MEETING SUMMARY

ZONEING ADJUSTMENTS BOARD AGENDA
THURSDAY, JUNE 12, 2003
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.
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AGENDA

Roll Call:  7:08 PM

Public Comment:  7:08 PM

Consent Calendar I

None

Consent Calendar II

None

Appeal of Administrative Use Permits

None

Continued Hearing

None

New Hearing

1.  2526 DURANT AVENUE  
Request by Ruegg Ellsworth 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 lot, 5-story mixed-8se building; Structure 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...
New Hearing - Continued

2526 DURANT AVENUE

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 concession/incentives proposed; Allow fifth story where four are normally allowed – UP #00-10000066  (Greg Powell)

PSA Action Date: Continued From: None
Board Action: Continued to 06-26-03

2. 2111 VIRGINIA/2634 MARTIN LUTHER KING JUNIOR WAY

Request by Timothy Rempel to relocate an existing 1,205 square foot single-family dwelling from 2111 Virginia Street to this property, which is currently developed with 2 dwelling units with 3 parking spaces – UP #03-10000026 (Aaron Sage)

PSA Action Date: 07-14-03
Continued From: None
Board Action: Approved with added conditions – 8-0-0 (Weinberger – Absent)

3. 1111 PARKER STREET

Request by Timothy Carter to construct an approximately 3,300 square foot residential duplex, with two stories and an “average” height of approximately 24 feet, three-inches, on a 3,920 square foot lot. Two parking spaces are proposed: To allow construction of a condominium duplex (two dwellings) and to reduce the front and left side yard – UP #02-10000085  (Steve Solomon)

PSA Action Date: 07-19-03
Continued From: None
Board Action: Approved with added conditions – 8-0-0 (Weinberger – Absent)

4. 2940 PIEDMONT AVENUE

Request by Andy and Emily Cohen to modify existing 3,163 square foot, non-conforming single-family residence building by adding 484 square feet to create a new second story, increasing average height by 4’6” from 21’9” to 26’3”, on a 4,224 square foot lot. Building is a non-conforming structure due to excessive lot coverage, which will not change due to this project – UP #03-10000031  (Debbie Sanderson)

PSA Action Date: 06-30-03
Continued From: None
Board Action: Approved on CCII – 8-0-0 (Weinberger – Absent)
New Hearing – Continued

5. **1912 SEVENTH STREET**  
   Request by James Novosel to construct 7,306 square feet of residential buildings with 6 dwelling units in 3 buildings with an average height of 30 feet, on a 10,000 square foot lot. A total of 7 parking spaces are proposed. Use Permit under Section 23D.36.030 to construct six additional dwellings units for a total of seven on this lot. Density Bonus concessions/incentives proposed: None – UP #02-10000074 (Hector Lopez)  
   PSA Action Date: 06-08-03  
   Continued From: None  
   **Board Action:** Approved with added conditions – 8-0-0 (Weinberger – Absent)

6. **1607 SHATTUCK AVENUE**  
   Request by Penny Leff for the Ecology Center for Farmers’ Market to operate on Thursdays from 2:00 PM – 6:00 PM beginning May 15, 2003 and ending October 15, 2003 in Elephant Pharmacy South Parking Lot – UP #03-10000034 (Aaron Sage)  
   PSA Action Date: 07-14-03  
   Continued From: None  
   **Board Action:** Approved on CCII – 8-0-0 (Weinberger – Absent)

7. **Administrative Use Permits Approved by the Zoning Officer**

   1310 Ashby Ave   1250 Delaware St   1361 Dwight Way  
   2921 Fulton St   1416 Kains Ave   2746 Prince St  
   2718 Telegraph Ave   1001 University Ave   1134 Walnut St

8. **Information/Communication**

   A. Thousand Oaks Neighborhood Association Newsletter

9. **Business Meeting**

10. **Chair’s Report**
11. Current Business/Committee Appointments

12. Future Agenda Items
   A. Pending Zoning Hearings
   B. City Council Appeals List
   C. Discussion Items:
      1. Low-Impact Home Occupations (July 10, 2003)
      2. Staff Report Format (June 26, 2003)

13. Other Matters
   A. 711 Harrison, Public Comment Notice (Studies distributed at 06-12-03 meeting)

Adjourn: 10:15 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.
Legal Notice Concerning Your Legal Rights – Continued:

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:

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.

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