



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
SEPTEMBER 28, 2017

2510 Channing Way

Use Permit #ZP2017-0003 to demolish a two-story commercial building and construct a seven-story, mixed use building with 36 dwelling units, and 2,500 square feet of ground level commercial space.

I. Background

A. Land Use Designations:

- General Plan: Avenue Commercial
- Zoning: C-T – Telegraph Avenue Commercial District

B. Zoning Permits Required:

- Use Permit for construction of a new mixed use building per BMC §23E.56.030
- Use Permit for construction of more than 1,500 square feet of new floor area, per BMC §23E.56.050.A.2
- Use Permit to increase the height of the building to 75 feet, per BMC §23E.56.070.B.3
- Use Permit to increase the project's FAR to 6.0 maximum, per BMC §23E.56.070.B.3
- Use Permit for demolition of a non-residential building, per BMC §23C.08.050
- Administrative Use Permit to allow architectural projections to exceed the height limit, per BMC §23E.04.020.C

C. CEQA Determination: Categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”).

D. Parties Involved:

- Applicant Dave Jonson, Johnson Lyman Architects, 1375 Locust Street, #202, Walnut Creek, CA 94596
- Property Owner The Austin Group LLC, 64 Oak Road, Alamo, CA 94507

Figure 1: Vicinity Map

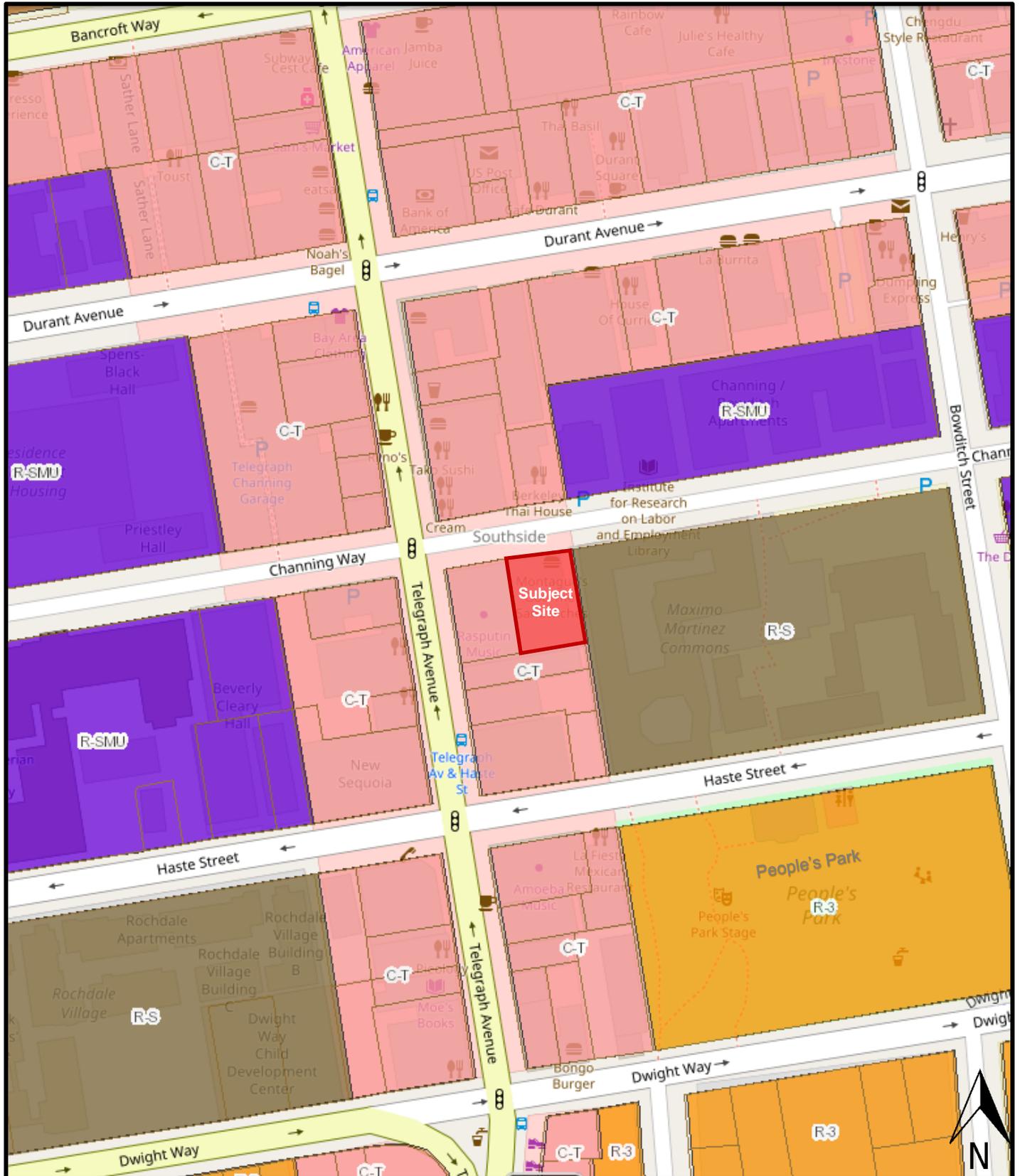


Table 1: Land Use Information

Location		Existing Use	Zoning Districts	General Plan Designations
Subject Property		Mixed Commercial	C-T	AC, Avenue Commercial
Surrounding Properties	North	Mixed Commercial	C-T	AC, Avenue Commercial,
	South	Vacant Commercial	C-T	AC, Avenue Commercial
	East	Student Apartments and Dormitory	R-S	AC, Avenue Commercial
	West	Mixed Commercial	C-T	AC, Avenue Commercial

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care and Housing Fee for non-residential projects (Per Resolution 66,617-N.S. and 66,618-N.S.)	No	Proposed project includes 2,500 square feet of commercial space, which is less than the 7,500 square feet requirement.
Affordable Housing Mitigations for rental housing projects (Per BMC 22.20.065)	Yes	The project is subject to the affordable housing provisions of BMC 22.20.065.
Creeks	No	The project is not within the vicinity of an open or culverted creek
Density Bonus	No	The project is not requesting a density bonus.
