



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
MAY 24, 2018

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 a Variance request to allow dwelling units on the ground floor next to and behind an existing 12-unit apartment building.

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 Section 23E.56.030
- Variance from BMC Section 23E.56.070.F to allow 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, per BMC Section 23E.56.050.A.2
- Use Permit to decrease the 15-foot rear yard, per BMC Section 23E.04.050.E;
- Use Permit to reduce existing parking spaces for main buildings, per BMC Section 23E.56.080.C
- Use Permit to exceed the 65' height limit, per BMC Section 23E.56.070.B.3
- Administrative Use Permit to allow architectural projections (e.g. elevator enclosures) to exceed the height limit, BMC Section 23E.04.020.C
- Zoning Certificate to allow a 1,200 square foot quick or full service restaurant, per BMC Section 23E.56.030
- 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, per BMC Section 23E.56.030

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

D. Parties Involved:

- Applicant Kirk Peterson & Associates Architects, 5253 College Avenue, Oakland CA 94681
- Property Owner Tim & Marley Lyman, PO Box 10608, San Rafael, CA 94912

Figure 1: Vicinity Map

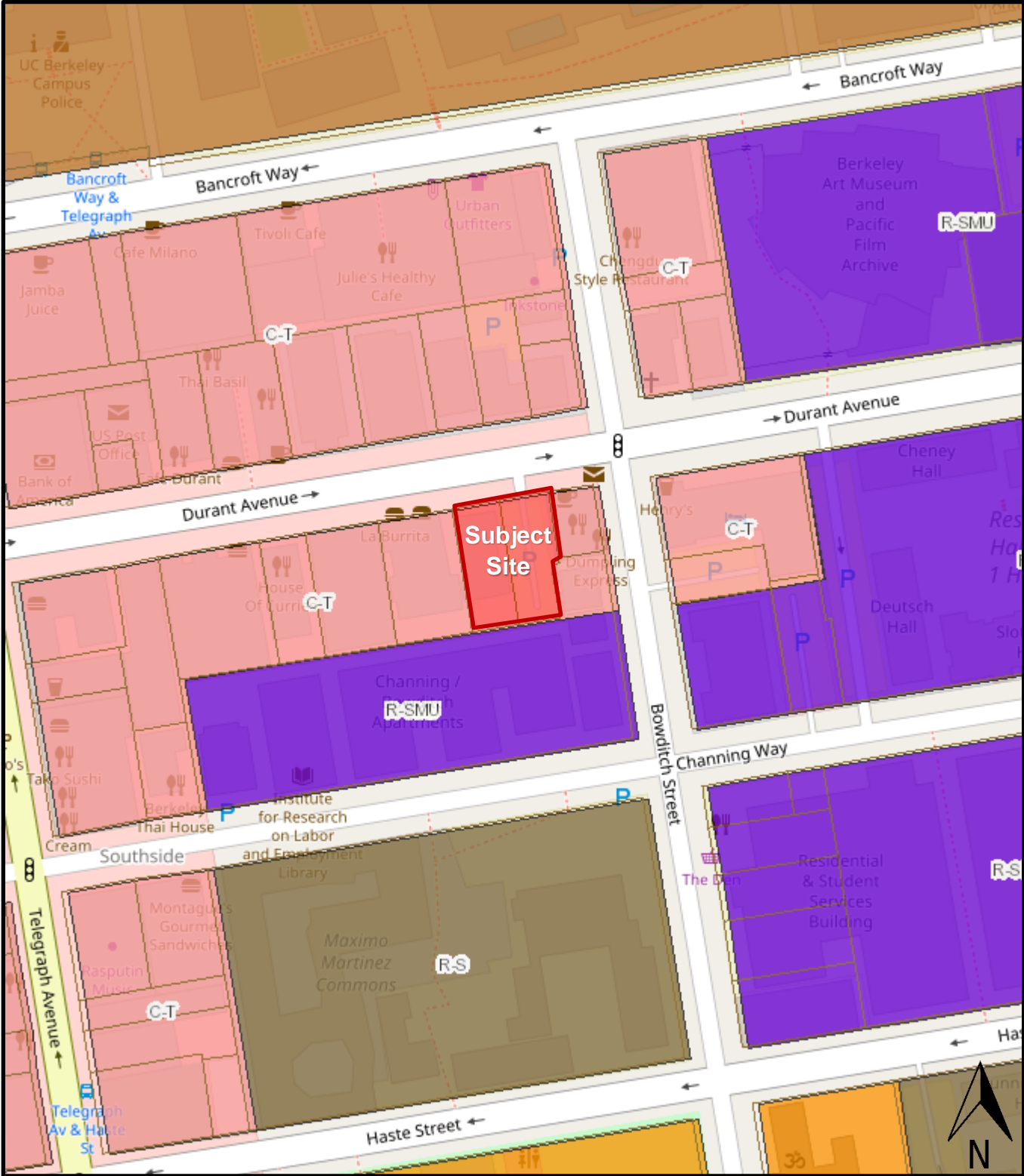


Figure 2: Proposed Site/Ground Floor Plan

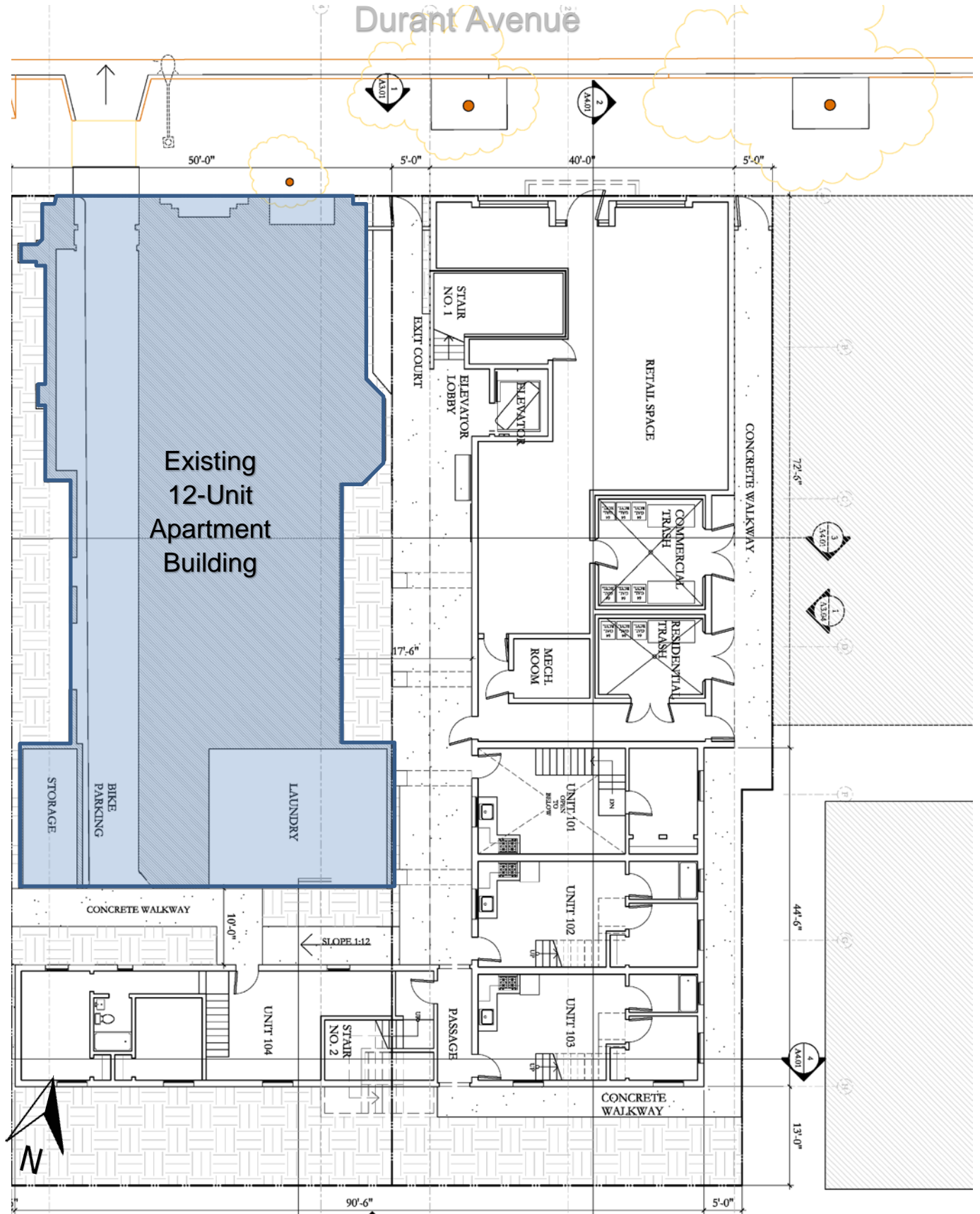


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Parking Lot (2542) / Multi-Family Residential (2538)	C-T	Avenue Commercial
