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.
AGENDA

Roll Call
Call to Order: 7:00 PM
Present Board Members: Anthony, Allen, Wilson, Sprague, Tiedemann, Metzger, Judd

Absent Board Members: Blake, Katz
Approximate Public Attendance: 45 people

Public Comment
Katz and Blake Arrived 7:02 PM
Opened 7:02 PM
Three Comments
Closed 7:10 PM

Consent Calendar

2015 Eunice Street moved to the consent calendar

1. 1572 Capistrano Avenue
   Request by: Lynne Tingle, 1575 Solano Avenue, Berkeley, 94707.
   Use Permit 05-10000091 to create a dwelling unit within an existing 2-story commercial building with
   3,275 sq. ft. of floor area and 2 parking spaces (C-SO, Solano Avenue Commercial, AS).
   Continued From: None
   Recommendation: Continue Off Calendar
   Action: Continued Off Calendar (9-0-0-0).

2. 65 Southampton Avenue
   Request by: Howard Stone 993 Cragmont Avenue, Berkeley, CA 94708
   Use Permit #05-10000112 to construct a two-story, single-family dwelling with an average height of 28 feet,
   a gross floor area of 3,227 square feet, and a detached two-car garage on a vacant lot of 6,785 square feet
   (R-1H, Single-Family Residential Hillside; JL/AS)
   Continued From: None
   Recommendation: Continue to April 6, 2006
   Action: Continued to April 6, 2006 (9-0-0-0).
3. **1729 Ashby Avenue**  
Request By: Mr. Thiele Obrien, 2942 Ellis Street, Berkeley, CA 94703  
Use Permit Modification 06-70000005 to allow creation of an 84-square-foot mezzanine within an approved two-story, 2,480-square foot, single-family dwelling with accessory dwelling unit (R-2A, AS).  

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<td>Approve</td>
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<td>Action:</td>
<td>Continued to March 23, 2006 Meeting (9-0-0-0).</td>
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4. **1043-49 Virginia Street**  
Request By: Alex Bergtraun, Architect 5500 Doyle Street Emeryville, CA 94608  
Use Permit Modification #05-70000041, modifying Use Permit #02-10000006 to add 43 square feet to an approved four-unit residential building, widen the right side yard by 1 foot, 1 inch (from 4 feet to 5 feet, 1 inch) shift the upper two floors 1 foot, 3 inches to the south, resulting in the third level balcony encroaching into the public right of way, add and enlarge windows, change and add exterior doorways and simplify the roof structure (CW West Berkeley Commercial, SF)  

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<td>Recommendation:</td>
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<td>Action:</td>
<td>Approved on Consent (8-1-0-0) (No: Sprague).</td>
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**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:** 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.*
5. 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; 2/09/06
Recommendation: No Action Staff Update
Action: Directed Staff to prepare a resolution that finds a public nuisance and specifies remedies, as enumerated by ZAB (9-0-0-0).

New Hearings:

6. 2015 Eunice Street
Request by: Joe and Barbara Kelly 2005 Eunice Street Berkeley, CA 94709
Use Permit 05-10000106 to eliminate an existing single-family dwelling unit by converting it into an accessory dwelling unit, reducing its size from 948 sq. ft. to 640 sq. ft., maintaining a non-conforming 4 ft., 6 in. rear yard setback and to construct a 2,932 sq. ft. single family residence on the same lot; (R-1, Single family residential, SRF)

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

Additional Agenda Items:
A. Information/Communication
   i. Compliance Subcommittee Report
      Meeting postponed.
   ii. Joint Density Bonus Subcommittee Report
      Update
   iii. Update on Gaia Building discussion of the last meeting the requested staff report will be presented on the March 23, 2006 meeting
   iv. Correspondence:
B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointments
E. Future Agenda Items
F. Other Matters
G. Adjourned 8:05 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 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, 3/10/06.]