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

Roll Call  
Call to order 7:04 PM.
Present Board Members: Anthony, Judd, Allan, Wilson, Sprague, Tiedemann, Metzgar
Absent Board Members: Katz, Blake

Public Comment

7:08: Katz Arrived

Consent Calendar  
2369 Telegraph and 2440 Sacramento Street moved to consent calendar

Agenda Changes

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. 479 Vassar Avenue

Request by: Erin Gillett and Scott Bretall, 479 Vassar Avenue, Berkeley, CA 94708.
Appealed by: Alfred Farach, 470 Spruce St., Berkeley, CA 94708 and Andrew Morgan, 484 Spruce St., Berkeley, CA 94708.

Appeal of Administrative Use Permit #05-2000031 to construct a new second-story addition of 422 sq. ft. on an existing single-family home; (R-1 H, FC)

Continued From: None
Recommendation: Affirm Zoning Officer Decision and Deny Appeal
Action: Denied Appeal and Affirmed Zoning Officer’s Decision (8-0-0-1) (Absent: Blake)

7:20: Blake Arrived

Continued Items:

2. 2310 Fulton Street

Request by: Mr. Avi Nevo, 2071 Addison Street, Berkeley, CA 94704
Continued Public Hearing for Use Permit Modification #05-7000020, modifying Use Permit #02-1000009 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: 7/28/05; 8/25/05; 9/8/05
Recommendation: Approve with Changes
Action: Approved with Changes (9-0-0-0)

3. **2440 SACRAMENTO AVENUE**
   Request by Code Enforcement Staff
   Continued item (not a public hearing) to adopt a resolution which determines that a nuisance exists at this address and that specifies appropriate remedies pursuant to BMC 23B.64.020.B. (G. Daniel)
   Continued From: 08/25/05; 09/22/05
   Recommendation: Adopt Resolution
   Action: Moved to Consent Calendar and Continued to 10/27/05 (8-0-0-1 (Absent: Blake)

4. **2369 TELEGRAPH AVENUE**
   Request by Code Enforcement Staff
   Continued item (not a public hearing) to adopt a resolution which determines that a nuisance exists at this address and that specifies appropriate remedies pursuant to BMC 23B.64.020.B. (G. Daniel)
   Continued From: 08/25/05; 09/22/05
   Recommendation: Adopt Resolution
   Action: Moved to Consent Calendar and Continued to 10/27/05 (8-0-0-1 (Absent: Blake)

**New Hearings:**

5. **2211 Byron Street**
   Request by: Ms. Audrey Evans, 2211 Byron Street, Berkeley, CA 94710.
   Use Permit #05-1000006 to construct a single-family dwelling unit at the rear of a site with an existing single-family dwelling; (R-2, CW)
   Continued From: None
   Recommendation: Approve
   Action: Approved (8-0-1-0) (Abstain Sprague)

6. **2265 Fifth Street**
   Request by: Mr. David R. Korman, 2377 Virginia Street, Berkeley, CA 94709.
   Use Permit # 04-10000071 and Modification of Administrative Use Permit # B0727 to establish outdoor courtyard, quick food service restaurant seating (44 seats in an outdoor courtyard, not in the public right of way), expanding incidental beer and wine sales and extending hours of operation to 9 p.m. daily;(MU-R – Mixed Use-Residential; SRF)
   Continued From: None
   Recommendation: Approve
7.  **2424 Ridge Road**  
Requested by:  Mr. Jim Goring, Goring & Straja Architects.  
Use Permit #05-10000054 to enlarge a building by 306 square feet, that is non-conforming due to height (77 ft., 6 in., where 35 ft allowed by right, 65 feet allowed with a permit) and that is also non-conforming due to density (175 residents where 83 are allowed with 28,900 square feet of lot area) also adding a 135 square foot, non-habitable, rooftop projection (elevator penthouse);(R-4, Multi-family Residential, SRF)  
Continued From: None  
Recommendation: Approve  
Action: Approved (9-0-0-0)  

8.  **1611 Tenth Street**  
Request by:  Michael Copeland, 1611 Tenth Street, Berkeley, CA  94710  
Use Permit 05-10000049 to construct two-story, 2,176 square foot, second dwelling unit with a maximum height of 31 feet, 3 inches (28 feet allowed as of right), on the rear portion of a 6,708 square foot lot, reducing the rear yard from 87 feet, 9 inches to 10 feet, 3 inches where 20 feet would be required and establishing a parking space in a yard abutting a street;(R-1A, Limited two-Family Residential, SRF)  
Continued From: None  
Recommendation: Approve  
Action: Approved (8-0-1-0) (Abstain: Sprague)
Other Matters:

• Information/Communication:

1. Density Bonus Subcommittee
2. Compliance Monitoring Subcommittee
3. Notice of Preparation of an Environmental Impact Report & Notice of Scoping Meeting (mailed to ZAB members under separate cover)
5. Letter from Julie Dickinson regarding 2700 San Pablo Avenue

• Business Meeting
• Chair’s Report
• Current Business/Committee Appointments
• Future Agenda Items
• Other Matters
• Adjourn: 8:30 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 “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, 10/7/05]