MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
TUESDAY, DECEMBER 03, 2002
7:00 PM

CITY COUNCIL CHAMBERS, OLD CITY HALL
2134 MARTIN LUTHER KING JUNIOR WAY
BERKELEY, CALIFORNIA 94704

CONSSENT CALENDAR PROCEDURES

Due to the length of the Zoning Adjustments Board agenda, a Consent Calendar will be used to Approve certain types of applications at one time. The Consent Calendar is divided into two parts:

Consent Calendar I
- Routine business such as modifications of use permits which are not subject to a public hearing and items proposed for continuance. (Please note that items proposed for continuance to a date certain will not be re-noticed by mail or posting on site.)

Consent Calendar II
- Public hearings on use permits and variances that are apparently non-controversial, on which no adverse comment has been received, and on which the Zoning Officer recommends approval.

The Chairperson of the Board will announce the items on the Consent Calendar at 7:05 p.m. 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. Any applicant, member of the audience, or Zoning Adjustments Boardmember may require that a Consent Calendar II item be removed from the Calendar for discussion and testimony. Items pulled from the Consent Calendar will be heard following Continued Items.

PUBLIC TESTIMONY PROCEDURES

The Board may limit the number of speakers and the length of time allowed to each speaker. Persons wishing to offer testimony are encouraged to submit their comments in writing. You may also submit comments by E-mail at zab@ci.berkeley.ca.us. If you want to speak at a public hearing, you must turn in a speaker card by 7:15 p.m. on the night of the hearing. Cards may also be submitted at the Zoning Counter at 2120 Milvia Street prior to 5 p.m. on the day of the hearing.

Note: Please refrain from wearing scented products to public meetings.
Roll Call 7:00 PM

Public Comment 7:00 PM

Consent Calendar I

1. **2116 ALLSTON WAY**

   Request by Anna De Leon to modify the Conditions of Approval of Use Permit #02-70000014 (and related conditions of approval of UP #97-10000093) to allow a full service restaurant with sidewalk seating within the public right-of-way that includes the related sale of beer, wine and distilled spirits and the provision of live entertainment – UP #02-70000014 (Greg Powell)
   
   **PSA Action Date:** 01-26-03
   **Continued From:** None
   
   **Board Action:** Continued to 12-12-03

2. **901 SANTA BARBARA RD**

   Request by Aaron Vitale to construct a new two story dwelling unit with 1,875 square feet of residential floor area with detached garage and average height of 15’ on a 5,224 square foot lot area; to reduce the street side setback to allow three foot side yard setback where 4 feet are required – UP 01-10000081 (Carole Kajita)

   **PSA Action Date:** 04-10-03
   **Continued From:** None

   **Board Action:** Continued to 12-12-03

3. **909 SANTA BARBARA RD**

   Request by Aaron Vitale to construct a new two story dwelling unit with 1,990.5 square feet of residential floor area with garage below and average height of 18’5” on a 5,266 square foot lot; to reduce the front yard setback to 11’1” where 20’ is required – UP #01-10000082 (Carole Kajita)

   **PSA Action Date:** 04-10-03
   **Continued From:** None

   **Board Action:** Continued to 12-12-03

Consent Calendar II

None
4. **2575 SAN PABLO AVENUE**

Use Permit #02-1000011 to construct a mixed-use building with 28 senior housing units and 568 square feet of commercial space for a total of 19,944 square feet, 4 stories with an average height of 50 feet, on a 7,442 square foot lot. A total of 8 parking spaces are proposed.

- Use Permit under Sections 23E.64.030 and 23E.64.050.B to construct a mixed-use building over 5,000 square feet of gross floor area (19,944 sq. ft. proposed)
- Variance from Section 23E.64.040E under Section 23C.12.050 and Government Code Section 65915 to allow residential units at ground floor in a commercial node of the C-W District.
- Use Permit under Section 23E.04.050 to reduce the required rear yard setback by 17 feet (zero feet proposed, 10% of lot depth required)
- Use Permit under Section 23E.64.080 to reduce the residential parking requirement by 75% for senior citizens (7 parking spaces proposed, 28 required). The proposed building occupancy is exclusively for senior citizens

- UP #02-1000011 (Hector Lopez)

  PSA Action Date: 03-13-02  
  Continued From: 10-10&24-02; 11-14-02

**Board Action:**
Adopted Mitigated Negative Declaration – 7-0-0 (Katz – Absent) (One Vacancy) and Approved Project – 6-1-0 (Sprague – No) (Katz – Absent) (One Vacancy)

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**New Hearing:**

None

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5. **Administrative Use Permits Approved by the Zoning Officer**

919 Channing Way   921 Channing Way   2582-2588 Milvia St  
2136 Oxford St    1439 Stannage Ave  1800 West Frontage Rd

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6. **Information/Communication**
7. **Business Meeting**

8. **Chair’s Report**

9. **Current Business/Committee Appointments**

10. **Future Agenda Items**
    
    A. Pending Zoning Hearings
    B. City Council Appeals List

11. **Other Matters**

**Adjourn:** 7:50 PM

**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.
Legal Notice Concerning Your Legal Rights – Continued:

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.

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 981-6345 (TDD); at least five (5) working days notice will ensure availability.