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 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.
Roll Call  7:04, All except David Blake present.  David Blake arrived 7:07.

Public Comment  7:04 to 7:12.

Consent Calendar

1. **1700 Fifth Street**
   Request by Michael Fant, 23625 Commerce Park Rd., Cleveland, OH 44122
   Use Permit # 04-10000143 to reconfigure space in an existing commercial building in order to
   establish the following uses: Photo Studio – 1,536 sq. ft.; Warehouse – 16,551 sq. ft. and Office --
   5,282 sq. ft. (MU-LI and M-UR, SRF)
   
   Continued From: None
   Board Action: Continued to April 28, 2005.

2. **700 University Avenue, 2040 Fourth Street**
   Request by Daniel M. Deibel, Urban Housing Group
   Use Permit 04-10000069: by Urban Housing Group to construct a Mixed-Use Project including
   212 residential units, retail and restaurant uses and the renovation of the Southern Pacific Train
   Station (C-W – West Berkeley Commercial within a designated commercial node; Greg Powell)
   
   Continued From: None
   Board Action: Continued off calendar.

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 or deny
the decision of the Zoning Officer to grant the permit.*

Continued Hearings:

3. **2615 MARIN AVENUE**
   Request by David W. Richmond, Columbus Group, LLC.
   UP #03-10000069 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 – (Steve Solomon)
   
   Continued from 03-24-08
   Board Action: Took no public comment; continued to April 28, 2005.
4. **1698 UNIVERSITY AVENUE**  
Request by Pacific Bay Investments  
Remand from City Council of appeal of Use Permit #03-10000025 to adopt changes necessary to make project consistent with provisions of State density bonus law, to require construction of sidewalk bulb-out prior to completion of project, and to require a “left turn only” sign at the project’s exit driveway. Project is 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–  (C-1, Aaron Sage)  
  
**Continued From:** 10-28-04, 02-24-05, 3-10-05  
**Board Action:** Moved to Consent Calendar and continued to April 28, 2005.

5. **1043 – 49 VIRGINIA STREET**  
Request by B. Tony Jalili 1315 San Pablo Ave. Berkeley, CA  94702  
Use Permit # 02-10000006 to create four, two-story residential units (4,282 sq. ft., adding to four existing units in a separate building) over an 8-car ground floor parking garage (2,322 sq. ft.) and a 330 sq. ft. commercial space with zero foot front and left side yards and a six foot, rear yard (20 foot front and rear yards and 4 foot side yards required);  (CW West Berkeley Commercial, Stephen Ford)  
  
**Continued From:** 12-09-04 (Continued off calendar)  
**Board Action:** Approved with modifications (8-1)  
No – Sprague.

**New Hearings:**

6. **1250 Addison Street, Suites 109 & 111**  
Request by Bahman Shayesteh and Ruben Ramirez, 1250 Addison St., 94702  
Use Permit Modification #05-70000002 to legalize existing seating for bakery and café (formerly “The Bread Workshop,” to be “Café Zeste”); existing Use Permit allows “on-site consumption” but approved floor plan does not show any seating  
(R-2A, Aaron Sage)  
  
**Continued From:** None  
**Board Action:** Moved to Consent Calendar and approved (9-0)
7. **2644 Ellsworth Street**
   Request by Sticks and Stones, Inc., 2620 Benvenue Ave., Berkeley, CA 94704
   Use Permit #04-10000152 to add a 514 square foot, second floor, major residential addition to a single family residence that is non-conforming due to unit density (four units on a 9,281 sq. ft. lot where 9,500 square feet are required), by increasing the average height 5 feet, 6 inches, vertically extending a non-conforming rear yard (6 feet where 20 feet are required) and expanding a building in a required yard; (R-2, Restricted Multiple family Residential, Stephen Ford)
   
   **Continued From:** None
   **Board Action:** Continued to May 12th. (9-0)

8. **2901 Otis Street**
   Request by Xin Jin, Danny Tran, and Eric Geleynse
   Use Permit #04-10000090 to raise and expand existing dwelling by 3,150 sq. ft. to create two additional units (one on 1st story and one on 3rd) on a 5,015-square-foot lot; project removes existing roof and approximately 54 percent of existing exterior walls, thereby constituting a "demolition" under the Zoning Ordinance; (R-4, Multi-family Residential; Aaron Sage)
   
   **Continued From:** None
   **Board Action:** Moved to Consent Calendar and continued to April 28, 2005.

9. **Information/Communication**
   - Discuss methodology for evaluating proposed projects that require an Administrative Use Permit due to cumulative additions exceeding 500 square feet.

10. Business Meeting
11. Chair’s Report
12. Current Business/Committee Appointments
13. Future Agenda Items
14. Other Matters
15. Adjourn 8:50 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:

   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.

[Approved for Posting by Debra R. Sanderson, ZAB Secretary, April 18, 2005]