ZONING ADJUSTMENTS BOARD

MEETING AGENDA

When: Thursday, May 30, 2024, 7:00 pm
Where: Berkeley Unified School District Board Room, 1231 Addison Street, Berkeley
(Wheelchair Accessible) **with remote/hybrid option (via Zoom)** (see page 2)

Zoning Adjustment Board (ZAB) Members:

Igor Tregub, appointed by Mayor Arreguin
Yes Duffy (Chairperson), appointed by District 1 (Councilmember Kesarwani)
Kimberly Gaffney (Vice Chairperson), appointed by District 2 (Councilmember Taplin)
Michael Thompson, appointed by District 3 (Councilmember Bartlett)
Vacant, appointed by District 4 (Councilmember Harrison)
Shoshana O'Keefe, appointed by District 5 (Councilmember Hahn)
Charles Kahn, appointed by District 6 (Councilmember Wengraf)
Brandon Yung, appointed by District 7 (Councilmember Robinson)
Debra Sanderson, appointed by District 8 (Councilmember Humbert)

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION AVAILABLE FOR MEMBERS OF THE PUBLIC.

For in-person attendees, face coverings or masks that cover both the nose and mouth are encouraged. Face coverings will be provided by the City and available for attendees to use at the meeting. Members of Commissions, city staff, and the public are encouraged to wear a mask at all times, except when speaking publicly from the dais or at the public comment podium, although masking is encouraged even when speaking. For members of the public feeling sick, please do not attend the meeting in-person as a public health precaution.

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as "distanced seating" to accommodate persons that need to distance for personal health reasons.

Live captioned broadcasts of ZAB meetings are available on Cable B-TV (Channel 33) and via internet accessible video stream at:
http://berkeley.granicus.com/MediaPlayer.php?publish_id=1244.

To access the meeting remotely: Join from a PC, Mac, iPad, iPhone, or Android device: Please use this URL https://us06web.zoom.us/j/89600712472

If you do not wish for your name to appear on the screen, then use the drop-down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the “raise hand” icon by rolling over the bottom of the screen.

To join by phone: Dial+1 (669) 444-9171 or +1 (669) 900-6833 and enter Webinar ID: 896-0071-2472. If you wish to comment during the public comment portion of the agenda, Press *9 and wait to be recognized by the Chair.

Please be mindful that the teleconference will be recorded as any ZAB meeting is recorded, and all other rules of procedure and decorum will apply for ZAB meetings conducted by teleconference or videoconference.

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 Chair 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 Chair may rearrange the agenda or place additional agenda items on the Consent Calendar, so it is important to be present 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: Zoning Adjustments Board Secretary, 1947 Center Street, 2nd Floor, Berkeley, CA 94704; zab@berkeleyca.gov.

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 to 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 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 Chair 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); and
(4) Items noticed for public hearing which the Board decides to move to the Consent Calendar.

The 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 and heard at this meeting.

1. **Approval of Action Minutes from May 9, 2024**
   Recommendation: APPROVE

2. 1499 University Avenue – New Public Hearing

Application:	**Use Permit #ZP2023-0164** to initiate the sale of beer and wine to hotel guests under a Type 70 Alcohol Beverage Control (ABC) permit.
Zoning:	University Commercial (C-U)
CEQA Recommendation:	Categorically exempt pursuant to Section 15301("Existing Facilities") of the CEQA Guidelines.
Applicant:	Jiten Jadav, 1499 University Avenue, Berkeley
Owner:	Berkeley Hospitality LLC, 109 John Street, Salinas
Staff Planner:	Russell Roe, rroe@berkeleyca.gov, (510) 981-7548
Recommendation:	**APPROVE** Use Permit # ZP2023-0164 pursuant to Section 23.406.040(D)

3. 2462 Bancroft Way – New Public Hearing

Application:	**Use Permit #ZP2023-0107** to demolish an existing non-residential structure and construct at 40,086 square foot, eight-story (88 feet 6 inches) mixed use residential building containing 66 dwelling units (3 Very Low-Income units Density Bonus qualifying units), 1,312 square feet of commercial space, and 28 bicycle parking spaces.
Zoning:	Telegraph Avenue Commercial (C-T)
CEQA Recommendation:	Categorically exempt pursuant to Section 15332 ("Infill Development") of the CEQA Guidelines.
Applicant:	Isaiah Stackhouse, Trachtenberg Architects, Berkeley CA
Owner:	Zengs Berkeley LLC, San Leandro CA
Staff Planner:	Katrina Lapira, klapira@berkeleyca.gov, (510) 981-7488
Recommendation:	**APPROVE** Use Permit # ZP2023-0107 pursuant to Section 23.406.040(D)

Action Calendar
The public may comment on each item listed on the agenda for action as the item is taken up. The 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 Chairperson with the consent of the Zoning Adjustments Board. There are no projects listed for action on this agenda.

4. 2128-2130 Oxford Street /2132-2168 Center Street – New Public Hearing

Application:	**Public comment period** for the Draft Environmental Impact Report (EIR) and Project Preview for **Use Permit #ZP2022-0135** to demolish two buildings (one mixed-use with 16 rent-controlled units, one commercial) and construct a 26-story (285 feet-4 inches, plus a 12-foot parapet), 694,778-square-foot, mixed-use building with 456 dwelling units (including 40 Very Low-Income Density Bonus qualifying units), 14,961 square feet of commercial space, and 36 vehicle parking spaces.
Zoning:	Downtown Mixed-Use District, Core Sub-Area (C-DMU Core)
CEQA Recommendation:	Public review of Draft Environmental Impact Report pursuant to Article 7 of the CEQA Guidelines
Applicant/Owner:	Core Berkeley Oxford, LLC, 1643 N. Milwaukee Ave, 5th Floor, Chicago, IL 60647
Staff Planner:	Sharon Gong, sgong@berkeleyca.gov, (510) 981-7429
Recommendation:	Conduct a public hearing to 1) provide interested parties, public agencies, and members of the public with an opportunity to comment on the scope and content of the Draft EIR; 2) provide advisory comments and direction regarding project design and compatibility with the neighborhood; and 3) provide advisory comments regarding additional issues and analysis the next staff report should address.

Subcommittee Reports

- **Design Review Committee (DRC)**
  https://berkeleyca.gov/your-government/boards-commissions/design-review-committee

Staff Communications

Adjourn

Accessibility Information / ADA Disclaimer
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.

SB 343 Disclaimer
Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@berkeleyca.gov) to request hard-copies or electronic copies.

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.

Written Comments, Supplemental Communications, and Reports

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), 1947 Center Street, Second Floor, Berkeley CA 94704, or via e-mail to: zab@berkeleyca.gov. All materials will be made available via the Zoning Adjustments Board agenda page online at this address: https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board

Correspondence received by 5:00 PM eight days before this public hearing will be provided with the agenda materials provided to the Board. Note that if you submit a hard copy document of more than 10 pages, 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 5:00 PM two days before** this public hearing will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing.
- **Correspondence received by 12:00 PM the day of** this public hearing will be provided to the Board at the hearing.
- **Correspondence received after 12:00 PM the day of** this public hearing will be saved in the project administrative record.

Notice of Decision Requests

A request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@berkeleyca.gov.

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.
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.