

Jacob, Melinda

Subject: FW: Remedy for Thai Temple

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From: miguelmontes1@berkeley.edu [mailto:miguelmontes1@berkeley.edu]
Sent: Sunday, February 22, 2009 8:11 PM
To: Ross, Steven D.
Cc: MiguelMontes1@Berkeley.edu
Subject: Remedy for Thai Temple

From:
Miguel Montes
MiguelMontes1@Berkeley.edu
(951)259-0444
2316 Haste St, Apt. #303C
Berkeley, CA 94704

To:
Zoning Authorization Board, City of Berkeley
2120 Milvia St.
Berkeley, CA 94704

Ladies and gentlemen of the board thank you for your time. I would like to make a series of suggestions in hopes that it will help remedy the situation concerning the Thai Temple. After explaining my suggestions to Mr. Chat Mingkwan, a member of Thai congregation, I decided that it would be best to follow through and communicate directly to you.

The complexity of this case, I believe, requires an equally complex solution. With that said, and that there is no need to review the large amounts of information that has accumulated, I shall jump straight to my suggestions.

1)Allow the Thai Temple to purchase at full market value the Berkeley Tool Lending Library and the South library sites. As you know both of these are located exactly next to the Thai Temple property, 1901 Russell St, Berkeley, CA 94703.

2)The funds from that purchase are to be used by the City of Berkeley to purchase a property that has been reposed by a bank; in other words at a discounted price. This property will be used as the new Tool and South library.

3)The Thai Temple will then relocate its kitchen within/into the building purchased from the City of Berkeley.

- The building at that address will need to be re-zoned to allow a commercial grade kitchen and for the activity of serving food.

- In addition to an indoor kitchen an over sized chimney (extra tall) is to be added to that site; approximately, 3-4 stories tall. This will eliminate the majority of the cooking smells by funneling the smoke above all the surrounding houses/structures.

- The eating area is to be also moved indoors. This will eliminate a large portion of noise on Sundays.

Ladies and gentlemen of the board the opportunity to resolve this dilemma by using these suggestions will have a limited time window to be implemented. As you may be aware there is an influx of repossessed properties that has become available. It is highly likely that investors will see the value of attaining these properties in such a high demand

area, and therefore become competitors of the city for the prime choice properties that could serve as the next Tool and South Libraries.

In addition, it is exactly at this point in time that banks, savings and loans, and credit unions, will be motivated to find buyers for those properties. Many of these financial institutions are also likely to finance these purchases at competitive rates for the City of Berkeley and perhaps for the Thai Temple.

The possible outcome from these suggestions is that the Thai Temple will be able to expand to its full plan while still being able to function in their religious beliefs and traditions. For the neighbors that had been negatively affected it will alleviate a large portion of their grievances.

The extent of relief for those neighbors will be better understood if a study is conducted in order to best gauge the effectiveness of all these possible changes, especially the required height for the extra tall chimney. The City of Berkeley will benefit in three ways. First, it will benefit by attaining a larger library site to better serve the needs of the growing community. Second, it will benefit by preserving the Thai Temple. Third, by bringing a peaceful resolution to the aggrieved neighbors the City of Berkeley will have turned that micro-community into a role model in how to use creative problem solving to better meet the needs of a community.

Ladies and gentlemen of the board, I thank you for your time. I will aim to attend the next meeting of the ZAB where I hope to be available to the board for any questions that you may have.

Sincerely,
Miguel Montes
U.C. Berkeley
Undergraduate/Legal Studies

1923 Oregon St.
Berkeley, CA 94703
February 13, 2009

Steven Ross, Secretary, and
Zoning Adjustment Board Members
2180 Milvia Street
Berkeley, CA 94704

Dear Mr. Ross and Members of the Zoning Adjustment Board:

The Board's vote on Feb. 12, 2009 to approve the Thai Temple application for a use permit found that the Temple's sales to the general public are an integral component of its religious activities, as stated in the staff report. Therefore, any non-profit or religious institution in Berkeley that sells merchandise to the general public and uses the proceeds for its mission may follow the same business model.

Under this model, patrons do not need to participate in the religious or non-profit activities or even be aware of them. They just donate money for a token and then exchange the token for merchandise. This benefits both the patrons and the institution, both of whom do not pay taxes on the sale. This facilitates the institution's ability to raise revenues and possibly win business away from other commercial businesses selling the same merchandise.

The Board's evaluation of the Temple's application followed a process in which most Board members first determined whether they think the institution is good. Since it was, then most Board members considered it unnecessary and potentially intrusive to evaluate the need for minor, routine measures to reduce impacts on other adjacent legal land uses.

Throughout our country's history, businesses have claimed they will not survive financially if they must alter practices to benefit shared uses of a resource. Consider the claims of the auto industry facing emission standards, trucking companies facing highway safety standards, or manufacturers which used to dispose of waste into municipal waterways. Like them, the Temple convinced its patrons – and the Board – that its very survival was at stake (see its web site: "savethethaitemple.com").

We never sought to shut them down or even end their Sunday food service. Indeed, with obvious extensive support, the Temple's survival was never at stake. But the theatrical campaign to "save the temple" worked to overshadow simple considerations that adjacent homeowners expected of a city board whose purview relates not to an evaluation of First Amendment rights for religious freedom, but to local ordinances about noise, odors, parking, crowding and height limits.

Sincerely,

/s/ Carolyn Shoulders