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.
ACTION MINUTES

Roll Call  
Call to order 7:01 PM  
Present Board Members: Anthony, Judd, Allen, Wilson, Katz, Sprague, Tiedemann, Blake, Metzger.

Approximate Public Attendance: 10 people.

Public Comment

Opened 7:02 PM  
No comments  
Closed 7:03 PM

Consent Calendar

3290 Adeline moved to the consent calendar  
Approved (9-0-0-0).

Agenda Changes

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:

1. 3332 Adeline  
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: South Area Commercial; SRF)  
Continued From: 9/8/05; 10/27/05; 11/10/05; 12/8/05; 1/12/06  
Recommendation: Approve  
Action: Approved (7-1-1-0) (No: Blake) (Abstain: Sprague).

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.

2. **3027 Adeline**
   Request: Consider basis for finding a public nuisance and specify 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; 1/26/06
   **Recommendation:** Consider Zoning Certificate Agreement or Nuisance Finding
   **Action:** Continued to March 9, 2006. Directed Staff to Continue Working with Owner to Reach agreement on Voluntary Conditions (9-0-0-0).

**New Hearings:**

3. **3290 Adeline Street**
   Request by: Applicant Andrew Beretvas, Spud’s Pizza 3290 Adeline Street Berkeley, CA 94703
   Use Permit #05-10000105 to establish incidental beer and wine sales to an existing full-service restaurant, establish live entertainment (non-amplified music) and to modify Use Permit #03-10000058 to eliminate the requirement for 12 off-street parking spaces where five would be required; (C-SA, SRF)
   
   **Continued From:** None
   **Recommendation:** Approve
   **Action:** Approved on Consent (9-0-0-0).

**Additional Agenda Items:**

A. Information/Communication
   i. Compliance Subcommittee Report
   ii. Joint Density Bonus Subcommittee Report

   **Received Copy of Compliance from Andy Katz, Sub Committee Chair.**

   iii. Correspondence: 920 Heinz Street

B. Business Meeting
   i. Discussion of Substitute Motions, *Roberts Rules of Order*
   ii. Election of Chair and Vice Chair.

   **Tiedemann Elected Chair (9-0-0-0).**
   **Vice Chair moved to February 23, 2006 Meeting (5-3-1-0) (No: Allen, Metzger, Wilson, Abstain: Tiedemann).**

C. Chair’s Report
D. Current Business/Committee Appointments
E. Future Agenda Items
F. Other Matters: **Next Meeting, 2/23/06, held at North Berkeley Senior Center.**
G. Adjourned 9:03.
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, 2/23/06.]