laurie; Wengraf, Susan; Worthington, Kriss; Droste, Lori; City Clerk; Zoning Adjustments Board (ZAB); Zarnowitz, Sally; Burns, Anne M; Powell, Greg; Allen, Shannon; Jacob, Melinda; Merker, Mary Ann; Amoroso, Alexander

Cc: Keith Johnson

Subject: 2211 Harold Way

To: elected and appointed members and staff of Berkeley city government

I write as longtime resident of Berkeley who values, in addition to the racial, cultural, and economic diversity which has enriched the city, the now-diminishing opportunities to see great world films that the Northside theaters, UC Theatre, Act I & Act II, the Fine Arts Theater, and Pauline Kael's Berkeley Cinema Guild afforded us in the past. Most recently we lost the Fine Arts theater, due to the broken promise of the developer of the Fine Arts Building.

It should be mandatory that any elected or appointed city official who will vote on the question of permitting a Los Angeles developer, with the assistance of former City Planning Manager Mark Rhoades, to demolish the Shattuck Cinemas, should tour the 10-screen Shattuck Avenue theater. Besides 10 other films, the Shattuck Cinemas are currently showing *The Salt of the Earth*, a beautifully-made documentary film by Wim Wenders and Juliano Ribeiro Salgado that provides a view of the magnificent life work of the great photographer Sebastião Salgado. This film is being shown nowhere else in Berkeley or the East Bay. Anyone who sees this film cannot fail to appreciate the immense value of this cinematic experience. There is no way to match it on the small screens used for home viewing of movies.

Such films are brought to us by the Shattuck Cinemas in their ten screening rooms of varying sizes that accommodate viewers of widely popular films as well as the more obscure ones we would not otherwise have the opportunity to see. The Egyptian Revival and Moorish screening rooms were beautifully designed by architect William Simpson in 1988, the inspiration of Allen Michaan who owns the Grand Lake Theatre, to recall the detailed ornament and exoticism of the movie palaces of the 1920s. It is unthinkable to the thousands of Berkeley residents and many others who treasure the Shattuck Cinemas, that our own elected representatives would approve their destruction.

Please do your due diligence before voting on this very significant proposal to destroy one of the cultural and economic magnets to our downtown.

Sincerely,

Charlene M. Woodcock
2355 Virginia Street
Berkeley 94709





photos by Bill Woodcock

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Students should be heard on development

From: John Iversen [<mailto:johniversen94702@yahoo.com>]
Sent: Monday, May 04, 2015 1:06 AM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg; sustainableberkeleycoalition@gmail.com
Subject: Students should be heard on development

As a Berkeley resident, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before the Final EIR is certified and the project approved.

I am wondering if everyone has Sam Zell's interest at heart or the residents of Berkeley?

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 2211 Harold Way

From: Leslie Fields [<mailto:juefields@gmail.com>]
Sent: Monday, May 04, 2015 7:12 AM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg
Cc: sustainableberkeleycoalition@gmail.com
Subject: 2211 Harold Way

To the Zoning Adjustment Board,

As a Berkeley resident and parent of a Berkeley High student, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before the Final EIR is certified and the project approved.

Sincerely,

Leslie Fields

Subject: FW: EIR and water issues for downtown projects

From: Skjerping, Lars
Sent: Monday, May 04, 2015 4:17 PM
To: Allen, Shannon
Subject: Fwd: EIR and water issues for downtown projects

Please include in public comment record regarding 2211 Harold Way. Thank you.

On May 3, 2015, at 12:09 PM, "Barbara Rydlander" <arthistoryvista@yahoo.com> wrote:

Hello,

I would like to address the concerns of water, sewage pipes, and water delivery to these downtown projects. No one was able to respond to my inquiry at the meeting which I attended last month. It seems to me that this impact should be included in the EIR and specifically from the developers. The shortage which we are now experiencing is absolutely critical in any long range planning since this drought could persist for several more seasons or it could be a new permanent reality. The city has an aging sewer system. How will it accommodate the hundreds of new residents who will be occupying these new units, not only in the downtown area, but also current proposals for other locations? If it is not part of the mandated information to comply with the EIR, it certainly should be since water has now become a most valuable resource and one which must be addressed in any long-range proposal.

