Action Minutes
Planning and Development Department
Land Use Planning Division

Zoning Adjustments Board
Thursday, January 24, 2008 -- 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: 7:00 PM
Public Attendance: ~15

Public Comment: 1
Each Speaker is limited to a maximum of three minutes.

Consent Calendar:
The Consent Calendar allows the Board to take action with no discussion, on projects to which no one objects. The Agenda includes two types of Consent Calendar items: (1) Modifications of existing Use Permits (which have not been noticed for public hearings); (2) Items being continued to another meeting (Board action has been postponed to another meeting). The Board Chairperson will announce items for the Consent Calendar at 7:05 p.m. The Board may place additional Agendized items on the Consent Calendar, if no one present wishes to testify on an item. 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 from the consent calendar. Modification Projects may be discussed by the Board at this meeting or set for a public hearing at a later meeting. Items already noticed for a public hearing will be heard following Continued Items, or, if necessary, posted for a public hearing at a subsequent meeting.
Item 2. 1923 Ninth moved to Consent Calendar to be continued to February 14, 2008
Item 3. 1441 Ashby moved to Consent Calendar to be continued to February 14, 2008

1. 2081 Addison Street
   Applicant: Brian Rawlinson, Architect, 2161 Shattuck Avenue #307, Berkeley, CA 94704
   UP Modification #07-70000024 to expand existing Aurora Theatre for additional facility
   support space into existing retail space; (C-2, Central District - Arts District Overlay, J.W.
   Claiborne/G. Powell)
   Continued From: None
   Recommendation: Approve
   Action: Approved on Consent (8-0-0-1; Absent: D. Matthews)

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

Appeal of Administrative Use Permit: NONE

Continued Items (Public Hearing has been closed):

2. 1923 Ninth
   Applicant: JDIP, LLC, Attention Justin Jee, 480 Second Street, Suite 203, San Francisco,
   CA 94107
   Use Permit #07-10000063 to demolish two existing residential buildings containing a total of
   five dwelling units and construct two three-story buildings containing 15 condominium
   dwelling units, over an 18-space below-grade parking garage. (R-3, Multiple Family
   Residential District; CM/GP)
   Continued From: December 13, 2007, January 10, 2008
   Recommendation: Continue to February 14, 2008
   Action: Continued to February 14, 2008 on Consent (8-0-0-1; Absent: D.
   Matthews)

Continued Public Hearings:

3. 1441 Ashby Ave
   Applicant: BioFuel Oasis, 2265 Fourth Street; Berkeley, 94710
   Use Permit #07-10000046 to establish biodiesel fueling station at existing former gas station
   (currently used for auto detailing); main building to remain, pump canopies to be altered or
   replaced to accommodate taller vehicles (C-SA, South Area Commercial; AS)
   Continued From: November 26, 2007
   Recommendation: Continue to February 28, 2008
   Action: Continued to February 14, 2008 on Consent (8-0-0-1; Absent: D.
   Matthews)
Compliance Determination: NONE

New Hearings:

4. 1796 Shattuck Avenue
   Applicant: Ayman Morror – 1796 Shattuck Ave., Berkeley, CA 94709
   Use Permit Modification #07-70000022 to legalize the conversion of Carry Out Food Service
   Store serving frozen treats to a cafe-style, Quick Service Restaurant with seating; to reduce
   the incremental parking requirement for this Change of Use; and extend the hours of
   operation. (Fatema Crane, C-1, General Commercial)
   
   Continued From: None
   Recommendation: Approve
   Action: Approved (8-0-0-1; Absent: D. Matthews)

Additional Agenda Items:
A. Information/Communication
   • Policy for accepting speaker cards
     • Trial period to accept speaker cards beyond 7:15 PM deadline.
B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointment
E. Future Agenda Items
F. Other Matters
G. Adjourn 7:20 PM

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 e-mail) 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" 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 Steven D. Ross, Secretary, Zoning Adjustments Board]