Surrounding Properties	North	Church	C-T	Avenue Commercial
	South	UC Berkeley Student Housing	R-SMU	High Density Residential
	East	Food Service	C-T	Avenue Commercial
	West	Mixed Use Building	C-T	Avenue Commercial

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Affordable Child Care and Affordable Housing Fee for non-residential projects (Per Resolution 66,617-N.S. and 66,618-N.S.)	No	Proposed project includes 1,500 square feet of commercial space, which is less than the 7,500 square feet requirement.
Affordable Housing Mitigations for rental housing projects (Per BMC Section 22.20.065)	Yes	The project is subject to the affordable housing provisions of BMC 22.20.065.
Housing Accountability Act [Gov't Code Section 65589.5.(j)]	No	Project is a "Housing development project" consisting of dwelling units only. However, there is are multiple elements which do not meet the regulatory standards of the BMC. See Section V.H.
Alcohol Sales/Service	Yes	The project includes a request for incidental service of beer and wine at a quick or full service restaurant.
Creeks	No	The property does not fall within a creek buffer zone
Density Bonus	No	No density bonus is being proposed.
Historic Resources	No	There are no historic resources on the site.
Oak Trees	Yes	There is an oak tree located on the adjacent parcel to the southeast (2535 Channing Way). See discussion under Key Issues below.
Rent Controlled Units	Yes	The 12 units in 2538 Durant are under rent control. No changes are proposed to this building and no tenant displacement will occur as part of this project.