Green Building Score	Yes	Minimum score is 50 and Maximum score is 381. Proposed project scores 156 GreenPoint Rated, New Home Multifamily Checklist 6.0; Targeted Certification Level: Platinum
Historic Resources	No	The buildings proposed for demolition do not meet the criteria for the California Register or a City of Berkeley Landmark. See section IV.B.
Seismic Hazards (SHMA)	No	The project is not within the Alquist Priolo fault rupture zone.
Soil/Groundwater Contamination	No	Proposed project is not included on a list compiled pursuant to Section 65962.5 of the Government Code, nor is it located in the City's Environmental Management Area.
Oak Trees	No	There are no oak trees on the parcel.

Table 3: Project Chronology

Date	Action
January 6, 2017	Application submitted
May 18, 2017	DRC Preliminary Design Review Meeting (PDR): Item Continued
May 24, 2017	Application deemed complete
July 20, 2017	DRC PDR Meeting: Favorable Recommendation
September 7, 2017	LPC Demolition Referral: No Action Taken
September 14, 2017	ZAB Public hearing notices mailed/posted
September 28, 2017	ZAB hearing

Table 4: Development Standards

Standard BMC Sections 23.65.070-080		Existing	Proposed Total	Permitted/ Required
Lot Area (sq. ft.)		8,740	no change	---
Gross Floor Area (sq. ft.)		13,000	50,854	---
Floor Area Ratio		1.49	5.82	5 max. (6 w/UP)
Total Dwelling Units		0	36	---
Building Height	Maximum (ft.)	36	75	35 min. / 65 max. (75 w/UP)
	Stories	2	7	---
Building Setbacks (ft.)	Front (north)	0	0	0 min.
	Rear (south)	0	5	0 min.
	Left Side (east)	0	5	5 min. / (0 w/UP)
	Right Side (west)	0	5	0 min.
Lot Coverage (%)		74.3	75.2	---
Usable Open Space (sq. ft.)		---	2,800	40 per D.U. 1,440 min.
Parking	Automobile	19	0	0
	Bicycle	0	32	0

II. Project Setting

- A. The property is located one property to the east of the Telegraph Commercial Corridor, two blocks south of UC Berkeley campus and one block north of People’s Park. The neighborhood is campus oriented, with a mix of commercial uses located along, and adjacent to, Telegraph Avenue, predominantly located in lower one- to two-story buildings. Numerous four- to six-story multi-unit apartment buildings, dormitories (GLAs), and institutional buildings are interspersed throughout the neighborhood. Telegraph Avenue is a relatively narrow through this neighborhood, ranging from 28 to 34 feet in

width. On street parking is limited, and pedestrian traffic is heavy, especially during the school year.

