Action Minutes

Planning & Development
Department
Land Use Planning
Division

ZONING ADJUSTMENTS BOARD
Special Meeting
Thursday, April 14, 2011 -- 6:00 pm
(ZAB’s regular meeting will occur after conclusion of the Special Joint LPC-ZAB meeting, and not before 7:00 p.m.)

City Council Chambers, 2134 Martin Luther King Jr. Way, Second Floor
Berkeley, CA  94704  (Wheelchair Accessible)

This meeting was conducted as a Special Joint Meeting of the Landmarks Preservation Commission and the Zoning Adjustments Board. These minutes are for the Zoning Adjustments Board. Minutes of the Landmarks Preservation Commission are published separately.

Public Testimony Guidelines
The Chairperson 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) as early as possible at the meeting, or (2) at the Land Use Planning Division, 2120 Milvia Street, 2nd floor, before 4:00 pm on the day of the hearing.

At the start of the meeting the Chairperson may rearrange the agenda or place additional agenda items on the Consent Calendar, so it is important to submit speaker cards at the start of the meeting to avoid losing the chance to speak to an item.

The City encourages the public to submit comments in writing or by e-mail in advance of the meeting. See Correspondence and Notice of Decision Requests at the end of this Agenda for procedures.

How to Contact Us:  Land Use Planning Division (Attn: Steven Buckley, ZAB Secretary), 2120 Milvia Street, Berkeley, CA 94704; (510) 981-7410; zab@ci.berkeley.ca.us
Roll Call: 6:05PM


Absent: S. Shumer

Substitution: G. Poschman for S. Shumer

Public Attendance: 40

Ex Parte Communication Disclosures

In the context of adjudicative matters that come before the ZAB, ex parte communications are those which occur outside the formal hearing process. ZAB members should avoid ex-parte contacts on matters pending before the ZAB as much as possible, as they may represent, or be perceived to represent, the receipt of evidence that can unfairly influence a Board member’s decision on a matter before the Board. If such contacts do occur, they must be placed in the record and disclosed to all interested parties sufficiently in advance of the decision to allow rebuttal.

- NONE

Public Comment

Each Speaker is limited to a maximum of three minutes.

- NONE

Agenda Changes

The Board Chairperson may reorder the agenda at the beginning of the meeting.

- NONE

New Public Hearings:

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Final EIR for South and West Branch Library Projects</td>
</tr>
</tbody>
</table>

Number of Speakers: 14

Action: CERTIFIED the EIR

Motion: B. Allen, D. Matthews

VOTE: 7-1-0-1 (No: G. Poschman; Absent: E. Mikiten)

[ITEMS #2 AND #3 WERE HEARD BY THE LANDMARKS PRESERVATION COMMISSION]
### 4. 1125 University Avenue

**Use Permit #10-10000045** to demolish the existing single-story, 6,230 square foot City of Berkeley Structure of Merit (the West Branch Library) to construct a new branch library with 9,400 square feet and a small second story

**Applicant:** Harvey Ellis Devereux, Attn: Edward Dean, AIA, 2430 Fifth St., Studio M, Berkeley, CA 94710

**Property Owner:** Berkeley Public Library, c/o Director Donna Corbeil, 2031 Bancroft Way, 3rd floor, Berkeley, CA 94704

(Zoning: C-1, General Commercial (front 100 feet of site); R-3, Multiple Family Residential (rear 20 feet of site); **Planner:** Aaron Sage)

<table>
<thead>
<tr>
<th>Continued From:</th>
<th>NONE</th>
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<tbody>
<tr>
<td>Recommendation:</td>
<td>APPROVE Use Permit # 10-10000045 pursuant to Findings and Conditions</td>
</tr>
<tr>
<td>Number of Speakers:</td>
<td>1</td>
</tr>
<tr>
<td>Action:</td>
<td>APPROVED subject to findings and conditions</td>
</tr>
<tr>
<td>Motion:</td>
<td>M. Cohen, B. Allen</td>
</tr>
<tr>
<td>VOTE:</td>
<td>8-0-1-0 (Abstain: G. Poschman)</td>
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</tbody>
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### 5. 1901 Russell Street

**Use Permit #10-10000031** to demolish the existing single-story, 5,400 square foot South Branch Library and Tool Library in order to construct a new branch library and tool library (the South Branch Library) with 8,656 square feet. (Includes referral of demolition to LPC under BMC Section 23C.08.050.C.)

**Applicant:** Field Paoli Architects, Attn: Avery Taylor Moore, 150 California Street, 7th Floor, San Francisco, CA 94111

**Property Owner:** Berkeley Public Library, c/o Director Donna Corbeil, 2031 Bancroft Way, 3rd floor, Berkeley, CA 94704

(Zoning: R-2A, Multiple-Family Residential; **Planner:** Aaron Sage)

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<tr>
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<tbody>
<tr>
<td>Recommendation:</td>
<td>APPROVE Use Permit # 10-10000031 pursuant to Findings and Conditions</td>
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<tr>
<td>Number of Speakers:</td>
<td>6</td>
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<tr>
<td>Action:</td>
<td>APPROVED subject to findings and conditions</td>
</tr>
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<td>Motion:</td>
<td>M. Cohen, B. Allen</td>
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<tr>
<td>VOTE:</td>
<td>7-0-2-0 (Abstain: G. Poschman, B. Romo)</td>
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</table>

**Adjourn: 9:06 PM**

[Approved for posting by Steven Buckley, Secretary, Zoning Adjustments Board]
Correspondence and Notice of Decision Requests

- 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.

- **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.

- Correspondence received by the 5:00 pm Tuesday before the meeting will be posted on the ZAB 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 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: Steven Buckley, ZAB Secretary), 2120 Milvia Street, Berkeley, CA 94704 OR at zab@ci.berkeley.ca.us**

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.

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.