Seismic Hazards (SHMA)	No	The project site is not in a seismic hazard zone.
Soil/Groundwater Contamination	No	There is no record of soil/ground water contamination on the site.

Table 3: Project Chronology

Date	Action
September 16, 2016	Application submitted
May 18, 2017	DRC Preliminary Design Review Meeting (PDR): Item Continued
June 15, 2017	DRC PDR Meeting: Item Continued
August 17, 2017	DRC PDR Meeting: Favorable Recommendation
September 7, 2017	Application Deemed Complete
November 30, 2017	ZAB public hearing notices mailed/posted
December 14, 2017	ZAB hearing: Item Continued per staff recommendation on Consent Calendar
March 19, 2018	Oak Tree Mitigation Plan Satisfied
May 9, 2018	ZAB public hearing notices mailed/posted
May 24, 2018	ZAB hearing

Table 4: Development Standards

Standard BMC Sections 23E.56.070-080		Existing 2538 Durant	Existing 2542 Durant	Proposed 2542 Durant	Proposed Total	Permitted/ Required
Lot Area (sq. ft.)		6,500	6,292	No change	12,792	---
Gross Floor Area (sq. ft.)		11,400	0	26,896	38,296	63,960 max.
Floor Area Ratio		1.8	0	---	3	5 max.
Total Dwelling Units		12	0	32	44	---
Building Height	Average (ft.)	40	---	66.5	---	35 min. 65 max. (75 w/UP)
	Maximum (ft.)	50	---	79.5	---	---
	Stories	3	---	5	---	---
Building Setbacks (ft.)	Front	0	---	0	---	0
	Rear	39	---	9	---	13 min. (abutting R District)
	Left Side	5	---	5	---	0
	Right Side	5	---	5	---	0
Lot Coverage (%)		58	0	---	69.3	---
Usable Open Space (sq. ft.)		1,950	0	---	2,072	1,760 min. (40 sq. ft. per DU)
Parking	Automobile	5	30	---	0	0
	Bicycle	0	0	---	32	0