B. Site Conditions:

The property is an approximately 76' x 116' rectangular lot, located one property to the east from the southeast corner of Channing Way and Telegraph Avenue. The property is developed with a two-story building constructed in 1957 as a parking garage. On September 3, 1963, the City issued Building Permit #98621 to convert the second-floor parking to office spaces. The building is currently occupied by a retail shop, a quick service restaurant, and a parking garage on the ground floor, and commercial office spaces on the second floor. The property currently has two curb cuts and driveways: one along the east property line that led to the second story parking; and one situated in the middle of the building, which provides access to the ground level parking.

Figure 3: Existing Site Conditions (looking south)



III. Project Description

The proposed project would demolish the existing building, and construct a new 75-foot tall, seven-story, mixed-use building with the following main components:

- 36 dwelling units consisting of: 12 one-bedroom units, 12 two-bedroom units, and 12 three-bedroom units;
- 2,500 square feet of ground level commercial space;
- 2,400 square feet of useable open space provided in a roof deck garden;
- 32 secure bicycle parking spaces in the ground level located behind the commercial space.

Consistent with the Southside Plan objectives, no vehicle parking is proposed.

IV. Community Discussion

A. Neighbor/Community Concerns: Prior to submitting this application to the City, the applicant erected a yellow pre-application poster at the site in January 2017. The applicant invited all owners and occupants located within a 300 hundred foot radius to a community meeting, held on January 11th from 6:00 to 7:00 p.m. at the First Presbyterian Church, located at 2407 Dana Street. Three people attended, two from Greystar Property Management who had interest in the project as they manage a building nearby; and one woman who owns a property across the street and expressed interested in selling her property to the applicants.

On September 14, 2017, the City mailed public hearing notices to property owners and occupants, and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations. As of the writing of this staff report, staff has not received any public correspondence.

B. Landmarks Preservation Commission: The project involves demolition of a commercial building over 40 years in age. Pursuant to BMC Section 23C.08.050.C, the proposed demolition was brought before the Landmarks Preservation Commission (LPC) for review prior to consideration of the Use Permit. At the September 7, 2017 LPC meeting, the LPC took no action to initiate a Landmark or Structure of Merit designation.

C. Design Review Committee Review: The Design Review Committee (DRC) held a preliminary review of the project on May 18, 2017 and continued the review to July 20, 2017. At the July 10th meeting, the DRC made a favorable recommendation to ZAB (6-0-0-0) with the following conditions and comments:

- *Reconfigure northeast corner unit so living room is at the corner and resolve before ZAB review.*
- *Extend horizontal overhang above the retail to 2'.*
- *Make reveal 9" on accent material at corner.*
- *Provide double doors into lobby.*
- *Review rooftop open space at Final Design Review (FDR), including kitchen and grill.*
- *Gate and fence to be reviewed at FDR; look at better quality than standard metal fencing.*
- *Provide complete landscape plans and lighting at FDR.*
- *Sign as shown is not working. It appears too bulky. DRC will review an alternative design at FDR.*

V. Issues and Analysis

A. Compatibility with District Purposes: The project would further the purposes of the district in that it would create additional housing for those who work or study. The project includes ground floor commercial space that, although unspecified, should

activate the street front and cater to the needs of the District's population, especially the University population and the surrounding resident population. The project would also provide pedestrian-scaled lighting along the sidewalk and right-of-way improvements, including the elimination of two driveways and curb cuts, and the provision of new sidewalks and two new street trees.

With seven stories just east of Telegraph Avenue (six residential stories above ground floor commercial), the project would reinforce the City's effort to redevelop underutilized sites in a way that would increase the quality of the built environment and provide new housing and commercial opportunities. DRC's positive recommendation regarding the design demonstrates that the project is compatible with the adjacent commercial and residential development.

The removal of the two driveways would result in an enhancement of the continuity the ground floor retail, as well as infill the wall of building façades that wraps around Telegraph Avenue along Channing Way.

