MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, NOVEMBER 13, 2003
7:00 PM

CITY COUNCIL CHAMBERS, OLD CITY HALL
2134 MARTIN LUTHER KING JUNIOR WAY
BERKELEY, CALIFORNIA 94704
(Wheelchair Accessible)

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 Board member 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.
AGENDA

Roll Call: 7:13 PM

Public Comment: 7:13 PM

Consent Calendar I

1. **3290 ADELINE STREET**
   Request by Andrew Beretvas to establish a 4,000 square foot full-service restaurant; to allow alcoholic beverage sales (beer and wine) incidental to food service and; to provide twelve (12) parking spaces off-site as part of a joint parking agreement with the Progressive Missionary Baptist at 1712 Alcatraz Avenue - #03-10000058 (Hector Lopez)
   PSA Action Date: 11-13-03
   Continued From: None
   **Board Action: Continued off Calendar – 7-0-0 (Capitelli, Weinberger – Absent)**

2. **1626 OREGON STREET**
   Request by Ronald van Leenwaarde to modify Use Permit #03-70000042 to revise the approved floor plan to install interior room partitions for a bedroom – MOD #03-70000042 (Greg Powell)
   PSA Action Date: 11-24-03
   Continued From: None
   **Board Action: Approved – 7-0-0 (Capitelli, Weinberger – Absent)**

Consent Calendar II

None

Appeal of Administrative Use Permit

None
Continued Hearing

3. **2526 DURANT AVENUE**

Request by Ruegg & Ellsworth to demolish the existing Structure of Merit (The Blood House) and construct a mixed-use building with 44 dwelling units (7 affordable) with 29,855 square feet of residential floor area and 2,794 square feet of non-residential floor area, 5 stories, 50-foot average height, on a 10,377 square foot lot with 18 parking spaces proposed. ZAB certified EIR on 06-26-03. The project requires the following permits: Use Permit per Section 23E.56.030 to construct a mixed-use building; Use Permit per Section 23C.08.010 to demolish the existing building; Use Permit per Section 23E.04.020.C to exceed the District height limit of 50 feet; Use Permit per Section 23E.56.050.A.2 to construct more than 1,500 square feet of gross floor area; Density Bonus: Variance to allow fifth story where four are normally allowed and a Use Permit to allow the reduction in the required rear yard (13-feet) adjacent to the R-4 District – UP #00-10000066 (Greg Powell)

PSA Action Date: 05-10-02
Continued From: 06-12&26-03; 07-10&24-03; 08-28-03; 09-25-03; 10-23-03

**Board Action:** Moved to CCI and Continued to 12-01-03 – 7-0-0 (Capitelli, Weinberger – Absent)

New Hearing

4. **2861 BUENA VISTA WAY**

Request by Andrew Fischer of Regan Bice Architects to construct a single family dwelling; to construct an accessory dwelling unit without providing a second off-street parking space; to waive the off-street parking accessory dwelling unit; to exceed the average height limit of 28 feet for main buildings by about 3 feet, 6 inches; to exceed the maximum height limit of 35 feet for main buildings by about 3 feet and; to reduce the front building setback from 20 feet to 4 feet – UP #03-10000010 (Aaron Sage)

PSA Action Date: 02-09-04
Continued From: None

**Board Action:** Continued to 12-11-03 – 7-0-0 (Capitelli, Weinberger – Absent)

5. **1862 EUCLID AVENUE**

Request by John Gutierrez to allow a food service establishment (quick service) and to waive seven (7) off-street parking spaces – UP #03-10000043 (Hector Lopez)

PSA Action Date: 11-13-03
Continued From: None

**Board Action:** Continued to 12-01-03 – 7-0-0 (Capitelli, Weinberger – Absent)
New Hearing – Continued:

6. **2101 MILVIA STREET**  
   Request by Jim Novosel to establish a quick-service restaurant consisting of 1,505 square feet of non-residential floor area, 33 seats and 3 parking spaces – UP #03-20000097 (Greg Powell)  
   PSA Action Date: 12-23-03  
   Continued From: None  
   **Board Action:** Moved to CCII and approved – 7-0-0  
   (Capitelli, Weinberger – Absent)

7. **2746 PRINCE STREET**  
   Public Hearing of Appeal of Administrative Use Permit to construct an accessory structure with an average roof height of 10 feet and actual roof height of approximately 8’-6” at the east, west and south property lines which runs from the east side property line to the west side property line, abutting the south (rear) property line, for a total width of 38’-10”, with a roof height of approximately 8’-6” at the east, west, and south property lines with a depth varying between 16’-7-1/2” and 17’ and with habitable space for an art studio, recreation room, and storage room in the interior – AUP #02-2000159 (Lucy Armentrout-Ma)  
   PSA Action Date: None  
   Continued From: None  
   **Board Action:** Approved with modification – 5-2-0 (Allen, Sprague – No) (Capitelli, Weinberger – Absent)

8. **2500 SAN PABLO AVENUE**  
   Request by Caffe Trieste, LLC to operate a quick service restaurant; to allow hours of operation from 7:00 AM to 11:00 PM, daily; to allow sidewalk café seating; to designate 10% of parking required for a use for bicycle and/or motorcycle parking and; to modify an existing Use Permit to reduce by one-space parking requirement - #03-10000065 (Steve Solomon)  
   PSA Action Date: 12-16-03  
   Continued From: None  
   **Board Action:** Moved to CCII and approved – 7-0-0  
   (Capitelli, Weinberger – Absent)
9. **1400 SUMMIT ROAD**

Request by Robert and Colette Denton to construct a 2,797 square foot dwelling on a 5,424 square foot vacant lot and to reduce the required 20 foot front yard setback for the main structure by 8 feet (12 feet proposed) and 19 feet (12 inches proposed) for the carport – UP #03-10000055 (Hector Lopez)

PSA Action Date: 11-11-03
Continued From: None

**Board Action:** Moved to CCII and approved – 7-0-0

(Capitelli, Weinberger – Absent)

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

   80-90 Bolivar Dr   1638 Carleton St   2132 Derby St
   44 El Camino Real  923 Euclid Ave      2628 Grant St
   1012 Mariposa Ave  2150 Shattuck Ave   2855 Telegraph Ave
   1148 Walnut St    1600 West Frontage Rd 1864 Yosemite Rd

11. **Information/Communication**

   A. Thousand Oaks Neighborhood Association Newsletter

12. **Business Meeting**

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**
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.

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.