II. Project Setting

- A. Neighborhood/Area Description:** The property is located one block to the east of the Telegraph Commercial Corridor, one block west of College Avenue and one block south of UC Berkeley campus and Bancroft Way. The neighborhood is campus oriented, with a mix of commercial uses located along Telegraph Avenue, Durant Avenue and Bancroft Way, 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. On-street parking is limited, and pedestrian traffic is heavy, especially during the school year.
- B. Site Conditions:** The subject site is comprised of two lots (2538 and 2542 Durant) located on the south side of Durant Avenue, one parcel to the west of Bowditch Street. Both lots are relatively flat, 130' deep lots with 50' frontages. 2542 Durant, the property to the east, is developed with a 30-space commercial surface parking lot with an approximately 18-foot wide curb cut and access in the middle of the frontage. The parcel to the west, 2538 Durant, is developed with a three-story, 12-unit apartment building that was constructed in 1926. An approximately 8-foot wide curb cut and driveway are located near the west side of the parcel. The driveway runs through the building to the rear of the lot that, per record, serves as off-street parking for five vehicles. However, at 6.6 feet in width at its narrowest, the access way is quite narrow and too low for most automobile passage; it is currently not used as off-street parking.

III. Project Description

The project proposes to merge two parcels (2538 and 2542 Durant), and construct a five-story, mixed use building that is adjacent to, and wraps behind, the existing three-story, 12-unit apartment building. The major components of the new building include:

- 32 dwelling units, including four of the ground floor. The dwelling units consist of: four one-bedroom units, 27 two-bedroom units, and one four-bedroom unit;
- 2,072 square feet of useable open space provided in a rear ground floor courtyard and a roof deck;
- 1,200 square feet of ground level commercial space and a request for incidental service of beer and wine for on site consumption and a quick or full service restaurant.

Consistent with the Southside Plan objectives, the project proposes to formally eliminate the five off-street automobile parking spaces that serve the existing apartment building and proposes no new automobile parking for the new dwellings. This would allow the removal of the two existing curb cuts in front of the project site. The existing driveway area near the western property line of the site would be use as secure bicycle parking for a minimum of 32 bicycles.

IV. Community Discussion

- A. Neighbor/Community Concerns:** Prior to submitting this application to the city, the applicant invited interested neighborhood organizations as well as owners and occupants within 300 feet of the project to a project preview meeting. The meeting was

held on September 15, 2016, at 6 p.m., and attended by four people. Items discussed included concerns about blocking the street during construction, concerns about windows on the east side that might affect the neighbors if they built up, interest in a neighborhood parklet and what restaurant might move into the tenant space. Prior to submitting the application, the applicant erected a pre-application poster. On November 30, 2017 and again on May 9, 2018, the City mailed public hearing notices to property owners and occupants within 300 feet of the subject property, and to interested neighborhood organizations and the City posted notices within the neighborhood in three locations. At the time of this writing, staff has not received any communications regarding the project.

B. Committee Review: The Design Review Committee (DRC) held a preliminary review of the project on May 18, 2017, and continued the review to June 15, 2017. At the June 15 meeting, the DRC continued the review to August 17, 2017. At the August 17 meeting, the DRC made a favorable recommendation to ZAB (5-0-0-2) with the following conditions and recommendations:

Conditions:

- *Develop main entry and west seating area further at Final Design Review (FDR); provide more interest and detail.*
- *Develop trellis on lobby wall for more rhythmic expression. Committee will review at FDR.*
- *Outdoor lobby needs more detail; look at the trellis, posts, and paving in more detail.*
- *Provide refrigerator location in plans reviewed by ZAB.*

Recommendations:

- *Some planting areas are very small; look carefully at the final landscape plan and plant palette.*

V. Issues and Analysis

A. Variance to Permit Dwelling Units on the Ground Floor: The C-T Commercial Telegraph District prohibits exclusive residential uses and only permits dwelling units and Group Living Accommodations above the ground floor when located in a Mixed Use building (BMC Section 23E.56.070.F). In order to approve a Variance to allow the four dwelling units on the ground floor, the City must make three findings, as set forth in BMC Section 23B.44.030.A. The three findings are listed below along with staff's analysis for each finding.

