



# Zoning Adjustments Board Agenda

Planning & Development Department  
Land Use Planning Division

---

**Thursday, October 26, 2017 - 7:00 PM**

**City Council Chambers, 2134 Martin Luther King Jr. Way, Second Floor  
Berkeley (Wheelchair Accessible)**

## **Zoning Adjustment Board Members:**

**Igor Tregub (Chairperson)** appointed by Mayor Arreguin  
**Denise Pinkston (Vice Chairperson)** appointed by Councilmember Droste  
**Teresa Clarke**, appointed by Councilmember Maio  
**Patrick Sheahan**, appointed by Councilmember Davila  
**John Selawsky**, appointed by Councilmember Bartlett  
**Shoshana O'Keefe**, appointed by Councilmember Hahn  
**Charles Kahn**, appointed by Councilmember Wengraf  
**Brazile Clark**, appointed by Councilmember Worthington  
**Carrie Olson**, appointed by Councilmember Harrison

## **Public Testimony Guidelines**

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. The Board Chairperson may limit the number of speakers and the length of time allowed to each speaker. To speak at a public hearing, please submit a speaker card to Planning Staff as early as possible at the meeting.

At the start of the meeting the Board may rearrange the agenda or place additional agenda items on the Consent Calendar, so it is important to submit speaker cards at the start of the meeting to avoid losing the chance to speak to an item.

The Board encourages the public to submit comments in writing or by e-mail in advance of the meeting. See **Supplemental Communications and Reports** at the end of this Agenda for procedures.

**How to Contact Us:** Land Use Planning Division, Attn: Shannon Allen, (510) 981-7410, (Zoning Adjustments Board Secretary), 1947 Center Street, Berkeley, CA 94704; [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info).

## **Preliminary Matters**

### **Roll Call**

### **Ex Parte Communication Disclosures**

In the context of adjudicative matters that come before the ZAB, ex parte communications are those which occur outside the formal hearing process. ZAB members should avoid ex-parte contacts on matters pending before the ZAB as much as possible, as they may represent, or be perceived to represent, the receipt of evidence that can unfairly influence a Board member's decision on a matter before the Board. If such contacts do occur, the substance of the communication they must be disclosed to all interested parties in advance of any public hearing or testimony to allow rebuttal. Written ex parte communications must be forwarded to the Secretary so that they can be disclosed to the entire Board and the public.

## Preliminary Matters (Continued)

### Public Comment on Non-Agenda Matters

Each Speaker is limited to a maximum of three minutes.

### Agenda Changes

The Board Chairperson may reorder the agenda at the beginning of the meeting.

## Consent Calendar

The Consent Calendar allows the Board to take action, without discussion, on Agenda items for which there are no persons present who wish to speak, and no Board members who wish to discuss. The Consent Calendar may include four types of items:

- (1) Approval of previous meeting minutes;
- (2) Modifications of existing Use Permits (which have not been noticed for public hearings);
- (3) Items being continued to another meeting (Board action will be postponed to another meeting);
- (4) Applications that were withdrawn by the applicant after release of the Agenda; and
- (5) Items noticed for public hearing which the Board decides to move to the Consent Calendar.

The Board Chairperson will announce any additional items proposed for the Consent Calendar at approximately 7:05 PM. Anyone present who wishes to speak on these items should raise his or her hand and advise the Chairperson, and the item(s) will be pulled from the Consent Calendar.

### 1. Approval of Action Minutes from October 12, 2017

**Recommendation: APPROVE**

### 2. 2241 Ninth Street – New Public Hearing

**Application:** Use Permit #ZP2016-0235 to create approximately 210 sq. ft. of new floor area by enclosing an existing, covered balcony at a multi-family property that exceeds maximum standards for residential density and lot coverage.

