Zoning Adjustments Board
THURSDAY, November 13, 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
Substitute: G. Kashani (for M. Cohen)
Resignation: of Dist. 7 appointee Jesse Arreguin effective November 7, 2008 (currently 8 ZAB members)

Public Attendance: ~10

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 3: 1911 Russell moved to Consent Calendar for continuance to 12/11/08
Item 4: 2573 Virginia moved to Consent Calendar for continuance to 12/11/08
Item 5: 1398 University moved to Consent Calendar for approval

1. Approval of Previous Meeting Minutes
   Minutes from 10-23-08 ZAB Meeting
   Recommendation: Approve Minutes
   Action: Approved Minutes (7-0-1-0-); Abstain: G. Kashani

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): NONE

Continued Public Hearings:

2. 2421 Ninth
   Applicant: Gregory VanMechelen, 1117 Virginia Street, Berkeley, CA 94702
   Use Permit 05-1000084 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: 08/14/2008; 09/11/2008, 10/06/2008
   Recommendation: Approve
   Action: Approved (5-2-1-0) No: Shumer, Matthews; Abstain: Doran
3. **1911 Russell**  
**Applicant:** Guy Supawit, on the behalf of Wat Mongkolratanaram, 1911 Russell Street, Berkeley CA  
Use Permit #07-10000040 to: 1) construct a 44’ tall, 16’ by 24’ Buddha Sanctuary on a vacant, 5,232 square foot parcel abutting Oregon Street; 2) create nine off-street parking spaces on a vacant, 5,792 square foot parcel abutting MLK, Jr. Way, as an expansion of the existing Wat Mongkolratanaram, or Thai Temple, located at 1911 Russell Street AND, Use Permit Modification #08-70000019 to modify Use Permit A2054 to: 1) expand the frequency of Sunday public food service from a total of 3 weekends per year to 52; 2) allow Sunday food consumption to occur from 10 am - 1 pm (with on-site food preparation to start after 8 am), 3) to allow 6-10 accessory structures within the rear yard of 1911 Russell Street; and 4) continue daily worship, culture, language and dance classes and periodic Thai cultural events. (R-2A, GP)  

**Continued From:** 04/24/2008; 06/26/2008; 09/25/2008  
**Recommendation:** Continue to 12/11/08  
**Action:** Continued to 12/11/2008 on Consent (8-0-0-0)

4. **2573 Virginia**  
**Applicant:** Zia and Farideh Sabetimani, 80 Poplar Street, Berkeley CA  
Use Permit #08-10000038 to construct a new 2-story, approximately 1,580 square-foot main building with a 5-car garage and one dwelling unit, on a site with an existing two-story, approximately 3,000 square-foot, four-unit apartment building; (R-3H, LB)  

**Continued From:** 10/06/2008  
**Recommendation:** Approve  
**Action:** Continued to 12/11/2008 on Consent (8-0-0-0)

**Compliance Determination:** NONE

**New Hearings:**

5. **1398 University**  
**Applicant:** William Briscoe, The Bread Workshop LLC, 1398 University Avenue, Berkeley, CA 94702  
Use Permit #08-10000096 to add a quick service restaurant with beer and wine service to an existing bakery (The Bread Workshop), to reduce the required parking to the District minimum, and to expand the hours of operation to the District limit; (C-1, LMM)  

**Continued From:** NONE  
**Recommendation:** Approve  
**Action:** Approved on Consent (8-0-0-0)
Additional Agenda Items:
A. Information/Communication
   • Correspondence from Steve Wollmer regarding projects along University Avenue
   • Consider canceling December 1, 2008 ZAB meeting
     December 1, 2008 ZAB meeting canceled
B. Business Meeting
C. Chair's Report
D. Current Business/Committee Appointment
E. Future Agenda Items
F. Other Matters
G. Adjourn @8:30pm

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]