

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

FOR BOARD ACTION
NOVEMBER 12, 2015

2711 SHATTUCK AVENUE

Use Permit Modification #ZP2015-0206 to approved Use Permit (#09- 1000077), as modified pursuant to #ZP2014-0021 to change the use of an approved four-story residential building from 22 residential hotel rooms to 22 studio apartments with 2 BMR units, and to allow a parking waiver.

I. Background

A. Land Use Designations:

- General Plan: AC (Avenue Commercial)
- Zoning: C-SA (Commercial - South Area)

B. Zoning Permits Required in 2015

- Use Permit, per §23B.56.020 to modify the Use Permit granted under §23E.52.030 of the Zoning Ordinance by changing the approved use from residential hotel units to dwelling units;
- Use Permit, per §23E.52.070 E to allow a parking waiver increase from 5 spaces to 22-10 spaces.

C. Zoning Permits Approved in 2014:

- Use Permit, per section 23B.56.020, to modify an approved use permit, expanding the building footprint and increasing the floor area.

D. Zoning Permits Approved in 2010:

- Use Permit, under §23E.04.020.C of the Zoning Ordinance, to allow architectural features to exceed the height limit;
- Use Permit, under §23E.52.030 of the Zoning Ordinance, to create a residential hotel building;
- Use Permit, under §23E.52.030 and §23E.52.050 of the Zoning Ordinance, to construct a building with greater than 3,000 square feet gross floor area; and
- Use Permit, under §23E.52.070.D.7 of the Zoning Ordinance, to modify setback, lot coverage and parking.

C. CEQA Determination: Categorically exempt pursuant to Section 15332 of the CEQA Guidelines ("Infill").

D. Parties Involved:

- Cara Houser, Panoramic Interests, 2116 Allston Way, Suite 1, Berkeley, CA 94704

