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 Board member 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.
ZONING ADJUSTMENTS BOARD ACTION MINUTES
THURSDAY, OCTOBER 27, 2005
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AGENDA

Roll Call   Call to order 7:02 PM.
All Present. Shirley Dean substituting for Bob Allen.
Approximate Public Attendance: 65 people.

Public Comment  Opened: 7:05 PM
No speakers
Closed: 7:07 PM

Consent Calendar  1111 Shattuck Avenue moved to the consent calendar

1.  3332 ADELINE STREET
Use Permit #04-20000148 to allow the co-location of four wireless antennas and related ground-level equipment cabinets at an existing wireless telecommunications site (Phillips Temple Church aka, Lorin Theater); (C-SA, SRF)
Continued From: September 8, 2005
Recommendation: Continue to November 10, 2005
Action Taken: Continued to November 10, 2005 (9-0-0-0)

Agenda Changes

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.

2.  1616 Delaware
Requested by: Larry Orman / Marie Ashe – 1616 Delaware Street, Berkeley, CA 94703.
Appealed by: Merrilie Mitchell – 1612 Delaware Street, Berkeley, CA 94703
APPEAL of AUP#05-20000019 to convert roughly 354 square feet of attic space to habitable space, build a new stair, construct a dormer, and lower the height of an existing interior attic wall so the habitable attic space is open to the family room below; (R-2, JH).
Continued From: None
Recommendation: Affirm Zoning Officer Decision and Deny Appeal
Action Taken: Affirmed Zoning Officer’s Decisions and Denied Appeal (8-0-1-0) (Abstain: Metzgar)

File: ac10272005
Continued Items:

3. **2440 SACRAMENTO AVENUE**
   Request by Code Enforcement Staff
   Continued item (not a public hearing) to adopt a resolution which determines that a nuisance exists at this address and that specifies appropriate remedies pursuant to BMC 23B.64.020.B. (G. Daniel)
   
   **Continued From:** 08/25/05; 09/22/05; 10/6/05
   **Recommendation:** Adopt Resolution
   **Action Taken:** Adopted Resolution with changes (9-0-0-0)

4. **2369 TELEGRAPH AVENUE**
   Request by Code Enforcement Staff
   Continued item (not a public hearing) to adopt a resolution which determines that a nuisance exists at this address and that specifies appropriate remedies pursuant to BMC 23B.64.020.B. (G. Daniel)
   
   **Continued From:** 08/25/05; 09/22/05; 10/6/05
   **Recommendation:** Adopt Resolution
   **Action Taken:** Adopted Resolution with changes (9-0-0-0)

New Hearings:

5. **636 Santa Barbara Road**
   Requested by: Gregory W. Lemley, Turman & Associates, P.O. Box 2611 Berkeley, CA 94702 on behalf of Paul and Kristin Seeman, 630 Santa Barbara Road Berkeley, CA 94707.
   Use Permit #05-10000048 to construct a 2-story, single-family dwelling with an average height of 23.5 feet, 3,257 square feet of conditioned floor area and two parking spaces on a vacant lot of 9,146 square feet. (R-1H, Single-family Residential Hillside, CLW/AS)
   
   **Continued From:** None
   **Recommendation:** Approve
   **Action Taken:** Approved with changes to Condition 10 (8-1-0-0) (No: Sprague)

6. **1111 Shattuck Ave.**
   Use Permit #05-10000062 to add 965 square feet to a single-family dwelling that is non-conforming due to lot coverage (54% lot coverage where 40% is allowed) and modify a portion of a building in the required rear yard (R-1-(H), Single-family Residential in the Hillside Overlay District, SRF)
   
   **Continued From:** None
   **Recommendation:** Approve
   **Action Taken:** Moved to the consent calendar and approved (8-0-1-0) (Abstain: Metzger)
7. **1885 University Avenue**
Request by: 1950 MLK, LLC, c/o Chris Hudson, Hudson McDonald LLC, 2140 Shattuck Avenue, Suite 302, Berkeley, CA 94704
Use Permit 02-10000070 to allow construction of a mixed use development with two buildings, 186 dwelling units, 4,000 square feet of retail, and 71 parking spaces in a basement garage. The existing commercial building (totaling approximately 20,375 square feet) would be demolished. (C-1, SDR)

**Continued From:** None
**Recommendation:** Direct Changes to Project
**Action Taken:** Directed Changes to Project Design (8-1-0-0) (No: Metzger)

**Other Matters:**
- **Information/Communication:**
  1. Density Bonus Subcommittee Report (see attached) ( Adopted Subcommittee Report (9-0-0-0)
  2. Compliance Monitoring Subcommittee (no attachment)
  3. Correspondence:
     - 10/12/05 letter from Richard Schwartz to Mayor Tom Bates.

- **Next Meetings:** November 10, 2005, in Council Chambers.
  November 28, 2005, in Council Chambers.
- **Business Meeting**
- **Chair’s Report**
- **Current Business/Committee Appointments**
- **Future Agenda Items**
- **Other Matters**
- **Adjourn 9:52 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 “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 981-7474 (TDD); at least five (5) working days notice will ensure availability.

[Approved for posting by Debra R. Sanderson, Secretary, Zoning Adjustments Board, December 14, 2005.]