1. *There are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District:*

The applicant posits that the long and narrow nature of the lot limits the use of the rear portion of the building. The subject site, however, is composed of two parcels, each with a 50 foot frontage. Of the 15 other parcels having frontage on this block of Durant alone, three other parcels have narrower frontages, four have the same width, and while eight have wider frontages, only one would be as wide as the

proposed 100-foot frontage when the lots are merged (see Figure 1 for reference). Similarly, on the other parcels on the block, only three are shorter in depth, eleven have the same depth, and one parcel has a 170-foot depth. In sum, there is no evidence supporting this finding that there are exceptional or extraordinary circumstances or conditions applying to the land, building or use referred to in the application, which circumstances or conditions do not apply generally to land, buildings and/or uses in the same District. This finding cannot be made.

2. *The granting of the application is necessary for the preservation and enjoyment of substantial property rights of the subject property's owner:*

Staff interprets property rights as a property owner's ability to have an economic use of his or her property in a manner consistent with the applicable provisions of the Ordinance. The applicant is proposing a mixed use building that would have a total of 28 dwelling units without the approval of the Variance request, which is an economically viable use of the land with an equal or higher density and intensity of use to others in the vicinity. Granting of the Variance, therefore, is not necessary to preserve substantial property rights. This second finding cannot be made.

3. *The establishment, maintenance or operation of the use or the construction of a building, structure or addition thereof, to be approved will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood; and that the granting of the Variance will promote the municipal health, welfare and safety and benefit the City as a whole:*

Approval of the Variance would allow four dwelling units on the ground floor level of the newly proposed building for a total of 32 dwelling units. There is nothing in the record, or any reason to believe, that the ground floor dwelling units would materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicant and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in said neighborhood. In addition, the granting of the Variance would add to this City's housing stock, thereby promoting the municipal health, welfare and safety and benefit the City as a whole. This finding can be made.

4. *Any other variance findings required by the Section of the Ordinance applicable to that particular Variance.*

No other findings apply to this case.

Staff concludes that, while the Variance application to permit dwelling units on the ground floor would not be generally detrimental (Finding 3), there is no exceptional circumstance on the property (Finding 1) and it is not necessary for the preservation of substantial property rights (Finding 2). Thus, staff recommends that the ZAB not

approve the Variance and to direct the applicant to submit revised plans for the building permit that show ground floor uses that are consistent with the uses allowed by BMC Section 23E.56.030.

B. Compatibility with District Purposes: The project would further the purposes of the district in that it would create additional housing, predominantly for those who work or study in the neighborhood. The project includes ground floor commercial space that, although unspecified, is expected to be food service, which 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 improvements including the elimination of two driveways and curb cuts, and the provision of new sidewalks and one new street tree.

With five stories built at the location of a current surface parking lot, located one block south of UC Berkeley campus, 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 and the construction of ground floor retail, would result in an enhancement of the continuity the ground floor retail, as well as infill the wall of building façades along Durant Avenue.

C. Oak Tree: A large, 23" diameter coast live oak (*quercus agrifolia*), exists on the abutting University-owned parcel with the street address of 2334 Bowditch Street, the Center for Latin American Studies (CLAS). Before the tree was pruned in December 2017, most of the tree's canopy extended over the existing parking lot on 2542 Durant Avenue. See Figures 3 and 4 below.

