

**Kelly, Sherry**

22

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**From:** Roger Van Ouytsel [redhandarts@earthlink.net]  
**Sent:** Sunday, July 21, 2002 8:13 PM  
**To:** Kelly, Sherry  
**Subject:** neighborhoods

Mayor and City Councilmembers—

Subject: Appeals of ZAB decisions approving developments at 2119  
University Avenue, 2471 Shattuck Avenue and 2700 San Pablo Avenue

I respectfully request that you allow for hearings of all three subject appeals. These projects are all too dense, overbuilt and out of scale with their neighboring communities. Parking is inadequate. Each site has detrimental impacts that have not been mitigated by the applicant. Additionally, the General Plan and Land Use Element are not consistent as required by State law. CEQA reviews have not been performed as required by State law.

I request that the City work with the applicants and neighboring community to develop projects which would benefit the community and comply with State, Federal and local laws.

Roger Van Ouytsel

**Kelly, Sherry**

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**From:** WHWoodII@aol.com  
**Sent:** Monday, July 22, 2002 1:58 PM  
**To:** Dean, Shirley; Maio, Linda; Breland, Margaret; Shirek, Maudelle; Spring, Dona; Hawley, Miriam; Olds, Betty; Worthington, Kriss; Armstrong, Polly  
**Cc:** Kelly, Sherry; pmcdouga@hcd.ca.com  
**Subject:** hearings needed on Zoning Adjustment Board decisions

Dear Mayor Dean and other members of the Berkeley City Council:

As you know, from the beginning I have opposed a proposed development at 2117- 2119 University Avenue as bad for the city of Berkeley because of increased density concerns and detrimental effects on the nearby residential neighborhood. I have learned that there are two other similar proposed projects with similar detrimental effects, one at 2471 Shattuck Avenue, and another at 2700 San Pablo Avenue. The Zoning ordinance should have prevented all three of these high density projects, but apparently powerful developers with money to give to the city council, along with an "affordable housing" constituency hoping to "leverage" (meaning steal) tax payer dollars, have managed to obtain exemptions from requirements that are in place to maintain a pleasant low density Berkeley. Neighbors from all three areas are appealing the decision of the Zoning Adjustment Board, which I suspect of being under corrupt influence. I urge you to conduct Council hearings of appeals on these and any similar projects. I have previously e-mailed many times about these kinds of projects being too dense, too big, and bringing in too many people. Parking is inadequate and more cars are not needed in Berkeley streets. I am hopeful that neighbors harmed by these projects will hire a lawyer and sue the City for any environmental or due process laws that are being broken and damages that are being done. In addition, rumors are circulating that the "housing element" portion of the city plan was submitted to the State of California without a public review process. I urge a hearing on this matter as well as an investigation by state officials.

Walter Wood  
1709 Berkeley Way  
Berkeley, CA 94703

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**Kelly, Sherry**

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**From:** Pamela Thomas [pt-ace@pacbell.net]  
**Sent:** Monday, July 22, 2002 1:54 PM  
**To:** Bright, Tamlyn; Maio, Linda; Breland, Margaret; Shirek, Maudelle; Spring, Dona; Hawley, Miriam; Olds, Betty; Worthington, Kriss; Armstrong, Polly; Kelly, Sherry  
**Subject:** ZAB appeals

Mayor and City Councilmembers-

Subject: Appeals of ZAB decisions approving developments at 2119 University Avenue, 2471 Shattuck Avenue and 2700 San Pablo Avenue

I respectfully request that you allow for hearings of all three subject appeals. These projects are all too dense, overbuilt and out of scale with their neighboring communities. Parking is inadequate. Each site has detrimental impacts that have not been mitigated by the applicant. Additionally, the General Plan and Land Use Element are not consistent as required by State law. CEQA reviews have not been performed as required by State law. I request that the City work with the applicants and neighboring community to develop projects which would benefit the community and comply with State, Federal and local laws.

Respectfully,

Pamela Thomas

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Pamela Thomas

1127 Derby Street  
Berkeley, CA 94702

pamelathomas@eudoramail.com  
510-841-0121

7/22/02

Honorable Mayor and Members of the Berkeley City Council:

Re: Agenda Item No. 43/2119 University Ave. Appeal

The 2119 University Avenue project should not have been approved without a CEQA review and I feel that this is a bad precedent to set. Please require a CEQA review and schedule this project for a hearing.

