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 (6:05 p.m. for Special Meeting). 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 (6:15 PM for Special Meeting) 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.
SPECIAL MEETING – 6:00 PM

Roll Call  6:09 PM
All present (Arreguin for Katz)

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.

1. 2750 Buena Vista Way
Request by Mr. Thaddeus E. Kusmierski - 2625 Benvenue Street, Berkeley, CA 94704
Appealed by Mr. Robert H. Pennell - 7 Maybeck Twin Drive, Berkeley, CA 94708, Ms Allison A. Pennell and Mr. Allen M. Fish – 2730 Buena Vista Way, Berkeley, CA 94708.

Appeal #05-00000149 of Administrative Use Permit #03-20000112 to construct an 608 square foot addition partly within the required front yard setback; (R-1(H), CW)

Continued From: None

Recommendation: Affirm Zoning Officer’s Decision and Deny the Appeal

Action: Denied Appeal 5-4-0 (No: Metzger, Sprague, Arreguin, Blake)

Consent Calendar

Modification of Use Permit; not posted for a public hearing.

2 2310 Fulton Street
Request by Mr. Avi Nevo; 2071 Addison Street, Berkeley, CA 94704
Use Permit Modification #05-7000020, correcting Use Permit #02-10000009 to change the number of inclusionary units from 16 to 14 (approximately 20% of the 74 total units in the project) as required under BMC Section 23C.12.030 (C-2: Downtown Commercial, SRF)

Continued From: None

Recommendation: Approve

Action: Set for public hearing 5-4-0 (No: Allen, Judd, Tiedemann, Wilson)

Preview Items – No Action to be Taken

Intended to update the ZAB on the project status and provide an opportunity for public comment.
The item was noticed as a courtesy to neighbors and interested citizens.
3  

2526 Durant Avenue
Request by Ruegg & Ellsworth, 2437 Durant Avenue, Berkeley, CA  94704
Use Permit #00-10000066 to demolish the Blood House, a City of Berkeley Structure of Merit and to construct a mixed use building with 29,855 square feet of residential floor area (44 dwelling units, including 7 affordable) and 2,483 square feet of non-residential floor area, 5 stories with an average height of 50 feet, on a 10,377 square foot lot. 18 parking spaces are proposed. (C-T Telegraph Commercial Zoning District) (GP).

Continued From:  None
Recommendation:  Preview Only. No ZAB Action. [Wilson recused himself]

4. Continued Discussion (as needed) on recent Zoning Ordinance Amendments on Parking Requirements:  No discussion

Adjourn:  7:40 pm

REGULAR MEETING – 7:00 PM

Roll Call:  All present (Arreguin for Katz): 7:52 pm

Public Comment

Consent Calendar

Agenda Changes

Continued Hearings:

1.  1532 M L KING WAY
Request by Mr. Wallace Whittier, 1532 MLK, LLC, 805 Camelia St, Berkeley, CA 94608.
Use Permit #04-10000079 would allow the demolition of a single-family dwelling and the construction of a two-story, 2,215 sq. ft., duplex and a one-story, 642 sq. ft. cottage. Three parking spaces would be provided. (R-2A, SMS)

Continued From:  05-12-05; 06-23-05; 07-14-05
Recommendation:  Approve
Action:  Approved 5-4-0 (No: Allen, Anthony, Metzger, Sprague)

New Hearings:

2  1638 Carleton Street
Request by Kevin Sudduth, 1638 Carleton Street Berkeley, CA  94703.  
Use Permit #05-10000083 to demolish a 1,158 square foot, single-story (15 ft., ½ in. height), single-family residence with a with a non-conforming front yard (17 ft. 10 in. where 20 feet required) and replace with a 2,846 square foot, two-story (maximum height 21 feet 6 inches), single-family residence with a conforming front yard set-back;(R-2, Restricted, two-family residential, SRF)

Continued From:  None  
Recommendation:  Approve  
Action:  Approved on Consent 9-0-0

3  
2200 Durant Avenue
Request by Hue Ly & Nickie Kim Ly, 2200 Durant Avenue, Berkeley, CA  
Use Permit #05-10000063 to permit an automatic teller machine (ATM) within Campus Mini-Mart; (C-1, SDR)

Continued From:  None  
Recommendation:  Approve  
Action:  Approved on Consent 9-0-0

4  
2519 Durant Avenue
Request by Jahanshah Jowharchi, 2519-A Durant Avenue, Berkeley, CA  94704  
Use Permit #05-10000076 to permit an automated teller machine (ATM) within Gypsy Trattoria Italiano; (C-T, SDR)

Continued From:  None  
Recommendation:  Approve  
Action:  Approved on Consent 9-0-0

5  
1834 Euclid Avenue
Request by La Val’s Pizza Euclid, 1834 Euclid Avenue, Berkeley, CA  95135  
Use Permit #05-10000068 to permit an automated teller machine (ATM) within La Val’s Pizza; (C-N, SDR)

Continued From:  None  
Recommendation:  Approve  
Action:  Approved on Consent 9-0-0

6  
1879 Euclid Avenue
Request by Resham Singh Basra, 1879 Euclid Avenue, Berkeley, CA  94704  
Use Permit #05-10000064 to permit an automated teller machine (ATM) within Vick Copy; (C-N, SDR)

Continued From:  None  
Recommendation:  Approve  
Action:  Approved on Consent 9-0-0

7  
1323 Kains Avenue
Request by Simon Borja, 1323 Kains Avenue, Berkeley, CA 94702
Administrative Use Permit #04-20000171 to add an 816 square-foot, second story addition; (R2, Restricted Two-Family Residential District Provisions; MB)
Continued From: None
Recommendation: Approve
Action: Approved 8-1-0 (No: Sprague)

8 81 Shattuck Square
Request by Amanollah Shariati, 7409 Emerald Ave. Dublin, CA 94568
Use Permit #04-10000147 to establish a 1,430 square foot quick service restaurant and 240 square feet of outdoor seating with no parking where one additional space would otherwise be required (C-2—Central Commercial District – SRF)
Continued From: None
Recommendation: Approve
Action: Approved on Consent 9-0-0

9 801 Virginia
Request by David Maranon, 1827 Fifth St., Berkeley, CA 94710
AUP #05-2000035 to establish a combined light manufacturing use and retail use in an existing commercial building with a total floor area of 4,705 sq. ft. (Mixed Use - Residential- MU-R - FC)
Continued From: None
Recommendation: Approve
Action: Approved 9-0-0

10 Information/Communication
   · Density Bonus Subcommittee Report
   · Compliance Subcommittee Report

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

File: ac072805
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 Current Planning Division at 981-7410 (voice) or 981-6345 (TDD); at least five (5) working days notice will ensure availability.

[Approved to Post, Debra R. Sanderson, Secretary, 8/2/05]