



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

Thursday, January 23, 2020 - 7:00 PM
Berkeley Unified School District Board Room, 1231 Addison Street, Berkeley
(Wheelchair Accessible)

Zoning Adjustment Board Members:

Igor Tregub, appointed by Mayor Arreguin
Teresa Clarke, appointed by District 1 (Councilmember Kesarwani)
Patrick Sheahan, appointed by District 2 (Councilmember Davila)
John Selawsky, appointed by District 3 (Councilmember Bartlett)
Carrie Olson, appointed by District 4 (Councilmember Harrison)
Shoshana O'Keefe (Chairperson), appointed by District 5 (Councilmember Hahn)
Charles Kahn, appointed by District 6 (Councilmember Wengraf)
Dohee Kim, appointed by District 7 (Councilmember Robinson)
Denise Pinkston (Vice Chairperson), appointed by District 8 (Councilmember Droste)

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, 2nd Floor, Berkeley, CA 94704; zab@cityofberkeley.info.

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.

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.

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 January 9, 2020**
Recommendation: APPROVE

Consent Calendar Continued

2. [2336 Eighth Street](#) – New Public Hearing

Application: Use Permit #ZP2017-0206 to construct a 1,242-square-foot, two-story addition, adding two bedrooms (for eight total) to an existing duplex.
Zoning: R-1A – Limited Two-Family Residential
Categorically exempt pursuant to Sections 15303 (New Construction or Conversion of Small Structures) and 15332 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines.
CEQA Determination:
Applicant/Owner: Francis Wong, 926 Channing Way, Berkeley
Staff Planner: [Sharon Gong, sgong@cityofberkeley.info, \(510\) 981-7429](mailto:sgong@cityofberkeley.info)
Recommendation: **APPROVE** Use Permit #ZP2017-0206 pursuant to BMC Section 23B.32.030.

3. [2212 Ashby Avenue](#) – New Public Hearing

Application: Use Permit #ZP2018-0049 to construct a 118-square-foot, one-story addition, to enlarge a bedroom and add a bathroom to an existing duplex on a lot that is over density.
Zoning: R-2A – Restricted Multiple-Family Residential
Categorically exempt pursuant to Sections 15303 (New Construction or Conversion of Small Structures) and 15332 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines.
CEQA Determination:
Applicant: Greg VanMechelen, VanMechelen Architects, 732 Gilman Street, Berkeley
Owner: Hamid and Nayer Bakhtiari, 2212 Ashby Avenue, Berkeley
Staff Planner: [Sharon Gong, sgong@cityofberkeley.info, \(510\) 981-7429](mailto:sgong@cityofberkeley.info)
Recommendation: **APPROVE** Use Permit #ZP2018-0049 pursuant to BMC Section 23B.32.030.

4. [910 Ashby Avenue](#) – New Public Hearing

Application: Use Permit #ZP2019-0120 to demolish a 2,400 square-foot commercial building.
Zoning: MULI – Mixed Use Light Industrial
CEQA Determination: Categorically exempt pursuant to Section 15301 (Existing Facilities) of the California Environmental Quality Act (CEQA) Guidelines.
Applicant: Ralph Lammers Construction Inc., 1406 Barbis Way, Concord
Owner: MacBeath Hardwood Company, Inc., 2159 Oakdale Avenue, San Francisco
Staff Planner: [Leslie Mendez, lmendez@cityofberkeley.info, \(510\) 981-7426](mailto:lmendez@cityofberkeley.info)
Recommendation: **APPROVE** Use Permit #ZP2019-0120 pursuant to Section 23B.32.030

Consent Calendar Continued

5. [1872 Allston Way](#) – New Public Hearing

Application: Use Permit #ZP2019-0106 to construct a new 1,955 sq. ft., two story, single-family dwelling with an average height of 25'- 6".

Zoning: R-2 – Restricted Two-Family Residential
Categorically exempt pursuant to Section 15303 (New Construction or Conversion of Small Structures) and 15332 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines.