Figure 3: Subject Site with Coast Live Oak Canopy

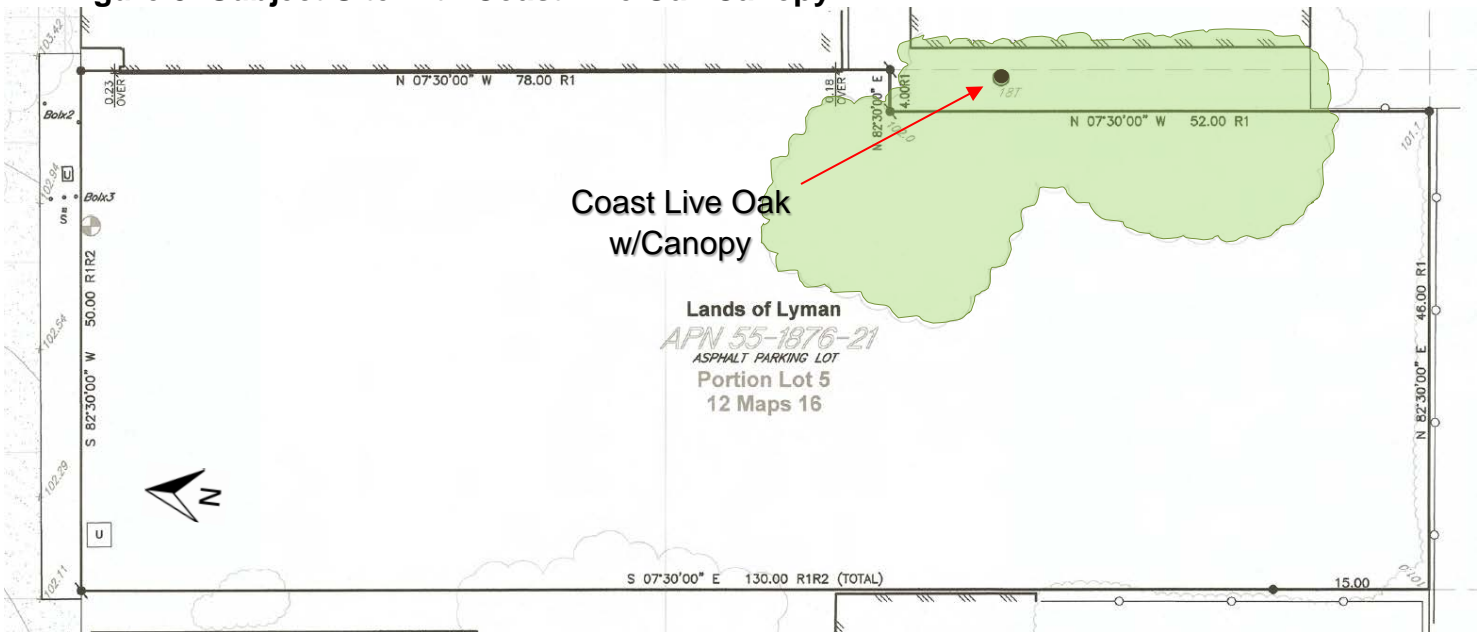


Figure 4: Before and After Photos



Both the City and private consulting arborist hired by the architect, John Leffingwell of Hortscience, recommended that the tree be removed after it had recently been severely pruned. The building could not have been constructed as designed without further pruning and the tree would not survive the root cutting necessary to excavate the proposed foundation. As the tree trunk is located completely within the property of the University of California, the City's tree removal moratorium (BMC Section 6.52.010) does not apply to this tree.

However, the University of California, Berkeley's 2020 Long Range Development Plan (LRDP) Environmental Impact Report (EIR) section 4.3.3 acknowledges the City of Berkeley's Coast Live Oak Removal Moratorium Ordinance (No. 6,905-N.S.). The Campus Landscape Master Plan (LMP) supplements the policies and guidelines of the 2020 LRDP and includes the Campus Specimen Tree Program. Specimens must be replaced by new planting at a ratio of 3 to 1 as directed by the Campus Landscape Architect. Coast live oak plantings will be used to replace trees lost as a result of development. These measures serve to mitigate the impacts of construction on tree loss.

The City arborist, therefore, instructed the applicant to communicate with the University and provide a tree loss mitigation plan that meets the requirements of the 2020 LRDP with respect to enhancing the City Environs by implementing the Campus Specimen Tree Program. The property owners, submitted a mitigation plan, approved by the Associate Vice Chancellor of Facilities Services, that requires them to purchase three 36" box "Specimen Trees," and pay for them to be planted per the University's

requirement. Staff has added this as a condition of approval to be completed prior to issuance of building permit final or certificate of occupancy.

- D. Parking:** The project proposes to eliminate the 30-space commercial surface parking lot located on 2542 Durant, as well as officially eliminate the five off-street parking spaces at 2538 Durant, the latter of which requires Use Permit approval. In order to approve any reduction of off-street parking spaces, the Zoning Adjustments Board must find that the reduction will not substantially reduce the availability of on-street parking in the vicinity of the use. This finding can be made as the five spaces are not currently accessible. The official elimination of these spaces would, therefore, have no impact on the existing parking supply in the neighborhood.

