



# Action Minutes

Planning & Development  
Department  
Land Use Planning  
Division

## Zoning Adjustments Board Thursday, July 22, 2010, 7:00 PM

City Council Chambers, 2134 Martin Luther King Jr. Way, Second Floor.  
Berkeley, CA 94704 (Wheelchair Accessible)

**How to Contact Us:** Land Use Planning Division (Attn: Steven Buckley, ZAB Secretary), 2120 Milvia Street, Berkeley, CA 94704; (510) 981-7410; [zab@ci.berkeley.ca.us](mailto:zab@ci.berkeley.ca.us)

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### **Roll Call: 7:04PM**

**Present:** J. Anthony, E. Kopelson, C. Kahn, B. Allen, D. Matthews, M. Cohen, S. Shumer, E. Mikiten

**Excused:** D. Koon

**Substitutions:** C. Kahn for G. Williams

**Public Attendance:** 60

**Number of Speakers:** 32

### **Ex Parte Communication Disclosures**

*In the context of adjudicative matters that come before the ZAB, ex parte communications are those which occur outside the formal hearing process. ZAB members should avoid ex-parte contacts on matters pending before the ZAB as much as possible, as they may represent, or be perceived to represent, the receipt of evidence that can unfairly influence a Board member's decision on a matter before the Board. If such contacts do occur, they must be placed in the record and disclosed to all interested parties sufficiently in advance of the decision to allow rebuttal.*

**B. Allen – discussion with Rena Rickles regarding Item #2 but the appeal has since been withdrawn; also visited 18 Del Mar and had discussions with both neighbors regarding proposed project**

**S. Shumer – discussion with John Quiter (applicant) and residents of 40 Del Mar reiterating previously known information regarding item #11**

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**Public Comment**

*Each Speaker is limited to a maximum of three minutes.*

- **NONE**

**Agenda Changes**

*The Board Chairperson may reorder the agenda at the beginning of the meeting.*

- **Items #3, 7, 8, 12 were added to the consent calendar**
- **Item #6 was moved to be the first hearing item on the agenda**

**Consent Calendar:**

*The Consent Calendar allows the Board to take action with no discussion, on projects to which no one objects. The Agenda includes three types of Consent Calendar items: (1) Approval of previous meeting minutes; (2) Modifications of existing Use Permits (which have not been noticed for public hearings); (3) 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 pm. The Board may place additional Agenda 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.*

|           |                                                                       |
|-----------|-----------------------------------------------------------------------|
| <b>1.</b> | <b>Approval of Previous Meeting Minutes</b>                           |
|           | Minutes from <b>06/24/10</b> meeting                                  |
|           | <b>Recommendation: APPROVE</b>                                        |
|           | <b>Action APPROVED</b>                                                |
|           | <b>Motion: B. Allen, S. Shumer</b>                                    |
|           | <b>VOTE: 6-0-2-1; (Abstain: E. Mikiten, C. Kahn; Absent: D. Koon)</b> |

- **Items #3, 7, 8, 12 were added to the consent calendar and adopted as part of the motion**

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**Appeal of Administrative Use Permit/Staff Level Design Review:**

*Appeals of Administrative Use Permit and Design Review applications 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 or Design Review Secretary's decision.*

|           |                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |                                                                                                                                  |
|-----------|-----------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| <b>2.</b> | <b>1537 Delaware Street</b> | <p><b>Appeal of Administrative Use Permit #10-20000007</b> to construct a new accessory building with virtually the same footprint and height as the previous structure, containing 280 sq. ft. one-car garage and approximately 477 sq. ft. of habitable space to be used as an art studio, including a half bathroom with a toilet and sink and to establish a hot tub within the rear yard approximately 50' from the rear property line and 5'5" from the west side property line.</p> <p>Zoning: R-2 Restricted Two Family Residential; Planner: Nathan Dahl</p> |                                                                                                                                  |
|           |                             | <p>Applicant: Erick Mikiten, 2415 Fifth Street, Berkeley, CA 94710<br/>                 Owner: Mark McGoldrick, 1537 Delaware Street, Berkeley, CA 94701<br/>                 Appellant: Ron Lai, c/o Colette Meunier, 564 Sandy Way, Benicia, CA 94510</p>                                                                                                                                                                                                                                                                                                           |                                                                                                                                  |
|           |                             | <b>Continued From:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>NONE</b>                                                                                                                      |
|           |                             | <b>Recommendation:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | <b>DENY</b> the appeal and <b>UPHOLD</b> the Zoning Officer's decision to approve the project subject to Findings and Conditions |
|           |                             | <b>Action:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        | <b>APPEAL WITHDRAWN – No Action</b>                                                                                              |

