



Planning and Development
Department
Land Use Planning Division

Action Minutes

Zoning Adjustments Board

Thursday, October 11, 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: 7:05 PM

Present: J. Anthony, T. Doran, B. Allen, R. Judd, C. Tiedemann, S. Shumer, M. Cohen (@ 7:10 PM), J. Arreguin

Substitute: D. Blake for S. Wilson

Public Attendance: ~ 60

Public Comment: NONE

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 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, posted for a public hearing

at a subsequent meeting.

1. 1505 Shattuck Avenue

Applicant: Mr. Allen Connolly, 1505 Shattuck Avenue, Berkeley, CA 94709

Variance #04-10000074 to demolish two commercial buildings totaling 1,765 square feet (the single-story building located at 1505 Shattuck Avenue and a single story storage building located at the rear of the site) and construct a new 4,820 square foot two story mixed-use building (retail on the lower level and one (1) dwelling unit on the upper level) (C-NS) District, C. Wolf)

Continued From: 09/27/2007

Recommendation: Continue to 10/25/07

Action: Continued to 10/25/07 on consent (8-0-0-1; Absent: M. Cohen)

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

Compliance Determination: NONE

New Hearings:

2. 2526 Durant

Applicant: Ruegg & Ellsworth, 2437 Durant Avenue, Berkeley, 94704

Use Permit #00-10000066 to demolish the Blood House, a City of Berkeley Structure of Merit and to construct a mixed use building with 29,855 square feet of residential floor area (44 dwelling units, including 7 affordable) and 2,483 square feet of non-residential floor area, 5 stories with an average height of 56 feet, 7 inches, on a 10,377 square foot lot. 18 parking spaces are proposed. (C-T Telegraph Commercial Zoning District) (G Powell).

Continued From: 08/09/2007, 9/10/2007

Recommendation: Approve

Action: Approved with changes (7-2-0-0; No: D. Blake, J. Arreguin)

3. 2095 Rose

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Applicant: T-Mobile Communications, C/o Mr. Scott M. Sutherland, Property Options P.O. Box 2124, San Francisco, CA 94126-2124

Use Permit #07-10000058 to construct a new wireless telecommunications facility (including four antennas and related equipment) for T-Mobile Communications; (C-NS (H), North Shattuck Commercial District – Hillside) (P Johnson).

Continued From: None

Recommendation: Approve

Action: Approved (8-1-0-0; No: J. Anthony)

Additional Agenda Items:

- A. Information/Communication
 - Confirm Reappointment for Design Review Committee Member, Rob Ludlow
CONFIRMED.
 - Confirm Zoning Officer Interpretation Regarding Conflicting Language Restricting Non-Residential Uses Above the Ground Floor in the C-T District, BMC 23E.56.
Feedback and discussion from the Board to Staff. CONFIRMED.
- B. Business Meeting
- C. Chair's Report
- D. Current Business/Committee Appointment
- E. Future Agenda Items
- F. Other Matters
- G. Adjourn **9:40 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 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

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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]