In addition to the above finding, this project would satisfy the minimum of two conditions required for the proposed reduction as described in BMC Section 23E.28.140 (Required Findings for Parking Reduction). The first condition (1.b.) the project satisfies is that, *“The use is located one-quarter of a mile or less from a publicly accessible parking facility, the use of which is not limited to a specific business or activity during the use’s peak parking demand.”* The Berkeley-Telegraph Channing parking garage located at 2450 Durant Avenue, is located 0.1 mile from the project site. It is open to the public seven days a week: Sundays 8:00 a.m. – 10:00 p.m., Monday – Thursdays 7:00 a.m. – 1:00 a.m., and Friday and Saturdays 7:00 a.m. – 2:00 a.m.

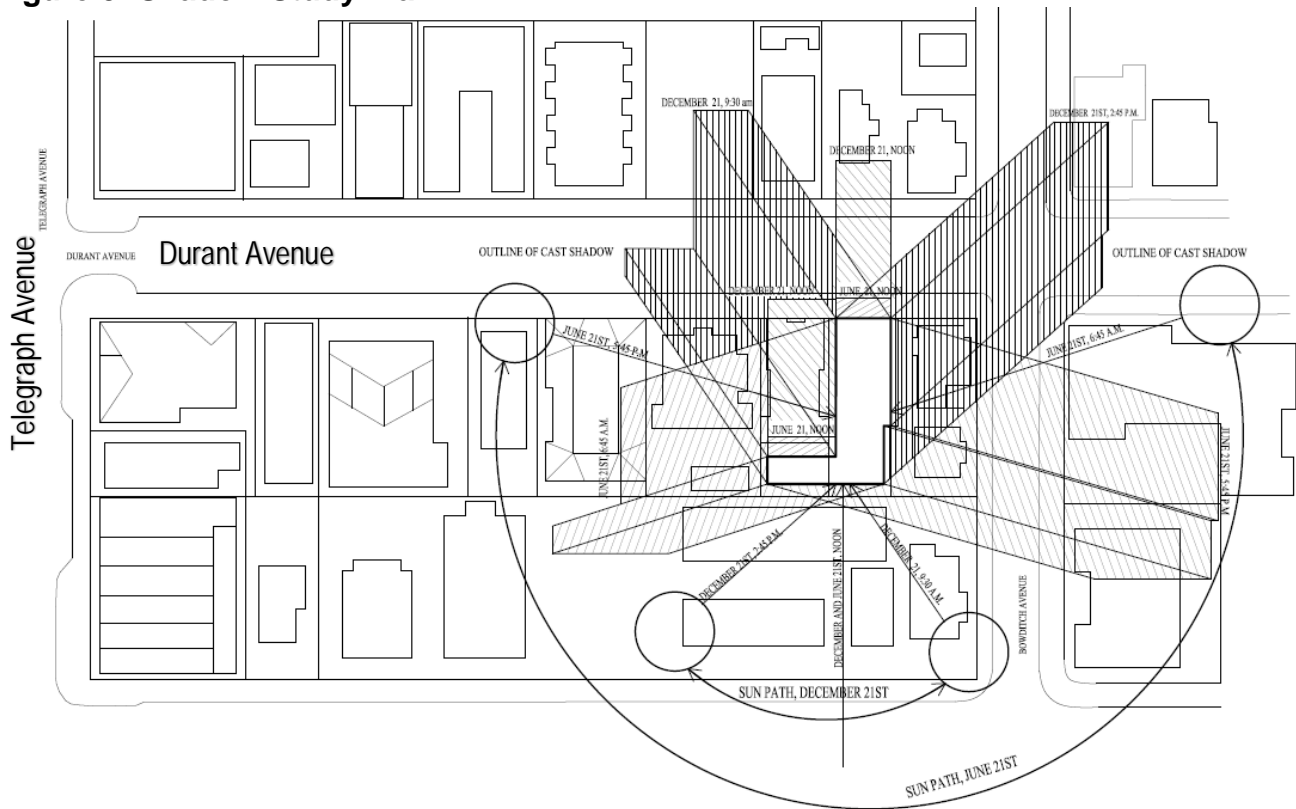
The second condition (2.a.) is that, *“The parking requirement modification will meet the purposes of the district related to improvement and support for alternative transportation, pedestrian improvements and activity, or similar policies.”* There are specific Purposes of the C-T to encourage mixed use development and to implement the Southside Area Plan designation for the Telegraph Commercial Subarea – BMC Section 23E.56.020 (Purposes). In this case, the elimination of on-site parking would allow for ground floor residential amenities (laundry and common space) and access to upper floor units, towards the rear of a mixed use property that features both commercial and residential uses as the District Purposes state. Residential use is generally preferable to surface parking and is consistent with implementation of the Southside Area Plan’s car-free directives. In addition, the project includes a proposal for secure parking for a minimum of 32 bicycles, which supports an alternative mode of transportation.

