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.
AGENDA

Roll Call: Call to Order 7:15 PM. All members present. George Beier for Dean Metzger.

Public Comment

Notice of Agenda Change:

1. 1611 TENTH STREET
   Request by: Michael Copeland 1611 Tenth Street Berkeley, CA 94710
   Use Permit 05-1000049 to construct two-story second dwelling unit on the rear portion of a 6,708 square foot lot. R-1A, Limited two-Family Residential, SRF)
   Continued From: 8/25/05
   Recommendation: NO ACTION. DUE TO ERROR IN THE PUBLIC HEARING NOTICE, THIS PROJECT HAS BEEN RE-POSTED FOR THE OCTOBER 6, 2005 ZAB MEETING.

Consent Calendar

Agenda Changes: Revised order of items as follows: #3, #4, #5, and #2.

Appeal of Administrative Use Permit -- None

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:

2. 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, 9/8/05
   Recommendation: Approve with Changes
   Action: Approved with Changes 6-0-1-2 (Abstained: Sprague) (Absent: Beier (recused) and
Tiedemann)
3. **3045 SHATTUCK AVENUE**  
Applicant and Appellant: Ching F. Sun, 2418 Carleton St., Berkeley, 94704.  
Public Hearing on Appeal of Design Review Committee action to overturn the Staff Level Design Review Approval and deny the Design Review (DR#04-3000100) of a proposed Mixed Use Development (two dwelling units above commercial space) at this address. (C-SA, South Area Commercial, DRS).

Continued From: 8/25/05  
Recommendation: Overturn DRC decision and Approve the proposed design with added conditions.  
Action: Approved with changes (8-0-1) (Sprague Abstained)

**New Hearings:**

4. **2440 SACRAMENTO AVENUE**  
Request by Code Enforcement Staff  
Conduct public hearing to determine whether a nuisance exists at this address, pursuant to BMC 23B.64.020.B, and if so, to determine the appropriate remedy. (G. Daniel)

Continued From: (Previous Meeting 8/25/05)  
Recommendation: Make a determination of public nuisance and set appropriate remedies.  
Action: Declared a public nuisance; directed Staff to prepare a Resolution with findings and remedies consistent with this determination, to be approved at the next meeting, 10/6/05. (9-0-0)

5. **2369 TELEGRAPH AVENUE**  
Request by Code Enforcement Staff  
Conduct public hearing to determine whether a nuisance exists at this address, pursuant to BMC 23B.64.020.B, and if so, to determine the appropriate remedy. (G. Daniel)

Continued From: (Previous Meeting 8/25/05)  
Recommendation: Make a determination of public nuisance and set appropriate remedies.  
Action: Declared a public nuisance; directed Staff to prepare a Resolution with findings and remedies consistent with this determination, to be approved at the next meeting, 10/6/05. (9-0-0)

6. **Information/Communication**  
   A. Report from the Density Bonus Subcommittee (see attached)  
   B. Report from the Compliance Monitoring Subcommittee (no attachment)
C. Correspondence, dated 8/11/05, to Mr. Greg Powell from Ms. Laurie Bright, Ms. Julie Dickinson, and Ms. Gale Garcia, re: Initial Study for 700 University Avenue. (attached)

7. Business Meeting
8. Chair’s Report
9. Current Business/Committee Appointments
10. Future Agenda Items
11. Other Matters
12. Adjourned: 12:15 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.

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.

[Approved for posting by Debra R. Sanderson, Secretary, Zoning Adjustments Board, 9/26/05.]