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**Continued Items (Public Hearing has been closed):**

|           |                                      |                                                                                                                                                                                                                                                                                           |
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| <b>3.</b> | <b>2004-06 Delaware Street</b>       | <p><b>Use Permit #09-1000052</b> to alter and raise a portion of the roof line on a duplex at a property that exceeds the maximum lot coverage standards for the district.<br/>                 Zoning: R-2A Restricted Multiple Family Residential District; Planner: Pamela Johnson</p> |
|           |                                      | <p>Applicant: Sally Lang, Bliss design/build, 4132 Shafter Avenue, Oakland, CA 94609<br/>                 Owner: Sylvia Spengler, Oliver Goldschmidt, and Francoise Sorgen Goldschmidt, 2006 Delaware Street, Berkeley. CA 94709</p>                                                      |
|           | <b>Continued From:</b>               | <b>June 24, 2010</b>                                                                                                                                                                                                                                                                      |
|           | <b>Recommendation:</b>               | <b>APPROVE</b> revised design subject to Findings & Conditions                                                                                                                                                                                                                            |
|           | <b>Action:<br/>Motion:<br/>VOTE:</b> | <b>APPROVED as part of Consent Calendar<br/>B. Allen, S. Shumer<br/>7-0-1-1 (Abstain: E. Mikiten; Absent: D. Koon)</b>                                                                                                                                                                    |

**Continued Public Hearings:**

|           |                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>4.</b> | <b>2940 Benvenue Avenue – Claremont Branch Library</b>                                                                                                                     | <p><b>Use Permit # 10-1000027</b> to construct an addition of approximately 340 square feet to the existing Claremont Branch Library, and make other interior and exterior improvements. Includes modification of lot coverage requirement, subject to a pending zoning amendment.<br/>                 Zoning: R-2A Restricted Multiple Family Residential District; Planner: Aaron Sage</p> |
|           |                                                                                                                                                                            | <p>Applicant/Architect: Gould Evans Baum Thornley, Inc., 95 Brady Street, San Francisco, CA 94103<br/>                 Owner: Donna Corbeil, Director of Library Services, 2090 Kittredge Street, Berkeley, CA 94704</p>                                                                                                                                                                      |
|           | <b>Continued From:</b>                                                                                                                                                     | <b>June 24, 2010</b>                                                                                                                                                                                                                                                                                                                                                                          |
|           | <b>Recommendation:</b>                                                                                                                                                     | <b>APPROVE</b> subject to Findings & Conditions                                                                                                                                                                                                                                                                                                                                               |
|           | <b>Action:<br/>Motion:<br/>VOTE:</b>                                                                                                                                       | <b>APPROVED with amended conditions<br/>B. Allen, J. Anthony<br/>8-0-0-1 (Absent: D. Koon)</b>                                                                                                                                                                                                                                                                                                |
|           | <p><b>Number of Speakers: 9</b><br/> <i>** This item was presented with Item #5; hence the number of speakers reflects the total number of speakers for both items</i></p> |                                                                                                                                                                                                                                                                                                                                                                                               |

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| <b>5.</b>                                                                                                                                                         | <b>1170 The Alameda – North Branch Library</b> | <p><b>Use Permit # 10-1000028</b> to construct an addition of approximately 3,850 square feet to the existing North Branch Library, and make other interior and exterior improvements. Includes modification of parking and lot coverage requirements, subject to a pending zoning amendment.<br/>Zoning: R-1 Single Family Residential District; Planner: Aaron Sage</p> |                                                 |
|                                                                                                                                                                   |                                                | <p>Applicant/Architect: Architectural Resources Group, Pier 9, The Embarcadero, San Francisco, CA 94111<br/>Owner: Donna Corbeil, Director of Library Services, 2090 Kittredge Street, Berkeley, CA 94704</p>                                                                                                                                                             |                                                 |
|                                                                                                                                                                   |                                                | <b>Continued From:</b>                                                                                                                                                                                                                                                                                                                                                    | <b>June 24, 2010</b>                            |
|                                                                                                                                                                   |                                                | <b>Recommendation:</b>                                                                                                                                                                                                                                                                                                                                                    | <b>APPROVE</b> subject to Findings & Conditions |
| <b>Number of Speakers: 9</b><br><i>** This item was presented with Item #4; hence the number of speakers reflects the total number of speakers for both items</i> |                                                | <b>Action:</b>                                                                                                                                                                                                                                                                                                                                                            | <b>APPROVED with amended conditions</b>         |
|                                                                                                                                                                   |                                                | <b>Motion:</b>                                                                                                                                                                                                                                                                                                                                                            | <b>B. Allen, J. Anthony</b>                     |
|                                                                                                                                                                   |                                                | <b>VOTE:</b>                                                                                                                                                                                                                                                                                                                                                              | <b>8-0-0-1 (Absent: D. Koon)</b>                |

