MEETING SUMMARY

Item #7B - Added Information

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, JUNE 10, 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.
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AGENDA

Roll Call: 7:07 PM

Public Comment: 7:07 PM

Consent Calendar

1. 1267 ADDISON STREET  
   Request by Alex Chiappetta to modify Use Permit #03-10000046 to increase the dwelling’s average height by 6 inches, adding one window and deleting two windows – MOD #04-70000014 (Steve Solomon)  
   Continued From: None  
   Board Action: Approved – 9-0-0

2. 866 REGAL ROAD  
   Request by Patrick MacIntyre to demolish a 1,873 square foot, two-story, single-family dwelling – UP #03-10000118 (Steve Solomon)  
   Continued From: None  
   Board Action: Continued to 07-08-04

Appeal of Administrative Use Permit

NOTE: Appeals of Administrative Use Permits 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.

Continued Hearing

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; 03-11-04; 04-08-04; 05-27-04  
   Board Action: Continued Off Calendar
Continued Hearing – Continued:

4. 1000 GILMAN AVENUE

Request by Kyle Prenzlow, Kava Massih Architects, to modify Use Permit #A2383 to allow a 3,200 square foot addition to an existing 3,000 square foot restaurant, an outdoor dining area; to stay open until 12:30 AM Sunday through Thursday and until 2:00 AM on Fridays and Saturdays; and alcoholic beverage service of beer, wine and liquor – UP #04-10000004 (Steve Solomon)

Continued From: 05-27-04

Board Action: Continued to 06-24-04

New Hearing

5. 2200-2206 SAN PABLO AVENUE

Request by Jana Olson to demolish an existing commercial building, construct a two-story, 5,162 square foot addition to an existing retail building (“Omega Too”) and allow parking within 20 feet of secondary street frontage; 8 parking spaces are proposed – UP #04-10000036 (Aaron Sage)

Continued From: None

Board Action: Moved to CC and Approved – 9-0-0

6. Administrative Use Permits Approved by the Zoning Officer

1806 Addison St 819 Cragmont Ave 2423 Fourth St

7. Information/Communication

A. Thousand Oaks Neighborhood Association Newsletter
B. Continued discussion of Elmwood Business District Quotas (See attached 06-02-04 memo) - Zoning Adjustments Board approved Staff Recommendation #1: 3-day staff review of all Zoning Certificates for businesses in a quota category in the Elmwood Business District. Motion failed on Staff Recommendation #2: To require an additional quota slot for an existing business to expand into an adjacent tenant space.

8. Business Meeting
9. **Chair’s Report**

10. **Current Business/Committee Appointments**

11. **Future Agenda Items**

   A. Pending Zoning Hearings
   B. City Council Appeals List

12. **Other Matters**

    **Adjourn:** 9:32 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.

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 “tacking” of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
Legal Notice Concerning Your Legal Rights – Continued:

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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