Beginning in February of this year, "For Rent" signs began to appear in Berkeley. They are not going away. Perhaps we should wait and see if there really is a market for the expensive, miniature units which have already been developed before demolishing more of Berkeley's downtown for *further* development.

Sincerely



Gale Garcia  
2538 Fulton Street  
Berkeley, CA 94704

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Sent via FAX 969-6901 and Email  
7-23-02

Mayor and Councilmembers

2119 UNIVERSITY AVENUE APPEAL:

The BUILDING HEIGHT 50% GREATER THAN ALLOWED BY ZONING; ZAB AND PUBLIC KEPT IN THE DARK ABOUT 75 FT BUILDING HEIGHT

Few people know that the proposed building at 2119 University Ave would have a maximum height of 75 feet, not 57 feet as the public and ZAB were told when the project was being approved on April 2. The building's actual height was not made available prior to or at that time of the April 2 hearing.

The actual 75 ft height of the building (the height of two bulky towers at either end of the building) was first learned upon the release of the July 23 Staff Report (page 3). This is 50% greater than the site 50 height limit. And it is 18 feet higher than the 57 feet maximum height for the building as stated in the April 2, 2002 Staff Report to ZAB (pages 4,5, & 7). Reviewing these two reports one sees that the April 2 report to ZAB states in two different places that the building maximum height is 57 feet, while the July 23 report states in three or more different places that the building maximum height is 75 feet.

The 2119 University Avenue building has thus grown 18 feet at its already highest points since it was approved by the Zoning Adjustments Board on April 2. The project, as now described is thus significantly and dramatically different from the project as approved by ZAB. Simply put, it is now a different project. Assuming that 75 feet is the height the applicant intended, this new project clearly should be remanded back to the Zoning Adjustments Board.

FAILURE TO PROVIDE ANY CEQA ENVIRONMENTAL REVIEW:

CEQA, the state's 30 year old environmental planning law, requires that the potential environmental impacts of proposed development projects, zoning changes and land use plans that meet a minimum threshold, be carefully analyzed before they are approved. This includes completion of a 13 page environmental Check List that asks specific questions about the projects impacts in an array of areas, including aesthetics, air quality, land use an planning, hazardous materials, noise, and public services. A formal "determination" must then be made as to whether the proposed project could have a "significant effect on the environment." If the answer is yes, a more detailed "environmental impact report" (EIR) must be prepared. If no significant effects are anticipated, a "negative declaration" is approved, and no further environmental analysis is required.

The City Planning Department erred in determining that a proposed five story, 39,610 square feet, 57 feet tall building on University Avenue is Categorically Exempt from CEQA review. In fact, according to the July 23, 2002 Staff Report, the building will be 75 feet tall. And, the Zoning Adjustments Board erred in approving this building on April 2,

2002, without any CEQA environmental review.

The proposed building at 2119 University Avenue, between Shattuck Avenue and Oxford Street, should not have been approved without Staff first preparing, and the Zoning Adjustments Board approving, an Environmental Initial Study and Checklist, and either a negative declaration or an EIR.

The project does not meet any of the following requirements in Section 15332 of the CEQA Guidelines for granting a Categorical Exemption to an In-Fill Development Project:

1) Required Finding in Section 15332 (a):  
"The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations."

This building clearly exceeds the height and density limits of the sites Downtown Plan, the General Plan, and the Zoning Ordinance. The site's Height Limit is 4 stories and 50 feet. Yet the proposed project, would have 5 stories, and a maximum of height of 75 feet - 50% greater than what the General Plan allows. It fails to provide the number of parking spaces and the amount of usable open space required by the sites zoning.

There is no way around these facts. The building should not qualify for a Categorical Exemption to CEQA review.

Whether or not exemptions to the maximum height and number of floors can, or should, be granted under the states density bonus laws is not relevant to this issue. The project - whether 57 feet tall (as approved by the ZAB on April 2), or at 75 feet (the buildings height according to the July 23 Staff Report to the Council) clearly does not comply with the height limit in feet, the height limit in stories, the parking requirements, nor the open space requirements. The project thus does NOT meet the CEQA requirements for an exemption to environmental review.

2) Required Finding in Section 15332 (d):  
"Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality."

