



Planning and Development Department
Land Use Planning Division

MEETING SUMMARY

**ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, MAY 27, 2004
7:00 PM**

**CITY COUNCIL CHAMBERS, OLD CITY HALL
2134 MARTIN LUTHER KING JUNIOR WAY
BERKELEY, CALIFORNIA 94704
(Wheelchair Accessible)**

CONSENT CALENDAR PROCEDURES

Due to the length of the Zoning Adjustments Board agenda, a Consent Calendar will be used to approve certain types of applications at one time. The Consent Calendar includes:

Routine business such as modifications of use permits which are not subject to a public hearing and items proposed for continuance. (Please note that items proposed for continuance to a date certain will not be re-noticed by mail or posting on site.)

Public hearings on use permits and variances that are apparently non-controversial, on which no adverse comment has been received, and on which the Zoning Officer recommends approval.

The Chairperson of the Board will announce the items on the Consent Calendar at 7:05 p.m. Anyone present who wishes to speak on an item should raise his or her hand and advise the Chairperson, and the item will be pulled. Any applicant, member of the audience, or Zoning Adjustments Boardmember may require that a Consent Calendar item be removed from the Calendar for discussion and testimony (if already posted for hearing). Items pulled from the Consent Calendar will be heard following Continued Items.

PUBLIC TESTIMONY PROCEDURES

The Board may limit the number of speakers and the length of time allowed to each speaker. Persons wishing to offer testimony are encouraged to submit their comments in writing. You may also submit comments by E-mail at zab@ci.berkeley.ca.us. If you want to speak at a public hearing, you must turn in a speaker card on the night of the hearing. Cards may also be submitted at the Zoning Counter at 2120 Milvia Street prior to 5 p.m. on the day of the hearing.

Note: Please refrain from wearing scented products to public meetings.

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A G E N D A

Roll Call **Bob Allen - Absent - Jill Martinucci - Substitute**

Public Comment

Consent Calendar

- 1. 2526 DURANT AVENUE** Request by Ruegg & Ellsworth to demolish the Blood House, a City of Berkeley Structure of Merit and to construct a mixed-use building with 29,855 square feet of residential floor area (44 dwelling units, including 7 affordable) and 4,303 square feet of non-residential floor area, 5 stories with an average height of 50 feet, on a 10,377 square foot lot. 18 parking spaces are proposed – UP #00-10000066 (Greg Powell)

Continued From: 06-12&26-03; 07-10&24-03; 08-28-03;
 09-25-03; 10-23-03; 11-13-03; 12-01-03;
 01-22-04; 02-26-04; 03-11-04; 04-08-04

Board Action: Continued to 06-10-04

- 2. 2001 BANCROFT WAY** Request by Vanna Whitney to modify Use Permit #01-10000021 to eliminate the 1,946 square foot commercial space and reduce the number of hotel rooms from 30 to 27, the gross floor area from 21,194 to 14,150 square feet, reduce the building height from 40' to 35' and the parking number spaces from 14 to 11 – MOD #04-70000009 (Greg Powell)

Continued From: None

Board Action: Approved – 6-0-0 (Anthony, Blake, Weinberger – Absent)

Appeal of Administrative Use Permit

NOTE: Appeals of Administrative Use Permits are not subject to public hearing and no public testimony will be taken at this time. The Board can choose to set the matter for public hearing or affirm the decision of the Zoning Officer to grant the permit.

