ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, NOVEMBER 10, 2005
7:00 PM

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.
Roll Call  Call to Order  7:01 PM.
Present Board Members: Anthony, Judd, Wilson, Katz, Sprague, Tiedemann, Metzger, Shirley Dean substituting for Bob Allen.
Absent Board Members: Blake
Approximate Public Attendance: 35 people.

Public Comment  Opened: 7:02
One comment
Closed: 7:05

7:04: Blake arrives

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.

Continued Hearings:

1  3332 ADELINE STREET
Use Permit #04-20000148 to allow the co-location of four wireless antennas and related ground-level equipment cabinets at an existing wireless telecommunications site (Phillips Temple Church aka, Lorin Theater); (C-SA, SRF)
Continued From:  9-8-2005; 10-27-2005
Recommendation: Continue to December 8, 2005
Action: Continued to December 8, 2005 (9-0-0-0)

New Hearings:

2  2948 COLLEGE AVENUE
Request by: Erik Anderson P. O. Box 5055 Berkeley, CA 94705.
Use Permit # 05-10000073 to establish a 950 square foot carry out food service store and 10 square feet of sidewalk seating (bench) (C-E—Elmwood Commercial District – SRF)
3  **2548 BANCROFT STREET**
Request by: Mr. Darrell de Tienne, de Tienne Associates, 3435 Caesar Chavez Street, #312, San Francisco, CA 94110.
Use Permit #04-10000127 to extend the operating hours of an existing quick service restaurant with alcohol service (beer and wine) by four hours from 9:00 a.m. to 12:00 a.m. daily to 5:00 a.m. to 12:00 a.m. daily; (C-T, CW)

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

4  **2175 MILVIA STREET**
Request by: Matthew Mucio, 4695 Chabot Drive, Suite 200, Pleasanton, CA 94588
Use Permit #05-10000100 to allow a credit union to lease 2,210 square feet within an existing office building (C-2, SDR).

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

5  **1050 GILMAN STREET**
Request by: Timothy Richardson, T-Mobile, 1855 Gateway Boulevard, Suite 900, Concord, CA 94520.
Use Permit # 04-10000110 to construct a new wireless telecommunications facility with six antennas and related equipment on an existing commercial building (C-W, SDR).

**Continued From:** None  
**Recommendation:** Approve  
**Action:** Approved (8-0-1-0) (Abstain: Sprague)

6  **920 HEINZ AVENUE**
Request by: Berkeley Bowl Produce, 2020 Oregon Street, Berkeley, CA 94703.

The project involves a Use Permit request to allow demolition of an existing 8,575 sf structure and building of a full-service grocery marketplace (the West Berkeley Bowl), including grocery store, ancillary office, storage, food service, a community room, and 211 parking spaces. Two buildings are proposed totaling 91,060 sf. (MU-LI and C-W Zoning Districts, CL)

A General Plan Amendment and Rezoning are required before the ZAB can review and take action on the Use Permit. Therefore, the ZAB is not taking action on these Use Permit issues at this time. At this meeting, the ZAB will review and take public comment on the Draft EIR only. For that reason, this staff report does not include a complete zoning and Use Permit analysis. (C-w, GP)

**Continued From:** None  
**Recommendation:** Take Public Comment on Draft EIR
Action: Took public comment on Draft EIR

- Information/Communication
  1. Density Bonus Subcommittee Report
  2. Compliance Monitoring Subcommittee Report

- Business Meeting
- Chair’s Report
- Current Business/Committee Appointments
- Future Agenda Items
- Other Matters NO ZAB MEETING ON NOVEMBER 28, 2005
- Adjourned 10:14

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, November 14, 2005.]