This project will result in significant effects relating to traffic, noise, and air quality. The project fails to meet the parking requirements of the sites zoning. The site is at one of the most heavily used intersections in Berkeley. Existing levels of traffic, vehicular noise, and vehicular pollution are already oppressive. This project would make existing bad conditions worse. The CEQA Initial Study and Check List should be prepared to determine if existing levels of traffic, noise, and pollution is this vicinity exceed city and state limits, and to see how much worse these conditions would be were this project to be built.

**CONSTRUCTION IMPACTS**

Construction related impacts will clearly be significant. This is one of the highest traffic volume intersections in the City. The pedestrian crossing across Shattuck Avenue between the northwest and northeast corners of University Avenue might be the most dangerous in the city. Construction staging for this project will be extremely problematic, exacerbating existing traffic problems and posing a threat to pedestrians. Construction noise will make the painful level of cumulative traffic noise in this area even worse. Construction activity, including excavation, and construction related vehicles will clearly cause an increase in air pollution.

#### KEYSTONE BERKELEY

The staff report and the Zoning Adjustment Board failed to acknowledge that the building that has long been at 2119 University Avenue was for many years the legendary music club Keystone Berkeley. Many icons of rock and roll music, such as Jerry Garcia of the Grateful Dead, John Cipollina of the Quicksilver Messenger Service, and Stevie Ray Vaughan, (all of whom have since passed away) performed at Keystone Berkeley. The failure to prepare a CEQA environmental initial study for the proposed project at this site resulted in this important piece of Berkeley history being ignored.

Until now, local CEQA disputes concerning proposed buildings generally the size of the proposed 2119 University Avenue project have been over whether an EIR or a Negative Declaration should be prepared. There is no precedent for allowing such a large building to be approved without any CEQA environmental review.

Note that Agenda Item #44 on the July 23 Agenda is an appeal of an 829 sq. ft. single family home addition on Glen Avenue. This 829 sq. ft. addition is only 2% the square footage of the 2119 University Avenue project. Yet it not only was deemed subject to CEQA review, a Mitigated Negative Declaration was prepared.

The 11,000 sq. ft. Goldman Building that UC constructed on Hearst Avenue, near LeRoy, in 2001, had a full Environmental Impact Report (EIR) prepared.

So why no CEQA environmental review AT ALL for this 5-story, 75 feet tall, 39,610 square foot building at 2119 University? The Zoning Adjustments Board set an unfortunate precedent by allowing a project this size to forgo CEQA environmental review entirely.

The Council should declare that this is now a new project, direct staff to prepare a CEQA Environmental Initial Study and Check List, perform all appropriate analysis, and to then send the project to the ZAB for new public hearings.

Marie Bowman  
1532 Blake Street

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**Subject: City Council Meeting 7-23 Items 42, 43, 46 & 47**

**Date:** Sun, 21 Jul 2002 16:32:43 -0700

**From:** Marie Bowman and Robert Baum <mtbrcb@pacbell.net>

**To:** City Council & City Clerk <"Mayor, City Council & City Clerk"@pacbell.net>

**BCC:** Marie Bowman <MTBRCB@PACBELL.NET>

Mayor and City Councilmembers-

Subject: Appeals of ZAB decisions approving developments at 2119 University Avenue, 2471 Shattuck Avenue and 2700 San Pablo Avenue

We respectfully request that you allow for hearings of all three subject appeals. These projects are all too dense, overbuilt and out of scale with their neighboring communities. Parking is inadequate. Each site has detrimental impacts that have not been mitigated by the applicant. Additionally, the General Plan and Land Use Element are not consistent as required by State law. CEQA reviews have not been performed as required by State law.

We request that the City work with the applicants and neighboring community to develop projects which would benefit the community and comply with State, Federal and local laws.

