Action Minutes

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, July 13, 2006
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 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.
Roll Call  Call to Order: 7:00 PM
Roll Call: Allen, Blake, Judd, Katz, Metzger, Shumer, Tiedemann, Wilson
Approximate Public Attendance: 65

Public Comment  Opened: 7:02PM
One Speaker
Closed: 7:05 PM

Consent Calendar
Anthony arrived 7:05 PM

1 Tamalpais Road moved to the consent calendar
2441 Durant moved to the consent calendar

1.  2618 Telegraph Avenue
Request by: Robert Van Hulle, 2121 N. California Blvd. Ste. 530 Walnut Creek, CA 94596.
Use Permit Modification #06-70000014, modifying Use Permit #05-10000020 (1) to reduce the
approved number of quick service restaurants from two in a 1,971 square foot space to one 814
square foot restaurant space and one 1,157 general commercial space; (2) to restore the original
allocation of on-site parking spaces to 20 residential spaces and 5 commercial spaces; and (3)
allocate 3 of the 5 commercial parking spaces to the 814 square foot restaurant space. (C-1,
General Commercial SRF).
Continued From: none
Recommendation: Approve

2.  725 Virginia Street/1645 Fourth Street
Request by: Carlos Zensay Hill 725 Virginia Street, Berkeley, CA  94710.
Use Permit #06-10000036 to legalize changes to a non-conforming residential use: 1) construct a
detached accessory structure to contain a toilet, shower and sink; install a hot tub; replace two
existing on-site parking spaces with two off-site spaces at 1717 Fourth Street; and 2) expand
martial arts group instruction. (MU-LI, Manufacturing, JL/GP).
Continued From: none
Recommendation: Continue; date to be determined at hearing.
Action: No action. Item will be reposted in the future.

Agenda Changes

Appeal of Administrative Use Permit: None

File: ac071306
NOTE: Appeals of Administrative Use Permit are not subject to public hearing and no public testimony will be taken at this time. The Board will 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. **2224 Roosevelt Avenue**  
   Request by: Kathryn A Rogers & Debbie Kim, Sogno Design Group, 1496C Solano Avenue, Albany, CA 94706.  
   Use Permit #05-10000113 to convert an existing duplex to a single family dwelling by relocating one of the existing units to a new 462 square foot detached structure at the rear of the lot. The existing deteriorated garage would also be demolished and replaced. (R-2, Restricted Two-Family Residential, SDR).  
   Continued From: 6/22/06  
   Recommendation: Approve  
   Action: Approved (7-1-1-0) (No: Blake, Abstain: Shumer).

4. **1017 Miller Avenue**  
   Request by: Mr. Mark Springer and Ms. Karen Springer, 619 Vistamont, Berkeley CA 94708.  
   Use Permit #06-10000010; to construct a single-family residential structure with an accessory dwelling unit and two off-street parking spaces on a 5,266 square foot lot. (R-1(H), Single-Family Residential District and Hillside Overlay District, SDR/ASC).  
   Continued From: 06/08/06  
   Recommendation: Approve  
   Action: Approved with condition to lower roofline of upper portion by one foot (7-1-1-0) (No: Blake, Abstain: Shumer).

5. **1885 University**  
   Request by: 1950 MLK, LLC, c/o Chris Hudson, Hudson McDonald LLC, 2140 Shattuck Avenue, Suite 302, Berkeley, CA 94704.  
   Use Permit #02-10000070, Preliminary consideration of a modified design to allow construction of a mixed use development with 148 dwelling units, 14,390 square feet of retail, and 157 parking spaces in a two level parking garage. The existing commercial building (totaling approximately 20,375 square feet) would be demolished. (C-1, General Commercial, SDR).  
   Continued From: 06/08/06 (No discussion)  
   Recommendation: Take public comment on the Draft Initial Study and Proposed Mitigated Negative Declaration and discuss  
   Action: Took public comment and discussed. No Action.
Nuisance Proceedings: None

New Hearings:

6. **1 Tamalpais Road**  
Request by: Gary Earl Parsons, Architect, 814 Camelia Street, Berkeley CA 94710.  
Use Permit #05-10000127 to allow a 26 square foot addition to an existing single family residence  
on a property that exceeds the maximum permitted lot coverage; and to horizontally extend and  
alter a nonconforming wall within the required front yard. (R-1(H) Single Family Residential,  
Hillside Overlay; SDR).

   Continued From: none  
   Recommendation: Approve with Conditions  

7. **2441 Durant Avenue**  
Request by: Jung Pyo Kim, 6 Mynah Court, Walnut Creek, CA 94596.  
Use Permit #06-10000054 to approve a 4,200 square foot retail establishment, selling clothing,  
accessories and shoes. (C-T, Telegraph Avenue Commercial, CP/CW).

   Continued From: none  
   Recommendation: Approve  

8. **2437 Sixth Street**  
Request by: Hoss Azimi, 1511 Hearst Avenue #C, Berkeley, CA 94703.  
Use Permit #05-10000142 to demolish 2 one-story, vacant laboratory/office buildings and construct  
4-unit dwelling units; and Variances to allow a dwelling unit within 150’ of a MM - Mixed  
Manufacturing District boundary and to reduce the street side setback (along Dwight Crescent).  
(MU-R, Mixed Use- Residential, SDR/CW).

   Continued From: none  
   Recommendation: Deny  
   Action: Approved Project; instructed staff to submit findings and conditions for  
   approval at the 07/27/06 meeting (9-0-0-0).

9. **2501 Telegraph Avenue**  
Request by: Max Crome, Crome Architecture, 85 Bolinas Road, Suite 17 Fairfax, CA 94930.  
Variance #06-10000053 to establish a quick service restaurant (Peet’s Coffee and Tea) in an  
existing landmark building, which would exceed the numerical and size limitations for quick service  
restaurants. (C-T, Telegraph Avenue Commercial, CW/AS).

   Continued From: none
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Recommendation: Deny
Action: Approved Project; instructed staff to submit findings and conditions for approval at the 07/27/06 meeting (9-0-0-0).

Additional Agenda Items:
A. Information/Communication
   • Article: Fastest Shrinking Cities
B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointments
E. Future Agenda Items
F. Other Matters
G. Adjourn 10:30 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, July 17, 2006.]