Action Minutes

Zoning Adjustments Board
Thursday, September 14, 2006
7:00 PM

City Council Chambers
2134 Martin Luther King Junior Way
Berkeley, CA 94704
(Wheelchair Accessible)

Public Testimony Guidelines
The Board Chair may limit the number of speakers and the length of time allowed to each speaker. To speak at a public hearing, complete a speaker card and submit to Planning Staff (1) at the public hearing, by 7:15 PM on the night of the hearing, or (2) at the Permit Service Center, 2120 Milvia Street, before 5:00 PM on the day of the hearing.

The Board encourages the public to submit comments in writing or by email, in advance of the meeting. See Correspondence and Notice of Decision Requests at the end of this Agenda for procedures.

Planning and Development Department-Land Use division

Roll Call
Call to Order: 7:00 PM
Roll Call: Allen, Anthony, Blake, Judd, Arreguin, Mitchell for Metzger, Shumer, Wilson,
Absent: Tiedemann
Approximate Public Attendance: 88 people

Public Comment
Each Speaker is limited to a maximum of three minutes.

Opened: 7:02 PM
One Comment
Closed 7:06 PM

Consent Calendar
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, or, if
1. **2577 San Pablo Avenue**
   Request by: Jubilee Restoration, 2144 Byron Street, Berkeley
   Use Permit Modification #06-70000025 to increase the height of the elevator penthouses approved
   by 02-10000011 & 04-70000038 (C-W, West Berkeley Commercial, GP).

   **Continued From:** none
   **Recommendation:** Approve
   **Action:** Approved on consent (7-0-1-1) (Absent: Tiedemann) (Abstain: Judd).

2. **1912 Seventh Street**
   Request by: Jim Novosel, The Bay Architects, 1840 Alcatraz Avenue, Berkeley, CA 94703
   Modification #06-7000016 to allow interior and exterior design changes to an approved seven unit
   residential project originally approved through Use Permit #02-10000074 (R-3, Multiple Family
   Residential, SDR).

   **Continued From:** none
   **Recommendation:** Approve
   **Action:** Approved (8-0-0-1) (Absent: Tiedemann).

3. **3000 Shasta**
   Request by: City of Berkeley Public Works Department, Engineering Division, c/o Jeffrey Egeberg
   Use Permit Modification #06-7000027 to change a required condition of approval and mitigation
   measure to allow emergency-activated flashing yellow warning beacons in front of the Hills Fire
   Station instead of a required traffic signal originally approved through Use Permit #01-10000057
   (R-1(H), Single Family Residential, Hillside Overlay, SDR).

   **Continued From:** none
   **Recommendation:** Approve
   **Action:** Approved (7-0-0-2) (Absent: Anthony, Tiedemann).

4. **157 and 161 Vicente Road**
   Request by: Antonio Lao Rempel & Lao Architects, 2213 Fifth Street, Berkeley, CA 94710
   Use Permits #06-10000039 and 06-10000040 to construct two single-family dwellings on a 19,027
   square foot sub-divided lot with a shared driveway (R-1H, Single-family Residential Hillside, DS/JL).

   **Continued From:** 7/27/06
   **Recommendation:** Continue to September 28, 2006.
   **Action:** Continued to September 28, 2006 (on consent (8-0-0-1) (Absent: Tiedemann).

5. **3192 Adeline Street**
   Request by: Huck Rorick, 2640 Silvercrest, Pinole, and Judith A. Meyer, 1613 Bonita Avenue,
   Berkeley
   Use Permit #06-70000017 to modify Use Permit A1840 to allow the expansion of the South
   Berkeley Police Substation for employee lockers and vehicle storage (C-SA – South Area
   Commercial, GP).

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Continued From: 08/10/06
Recommendation: Continue to October 12, 2006.
Action: Continued to October 26, 2006 (8-0-0-1)
(Absent: Tiedemann).

Agenda Changes
The Board Chair may reorder the agenda at the beginning of the meeting.

Appeal of Administrative Use Permit:
Appeals of Administrative Use Permit are not subject to public hearing and no public testimony will be taken at this time. The Board may set the matter for public hearing, or affirm the Zoning Officer’s decision.

6. 2124 Stuart Street
Applicant/Owner: Stewart Johnston 2801 Shattuck Avenue Berkeley CA, 94705
APPEAL of Administrative Use Permit #05-20000062 to change the use of an accessory building from a garage to habitable space, with a toilet and sink, as well as legalize the enlargement of the structure from 26’ to 42’ in length, and from 10’ to 13’ in average height. (R-2, Restricted Two-Family Residential, NFD)

Continued From: None
Recommendation: Deny Appeal & Affirm Zoning Officer Decision.
Action: Denied Appeal and Affirmed Zoning Officer’s Decision (7-0-1-2) (Absent: Tiedemann, Anthony) (Abstain: Judd).

Continued Hearings: None

Nuisance Proceedings: None

New Hearings:

7. 1120 Second Street
Request by: Blythe Wilson, Architect, RHL Design Group, 1137 North McDowell Boulevard, Petaluma, CA 94954
Use Permit # 05-10000151 and Variance #06-10000097 to demolish three existing one-story mini-storage buildings totaling 28,070 square feet and replace them with a new four story 95,771 square foot mini-storage building (Manufacturing, M, SDR/TG).

