



Planning and  
Development Department  
Land Use Planning  
Division

# ACTION MINUTES

## Zoning Adjustments Board Thursday, January 10, 2008 -- 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

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### Roll Call: 7:05 PM

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

**Absent:** S. Shumer, J. Arreguin

**Public Attendance:** ~10

### 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.*

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Item 1. 1923 Ninth moved to Consent Calendar for continuance to 01/24/08

Item 2. 1799-F Fourth moved to Consent Calendar for approval

Item 3. 2323 San Pablo moved to Consent Calendar for approval

Item 4. 1456 Fourth moved to Consent Calendar for approval

Item 6. 2136 Center moved to Consent Calendar for approval

**Agenda Changes**

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

**Appeal of Administrative Use Permit: NONE**

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

**1. 1923 Ninth**

Applicant: JDIP, LLC, Attention Justin Jee, 480 Second Street, Suite 203, San Francisco, CA 94107

Use Permit #07-10000063 to demolish two existing residential buildings containing a total of five dwelling units and construct two three-story buildings containing 15 condominium dwelling units, over an 18-space below-grade parking garage. (R-3, Multiple Family Residential District; CM/GP)

**Continued From: December 13, 2007**

**Recommendation: Continue to 01/24/08 at the request of the applicant.**

**Action: Continued to 01/24/08 (7-0-0-2;  
Absent: Arreguin, Shumer)**

**Continued Public Hearings: NONE**

**Compliance Determination: NONE**

**New Hearings:**

**2. 1799-F Fourth Street**

Applicant: George Masarweh, 7 Beaumont Court, Lafayette, CA 94549

Use Permit #07-10000129 to convert an existing quick service restaurant to a full service restaurant and to allow beer and wine sales and service; (MU-R, Mixed-Use-Residential, FC/HY).

**Continued From: None**

**Recommendation: Approve**

**Action: Approved on Consent (7-0-0-2;  
Absent: Arreguin, Shumer)**

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**3. 2323 San Pablo Avenue**

Applicant: David Villarina, 2323 San Pablo Avenue, Berkeley, 94702

Use Permit #07-10000088 to establish retail sales of used automobiles in existing auto repair building on an 11,800 square foot lot; 10 parking spaces exist on adjacent lot under same ownership; (C-W, West Berkeley Commercial, AS)

**Continued From: None**  
**Recommendation: Approve**  
**Action: Approved on Consent (7-0-0-2;**  
**Absent: Arreguin, Shumer)**

**4. 1456 Fourth Street**

Applicant: Fourth and Jones, LLC, 626 Bancroft Way, Suite 3D, Berkeley, CA 94710

UP #07-10000111 change use of approximately 33 percent of existing 7,700 square foot warehouse to a testing laboratory on a 7,300 square foot lot; 9 on-site parking spaces exist (MU-LI, Mixed Use-Light Industrial; AS/JWC)

**Continued From: None**  
**Recommendation: Approve**  
**Action: Approved on Consent (7-0-0-2;**  
**Absent: Arreguin, Shumer)**

**5. 1350-1354 Neilson Street**

Applicant: Isaiah Stackhouse for Trachtenberg Arch. 2421 4<sup>th</sup> St., Berkeley, CA 94710

Use Permit #07-10000095 to demolish a three story triplex and detached two car garage and construct a three story triplex and detached single car garage: (R-2, Restricted Two-Family Residential, GMS)

**Continued From: None**  
**Recommendation: Approve**  
**Action: Approved with changes (7-0-0-2;**  
**Absent: Arreguin, Shumer)**

**6. 2136 Center Street**

Applicant: Oxford Development Group LP, 1442A Walnut Street #116, Berkeley, CA 94709

Use Permit #07-10000134 to modify Use Permit #99-10000002 by decreasing the open space, revising the east and south façades, increasing the height by 32 inches, adding a coffee bar, and increasing the parking from 37 to 51 spaces; (C-2, Central Commercial, GMS)

**Continued From: None**  
**Recommendation: Approve**  
**Action: Approved on Consent (7-0-0-2;**  
**Absent: Arreguin, Shumer)**

**Additional Agenda Items:**

- A. Information/Communication
  - 2008 ZAB schedule – no changes**
  - Policy for accepting speaker cards – set for agenda item at next ZAB meeting**
- B. Business Meeting
- C. Chair's Report

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- D. Current Business/Committee Appointment
- E. Future Agenda Items
- F. Other Matters
- G. Adjourn **7:30PM**

### **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](mailto: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 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]*

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