Special Meeting
Action Minutes

Zoning Adjustments Board
Thursday, December 14, 2006

***SPECIAL MEETING BEGINS AT 6:00 PM***

City Council Chambers
2134 Martin Luther King Junior Way
Berkeley, CA  94704
(Wheelchair Accessible)

Public Testimony Guidelines
The Board Chair may limit the number of speakers and the length of time allowed to each speaker. To speak at a public hearing, complete a speaker card and submit to Planning Staff (1) at the public hearing, by 6:15 PM on the night of the hearing, or (2) at the Permit Service Center, 2120 Milvia Street, before 5:00 PM on the day of the hearing.

The Board encourages the public to submit comments in writing or by email, in advance of the meeting. See Correspondence and Notice of Decision Requests at the end of this Agenda for procedures.

Planning and Development Department, Land Use division

Roll Call
Call to Order: 6:00 PM
Roll Call: Terry Doran for Raudel Wilson, Arreguin, Allen, Blake, Judd, Alvarez-Cohen, Shumer, Tiedemann
Absent: Anthony
Approximate Public Attendance: 24 people

Public Comment  None
Each Speaker is limited to a maximum of three minutes.

Consent Calendar:
The Chairperson of the Board will announce the items on the Consent Calendar at 6:05 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, or, if necessary, posted for a public hearing at a subsequent meeting.

1. 2200 Oxford Street
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Request by: Oxford Street Development, LLC, P.O. Box 29585, San Francisco, CA 94129
Use Permit Modification #06-70000035 to increase the size of a meeting room in an approved mixed-use project by about 520 square feet; (C-2, Central Commercial, AS).

Continued From: None
Recommendation: Approve

2. 2811 Ninth
Request by: G. Barry Wagner, 2809 Ninth Street, Berkeley, CA 94710
Modification #06-70000036 to change a two-car garage to a one-car garage and to provide an open parking pad, and to decrease the overall size of the accessory building by 142 square feet; (MU-R, Mixed Use Residential, GMS).

Continued From: None
Recommendation: Approve

Agenda Changes
The Board Chair may reorder the agenda at the beginning of the meeting.

Appeal of Administrative Use Permit: None
Appeals of Administrative Use Permit are not subject to public hearing and no public testimony will be taken at this time. The Board may set the matter for public hearing, or affirm the Zoning Officer’s decision.

Continued Hearings: None
Nuisance Proceedings: None

New Hearings:

3. 651 Addison
Request by: Aquatic Park Enterprises, LLC, 2140 Shattuck Avenue, Suite 302, Berkeley, California 94704
Use Permit #06100000-67 to demolish a vacant 19,400-square-foot warehouse; (C-W, West Berkeley Commercial, GP/JL).

Continued From: None
Recommendation: Approve

4. 2813 M L King Way
Request by: Pattern Development, LLC, 5880 #A Doyle Street Emeryville
Use Permit #05-10000121 to construct a 3,321 square foot, two-story, multi-family residential building with three dwelling units and related parking; (R-2A, Restricted Multi-family Residential, GPowell).

Continued From: None
Recommendation: Approve
5. **2747 San Pablo**
Request by: David Mayeri 1300 Clay Street, Suite 600, Oakland, CA 94614
Preliminary consideration (no final action) of Use Permit #06-10000119 to demolish existing building and construct a 5-story mixed use building (average height of 52’-5””) with 39 residential condo units (29,066 sq. ft.), 2 live-work units (2,135 sq. ft.), one commercial space (1,494 sq. ft.), and 49 parking spaces on a 17,386 square-foot lot; (C-W, West Berkeley Commercial, C. Wagner/A. Sage).

Continued From: None
Recommendation: For Board Discussion only; no formal action requested at this time.
Action: Board Discussion. Expressed general satisfaction with mass and height.

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**Regular Meeting**
**Action Minutes**
**Zoning Adjustments Board**
**Thursday, December 14, 2006**

***REGULAR MEETING BEGINS AT 7:00 PM***

City Council Chambers
2134 Martin Luther King Junior Way
Berkeley, CA  94704

**Public Testimony Guidelines**
The Board Chair may limit the number of speakers and the length of time allowed to each speaker. To speak at a public hearing, complete a speaker card and submit to Planning Staff (1) at the public hearing, by 7:15 PM on the night of the hearing, or (2) at the Permit Service Center, 2120 Milvia Street, before 5:00 PM on the day of the hearing.

