




Office of the City Manager

INFORMATION CALENDAR

July 16, 2013

To: Honorable Mayor and Members of the City Council

From:  Christine Daniel, City Manager

Submitted by: Eric Angstadt, Director, Planning and Development Department

Subject: LPC-NOD: 2425 Atherton Street

INTRODUCTION

The attached Landmarks Preservation Commission (LPC) Notice of Decision (NOD) is submitted to the Mayor and City Council pursuant to Berkeley Municipal Code (BMC) Section 3.24.190, which states that the Council may certify to the Council any action of the Commission in granting or denying an application for designation as a landmark or an historic district.

CURRENT SITUATION AND ITS EFFECTS

The Landmark Preservation Commission (LPC) has designated 2425 Atherton Street The Harold E. Jones Child Study Center a City of Berkeley Landmark.

BACKGROUND

In order for the Council to review the decision on its merits, the Council must certify the Notice of Decision. To do so, a Councilmember must move this Information Item to Action and move to set the matter for a hearing on its own. Such action must be taken within a minimum of 15 days from the mailing of the Notice of Decision or by July 17, 2013.

If the Council chooses to certify the action of the Landmarks Preservation Commission, a public hearing will be set within 25 days pursuant to BMC Section 3.24.300.B. The Council must then rule on the application within 30 days from the date that the public hearing is opened or the decision of the Landmarks Preservation Commission is automatically deemed affirmed.

Unless the Council wishes to review the determination of the Landmarks Preservation Commission and make its own decision, the attached Notice of Decision is deemed received and filed.

POSSIBLE FUTURE ACTION

The Council could choose to certify the decision by the Landmarks Preservation Commission, setting a public hearing at a later date.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

Additional staff time would be required to prepare the necessary Council report and resolution.

CONTACT PERSON

Eric Angstadt, Director of Planning and Development, (510) 981-7401

Sally Zarnowitz, Secretary to the Landmarks Preservation Commission, (510) 981-7429

Attachments:

1. 2425 Atherton Street (0 Haste) – LPC NOD for Landmarks Designation Application (LM No. 13-40000004)



Z O N I N G
A D J U S T M E N T S
B O A R D
NOTICE OF DECISION

DATE OF BOARD DECISION: June 6, 2013
DATE NOTICE MAILED: July 1, 2013
APPEAL PERIOD EXPIRATION: July 16, 2013
EFFECTIVE DATE OF PERMIT (Barring Appeal or Certification): July 17, 2013¹

2425 Atherton Street

Application (LM #13-4000004) for consideration of a City Landmark Designation initiated by the Landmarks Preservation Commission

The Landmarks Preservation Commission of the City of Berkeley, after conducting a public hearing, **APPROVED** the following permit:

PERMITS REQUIRED:

- Application for Landmark Designation

APPLICANT: R. Tracy, B. Scales, J. Perry, and S. Cerny c/o Rebecca Tracy, 2611 Derby Street, Berkeley, CA 94705

ZONING DISTRICT: R-3, Multiple Family Residential

ENVIRONMENTAL REVIEW STATUS: The project qualifies for a Categorical Exemption under Section 15308 of the Public Resources Code, Guidelines for Implementation of the California Environmental Quality Act (CEQA).

The Zoning Application and application materials for this project is available online at:
<http://www.cityofberkeley.info/zoningapplications>

FINDINGS, CONDITIONS AND APPROVED PLANS ARE ATTACHED TO THIS NOTICE

¹ Pursuant to BMC Section 23B.32.090, the City Council may “certify” any decision of the LPC for review, which has the same effect as an appeal. In most cases, the Council must certify the LPC decision during the 14-day appeal period. However, pursuant to BMC Section 1.04.070, if any portion of the appeal period falls within a Council recess, the deadline for Council certification is suspended until the first Council meeting after the recess, plus the number of days of the appeal period that occurred during the recess, minus one day. If there is no appeal or certification, the Use Permit becomes effective the day after the certification deadline has passed.

BOARD VOTE: 8-0-0-0

YES: OLSON, SCHWARTZ, PARSONS, LINVILL, WAGLEY, NG, HALL, PIETRAS

NO:

ABSTAIN:

ABSENT:

TO APPEAL THIS DECISION (see Section 23B.32.050 of the Berkeley Municipal Code):

To appeal a decision of the Landmarks Preservation Commission to the City Council you must:

1. Submit a letter clearly and concisely setting forth the grounds for the appeal to the City Clerk, located at 2180 Milvia Street, 1st Floor, Berkeley; or by facsimile to (510) 981-6901. The City Clerk's telephone number is (510) 981-6900.
2. The appeal must be received prior to 5:00 p.m. on the "APPEAL PERIOD EXPIRATION" date shown above (if the close of the appeal period falls on a weekend or holiday, then the appeal period expires the following business day).
3. Submit the required fee (checks and money orders must be payable to 'City of Berkeley'):
 - a. The basic fee for persons other than the applicant is \$500. This fee may be reduced to \$100 if the appeal is signed by persons who lease or own at least 50 percent of the parcels or dwelling units within 300 feet of the project site, or at least 25 such persons (not including dependent children), whichever is less. The fee for all appeals by Applicants is \$2500.

If no appeal is received, the permit will be issued on the first business day following expiration of the appeal period, and the project may proceed at that time.

NOTICE CONCERNING YOUR LEGAL RIGHTS:

If you object to this decision, the following requirements and restrictions apply:

1. If you challenge this decision in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Landmarks Preservation Commission at, or prior to, the public hearing.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Landmarks Preservation Commission is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of

Decision when it is completed.

3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, your appeal of this decision must including the following information:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.

PUBLIC COMMENT:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

FURTHER INFORMATION:

Questions about the project should be directed to the project planner, Sally Zarnowitz, at (510) 981-7410 or szarnowtiz@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning counter), 2120 Milvia Street, between 8 a.m. and 4 p.m., Monday through Friday.

ATTACHMENTS:

1. Findings
2. Landmark Application

ATTEST:



Sally Zarnowitz, Secretary
Landmarks Preservation Commission

cc: City Clerk
Building and Safety
Central Library - Reference Desk
Public Works/Engineering
LPC Members
First Source
Kathryn Hoover, Housing Department
Applicant:

R. Tracy, B. Scales, J. Perry, and S. Cerny
c/o Rebecca Tracy
2611 Derby Street
Berkeley, CA 94705

Property Owner:

Regents of the University of California
c/o Real Estate SVCS
1111 Franklin St., Floor 6
Oakland, CA 94607

Attn: Ms. Emily Marthinsen
Assistant Vice Chancellor
University of California
Berkeley, CA 94720-1380