Marie Bowman and Robert Baum  
1532 Blake Street

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CITY OF BERKELEY  
CITY CLERK DEPT

02 JUL 23 PM 3:34

July 23, 2002  
Clifford Fred  
1334 Peralta Avenue  
Berkeley, California 94702

Berkeley Mayor and City Council  
2180 Milvia Street,  
Berkeley, California 94704

**RE: AGENDA ITEM 43 - RESPONSE TO JULY 23 STAFF REPORT ON  
2119 UNIVERSITY AVENUE APPEAL:**

- 1) BUILDING HEIGHT HAS INCREASED 18 FEET SINCE APRIL ZAB APPROVAL**
- 2) FAILURE TO PROVIDE ANY CEQA ENVIRONMENTAL REVIEW**

To the Mayor and City Council,

**BUILDING HEIGHT OF 75 FEET IS 18 FEET MORE THAN APPROVED BY ZAB,  
& IS 50% GREATER THAN ALLOWED BY ZONING;  
ZAB AND THE PUBLIC KEPT IN THE DARK ABOUT 75 FT BUILDING HEIGHT**

Few people know that the proposed building at 2119 University Avenue would have a maximum height of 75 feet, not 57 feet as the public and ZAB were told when the project was being approved on April 2. The fact that this building would have a maximum height of 75 feet was NOT made available prior to or at the April 2, 2002 ZAB meeting at which the project was approved.

The actual maximum 75 ft height of the building (the height of two bulky towers at either end of the building) was first learned upon the recent release of the July 23 Staff Report (pages 3&7). This is 50% greater than the site's 50' height limit. And it is 18 feet higher than the 57 foot height of the towers as stated in the April 2, 2002 Staff Report to ZAB (pages 4&5). Reviewing these two reports one sees that the April 2 report to ZAB states in two or more different places that the building's maximum height is 57 feet, while the July 23 report states in three or more different places that the building's maximum height is 75 feet.

The 2119 University Avenue building has thus grown 18 feet at its already highest points since it was approved by the Zoning Adjustments Board on April 2. The project, as now described is thus significantly and dramatically different from the project as approved by ZAB. Simply put, it is now a different project.

The Council should declare that at 75 feet, this is now a new project, and should direct staff to prepare a CEQA Environmental Initial Study and Check List, perform all appropriate analysis, and to then send the project to the ZAB for new public hearings.

**FAILURE TO PROVIDE ANY CEQA ENVIRONMENTAL REVIEW:**

CEQA, the state's 30 year old environmental planning law, requires that the potential environmental impacts of proposed development projects, zoning changes and land use plans that meet a minimum threshold, be carefully analyzed before they are approved. This includes completion of a 13 page environmental Check List that asks specific questions about the project's impacts in an array of areas, including aesthetics, air quality, land use an planning, hazardous

materials, noise, and public services. A formal “determination” must then be made as to whether the proposed project could have a “significant effect on the environment.” If the answer is yes, a more detailed “environmental impact report” (EIR) must be prepared. If no significant effects are seen, a “negative declaration” is approved, and no further environmental analysis is required.

The City Planning Department erred in determining that a proposed five story, 39,360 square feet, 57 feet tall building on University Avenue is Categorically Exempt from CEQA review. In fact, according to the July 23, 2002 Staff Report, the building will be 75 feet tall. And, the Zoning Adjustments Board erred in approving this building on April 2, 2002, without any CEQA environmental review. The proposed building at 2119 University Avenue, between Shattuck Avenue and Oxford Street, should not have been approved without Staff first preparing , and the Zoning Adjustments Board approving, an Environmental Initial Study and Checklist, and either a negative declaration or an EIR.

The project does not meet any of the following requirements in Section 15332 of the CEQA Guidelines for granting a Categorical Exemption to an In-Fill Development Project:

**1) Required Finding in Section 15332 (a):**

*“The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.”*

This building clearly exceeds the height and density limits of the site’s Downtown Plan, the General Plan, and the Zoning Ordinance. The site’s Height Limit is 4 stories and 50 feet. Yet the proposed project, would have 5 stories, and a maximum of height of 75 feet - 50% greater than what the General Plan allows. In fact, the bulky 18 feet tall towers at either end of the building result in a defacto building height of six or seven stories.

The project also fails to provide the number of parking spaces and the amount of usable open space required by the site’s zoning. There is no way around these facts. The building does not qualify for a Categorical Exemption from CEQA review.

Whether or not exemptions to the maximum height and number of floors can, or should, be granted under the state’s density bonus laws is not relevant to this issue. The project - whether 57 feet tall (as approved by the ZAB on April 2), or at 75 feet (the building’s height according to the July 23 Staff Report to the Council) clearly does not comply with the height limit in feet, the height limit in stories, the parking requirements, nor the open space requirements. The project thus does NOT meet the CEQA requirements for an exemption to environmental review.