Figure 1: Vicinity Map

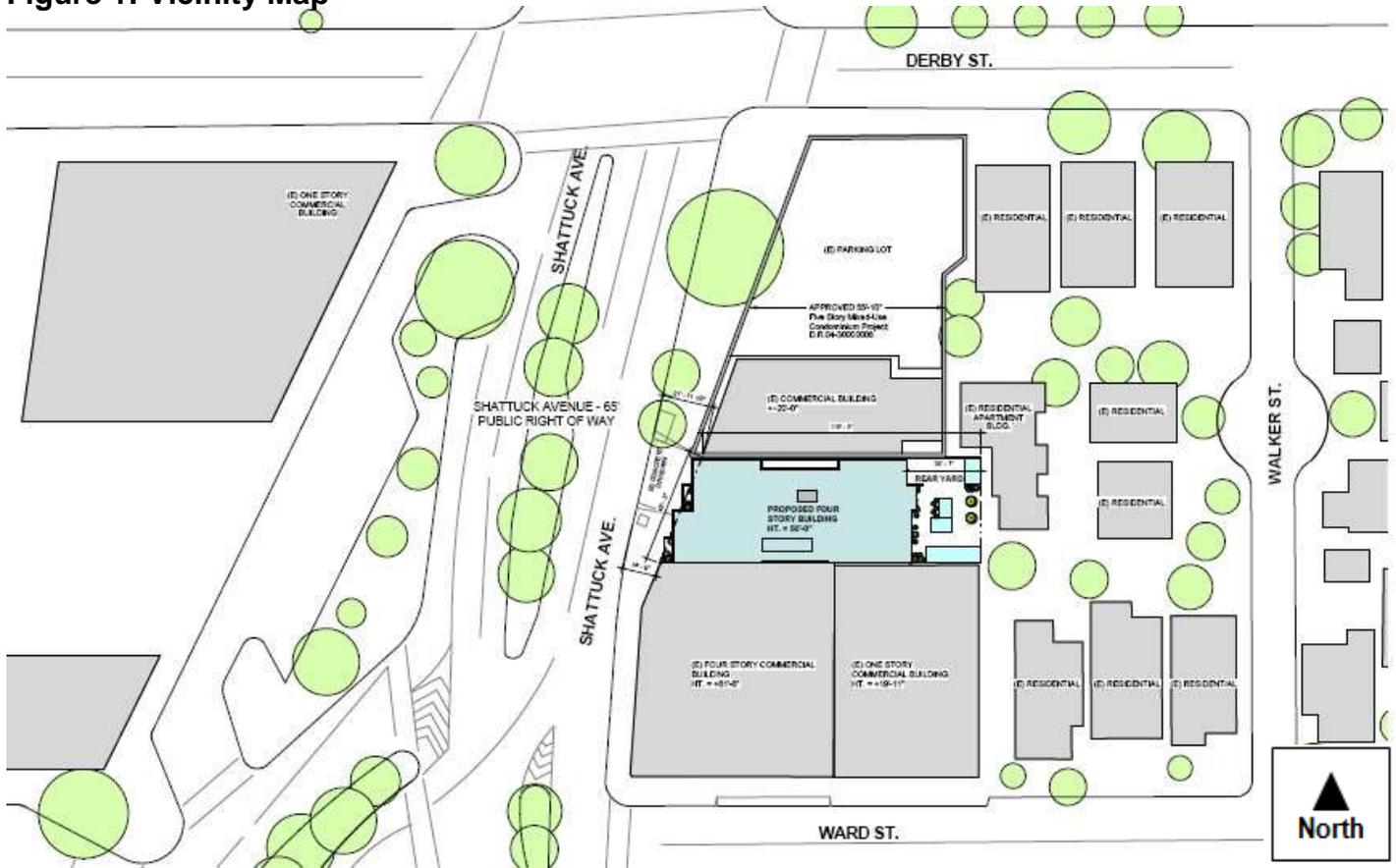


Figure 2: Site & Ground Floor Plan



Table 1: Land Use Information

Location		Existing Uses	Zoning District	General Plan Designation
Subject Property		Commercial: Parking Lot	C-SA	Avenue Commercial
Surrounding Properties	North	Commercial: Former Auto Dealer	C-SA	Avenue Commercial
	South	Commercial: UC Storage	C-SA	Avenue Commercial
	East	Multi-Family Residential	R-2	Low-Medium Density Residential
	West	Commercial: Auto Dealer	C-SA	Avenue Commercial

Table 2: Special Characteristics

Characteristic	Explanation
Alcohol Use	No.
Bike Planning	The City's Bike Plan designated Milvia Street (1 block to the west) and Russell Street (3 blocks to the south) as Bike Priority Streets; Adeline Street has a dedicated bike lane.
City Carshare	The existing onsite Carshare pod will be retained onsite.
Creek Buffer	The City's Creek Ordinance applies to a portion of Derby Creek located in a culvert approximately 700' west of the site.
CGS Hazards:	No
Density Bonus	N/A
Environmental Management Area	To address potential issues relating to the quality of the soil, the standard conditions of approval for infill development will apply to this project.
Flood Zone	Site is not located in an area of special flood hazard (>100Yr reoccurrence).
Historic Resources	There are no locally designated historic resources within a 300' radius.
Noise	The site is located within an area that has existing noise levels which require special design considerations for residential uses to comply with the noise levels established by the City's General Plan. To address issues relating to noise, the standard conditions of approval for infill development will apply to this project.
Oak Trees	No Coast Live Oak Trees were observed during a site visit.
RPP	Most of the surrounding neighborhoods participate in the City's Residential Preferred Parking program.
Transit	AC Transit: F & 800 Transbay and the 18 Local serve the site. BART: The Ashby Berkeley station is within ½ mile of the site.

Table 3: Project Chronology

Date	Action
February 25, 2010	ZAB hearing: Approval of Use Permit #09-10000077 to construct a residential building with 22 residential hotel rooms within a 8,821 square foot, four-story, residential building with no off-street parking spaces.
September 9, 2014	Application to modify Use Permit #09-10000077 submitted
October 16, 2014	Design Review Committee: Preliminary Design Review
November 20, 2014	Design Review Committee: Favorable Recommendation to the ZAB
December 11, 2014	ZAB approves Use Permit #09-10000077 to expand the building footprint by 8-feet and to increase the floor area by 1,278 sq. ft.
October-November 12, 2015	ZAB hearing on this application

Table 4: Development Standards

Standard BMC Sections 23E.52.070-080 & 23D.40.070-080		Approved Project (Including 2014 Modifications)	Proposed Project (2015)	Permitted/ Required
Lot Area (sq. ft.)		5,674	5,674	N/A
Gross Floor Area - Main Building (sq. ft.)		10,099	10,119	22,696
Accessory Structures		234	234	
Floor Area Ratio		1.82	1.78	4
Dwellings		0	22	N/A
Building Height	Average	50'	46' 5"	50'
	Maximum	50'	46' 5" 48'2"	50'
	Stories	4	4	4
Building Setbacks	Front	2'8" – 20'8"	2' 11" – 20' 8"	15'
	Rear	41' 3"	41' 3"	15' – 17'
	Side	8'	8'	4' – 8'
Lot Coverage		54%	54%	35%
Footprint (sq. ft.)		3,079	3,084	1,985
Useable Open Space (sq. ft.)		1,980	1,983	1,980
Parking	Automobile	1	1	22 10 (1 space per 1,000 SF of Residential Floor Area)
	Bicycles	22	22	0

II. Project Setting

A. Neighborhood/Area Description: This project is located on the east side of Shattuck Avenue between Derby Street and Ward Street. It is in the C-SA, South Area Commercial zoning district. The development pattern of the area surrounding the project site is mixed, urbanized, and consists of a wide range of commercial and residential uses. With the exception of the 60' tall UC Storage building abutting the site to the south (at the corner of Ward Street and Shattuck Avenue), the typical building pattern along this portion of Shattuck Avenue and in the immediate vicinity is one and two story buildings with varied lot coverage. The parcel with the R-2 District abutting the site to the east includes a complex of three, two-story stucco buildings with eight residential units. The majority of the remaining buildings to the east are two-story, single-family dwellings.