- 3. 1825 EIGHTH STREET** Appeal of Administrative Use Permit #04-20000023 to alter elements which are non-conforming due to their placement within a required rear yard setback area (Aaron Sage)

Continued From: Not Applicable

Board Action: Affirmed Zoning Officer's decision to approve – 5-1-0 (Sprague – No) (Anthony, Blake, Weinberger – Absent)

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Continued Hearing

New Hearing

4. **1000 GILMAN AVENUE** Request by Kyle Prenzlow, Kava Massih Architects, to modify Use Permit #A2383 to allow a 3,200 square foot addition to an existing 3,000 square foot restaurant, an outdoor dining area; to stay open until 12:30 AM Sunday through Thursday and until 2:00 AM on Fridays and Saturdays; and alcoholic beverage service of beer, wine and liquor – UP #04-10000004 (Steve Solomon)
Continued From: None
Board Action: Continued to 06-10-04
5. **1607 SHATTUCK AVENUE** Request by Brian Emkjer to establish sales of beer and wine for off-site consumption at an existing retail pharmacy (“Elephant Pharmacy”) and allow hours of operation until midnight – UP #03-10000110 (Aaron Sage)
Continued From: 05-13-04
Board Action: Approved with modified conditions – 6-1-0 (Sprague – No) (Anthony, Weinberger – Absent)
6. **2117 SHATTUCK AVENUE** Request by Calvin and Brenda Westbrook to establish a quick-service restaurant and internet browsing service in an existing mixed-use building with no off-street parking (parking waiver requested) – UP #04-10000025 (Aaron Sage)
Continued From: None
Board Action: Approved with added Condition – 7-0-0 (Anthony, Weinberger – Absent)
7. **2229 SIXTH STREET** Request by Guido Valle to construct a detached two-story dwelling unit with 1,465 square feet of floor area, 18 feet, 8 inches of average height, and a two-car garage on a 5,750 square foot lot – UP #03-10000102 (Aaron Sage)
Continued From: None
Board Action: Approved – 5-2-0 (Allen, Sprague – No) (Anthony, Weinberger – Absent)
8. **1767 SOLANO AVENUE** Request by Philip Chu to modify Use Permit #A6442 to allow “alcoholic beverage service” of beer, wine and liquor for a full service restaurant (ABC type 47 “On-sale General for Bona Fide Eating Place”) where previously only beer and wine service was allowed – UP #03-10000107 (Steve Solomon)
Continued From: None
Board Action: Moved to CC and Approved – 6-0-0 (Anthony, Blake, Weinberger – Absent)

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9. Administrative Use Permits Approved by the Zoning Officer

1119 Arch St
1734 La Vereda Rd
1225 The Alameda

2832 Benvenue Ave
1421 Parker St
1398 University Ave

1518 Edith St
1861-77 Solano Ave

10. Information/Communication

- A. Letter from West Berkeley Association of Industrial Companies regarding Traffic from the Proposed West Bowl.
- B. CNA Newsletter for April-May, 2004.
- C. Memo from Debbie Sanderson to ZAB concerning Elmwood Business District Quota Update

11. Business Meeting

12. Chair's Report

13. Current Business/Committee Appointments

14. Future Agenda Items

- A. Pending Zoning Hearings
- B. City Council Appeals List

15. Other Matters

- A. Revised Zoning Adjustments Board Schedule – Note that there is no meeting on August 12, 2004, due to summer recess.

Adjourn: 9:09 PM

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Legal Notice Concerning Your Legal Rights

If you object to a decision by the Zoning Adjustments Board to approve or deny a permit or variance for a project, the following requirements and restrictions apply:

1. 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 Current Planning Division in writing to receive a Notice of Decision when it is completed.
2. Pursuant to Code of Civil Procedure, Section 1094.6(b), no lawsuit challenging a City Council decision to deny a permit or variance 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), which has been adopted by the City. Any lawsuit not filed within that ninety (90) day period will be barred.
3. Pursuant to Government Code, Section 65009(c)(5), no lawsuit challenging a City Council decision to approve (with or without conditions) a permit or variance 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), which has been adopted by the City. Any lawsuit not filed within that ninety (90) day period will be barred.
4. 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 "tacking" 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.

Communication Access

To request a meeting agenda in large print, Braille, or on cassette, or to request a sign language interpreter for the meeting, call the Current Planning Division at 981-7410 (voice) or 981-6345 (TDD); at least five (5) working days notice will ensure availability.