Barbara Rydlander

A concerned resident and property owner

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 2211 Harold Way Final EIR

From: Bhuma Subramaniam [<mailto:bhumas@yahoo.com>]
Sent: Monday, May 04, 2015 8:18 AM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg
Cc: sustainableberkeleycoalition@gmail.com
Subject: 2211 Harold Way Final EIR

To the Zoning Adjustment Board

As a Berkeley resident, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before before the Final EIR is certified and the project approved.

Thank you for your time.

Sincerely,

Bhuma Subramaniam

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: Further study is needed regarding 2211 Harold Way -- please delay approval!

From: Christina Tuccillo [<mailto:christina.tuccillo@gmail.com>]
Sent: Monday, May 04, 2015 11:52 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg; sustainableberkeleycoalition@gmail.com
Subject: Further study is needed regarding 2211 Harold Way -- please delay approval!

hello everyone --

As a Berkeley resident and parent of a child who will be a Berkeley High School student not too long from now, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health, safety, and welfare of Berkeley High School students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to, the BHS Safety Committee and Facilities and Operations before the final EIR is certified and the project approved.

I want to say in particular that my son has asthma, and he reacts negatively to particulate matter in the air. Chalk dust is a problem for him. I hate to think what a lot of construction dust could do to his health.

Please make sure to study all the possible impacts before this project goes any further.

Thank you!

Christina Tuccillo



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Northern Alameda County Group

(Alameda-Albany-Berkeley-Emeryville-Oakland-Piedmont-San Leandro)
2530 San Pablo Avenue, Suite I, Berkeley, CA 94702
510-848-0800 (voice) • 510-848-3383 (fax)

April 6, 2015

Mayor Tom Bates and Members of the Berkeley City Council
Members of the City of Berkeley Zoning Adjustments Board
City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

Re: Significant Community Benefits for Buildings Over 75 Feet

We appreciate the opportunity to comment on Significant Community Benefits for Buildings Over 75 Feet in Berkeley.

The Sierra Club has supported the City of Berkeley's efforts to up-zone the Downtown to allow for more Transit Oriented Development. We have also consistently and enthusiastically advocated for new projects to provide Community Benefits that improve environmental sustainability and livability for all residents.

At this time, as the City Council and Zoning Adjustments Board (ZAB) are establishing a framework for determining the quantity, quality, and nature of Significant Community Benefits required of the five allowed high-rise buildings in Berkeley's Downtown, we wish to express our support for the following framework and benefits.

Levy Benefits "Beyond What Would Otherwise be Required"

The finding required in Section 23E.68.090E of the Berkeley Municipal Code (BMC) clearly states that the Significant Community Benefits required of the five buildings over 75 feet must be "*beyond what would otherwise be required by the City.*" We urge the City Council and ZAB to clarify that these Significant Benefits must be above and beyond the inherent benefits of new development and housing and beyond:

- The benefits already required by the Berkeley Municipal Code, either within the C-DMU provisions, or in provisions that apply City-wide, including the existing "fee-or-10% build" Affordable Housing requirement;
- Benefits which may arise from other applicable laws and statutes, such as the Statewide Density Bonus laws; and
- Benefits which are customarily required of new developments, either by the Planning Department or ZAB, such as electric vehicle charging stations, transit passes, car-share, bicycle parking, and other routinely required benefits.

With regard to construction workers, the Sierra Club does not believe that payment of prevailing wages should be considered in and of itself a "significant community benefit," as payment of such wages reflects community standards, values, and expectations. **A project labor agreement in combination with local hire and apprentice labor programs *could* be**

considered a significant benefit.