CEQA Determination:

Applicant/Owner: Wen Pei Chow, 2200 Martin Luther King Jr. Way, Berkeley

Staff Planner: [Jim Frank, jfrank@cityofberkeley.info](mailto:jfrank@cityofberkeley.info), (510) 981-7548

Recommendation: **APPROVE** Use Permit #ZP2019-0106 pursuant to BMC Section 23B.32.030.

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. [2150-2176 Kittredge Street](#) – New Public Hearing

Application: Use Permit # ZP2019-0027 to demolish a five-story commercial building at 2176 Kittredge Street and a one-story convenience store and carwash facility at 2150 Kittredge; to merge the two parcels for a total lot area of approximately 32,600 sq. ft.; and to construct a new, 75 ft.-tall, seven-story mixed-use building of approximately 177,000 sq. ft. in total gross floor area containing: 23,000 sq. ft. of commercial floor area on the ground level; a total of 165 dwellings units on the second through seven stories; approximately 13,250 sq. ft. of usable open space within a series of rooftop patios; and a sub-surface parking garage providing 52 off-street parking spaces.

Zoning: C-DMU - Downtown Mixed Use (Outer Core)
An Infill Environmental Checklist has been prepared pursuant to Section 15183.3 and appendices M and N of the CEQA Guidelines;

CEQA Determination: the proposed project qualifies as an infill project under CEQA Guidelines Section 15183.3.

Applicant: Amir Massih, East Beach Development, 95 Federal Street, Suite D, San Francisco

Owner: Michael and Katherine Shimek, 1943 Granite Valley, Way, Petaluma and Plaza 5th Avenue Partners/Scott Braunstein, 1261 Redwood Lane, Lafayette

Staff Planner: [Fatema Crane, fcrane@cityofberkeley.info](mailto:fcrane@cityofberkeley.info), (510) 981-7413

Recommendation: **APPROVE** Use Permit #ZP2019-0027 pursuant to BMC Section 23B.32.030.

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.

7. 2590 Bancroft Way – New Public Hearing

Application: **Use Permit #ZP2019-0100** to 1) demolish an existing two-story commercial building; and 2) construct an eight-story, mixed-use building with 87 dwelling units (including five Very Low-Income units), 4,490 square feet of commercial space, 2,767 square feet of usable open space, 40 long-term bicycle parking spaces and zero vehicular parking spaces.

Zoning: C-T – Telegraph Avenue Commercial District

CEQA Determination: Categorically exempt pursuant to Section 15332 (In-Fill Development Projects) of the California Environmental Quality Act (CEQA) Guidelines.

Applicant: David Trachtenberg, 2421 Fourth Street, Berkeley

Owner: Ruegg & Ellsworth, 2437 Durant Street, Berkeley

Staff Planner: [Nick Armour, NArmour@cityofberkeley.info, \(510\) 981-7485](mailto:NArmour@cityofberkeley.info)

Recommendation: **Hold a public hearing and provide advisory comments.**

Subcommittee Reports:

- **Joint Subcommittee for the Implementation of State Housing Laws (JSISHL)**
[https://www.cityofberkeley.info/Clerk/Commissions/Joint Subcommittee for the Implementation of State Housing Laws Homepage.aspx](https://www.cityofberkeley.info/Clerk/Commissions/Joint_Subcommittee_for_the_Implementation_of_State_Housing_Laws_Homepage.aspx)
- **Design Review Committee (DRC)**
<https://www.cityofberkeley.info/designreview/>

Adjourn



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.

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.

Supplemental Communications and Reports

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: zab@cityofberkeley.info. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://www.cityofberkeley.info/zoningadjustmentboard/>.

Correspondence received by 8:00 AM, on the Thursday before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by Noon Tuesday**, the week of this public hearing, will be conveyed to the Board in Supplemental Communications and Reports #1, which is released the end of the day Tuesday, two days before the public hearing;
- **Correspondence received by Noon Wednesday**, the week of this public hearing, will be conveyed to the Board in Supplemental Communications and Reports #2, which is released the end of the day Wednesday, one day before the public hearing; or
- **Correspondence received by 3 PM Thursday** will be given to the Zoning Adjustment Board just prior to the public hearing.

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; and
 - 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.
