MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, NOVEMBER 14, 2002
7:00 PM

CITY COUNCIL CHAMBERS, OLD CITY HALL
2134 MARTIN LUTHER KING JUNIOR WAY
BERKELEY, CALIFORNIA 94704

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 is divided into two parts:

Consent Calendar I  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.)

Consent Calendar II  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 Board member may require that a Consent Calendar II item be removed from the Calendar for discussion and testimony. 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 by 7:15 p.m. 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.
Roll Call 7:00 PM

Public Comment 7:00 PM

Consent Calendar I

1. 1543 PRINCE STREET Request by Mr. & Mrs. Francis Loetterle to modify Use Permit #02-10000016 to allow changes to the approved plans to reverse the location of the two single family houses, enlarge second and third floor bedroom windows to meet egress and two additional parking spaces – MOD #02-70000065 (Carole Kajita)
   PSA Action Date: 12-12-02
   Continued From: None
   Board Action: Approved – 9-0-0

Consent Calendar II

None

Appeal of Administrative Use Permits

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.

2. 1445 GRIZZLY PEAK BLVD Appeal of Administrative Use Permit for a major residential addition of approximately 850 square feet to an existing single family dwelling - #02-20000106 (Aaron Sage)
   PSA Action Date: None
   Continued From: None
   Board Action: Affirmed Zoning Officer’s decision to approve – 9-0-0
Continued Hearing

3. **480 Arlington Avenue**
   
   Request by Alexander and Irene Varum to construct a 2,840 square foot dwelling unit on a vacant lot and to reduce the required 20 foot front yard by 7 feet (13 feet proposed) - UP #02-10000046 (Hector Lopez)
   
   PSA Action Date: 12-12-02
   
   Continued From: 07-25-02; 09-12-02; 10-24-02
   
   **Board Action**: Approved – 8-0-0 (Sprague – No)

4. **2076 Ashby Avenue**
   
   Request by Athan Magganas to construct a residential building with 11 dwellings for a total of 8,788 square feet, 4-stories with a height of 44 feet on a 5,000 square feet lot. A total of 10 parking spaces and 2,000 square feet of open space are proposed.
   
   Staff has determined that if the project were to satisfy all the development standards of the C-SA District, the base unit count for this project is four dwelling units. Since the project involves more than four dwellings and provides affordable units that also meet the State Density Bonus requirements, it is eligible for a density increase of 25% over the maximum allowed by the Zoning Regulations. Assuming that the base project is four, a 25% increase would result in one additional unit for a total of five units. Since the applicant wishes to pursue a project of 11 units as an additional concession or incentive under Government Code Section 65915(h), a pro-forma demonstrating such need is required. Because the pro-forma has not yet been submitted, Staff is not prepared to make a recommendation. However, Staff believes that any further concessions be in the form of lot coverage or setbacks, not added stories or height.
   
   - Use Permit under Section 23E.52.030 to construct a 11-unit residential building for a total of 8,788 square feet.
   - Use Permit under Section 23E.52.070.E to reduce the lot coverage, front, and rear setbacks allowed in the District. The proposed lot coverage is 74.8% (40% permitted), zero feet front yard (15 feet required), and 13 feet rear yard (15 feet required).

   Variance from Section 23E.52.070.B.3 to exceed the height limit by 8 feet (44 feet proposed, 36 feet permitted) and number of floors (four proposed, three permitted) – UP #01-10000089 (Hector Lopez)
   
   PSA Action Date: 11-14-02
   
   Continued From: 07-25-02; 09-12-02; 10-24-02
   
   **Board Action**: Continued to 12-12-02 for mediation
Continued Hearing – Continued:

5. **2140 DURANT AVENUE**  
   Request by Greg Bunton to modify Use Permit #00-10000106 and a Variance #01-10000012 to allow changes to the approved floor plans and to establish research and development use (commercial physical or biological laboratory) as a component of a previously approved office use – MOD #02-70000017 (Hector Lopez)  
   
   PSA Action Date: 11-14-02  
   Continued From: 10-10-02  
   Board Action: Approved on CCII – 9-0-0

6. **2323 GLEN AVENUE**  
   Request by Geoffrey Holton to enlarge an existing single family residence by 824 square feet, reduce the required rear yard setback from 18 feet to 17 feet and to reduce the required 30 foot setback from a creek to eight feet – UP #00-20000171/VAR: #01-10000065 (Greg Powell)  
   
   PSA Action Date: None  
   Continued From: 10-24-02  
   Board Action: Approved – 5-4-0 (Blake, Capitelli, Katz, Sprague – No)

New Hearing:

7. **2333 CURTIS STREET**  
   Request by Suzanna Reis-Koncar to construct a 300 square foot, one-story dwelling in the rear of a lot containing an existing dwelling and to reduce the rear yard setback to 4 feet where 20 feet is required – UP #01-10000080 (Hector Lopez)  
   
   PSA Action Date: 12-12-02  
   Continued From: None  
   Board Action: Approved on CCII – 9-0-0

