Office of the City Manager

REVISED
AGENDA MATERIAL

Meeting Date: **March 25, 2014**

Item Number: **25.a**

Item Description: **Use Permit No. 2014-0004: Bicycle Repair/Rental and Vocational Training at 90 Bolivar Drive, Aquatic Park**

Submitted by: **Eric Angstadt, Director, Planning and Development Department**

REVISIONS TO MARCH 25, 2014 STAFF REPORT RECOMMENDATION

The staff report included information regarding the public trust status of Aquatic Park. Due to the determination that Aquatic Park is not subject to the Public Trust Doctrine, the staff recommendation should be revised to ask the Council to:

1. Modify the ZAB findings by deleting the finding that the use complies with the Public Trust (Finding C); and
2. Affirm the findings in all other respects.

The text of Finding C is included below:

C. State Tidal Lands: The use of the building for bicycle repair and rentals, vocational training for youth and an indoor café will accommodate the public's use of State Trust Lands.

Attachment: Revised Resolution

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RESOLUTION NO. ##,###-N.S.

MODIFY THE ZONING ADJUSTMENTS BOARD'S APPROVAL OF USE PERMIT #2014-0004 TO OCCUPY A VACANT, CITY-OWNED BUILDING IN AQUATIC PARK FOR USE AS A BICYCLE RENTAL AND REPAIR OUTLET, WITH COMMUNITY MEETING/LECTURE/CLASSROOM SPACE AND AN INCIDENTAL CAFÉ WITH INDOOR SEATING IN THE UNCLASSIFIED (U) DISTRICT

WHEREAS, on January 28, 2014, the City's Parks. Recreation and Waterfront Department submitted a Use Permit application to occupy a vacant, City-owned building in Aquatic Park for use as a bicycle rental and repair outlet, with meeting space and an incidental café at 90 Bolivar Drive; and

WHEREAS, on January 30, 2014, staff deemed this application complete; and

WHEREAS, on February 5, 2014, the Planning Commission voted to make the findings of non-detriment in accordance with BMC Section 23E.92.090; and

WHEREAS, on February 27, 2014, the ZAB voted to approve the application in accordance with BMC Section 23E.92.090; and

WHEREAS, on February 28, 2014, staff contacted the State Lands Commission to clarify the status of Berkeley lands under public trust and learned that the upland areas of Aquatic Park, including the subject property, are not subject to public trust restrictions; and

WHEREAS, on March 25, 2014, the Council considered the record of proceedings before the ZAB, and the staff report and correspondence presented to the Council, and, in the opinion of this Council, the facts stated in, or ascertainable from this information, do not warrant further hearing.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the Council hereby modifies the findings made by the ZAB in Exhibit A by removing Finding C, affirms the decision of the ZAB to approve Use Permit #2014-0004 and adopts the conditions in Exhibit A.

Exhibit
A: Findings and Conditions