MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, April 28, 2005

Special Meeting, 6:00 pm
Regularly Meeting follows at 7:00 pm
Both at Same Location

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
SPECIAL MEETING: 6:00 PM

Roll Call 6:04 All present

1. 1885 UNIVERSITY AVENUE
   Request by 1950 MLK, LLC, 2140 Shattuck Avenue, Suite 302, Berkeley, CA 94704
   Use Permit 02-1000070 to construct a mix-use project with 186 dwelling units and 4,000-square
   feet of retail. (Steve Solomon)
   Continued From: 3-10-05,
   Recommendation: Preview Only – Take Public Comments and Discuss

A G E N D A
REGULAR MEETING: 7:00 PM
Same Location

Roll Call 7:10 all present

Public Comment (none)

Consent Calendar (See Item #5. 2901 Otis, below.)

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.

2. 1443 CORNELL AVENUE
   Request by David Meyer & Tamara Birdsall, 1446 Cornell Avenue.
   Appealed by: Norris Davis, 1450 Curtis Street, Berkeley, CA 94702, and by Mucilee Davis,
   1446 Curtis Street, Berkeley, CA 94702.
   Appeals of Administrative Use Permit #03-20000174 to expand an existing single-family
   residence by constructing a second floor (major residential addition per Section 23D.28.030) and
   continuation of a non-conforming front yard setback of nine feet, nine inches (horizontal and
   vertical extension per 23C.04.070.B). (R-2, GP)
   Continued From: None
   Board Action: Denied Appeal, 9-0-0

Continued Hearings:

3. 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 of 5,282 sq. ft.  (Stephen Ford)

Continued From: 4-14-05
Board Action: Approved with modification, 9-0-0

4. 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 3-24-05, 4-14-05
Board Action: Approved with modification, 7-2-0,
(Blake, Sprague-No)

5. 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: 4-14-05
Board Action: Moved to Consent Calendar and continued to June 9, 2005, 9-0-0

6. 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 (Govt. Code §65915), 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 approved by ZAB is a 5-story mixed-use building with 50-foot average height, 25,555 square feet of residential floor area, 25 ñor-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: 02-24-05, 3-10-05, 3-24-05, 4-14-05
Board Action: Approved with modification, 7-2-0
(Metzger, Sprague-No)

New Hearings:

7. 1737 GRANT STREET
Request by Bruce Nordman, 1737 Grant Street, Berkeley, CA 94703. 
Appealed by: Leslie Avant and Bill Swartz, 8 Mariposa Lane, Orinda, CA 94563; and David Bruner, 1733 Grant Street Apt. D, Berkeley, CA 94703. Appeal of Administrative Use Permit #04-20000177 to add a 469 square-foot addition to a single-family residence (R2-A, Restricted Multiple-Family Residential District Provisions; MB) 

Continued From: None
Board Action: Denied Appeal, 8-0-1 (Sprague- Abstain)

8. 1625 SHATTUCK AVENUE
Request by John Papini, Bridgeview, LLC.
Use Permit #05-10000018: Expand a non-conforming building (zero ft. yards where 15 ft. front and rear yards and 6 ft. side yard for a third story are required and FAR of 2.29 where 1 is allowed) by adding three front bays (143.5 sq. ft.) and by changing 160 sq. ft. of 3rd floor, floor area to open space, resulting in a net 16.5 foot reduction of floor area. (Stephen Ford).

Continued From: None
Board action: Approved, 8-1-0 (Sprague- No)

9. 3045 SHATTUCK AVENUE
Request by Ching F. Sun, 2418 Carleton St., Berkeley, 94704.
Public Hearing #04-9990012 to determine whether proposed Mixed Use Development (two dwelling units above commercial space) complies with Zoning Ordinance. (C-SA, South Area Commercial; Aaron Sage/Debbie Sanderson)

Continued From: None
Board Action: Continued to May 12, 2005, 8-0-1
               (Tiedemann- Absent)

10. Information/Communication
    • Presentation on Alcohol Awareness, Taj Johns presenting. No presentation. Will be rescheduled.

11. Business Meeting
12. Chair’s Report
13. Current Business/Committee Appointments
14. Future Agenda Items
15. Other Matters
    Established an Ad Hoc Subcommittee on Density Bonus. Members include Dean Metzger, David Blake, Bob Allen, and Rick Judd.

16. Adjourn- 12:58 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:

File: ac042805.DOC
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 “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 Land Use Planning Division at 981-7410 (voice) or 981-7474 (TDD); at least five (5) working days notice will ensure availability.

[Approved for posting by Debbie Sanderson, Secretary, Zoning Adjustment Board, 5/2/05.]