MEETING SUMMARY

SPECIAL MEETING – 6:30 PM

ZONING ADJUSTMENTS BOARD REGULAR MEETING AGENDA
THURSDAY, AUGUST 26, 2004
7:00 PM

CITY COUNCIL CHAMBERS, OLD CITY HALL
2134 MARTIN LUTHER KING JUNIOR WAY
BERKELEY, CA  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 Board member 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.
AGENDA

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Special Meeting – 6:30 PM

Workshop by Manuel Albuquerque, City Attorney, on the new Ex Parte Communication Rule adopted by the Berkeley City Council.

Regular Meeting – 7:00 PM

Roll Call: 7:15 PM

Public Comment: 7:15 PM

Consent Calendar

1. 1205 CAMPUS DRIVE
   Request by Mason Disosway to modify Use Permit #02-10000052 to add 128 square feet of residential space and to extend the front paved terrace 3 feet to the west in order to accommodate a lengthened, north-south exterior stairway of an approved single-family residence – MOD #04-70000037 (Stephen Ford)
   Continued From: None
   Recommendation: Approved – 9-0-0

2. 2991 COLLEGE AVENUE
   Request by George Oram, Jr. to establish a 1,223 square foot real estate office with space on the ground floor, adjacent to street frontage – UP #04-10000076 (Stephen Ford)
   Continued From: None
   Recommendation: Moved to Public Hearing and Approved – 8-0-1 (Capitelli – Recused)

3. 1320 CEDAR STREET
   Request by Berkeley North Congregation of Jehovah’s Witness to modify Condition #12 of Use Permit #02-10000030 to allow construction hours to include Saturdays, from 8:00 AM to 8:00 PM and Sundays from 9:00 AM to 6:00 PM, for a time period limited to three weeks – MOD #04-70000034 (Gisele Sorensen)
   Continued From: None
   Recommendation: Approved – 7-2-0 (Blake, Sprague – No)
Consent Calendar – Continued:

4. **1333 HOPKINS STREET**  
   Request by Lawrence Hickman to convert four dwelling units into two dwelling units – UP #04-10000046 (Steve Solomon)  
   Continued From: None  
   Recommendation: Approved – 7-1-1 (Blake – No)  
   (Sprague – Abstained)

5. **2095 ROSE STREET**  
   Request by Robert Nishimori of Trachtenberg Architects to change the number of lease spaces in an existing second-story office space from one to six (office use to remain); building has two stories, height of 35 feet, 23,500 square feet of floor area, and no off-street parking spaces – UP #04-10000052 (Aaron Sage)  
   Continued From: None  
   Recommendation: Approved –9-0-0

Project Preview

6. **3075 ADELINE STREET**  
   Preview project to construct the “Ed Roberts Campus”, an 80,000 square foot, 2-story non-residential building on the west 1.5 acres of the 3.6 acre east parking lot of the Ashby Bart Station. Project includes space for disability organizations, a computer lab, childcare, fitness center, a café and parking spaces (Steve Solomon) – Presentation and comments

Continued Hearing

7. **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: 07-08&22-04  
   Recommendation: Approved Negative Declaration with added Conditions – 9-0-0; Approved Use Permit 6-2-1 (Blake, Sprague – No) (Katz – Abstained)
Continued Hearing – Continued:

8. **1340 SIXTH STREET**  
   Request by Ken David to demolish a commercial building, to demolish a residential duplex and to construct a 10,472 square foot building, in “average” height, portions of which are three stories tall and with seven parking spaces on a 10,320 square foot site. The City Council remanded this matter to the ZAB after holding a public hearing on an appeal by the applicant – UP #02-10000026 (Steve Solomon)

   **Continued From:** 07-22-04  
   **Board Action:** Continued to 09-23-04

Discussion and Action

9. **950 GILMAN STREET**  
   Request by JB950 Gilman St LP to reduce the number of required parking spaces and to use 1315 Eighth Street for parking – MOD #04-70000041 (Christopher Wolf)

   **Continued From:** None  
   **Recommendation:** Adopted Resolution to initiate revocation/modification of Use Permit – Set for Public Hearing on 09-09-04 – 9-0-0

10. **2104-2108 SIXTH STREET**  
    Action on the Mitigated Negative Declaration only for Use Permit/Administrative Use Permit #03-20000030 and Landmarks Alteration and Demolition Permit #04-40000018 for 1) the demolition of a single-family residential structure at 2108 Sixth Street and its replacement with a duplex; and 2) the alteration of the single-family residence and addition of a new dwelling unit at 2104 Sixth Street (Lucy Armentrout)

    **Continued From:** None  
    **Recommendation:** Adopted Mitigated Negative Declaration – 7-2-0 (Metzger, Sprague – No)

New Hearing

11. **2961-2963 COLLEGE STREET**  
    Request by Jeremy Kidson to combine a 1,584 square foot storefront with an adjacent 1,227 square foot storefront to create one 2,811 square foot storefront (to be used as one retail-clothing store) – UP #04-10000063 (Stephen Ford)

    **Continued From:** None  
    **Recommendation:** Approved – 5-3-1 (Blake, Sprague, Metzger – No) (Capitelli – Recused)
New Hearing – Continued:

12. 2041-2067 CENTER STREET
    Request by Darrell deTienne to demolish the existing buildings and construct a 187,907 square foot, 9-story, ±115-foot mixed-use building, and 149 residential units, including 23 below market rate units, ground floor retail and cultural space for the Berkeley Repertory Theater – UP #03-10000002 (Greg Powell)

    Continued From:  None
    Recommendation:  Continued to 09-09-04

13. 1321-1331 EIGHTH STREET
    Request by Austin Investment Enterprises to change the number of lease spaces in an existing 14,350 square foot building from one to seven, and construct a new office building with two stories, 5,232 square feet of floor area, four tenant spaces, and 29 parking spaces on a 30,230 square foot lot – UP #04-10000040 (Aaron Sage)

    Continued From:  None
    Recommendation:  Moved to CC and Approved – 9-0-0

14. 1330 NINTH STREET
    Request by Austin Investment Enterprises to change the number of lease spaces in an existing 10,850 square foot building from one to four; two parking spaces existing, four proposed; no change of use proposed – UP #04-10000041 (Aaron Sage)

    Continued From:  None
    Recommendation:  Moved to CC and Approved – 9-0-0

15. 2301 VINE STREET
    Request by Western Dominican Province to establish an institutional use (seminary) which is not normally permitted in the R-1H District, in the existing religious assembly and school buildings (Congregation Beth El) – VAR #04-10000070 (Aaron Sage)

    Continued From:  None
    Recommendation:  Moved to CC and Continued to 09-09-04

16. Information/Communication

    A. Memo from Manuela Albuquerque, City Attorney, regarding Commission Endorsement of Candidates and Ballot Measures.
    B. Design Review Committee/Zoning Adjustments Board Subcommittee’s recommendation for Landscape Architect position – Approved Landscape Architect position – 9-0-0
    C. Clarify and confirm Zoning Adjustments Board’s decision on July 22, 2004, regarding 1204 Tenth Street – Approved staff recommendations – 9-0-0
    D. Upcoming Zoning Adjustments Board Meetings: September 9, 2004 at the North Berkeley Senior Center, meeting on September 23, 2004 at Old City Council Chambers
    F. Final opportunity for comments on Application Form and Submittal Checklists
17. **Business Meeting**

18. **Chair’s Report**

19. **Current Business/Committee Appointments**

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

21. **Other Matters**

**Adjourn:** 1:26 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.
Legal Notice Concerning Your Legal Rights – Continued:

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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