

November 16, 2004

Ms. Sherry M. Kelly
City Clerk
City of Berkeley
2180 Milvia Street
Berkeley, CA 94704

CITY OF BERKELEY
CITY CLERK DEPT

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RE: APPEAL Notice of Decision 1340 Sixth Street

Dear Ms. Kelly:

We appeal to Council to overturn the Zoning Adjustment Board's (ZAB) certification of the Negative Declaration (ND) on the proposed project at 1340 Sixth Street. Enclosed is our check for \$63.

We appeal the ZAB decision based on flaws in the Negative Declaration itself, the irregular protocol of certifying a Negative Declaration for a specific project where the project itself has been unable to get ZAB approval, and the failure of the ND to consider the West Berkeley Plan (WBP), specifically incorporated in the Zoning Ordinance in Section 23.E.80. The proposed project lies within the West Berkeley Plan area and borders two zones - it is at the border of the MU-LI, adjacent to MU-R west of Sixth on the south side of Camelia Sixth and the core West Berkeley R-1A neighborhood east of Sixth on the south side of Camelia.

The Negative Declaration and the Initial Study upon which it is based is flawed for the following reasons:

Description of Neighboring Properties: The description upon which this ND is based is inaccurate. The ND description states that "the surrounding area is MU-LI". Actually, only the area north of Camelia Street is MU-LI. The area surrounding this project includes the MU-R immediately adjacent to the south of the project and the R-1A on the opposite corner, south and east of Camelia and Sixth. The ND fails to address the unique position of this site as a border between three zones.

Second, the description states "there is very little to zero front setback and very little to zero open yard space for most adjacent buildings." This statement is true of only one adjacent building, the store/residence on the south west corner at Camelia and Sixth, while both adjacent residential properties flanking the project on the same block have substantial setbacks, as does the residence on the opposite corner. There is a parking lot directly across Sixth Street.

Third, the description states that an auto-repair and parts warehouse are located directly "across Sixth Street." There is a parking lot directly across the street at the corner and a warehouse next to that. The auto-repair and parts warehouse having been gone from that site for several decades.

Section III, Air Quality notes that the project has the potential to generate additional air quality impacts due to the 60 truck trips per day associated with the warehouse use. However, the specific project setting with adjacent residences was not considered when reviewing potential impacts. This is of particular significance due to the high incidence of asthma in West Berkeley, the correlation of diesel particulates and asthma, and the proximity of sensitive receptors as identified in the WBP (figure 1-2). This is a potentially significant impact not addressed.

Section IX, the Land Use Planning impact review states "the project is compatible with the mixed-use industrial area in which it is located." We concur the project would be compatible in a MU-LI area, were it only located in one. In reality, this corner exemplifies transitional properties within the WBP as articulated in Physical Form Element,

Goal 4: Development in locations where there is a juxtaposition of uses...particularly when concentrations of residential uses are adjacent to more intense uses - should be sensitive to the character of both ...uses. This will be particularly important in the MU/R zone and on the "edges" where industrial zones...meet...residential uses.

(WBP, p. 145)

The West Berkeley Plan requires that the scale of development be in keeping with the surrounding buildings, particularly residences. This project completely ignores the existence of the adjacent zones. The height of the building is nearly double that of surrounding buildings and the scale overall far exceeds any nearby structure. Therefore we strongly disagree with the statement "the project is consistent with the...West Berkeley Area Plan and zoning standards."

Policy 4.1: Development in such "edge" locations should seek to minimize - to the greatest degree possible - abrupt changes of building scale.

Policy 4.2: Developments in these locations should use tools such as increased building setbacks or upper story setbacks, landscaping, and other means to reduce the impacts of differences in scale, style, and site plan.
(WBP, p. 146)

The ND fails to recognize the potentially significant impacts of the project on the core R-1A and MU-R adjacent zones.

Section XII, Population and Housing requires consideration of "a substantial increase in ambient noise levels in the project vicinity above levels existing without the project." The description cites current noise levels from existing use as high and therefore new uses will be lower. The current use of this property , and for the last several years, is vehicle storage with no noise associated with it. The proposed project would construct a 39-foot-high flat sheetmetal wall along Sixth and a 21-foot-high wall along Camelia Street—a configuration that will reflect street noise into the neighborhood and increase current noise levels. As noted in the WBP,

..the primary source of noise in West Berkeley is auto and truck traffic on major roads. Typically, this noise will most affect the first row of buildings along the street. (WBP, p. 104)

The lack of setbacks proposed further limits ability to provide landscaping to soften the noise reflection from an increase of 60 trucks per day in this specific location.

Section XV Transportation and Traffic takes no consideration of the limitation on visibility of traffic entering Sixth from Camelia, even though the City has spent a great deal of time and money correcting exactly the limited visibility issue on Virginia and Sixth, following several serious accidents, through installation of a street light to address the visibility and access problems created by allowing zero setback on a corner intersecting Sixth Street.

This section fails to address potentially significant truck traffic impacts on the residences on Camelia, increases in diesel fume exposure in a neighborhood already plagued by high incidences of asthma, or any turn around requirements for 60 truck trips per day.

Parking impacts of the loss of parking in this impacted zone have not been considered. Parking and location of trucks waiting to service the warehouse has not been considered.

In summary, the ND is for a specific project, of specific dimension and design repeatedly rejected by the ZAB and the Design Review Board and inconsistent with the goals and policies of the WBP, and should therefore be rejected. The Initial Study for the proposed project requires substantial revision and impacts identified must be considered.

Sincerely,

Eric Knight
Kelly Mills T
Tracy Mills
Ann Armstrong
Gary Parsons

Jim Brulet
Ben Fajen
Margo Schueler
Paul Cox
Piper Caferatta