MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, DECEMBER 12, 2002
7:00 PM

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

CONSENT 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.
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AGENDA

Roll Call  7:00 PM

Public Comment  7:00 PM

Consent Calendar I

None

Consent Calendar II

None

Continued Hearing

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 food service use with sidewalk seating that includes the related sale of beer, wine and distilled spirits – UP #02-70000014 (Greg Powell)

  PSA Action Date:  01-26-03
  Continued From:  12-03-02

  Board Action: Approved with added conditions – 9-0-0

2.  2076 ASHBY AVENUE

Request by Athan Magganas to construct a residential building with 11 dwellings for a total of 8,788 square feet, 4-stories with a height of 44 feet on a 5,000 square feet lot. A total of 10 parking spaces and 2,000 square feet of open space are proposed.

  - Use Permit under Section 23E.52.030 to construct a 11-unit residential building for a total of 8,788 square feet.
  - Use Permit under Section 23.E.52.070.E to reduce the lot coverage, front, and rear setbacks allowed in the District. The proposed lot coverage is 74.8% (40% permitted), zero feet front yard (15 feet required), and 13 feet rear yard (15 feet required).
- Density bonus under review

Variance from Section 23E.52.070.B.3 to exceed the height limit by 8 feet (44 feet proposed, 36 feet permitted) and number of floors (four proposed, three permitted)
- UP #01-10000089  (Hector Lopez)
  PSA Action Date:  
  Continued From: 07-25-02; 09-12-02; 10-24-02; 11-14-02
  Board Action: Continued to 01-09-03

3. 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: 12-03-02
  Board Action: Continued to 01-09-03

4. 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: 12-03-02
  Board Action: Continued to 01-09-03

New Hearing:

5. 1201 CAMPUS AVENUE
     Request by Diane & Philip Gotanda to construct a 2,828 sq. ft. 3 story single-
     family dwelling on a 9,385 sq. ft. vacant lot – UP #02-10000052  (Aaron Sage)
  PSA Action Date: 2-13-03
  Continued From: None
  Board Action: Approved – 8-0-0  (Blake – Absent)

6. 1320 CEDAR AVENUE
     Request by David Oddoye to demolish and rebuild church – UP #02-1000030
     (Gisele Sorensen)
  PSA Action Date: 01-10-03
  Continued From: None
  Board Action: Approved with added conditions – 9-0-0
7. **1071 CRAGMONT AVENUE**
   Request by Bishwendu Paul to construct new 2 story, 2,666 sq. ft. single family residence – UP #02-10000037 (Gisele Sorensen)
   PSA Action Date: 04-06-03
   Continued From: None
   **Board Action:** Adopted Mitigated Negative Declaration – 9-0-0; Approved Use Permit – 9-0-0

8. **1600 SHATTUCK AVENUE**
   Request by Dennis Martin to construct a wireless telecommunication facility on roof – UP #02-10000053 (Gisele Sorensen)
   PSA Action Date: 01-20-03
   Continued From: None
   **Board Action:** Approved 7-0-2 (Pietras, Sprague – Abstain)

9. **2628 TELEGRAPH AVENUE**
   Request by Casorso Construction to construct a 15,688 square foot mixed use building with 15 dwelling units with 12,965 square feet of residential floor area and 1,577 square feet of non-residential floor area, 4 stories with an average height of 50 feet, on a 6,916 square foot lot. A total of 20 parking spaces are proposed – UP #02-10000020 (Carole Kajita)
   - Use Permit under Section 23E.36.030 and Section 23E.36.070D and E to construct a 15,688 sq. ft., 4 story mixed-use building.
   - Use Permit under Section 23E.36.B to construct a 50 foot mixed use building
   - Use Permit under Section 23C.080.050.C to demolish the existing commercial building over 40 years old.
   PSA Action Date: 01-23-03
   Continued From: None
   **Board Action:** Approved – 9-0-0

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

11. **Information/Communication**

12. **Business Meeting**
    A. Council Referral: Increasing zoning appeal fees - Consideration of data and recommendation by staff

13. **Chair’s Report**
14. **Current Business/Committee Appointments**

15. **Future Agenda Items**

   A. Pending Zoning Hearings
   B. City Council Appeals List

16. **Other Matters**

**Adjourn:** 10:59 PM

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

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.