Action Minutes

Zoning Adjustments Board
Thursday, January 11, 2007
7:00 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 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

Roll Call
Call to Order: 7:00 PM
Roll Call: Allen, Anthony, Arreguin, Doran, Alvarez-Cohen, Shumer, Blake, Tiedemann, Judd
Approximate Public Attendance: 127 people

Public Comment
Each Speaker is limited to a maximum of three minutes.
Opened: 7:02 PM
10 Comments
Closed 7:45 PM

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.
8 Panoramic Placed moved to the consent calendar
156 Vicente Road moved to the consent calendar

1. 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, South Area Commercial; CW).
   Continued From: 10/26/06; 12/14/06;
   Recommendation: Continue to 01/25/07
   Action: Continued to 02/22/07 on consent (9-0-0-0).

2. 161 Panoramic Way
   Applicant: Mr. Bruce Kelley, 2015 Delaware Street, Berkeley, CA 94709.
   Use Permit #04-10000145 to construct a new 2-story single-family dwelling with 1,460 square feet of floor area, 2 parking spaces, at an average height of 24 feet, on a 3,295 square foot vacant lot. (ES-R, Environmental Safety-Residential; VK)
   Continued From: None
   Recommendation: Continue to 01/25/07
   Action: Continued to 02/08/07 on consent (9-0-0-0).

3. 2721 Shattuck Avenue
   Request by: Nextel Communications.
   Use Permit #04-10000068 to construct a new wireless telecommunications facility (including twelve antennas and related equipment); (C-SA, South Area Commercial District, CW).
   Continued From: Remanded by Council
   Recommendation: Continue to 1/25/07
   Action: Continued to 1/25/07 on consent (9-0-0-0).

4. 2721 Shattuck Avenue
   Request by: Verizon Wireless, C/o Mr. James Singleton, Cal Com Systems, Inc, 2001 Omega Road, Suite 100, San Ramon, CA 94583
   Use Permit #05-1000033 to construct a new wireless telecommunications facility (including five antennas and related equipment) for Verizon Wireless (C-SA, South Area Commercial District, CW).
   Continued From: Remanded by Council
   Recommendation: Continue to 1/25/07
   Action: Continued to 1/25/07 on consent (9-0-0-0).
5. **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).

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<td>Recommendation:</td>
<td>Continue to 01/25/07</td>
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<td>Action:</td>
<td>Continued to 01/25/07 on consent (9-0-0-0).</td>
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6. **837 Bancroft Way**
Request by: Timothy Carter, 2717 San Pablo Avenue, Berkeley, CA 94702
Use Permit #05-10000147 to demolish existing dwelling and build 2-unit building with 3 stories, average height of 32 feet 5 inches, floor area of 4,432 square feet, and 2 parking spaces, on a 4,996 square foot lot; (R-1A, Limited Two-family Residential, AS).

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<td>Recommendation:</td>
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<td>Action:</td>
<td>Continued to 2/8/07 on consent (9-0-0-0).</td>
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**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 Item (not a public hearing):**

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).

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<th>Continued From:</th>
<th>11/27/06; 12/14/06. Public Hearing Closed.</th>
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<tr>
<td>Recommendation:</td>
<td>Adopt Mitigated Negative Declaration and Approve Project</td>
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<td>Action:</td>
<td>Approved project with changes, adopted Mitigated Negative Declaration, and adopted Council Resolution on traffic diverter. 5-3-1-0 (No: Arreguin, Blake, Shumer) (Abstain: Anthony).</td>
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Continued Public Hearings:

8. 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, 12/14/06  
Recommendation: Approve  
Action: Approved (6-2-1-0) (No: Arreguin, Blake)  
(Abstain: Shumer).

9. 2629-2635 Ashby  
Request by: KC Bowman, Bay Area Architects, for John Gordon, Gordon Commercial  
1840 B Alcatraz Berkeley, CA 94703  
Use Permit #06-10000098 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: 12/14/06  
Recommendation: Approve  
Action: Continued to 01/25/07 (9-0-0-0).

Nuisance Proceedings: None

New Hearings:

10. 635 Spruce  
Request by: Babette Jee, 1504 Fifth Street, Berkeley CA, 94710  
APPEAL of Administrative Use Permit #06-20000097 to construct a fence over six feet in height 
along the rear property line. (R-1(H), Single Family Residential, Hillside Overlay. NFD)  
Continued From: None  
Recommendation: Approve  
Action: Approved (8-0-1-0) (Abstain: Doran).

11. 8 Panoramic Place  
Request by: Sarah Bade and George Buechi, 2629 Benvenue Avenue, Berkeley, CA 94704  
Use Permit #06-10000121 to construct a two-story 944-square-foot addition to an existing single-
family dwelling (ES-R, Environmental Safety-Residential, GMS/TG)  
Continued From: None  
Recommendation: Approve  
Action: Approved on consent (9-0-0-0).
12. **2012 Shattuck Avenue**  
Request by: DeePak Aggarwal, 1605 Marin Avenue, Albany, CA 94707.  
Use Permit #06-10000126 for a full service restaurant with beverage service of beer and wine with prepared food; including the retail sales of beer and wine in conjunction with existing retail market; and extend hours of operation from 8:00 a.m. to 12:00 p.m. (C-2, Central Commercial District, GMS/KM).

- **Continued From:** None
- **Recommendation:** Approve
- **Action:** Continued to 01/25/07 (9-0-0-0).

13. **156 Vicente Road**  
Request by: Lara C. Dutto, 950 63rd Street, Emeryville, CA 94608  
Use Permit #06-10000099 to construct a 2,529-square-foot single-family dwelling, a 399-square-foot accessory dwelling unit, and a 483-square-foot garage on an 8,157-square-foot vacant lot; (R-1H, Single-family Residential and Hillside, J. Levine/C. Wolf)

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

### Additional Agenda Items:

A. Information/Communication
B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointment
  - Recommendation to City Council on appointment of new ZAB members to Joint Subcommittee on Density Bonus
    - Recommend leaving the Joint Subcommittee as it stands with Dean Metzgar as a non-ZAB member, unless appointment of a ZAB members is deemed necessary, then the ZAB elects Shumer. (9-0-0-0).
E. Future Agenda Items:
  1. January 25, 2007, 6:00 pm, Green Construction Workshop with Design Review Committee;
  2. ZAB schedule in September 2007
  3. Discussion of whether ZAB members’ phone numbers and email addresses should be made public.
F. Other Matters
G. Adjourn

### 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, January 18, 2007.*