



Zoning Adjustments Board Agenda

Planning & Development Department
Land Use Planning Division

Thursday, December 14, 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
Rigel Robinson, 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: Greg Powell, (510) 981-7410, (Zoning Adjustments Board Secretary), 1947 Center Street, Second Floor, Berkeley, CA 94704; 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 November 30, 2017

Recommendation: APPROVE

2. 2355 Telegraph Avenue – New Public Hearing

Application: Use Permit **ZP#2017-0167** to establish a 3,219-square-foot quick-service restaurant (change in use from a full-service restaurant).
Zoning: C-T – Telegraph Avenue Commercial
CEQA Categorically exempt pursuant to Section 15301 of the CEQA Guidelines
Determination: (“Existing Facilities”).
Applicant/Owner: RP Cambridge LP, 150 Post Street, Suite 320, San Francisco
Staff Planner: Sharon Gong, SGong@cityofberkeley.info, (510) 981-7429
Recommendation: **APPROVE** Use Permit #ZP2017-0167 pursuant to Section 23B.32.030.

3. 2538-2542 Durant Avenue – New Public Hearing

Application: Use Permit **#ZP2016-0172** to merge two parcels and construct a new five-story, mixed use building with 32 dwelling units including Variance to permit dwelling units on the ground floor next to and behind an existing 12-unit apartment building.
Zoning: C-T – Telegraph Avenue Commercial
CEQA Categorically exempt pursuant to Section 15332 of the CEQA Guidelines
Determination: (“In-Fill Development Projects”).
Applicant Kirk Peterson & Associates Architects, 5253 College Avenue, Oakland
Owner: Tim & Marley Lyman, PO Box 10608, San Rafael
Staff Planner: Leslie Mendez, LMendez@cityofberkeley.info, (510) 981-7426
Recommendation: **CONTINUE** off Calendar.

Agenda - Zoning Adjustments Board

Thursday, December 14, 2017

Page 3 of 6

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.

4. [1805 Franklin Street](#) – Appeal

Application: **Appeal of Decision of Administrative Use Permit #ZP2017-0047** for a project that would construct a 148 square-foot first floor and 921 square-foot second floor addition with an average height of 26 feet 8 inches to an existing one-story, 1,074 square-foot single-family dwelling culminating in one new bedroom, two new bathrooms, and an enlarged kitchen and dining area.

Zoning: R-2 – Restricted Two-Family Residential

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

Determination:

Applicant/Owner: George Hull and Julie Jaros, 1805 Franklin Street, Berkeley

Appellant: Karen Flynn, 1364 Delaware Street, Berkeley

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

Recommendation: **DISMISS APPEAL and APPROVE** Administrative Use Permit #ZP2016-0047 pursuant to Section 23B.28.060.C.1.

5. [2100 San Pablo Avenue](#) - New Public Hearing

Application: **Use Permit #ZP2016-0034** to demolish an existing, unoccupied single-story, former U-Haul rental facility, and construct a new 60,428 square foot, four-story, 48 foot tall mixed-use building containing a 96-unit Residential Care Facility with 3,369 square feet of combined ground floor commercial space for restaurant, flower shop, personal household and club/wellness center uses. The project would include grade level parking for 33 vehicles as well as 12 bicycle parking spaces.

Zoning: C-W – West Berkeley Commercial.

CEQA Negative Declaration prepared pursuant to Article 6 of the CEQA Guidelines.

Determination:

Applicant/Owner: Ali Kia Shabahangi, Spirit Residential Group, LLC, 45 Ross Ave, San Anselmo

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

Recommendation: **APPROVE** Use Permit #ZP2016-0034 pursuant to Section 23B.32.030.

Agenda - Zoning Adjustments Board

Thursday, December 14, 2017

Page 4 of 6

Action Calendar (Continued):

6. [2928 Ellsworth Street](#) – New Public Hearing

Application: Use Permit #ZP2016-0232 to construct a 130-square-foot, ground floor addition and renovate an existing two-story four-bedroom dwelling into an eight bedroom dwelling; to convert the existing detached garage into an accessory dwelling unit; and to construct a 125-square-foot detached accessory building with full bathroom.

Zoning: R-2 – Restricted Two-Family Residential

CEQA Categorically exempt pursuant to Section 15301 and 15303 of the CEQA Guidelines (“Existing Facilities” and “New Construction or Conversion of Small Structures,” respectively).

Determination:

Applicant/Owner: Theodore Ekman, 2928 Ellsworth Street, Berkeley

Staff Planner: Leslie Mendez, LMendez@cityofberkeley.info, (510) 981-7426

Recommendation: **APPROVE** Use Permit #2016-0323 pursuant to Section 23B.32.030.

7. [1050 Parker Street](#) – New Public Hearing

Application: Use Permit #ZP2016-0170 to construct a 61,000 square-foot, three-story commercial building with 750 square feet of quick service food retail space and pocket park fronting San Pablo Avenue, 119 automobile parking spaces on the ground floor, 20,400 square-foot medical office space and 40,600 square-foot research and development space on the second and third floors, and 50 bicycle parking spaces on a split-zoned property in the West Berkeley Mixed Use Light Industrial (MU-LI) and Commercial (CW) areas.

Zoning: MU-LI – Mixed Use Light Industrial, C-W – West Berkeley Commercial

CEQA An Initial Study-Mitigated Negative Declaration (IS-MND) has been prepared for this project pursuant to the provisions of CEQA.

Determination:

Applicant: Christopher Barlow, 1120 Nye Street, Suite 400, San Rafael

Owner: 2600 Tenth Street, LLC, c/o Wareham Property Management, 1120 Nye Street, San Rafael

Staff Planner: Loyal Nawfal, LNawfal@CityofBerkeley.info, (510) 981-7424

Recommendation: **APPROVE** Use Permit #2015-03238 pursuant to Section 23B.32.030.

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

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.

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.
