MEETING SUMMARY

ZONING ADJUSTMENTS BOARD AGENDA
THURSDAY, FEBRUARY 24, 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 7:05 PM

Attendance All present, Royce Kelly (for Tiedemann)

Public Comment 7:05 PM

Consent Calendar

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 or deny the decision of the Zoning Officer to grant the permit.

New Hearings:

1. 1729 ASHBY AVENUE
   Request by Mr. Thiele Obrien
   Construct a two-story, 2,480-square foot, single-family dwelling with an average height of 24’ 3”; two parking spaces would be provided.
   UP #04-10000047 (Steve Solomon)
   Continued From: None
   Recommendation: Approve with conditions

   Katz moved to approve as recommended by staff; Blake motioned the approval; Sprague seconded the motion; all voted to approve, motion passed.
   Board Action: Approved- 9-0-0

2. 1509-13 SHATTUCK AVENUE
   Request by Elite Properties
   Modify Administrative Use Permit #03-20000167 to establish four spaces (A, B, C and D) at 1513 Shattuck Avenue (The Mercado) and to modify Use Permit # 04-10000010 to allow wine sales with wine tasting to relocate on the ground floor in a space not to exceed 1,200 sq. ft.; ABC permit types 20 and 42– UP MOD#05-70000003 (Stephen Ford)
   Continued From: None
   Recommendation: Approve with conditions

   Metzger recused himself; Blake motioned to approve as recommended by staff; Anthony seconded the motion; Sprague objected; remaining voted to approve, motion passed.
   Board Action: Approved- 7-1-0-1 (Sprague NO) (Metzger recused)
3. **1698 UNIVERSITY AVENUE**  
Request by Pacific Bay Investments  
Remand from City Council of appeal of Use Permit #03-10000025 to adopt changes necessary to make project consistent with provisions of State density bonus law in effect when project was last considered by ZAB, to require construction of sidewalk bulb-out prior to completion of project, and to require a “left turn only” sign at the project’s exit driveway. Project approved by ZAB is a 5-story mixed-use building with 50-foot average height, 25,555 square feet of residential floor area, 25 for-sale dwelling units (including 4 below market rate), 2,852 square feet of ground-floor commercial space (including café), and 32 parking spaces, on a 10,000-square-foot lot—UP #03-10000025 (Aaron Sage)  
**Continued From:** None  
**Recommendation:** Continue to March 10  
**Board Action:** Moved to Consent and Approved; continued to March 10 (9-0-0)  

3. **Information/Communication**  
Thousand Oaks Neighborhood Association Newsletter  

4. **Business Meeting**  
Election of Chair/Vice-Chair  
Allen nominated Katz for Chairperson, Anthony seconded the nomination, all voted for nominee.  
**Board Action:** Approved- 9-0-0  
For Vice-Chair: Anthony nominated Blake, Allen nominated Tiedemann, Kelly moved to postpone election until Tiedemann returns March 10, all approval.  
**Board Action:** Approved- 9-0-0  

6. **Chair’s Report**  
7. **Current Business/Committee Appointments**  
8. **Future Agenda Items**  
9. **Other Matters**  
10. **Adjourn 7:40 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.

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 981-7474 (TDD); at least five (5) working days notice will ensure availability.