**Zoning:** R-1A, Limited Two-Family Residential

**CEQA** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines

**Determination:** (“Existing Facilities”).

**Applicant/Owner:** Hui Hui Chen, 31 Westgate Drive, San Francisco

**Staff Planner:** Fatema Crane, Senior Planner, fcrane@cityofberkeley.info, (510) 981-7410

**Recommendation:** **APPROVE** Use Permit #ZP2016-0235 pursuant to Section 23B.32.040.

### 3. 2040 Fourth Street – New Public Hearing

**Application:** Use Permit #ZP2017-0087 to establish beer and wine service at an existing nail salon.

**Zoning:** C-W - West Berkeley Commercial District

**CEQA** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines

**Determination:** (“Existing Facilities”).

**Applicant:** Angela Prilliman, 7517 MacArthur Blvd. #A, Oakland

**Owner:** Essex Berkeley 4<sup>th</sup> Street LP, 110 Park Place Suite 200, San Mateo

**Staff Planner:** Jim Frank, JFrank@cityofberkeley.info, (510) 981-7548

**Recommendation:** **APPROVE** Use Permit #2017-0087 pursuant to Section 23B.32.040.

## Consent Calendar (Continued)

### 4. [835 Folger Avenue](#) – New Public Hearing

**Application:** Use Permit #ZP2017-0029 to demolish a non-residential building.  
**Zoning:** MUI – Mixed-Use Light Industrial  
**CEQA** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines  
**Determination:** (“Existing Facilities”).  
**Applicant:** Rick Kelley, 824 Ashby Avenue, Berkeley  
**Owner:** Ashby Lumber, 824 Ashby Avenue, Berkeley  
**Staff Planner:** Jim Frank, JFrank@cityofberkeley.info, (510) 981-7548  
**Recommendation:** **APPROVE** Use Permit #2017-0029 pursuant to Section 23B.32.040.

### Discussion: EIR Scoping and Project Preview:

Public meeting to solicit input and comments from the Zoning Adjustments Board, the general public and other interested parties. No action will be taken.

### 5. [2580 Bancroft Avenue](#) – EIR Scoping and Preview

**Application:** Draft EIR Scoping Session and Project Preview for Use Permit #ZP2017-0083 to demolish the building at 2558-2588 Bancroft Way and demolish the rear half of the Fred Turner Building, a City Landmark, at 2546-2554 Bancroft Way; and to construct a new mixed-use building with approximately 122 dwelling units and 11,000 square feet of ground-floor retail. Approximately 39 parking spaces would be provided in a subterranean garage accessed from the entryway of the Fred Turner Building.  
**Zoning:** C-T – Telegraph Commercial  
**CEQA** An EIR is being prepared to evaluate the potentially significant environmental impacts of the proposed project, pursuant to the CEQA. The Notice of Preparation of an EIR was published on October 3, 2017. The public scoping period that began with publication of the Notice of Preparation ends on November 3, 2017; comments on the scope of the EIR are due by 5:00 p.m. on that date.  
**Determination:**  
**Applicant:** Dave Johnson, Johnson Lyman Architects, 1375 Locust Street #202, Walnut Creek  
**Owner:** Landmark Properties, Inc., 455 Epps Bridge Parkway, Athens, GA  
**Staff Planner:** Leslie Mendez, Senior Planner, LMendez@CityofBerkeley.info, (510) 981-7426  
**Recommendation:** **Hold a Public Hearing and Provide Advisory Comments.**

## Agenda - Zoning Adjustments Board

Thursday, October 26, 2017

Page 4 of 7

---

### Action Calendar:

The public may comment on each item listed on the agenda for action as the item is taken up. The Board Chairperson may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue. Action items may be reordered at the discretion of the Board Chairperson with the consent of Zoning Adjustments Board.

#### 6. [740 Ensenada Avenue](#) – Appeal

**Application:** **Appeal of Zoning Officer’s Decision to approve Administrative Use Permit #ZP2017-0057** to enlarge an existing 904 square-foot, one-story, single-family dwelling by constructing a 731 square foot, two-story addition, with an average height of 21-feet 9-inches, that would vertically extend an existing non-conforming side yard setback of 3-foot 5-inches, and increase the number of bedrooms on this parcel from 2 to 5.