- B. Parking/Traffic:** The proposed development would be located two blocks south of the University of California. It is located in an area that is well served by transit: Alameda-Contra Costa County (AC) Transit Route 6 operates directly adjacent to the project site with direct service to the Berkeley BART Station. The nearest bus stops are less than two blocks from the site. The downtown Berkeley BART station is located less than two-thirds of a mile from the project site, which has connecting service throughout the Bay Area. Consistent with the objectives of the South Berkeley Plan, the project would not provide off street parking.

The trip generation analysis provided as part of the project submittal, concluded that the project would add no more than 15 peak hour trips over existing conditions, and would have a lower trip generation than the existing building if the second floor commercial space were occupied. The City's Traffic Engineer determined that the number of additional trips that would be added to the roadway system by the project is negligible and thus would not worsen the traffic conditions along nearby roadways and intersections. The proposed project is, therefore, not expected to generate traffic or parking demand significantly beyond the capacity of the Commercial District or significantly increase impacts on adjacent residential neighborhoods.

- C. Sunlight/Shadows:** The project proposes to construct a seven-story building on what is currently developed with a two-story structure. As such, the project is expected to create greater shadowing impacts over existing conditions. To assess the anticipated shading impacts, the applicant submitted shadow studies for the project (see Sheet SH1-4 of Attachment 2).

Due to the commercial uses along Telegraph Avenue and the lot confronting the subject site, the project would only increase shading on residential windows of the western façade of the Maximo Martinez Commons Apartments abutting to the east during the evenings throughout the year.

Impacts to shading on Telegraph Avenue sidewalks would be minor as the subject site is located one lot off (to the east) of Telegraph Avenue and existing buildings lining Telegraph Avenue already shade the public right-of-way. The sidewalk on the western side of the street would experience a slight increase in shading during the morning hours of the winter season, with the incremental increase due to construction of a 75-foot tall building instead of a 65-foot tall building, being minimal. The project would not increase shading on the eastern sidewalk over existing conditions.

Although shadow impacts from the project are expected to affect direct sunlight on certain residential windows, these areas would still experience indirect lighting during these hours, as well as have direct light from other windows. At no time of year would the proposed project cause the adjacent building to lose access to direct sunlight from all the windows at any time of the year. In addition, the increase in shading on the Telegraph sidewalks would not be significant. Such shading impacts are to be expected in this commercial district abutting a high residential density student oriented neighborhood.

- D. General Non-Detriment:** The project approval is subject to the City's standard conditions of approval regarding construction noise and air quality, waste diversion, toxics, and stormwater requirements, thereby ensuring the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood or to the general welfare of the City.
- E. Demolition of a Commercial Building:** Following the referral to the LPC, BMC Section 23C.08.050.D allows the Zoning Adjustments Board to approve the Use Permit for demolition of the structure if the Board finds that the demolition would not be materially detrimental to the commercial needs and public interest of any affected neighborhood or the City and a finding that the demolition is required to allow a proposed new building or new use. This finding can be made as the demolition of the structure would allow the proposed mixed-use project to be built, which would replace 2,500 square feet of ground level commercial space. The project would further enhance the neighborhood by providing 36 new dwelling units whose residents would be new client base to both the existing and newly proposed commercial businesses. The elimination of the two existing curb cuts and driveways would also have the benefit of increasing pedestrian safety along the project frontage.
- F. Housing Accountability Act Analysis:** The Housing Accountability Act §65589.5(j) requires that when a proposed housing development complies with the applicable, objective general plan and zoning standards, but a local agency proposes to deny the project or approve it only if the density is reduced, the agency must base its decision on written findings supported by substantial evidence that:
1. The development would have a specific adverse impact on public health or safety unless disapproved, or approved at a lower density;¹ and

¹ As used in the Act, a "specific, adverse impact" means a "significant, quantifiable, direct and unavoidable impact, based on objective, identified written public health or safety standards, polices, or conditions as they existed on the date the application was complete.

2. There is no feasible method to satisfactorily mitigate or avoid the specific adverse impact, other than the disapproval, or approval at a lower density.

The following elements of the project do not comply with the objective general plan and zoning standards:

- An increase in the project's FAR from 5.0 to 6.0 maximum;
- An increase in the project's height from 65 feet to 75 feet maximum; and
- Architectural projections that exceed the height limit.

