Zoning Adjustments Board – Special Meeting
Thursday, June 25, 2009 -- 6:00 pm
(Regular Meeting Agenda Starts at 7:00 p.m.)

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: 6:00 PM
Late: T. Doran (6:07), B. Allen (6:45)
Absent: D. Koon
Substitute: Haala Al-Hadithy (for D. Koon)
E. Mikiten reclused herself at due to potential conflict of interest with agenda items 5 and 6
Public Attendance: ~8

Public Comment
Stepnen Wolhmer, CEQA/Density Bonus Training
Training Items:
1. Density Bonus Law and Procedures
   Presented by Steven Ross, ZAB Secretary
2. CEQA – California Environmental Quality Act
   Presented by Steven Ross, ZAB Secretary

Zoning Adjustments Board – Regular Agenda
Thursday, June 25, 2009 -- 7:00 pm
City Council Chambers, 2134 Martin Luther King Junior Way.
Berkeley, CA 94704 (Wheelchair Accessible)

Roll Call: 7:00 PM
Present: J. Anthony, T. Doran, B. Allen, G. Williams, D. Matthews, M. Cohen,
        S. Shumer, E. Mikiten
Absent: D. Koon
Substitute: Haala Al-Hadithy (for D. Koon)
Public Attendance: ~15

Consent Calendar:
The Consent Calendar allows the Board to take action with no discussion, on projects to which no
one objects. The Agenda includes three types of Consent Calendar items: (1) Approval of
previous meeting minutes; (2) Modifications of existing Use Permits (which have not been noticed
for public hearings); (3) 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. Approval of Previous Meeting Minutes
   Minutes from 6/11/09 ZAB Meeting
   
   Recommendation: Approve Minutes
   Action: Approved Minutes
   Motion: B. Allen, second J. Anthony
   VOTE: (8-0-1-0; Abstain: H. Al-Hadithy)
Ex Parte Disclosure
T. Doran: conversation with Jay Kelekian, re: 3240 Sacramento Street
S. Schumer: conversation with Jay Kelekian, re: 3240 Sacramento Street
H. Al-Hadity: conversation with Jay Kelekian, re: 3240 Sacramento Street

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

Agenda Items 2, 3, and 4 moved to Consent Calendar for approval.

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):
2. 1828 Euclid
Applicant: Rene Cardinaux, AIA Architect; 4233 Browns Lane, Petaluma, CA 94954
Use Permit #08-10000114 to operate a full service restaurant with alcohol service (beer and wine) and to renovate the front façade of the existing storefront. (CN-H, LM).

Continued From: 6/25/09, with motion directing staff to prepare findings for approval.
Recommendation: APPROVE
Action: APPROVED on consent
Motion: (G. Williams, J. Anthony)
VOTE: (7-1-1-0; No: S. Schumer, Abstain: H. Al-Hadithy)

3. 1854-78 Euclid
Applicant: The Bay Architects, 1840b Alcatraz Avenue, Berkeley, CA 94703
Use Permit #0 to renovate a building façade, partially demolish and reconfigure existing mezzanine areas, combine two storefronts into one, establish a 2,308-sq. ft. Quick Service Restaurant, and reduce the number of required parking spaces for the change-of-use from one to zero (C-N, FC).

Continued From: 6/25/09, with motion directing staff to prepare findings for approval
Recommendation: APPROVE
Action: APPROVED on consent
Motion: (G. Williams, J. Anthony)
VOTE: (7-1-1-0; No: S. Schumer, Abstain: H. Al-Hadithy)

Continued Public Hearings: NONE
Compliance Determination: NONE

New Hearings:

4. 2615 Marin Avenue
   Applicant: Reza Fakurnejad, 962 Bollinger Canyon Rd., Moraga, CA 94556
   Use Permit Modification #09-70000011 to Use Permit #03-10000069 to permit the
   following changes to the single family home currently under construction: 1) allow a
   maximum building elevation of 947.9 feet (instead of 947.8 feet), 2) create additional floor
   area on the top floor by extending the master bedroom 6 feet into the south deck, 3) allow a 12 inch awning, and 4) allow an 8 foot high fence within the front yard setback and along the westerly property line. (R-1H, SDR)

   Continued From: NONE
   Recommendation: APPROVE
   Action: APPROVED on consent, with the addition of Condition 23.F, which requires a survey after roof is lowered to ensure final roof height at approved elevation.
   Motion: (G. Williams, J. Anthony)
   VOTE: (8-0-0-1; Absent: E. Mikiten)

5. 3240 Sacramento
   Applicant: Affordable Housing Associates, 1250 Addison St., Ste. G, Berkeley, CA 94702
   Use Permit #08-10000127 to demolish an existing seven unit apartment building and to construct a new four story mixed-use development for transition-age youth, with 16 residential units (including one on-site manager’s apartment) and approximately 800 square feet of social services offices and meeting space for residents and other clients on the ground floor of the main building and in a detached resident services building at the rear of the lot; (C-SA, SDR)

   Continued From: NONE
   Recommendation: APPROVE
   Action: APPROVED
   Motion: B. Allen, J. Anthony
   VOTE: (8-0-0-1; Absent: E. Mikiten)
6. 1200 Ashby
Applicant: CityCentric Investments, 5715 Claremont Ave., Oakland, CA 94618
Modification #09-70000010 to Use Permit #07-10000133 to change an approved 5-story, 98-unit mixed use building to an affordable senior (62+) housing project; modifications reduce total floor area by 9,090 square feet, increase ground-floor commercial space by about 1,600 square feet, and reduce total parking spaces from 114 to 44. (C-W, AS)

Continued From: NONE
Recommendation: APPROVE
Action: APPROVED with condition that Applicant install one carshare pod in parking area.
Motion: J. Anthony, T. Doran
VOTE: (7-1-0-1; No: S. Schumer, Absent: E. Mikiten)

Additional Agenda Items:
A. Information/Communication
   • 1421 Second Street, Pacific Steel Castings Company Performance Report
     Board adopted a motion directing staff to set a public hearing to discuss the results of the performance report and Pacific Steel Casting's compliance with conditions of approval.
     Motion: T. Doran, S. Schumer
     VOTE: (8-0-0-1; Absent: E. Mikiten)

   • Invitation to YMCA –PG&E Teen Center community meeting for neighbors on June 24, 2009.

B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointment
E. Future Agenda Items
F. Other Matters
G. Adjourn: 9:10 p.m.

[Approved for posting by Steven D. Ross, Secretary, Zoning Adjustments Board]
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.