



Planning and
Development Department
Land Use Planning
Division

Agenda

Zoning Adjustments Board Thursday, January 24, 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

Roll Call:

Public Comment

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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1. 2081 Addison Street

Applicant: Brian Rawlinson, Architect, 2161 Shattuck Avenue #307 , Berkeley, CA 94704
UP Modification #07-70000024 to expand existing Aurora Theatre for additional facility support space into existing retail space; (C-2, Central District - Arts District Overlay, J.W. Claiborne/G. Powell)

Continued From: None
Recommendation: Approve

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):

2. 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, January 10, 2008
Recommendation: Continue to February 14, 2008

Continued Public Hearings:

3. 1441 Ashby Ave

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

Use Permit #07-10000046 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: November 26, 2007
Recommendation: Continue to February 28, 2008

Compliance Determination: NONE

New Hearings:

4. 1796 Shattuck Avenue

Applicant: Ayman Morror – 1796 Shattuck Ave., Berkeley, CA 94709

Use Permit Modification #07-70000022 to legalize the conversion of Carry Out Food Service Store serving frozen treats to a cafe-style, Quick Service Restaurant with seating; to reduce the incremental parking requirement for this Change of Use; and extend the hours of operation.(Fatema Crane, C-1, General Commercial)

Continued From: None
Recommendation: Approve

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Additional Agenda Items:

- A. Information/Communication
 - **Policy for accepting speaker cards**
- 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 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

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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.