MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, MAY 13, 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 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: 7:05 PM

Public Comment: 7:05 PM

Consent Calendar

1. **1607 SHATTUCK AVENUE**
   - Request by Brian Emkjer to establish sales of beer and wine for off-site consumption at an existing retail pharmacy (Elephant Pharmacy) – UP #03-10000110 (Aaron Sage)
   - Continued From: None
   - Board Action: Continued to 05-27-04

Appeal of Administrative Use Permit

None

Continued Hearing

2. **2000 ROSE STREET**
   - Request by Hamid Tehrani to reconstruct and enlarge a 2-family, 1,570 square foot building with reduced front and rear setbacks with a total of 2 parking spaces – UP #03-10000088 (Greg Powell)
   - Continued From: 04-08-04
   - Board Action: Approved – 8-1-0 (Sprague – No)

3. **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: 03-11&25-04; 04-08-04
   - Board Action: Adopted Mitigated Negative Declaration (9-0-0); Approved project with added Conditions – 7-2-0 (Blake, Sprague – No)
4. **1630 BANCROFT WAY**  
   Request by Congregation Beth Israel to modify Use Permit #A1731 to reduce and alter the scope of work approved by changing the shape of the main window on eastern façade of the approved addition and to eliminate the approved rooftop cupola – MOD #04-70000027 (Stephen Ford)  
   **Continued From:** None  
   **Board Action:** Moved to CC and Approved – 8-0-0 (Blake – Absent)

5. **801 GRAYSON STREET**  
   Request by Al Palmer for Bayer Corporation to modify Use Permit #00-10000008 to recognize transfer of 33 parking spaces from Macaulay Foundry to Bayer use, modify landscape design about Building 81 and add a 300 square foot storage building adjacent to Building 81 – MOD #04-70000002 (Aaron Sage)  
   **Continued From:** None  
   **Board Action:** Moved to CC and Approved – 8-0-0 (Blake – Absent)

6. **1012 MARIPOSA AVENUE**  
   Request by Theda Haber and Kathy Khuner to authorize an existing 489 square foot accessory dwelling unit without off-street parking - #UP #03-10000028 (Aaron Sage)  
   **Continued From:** None  
   **Board Action:** Approved – 8-1-0 (Matthews – No)

7. **2072 SAN PABLO AVENUE**  
   Request for Parvata Reddy Seelam to add the sale of beer and wine to an existing quick-service restaurant – UP #03-10000116 (Greg Powell)  
   **Continued From:** None  
   **Board Action:** Moved to CC and Approved – 8-0-0 (Blake – Absent)

8. **3000 SHASTA ROAD**  
   Request by John Rosenbrock, City of Berkeley, to modify UP #01-1000057 where changes to the project’s site grading plan and the configuration of the property boundaries modify other elements of the project including: a four-foot increase in the elevation of the construction pad relative to the street, an approximately two-foot increase in the building’s calculated “average height” and reducing the building’s front and left (east) side-yard setback from property lines – MOD #04-70000022 (Steve Solomon)  
   **Continued From:** None  
   **Board Action:** Approved – 8-0-1 (Blake – Abstained)
New Hearing – Continued:

9. **1537 SHATTUCK AVENUE**
   Request by Lu M. Burton to establish a 1,480 square foot exercise studio (Curves) on the second floor of an existing, two-story, 2,960 square foot, commercial building – UP #04-10000017 (Stephen Ford)
   
   **Continued From:** 04-22-04
   
   **Board Action:** Approved with modified Conditions – 6-0-3
   (Katz, Sprague – Abstained) (Blake – Recused)

10. **1801 SHATTUCK AVENUE**
    Request by Rony Rolnizky, Architect, to construct a mixed-use building (commercial/residential) of approximately 42,000 square feet on a 12,435 square foot parcel, 4 stories, average height of 47 feet, and 29 parking spaces. A total of 29 residential units and 4,249 square feet of retail space are proposed – UP #03-10000053 (Hector Lopez)
    
    **Continued From:** 04-08&22-04
    
    **Board Action:** Approved – 8-1-0 (Blake – No)

11. **1820 SOLANO AVENUE (UNIT A)**
    Request by John Gutierrez to establish “incidental” food service in a retail bakery (La Farine) thereby exceeding the quota for food service establishments in the C-SO District. Bakery is proposed in an existing 1,600 square foot commercial lease space; off-street parking will be increased from 30 to 31 spaces – UP #03-10000094 (Aaron Sage)
    
    **Continued From:** None
    
    **Board Action:** Approved – 9-0-0

12. **1787 SONOMA AVENUE**
    Request by Chip Harley and Allyson Page to add 672 square feet of habitable space to an existing single family residence which will involve 1) creating a second story by raising the existing roof ridge line by six and a half feet and 2) extending a wall which is legally non-conforming due to its placement within a required rear yard setback area wherein a minimum rear yard depth of 13.4 feet is required and the existing and proposed depth is only five feet – UP #03-20000163 (Lucy Armentrout-Ma)
    
    **Continued From:** None
    
    **Board Action:** Approved with added Conditions – 8-0-1 (Capitelli – Recused)

13. **95 VICENTE ROAD**
    Request by Maven Properties to modify Use Permit #99-10000015 to create a second off-street parking space within the front yard setback – MOD #04-70000011 (Greg Powell)
    
    **Continued From:** None
    
    **Board Action:** Moved to CC and Approved – 8-0-0 (Blake - Absent)
14. **Administrative Use Permits Approved by the Zoning Officer**

2513 Grant Street    457 Kentucky Avenue    1959 Shattuck Avenue
2270 Shattuck Avenue    765 Spruce Street

15. **Information/Communication**

A. Memo from City Manager regarding web site link for University of California’s draft of their Long Range Development Plan along with a draft environmental impact report and upcoming meetings for public comment.
B. Zoning Officer’s interpretation of the Zoning Ordinance relevant to non-conforming parking.

16. **Business Meeting**

17. **Chair’s Report**

18. **Current Business/Committee Appointments**

19. **Future Agenda Items**

A. Pending Zoning Hearings
B. City Council Appeals List

20. **Other Matters**

**Adjourn:** 12:45 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.

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