The July 23 Staff Report (page 9, Conclusion) states that the project is “consistent” with the General Plan and Zoning Ordinance. What does “consistent” mean? The project clearly exceeds the Downtown Plan, General Plan, and Zoning Ordinance height limits in stories and feet for this site. That is the true test for whether this project is exempt from CEQA review.

Staff and the applicant use verbal gymnastics to try to make these facts go away, and thus avoid any environmental review for this project. They argue that by awarding density bonuses the height limits, and open space and parking requirements simply disappear, as if they never existed. But that is the wrong way to look at the issue. When additional height or other concessions are granted as an affordable housing density bonuses, the zoning regulations do not disappear. The project is allowed to be in conflict with one or more zoning regulation, for the sake of promoting affordable

housing. But the project remains in conflict with those specific zoning regulations it was authorized to exceed. How can a 5+ story, 75 feet tall building not be in conflict with City land use regulations that limit development at the property site to 4 stories and 50 feet?

The required Findings in Section 15332 (a) of the CEQA Guidelines cannot be made, and a CEQA Initial Study should be prepared for this project.

**2) Required Finding in Section 15332 (d):**

*“Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.”*

This project will result in significant effects relating to traffic, noise, and air quality. The project fails to meet the parking requirements of the site’s zoning. The site is at one of the most heavily used intersections in Berkeley. Existing levels of traffic, vehicular noise, and vehicular pollution are already oppressive. This project would make existing bad conditions worse. The CEQA Initial Study and Check List should be prepared to determine if existing levels of traffic, noise, and pollution in this vicinity exceed city and state limits, and to see how much worse these conditions would be were this project to be built.

The July 23 Staff Report (page 9) acknowledges that the project will result in long-term traffic impacts, and that “some traffic impacts during construction are anticipated...” By making these admissions, how can Staff then say definitively that this project would have no significant construction or long-term traffic impacts, without any CEQA environmental review on which to base these conclusions?

**CONSTRUCTION IMPACTS**

Construction related impacts will clearly be significant. This is one of the highest traffic volume intersections in the City. The pedestrian crossing across Shattuck Avenue between the northwest and northeast corners of University Avenue might be the most dangerous in the city. Construction staging for this project will be extremely problematic, exacerbating existing traffic problems and posing a threat to pedestrians. Construction noise will make the painful level of cumulative traffic noise in this area even worse. Construction activity, including excavation, and construction related vehicles will clearly cause an increase in air pollution. Though these impacts are mostly temporary, they are still considerable, and would last one year or more. Thus CEQA review is necessary to minimize the construction impacts.

**VARIANCES**

The ~~20~~ 20 feet tall towers on either end of the building should not be allowed without a Variance. For a project to exceed a site’s height limit in feet or stories, a Variance is required. This project is being granted an exemption to the four story height limit, and the 5<sup>th</sup> floor is being allowed without a Variance, as an affordable housing density bonus. However, the affordable housing height limit exemption should not also be granted to the ~~20~~ 20 foot towers. The towers would have the appearance of one or two additional floors, but would not be inhabited. Thus they do not contribute to the number of units in the building and should not be included in the density bonus. The height bonus (excluding the two towers), and the exemptions to the parking and open space requirements granted this project already exceed 25% of what the zoning ordinance would otherwise allow. Thus the City is under no obligation to approve the towers as well.

## **PROJECTS SMALLER THAN 2119 UNIVERSITY ROUTINELY GET CEQA REVIEW**

Until now, CEQA disputes concerning proposed buildings generally the size of the proposed 2119 University Avenue project have been over whether an EIR or a Negative Declaration should be prepared. All of the projects listed below are smaller than the 2119 University Avenue development. Yet ALL had CEQA review, and some had full EIRs prepared: (It is not my intent to pass judgment on any of the following projects, or on the merits of Appeals filed against them.)

\* Agenda Item #44 on the July 23 Agenda is an appeal of an 829 sq. ft. single family home addition on Glen Avenue. This 829 sq. ft. addition is only 2% the square footage of the 2119 University Avenue project. Yet it was deemed subject to CEQA review, and a Mitigated Negative Declaration was prepared.

\* City Staff prepared an Environmental Initial Study and Checklist, and a Mitigated Negative Declaration for the proposed 2700 San Pablo Avenue development (Agenda Item #37 on the July 23 Agenda). At 35,045 sq. ft., this building would be 12.3% smaller than the 2119 University Avenue project.

