MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, MARCH 11, 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 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.
AGENDA

Roll Call: 7:08 PM

Public Comment: 7:08 PM

Consent Calendar

Appeal of Administrative Use Permit

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.

1. 1012 MARIPOSA AVENUE  
   Appeal of Administrative Use Permit to authorize existing 489 square foot accessory dwelling without off-street parking – AUP #03-20000028 (Aaron Sage)  
   Continued From: None  
   Board Action: Moved to CC and set for Public Hearing – 7-0-0  
   (Blake, Weinberger – Absent)

Continued Hearing

2. 2861 BUENA VISTA WAY  
   Request by Andrew Fischer of Regan Bice Architects to construct a single-family dwelling; to exceed the average height limit of 28 feet for main buildings by about 3 feet 6 inches, to exceed the maximum height limit of 35 feet for main buildings by about 3 feet and; to reduce the front building setback from 20 feet to 4 feet – UP #03-10000010 (Aaron Sage)  
   Continued From: 11-13-03; 01-22-04; 02-12-04  
   Board Action: Moved to CC and Continued off Calendar – 8-0-0 (Weinberger – Absent)
Continued Hearings – Continued:

3. 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
   Board Action: Continued to 04-08-04

New Hearing

4. 2118 ESSEX STREET
   Request by Lillian Mitchell of Mars Architects, to create a new dwelling unit (for a total of two dwelling units) within an existing single-family residence with no addition of new floor area – UP #03-10000120 (Lucy Armentrout-Ma)
   Continued From: None
   Board Action: Approved with modifications – 8-0-0 (Weinberger – Absent)

5. 2211 FIFTH STREET
   Request by Timothy Rempel to demolish the existing dwelling to allow the construction of 4 dwelling units and 2 live/work units – UP #03-10000114 (Greg Powell)
   Continued From: None
   Board Action: Approved with modifications – 6-1-1 (Sprague – No) (Blake – Abstain) (Weinberger – Absent)

6. 1800 SAN PABLO AVENUE
   Request by Randall Harris to construct a 43,686 square foot mixed-use building with 51 dwelling units (20 percent inclusionary), 35,186 square feet of residential floor area, 8,500 square feet of ground-floor commercial area, four stories and 49 feet high (towers extend to 54 feet, 6 inches), on a 20,366 square foot lot; a total of 50 parking spaces are proposed – UP #02-10000081 (Aaron Sage)
   Continued From: None
   Board Action: Reopened Public Hearing and Continued to 03-25-04
7. **Administrative Use Permits Approved by the Zoning Officer**

- 1640 Channing Way
- 2598 College Ave
- 1422 Derby St
- 911 Fresno St
- 2 Park Gate
- 2733 Russell St
- 1676-1678 Shattuck Ave
- 1611 Spruce St
- 2855 Telegraph Ave
- 2514 Tenth St
- 1930 Ward St

8. **Information/Communication**

   A. Correspondence from Gale Garcia regarding waterproofing construction failures
   B. Code Enforcement Pending Projects

9. **Business Meeting**

10. **Chair’s Report**

11. **Current Business/Committee Appointments**

   A. Election Results for Design Review Committee – Chair: Burton Edwards, Vice-Chair: David Snippen

12. **Future Agenda Items**

   A. Pending Zoning Hearings
   B. City Council Appeals List

13. **Other Matters**

    **Adjourn:** 12:20 AM
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.