Planning and Development Department
Land Use Planning Division

Action Minutes

Zoning Adjustments Board
Thursday, October 26, 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, Judd, Arreguin, Metzger, Shumer, Tiedemann
Absent: Blake, Wilson
Approximate Public Attendance: 63 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: None
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. **2076 Ashby Avenue**
   Request by: Maxaco, LLC, 2550 Appian Way, Suite 201, Pinole, CA 94564
   Use Permit Modification 06-70000029 to change from stucco to horizontal siding on east side of an existing 3-story mixed-use building; (C-SO, Solano Avenue Commercial, AS).
   Continued From: none
   Recommendation: Approve
   Action: Continued to November 9, 2006 (9-0-0-0).

2. **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).
   Continued From: 08/10/06, 09/14/06
   Recommendation: Continue to 11/09/06
   Action: Continued on Consent (7-0-0-2) (Absent: Wilson, Blake).

**Agenda Changes**

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

**Appeal of Administrative Use Permit: None**

*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.*

**Continued Hearings:**

3. **1575 Solano Avenue/1572 Capistrano Avenue**
   Request 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: 9/14/06, 10/12/06
   Recommendation: Consider new info and approve

**Nuisance Proceedings: None**
New Hearings:

4. **2727 Milvia Street**
   Appellants: Mr. Art Medlar, 2730 Milvia Street, Berkeley, CA 94703 and Savo Island Cooperative Homes, Inc., 2017 Stuart Street, Berkeley, CA 94703.
   Applicant: East Bay Iceland, Inc., 2727 Milvia Street, Berkeley, CA 94703
   Appeal of Temporary Administrative Use Permit #06-20000056 to install a temporary outdoor refrigeration system on the southern side of the property for the existing ice skating rink; (South Area Commercial (C-SA, CW)).
   
   **Continued From:** None
   **Recommendation:** Take public comment, continue to 12-14-06 and require applicant to provide progress reports
   **Action:** Took Public Comment, Continued to 12-14-06 and required Progress Reports (9-0-0-0).

5. **938 Pardee**
   Request by: David Trachtenberg, Trachtenberg Architects, 2721 Fourth Street, Berkeley, CA 94710
   Use Permit #06-10000080: To modify and adapt the existing building at 938 Pardee and its associated open lot at 930 Pardee into the adjacent Acme Bread Company baking facilities at 2730 Ninth Street; (MU-R, DD/GS).
   
   **Continued From:** None
   **Recommendation:** Approve
   **Action:** Approved on Consent (8-0-0-1) (Absent: Wilson).

6. **108 Tamalpais Road**
   Request by: Alyson Furer (Jason Kaldis Architect, Inc.) 1250 Addison St, #210 Berkeley CA 94702
   Use Permit #06-10000056 to convert an existing exterior staircase to habitable space on a lot that is nonconforming as to lot coverage; (R-1H, Single Family Residential – Hillside District, GS).
   
   **Continued From:** None
   **Recommendation:** Approve
   **Action:** Approved on Consent (7-0-0-2) (Absent: Blake, Wilson).

7. **2114 McKinley Avenue**
   Request by: Amira Jackmon, 1220 Dwight Way, Berkeley, CA 94702
   Use Permit #06-10000047 to construct two approximately 1,900 square foot dwelling units on a 6,500 square foot vacant lot, previously used as a parking lot. (R-2, Restricted Two-Family Residential District, GMS).
   
   **Continued From:** None
   **Recommendation:** Approve
   **Action:** Continued to November 9, 2006 (9-0-0-0).
1508 Walnut Street
Request by: MG Pacific, Inc., 555 Pierce Street, Suite 810, Albany CA 94706
Use Permit #06-1000044 to expand a full-service restaurant into the adjacent lease space and add the sale of spirits to the existing sale of beer and wine (with meals only) (C-NS, North Shattuck Commercial, GMS).

Continued From: none
Recommendation: Approve
Action: Approved on Consent (7-0-0-2) (Absent: Blake, Wilson).

Additional Agenda Items:
A. Information/Communication
   - Letter from Livable Berkeley RE: 700 University Avenue Development Recommendations
   - Discussion of ZAB policy for modified projects
   - Highlights of Green Construction Elements in 2114 McKinley Avenue
B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointments
E. Future Agenda Items
F. Other Matters
G. Adjourn 8:30 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, 11/17/06.]