MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, JULY 10, 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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A G E N D A

Roll Call: 7:12 PM

Public Comment

Consent Calendar I

1. 2316 GLEN AVENUE Request by Thomas J & Elisa Anne Caulfield to modify Use Permit #00-10000029 to extend Use Permit for one year – MOD #03-70000026 (Hector Lopez)

   PSA Action Date: 08-20-03
   Continued From: None
   Board Action: Approved – 9-0-0

Consent Calendar II

2. 1809 BANCROFT WAY Request by Burks-Toma Architects to modify Use Permit #5291 & #5003 to expand a legally non-conforming school use, in the R-2 district, by 392 square feet (increase footprint by 144 square feet), on a 22,965 square foot lot. This project will involve enclosing existing covered space as well as adding new covered space – MOD #03-70000025 (Lucy Armentrout-Ma)

   PSA Action Date: 08-09-03
   Continued From: None
   Board Action: Approved with modified conditions – 9-0-0

3. 2056 SAN PABLO AVENUE Request by Jose Sahagun to establish a 1,200 square foot quick-serve restaurant and to allow alcoholic beverages sales (beer & wine) - UP #03-10000039 (Hector Lopez)

   PSA Action Date: Extension requested
   Continued From: None
   Board Action: Moved to CCI and continued to a future date (no specified date) – 9-0-0

Initiation of Nuisance Proceeding:

4. 3045 SHATTUCK AVENUE Consider initiation of nuisance proceedings pursuant to 23B.64 related to Building Permit #02-1556BP-3 (Debbie Sanderson)

   Board Action: Set for public hearing on 07-24-03 – 9-0-0
Appeal of Administrative Use Permits

None

Continued Hearing

5. **2526 DURANT AVENUE**  Request by Ruegg & Ellsworth to demolish the existing Structure of Merit to construct a mixed-use building with 44 dwelling units (7 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. ZAB certified EIR on 06-26-03. Use Permit per Section 23E.56.030 to construct a 31,626 square foot lot, 5-story mixed-use building; 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 concession/incentives proposed; Allow fifth story where four are normally allowed – UP #00-10000066 (Greg Powell)

PSA Action Date: 06-12-03, 6-26-03

Board Action: Continued to 07-24-03 & 08-28-03

New Hearing

6. **3075 TELEGRAPH AVENUE**  Request by 3075 Telegraph, LLC to construct a 15,407 square foot mixed use building with ten tenant dwelling units (including two inclusionary units), with 9,347 square feet of residential floor area and 6,060 square feet of non-residential floor area, 3 stories with an average height of 35 feet, on a 17,274 square foot parcel. A total of 24 parking spaces are proposed – UP #03-10000036 (Lucy Armentrout-Ma)

PSA Action Date: 08-01-03

Continued From: None

Board Action: Continued to 07-24-03
7. Administrative Use Permits Approved by the Zoning Officer

2328 Derby St (revised)

8. Information/Communication

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

13. Other Matters

Adjourn: 8:32 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.

Legal Notice Concerning Your Legal Rights – Continued:

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:

   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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