\* A proposed 2,500 square foot single family home on Creston Road, on the April 2, 2002 ZAB agenda had a CEQA environmental initial study and check list prepared.

\* The 11,000 sq. ft. Goldman Building that UC constructed on Hearst Avenue, near LeRoy, in 2001, had a full Environmental Impact Report (EIR) prepared. Yet this building is only 28% the size of the proposed 2119 University Avenue development.

\* The City prepared a full EIR for the 6,800 square foot proposed fire station on Shasta Road (Agenda Item #4 on the July 23 Council Agenda). Yet the proposed fire station is only 17.3% the square footage of the 2119 University Avenue development.

\* And the City prepared an EIR for the 32,000 square feet Beth El Temple on Oxford Street, that was approved in 2001. The 2119 University Avenue development would be 23% larger.

So why no CEQA environmental review, at all, for the proposed 5-story (plus ~~10~~ foot towers), 75 feet tall, 39,360 square foot building at 2119 University? The Zoning Adjustments Board set an unfortunate precedent by allowing a project this size to forgo CEQA environmental review entirely.

## **THE APRIL 2 ZONING ADJUSTMENTS BOARD MEETING**

The July 23 Staff Report (page 4) states that their April 2, 2002 meeting, the Zoning Adjustments Board discussed in some detail the arguments I made in an April 2 letter to the Board that the project should be subject to CEQA review. The Report does not state at all what the opinions expressed by Board members were on this issue. It would be helpful to have this information.

## **THE GIANT BILLBOARD ON THE EXISTING BUILDING: DOES IT STAY OR GO?**

The April 2 Staff Report to the ZAB makes no reference to the giant ugly billboard that has been on the top of the existing building at 2119 University Avenue for many years. Does the developer intend to keep this billboard on top of the 5-story building that is proposed for this site? If so, it

would be a much worse eye sore than it is today. Tens of thousands of people see this billboard daily looming right in front of them while driving or riding north on Shattuck and approaching University Avenue. The City has the right to require that the billboard be permanently removed as a condition for allowing new development at this site, and it should impose this requirement. The failure to prepare a CEQA environmental review resulted in no one thinking about the future status of the billboard.

### **KEYSTONE BERKELEY**

The staff report and the Zoning Adjustment Board failed to acknowledge that the building that has long been at 2119 University Avenue was for many years the legendary music club Keystone Berkeley. Many icons of rock and roll music, such as Jerry Garcia of the Grateful Dead, John Cipollina of the Quicksilver Messenger Service, and Stevie Ray Vaughan, (all of whom have since passed away) performed at Keystone Berkeley. The failure to prepare a CEQA environmental initial study for the proposed project at this site resulted in this important piece of Berkeley history being ignored. Is there some remnant of the club that could be preserved?

### **DENSITY BONUS CALCULATIONS**

I believe that the City is using an incorrect method in calculating the amount of a density bonus that is granted to a project that is providing affordable housing. City Staff appears to take the position that projects providing affordable housing are by right granted 100% of the envelope of what the zoning ordinance could allow with discretionary use permits, and an additional 25 % building density beyond this 100% of what could be allowed with a use permit.

I believe that a more rational and proper way would be for ZAB to first determine how large a project would likely approve at a given site without being found "detrimental," and to then determine how to add 25% density to this project in a way that would create the least over-all impact. The July 23 Staff Report states (page 5) that "the densities of proposed residential projects are subject to the ZAB's discretion, and are frequently reduced size from developers originally propose." So why not subject projects eligible for a density bonus to the same standard? First determine what the ZAB would allow under normal circumstances, then increase that project's density by 25%, in a way that minimizes adverse impacts.

### **APPLICANT'S FALSE CLAIMS**

I am shocked and appalled by the applicant's erroneous claim in a June 12, 2002 letter that this Appeal is an attempt to delay and cause financial harm to the project. The reasons for this Appeal are to 1) convince the City to give the project proper CEQA environmental review, 2) make the project more compatible with surrounding buildings, 3) enforce the City's General Plan, Downtown Plan and Zoning Ordinance, 4) minimize the traffic, parking, noise, and visual impacts of the project, including construction impacts, and 5) find some way of honoring the memory of the Keystone Berkeley Club. With the current, and growing, glut of market rate apartments in oversized new buildings, and the worsening traffic congestion in central Berkeley, I believe that a scaled-down 2119 University Avenue project with proper CEQA environmental review would be more successful than the project as currently proposed.

