Planning and Development Department
Land Use Planning Division

Zoning Adjustments Board
Thursday, August 14, 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 on 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: 7:05 PM
Absent: S. Wilson (no substitute)
Public Attendance: ~75

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 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 4. 1181 Laurel moved to Consent Calendar to continue item to 9/11/2008 Meeting
Item 6. 1367 La Loma moved to Consent Calendar for Approval
Item 8. 91 Shattuck Square moved to Consent Calendar for Approval

1. Approval of Previous Meeting Minutes
   Minutes from 07-24-08 ZAB Meeting
   
   Recommendation: Approve Minutes
   Action: Approved Minutes (8-0-0-1; Absent: S. Wilson)

2. 2055 Center
   Applicant: Walter Armer, SNK Captec Arpeggio LLC, 3966 San Pablo Ave, Suite A, Emeryville, CA 94608
   Use Permit Modification #08-7000017 to modify the mixed-use project approved by Use Permit #03-10000002 and #07-70000008 to allow construction to begin at 7 a.m. Monday - Saturday instead of 8 a.m., and to allow extended construction hours for special construction activities for no more than a total of 15 working days, subject to Zoning Officer approval, with 2 weeks advance notice to surrounding residents and businesses; (C-2, SDR\GP)
   
   Continued From: NONE
   Recommendation: Approve
   Action: Approved on Consent (8-0-0-1; Absent: S. Wilson)

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.

3. 601 Spruce
   Applicant: Nashua Kalil, 601 Spruce Street, Berkeley CA, 94707
   Appeal of Administrative Use Permit # 06-20000189 to construct a 480 sq. ft. addition to an existing 1,590 sq. ft., split-level single-family residence; (R-1H, NFD)
   
   Continued From: NONE
   Recommendation: Deny Appeal and Approve Project
   Action: Denied Appeal and Approved Project (8-0-0-1; Absent: S. Wilson)
Continued Items (Public Hearing has been closed):

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-1H, NFD)
   Continued From: 06/26/2008, 07/24/2008
   Recommendation: Continue to 9/11/2008 Meeting
   Action: Continued to 9/11/2008 Meeting on Consent (8-0-0-1; Absent: S. Wilson)

Continued Public Hearings: NONE

Compliance Determination:

5. 2116 Allston – GAIA Building
   Review of Conformance with Use Permits # 97-10000093, # 02-70000014, # 02-70000067. (C-2, WC)
   Continued From: NONE
   Recommendation: No Action
   Action: Continued to 9/11/2008 Meeting (5-3-0-1; No: T. Doran, S. Shumer, J. Arreguin; Absent: S. Wilson)

New Hearings:

6. 1367 La Loma
   Applicant: Paul P. Lupinsky, 4938 McBryde Avenue, Richmond, CA 94805
   Use Permit # 08-10000081 to demolish an existing 1,150 sq. ft. single-family house and rebuild a new 3,330 sq. ft. single-family home with an average height of 24’ and a maximum height of 36’. (R-1H, NFD)
   Continued From: NONE
   Recommendation: Approve
   Action: Approved on Consent (8-0-0-1; Absent: S. Wilson)
7. **2390 Fourth**  
**Applicant:** Amod Chopra, Vik’s Chaat Corner; 1321 Seventh Street; Berkeley, CA 94710  
**UP #08-10000066 to operate a restaurant and retail store in a space previously used for manufacturing; (MU-LI, JWC/ND)**  
- **Continued From:** NONE  
- **Recommendation:** Approve  
- **Action:** Approved (8-0-0-1; Absent: S. Wilson)

8. **91 Shattuck Square**  
**Applicant:** Carmine Frank Giuliano, Architect; P.O. Box 1517; Lafayette, CA 94549-1517  
**UP #08-10000061 to operate a quick service restaurant with beer and wine service, and to permit sidewalk café seating, extended hours of operation (up to 24 Hours), alcohol service outside in an enclosed arcade, and to allow sale of beer and wine for off-site consumption (C-2, JWC/GS)**  
- **Continued From:** NONE  
- **Recommendation:** Approve  
- **Action:** Approved on Consent (8-0-0-1; Absent: S. Wilson)

9. **2421 Ninth**  
**Applicant:** Gregory VanMechelen, 1117 Virginia Street, Berkeley, CA 94702  
**Use Permit 05-10000084 to construct a two-story 1,776 sq. ft., detached dwelling unit at the rear of a 6,500 sq. ft. lot with one existing dwelling unit, (R-1A, ES)**  
- **Continued From:** NONE  
- **Recommendation:** Approve  
- **Action:** Continued to 9/11/2008, Public Hearing Open (8-0-0-1; S. Wilson)

10. **2002 Acton**  
**Applicant:** Verizon Wireless Communications, c/o James Singleton, NSA Wireless, Inc., Bishop Ranch 15 1st Floor, 12647 Alcosta Blvd. Suite 110, San Ramon, CA 94583  
**Use Permit #05-10000090 to construct a new wireless telecommunications facility (including six antennas and related equipment) for Verizon Wireless Communications; (C-1, PJ)**  
- **Continued From:** NONE  
- **Recommendation:** Approve  
- **Action:** Approved (7-1-0-1; No: J. Anthony; Absent: S. Wilson)
11. **740 Heinz**

   **Applicant:** Chris Barlow, Wareham Development 1120 Nye Street, Suite 400 San Rafael, CA 94901

   Use Permit #05-1000017 to demolish the existing single-story, 9,600 square foot City of Berkeley Landmark (the Garr Building or Copra Warehouse) and construct a building to contain research and development laboratories and pilot manufacturing facilities, with at least 10,000 square feet of warehouse floor area. (MU-LI; GP)

   **Continued From:** NONE

   **Recommendation:** Project Preview: Board’s direction on applicant’s proposal

   **Action:** Board gave input, direction and suggestions on applicant’s current proposal regarding design and preservation

12. **1200 Ashby**

   **Applicant:** Ali Kashani, Memar Properties, INC; 5715 Claremont Avenue; Oakland, CA 94618 & David Greensfelder, Rawson, Blum & Leon; 456 Montgomery Street, Suite 1000 SF, CA 94104

   Preliminary consideration (no formal action) of Use Permit #07-10000133 to construct a 5-story mixed use building with 98 residential condo units, 11,900 square feet of ground-floor commercial space, and 135 parking spaces on a 34,210 square-foot lot. (C-W; CW/AS)

   **Continued From:** NONE

   **Recommendation:** Preliminary Consideration: Board direction and comments on applicant’s proposal

   **Action:** Board gave direction and suggestions on design, mass and commented on other issues regarding the applicant’s current proposal

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**Additional Agenda Items:**

A. Information/Communication  
B. Business Meeting  
C. Chair’s Report  
D. Current Business/Committee Appointment  
E. Future Agenda Items  
F. Other Matters  
G. Adjourn 12:50 AM

[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.