MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, SEPTEMBER 9, 2004
7:00 PM

NORTH BERKELEY SENIOR CENTER
1901 HEARST STREET
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 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: 7:10 PM

Public Comment: 7:10 PM

Consent Calendar

1. **901 SANTA BARBARA ROAD**
   Request by Francisco Omar Aranz to modify Use Permit #01-10000081 by adding 86 square feet to a single family home – MOD #04-70000028 (Steve Solomon)
   
   Continued From: None
   
   Board Action: Approved – 6-0-0 (Blake, Capitelli, Metzger – Absent)

Continued Hearing

2. **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: 08-26-04
   
   Board Action: Approved Mitigated Negative Declaration – 6-2-0 (Blake, Sprague – No) (Metzger – Absent); Use Permit approval continued to 10-14-04

3. **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: 08-26-04
   
   Board Action: Approved – 7-0-0 (Capitelli, Metzger – Absent)
Consideration of Use Permit Revocation

4. **950 GILMAN**
   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: 08-26-04
   Board Action: Approved – 6-1-1 (Sprague – No) (Capitelli – Abstain) (Metzger – Absent)

Consideration of Use Permit revocation due to non-compliance with Conditions of Approval.

Continued From: 08-26-04
Board Action: Continued to 10-28-04

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.

5. **2683 SHASTA ROAD**
   Appeal of Administrative Use Permit #04-20000062 to construct a 504 square foot, single-story garage with an average height of 14 feet on the front half of the lot two feet from the right side property line (Stephen Ford)
   Continued From: None
   Board Action: Moved to CC and Affirmed Zoning Officer’s decision to approve – 6-0-0 (Blake, Capitelli, Metzger- Absent)

New Hearing

6. **2703 SEVENTH STREET**
   Request by Dorothee Mitriani-Bell to establish a 336 square foot café (“Café Clem”) in an existing arts and crafts workshop building (“Activ Space”) with 48 parking spaces – UP #04-10000054 (Aaron Sage)
   Continued From: None
   Board Action: Moved to CC and Approved 6-0-0 (Blake, Capitelli, Metzger – Absent)

7. **2113 VINE STREET**
   Request by Michael Werther of Vintage Berkeley, LLC to establish a wine retailer with on-site tasting in an existing 1,280 square foot building – UP #04-10000067 (Aaron Sage)
   Continued From: None
   Board Action: Continued to 09-23-04
8. **Information/Communication**

   A. Memo from City Manager regarding City’s Council’s Creeks Ordinance Public Hearing on September 28, 2004

9. **Business Meeting**

10. **Chair’s Report**

11. **Current Business/Committee Appointments**

12. **Future Agenda Items**

   A. Pending Zoning Hearings
   B. City Council Appeals List

13. **Other Matters**

    **Adjourn:** 12:30 AM

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**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.
Legal Notice Concerning Your Legal Rights – Continued:

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:

   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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