**Zoning:** R-1, Single Family Residential

**CEQA Determination:** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

**Appellants:** Hayley Sloan, 746 Ensenada Avenue; Rina Hoffer, 731 Peralta Avenue

**Applicant:** Matt Owens, 60 Pastori Avenue #27, Fairfax, CA

**Owner:** Andrew Brown and Rachel Maida, 740 Ensenada Avenue

**Staff Planner:** Charles Enchill, CEnchill@cityofberkeley.info, (510) 981-7431

**Recommendation:** **DISMISS APPEAL and APPROVE** Administrative Use Permit #ZP2017-0057 pursuant to Section 23B.28.060.C.1

#### 7. [1717 University Avenue](#) – New Public Hearing

**Application:** **Use Permit 2016-0101** to (1) demolish an existing 3,039 square-foot, one-story commercial building and a 680 square-foot single family dwelling with a detached garage; and (2) construct a 18,193 square-foot, five-story, 57’-8” tall, mixed-use building with 28 dwellings (including 3 Below Market Rate units), 1,837 square feet of commercial floor area (food service with incidental service of beer and wine), and 18 automobile and 40 bicycle parking spaces.

**Zoning:** C-1, General Commercial (University Avenue Mixed-Use Overlay) and R-2A, Restricted Multiple-Family Residential District

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

**Applicant:** Matthew Fialho, 3177 Stanwood Lane, Lafayette, CA

**Owner:** 1717 University Associates LLC, 3177 Stanwood Lane, Lafayette, CA

**Contract Planner:** Steven Ross, Steven.Ross@lsa.net, (510) 236-6810

**Staff Planner:** Immanuel Bereket, IBereket@cityofberkeley.info, (510) 981-7425

**Recommendation:** **APPROVE Use Permit #2016-0101** pursuant to Section 23B.32.040.

## Action Calendar (Continued):

### 8. [739 Channing Way](#) – New Public Hearing

**Application:** Use Permit #ZP2017-0039 to construct three detached, three-story buildings with 10 dwellings, four live-work units for Arts and Crafts, one office space, and 16 off-street parking spaces.

**Zoning:** Mixed-Use Light Industrial (MU-LI) and Mixed Use-Residential (MU-R)

**CEQA**  
**Determination:** Categorically exempt pursuant to Section 15303 (“New Construction or Conversion of Small Structures”) and Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”).

**Applicant:** David Trachtenberg, 2421 Fourth Street, Berkeley

**Owner:** East Bay Channing, LLP 2421 Fourth Street, Berkeley

**Staff Planner:** Immanuel Bereket, IBereket@cityofberkeley.info, (510) 981-7425

**Recommendation:** **APPROVE Use Permit #2017-0039** pursuant to Section 23B.32.040.

## Communications

All communications submitted to Zoning Adjustments Board are public record and are for information only. Other than referring an item to the Secretary for investigation and/or recommendations, no action may be taken in response any non-agenda communication.

## Adjourn

## Agenda - Zoning Adjustments Board

Thursday, October 26, 2017

Page 6 of 7

---

### **Communications Disclaimer**

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.



### **Accessibility Information / ADA Disclaimer**

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6418 (V) or 981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

### **SB 343 Disclaimer**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Permit Service Center, Planning and Development Department located at 1947 Center Street, Berkeley, during regular business hours.

### **Supplemental Communications and Reports**

Items received by the deadlines for submission will be compiled and distributed as follows. If no items are received by the deadline, no supplemental packet will be compiled for said deadline. All materials will be made available via the Zoning Adjustments Board Agenda page: <https://www.cityofberkeley.info/zoningadjustmentboard/>

- **Supplemental Communications and Reports 1** - All Materials submitted between noon the Thursday the week before the meeting and noon Tuesday the week of the meeting, will be made available by 5:00 p.m. on Tuesday the week of the meeting.
- **Supplemental Communications and Reports 2** - All Materials submitted after noon on Tuesday the week of the meeting and before noon on Thursday the day of the meeting, will be made available at noon that Thursday. Any correspondence received after this deadline will be given to the Zoning Adjustment Board just prior to the meeting.
- Members of the public may submit written comments themselves at the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.
- **Please Note: You are strongly advised to submit written comments prior to noon Thursday, the meeting date, as Board members do not have an opportunity to read written materials handed out at the meeting.**

### **Notice of Decision Requests**

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at [zab@cityofberkeley.info](mailto:zab@cityofberkeley.info).

## Agenda - Zoning Adjustments Board

Thursday, October 26, 2017

Page 7 of 7

---

### **Notice Concerning Your Legal Rights**

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City 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 Zoning Adjustments Board 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 Zoning Adjustments Board 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, the following requirements apply:
  - 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.

---