B. Background: In February 2010, the Zoning Adjustments Board approved Use Permit #09-10000077 to allow the construction of a residential building with 22 residential hotel rooms within a 8,821 square foot, four-story, residential building with no off-street parking spaces. The approved building provided a setback from the public right-of-way to allow for 960 square feet of open space adjacent to the sidewalk; and a setback from the property line to the east to create a landscaped courtyard at the rear of the site. The project would include an on-site resident manager. The approved project limited the rents at a level affordable to moderate-income individuals. The project also included secure parking for 22 bicycles within a detached structure in the rear yard.

In December 2014, the Zoning Adjustments Board approved a modification to the project (ZP2014-0021), increasing the overall length of the building by 8 feet (adding 1,278 sq. ft. of floor area) and approving revised unit interior layouts to create larger and more usable

kitchens, and to open up the living and sleeping areas, as well as other changes to the design including increased window height, a revised landscaping plan, and the addition of a car-share parking space in the rear yard. The number of units (22) did not change.

III. Use Permit Modification

With this Use Permit Modification the applicant is requesting the Zoning Adjustments Board to approve a change in the type of use, from a residential hotel use to conventional dwelling units (i.e. studio apartments) with two Below-Market-Rate units. No modifications to the design approved with ZP2014-0021 are requested. The Use Permit waiving 5 off-street parking spaces would be modified to waive ~~22~~10 parking spaces.

IV. Issues and Analysis

A. Change of Use: In the C-SA Commercial District, both Residential Hotels and Dwelling Units are permitted subject to Use Permits with Public Hearings. (BMC 23E.52.030). The project was approved as a Residential Hotel in 2010, and the applicant is now requesting that the approved use be changed to Dwelling Units (studio apartments). No change is proposed to the floor or site plans. The ZAB may approve the change of use to Dwelling Units subject to R-4 development standards (BMC 23E.52.030), with the proviso that the R-4 standards may be modified under 23E.52.070.E, if the ZAB finds that the revisions are necessary to promote any of the findings set forth in Section 23E.52.090.C.

The floor and site plans, and building envelope, was approved by the Design Review Commission and the Zoning Adjustments Board in 2014, and findings were made in support of 23E.52.090.C, with respect to the lot coverage, side yard setbacks, front yard setback, and parking. To allow the change from a residential hotel to dwellings, the Board would have to make minor revisions to three of the previous Findings (Findings 4, 5 and 6) in order to approve the project – for dwellings under 23E.52.070.E. These revised findings are in Attachment 1.

B. Affordable Housing: The proposed change of use from residential hotel to dwelling units triggers the City's Affordable Housing Mitigation Fee, set forth in Section 22.20.065. As allowed under subsection C, the applicant is electing to avoid the fee by making 10% of the market rate units, or 2 dwellings units, affordable to Very Low-Income Households for the life of the project.

C. Parking. Changing the use from residential hotel to dwellings changes the parking requirement from 5 spaces (one for every 5 rooms plus one for the manager) to ~~22~~10 spaces (one for every 1,000 square feet of residential area). The basis to support the parking waiver for the original project from 2010 would continue to apply here, in that to provide more parking would EITHER require a taller building (to accommodate ground floor parking with dwellings above) or fewer units, OR would require a reduction of the useable open space at ground level as well as the street-front landscaping which would also reduce options for storm water management or relocation of this open space to the roof.

Section 23E.52.070.E of the Zoning Ordinance allows a parking waiver with approval of a Use Permit, subject to a finding that the waiver is necessary to promote any of the findings set forth in Section 23E.52.090.C. Staff believes that a project of this type with reduced

parking supports the required finding because it would encourage utilization of public transit by discouraging ownership of private automobiles and would support pedestrian-oriented uses by removing a surface parking lot. To help lessen off-site automobile parking impacts, the project would include at least 22 spaces to store bicycles and will provide one Carshare parking space.

The City's Transportation Element of the General Plan promotes parking reductions/waivers for residential development that is served by transit (Policy T-16). This project is adjacent to three AC Transit Lines, and is within ½ mile of the Ashby BART station, and is thus well served by transit. In accord with Policy T-31 of the City's Transportation Element of the General Plan, occupants of this project may not apply for residential parking permits.

V. Recommendation

Staff reviewed the original findings (UP #09-1000077), and the modified findings (ZP2014-0021) in light of the proposed change of use, and concludes that the same findings in support of the approval can be made, with edits. Revisions to the findings and conditions necessary to address the modified plans are shown in Attachment 1 with strikeouts (~~strikeout~~) for deleted text and underlines (underline) for added text.

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE Use Permit Modification #ZP2015-0206**, pursuant to Section 23B.32.040 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received September 11, 2015

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