G. General Plan Consistency: The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-3–Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
2. Policy LU-7–Neighborhood Quality of Life, Action A: Require that new development be consistent with zoning standards and compatible with the scale, historic character, and surrounding uses in the area.
3. Policy LU-27-Avenue Commercial Areas: Maintain and improve Avenue

Commercial areas, such as University, San Pablo, Telegraph, and South Shattuck, as pedestrian-friendly, visually attractive areas of pedestrian scale and ensure that Avenue areas fully serve neighborhood needs as well as a broader spectrum of needs.

4. Policy UD-17-Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.

Staff Analysis: As described more fully in Key Issue A above, the project would reinforce the City's effort to redevelop underutilized sites in a way that would increase the quality of the built environment and provide new housing and commercial opportunities. DRC's positive recommendation regarding the design demonstrates that the project is compatible with the adjacent commercial and residential development.

5. Policy UD-31 Views: Construction should avoid blocking significant views, especially ones toward the Bay, the hills, and significant landmarks such as the Campanile, Golden Gate Bridge, and Alcatraz Island. Whenever possible, new buildings should enhance a vista or punctuate or clarify the urban pattern.

Staff Analysis: The project is infill development proposed on a relatively level lot between a six-story dormitory to the east, a four-story apartment building to the south and the Telegraph Commercial District to the west and north. Due to the topography of the neighborhood and existing development, the project would not block significant views from neighboring properties.

6. Policy UD-32–Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

Staff Analysis: As more fully described in the discussion under Key Issue C above, shadow impacts from the project are expected to affect direct sunlight on certain residential windows. These windows, however, would still experience indirect lighting during these hours. At no time of year would the proposed project cause adjacent properties to lose access to direct sunlight from all the windows for more than a few hours per day. In addition, the increase in shading on the Telegraph sidewalks would not be significant. Such shading impacts are to be expected in this commercial district abutting a high residential density student oriented neighborhood.

7. Policy H-33-Regional Housing Needs: Encourage adequate housing production to meet City needs and the City’s share of regional needs.

Staff Analysis: The project, would increase the City’s housing supply by 36 new dwelling units.

8. Policy H-12 Transit-Oriented New Construction: Encourage construction of new medium and high-density housing on major transit corridors and in proximity to transit stations consistent with zoning, applicable area plans, design review guidelines, and the Climate Action Plan.

9. Policy LU-23-Transit-Oriented Development: Encourage and maintain zoning that allows greater commercial and residential density and reduced residential parking requirements in areas with above-average transit service such as Downtown Berkeley.

10. Policy T-16-Access by Proximity: Improve access by increasing proximity of residents to services, goods, and employment centers.

Staff Analysis: The project would help encourage transit use and reduce greenhouse gas emissions from motor vehicles by constructing additional housing in close proximity to transit, university, jobs, and basic goods and services. AC Transit Route 6 operates directly adjacent to the project site with direct service to the Berkeley BART Station. The nearest bus stops are less than two blocks from the site. The downtown Berkeley BART station is located less than two-thirds of a mile from the project site, which has connecting service throughout the Bay Area.

11. Policy EM-5-“Green” Buildings: Promote and encourage compliance with “green” building standards.

12. Policy UD-33-Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.

Staff Analysis: The project proposes a score of 156 on the GreenPoint Rated Checklist, New Home Multifamily Checklist 6.0 with a targeted Platinum certification level.

H. Plan Consistency: The Southside Plan, adopted in 2011, also contains goals and policies applicable to the project, including the following:

1. Policy LU-A1.A: Encourage a variety of housing types to be built in the Southside, including houses, condominiums, townhouses, apartment buildings, group living quarters, and loft-style housing, and encourage owner-occupied housing, rental housing, cooperatives, and co-housing.
2. Policy LU-F14: Mixed-use buildings with housing above retail uses are the preferred land use throughout this [Telegraph Commercial] subarea.

Staff Analysis: The project would provide 36 rental dwelling units over a commercial retail ground floor.

3. Policy LU-F18: Encourage and support transit and other alternatives to automobile use in the Southside

Staff Analysis: Consistent with the policies of the Southside and Climate Action Plans, the project would provide no off-street parking, thereby encouraging other modes of transportation including transit and cycling.

VI. Recommendation

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 #ZP2017-0003 pursuant to Section 23B.32.030 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans with shadow studies, dated September 1, 2017
3. Notice of Public Hearing, dated September 14, 2017
4. Correspondence Received

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