- E. Sunlight/Shadows:** The project proposes to construct a five-story building on what is currently a surface parking lot. As such, the project would create greater shadowing impacts over existing conditions. To assess the anticipated shading impacts, the applicant submitted shadow studies for the project.

The impacts to residential units includes shading on the windows of the east façade of the apartment building on the project site during the morning hours throughout the year as well as on the windows of the front façades of the residential buildings across Durant (2533 and 2539 Durant) during the morning hours of the winter months. Shadows would affect the Durant Avenue right-of-way in the morning and evening hours of the summer months, and during midday during the winter months. The

shadows would not affect Telegraph Avenue sidewalks.¹ See Figure 3 below for the project's expected shading spectrum.

Figure 5: Shadow Study Plan



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 windows at any time of the year. In addition, shading impacts on the public right-of-way are limited in duration. Such shading impacts are to be expected in this commercial district abutting a high residential density, student oriented neighborhood. The proposed setbacks of the five story building are, therefore, deemed acceptable and permissible pursuant to BMC Section 23E.56.090.F.

F. Reduction of Rear Yard Setback: The project site is located in the Telegraph Commercial District that abuts the Residential Southside Mixed Use District to the south (rear) and is, therefore, required to have a rear yard setback that is the greater of ten feet or ten percent of the lot depth (BMC Section 23E.04.050.C). The new building would predominantly respect the 13-foot setback that is required for this site. The applicant is, however, requesting approval to allow an 18-foot wide stairway enclosure bay on levels two through five to encroach four feet into the required setback. This encroachment is permissible upon finding that the smaller yard would

¹ Pursuant to BMC Section 23E.56.090.F, to approve a Permit for increased height or stories, the Zoning Board must find that the project will not result in a significant reduction in sunlight on Telegraph Avenue sidewalks.

provide greater privacy or improved amenity to the lot in the abutting residential District (BMC Section 23E.04.050.E).

The project proposes a continuous 13-foot setback along the entire rear yard, allowing light and air to the open space. The projecting bay starts nine feet above the ground level and is used to create space for circulation of the building. The bay is also used to create variety, along what would otherwise be, a large unrelieved elevation. This is an amenity to the neighbors in the University housing that abuts the site to the south, who would be facing a more engaging appealing façade. The area in which the projecting bay is proposed is aligned with a corresponding recess in the adjacent University housing. The two structures would work together to provide consistent space between their rear yards. A similar condition is present at 2526 Durant where there is a projecting bay up against the same university building and it creates an interesting and desirable space, while retaining ample light and air.

G. 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.

H. 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;² and
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:

- Dwellings on the ground floor of a mixed-use building;
- Construction of more than 1,500 square feet of new floor area;
- A reduction in the 13-foot rear yard;
- Elimination of existing parking spaces for a main building; and
- Architectural projections that exceed the height limit.

Therefore, §65589.5(j) does not apply to this project as proposed.

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

² 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, policies, or conditions as they existed on the date the application was complete.

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 B 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 in a neighborhood that has a mix of one- to five-story buildings. Due to the topography of the neighborhood that increases in elevation from west to east 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 D above, shadow impacts from the project will reduce direct sunlight on the Durant Avenue public right-of-way and certain residential windows. These areas, 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 windows for more than a few hours per day. In addition, shading impacts on the public right-of-way are limited in duration. 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 adding 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 without providing vehicle parking. Several AC Transit lines (6, 51B, 79, 851) operate within one block of the project site and the downtown Berkeley BART station is located 0.8 miles from the project site, which has connecting service throughout the Bay Area.

J. 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 inconsistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

Make the findings to DENY the Variance, and APPROVE Use Permit #ZP2016-0172 with the modification that the ground floor area proposed as dwelling units be used for

conforming C-T uses, 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, dated November 28, 2107
3. Notice of Public Hearing
4. Correspondence Received

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