ZONING ADJUSTMENTS BOARD ACTION MINUTES
THURSDAY, SEPTEMBER 8, 2005
7:00 PM

NOTE – MEETING IS AT DIFFERENT LOCATION
NORTH BERKELEY SENIOR CENTER,
1901 Hearst Avenue
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.
Action Minutes

Roll Call  All present except: Jesse Anthony (arrived @ 7:10pm)
            Rick Judd (arrived @ 8:00pm)

Public Comment- Concerns over the effects of wireless radio frequency health risks.

Consent Calendar

1. 2310 FULTON
Requested by: Mr. Avi Nevo; 2071 Addison Street, Berkeley, CA 94704.
Use Permit Modification #05-70000020, modifying 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), the minimum number required (C-2: Downtown Commercial, SRF).
   Continued From: 8/25/05
   Recommendation: Continue to October 6, 2005
   Action: Continued on Consent 8-0-1 (Judd Absent)

2. 1237 CURTIS
Requested by: Mr. Linda and Carl Lasagna 941 Pamona Ave. Albany, CA 94706.
Use Permit Modification #05-70000015, modifying Use Permit #03-10000098 to replace an approved ground floor, east façade trellis with a second floor balcony (5 ft. x 11 ft.) add windows on the south façade and change the second floor plan to combine two bedrooms into one (R-1(A): Limited Two-Family Residential, SRF)
   Continued From: None
   Recommendation: Approve
   Action: Approved on Consent 8-0-1 (Judd Absent)

5. 1441 FAIRVIEW STREET
Requested by: Aran Kaufer, 1441 Fairview, LLC, 2606 Dwight Way, Berkeley, CA 94704.
Use Permit #05-1-0000028 to construct a three unit, 3,659 square foot condominium building and demolish an existing single family residence (C-SA, South Area Commercial; SDR).
   Continued From: None
   Recommendation: Approve
   Action: Approved on Consent 8-0-1 (Judd Absent)
8. **1806 YOSEMITE ROAD**

Requested by Jill Moran with McCutchen Construction, Inc. 1218 Sixth Street Berkeley, 94710. Use Permit #05-10000070 to add 100 square feet to a single-family dwelling that is non-conforming due to lot coverage (50% lot coverage where 40% is allowed) and modify a portion of a building in a required yard (R-1-(H), Single-family Residential in the Hillside Overlay District, SRF).

- **Continued From:** None
- **Recommendation:** Approve
- **Action:** Approved on Consent 8-0-1 (Judd Absent)

**Agenda Changes**

**Appeal of Administrative Use Permit – No Appeals scheduled for this meeting**

*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. **2538 HILLEGASS AVENUE**

Request by: David Meyers, 3708 Penwood Place, Dublin, CA 94568

Use Permit #04-10000151 to add 3 dwelling units to an existing 2-story, 4-unit apartment building on an 8,293-square-foot lot; 2 units will be located in new third story, which increases building height by 9 feet, and one unit will be located in enlarged basement (not considered a “story”); 7 parking spaces are proposed behind building; (R-3, Multiple-family Residential, AS)

- **Continued From:** 8/25/05
- **Recommendation:** Approve with Changes
- **Action:** Continued to 9/22/05 5-1-1-2 (No: Allen) (Abstain: Judd) (Beier recused; Tiedemann not voting)

**New Hearings:**

4. **3332 ADELINE STREET**


Use Permit #04-20000148 to allow the co-location of four wireless antennas and seven related ground-level equipment cabinets at an existing wireless telecommunications site (Phillips Temple Church *aka*, Lorin Theater) (C-SA, SRF).

- **Continued From:** None
- **Recommendation:** Approve
6. **2200 OXFORD STREET**

Request by: Oxford Street Development, LLC, P.O. Box 29585, San Francisco, CA 94129.

Use Permit #04-10000114 to construct a mixed-use project with about 32,000 square feet of office space, conference center, restaurant, 96 units of affordable housing, about 8,600 square feet of retail, 41 residential parking spaces, and 104 to 211 underground public parking spaces (consideration of two garage scenarios requested); proposed building height is 4 stories/59 feet, 7 inches (average) for office portion, and 6 stories/68 feet, 7 inches (average) for housing portion. (C-2, Central Commercial; AS).

- **Continued From:** None
- **Recommendation:** Approve
- **Action:** Approved 7-1-1 with changes with support for 2 levels of parking. (No: Allen)
  (Absent: Rick Judd)

7. **2228 SIXTH STREET**

Requested by: Ms. Nancy Rakela, 776 Page Street, Berkeley, CA 94710.

Use Permit #05-10000053 to establish a medical practitioners office with tandem off-street parking (MU-R, CW).

- **Continued From:** None
- **Recommendation:** Approve
- **Action:** Approved 9-0-0

[Approved for posting, Debra R. Sanderson, Secretary, Zoning Adjustments Board, 9/15/05]
9. Information/Communication

A. Report, Density Bonus Subcommittee  
B. Report, Compliance Monitoring Subcommittee  
C. Discussion, DRAFT Council Action Item, Proposed Changes in Appeal Fees. (See enclosed Draft Council Report)  
D. Discussion, Policy Issues:  
  1. “Protocols and Guidelines for Managing Land Use Planning Boards,” July 8, 2005. [Memo previously distributed for the 7/14/05 ZAB meeting. Please notify Staff if you need another copy.]  
  2. Retaining Materials from Pre-View Meetings (no enclosure)  
  3. Staff Notification of DRC Chair (no enclosure)  

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

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 981-7474 (TDD); at least five (5) working days notice will ensure availability.