Zoning Adjustments Board
Thursday, July 24, 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: 7:10 PM
Absent: S. Wilson, M. Cohen, T. Doran
Substitute: A. Kaufer for T. Doran; G. Kashani for M. Cohen
Public Attendance: ~50

Public Comment 1
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 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.

Item 3. 1300 San Pablo moved to Consent Calendar for approval.
Item 5. 1499 University moved to Consent Calendar for approval.
Item 7. 2904 College moved to Consent Calendar for approval.
Item 8. 1286 Queens moved to Consent Calendar for approval.

1. Approval of Previous Meeting Minutes
Minutes from 07-10-08 ZAB Meeting

Recommendation: Approve Minutes
Action: Approved Minutes (5-0-3-1; Abstain: J. Anthony, A. Kaufer, G. Kashani; Absent: S. Wilson)

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

New Hearing items (6. 2949 College; 9. 2451-71 Shattuck; 10. 2136 Center) moved before Continued Public Hearings.

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): NONE

Continued Public Hearings:

2. 2516 Ellsworth
Applicant: William Coburn Architects – 1224 Center Street, Oakland, CA 94607
Appeal of Administrative Use Permit #06-20000087 to construct a 2,974 sq. ft. addition to an existing 903 sq. ft., one-story, two unit building, by expanding the footprint towards the rear yard and raising the existing house, thereby vertically extending a non-conforming front yard setback 5’ where 15’ is required, as well as establishing the two required parking spaces within required side yard setbacks. (R-4 Multi-Family Residential, NFD)

Recommendation: Deny Appeal and Approve Project
Action: Denied Appeal and Approved Project with Modifications and Additional Conditions (7-1-0-1; No: J. Arreguin; Absent: S. Wilson)
3. **1300 San Pablo**  
**Applicant:** Ricardo Tan, 1300 San Pablo Avenue, Berkeley, CA  
Use Permit #06-1000095 to demolish an existing cashier’s booth and construct a new 1,179 sq. ft. retail at an existing fueling station, and to place/relocate related service and regulatory equipment; (C-W, FC)  
**Continued From:** 06/12/2008  
**Recommendation:** Approve  
**Action:** Approved on Consent (8-0-0-1; Absent: S. Wilson)

4. **1181 Laurel**  
**Applicant:** Murray Bruce 1181- Laurel Street, 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, NFD)  
**Continued From:** 06/26/2008  
**Recommendation:** Deny Appeal and Approve Project  
**Action:** Closed Public Hearing and Continued to August 14, 2008 (5-2-0-2; No: B. Allen, D. Matthews; Absent: J. Arreguin, S. Wilson)

**Compliance Determination:** NONE

**New Hearings:**

5. **1499 University**  
**Applicant:** Craig Mortensen, representing Simtec; 6020 West Oaks Boulevard; Rocklin, CA 95765  
Use Permit #08-10000040 to complete demolition of a former fueling station and to construct a new fence to screen the vacant lot. (C-1, FC)  
**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved on Consent (8-0-0-1; Absent: S. Wilson)
6. **2949 College**  
   **Applicant:** Vintage Berkeley, LLC, 2113 Vine Street, Berkeley, CA 94709  
   Use Permit 08-10000069 to operate a retail wine and beer store with daily wine tasting (C-E, Elmwood Commercial District, LMM)  
   - Continued From: NONE  
   - Recommendation: Approve  
   - Action: Approved (7-0-1-1; Abstain: J. Arreguin; Absent: S. Wilson)

7. **2904 College**  
   **Applicant:** Lillian Mitchell, Architect, 97 Linden Street, Oakland, CA 94607  
   Use Permit #08-10000064 to increase the tenant space of an existing bookstore from 1,983 square feet to 2,738 square feet; (C-E, LMM)  
   - Continued From: NONE  
   - Recommendation: Approve  
   - Action: Approved on Consent (8-0-0-1; Absent: S. Wilson)

8. **1286 Queens**  
   **Applicant:** Geoffrey Holton & Associates (GHA), 339 15th Street, #212, Oakland, CA  
   Use Permit #08-10000048 to construct a two-story, 2,930 square foot, two-story, single-family residence on a 10,652 square foot parcel; (R-1 (H), GP)  
   - Continued From: NONE  
   - Recommendation: Approve  
   - Action: Approved on Consent (8-0-0-1; Absent: S. Wilson)

9. **2451-71 Shattuck**  
   **Applicant:** Cindy O’Hara, Equity Residential; Two Riverside Plaza, Chicago, IL 60606  
   Use Permit Modification #08-10000031 to modify Use Permit #01-1000073/#02-7000062 to allow retail, general office or medical offices within the space approved for a 4,749 square foot Cinema. (C-SA - South Area Commercial, GP)  
   - Continued From: NONE  
   - Recommendation: Approve  
   - Action: Approved (6-2-0-1; No: J. Arreguin, S. Shumer; Absent: S. Wilson)

10. **2136 Center**  
    **Applicant:** Center Gallery L.P., 1442 A Walnut Street, #116, Berkeley, CA 94709  
    Use Permit #08-10000039 to establish an extended stay hotel with 68 rooms in a five-story building previously approved for 68 dwelling units. No exterior changes are proposed. (C-2, LMM)  
    - Continued From: NONE  
    - Recommendation: Approve  
    - Action: Approved (8-0-0-1; Absent: S. Wilson)
**Additional Agenda Items:**

A. Information/Communication
   - Memo re: Southside Plan Status, Beth Greene, Senior Planner
   - “Using the Urban Bill of Rights to create a livable Southside,” by Sharon Hudson, July 2008

B. Business Meeting

C. Chair’s Report

D. Current Business/Committee Appointment

E. Future Agenda Items

F. Other Matters

G. Adjourn **12:45 AM**

**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]