Planning and Development Department
Land Use Planning Division

Zoning Adjustments Board
Thursday, December 11, 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: 7:00pm
Substitute: Charles Austin (for J. Anthony), Elisa Mikiten (for S. Wilson)
Resignation: of Dist. 7 appointee Jesse Arreguin effective November 7, 2008 (currently 8 ZAB members)

Public Attendance: ~30

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: 1911 Russell moved to Consent Calendar for continuance to January 22, 2009
Item 6: 2573 Virginia moved to Consent Calendar for continuance to January 22, 2009

1. Approval of Previous Meeting Minutes
   Minutes from 11/13/08 ZAB Meeting
   
   Recommendation: Approve Minutes
   Action: Approved Minutes (5-0-3-0); Abstain: M. Alvarez Cohen, C. Austin, E. Mikiten

2. 2949 College Avenue
   Applicant: Vintage Berkeley, LLC; 2113 Vine Street; Berkeley, CA 94709
   MODUP #08-70000021 to modify the conditions of approval of Use Permit (#08-10000069), that established a wine and beer retailer with daily on-site wine tasting in an existing 1,550 square foot retail space; (C-E, LMM)
   
   Continued From: NONE
   Recommendation: Approve
   Action: Approved on Consent (8-0-0-0)

3. 3020 San Pablo Avenue
   Applicant: Yerba Buena Builders; 1000 Brannan Street, San Francisco
   Modification #08-70000025 to modify approved plans to UP #06-10000118 to permit demolition of an existing quick-service restaurant to abate an attractive nuisance. (C-W, EJS)
   
   Continued From: NONE
   Recommendation: Approve
   Action: Approved on Consent (8-0-0-0)

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

Appeal of Administrative Use Permit/Staff Level Design Review: 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:
4. **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; 11/13/08*  
**Recommendation:** Continue to 1/22/09  
**Action:** Continued to 01/22/09 on Consent (8-0-0-0)

5. **1906-08 Shattuck**  
**Applicant:** Steve Tipping, 1906 Shattuck Ave., Berkeley, 94704  
Use Permit/Variance #08-10000067 to construct a 7,591 square foot, 3-story addition to an existing commercial building at 1906 Shattuck; retail or office use proposed on ground floor, office on upper floors; parking waiver of 15 spaces requested; (C-1, AS)  

*Continued From: 10/23/08*  
**Recommendation:** Approve  
**Action:** Approved with modified Findings and Conditions (8-0-0-0)

6. **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, 11/13/08*  
**Recommendation:** Continue to 1/22/09  
**Action:** Continued to 01/22/09 on Consent (8-0-0-0)

**Compliance Determination:** NONE

**New Hearings:**
7. **1326 Tenth**  
**Applicant:** Kava Massih Architects, 2830 Ninth St., Berkeley, 94710  
Use Permit #07-10000149 to establish a quick service restaurant consisting of a new one-story, 777 square foot food service building and adjoining outdoor seating area where a retail nursery previously existed; two off-street parking spaces will be added; no alcohol service proposed (C-W, AS)  
Continued From: NONE  
Recommendation: Approve  
Action: Approved (7-0-1-0) Abstain: Mikiten

8. **1200 Ashby Avenue**  
**Applicant:** Ali Kashani, Citycentric Investments, 5715 Claremont Ave, Oakland, CA 94618  
Use Permit #07-10000133 to construct a 5-story mixed use building with 98 residential condominium units, 7,770 square feet of ground-floor commercial space, and 114 parking spaces on a 34,210 square-foot lot. (C-W, AS)  
Continued From: NONE  
Recommendation: Approve  
Action: Continued to 01/22/09 (8-0-0-0)

**Additional Agenda Items:**  
A. Information/Communication  
   • ZAB Meeting Schedule  
     • Cancel January 8, 2009 ZAB meeting  
     • Schedule 2 meetings per month, but plan to cancel 2nd meeting (4th Thursdays)  
     • Approve 2009 ZAB schedule  
     2009 ZAB schedule approved (7-0-1-0; Abstain: Mikiten)  
   • New ZAB appointees, DRC appointments (future DRC meetings: 12/18/08; 1/15/09) No new ZAB appointment. Terry Doran appointed to replace Sara Shumer on DRC (8-0-0-0)

B. Business Meeting  
C. Chair’s Report  
D. Current Business/Committee Appointment  
E. Future Agenda Items  
F. Other Matters  
G. Adjourn @10:4pm
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.