



Action Minutes

Planning and Development
Department
Land Use Planning
Division

Zoning Adjustments Board Monday, November 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: 7:00 PM

Present: J. Anthony, T. Doran, B. Allen, D. Matthews, R. Judd, S. Wilson, S. Shumer, M. Alvarez-Cohen, J. Arreguin

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.

Item 4. 2947-53 College moved for Approval to the Consent Calendar

Item 6. 3020 San Pablo moved for Approval to the Consent Calendar

1. 3132 Martin Luther King, Jr. Way

Applicant: James Peterson, Corporate Housing Group, Inc., 2131 Parker Street, Suite D, Berkeley, CA 94704

Modification #04-70000020, to modify the original 1995 approval (Use Permit #A2320, Variance #1497, NPO #544) permitting the construction of an affordable senior housing project with 37 units, 1,200 square feet of retail, and 13 parking spaces within a 4 story building totaling 33,921 square feet. The revised project now proposes 42 residential units, a 2,492 square foot of community room, and 10 parking spaces within a 4 story building totaling 32,262 square feet (C-SA, South Area Commercial, SR)

Continued From: None
Recommendation: Continue to December 13, 2007
Action : Continued to December 13, 2007 on Consent (9-0-0-0)

Agenda Changes

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

Appeal of Administrative Use Permit:

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.

2. 2305 West

Applicant: Rick Dumas, 1271 Washington Avenue #560, San Leandro, CA 94577
Appeal of Administrative Use Permit #07-20000013 to construct a 262 sq. ft. addition to the first floor at the rear of the building and to construct a 1,100 sq. ft. second floor addition to an existing 927 sq. ft., one-story, single-family residence; (R-2, NFD)

Continued From: None
Recommendation: Deny the Appeal
Action: Denied the Appeal (9-0-0-0)

Continued Items (Public Hearing has been closed): NONE

Continued Public Hearings: NONE

Compliance Determination: NONE

New Hearings:

Zoning Adjustments Board ACTION MINUTES

Monday, November 26, 2007

Page 3 of 5

3. 1441 Ashby Ave

Applicant: BioFuel Oasis, 2265 Fourth Street; Berkeley, 94710

Use Permit #07-1000046 to establish biodiesel fueling station at existing former gas station (currently used for auto detailing); main building to remain, pump canopies to be altered or replaced to accommodate taller vehicles (C-SA, South Area Commercial; AS)

Continued From: None

Recommendation: Certify EIR and Approve Project

Action: Continued to January 24, 2008 (9-0-0-0)

4. 2947-53 College

Applicant: Ms. Carrie Gomez, Kahn Design Associates, 1810 Sixth Street, Berkeley, CA 94710. Use

Permit #07-10000103 to convert one existing commercial tenant space into two spaces, and enlarge a structure that exceeds the maximum allowable floor area ratio by demolishing existing mezzanines and adding a 1,020 square foot second story storage area; (Elmwood Commercial (C-E) District)

Continued From: None

Recommendation: Approve

Action: Approved on Consent (9-0-0-0)

5. 1050 Parker

Applicant: Darrell de Tienne, 3435 Cesar Chavez #312, San Francisco, CA 94110

Use Permit #07-10000118 to allow demolition of four adjacent warehouse buildings and one metal shed (Buildings A, B, C, D, and E) with approximately 25,540 square feet of floor area. (C-W Commercial West Berkeley Zoning District; GS)

Continued From: None

Recommendation: Approve

Action: Approved (9-0-0-0)

6. 3020 San Pablo

Applicant: Stephen Parker, 7 MacMurty Court, Alameda

Use Permit #06-10000118 to demolish an existing quick-service restaurant to construct a 32,043 square foot mixed-use building with 29 residential units (4 Inclusionary units), 1,603 square feet of commercial space and a total of 31 off-street parking spaces. (C-W Commercial West Berkeley Zoning District; GP)

Continued From: None

Recommendation: Approve

Action: Approved on Consent (9-0-0-0)

Zoning Adjustments Board ACTION MINUTES

Monday, November 26, 2007

Page 4 of 5

Additional Agenda Items:

- A. Information/Communication
 - Vote on ZAB meeting schedule 2008
 - **Will vote on December 13, 2007**
 - Letter from Sharon Hudson 09-15-07 regarding 2525 Telegraph
 - Invitation to Planning Commission Workshop
- B. Business Meeting
- C. Chair's Report
- D. Current Business/Committee Appointment
- E. Future Agenda Items
- F. Other Matters
- G. Adjourn

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

Zoning Adjustments Board ACTION MINUTES

Monday, November 26, 2007

Page 5 of 5

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]