The Board encourages the public to submit comments in writing or by email, in advance of the meeting. See Correspondence and Notice of Decision Requests at the end of this Agenda for procedures.

Planning and Development Department, Land Use division

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**Roll Call**
Call to Order: 7:00 PM
Roll Call: Terry Doran for Raudel Wilson, Arreguin, Allen, Blake, Judd, Alvarez Cohen, Shumer, Tiedemann
Absent: Anthony
Approximate Public Attendance: 45 people

**Public Comment** None
Each Speaker is limited to a maximum of three minutes.

**Consent Calendar:**
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, or, if necessary, posted for a public hearing at a subsequent meeting.

2020-2026 Addison added to the consent calendar
2629-2635 Ashby added to the consent calendar
709 Jones Street added to the consent calendar

1. **2600 San Pablo**
   Request by: A. Ali Eslami, P.O. Box 4623, Berkeley, CA 94704
   Use Permit # 05-0000130 to expand the kitchen and interior seating area of the Missouri Lounge, add outdoor seating, reconfigure and reduce the required parking, and expand alcohol service to new seating areas; (C-W, West Berkeley Commercial District, GMS).
   
   **Continued From:** 11/09/06, 11/27/06
   **Recommendation:** Continue to 01/11/07
   **Action:** Continued public hearing to 01/11/07 on Consent (8-0-0-1) (Absent: Anthony).

2. **2727 Milvia**
   Appellants: Mr. Art Medlar, 2730 Milvia Street, Berkeley, CA 94703 and Savo Island Cooperative Homes, Inc., 2017 Stuart Street, Berkeley, CA 94703.
   Applicant: East Bay Iceland, Inc., 2727 Milvia Street, Berkeley, CA 94703
   Appeal of Temporary Administrative Use Permit #06-20000056 to install a temporary outdoor refrigeration system on the southern side of the property for the existing ice skating rink; (South Area Commercial (C-SA, CW).
   
   **Continued From:** 10/26/06
   **Recommendation:** Continue to 01/11/07
   **Action:** Continued public hearing to 01/11/07 on Consent (8-0-0-1) (Absent: Anthony).

3. **2953-2955 Telegraph**
   Request by: Ms. Meskerem Tsegaye, 2955 Telegraph Avenue, Berkeley, CA 94705
   Use Permit #05-70000034 to increase alcohol service of an existing full service restaurant by adding service of distilled spirits to existing service of beer and wine, and by increasing operating hours from 8:00 a.m. to 12:00 a.m. daily to 8:00 a.m. to 2:00 a.m. daily; (C-1, General Commercial District, CW).
   
   **Continued From:** None
   **Recommendation:** Continue to 01/11/07
   **Action:** Continued public hearing to 01/11/07 on Consent (8-0-0-1) (Absent: Anthony).
Agenda Changes
The Board Chair may reorder the agenda at the beginning of the meeting.

Appeal of Administrative Use Permit:
Appeals of Administrative Use Permit are not subject to public hearing and no public testimony will be taken at this time. The Board may set the matter for public hearing, or affirm the Zoning Officer’s decision.

Continued Hearings:

4. 1513 Shattuck
Request by: Deepak Aggarwal, 1513 Shattuck Avenue, Berkeley CA 94709
Use Permit #06-10000112 to legalize a full service restaurant offering beer and wine beverage service with associated seating for 45 patrons in a 1,425 sq.ft. lease space including outdoor patio seating, with hours of operation from 10 a.m. to 12:30 a.m. daily, and Use Permit Modification #06-70000024 to modify Use Permit #04-10000010 to include the retail sale of beer in addition to existing wine tasting/retail sales. (C-NS, North Shattuck Commercial, KM/GMS).
Continued From: 11/27/06
Recommendation: Approve

5. 1325 Sixth Street
Request by: Mr. Lew Jones, Facilities Division, Berkeley Unified School District, 1720 Oregon Street, Berkeley, CA 94703
Use Permit #04-10000141 to establish a bus depot (including bus and staff/visitor parking, office and classroom space, and mechanical shop) for the Berkeley Unified School District; (MU-LI, Mixed Use-Light Industrial District, CW).
Continued From: 11/27/06
Recommendation: Adopt Mitigated Negative Declaration and Approve
Action: Adopted Mitigated Negative Declaration and Approved with changes (7-0-0-1) (Absent: Anthony).

