ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, JANUARY 13, 2005
7:00 PM

CITY COUNCIL CHAMBERS, OLD CITY HALL
2134 MARTIN LUTHER KING JUNIOR WAY
BERKELEY, CA  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 includes:

- 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.)

- 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 item be removed from the Calendar for discussion and testimony (if already posted for hearing). 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 PM 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

Public Comment

Consent Calendar

Continued Hearings:

1. **1414 HARMON STREET**
   Request by Richard Schwarzmann to construct 5 dwelling units in three new buildings and raise existing dwelling to construct new dwelling below; project adds 6,368 square feet of floor area and 6 parking spaces to 11,200 square foot lot – UP #04-10000058 (Aaron Sage)
   
   **Continued From:** December 9, 2004  
   **Recommendation:** Approve

2. **1952-1956 UNIVERSITY AVENUE:**
   Request by Jim Novosel, Architect, to demolish a vacant dwelling and construct a new dwelling of similar size, convert 7 vacant dwellings to office use, and construct 3,545 square feet of new commercial space for two full-service restaurants with incidental beer and wine service; no off-street parking will be provided – UP #04-10000061 (Aaron Sage)
   
   **Continued From:** December 9, 2004  
   **Recommendation:** Approve

Appeal of Administrative Use Permit

NOTE: Appeals of Administrative Use Permit are not subject to public hearing and no public testimony will be taken at this time. The Board can choose to set the matter for public hearing, or affirm the decision of the Zoning Officer to grant the permit.

3. **5 ALAMO AVENUE**
   Appeal of AUP #03-20000188 to construct 45 square foot 2-story addition, vertically and horizontally extending a wall within a non-conforming rear yard. AUP #03-20000188 (Lucy Armentrout).
   
   **Continued From:** None  
   **Recommendation:** Affirm Zoning Officer’s Decision and Deny Appeal
New Hearings:

4. **2140 DURANT AVENUE**
   Mixed-use project to include a bookstore/café, administrative offices, living accommodations (dormitory beds and dwellings), meeting rooms, classrooms, library and an assembly hall – UP #04-10000022 (Greg Powell)
   
   Continued From: None
   Recommendation: Adopt Mitigated Negative Declaration and Continue Hearing on Use Permit

5. **1650 LA VEREDA ROAD**
   Add approximately 900 square feet to an existing single-family dwelling with two stories and approximately 4,496 square feet on a 9,000-square-foot lot; existing single-car carport will be maintained. AUP#02-20000125. (Aaron Sage)
   
   Continued From: None
   Recommendation: Approve

6. **1788 FOURTH STREET**
   Request by Dona Savitsky and Thomas Schnetz to establish incidental sales of beer and wine for consumption in the interior premises (indoor dining room) of an existing food service use (“Tacubaya”) and to extend the restaurant closing time from 4:00 PM to 9:00 PM. UP #04-10000094 (Lucy Armentrout)
   
   Continued From: None
   Recommendation: Approve

7. **2308 FULTON STREET**
   Modify UP#02-10000009 - commercial space: allow conversion to 2-5 units and allow use for food svc or retail with food svc hrs of 7am to 11pm (MOD 04-70000050) (Lucy Armentrout)
   
   Continued From: None
   Recommendation: Approve

8. **1797 SHATTUCK AVENUE**
   Modify UP#01-10000027: allow commercial conversion of two units into 2 – 7 units; allow food service and retail uses; allow food service hours from 7 AM to 11 PM. (MOD 04-70000050) (Lucy Armentrout).
   
   Continued From: None
   Recommendation: Approve

9. **Information/Communication**
   A. Discuss rescheduling of February 10, 2005 ZAB meeting.
   C. December 17, 2004 letter to City of Albany, Re: St. Mary’s Noncompliance with Conditional Use Permit.”

10. Business Meeting

11. Chair’s Report

12. Current Business/Committee Appointments

13. Future Agenda Items

14. Other Matters

15. Adjourn

**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 “tacking” 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.