MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, DECEMBER 9, 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 by 7:15 PM 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.
A G E N D A

Roll Call: 7:01 PM

Public Comment: 7:01 PM

Consent Calendar

1. 1788 FOURTH STREET
   Request by Dona Savitsky and Thomas Schnetz to establish incidental sales of beer and wine for consumption in the interior premises (indoor dining room) of an existing food service use (“Tacubaya”) and to extend the restaurant closing time from 4:00 PM to 9:00 PM – UP #04-10000094 (Lucy Armentrout)
   Continued From: None
   Board Action: Continued to 01-13-05 for re-noticing

Continued Hearing

2. 950 GILMAN STREET
   Consider revocation Use Permit #A920 and consider request to establish ancillary sales of goods manufactured on site; change the use of 25% of the floor area of the building from manufacturing to office use; convert four (4) existing tenant spaces into fourteen tenant spaces and; designate up to 10% of required car parking for bicycle/motorcycle parking – UP #04-10000100 (Christopher Wolf)
   Continued From: 08-26-04;09-09-04;10-28-04
   Board Action: Approved with added Conditions – 9-0-0

New Hearing

3. 2700 SAN PABLO AVENUE
   Request by Charmaine Curtis of Curtis+Partners Development to modify Use Permit #01-10000102 to revise the floor plan, site plan and building elevations; to reduce the number of dwelling units; to increase the gross floor area; to reduce the number of required parking spaces; to reduce the amount of commercial floor area and; to increase the number of stories – MOD #04-70000039 (Greg Powell)
   Continued From: None
   Board Action: Approved – 7-2-0 (Metzger, Sprague – No)
New Hearing – Continued:

4.  1043-1049 VIRGINIA STREET  
Request by B. Tony Jalili to create four, two-story residential units over an 8-car ground floor parking garage (5,845 square feet) and a 300 square foot commercial space with 0 feet front, rear and left-side yards (20 feet front and rear and 4 feet side yards required) – UP #02-10000006 (Stephen Ford)  
Continued From: None  
Board Action: Continue off Calendar

5.  1414 HARMON STREET  
Request by Richard Schwarzmann to construct 5 dwelling units in three new buildings and raise existing dwelling to construct new dwelling below; project adds 6,368 square feet of floor area and 6 parking spaces to 11,200 square foot lot – UP #04-10000058 (Aaron Sage)  
Continued From: None  
Board Action: Continued to 01-13-05

6.  1952-1966 UNIVERSITY AVENUE  
Request by Jim Novosel, Architect, to demolish a vacant dwelling and construct a new dwelling of similar size, convert 7 vacant dwellings to office use, and construct 3,545 square feet of new commercial space for two full-service restaurants with incidental beer and wine service; no off-street parking will be provided – UP #04-10000061 (Aaron Sage)  
Continued From: None  
Board Action: Continued to 01-13-05 for re-noticing

7.  2113 VINE STREET  
Request by Michael Werther to remove certain requirements that are inconsistent with State ABC (Alcoholic Beverage Control) regulations and/or procedures – UP #04-10000067 (Aaron Sage)  
Continued From: None  
Board Action: Approved – 8-0-1 (Judd – Abstain)

8.  1400 ALCATRAZ AVENUE  
Request by Imam Din to create a second dwelling unit on the ground floor of an existing single-family residence and to place the required second parking place within the rear yard setback where the rear yard abuts a street – UP #04-10000104 (Lucy Armentrout)  
Continued From: None  
Board Action: Moved to CC and Approved – 9-0-0
9. **Information/Communication**
   A. Revised 2005 Calendar

10. **Business Meeting**

11. **Chair’s Report**

12. **Current Business/Committee Appointments**

13. **Future Agenda Items**
   A. Pending Zoning Hearings

14. **Other Matters**

**Adjourn:** 12:01 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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