6. 2701 Shattuck Avenue/ 2100 Derby Street
Request by: 2701 Shattuck LLC, 2600 10th Street, Suite 509, Berkeley, CA
Use Permit #04-10000014 to construct a 34,894 square foot, five-story mixed-use building containing 24 residential units (5 Inclusionary), 3,198 square feet of commercial floor area within up to 4 ground floor tenant spaces (to include a 2,000 square foot quick-service food use) and 24 parking spaces (C-SA, Commercial South Area, GP).
Continued From: 11/27/06
Recommendation: Approve
7. **1885 University**  
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 148 dwelling units, 14,390 square feet of retail, and 157 parking spaces in a two level parking garage. The existing commercial building (totaling approximately 20,375 square feet) would be demolished; (C-1, General Commercial, SDR).

   **Continued From:** 11/27/06  
   **Recommendation:** Approve  
   **Action:** Closed public hearing. Approved with instructions to staff to prepare findings for Board adoption at the 1/11/07 Meeting (5-3-0-1) (No: Arreguin, Blake, Shumer) (Absent: Anthony).

8. **704 Keeler**  
Applicant: James Wong, Architect, 207 Northwood Drive, South San Francisco, CA 94080  
Appellant: James and Lisa Kaufmann, 700 Grizzly Peak Blvd., Berkeley, CA 94708  
Appellant: Melvin Hodges, 705 Grizzly Peak BLVD., Berkeley, CA, 94708  
Appeal of Administrative Use Permit #05-20000135 to create a major residential addition of approximately 1,890 sq. ft. with a new third story. (R-1 (H), Single-family Residential Hillside Overlay, FC).

   **Continued From:** 08/10/06  
   **Recommendation:** Approve  
   **Action:** Approved with Deed Restriction (8-0-0-1) (Absent: Anthony).

**Nuisance Proceedings:** None

**New Hearings:**

9. **2020-2026 Addison**  
Request by: Steve Baker, Executive Director, Freight & Salvage 1111 Addison Street Berkeley, CA 94702  
Use Permit #06-10000094 to permit a new performance theater within existing buildings in the Downtown Arts District (The Freight & Salvage Coffee House) at 2020-2026 Addison Street; (C-2 Zone (ADO), Central Commercial District, Downtown Arts District Overlay, C.Wagner/SDR).

   **Continued From:** None  
   **Recommendation:** Approve  
   **Action:** Approved on Consent (8-0-0-1) (Absent: Anthony).
10.  2629-2635 Ashby
Request by: KC Bowman, Bay Area Architects, for John Gordon, Gordon Commercial
1840 B Alcatraz Berkeley, CA 94703
Use Permit #06-1000098 to permit the conversion of an existing commercial building (The Wright’s Garage Building) into a multi-tenant commercial building at 2629-2635 Ashby Avenue; (C-E Zone, Elmwood Commercial District, C.Wagner/SDR).

Continued From: None
Recommendation: Approve
Action: Continued public hearing to 01/11/07 (8-0-0-1) (Absent: Anthony).

11.  709 Jones Street
Request by: Carol Benioff, 709 Jones Street, Berkeley, CA 94710
Use Permit #06-10000016 to demolish light industrial buildings at rear, construct new 2,771 sq. ft. building with 2 live/work units and 3 parking spaces, and convert front building to live/work unit, on 4,900 sq. ft. lot; (MU-LI, Mixed Use-Light Industrial, AS).

Continued From: None
Recommendation: Adopt Negative Declaration and Approve

Additional Agenda Items:

Additional Agenda Items:

a. Information/Communication
b. Business Meeting
c. Chair’s Report
d. Current Business/Committee Appointments
e. Future Agenda Items
f. Other Matters
g. Adjourn 12:45 PM

(Wheelchair Accessible)

Correspondence and Notice of Decision Requests

- To distribute correspondence to Board members prior to the meeting date -- submit comments by 12:00 noon, seven (7) days before the meeting. Please provide 15 copies of any correspondence with more than ten (10) pages.
- Any correspondence received after this deadline will be given to Board members on the meeting date just prior to the meeting.
- Staff will not deliver to Board members any additional written (or email) materials received after 12:00 noon on the day of the meeting.
- Members of the public may submit written comments themselves early in the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk just before or at the beginning of the meeting.
- Written comments, or a request for a Notice of Decision should be directed to the ZAB Secretary at Land Use Planning Division (Attn: ZAB Secretary)
  2120 Milvia Street
  Berkeley, CA 94704 OR at zab@ci.berkeley.ca.us
**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.

**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.

[Approved for posting by Debra R. Sanderson, Secretary, Zoning Adjustments Board, 12/22/06.]