Define and Measure “Significant” Community Benefits

In addition to ensuring that inherent, already required, standard, and customary benefits of developments not be counted towards the Significant Community Benefits requirement of Berkeley Municipal Code Section 23E.68.090E, we urge the Council and ZAB to adopt the most comprehensive measures of what constitutes “significant” community benefits, both in monetary terms, and in their size, permanence/longevity, and positive impact to the Berkeley community and to the environment.

When the City of Berkeley enabled the building of five high-rises in the Downtown, the parcels selected for this increased development were endowed with significantly increased potential for profits. In addition, limiting the number of high-rises to a total of five in the entire Downtown area provides each development with a virtually exclusive right to the views and other significant monetary benefits of being one of only a handful of high-rises in a low-to-mid-rise built environment. Finally, in the Bay Area’s hot real estate market, new (and sometimes merely “newly permitted”) developments are sold to investors at huge premiums. These and other measures of value should be considered by the Council and ZAB when determining the capacity of the five high-rise developments to deliver Significant Community Benefits, such that the community recaptures its fair share of the value the property owners were given in the form of increased and exclusive development potential, and the benefits of high market demand.

When considering what will constitute “significant” community benefits, in addition to adopting a broad measure of a project’s monetary capacity to fund benefits while still remaining viable, the Council and ZAB should also consider the long-term value and impact of each benefit to the local community. To facilitate this determination, the Sierra Club urges the Council and ZAB to engage in outreach to citizens and to community, social services and neighborhood organizations, and provide multiple forums for community and stakeholder input. With that input, categories and qualities of desired benefits can be identified, providing the necessary framework for the City to draw from in tailoring appropriate packages of significant community benefits for each high-rise project. To that end, we hope that the April 7 Council discussion marks the beginning of a more robust community and stakeholder input process.

Consider Sierra Club Significant Community Benefit Priorities

The Sierra Club would like to express strong support for the following environmental and transit benefits, which we believe will confer measurable and long-term benefits to the environment and the community:

- A robust Transportation Services Fee (the Sierra Club has previously gone on record in support of this fee, and for all programs supported by this fee to benefit alternatives to single-occupant vehicles).
- Additional fees to fund the Streets and Open Space Improvement Plan (SOSIP), for which the Sierra Club has also previously expressed support. Unfortunately, the SOSIP does not have an adequate financing plan, and existing impact fees are insufficiently set far below the nexus study’s recommended levels. The City may find that SOSIP implementation will have extraordinary benefit for these five downtown buildings, each with the most proximate access to BART and the downtown Core, and potentially higher demands for pedestrian and open space.

- State-of-the-art sustainable building practices, including but not limited to Zero Net Energy, LEED Platinum, and/or other markers of the most progressive sustainable building practices available, to establish and demonstrate the lowest environmental impact that is feasible for buildings.

In addition to these environmental benefits, **the Sierra Club is extremely supportive of including additional affordable housing** in high-rise developments, beyond what is already required by the BMC. **The Sierra Club maintains a longstanding policy in support of a minimum of 20% affordable housing, with a significant amount built on-site or within the Downtown Area.** This policy was articulated during the formation of the Berkeley Downtown Area Plan and was central to the Sierra Club's support for 2010 Measure R. Achievement of the goal of 20% Affordable Housing is one of the Sierra Club's top priorities for Significant Community Benefits. Locating affordable housing in the Downtown Area is of environmental concern to ensure a balanced jobs-housing fit in a high-quality transit area.

Finally, the Sierra Club is also supportive of other Significant Community Benefits including, but not limited to (not in order of preference):

- Services/facilities for the homeless, disabled, elderly, youth and/or other vulnerable populations
- Enhanced parks and streetscapes/public spaces (via SOSIP or other efforts), such as funding for the pedestrianization of Center Street
- Historic preservation
- Project labor agreements *in combination with* local hire and apprentice labor programs
- Universal access units and family-sized housing
- Funds and facilities for arts and culture
- Community meeting spaces
- Public restrooms
- Secure bicycle parking for public use
- Funding or building green infrastructure projects

We look forward to continuing to work closely with you to establish a framework and categories for Significant Community Benefits that reflect community and Sierra Club priorities.

