MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, JULY 8, 2004
7:00 PM

NORTH BERKELEY SENIOR CENTER
1901 HEARST AVENUE
BERKELEY, CALIFORNIA 94709
(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.
ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, JULY 8, 2004
PAGE 2 OF 5

AGENDA

Roll Call: 7:10 PM

Public Comment: 7:10 PM

Consent Calendar

1. 2500 SAN PABLO AVENUE
   Request by Kent Royle of Marcy Wong Architects to modify UP 03-10000065, that allowed a 1,268 square foot, fast-food restaurant with sidewalk café seating (Café Trieste), this permit would revise the method of satisfying the project’s parking requirements – MOD #04-70000013 (Steve Solomon)
   Continued From: None
   Board Action: Approved – 8-0-0 (Blake – Absent)

2. 54 VICENTE ROAD
   Request by Chris Parlette of Wilson Architects to add an unenclosed hot tub and accessory dwelling unit (not subject to discretionary approval) to an approved single-family dwelling (not yet constructed) – MOD #04-7000030 (Aaron Sage)
   Continued From: None
   Recommendation: Approved – 8-0-0 (Blake – Absent)

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.

3. 1734 LA VEREDA ROAD
   Appeal of Administrative Use Permit to construction a 977 square foot garage, built into the hillside on a vacant lot at the above address. The new garage will accommodate a total of three cars, two of which will be parked in tandem so that two vehicles will be independently accessible from this garage at any one time – AUP #03-20000117 (Lucy Armentrout-Ma)
   Continued From: None
   Board Action: Set for Public Hearing – 8-1-0 (Allen – No)

Continued Hearing

4. 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: 06-10-04
   Board Action: Approved with added Condition – 7-1-1 (Blake – No) (Delane – Recused)
New Hearing

5.  **1725-1735 LEROY AVENUE**
   Request by Jim Goring of Goring and Straja Architects to authorize prior conversion of fraternity house (1735) and 5-unit apartment building (1725) to institutional use (theology school), which is not permitted in the R-3H District, and to allow expansion of 1,843 square feet to the existing buildings; project maintains 5 off-street parking spaces on an 18,750 square foot site – VAR/UP #04-10000002 (Aaron Sage)
   
   Continued From: None
   Board Action: Continued to 07-22-04 – 9-0-0

6.  **2615 MARIN AVENUE**
   Request by David W. Richmond, Columbus Group, LLC, to construct a 2,830 square foot, single-family residential building of three stories with an average height of 27 feet 11 inches on a 5,766 square foot lot with a two-car garage proposed – UP #03-10000069 (Steve Solomon)
   
   Continued From: None
   Board Action: Continued to 07-22-04 – 8-0-0 (Delane – Absent)

7.  **1511 SHATTUCK AVENUE**
   Request by Elite Properties to operate a retail wine store with wine tasting from 10:00 AM to 10:00 PM daily – UP #04-10000010 (Steve Solomon)
   
   Continued From: None
   Board Action: Moved to CC and Approved – 8-0-0 (Blake – Absent)

8.  **1204 TENTH STREET**
   Request by Darren Matano, Morimoto Architects, to convert an existing 6,708 square foot laboratory into one 648 square foot laboratory space and one 6,060 square foot commercial lease space retaining nine parking spaces where thirteen spaces would otherwise be required for the entire existing 6,813 square foot building – UP #04-10000029 (Stephen Ford)
   
   Continued From: None
   Board Action: Approved with modified Conditions – 8-0-0 (Delane – Absent)

9.  **Information/Communication**
   
   A.  Discussion of rules for “Recuse” from agenda items.
   B.  Design Review Committee procedures – Dave Blake reappointed to Design Review Committee
   C.  CNA Newsletter

10. **Business Meeting**
11. **Chair’s Report**

12. **Current Business/Committee Appointments**

13. **Future Agenda Items**
   
   A. Pending Zoning Hearings
   B. City Council Appeals List

14. **Other Matters**

Adjourn: 10:26 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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