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.
A G E N D A

Roll Call
Call to order 7:00 PM.
Present Board Members: Anthony, Tim Perry for Rick Judd, Allen, Wilson, Sprague, Tiedemann, Metzger

Absent Board Members: Katz, Blake
Approximate Public Attendance: 20 people

Public Comment
Blake and Katz arrive 7:01 PM

Opened 7:02 PM
Four Comments
Closed 7:10 PM

Consent Calendar

2332 Fourth Street moved to the consent calendar
Approved (9-0-0-0).

1. 1001 Ashby
Request by: Affordable Housing Associates, 1250 Addison Street, Suite G, Berkeley, CA 94702. Use Permit #05-70000038 to Modify the plan approved by Use Permit #03-10000112 to modify the site plan, floor plan and building elevations; resulting in a gross floor area reduction and a reduction in the number of dwellings by one. (Commercial - West Berkeley, GPowell)

   Continued From: None
   Recommendation: Approve
   Action: Approved on Consent (8-0-0-1) (Metzger Recused)

2. 2200 Oxford Street (Brower Center)
Request By: Oxford Street Development, LLC, and P.O. BOX 29585, San Francisco, CA 94129. Modification #05-70000039 to increase number of dwelling units in an approved mixed-use project from 96 to 97; change does not expand approved building envelope or increase parking requirements (C-2, Central Commercial; AS)

   Continued From: None
   Recommendation: Approve
   Action: Approved on Consent (9-0-0-0).

Agenda Changes

File: ac012606
Appeal of Administrative Use Permit: None

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

Continued Hearings: None

Nuisance Proceedings:
This agenda item is not a public hearing and no public testimony will be taken in this meeting. At the 12/8/05 meeting, the Zoning Adjustments Board directed staff to prepare a resolution that determines a public nuisance and sets appropriate remedies, as specified by the Board at that meeting. This action results from that request.

3. 3027 Adeline
Request: Adopt a resolution that finds a public nuisance and specifies appropriate remedies, under BMC 23B.64 for the Black & White Liquors at the address above. (GDaniel, Code Enforcement).

Previously Discuss: 11/28/05; 12/08/05.
Recommendation: Adopt a resolution that finds a public nuisance and specifies appropriate remedies.
Action: Instructed staff to prepare zoning certificate with appropriate conditions (5-4-0-0) (No: Allan, Sprague, Wilson, Katz)

New Hearings:

4. 2152 Center Street
Request by: Simon G. Shin – 2847 Cortina Way Union City, CA 94587
Use Permit #05-10000110 to establish a full service restaurant with outdoor seating with incidental sales of beer and wine indoors only; (C-2, SRF)

Continued From: none
Recommendation: Approve
Action: Approved (9-0-0-0)

5. 2332 Fourth Street
Request by: Kava Massih Architects, 2830 Ninth Street, Berkeley, CA 94710
Use Permit #05-1000013 to construct a 16,358 square foot office building and a 13,298 square foot light industrial building, resulting in a total gross floor area of 51,256 square feet (including two existing light industrial buildings with 21,600 square feet) on a 64,465 square foot lot; (MU-LI, Mixed-Use Light Industrial District; SDR)

Continued From: none
Recommendation: Approve
Action: Moved to the Consent Calendar and Approved (9-0-0-0)
Additional Agenda Items:
A. Information/Communication  
   ii. Compliance Subcommittee Report  
   ii. Joint Density Bonus Subcommittee Report  
   iii Correspondence: Thousand Oaks Neighborhood Association Newsletter  
B. Business Meeting  
C. Chair’s Report  
D. Current Business/Committee Appointments  
E. Future Agenda Items  
F. Other Matters  
G. Adjourn 9:50 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 Land Use 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 Land Use 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, 2/6/06]