**New Hearings:**

|                               |                           |                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |                                                 |
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| <b>6.</b>                     | <b>1819 Solano Avenue</b> | <p><b>Use Permit #10-1000044</b> to: 1) exceed the quota for Food Service Restaurants in the Solano Avenue Commercial (C-SO) District and establish a quick service restaurant in a 1,008 square foot commercial tenant space; 2) waive three (3) required off-street parking spaces; and 3) establish a sidewalk bench and two sidewalk planter boxes in the public right of way.<br/>Zoning: C-SO Solano Avenue Commercial District; Planner: Lief Bursell</p> |                                                 |
|                               |                           | <p>Applicant: Laura Dalrymple, 6 Indian Rock Path, Berkeley, CA 94707<br/>Owner: Arthur Tom, 13056 Ten Oak Way, Saratoga, CA 95070</p>                                                                                                                                                                                                                                                                                                                           |                                                 |
|                               |                           | <b>Continued From:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>NONE</b>                                     |
|                               |                           | <b>Recommendation:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                           | <b>APPROVE</b> subject to Findings & Conditions |
| <b>Number of Speakers: 10</b> |                           | <b>Action:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>APPROVED</b>                                 |
|                               |                           | <b>Motion:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                   | <b>E. Mikiten, J. Anthony</b>                   |
|                               |                           | <b>VOTE:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>7-1-0-1 (No: S. Shumer; Absent: D. Koon)</b> |

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| <b>7.</b> | <b>3240 Sacramento Street</b> | <p><b>Modification #10-7000007</b> to Use Permit #08-10000127 to reduce off-street parking for an approved 4-story mixed-use development for transition-age youth from spaces 3 to 2.<br/>Zoning: C-SA South Area Commercial District; Planner: Aaron Sage</p> |                                                                                                                                             |
|           |                               | <p>Applicant: Affordable Housing Associates, c/o Teresa Clarke, 1250 Addison Street, Suite G, Berkeley, CA 94702</p>                                                                                                                                           |                                                                                                                                             |
|           |                               | <b>Continued From:</b>                                                                                                                                                                                                                                         | <b>NONE</b>                                                                                                                                 |
|           |                               | <b>Recommendation:</b>                                                                                                                                                                                                                                         | <b>APPROVE</b> subject to Findings & Conditions                                                                                             |
|           |                               | <p><b>Action:</b><br/><b>Motion:</b><br/><b>VOTE:</b></p>                                                                                                                                                                                                      | <p><b>APPROVED as part of Consent Calendar</b><br/><b>B. Allen, S. Shumer</b><br/><b>7-0-1-1 (Abstain: E. Mikiten; Absent: D. Koon)</b></p> |

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| <b>8.</b> | <b>2900 College Avenue</b> | <p><b>Use Permit #10-10000046</b> to allow incidental beer and wine service at an existing restaurant (Elmwood Café).<br/>Zoning: C-E Elmwood Commercial District; Planner: Leslie Mendez</p> |                                                                                                                                             |
|           |                            | <p>Applicant: Kent Royle, Marcy Wong, Donn Logan Architects, 800 Bancroft Way, Berkeley, CA 94701<br/>Owner: Hal Brandel, 1933 Francisco Street, Berkeley, CA 94709</p>                       |                                                                                                                                             |
|           |                            | <b>Continued From:</b>                                                                                                                                                                        | <b>NONE</b>                                                                                                                                 |
|           |                            | <b>Recommendation:</b>                                                                                                                                                                        | <b>APPROVE</b> subject to Findings & Conditions                                                                                             |
|           |                            | <p><b>Action:</b><br/><b>Motion:</b><br/><b>VOTE:</b></p>                                                                                                                                     | <p><b>APPROVED as part of Consent Calendar</b><br/><b>B. Allen, S. Shumer</b><br/><b>7-0-1-1 (Abstain: E. Mikiten; Absent: D. Koon)</b></p> |

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| <b>9.</b>                    | <b>1436 Carleton Street</b><br><b>Administrative Use Permit #10-2000046</b> to demolish an existing 240 sq. ft. garage and construct a 581 sq. ft. accessory building containing a parking space and habitable floor area including a workshop and half bathroom (toilet and sink).<br>Zoning: R-1 Single Family Residential District; Planner: Nathan Dahl |
|                              | Applicant/Owner: Ryan Lau, 1436 Carleton Street, Berkeley, CA 94702<br>Other Party: Lorna Kollmeyer, 1440 Carleton Street, Berkeley, CA 94702                                                                                                                                                                                                               |
|                              | <b>Continued From:</b> NONE                                                                                                                                                                                                                                                                                                                                 |
|                              | <b>Recommendation:</b> APPROVE subject to Findings & Conditions                                                                                                                                                                                                                                                                                             |
| <b>Number of Speakers: 5</b> | <b>Action:</b> APPROVED<br><b>Motion:</b> C. Kahn, J. Anthony<br><b>VOTE:</b> 7-1-0-1 (No: E. Mikiten; Absent: D. Koon)                                                                                                                                                                                                                                     |

