



Z O N I N G
A D J U S T M E N T S
B O A R D

NOTICE OF PUBLIC HEARING

2538-2542 Durant Avenue

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.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23B.32.020, on **Thursday, May 24, 2018** at the Maudelle Shirek Building, 2134 Martin Luther King, Jr. Way, second floor Council chambers (wheelchair accessible). The meeting starts at 7:00 p.m.

PERMITS REQUIRED:

- Use Permit for construction of a new mixed use building
- dwellings on the ground floor of a mixed-use building;
- Use Permit for construction of more than 1,500 square feet of new floor area
- Use Permit to decrease the 15-foot rear yard
- Use Permit to reduce existing parking spaces for main buildings
- Use Permit to exceed the 65' height limit;
- Administrative Use Permit to allow architectural projections (e.g. elevator enclosures) to exceed the height limit
- Zoning Certificate to allow a 1,200 square foot quick or full service restaurant
- Administrative Use Permit to permit alcoholic beverage service of beer and wine incidental to food service for on-site consumption at a quick or full service restaurant

APPLICANT: Kirk Peterson & Associates Architects, 5253 College Avenue, Oakland CA 94681

ZONING DISTRICT: C-T – Telegraph Avenue Commercial District

ENVIRONMENTAL REVIEW STATUS: Categorically exempt under Section 15332 of the California Environmental Quality Act (CEQA) Guidelines (“In-Fill Development Projects”).

The Zoning Application and application materials for this project is available online at:
<http://www.cityofberkeley.info/zoningapplications>

The agenda and staff report for this meeting will be available online 3 to 5 days prior to

this meeting at: <http://www.cityofberkeley.info/zoningadjustmentsboard>

Correspondence and Notice of Decision Requests

- 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.
- **To distribute correspondence to Board members prior to the meeting date** -- submit comments **by 12:00 noon, seven (7) days before the meeting.** Please provide 15 copies of any correspondence with more than ten (10) pages or if in color or photographic format.
- Correspondence received by 5:00 p.m. on the Tuesday before the meeting will be posted on the ZAB web site for review by the Board and public prior to the meeting. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.
- Any correspondence received after this deadline will be given to Board members on the meeting date just prior to the meeting.
- Staff will not deliver to Board members any additional written (or e-mail) materials received after 12:00 noon on the day of the meeting.
- Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk just before or at the beginning of the meeting.
- Written comments, or a request for a Notice of Decision should be directed to the ZAB Secretary at: Land Use Planning Division (Attn: ZAB Secretary), 1947 Center Street, Berkeley, CA 94704 OR at zab@ci.berkeley.ca.us.



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 981-6342 (V) or 981-6345 (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, Third Floor, Berkeley, during regular business hours.

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.

Further Information

Questions about the project should be directed to the project planner, Leslie Mendez, at (510) 981-7426 or LMendez@cityofberkeley.info. All project application materials, including full-size plans, may be viewed at the Permit Service Center (Zoning Counter), 1947 Center Street, Third Floor, during normal office hours.