Continued From: None
Recommendation: No Action. Provide Staff Guidance. Staff will repost.
Action: Created a sub committee to draft language for variance, and directed the project to design review (7-0-0-2) (Absent: Tiedemann, Anthony).
8. **2510-2512 San Pablo Avenue**
Request by: Kent Royle, Marcy Wong and Don Logan Architects, 816 Bancroft Way, Berkeley, CA 94710
Use Permit #06-0000084 to expand an existing restaurant to an adjacent tenant space and expand alcohol services (C-W, West Berkeley Commercial, GMS/TG).

**Continued From:** None
**Recommendation:** Approve
**Action:** Approved on consent (8-0-0-1) (Absent: Tiedemann).

9. **1625 Stannage Avenue**
Request by: Carol Maffin 1625 Stannage Street Berkeley, CA 94702
Use Permit #06-10000029 to add a dwelling unit to the lower level of an existing single-family home. (R-2, Restricted Two-Family Residential District, GMS)

**Continued From:** None
**Recommendation:** Approve
**Action:** Approved on consent (8-0-0-1) (Absent: Tiedemann).

10. **1825 Eighth Street**
Request by: Mr. Timothy Rempel, Rempel + Lao Architecture and Planning, 1821 Fifth Street, Berkeley, CA 94710
Use Permit #05-10000032 to construct a detached single-family dwelling unit on a lot with an existing single-family dwelling unit (Limited Two-Family Residential, R-1A, CW).

**Continued From:** None
**Recommendation:** Approve
**Action:** Approved on consent (8-0-0-0) (Absent: Tiedemann).

11. **1575 Solano Avenue/1572 Capistrano Avenue**
Appeal by Milo Foundation (Lynne Tingle, Director), 1575 Solano Avenue, Berkeley, 94707
Use Permit 05-10000091 to authorize existing dog/cat adoption service (1575 Solano) and create dwelling unit in existing 2-story commercial building with 3,275 sq. ft. of floor area and 2 parking spaces (1572 Capistrano); (C-SO, Solano Avenue Commercial, AS).

**Continued From:** None
**Recommendation:** No Action, Provide Staff Guidance. Staff will repost.
**Action:** Took public comment and directed staff to create short term, interim, and long term plans and conditions. Continued to October 12, 2006 (7-0-0-2) (Absent: Tiedemann, Anthony).
12. **931 Grizzly Peak Blvd**  
Appeal by: Seth Sanders, 936 Creston Rd.; Burton Weiss & Elliott Schwartz, 200 Forest Lane, Berkeley, CA 94708  
Appeal of Administrative Use Permit #05-20000010 to add 1,457 square feet to an existing two-story single-family residence, reducing the required front yard from 16 feet to 10 feet 4 inches (Single Family Residential with Hillside Overlay, R-1H, DS).  

**Continued From:** None  
**Recommendation:** Approve AUP  
**Action:** Approved (7-0-0-2) (Absent: Tiedemann, Anthony).

**Additional Agenda Items:**

A. Information/Communication  
B. Business Meeting  
C. Chair’s Report  
D. Current Business/Committee Appointments

- Discuss information from the Joint Density Bonus Subcommittee Workshop of September 6, 2006; and consider recommendation to the City Council on Proposed Changes to Development Standards.

1. The Board recommended [6 Yes; No: Allen; Absent: Tiedemann, Anthony] that the Council adopt Planning staff’s Density Bonus recommendations presented to the Planning Commission at its September 13, 2006 meeting. These changes comprise changes in development standards, covering setbacks, open space, ground floor uses and parking lifts.
2. The Board also recommended [5 Yes; No: Allen, Wilson; Absent: Tiedemann, Anthony] that the Council strengthen staff’s proposal by limiting to 25% the percentage of required open space which may be placed on the roof of a building without a use permit, rather than 75% as staff recommends.
3. The Board considered a recommendation that the Council require a use permit for a fourth floor in the C-W district. This motion failed [4 Yes; No: Wilson; Abstain: Judd; Absent: Tiedemann, Anthony, Allen].
4. The Board adopted (6 Yes, Absent: Tiedemann, Anthony, Allen] a third recommendation that the Board submit a brief discussion for Council’s consideration summarizing why the Board believes it is important that the City act now to bring City standards into line with the realities of today’s entitlement process.

E. Future Agenda Items  
F. Other Matters  
G. Adjourn 12:45 PM

**Correspondence and Notice of Decision Requests**

- To distribute correspondence to Board members **prior to the meeting date** -- submit comments by **12:00 noon, seven (7) days before the meeting**. Please provide 15 copies of any correspondence with more than ten (10) pages.
- Any correspondence received after this deadline will be given to Board members on the meeting date just prior to the
meeting.

- Staff will not deliver to Board members any additional written (or email) materials received after 12:00 noon on the day of the meeting.
- Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk just before or at the beginning of the meeting.
- Written comments, or a request for a Notice of Decision should be directed to the ZAB Secretary at

  Land Use Planning Division  (Attn: ZAB Secretary)
  2120 Milvia Street
  Berkeley, CA 94704  OR at  zab@ci.berkeley.ca.us

**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.

**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.

[Approved for posting by Debra R. Sanderson, Secretary, Zoning Adjustments Board, 9/19/06.]