Sincerely,



Olga Bolotina
Chair
Sierra Club Northern Alameda County Group

From: Zoning Adjustments Board (ZAB)
Subject: FW: 2211 Harold Way Final EIR

-----Original Message-----

From: Eileen Cohen [<mailto:eftc@pacbell.net>]
Sent: Tuesday, May 05, 2015 12:22 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg
Subject: 2211 Harold Way Final EIR

*To the Berkeley Zoning Adjustment Board:

*As a Berkeley resident, I am very concerned. The 2211 Harold Way Final EIR is critically deficient in addressing the health, safety, and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school, serving more than 3,000 students from across all Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to, the BHS Safety Committee and Facilities and Operations before the Final EIR is certified and the project approved.

Thank you.

Eileen Cohen
2162 N. Valley St.
Berkeley 94702

From: Zoning Adjustments Board (ZAB)
Subject: FW: Pls delay vote on 2211 Harold Wy EIR until BHS et al have thoroughly studied the impacts and weighed in

From: Phoebe Anne Sorgen [<mailto:phoebes0@earthlink.net>]
Sent: Tuesday, May 05, 2015 2:18 AM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg
Subject: Pls delay vote on 2211 Harold Wy EIR until BHS et al have thoroughly studied the impacts and weighed in

Esteemed ZAB members:

My housemate's child is a student at Washington Elementary School. My son is a proud graduate of BHS, class of 2008, and my stepdaughter graduated from Berkeley High in 1989.

I am writing to urge you to delay voting on the EIR for the 2211 Harold Way project until the School Board reviews the EIR, considers community public comment, gets input from the BHS Safety Committee etc, and weighs in. The project will significantly impact Berkeley High School as well as Washington Elementary School, so you need their input, yet the Final EIR is critically deficient in addressing the health safety and welfare of Washington and Berkeley High School students. Berkeley High School is our only public high school and serves over 3000 students from throughout the city. The 2211 Harold Way project is only 400 feet from Berkeley High School, so it is in the school zone. All impacts on Berkeley High School must be specifically addressed and adequately mitigated in consultation with Berkeley High School including, but not limited to, the BHS Safety Committee and Facilities and Operations, before the Final EIR can be certified and the project approved.

Thank you for your service and for considering my request. I look forward to a response.

Sincerely,

Phoebe Sorgen

ps With Mothers' Day approaching, please indulge this proud mom. For your pleasure, if you have 3 minutes, here's my son's 1st music video filmed at BHS, directed by my stepdaughter:

http://www.youtube.com/watch?v=Mjz_sRjp-8U

Jacob, Melinda

From: Zoning Adjustments Board (ZAB)
Subject: FW: 2211 Harold Way

From: Ying Lee [<mailto:ying@ying-lee.org>]
Sent: Tuesday, May 05, 2015 2:21 PM
To: Zoning Adjustments Board (ZAB); Allen, Shannon; Powell, Greg
Subject: 2211 Harold Way

Dear Zoning Adjustment Board Members,

I've been a Berkeley resident since 1951 and a retired teacher from the Berkeley Unified School District. I am writing regarding the planned development at 2211 Harold Way. The Final EIR is critically deficient in addressing the health, safety and welfare of Berkeley High School Students. Berkeley High School is Berkeley's only high school serving over 3000 students from across all of Berkeley. The 2211 Harold Way project is only 400 feet from Berkeley High School and in the school zone. All impacts on Berkeley High School must be specifically addressed and mitigated in consultation with Berkeley High School including, but not limited to the BHS Safety Committee and Facilities and Operations before before the Final EIR is certified and the project approved.

Thank you,

Ying Lee

ying@ying-lee.org
2047 Berryman Street
Berkeley, CA 94709
510-559-8189
510-326-1276 (cell)