ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, OCTOBER 28, 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 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.
AGENDA

Roll Call

Public Comment

Consent Calendar

Continued Hearing

1. 950 GILMAN STREET

   Revocation or modification of Use Permit #A920, which was granted to convert a single user building at 950 Gilman Street into four industrial tenant spaces and to use 1331 Seventh Street for required parking (Christopher Wolf)

   Continued From: 09-09-04
   Recommendation: Continue to 12-09-04

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.

New Hearing

2. 3075 ADELINE STREET

   Request by Joni Breves to construct a building and operate 89,200 square feet of offices, classrooms, a café and daycare - #01-10000098 (Steve Solomon)

   Continued From: None
   Recommendation: Continue to 11-15-04

3. 1322 EUCLID STREET

   Request by Alex Korn to demolish an existing single-family dwelling and construct a new single-family dwelling and accessory dwelling unit in a building with 3 stories, average height of 27 feet, 8 inches, 3,789 square feet of floor area, and a two-car garage, on a 5,029 square foot lot - #04-10000031 (Aaron Sage)

   Continued From: None
   Recommendation: Approve
New Hearing – Continued:

4. **1419 QUEENS ROAD**
   Request by Elisse and David Gabriel to construct a single-family dwelling south of 1419 Queens Road, Lot 317, Berkeley View Terrace Subdivision - #03-10000101 (Steve Solomon)
   
   Continued From: None
   Recommendation: Approve

5. **2444 SACRAMENTO STREET**
   Request by Behjat B.J. Yahyavi to increase by 3 feet, 1 inch, the height of the 518 square foot rear portion of a non-conforming 3,380 square foot, two-story, mixed-use building that is non-conforming due to lot coverage, yard setbacks, open space and parking. The portion of the building to be altered is in the required rear yard - #04-10000086 (Stephen Ford)
   
   Continued From: None
   Recommendation: Approve

6. **1509-1513 SHATTUCK AVENUE**
   Request by Elite Properties to convert 4 already approved Food Products Stores into 4 Carry Out Food services in the ground floor of a Market Hall - UP #04-10000111 (Vu Nguyen)
   
   Continued From: None
   Recommendation: Approve

7. **1698 UNIVERSITY AVENUE**
   Request by Pacific Bay Investments to construct a 5-story mixed-use building with 50 foot average height, 25,555 square feet of residential floor area, 25 for sale dwelling units (including 4 below market rate), 2,852 square feet of ground floor commercial space (including café) and 32 parking spaces, on a 10,000 square foot lot - #03-10000025 (Aaron Sage)
   
   Continued From: None
   Recommendation: Continue to 11-15-04

8. **1522 VIRGINIA STREET**
   Request by Hai-Ping Mo to add a second story addition to an existing duplex that is non-conforming due to yard setbacks front and rear yards less than 20 feet, side yard less than 4 feet, unit density (two units on a 3,000 square foot lot where 3,300 square feet are required), and lot coverage (47% lot coverage where 45% is allowed) – UP #04-10000081 (Stephen Ford)
   
   Continued From: None
   Recommendation: Approve

9. **Information/Communication**
10. Business Meeting

11. Chair’s Report

12. Current Business/Committee Appointments

13. Future Agenda Items
   A. Pending Zoning Hearings
   B. City Council Tracking Sheet

14. Other Matters

Adjourn

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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