*Clifford Fred*



Four of the units are designated for Very-Low Income families and three of the units are for Low-income families. The 44 apartment units would sit atop the new commercial and parking space.

The project meets the State's criteria for an affordable housing project because it will provide 10% of the total number of units (3 for the base project) for families earning 50% of AMI. As an affordable housing project, Government Code Section 65589.5 applies. In order for a local jurisdiction to deny an affordable housing project or to condition it in such a manner that makes it financially infeasible, section 65589.5 requires the jurisdiction to make one of several findings. However, the ZAB determined that the project was appropriate and consistent with all relevant requirements and policies so these findings have not been presented to the ZAB or the Council.

The building is proposed to be five stories high, including the street-level of the commercial/parking garage, with a typical maximum building height of approximately 54 feet. Tower design elements on the building extend as high as 75 feet. The fifth floor was approved as a density bonus concession under state law. The project is summarized in the table below.

<u>C-1/Zoning/Downtown Area</u>	<u>Existing</u>	<u>Proposed</u>	<u>Permitted/Required</u>
<b>Number Dwelling Units</b>	0	44	N/A
<b>Number Parking Spaces</b>	8	30	42 <sup>1</sup>
<b>Number of Bicycle Parking Spaces</b>	0	50	2
<b>North Yard Setback</b>	130	94	0
<b>All Other Yard Setbacks</b>	0	0	0
<b>Building Height – Stories</b>	1	5	4 <sup>1,2</sup>
<b>Maximum Building Height – Feet</b>	18	54' average, with 75' at towers	50 <sup>1,2</sup>
<b>Lot Area (sq.ft.)</b>	13,159	13,159	N/A
<b>Gross Floor Area (sq.ft.)</b>	6,560	39,360	39,477
<b>Building Footprint (sq.ft.)</b>	6,560	11,213	13,159
<b>Lot Coverage (%)</b>	49.8	85.2	100
<b>Usable Open Space (sq.ft.)</b>	0	6,600+	8,800 <sup>1,2</sup>
<b>Floor Area Ratio</b>	N/A	2.99	3.0

1. Figures include the base project and density bonus units and concessions. Density bonus units are not subject to separate discretionary permit.
2. Allowed with Use Permit



The proposed project will provide a revitalized commercial space to replace a vacant commercial space, as well as providing a residential element to this block of University.

C. *Encourage development in underutilized neighborhood and community shopping areas.*

The 44 dwelling units will provide options for people who wish to live near downtown and/or the campus and add those residents to the local clientele for the businesses in downtown.

D. *Promote development compatible with adjacent commercial and residential areas.*

The location of the proposed project is unique in that it is an important visual terminus to Shattuck Avenue as well as being part of the University Avenue Gateway.

*Compliance with C-1 and Downtown Plan Development Standards*

<b>C-2 Zoning/South Shattuck Area</b>	<b>Existing</b>	<b>Proposed</b>	<b>Permitted/or Required</b>
<b>Number Dwelling Units</b>	0	44	N/A
<b>Number Parking Spaces</b>	8	30	33 <sup>1</sup>
<b>Number of Bicycle Parking Spaces</b>	0	50	2
<b>North Yard Setback</b>	130	94	0
<b>All Other Yard Setbacks</b>	0	0	0
<b>Building Height – Stories</b>	1	5	4 <sup>1,2</sup>
<b>Maximum Building Height – Feet</b>	18	54' average, with 57' at towers	50 <sup>1,2</sup>
<b>Lot Area (sq.ft.)</b>	13,159	13,159	N/A
<b>Gross Floor Area (sq.ft.)</b>	6,560	39,360	39,477
<b>Building Footprint (sq.ft.)</b>	6,560	11,213	N/A
<b>Lot Coverage (%)</b>	49.8	85.2	100
<b>Usable Open Space (sq.ft.)</b>	0	6,640	6,600 <sup>1</sup>
<b>Floor Area Ratio</b>	N/A	2.99	3.0



1. Figures are for base project. Density bonus units are not subject to Code requirements.  
 2. Allowed with Use Permit