Action Minutes
Approved by the ZAB on 10/30/14

Zoning Adjustments Board
Thursday, October 23, 2014 - 6:00PM
City Council Chambers, 2134 Martin Luther King Jr. Way, Second Floor
Berkeley (Wheelchair Accessible)

Preliminary Matters:

Roll Call: Denise Pinkston, appointed by Mayor Bates
           George Williams, appointed by Councilmember Capitelli
           Robert Allen, appointed by Councilmember Wengraf
           Shoshana O'Keefe, appointed by Councilmember Anderson
           Igor Tregub, appointed by Councilmember Arreguin (arrived at 6:20pm)

Excused: Michael Alvarez Cohen (Chairperson), appointed by Councilmember Wozniak
         Prakash Pinto (Vice Chairperson), appointed by Councilmember Maio
         Sophie Hahn, appointed by Councilmember Worthington
         Steven Donaldson, appointed by Councilmember Moore

Substitute: None

Members of the Public
Present: 2
Speakers: 0

Ex Parte Communication Disclosures:
None

Public Comment:
None

Agenda Changes:
None

Appoint I. Tregub as Acting Chair
Action: APPROVED
Vote: 5-0-0-0
Consent Calendar:

Action: APPROVED
Motion / Second: D. Pinkston / S. O’Keefe
Vote: 5-0-0-0

1. 1011-25 Gilman Street
Use Permit ZP2014-0032 to change 8,382 sq. ft. of vacant warehouse/light industrial space to ancillary storage, office, hallway, mechanical and restroom space for adjacent retail use (Whole Foods Market). Existing parking lot exceeds parking requirements.

CEQA Determination: Categorically exempt pursuant to CEQA Guidelines Sections 15303(c) (“New Construction or Conversion of Small Structures”) and 15332 (“In-Fill Development Projects”).

Property Owner: Gilman Partners, LLC (c/o Foothill Partners)
1121 White Rock Road, Suite 205
El Dorado Hills, CA 95762

Applicant: Diana Lee, Field Paoli Architects
150 California Street, 7th
San Francisco, CA 94111

Zoning: C-W (West Berkeley Commercial)

Staff Planner: Aaron Sage, asage@cityofberkeley.info, (510) 981-7425

Continued From: 10/09/14
Recommendation: APPROVE Use Permit ZP2014-0032 pursuant to BMC Section 23B.32.040 and subject to the attached Findings and Conditions

Study Session:

2. Procedures for Implementation of State Density Bonus Law
Presentation and discussion of City of Berkeley procedures for implementation of the State density bonus law (Government Code Section 65915).

Staff Planner: Aaron Sage, asage@cityofberkeley.info, (510) 981-7425

Action: CONTINUED to date certain of November 13, 2014 at 6:00pm
Action Calendar:

3. Approval of Previous Action Minutes

Minutes from October 9, 2014 meeting.

Continued From: None
Recommendation: APPROVE
Action: APPROVED with amendments.
Motion / Second: G. Williams / B. Allen
Vote: 5-0-0-0

Adjourned at 6:25
Communications Disclaimer:

- Communications to Berkeley boards, commissions or committees are public record and will become part of the City’s electronic records, which are accessible through the City’s website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Accessibility Information / ADA Disclaimer

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Permit Service Center, Planning and Development Department located at 2120 Milvia Street, Berkeley, during regular business hours.

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 or if in color or photographic format. This method is strongly preferred.
- Correspondence received by 4:00 pm the Tuesday before the meeting will be posted on the Board web site for review by the Board and public prior to the meeting. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.
- 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 e-mail) materials received after 12:00 noon on the day of the meeting.
- Members of the public may submit written comments themselves at the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk. Please be advised: You are strongly advised to submit written comments prior to the meeting date as Board members do not have an opportunity to read written materials handed out at the meeting.
- Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at: Land Use Planning Division (Attn: Carol Johnson), 2120 Milvia Street, Berkeley, CA 94704; (510) 981-7429 zab@ci.berkeley.ca.us

Notice Concerning Your Legal Rights

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:
1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.

2. 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 Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.

3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit 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). Any lawsuit not filed within that ninety (90) day period will be barred.

4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.

5. 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.