



Zoning Adjustments Board Agenda

Planning & Development Department
Land Use Planning Division

Thursday, October 10, 2019 - 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: Greg Powell, (510) 981-7410, (Zoning Adjustments Board Secretary), 1947 Center Street, 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 September 26, 2019**

Recommendation: APPROVE

2. **2215 Parker Street (0 Parker Street) – New Public Hearing**

Application: Use Permit #ZP2018-0161 to construct a two-story, 6,001 sq. ft. duplex on a 6,750 sq. ft. vacant parcel.

Zoning: R-2A – Restricted Multiple-Family Residential District

CEQA Categorically exempt pursuant to Section 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”).

Determination:

Applicant: Douglas Harnsberger, 220 Cutting Blvd., Richmond

Owner: Laurin Hunt, 220 Cutting Blvd., Richmond

Staff Planner: Nicholas Armour, narmour@cityofberkeley.info, (510) 981-7485

Recommendation: **APPROVE** Use Permit #ZP2018-0161 pursuant to Section 23B.32.040.

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Consent Calendar (continued)

3. [1923 Ninth Street](#) – New Public Hearing

Application: Use Permit #ZP2018-0226 to (1) demolish an existing 1,272-square-foot, one-story duplex and (2) construct three detached, three-story, single-family dwelling units: 1,856 square feet (Unit A), 2,006 square feet (Unit B), and 1,932 square feet (Unit C).

Zoning: R-3 – Multiple-Family Residential District

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

Determination:

Applicant: John Newton, 5666 Telegraph Avenue, Suite A, Berkeley

Owner: Adam Wright, 2400 Dowling Place, #3, Berkeley

Contract Planner: Jerry Hittleman, jhittleman@rinconconsultants.com, (510) 834-4455

Staff Planner: Sharon Gong, sgong@cityofberkeley.info, (510) 981-7429

Recommendation: **APPROVE** Use Permit #ZP2018-0226 pursuant to Section 23B.32.040.

4. [3129 Lewiston Avenue](#) – New Public Hearing

Application: Use Permit #ZP2019-0015 to expand an existing 1,920 sq. ft., 2-story single-family dwelling and alter an existing 5,961 sq. ft. residential parcel by: 1) demolishing the existing second dwelling in the rear yard, and 2) adding a two-story 948 sq. ft. addition to the main house, including an accessory dwelling unit on the first floor.

Zoning: R-2 – Restricted Two-Family Residential District

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

Determination:

Applicant: Said-Jon Eghbal, 482 Wesley Avenue, Oakland

Owner: Sheri Lippman, 3129 Lewiston Avenue, Berkeley

Staff Planner: Allison Riemer, ariemer@cityofberkeley.info, (510) 981-7433

Recommendation: **APPROVE** Use Permit #ZP2019-0015 pursuant to Section 23B.32.040.

5. [2528B Durant Avenue](#) – New Public Hearing

Application: Use Permit #ZP2019-0079 to add the service of distilled spirits incidental to food service at an existing 2,340 sq. ft. restaurant (Taco Bell).

Zoning: C-T – Telegraph Avenue Commercial

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

Determination:

Applicant: Jinglebells LLC, 6500 Dublin Blvd., Suite 200F, Dublin

Owner: Ruegg and Ellsworth, 2437 Durant Ave, Suite 204, Berkeley

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

Recommendation: **APPROVE** Use Permit #ZP2019-0079 pursuant to Section 23B.32.040.

Consent Calendar (continued)

6. [2200-2220 Fourth Street](#) – New Public Hearing

- Application:** Use Permit #ZP2019-0083 to (1) classify the existing 83,000 sq. ft. Wine.com operation that includes manufacturing, storage, warehousing and assembly of materials into new products, packaging and shipping of assembled products, and 1,000 sq. ft. of incidental retail for goods made on site, including ancillary retail sales of wine, as a 83,000 sq. ft. warehouse-based non-store retail use, and (2) to add ancillary retail sales of distilled spirits to the existing 1,000 sq. ft. incidental retail area.
- Zoning:** MU-LI – Mixed-Use Light Industrial
- CEQA** Categorically exempt pursuant to Section 15301 of the CEQA Guidelines
- Determination:** (“Existing Facilities”).
- Applicant:** William Tomaszewski, Wine.com, LLC, 222 Sutter Street, Suite 450, San Francisco
- Owner:** Herst Ventures, P.O. Box 2532 Berkeley
- Staff Planner:** Alison Lenci, alenci@cityofberkeley.info, (510) 981-7544
- Recommendation:** **APPROVE** Use Permit #ZP2019-0083 pursuant to Section 23B.32.040.

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. [2720 San Pablo Avenue](#) – New Public Hearing

- Application:** **Project Preview for Use Permit #ZP2016-0014** to demolish the former gas station and automobile service station and construct a new 6 story mixed-use development with 25 dwellings (including 2 dwellings available to very low income households) and 963 sq. ft. of retail space. The project would include parking for 15 automobiles and secure storage for 50 bicycles.
- Zoning:** C-W – West Berkeley Commercial
- CEQA** Studies are currently being prepared to evaluate the project’s potential environmental impacts prior to making a CEQA determination.
- Determination:** environmental impacts prior to making a CEQA determination.
- Applicant:** 2720 SPA, LLC c/o Rhoades Planning Group, 46 Shattuck Square, Berkeley
- Owner:** 2720 SPA, LLC, 1958A University Avenue, Berkeley
- Staff Planner:** Loyal Nawfal, lnawfal@cityofberkeley.info, (510) 981-7424
- Recommendation:** **Hold a public hearing and provide advisory comments.**

8. [2023-25 Shattuck Avenue](#) – New Public Hearing

- Application:** **Project Preview for Use Permit #ZP2019-0041** to demolish the remaining structure on the vacant lot following a fire and construct a 24,178 sq.ft., seven-story, 73’5” tall, mixed-use building with 48 dwellings (including 4 Below Market Rate units) with 1,255 sq. ft. of ground floor commercial space.
- Zoning:** C-DMU – Downtown Mixed Use
- CEQA** Studies are currently being prepared to evaluate the project’s potential environmental impacts prior to making a CEQA determination.
- Determination:** environmental impacts prior to making a CEQA determination.
- Applicant:** David Trachtenberg, Trachtenberg Architects, 2421 Fourth Street, Berkeley
- Owner:** Mevlanarumi LLC, 3456 Sacramento Street, San Francisco
- Staff Planner:** Loyal Nawfal, lnawfal@cityofberkeley.info, (510) 981-7424
- 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
- **Design Review Committee (DRC)**
<https://www.cityofberkeley.info/designreview/>

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

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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.

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.

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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.
