Planning and
Development Department
Land Use Planning
Division

Zoning Adjustments Board
Thursday, June 26, 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
Present: J. Anthony, T. Doran, D. Matthews (arrived @ 7:05pm), R. Judd, B. Allen, S. Wilson, M. Cohen, S. Shumer, J. Arreguin
Public Attendance: ~25

1. Approval of Previous Meeting Minutes
Minutes from 06/12/2008 ZAB Meeting
Recommendation: Approve Minutes
Action: Approved Minutes (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.

Item 6. 1120 Second Street moved to Consent Calendar for approval
Item 7. 2214-16 Ashby Avenue moved to Consent Calendar for approval
Item 8. 1786-88 Shattuck Avenue moved to Consent Calendar for approval
Item 9. 1801-C Shattuck Avenue moved to Consent Calendar for approval

2. 1911 Russell Street
Applicant: Guy Supawit, on the behalf of Wat Mongkolratanaram, 1911 Russell Street, Berkeley CA
Use Permit #07-10000040 to 1) construct a 16' by 24' Buddha Sanctuary and create four off-street parking spaces on a vacant 5,232 square foot parcel abutting Oregon Street; and 2) create 10 small accessory structures (tables and parasols) on a vacant 5,792 square foot parcel abutting MLK Jr Way, as part of the existing Wat Mongkolratanaram, or Thai Temple, located at 1911 Russell Street. (R-2A - Restricted Multi-family Residential; GP)
Continued From: 04/24/2008
Recommendation: Continue to August 14, 2008
Action #1: Continue to September 25, 2008
Action #2: Staff to return to ZAB with new permit requirements to resolve alleged violations

3. 1912 Seventh Street
Applicant: Lawrence M. Neal, 16 Ridge Place, Pleasant Hill, CA  94523
Modification #08-70000011 to correct a staff error and change conditions of approval of Use Permit #02-10000074 to require the equivalent of 1.2 inclusionary units (consistent with the City’s Inclusionary Housing Requirement), rather than 1.4 units, for an approved seven unit residential project (1 existing unit plus 6 new units); (R-3, Multiple Family Residential; SDR)
Continued From: NONE
Recommendation: Approve
Action: Approved on Consent (9-0-0-0)

4. 2748 San Pablo Avenue
Applicant: Andre Rothblatt, AIA, 2 Henry Adams Street, Suite 460, SF, CA 94103
Use Permit Modification #08-70000005 to increase number of dwelling units in an approved mixed-use building from 20 to 23, and parking spaces from 24 to 27; no exterior changes proposed; (C-W, AS)
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.

5. **1181 Laurel Street**

   **Applicant:** Murray Bruce 1181- Laurel Street, Berkeley CA 94708
   **Appellant:** Rena Rickles- 1970 Broadway Suite 1200, Oakland CA, 94612, representing Michael and Laurie Piotrkowski- 1186 Euclid Avenue, Berkeley CA, 94708

   Appeal of Administrative Use Permit # 07-20000138 to raise a single-family home approximately 4’, thereby 1) creating a new 554 sq. ft. accessory dwelling unit, 2) increasing the usability of approximately 540 sq. ft. of storage space by increasing the clearance height from 6’ to 9’, and 3) creating approximately 110 sq. ft. of new floor area by increasing the clearance height from just under 6’ to 9’; (R-1 (H) Single-Family Residential Hillside Overlay, ND)

   **Continued From:** NONE
   **Recommendation:** Dismiss Appeal and Affirm the Zoning Officer’s Decision
   **Action:** Set for Public Hearing July 24, 2008

**Continued Items (Public Hearing has been closed):** NONE

**Continued Public Hearings:** NONE

**Compliance Determination:** NONE

**New Hearings:**

6. **1120 Second Street**

   **Applicant:** Jennifer Lauro, Pacific Planning Group, Inc., 23412 Moulton Parkway, Suite 140, Laguna Hills, CA 92653

   Modification # 08-70000009 to modify approved plans for a four-story 95,771 square foot mini-storage building to allow truck rental for customers as an accessory use to the mini-storage facility (M District, EJS).

   **Continued From:** NONE
   **Recommendation:** Approve
   **Action:** Approved on Consent (9-0-0-0)
7. **2214-16 Ashby Avenue**  
**Applicant:** Greg VanMechelen- 1117 Virginia Street Berkeley, 94706  
Use Permit # 08-10000029 to construct a 350 sq. ft., two-story addition to an existing four-unit apartment building on 6,975 sq. ft. property that is nonconforming as to residential density (property has six units where four are allowed); (R-2-A, ND)  
**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved on Consent (9-0-0-0)

8. **1786-88 Shattuck Avenue**  
**Applicant:** Rivoli Restaurant INC- 1539 Solano Ave. Berkeley, 94707  
Use Permit # 08-10000026 to expand alcohol service by adding distilled spirits to an existing full-service restaurant that currently serves beer and wine; (C-NS, NFD)  
**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved on Consent (9-0-0-0)

9. **1801-C Shattuck Avenue**  
**Applicant:** Cioccolata di Vino, LLC, 347 Forty-fourth Street, Richmond, CA, 94805  
Use Permit #08-10000018 to establish beer and wine service at a previously approved full-service restaurant and to designate a space for planters on the sidewalk outside of the restaurant (C-1, FC).  
**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved on Consent (9-0-0-0)

10. **1333 University Avenue**  
**Applicant:** Jie Moore, Shu Ren International School, 2163 Meeker Ave., # 149, Richmond, CA 94804  
Use Permit #08-10000046 to establish the Shu-Ren International School – a private school for children, ages 3 - 10, and to allow 10 off-site parking spaces. (C-1, Commercial District, GP/DD)  
**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved with changes (9-0-0-0)

11. **2438 Warring**  
**Applicant:** Kwanlam Wong, 2308 Sixth Street, Berkeley, CA 94611  
Use Permit #08-10000042 to permit and modify an existing, lawful non-conforming Group Living Accommodation by allowing an increase in the number of bedrooms from 20 to 26 without adding square footage or residents to the building; (R-4 (H), ND & LB)  
**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved with changes (9-0-0-0)
Additional Agenda Items:
A. Information/Communication
B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointment
  • Design Review Committee Appointment
    APPROVED appointments of Jim Goring and Marc Toma
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.