Planning and Development Department
Land Use Planning Division

Zoning Adjustments Board
Thursday, June 12, 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: 7:00 PM
Public Attendance: ~50

Approval of Previous Meeting Minutes
Minutes from 05/22/2008 ZAB Meeting
Recommendation: Approve Minutes
Action: Approved Minutes as Amended (9-0-0-0)

Public Comment
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. **1639 Tenth**  
   **Applicant:** Jeff Brown, 1639 Tenth Street, Berkeley CA 94710  
   Use Permit #07-10000135 to establish a 664 sq. ft. second dwelling unit on a 5,421 sq. ft. lot by legalizing an existing, unpermitted accessory building and reducing the rear yard setback from 20’ to 8’ 11” and to allow two parking spaces within the required side yard. (R-1A; ES)  
   
   **Continued From:** NONE  
   **Recommendation:** Continue  
   **Action:** Continue off calendar (9-0-0-0)

2. **1300 San Pablo**  
   **Applicant:** Ricardo Tan, 1300 San Pablo Avenue, Berkeley, CA  
   Use Permit #06-10000095 to demolish an existing cashier’s booth and construct a new 1,1794 sq. ft. retail at an existing fueling station, and to place/relocate related service and regulatory equipment; (C-W, FC)  
   
   **Continued From:** NONE  
   **Recommendation:** Continue to July 24, 2008  
   **Action:** Continued to July 24, 2008 (9-0-0-0)

3. **1350-1354 Neilson**  
   **Applicant:** Isaiah Stackhouse for Trachtenberg Arch., 2421 4th St. Berkeley CA 94710  
   Modification #08-70000010 of Use Permit #07-10000095 to demolish a three story triplex and detached two car garage and construct a three story triplex and detached single car garage: Modifications consist of changes to size/placement of certain windows (R-2, GMS)  
   
   **Continued From:** NONE  
   **Recommendation:** Approve  
   **Action:** Approved on Consent (9-0-0-0)

4. **2323 Shattuck**  
   **Applicant:** Jim Novosel, The Bay Architects, 1840b Alcatraz Avenue, Berkeley, CA 94703  
   MODUP # 08-70000008 to modify the exterior façade and roof deck of a new five-story, mixed-use building with ground-floor commercial space and 15 dwelling units approved as part of Use Permit #06-10000148; (C-2, LMM)  
   
   **Continued From:** NONE  
   **Recommendation:** Approve  
   **Action:** Approved on Consent (9-0-0-0)
5. **1122 University**  
Applicant: 1122 University Avenue LLC, 470 Arlington Avenue, Berkeley, CA 94707  
Use Permit Modification #08-70000004 to modify Use Permit #03-10000078 to add 16 additional dwellings and one additional live/work unit to the approved plan to construct a three to five story, mixed-use building with residential units, live/work units and ground floor commercial floor area. (C-1, General Commercial, GPowell)  
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:** NONE  
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.

**Continued Items (Public Hearing has been closed):**

6. **1725 University**  
Applicant: T-Mobile Communications, c/o Marsha Converse, Parsons, 185 Berry Street, Suite 5300, San Francisco, CA 94107  
Use Permit #07-10000020 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, 05/22/2008  
Recommendation: Approve  
Action: Approved (6-2-1-0 No: Anthony, Arreguin. Abstain: Shumer)

Continued Public Hearings: NONE

**Compliance Determination:** NONE

**New Hearings:**

7. **1901 Ashby Ave**  
Applicant: Patrick Dooley and Joanie McBrien, 1901 Ashby Avenue, Berkeley, CA 94703  
UP #08-10000060 to allow the sale of distilled spirits in addition to wine and beer prior to, and during the intermission of, theater performances; (C-SA, LMM)  
Continued From: NONE  
Recommendation: Approve  
Action: Approved on Consent (9-0-0-0)
8. **1340 Eighth**  
   **Applicant:** Richard Spencer, 1340 Eighth Street, Berkeley, CA 94710  
   Use Permit #08-10000037 to construct an approximately 233-square-foot, single-story addition at the rear of an existing residence located at 1340 Eighth Street: (MU-LI, LMM)  
   
   **Continued From:** NONE  
   **Recommendation:** Approve  
   **Action:** Approved on Consent (9-0-0-0)

9. **2701 Mabel**  
   **Applicant:** William P. Coburn Architect, 1224 Center Street, Oakland, CA 94607  
   Use Permit #07-10000092 to construct a 2,040 sq. ft. single-family residence on a vacant corner lot, and to locate a required parking space in the rear yard setback. (FC, R-1)  
   
   **Continued From:** NONE  
   **Recommendation:** Approve  
   **Action:** Approved (9-0-0-0)

10. **1209 Glen**  
    **Applicant:** Nelson & Deidre Sproul - 1209 Glen Avenue, Berkeley, CA 94708  
    Appeal of Administrative Use Permit # 07-20000122 to construct a 707 sq. ft., third story addition thereby increasing the average height of the building from 19'9'' to 26’10’’; (R-1 (H) Single-Family Residential Hillside Overlay, NFD)  
    
    **Continued From:** NONE  
    **Recommendation:** Approve Project as Revised  
    **Action:** Approved with condition to reduce height 18 inches (9-0-0-0)

11. **1800 San Pablo**  
    **Applicant:** Michael Ortiz (Zcon Builders), 660 Commerce Dr., Suite A, Roseville, CA 95678  
    Use Permit Modification #08-70000001 to allow 7 a.m. start time (weekdays only) for construction of an approved mixed-use building; current start time is 8 a.m.; (C-W, AS)  
    
    **Continued From:** NONE  
    **Recommendation:** Approve  
    **Action:** Denied (8-1-0-0. No:Doran)

12. **1619 Cornell**  
    **Applicant:** Maralyn Jones and Daniel Fuller, 1242 Evelyn Ave., Berkeley, 94706  
    Use Permit #06-10000145 to add a dwelling unit to, and expand, an existing single-family dwelling, increasing the total floor area from 1,214 to 2,968 sq. ft. and the average height from 19 ft. to 21 ft. 8 in., on a 5,000 sq. ft. lot; 2 parking spaces proposed; (R-2, AS)  
    
    **Continued From:** NONE  
    **Recommendation:** Approve  
    **Action:** Approved (7-2-0-0 No: Shumer, Arreguin)
13.  **921 Parker**  
**Applicant:** Bayer Healthcare, LLC (Larry Brunkow, project manager), P.O. Box 1986, Berkeley, CA 94701-1986  
Use Permit #08-10000057 to establish office use in an existing light industrial building of 36,948 square feet, on a lot of 49,896 square feet, and to modify Use Permit #00-10000008 to credit industrial space created under that permit toward the removal of industrial space under the current proposal; parking to be provided on adjacent parking lot; (MU-LI, AS)  

**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved with changes (8-0-1-0 Abstain: Arreguin)  

**Additional Agenda Items:**  
A. Information/Communication  
B. Business Meeting  
   - Vote to Cancel July 10, 2008 Board Meeting  
   **July 10, 2008 meeting NOT canceled**  
C. Chair’s Report  
D. Current Business/Committee Appointment  
E. Future Agenda Items  
F. Other Matters  
G. Adjourn  

**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.