MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, AUGUST 28, 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 Boardmember 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

Public Comment

Consent Calendar I

1. 2526 DURANT AVENUE
   Request by Ruegg & Ellsworth to demolish the existing Structure of Merit (The Blood House) to construct a mixed-use building with 44 dwelling units (7 affordable) with 32,025 square feet of residential floor area and 2,794 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 18 parking spaces are proposed. ZAB certified EIR on 06-26-03. The project requires the following permits: 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 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. Density Bonus concession/incentives proposed; Allow fifth story where four are normally allowed – UP #00-10000066 (Greg Powell)
   PSA Action Date: 05-10-02
   Continued From: 06-12&26-03, 07-10&24-03
   Board Action: Continued to 09-25-03

2. 1012 MARIPOSA AVENUE
   Request by Cecil Lee to legalize an existing attached 489 square foot accessory dwelling unit on a 6,500 square foot lot and waive the off-street parking requirement – UP #03-10000028 (Aaron Sage)
   PSA Action Date: 10-23-03
   Continued From: None
   Board Action: Continued to 09-11-03

3. 2352 SHATTUCK AVENUE
   Request by James Ryan to commence alcoholic beverage sales (incidental beer and wine) and increase hours of operation and seating in an existing quick-service restaurant (i.e., Extreme Pizza) – UP #03-10000052 (Aaron Sage)
   PSA Action Date: 09-04-03
   Continued From: None
   Board Action: Continued to 09-11-03
Consent Calendar I – Continued:

4. **3075 TELEGRAPH** AVENUE  
   Request by 3075 Telegraph, LLC to demolish existing structures and construct a 15,407 square foot mixed-use building with ten 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: 07-10&24-03  
   Board Action: Continued to 09-25-03

5. **1100 TENTH STREET**  
   Request by Carl Brodsky and S & C Brodsky LLC to demolish four residential structures totaling approximately 2,200 square feet; demolish buildings containing two dwellings and; to construct a 2-story, 22,674 square foot industrial building (warehouse) with no dwelling units, with an average height of thirty-eight feet, six-inches (38’6”) on a 25,222 square foot lot, with 17 parking spaces – UP #02-10000083 (Steve Solomon)
   
   PSA Action Date: 11-01-03  
   Continued From: None  
   Board Action: Continued to 09-11-03

Consent Calendar II

6. **2185 DWIGHT WAY**  
   Request by John Coreris to construct a new 2-story, 4-unit residential building of 6,750 square feet of residential floor area, at a 24-foot average height and with 4 new parking spaces, on a vacant 6,545 square foot lot – UP #02-10000086 (Debbie Sanderson)
   
   PSA Action Date: 03-19-03  
   Continued From: 07-24-03  
   Board Action: Approved – 6-2-1 (Blake, Katz – No) (Capitelli – Abstain)

Appeal of Administrative Use Permits

**NOTE:** Appeals of Administrative Use Permit 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.
Appeal of Administrative Use Permits – Continued:

7. 2746 PRINCE STREET
   Appeal of Administrative Use Permit to construct an accessory structure with an average roof height of 10 feet, running from the east side property line to the west side property line, abutting the south (rear) property line, for a total width of 38’-10”, with a roof height of approximately 8’-6” at the east, west and south property lines; with a depth varying between 16’-7-1/2” and 17’, and with habitable space for an art studio, recreation room, and storage room in the interior - #02-20000159 (Lucy Armentrout-Ma)
   PSA Action Date: Not Applicable
   Continued From: 07-24-03
   Board Action: Continued to 10-09-03

8. 2219 SPAULDING STREET
   Appeal of Administrative Use Permit #03-20000055 for a major residential addition at the above address (under Section 23D.28.030). This project includes the addition of 190 square feet at the first floor level and 618 square feet at the second floor level, for a total addition of 808 square feet to an existing 1,416 square foot 1-story home, on a 4,302 square foot parcel of land. The addition will be placed entirely at the rear (east side) of the existing home and complies with all applicable development standards for the district (Lucy Armentrout-Ma)
   PSA Action Date: Not Applicable
   Continued From: None
   Board Action: Affirmed Zoning Officer’s decision to approve – 8-0-0 (Weinberger – Absent)

Continued Hearing

None

New Hearing

9. 2921 FULTON STREET
   Request by Ashley Kayler to add approximately 502 square feet of habitable space to the second story of an existing two-family residence. The proposed addition would be placed over an existing driveway and would provide access to the two required parking spaces which would be placed in the rear yard – AUP #03-90000113 (Lucy Armentrout-Ma)
   PSA Action Date: Not Applicable
   Continued From: 07-24-03
   Board Action: Approved – 8-1-0 (Blake – No)
New Hearing – Continued:

10. **2011 SHATTUCK/2120 UNIVERSITY AVENUES**
    
    Request by Gurprit Kohli to establish incidental beer and wine service in an existing quick-service restaurant (i.e., Curry In Hurry) – UP #03-1
    
    PSA Action Date: 10-03-03
    
    Continued From: None
    
    Board Action: Approved – 9-0-0

Public Nuisance Determination

11. **3045 SHATTUCK AVENUE**
    
    Determine whether nuisance exists pursuant to 23B.64.020.B and if so to determine the appropriate remedies related to Building Permit #02-1556BP-3 (Debbie Sanderson)
    
    PSA Action Date: Not Applicable
    
    Continued From: 07-24-03
    
    Board Action: Resolution adopted – 8-0-1 (Anthony – Abstain)

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

    840 Hilldale Ave

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**

**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:

   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.