Planning and Development Department
Land Use Planning Division

Zoning Adjustments Board
Thursday, May 22, 2008 -- 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) as early as possible at the meeting, or (2) at the Permit Service Center, 2120 Milvia Street, before 5:00 PM on the day of the hearing. At the start of the meeting the Board may rearrange the agenda or place additional agendized 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 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: 7:08 PM
Absent: R. Judds
Substitute: G. Kashani for R. Judd
Public Attendance: ~45

Approval of Previous Meeting Minutes
Minutes from 05/08/2008 ZAB Meeting
Recommendation: Approve Minutes
Action: Approved Minutes (9-0-0-0)

Public Comment: 2 Speakers
Each Speaker is limited to a maximum of three minutes.

Consent Calendar:
The Consent Calendar allows the Board to take action with no discussion, on projects to which no one objects. The Agenda includes two types of Consent Calendar items: (1) Modifications of existing Use Permits (which have not been noticed for public hearings); (2) Items being continued
to another meeting (Board action has been postponed to another meeting). The Board Chairperson will announce items for the Consent Calendar at 7:05 p.m. The Board may place additional Agendized items on the Consent Calendar, if no one present wishes to testify on an item. 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 from the consent calendar. Modification Projects may be discussed by the Board at this meeting or set for a public hearing at a later meeting. Items already noticed for a public hearing will be heard following Continued Items, or, if necessary, posted for a public hearing at a subsequent meeting.

1. 2430 Fulton Street
Applicants: Nathan and Angela George, 2430 Fulton Street, Berkeley, CA 94704
Use Permit Modification #08-70000006 to modify Use Permit #07-10000077 to construct a three-story duplex and attached garage at the rear of a lot containing an existing three-story duplex, with a zero rear yard setback. (R-4, Multiple Family Residential, GMS)
Continued From: NONE
Recommendation: Approve
Action: Approved on Consent (9-0-0-0)

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

Appeal of Administrative Use Permit/Staff Level Design Review:
Appeals of Administrative Use Permit and Design Review applications 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 or Design Review Secretary’s decision.

2. 1124 Fresno
Applicant: Mimi Van Kirk; Friedman/Brueggemeyer- 924 Carleton St., Berkeley, CA 94710
Appeal of Administrative Use Permit # 07-20000176 to expand an existing third floor by 366 sq. ft., which continues the existing roofline of 27’2”, at the front of an existing 2,243 sq. ft. three story, single-family residence (R-1, Single Family; NFD)
Continued From: NONE
Recommendation: Deny Appeal and Approve Project
Action: Denied Appeal and Approved Project (6-3-0-0; No: S. Wilson, S. Shumer, J. Arreguin)

Continued Items (Public Hearing has been closed):
3. **1725 University**  
   **Applicant:** T-Mobile Communications, c/o Marsha Converse, Parsons, 185 Berry Street, Suite 5300, San Francisco, CA 94107  
   Use Permit #07-1000020 to construct a new wireless telecommunications facility (including eight antennas and related equipment) for T-Mobile Communications; (C-1, General Commercial, PJ)  
   
   | Continued From: | 05/08/2008 |
   | Recommendation: | Approve |
   | Action: | No Action, continued to June 12, 2008 (Motion to approve did not receive 5 votes for approval: 4-2-2-1; No: J. Anthony, J. Arreguin; Abstain: S. Wilson, S. Shumer; Recuse: G. Kashani) |

**Continued Public Hearings:** NONE  

**Compliance Determination:** NONE  

**New Hearings:**

4. **921 Ensenada**  
   **Applicant:** Yongquan (Jack) Liu 921 Ensenada Ave. Berkeley, CA 94707  
   Use Permit #08-10000053 to demolish more than 50% of an existing single-family residence (approximately 600 sq. ft.) and rebuild with a two-story, single-family residence (R-1 Limited Single-Family Residential; ND).  
   
   | Continued From: | NONE |
   | Recommendation: | Approve |
   | Action: | Approved (9-0-0-0) |

5. **2129 Durant**  
   **Applicant:** Elon Khelif & Gabriel Duran, dba Beta Lounge LLC, 1413 Mariner Place, Rohnert Park, CA 94928  
   Use Permit #08-10000033 to establish an approximately 1,500-square foot full service restaurant in an existing commercial space with beer and wine service and live entertainment. (C-2, Central Commercial District; HY/ND)  
   
   | Continued From: | NONE |
   | Recommendation: | Approve |
   | Action: | Approved (8-0-0-1; Absent: J. Arreguin) |
6. **2514-16 San Pablo**  
**Applicant:** Falanghina, LLC, c/o Herb Krikorian, 1451 Fifth St. Berkeley, CA 94710  
Use Permit #08-10000009 to establish a 1,609 sq. ft. full service restaurant with service and retail sales of alcoholic beverages. (C-W, West Berkeley Commercial District, DD/FC)  
Continued From: NONE  
Recommendation: Approve  
Action: Approved on Consent (9-0-0-0)

7. **2600 Durant**  
**Applicant:** Daniel Luis AIA; Douglas Booth Architects, 221 Main Street, Suite 525, San Francisco, CA 94105  
UP #08-10000016 to convert ground floor conference room into a new café, reconfigure existing parking lots, and make related upgrades (C-T Telegraph Avenue Commercial District, JWC/GMS)  
Continued From: NONE  
Recommendation: Approve  
Action: Approved on Consent (9-0-0-0)

8. **2701 College**  
**Applicant:** Dwane J. Kennedy, CITYshapers, 1468-25th St., Ste 401, San Francisco, CA 94107  
Use Permit#08-10000049 to establish a carry out food service (coffee shop and art gallery) in an existing legal nonconforming commercial tenant space in a R-2A District through a change of use from a bicycle retail use; (R-2A, PMJ)  
Continued From: NONE  
Recommendation: Approve  
Action: Approved (9-0-0-0)

9. **900 Grayson**  
**Applicant:** Chris Saulnier, 900 Grayson St., Berkeley, CA 94710  
Use Permit #07-10000066 to make an existing restaurant with patio seating and beer & wine service a conforming use by issuance of a Use Permit, and to extend its hours of operation to the district limits: 6 a.m. to 10 p.m. (MU-R, FC)  
Continued From: NONE  
Recommendation: Approve  
Action: Approved on Consent (9-0-0-0)
10.  1058 Grizzly Peak
Applicant: Bruce Kelley, 2015-A Delaware Street, Berkeley, CA 94709
Use Permit #07-10000138 to construct a 1,928 sq. ft. single-family residence on a vacant Hillside lot, and to reduce the required front yard setback from 20 ft. to 6 ft. (R-1 (H), FC)

Continued From: NONE
Recommendation: Approve
Action: Approved on Consent (9-0-0-0)

Additional Agenda Items:
A. Information/Communication
   • Exercise and Lapse of Permits- City Attorney Opinion
   • Correspondence from Steve Wollmer regarding: AB 2280: Density Bonus
   • Design Review Committee Agenda/Action
B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointment
   • Design Review Committee Appointments
     o Approved the DRC Appointment of Marc Toma
     o Request DRC to make another appointment
     o (8-1-0-0; No: M. Cohen)
E. Future Agenda Items
F. Other Matters
G. Adjourn 9:03 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 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: 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 Steven D. Ross, Secretary, Zoning Adjustments Board]