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| <b>10.</b>                   | <b>2806 Stuart Street</b><br><b>Administrative Use Permit #09-20000155</b> to construct a 153 sq. ft. accessory building containing a half bathroom (toilet and sink) in the southwest corner of the lot.<br>Zoning: R-2 Restricted Two Family Residential District; Planner: Nathan Dahl |
|                              | Applicant/Owner: Phyllis O'Neil, 1912 7 <sup>th</sup> Street, Berkeley, CA 94710                                                                                                                                                                                                          |
|                              | <b>Continued From:</b> NONE                                                                                                                                                                                                                                                               |
|                              | <b>Recommendation:</b> APPROVE subject to Findings & Conditions                                                                                                                                                                                                                           |
| <b>Number of Speakers: 1</b> | <b>Action:</b> APPROVED<br><b>Motion:</b> B. Allen, S. Shumer<br><b>VOTE:</b> 8-0-0-1 (Absent: D. Koon)                                                                                                                                                                                   |

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| <b>11.</b>                   | <b>18 Del Mar Avenue</b><br><b>Administrative Use Permit #09-20000102</b> to enlarge an existing 1,399 sq. ft. single family residence by constructing a 283 sq. ft. addition, resulting in a new 1,682 sq. ft. residence, increasing the average height from 18' to 22', and to vertically extend a non-conforming front and rear yard setback.<br>Zoning: R-1(H) Single Family Residential – Hillside District; Planner: Pamela Johnson                                                       |
|                              | Applicant/Owner: John and Elaine Quiter, 3286 Keeshen Drive, Los Angeles, CA 90066                                                                                                                                                                                                                                                                                                                                                                                                              |
|                              | <b>Continued From:</b> NONE                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                              | <b>Recommendation:</b> APPROVE subject to Findings & Conditions                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Number of Speakers: 7</b> | <b>Action:</b> Continued to Sept. 9, 2010 with direction that (1) the applicant has mediation with neighbors on the overall design of the project, and (2) Board members visit the site to observe affected views, and (3) applicant provides both basement and second floor plans as well as a section through the house (might also be helpful to include before/after outlines of the entire house/site)<br><b>Motion:</b><br><b>VOTE:</b> B. Allen, J. Anthony<br>8-0-0-1 (Absent: D. Koon) |

|            |                                                                                                                                                                                                                                                                   |
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| <b>12.</b> | <b>1760 Solano Avenue</b><br><b>Use Permit Modification #09-70000017</b> to modify the T-Mobile wireless telecommunication facility approved by AUP #98-20000229 to allow the replacement of three existing antennas and permit one additional equipment cabinet. |
|            | Applicant: T-Mobile Communications, c/o Alex Morin, 1888 Golden Gate #20, San Francisco, CA 94112<br>Owner: Arnold and Dorothy Intorf Trust, c/o Stephen Ng, 1760 Solano Avenue, Berkeley                                                                         |
|            | <b>Continued From:</b> NONE                                                                                                                                                                                                                                       |
|            | <b>Recommendation:</b> DENY subject to Findings & Conditions                                                                                                                                                                                                      |
|            | <b>Action:</b> CONTINUED TO August 12, 2010<br><b>Motion:</b> B. Allen, S. Shumer<br><b>VOTE:</b> 7-0-1-1 (Abstain: E. Mikiten; Absent: D. Koon)                                                                                                                  |

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**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

**Adjourn: 10:48PM**

*[Approved for posting by Steven Buckley, Secretary, Zoning Adjustments Board]*

### **Correspondence and Notice of Decision Requests**

- Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.
- **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 or if in color or photographic format.
- Correspondence received by the 5:00 pm Tuesday before the meeting will be posted on the ZAB web site for review by the Board and public prior to the meeting. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.
- 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: Steven Buckley, ZAB Secretary), 2120 Milvia Street, Berkeley, CA 94704 OR at [zab@ci.berkeley.ca.us](mailto:zab@ci.berkeley.ca.us)



### **Accessibility Information / ADA Disclaimer**

This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting.

### **SB 343 Disclaimer**

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Permit Service Center,

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Planning and Development Department located at 2120 Milvia Street, Berkeley, during regular business hours.

**Notice Concerning Your Legal Rights**

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.
2. 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 Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit 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). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. 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.