



Planning and Development Department
Land Use Planning Division

Action Minutes

Zoning Adjustments Board

Thursday, April 26, 2007 -- 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) at the public hearing, by 7:15 PM on the night of the hearing, or (2) at the Permit Service Center, 2120 Milvia Street, **before** 5:00 PM on the day of the hearing.

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

Call to Order: 7:15 PM

Board Members Present: Anthony, Doran, Allen, Judd, Tiedemann, Wilson, Shumer, Alvarez-Cohen. Arrived 7:30 Arreguin

Approximate Public Attendance: 50

Public Comment

Each Speaker is limited to a maximum of three minutes.

Opened: 7:15 PM

One Speaker

Closed: 7:18 PM

Consent Calendar:

The Consent Calendar allows the Board to take action with no discussion, on projects to which no one objects. The Agenda includes two types of Consent Calendar items: (1) Modifications of existing Use Permits (which have not been noticed for public hearings); (2) 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,

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posted for a public hearing at a subsequent meeting.

1508b Walnut Street added to the consent calendar

1740 Addison Street added to the consent calendar

1. 122 Avenida Drive

Request by: Peter David Gilbert, 6077 Contra Costa Road, Oakland, CA 94618.

Use Permit Modification #07-70000001 to correct discrepancies in approved plans for a single-family dwelling on a vacant lot, and to conform to arborist recommendations for redwood trees along south property line (R-1H, Single-Family Residential Hillside, AS).

Continued From: None

Recommendation: Approve

**Action: Approved on consent (8-0-0-1)
(Absent: Arreguin).**

2. 2750 Adeline

Request by Adeline Studios LLC, 5801 Christie Avenue, Suite 675, Emeryville

Use Permit #07-70000004 to Modify the plan approved by Use Permit #03-70000064 to replace the proposed entry lobby with two off-street parking spaces. Off street parking spaces would occupy the former loading area (CSA, Commercial - South Area, GPowell).

Continued From: None

Recommendation: Approve

**Action: Approved on consent (8-0-0-1)
(Absent: Arreguin).**

3. 1001 Ashby

Request by: Affordable Housing Associates, 1250 Addison Street, Suite G, Berkeley

Use Permit #07-70000013 to Modify the plan approved by Use Permit #03-10000112 & #05-70000038 to remove four projecting bays on the south elevation, vary open space dimensions and to replace the paving of the plaza along Ashby Avenue with asphalt (CW, Commercial - West Berkeley, GPowell).

Continued From: None

Recommendation: Approve

**Action: Approved on consent (8-0-0-1)
(Absent: Arreguin).**

Agenda Changes

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

Appeal of Administrative Use Permit: None

Appeals of Administrative Use Permit 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 decision.

Continued Items (Public Hearing has been closed): None

Continued Public Hearings: None

Nuisance Proceedings:

4. 2973 Sacramento Street

Request by: City of Berkeley Code Enforcement Division.

Public Hearing to Consider Recommendation to City Council as to Whether the Property at 2973 Sacramento Street is a Public Nuisance Under BMC Section 23B.64.020 (C-SA, DS).

Continued From: None
Recommendation: Conduct Public Hearing and make recommendation to City Council.
Action: Recommended that the Council find this property a public nuisance, with recommended remedy to close the business. (9-0-0-0)

New Hearings:

5. 1508B Walnut Street

Request by: MG Pacific, Inc. 1508B Walnut Street, Berkeley CA 94709.

Modification of Use Permit # 06-10000044 to change use of approved restaurant addition from a waiting area to a reception/cocktail lounge (C-NS; North Shattuck Commercial, JL/GMS).

Continued From: None
Recommendation: Approve
Action: Approved on consent (8-0-0-1) (Absent: Arreguin).

6. 2072 University Avenue

Request by: Robert Gaustad, 40 Summerhill Way, San Rafael CA 94903

Use Permit #06-10000133 to add wine and beer service and live entertainment to an existing restaurant (C-2, Downtown Commercial Zoning District, GMS).

Continued From: None
Recommendation: Approve
Action: Approved with changes (9-0-0-0).

7. 1740 Addison Street

Request by: Chris Worthen, 1740 Addison Street, Berkeley, CA

Use Permit #06-10000130 to add windows, skylights and a door to an existing house, to replace the foundation, and to raise the building 2.5 ft., from 18.25 ft. in average height to 22.75 ft., in order to create a habitable basement level with a garage on a parcel that is non-conforming for minimum front and side yard setbacks, minimum building separation, maximum residential density and lot coverage (R-2, Restricted Two-family Residential, FC).

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Continued From: None
Recommendation: Approve
Action: Approved on consent (8-0-0-1)
(Absent: Arreguin).

8. 482 Michigan Avenue

Request by: Peter David Gilbert 6077 Contra Costa Road, Oakland, CA 94618
Use Permit #06-10000033 to construct a single-family dwelling and accessory dwelling unit with an average height of 37.75 feet, 3,546 square feet of floor area and two parking spaces on a vacant lot of 6,717 square feet (R-1H, Single-family Residential Hillside, AS/JL).

Continued From: None
Recommendation: Approve
Action: Approved (9-0-0-0)

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. **Adjourned 9:30 PM**

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 email) 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:

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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 Debra R. Sanderson, Secretary, Zoning Adjustments Board, March 30, 2007.]