8. **2575 SAN PABLO AVENUE**  
   Use Permit #02-10000011 to construct a mixed-use building with 28 senior housing units and 568 square feet of commercial space for a total of 19,944 square feet, 4 stories with an average height of 50 feet, on a 7,442 square foot lot. A total of 8 parking spaces are proposed.  
   - Use Permit under Sections 23E.64.030 and 23E.64.050.B to construct a mixed-use building over 5,000 square feet of gross floor area (19,944 sq. ft. proposed)  
   - Variance from Section 23E.64.040E under Section 23C.12.050 and Government Code Section 65915 to allow residential units at ground floor in a commercial node of the C-W District.
New Hearing – Continued:

- Use Permit under Section 23E.04.050 to reduce the required rear yard setback by 17 feet (zero feet proposed, 10% of lot depth required)
- Use Permit under Section 23E.64.080 to reduce the residential parking requirement by 75% for senior citizens (7 parking spaces proposed, 28 required). The proposed building occupancy is exclusively for senior citizens
  - UP #02-1000011 (Hector Lopez)
  
  PSA Action Date: 11-14-02
  Continued From: 10-10&24-02
  Board Action: Continued to 12-03-02

9. 1850 SCENIC AVENUE
Request by Harold Eldridge for Solar Design California, Incorporated/Four Seasons Sunrooms to modify Use Permit #A957 to install a 166 square foot sunroom at the rear of an existing classroom in the Montessori Family School maintaining a non-conforming five foot rear yard setback where 15 feet are required (existing structure has a non-conforming two foot rear yard setback) – (Gisele Sorensen)

  PSA Action Date: 11-18-02
  Continued From: None
  Board Action: Approved on CCII – 9-0-0

10. 2703 SEVENTH STREET
Request by Matt Wadlund for Kava Massih Architects for a Use Permit to reduce the floor area devoted to work space, establish one dwelling unit and; to establish 154 square feet of office space – UP #02-70000048 and modifying UP #97-10000068 (Aaron Sage)

  PSA Action Date: 11-14-02
  Continued From: None
  Board Action: Approved on CCII – 9-0-0

Review of Draft Environmental Impact Report

11. 2526 DURANT AVENUE
Review of Draft Environmental Impact Report. The DEIR evaluates the environmental impact related to the demolition of the existing Structure of Merit and site to allow the construction of a 31,630 square foot, five story, commercial-residential building on an existing 10,377 square foot parcel. This meeting is intended to allow the Zoning Adjustments Board and the public a chance to comment on the adequacy of the DEIR (Greg Powell)
Review of Draft Environmental Impact Report – Continued:

Use Permit #00-10000066 & Landmarks Alteration Permit #00-40000024 to demolish existing Structure of Merit and to construct a mixed use building with 44 dwelling units (6 affordable) with 28,000 square feet of residential floor area and 4,008 square feet of non-residential floor area, 5 stories with an average height of 50 feet, on a 10,377 square foot lot. A total of 26 parking spaces are proposed.

- Use Permit per Section 23E.56.030 to construct a 31,626 square foot, 5-story mixed use building;
- Structural Alteration Permit per BMC Section 3.24.200 to alter (Demolish) a City of Berkeley Structure of Merit and garden;
- Use Permit per Section 23C.08.010 to demolish the existing building;
- Use Permit per Section 23E.04.020.C to allow a 61-foot elevator penthouse to exceed the District height limit of 50-feet;
- Use Permit per Section 23E.04.050.E to reduce the required rear yard adjacent to the R-4 District from the required setback of 13 feet;
- Use Permit per Section 23E.56.050.A.2 to construct more than 1,500 square feet of gross floor area;
- Use Permit per Section 23E.56.080.A.6 to add 8 parking spaces to the existing 18 off-street parking spaces.

Density Bonus concessions/incentives proposed:

- Allow fifth story where four are normally allowed.

12. Administrative Use Permits Approved by the Zoning Officer

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<thead>
<tr>
<th>Address</th>
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<tbody>
<tr>
<td>1304 Bay View Place</td>
<td>1651-53 California St</td>
<td>800 Dwight Way</td>
</tr>
<tr>
<td>15 Eucalyptus Rd</td>
<td>1635 Jaynes St</td>
<td>1732 La Vereda Rd</td>
</tr>
<tr>
<td>1618 Prince St</td>
<td>2010 A Prince St</td>
<td>2466 Prince St</td>
</tr>
<tr>
<td>1813 Seventh St</td>
<td>2414 Spaulding Ave</td>
<td>2054 University Ave</td>
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<tr>
<td>2074 University Ave</td>
<td>1431 Walnut St</td>
<td>1600 West Frontage Rd</td>
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13. Information/Communication

14. Business Meeting
15. **Chair’s Report**

16. **Current Business/Committee Appointments**

17. **Future Agenda Items**
   
   A. Pending Zoning Hearings  
   B. City Council Appeals List

18. **Other Matters**

**Adjourn:** 9:08 PM

**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 “taking” of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
Legal Notice Concerning Your Legal Rights – Continued:

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.