Planning and Development Department
Land Use Planning Division

Zoning Adjustments Board
Thursday, February 28, 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) as early as possible at the meeting, or (2) at the Permit Service Center, 2120 Milvia Street, before 5:00 PM on the day of the hearing. At the start of the meeting the Board may rearrange the agenda or place additional agendized items on the Consent Calendar, so it is important to submit speaker cards at the start of the meeting to avoid losing the chance to speak to an item.

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.

Roll Call:  7:00 PM
Public Attendance: ~30

Public Comment: NONE
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 3. 1811 University moved to Consent Calendar for Approval**

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

Moved Item 2. 2600 Tenth before Item 1. 1441 Ashby

1441 Ashby: Opened Public Hearing to receive public testimony

**Appeal of Administrative Use Permit:** NONE

**Continued Items (Public Hearing has been closed):**

1. **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 (formerly 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:** 11/26/2007, 01/24/2008, 02/14/2008  
   **Recommendation:** Certify EIR, Adopt Statement of Overriding Considerations, and Approve Project

   **Action:** Opened Public Hearing, Certified EIR, Adopted Statement of Overriding Considerations, Approved Project (9-0-0-0)

**Continued Public Hearings:**

2. **2600 Tenth**  
   **Applicant:** Wareham Development, 100 Nye Street, Suite 400, San Rafael, CA 94901  
   Variance #07-10000132 to operate a child care center for Pixar employees and on-site employees (MULI, Mixed Use-Light Industrial, GS)

   **Continued From:** 02/14/2008  
   **Recommendation:** Take public testimony on Initial Study, adopt Mitigated Negative Declaration, and approve per ZAB directive

   **Action:** Opened hearing for public testimony on Initial Study, adopted Mitigated Negative Declaration and Approved Variance (8-1-0-0; No: R. Judd)
3. **1811 University**  
**Applicant:** Barry Kami, DDS, 1813 University Avenue, Berkeley, CA  
Variance #08-1000003 to construct a new 1-story dental office building of approximately 3,000 sq. ft. and 21 ft. in maximum height where a minimum height of 2 stories and 30 ft. is required. (C-1/ University Avenue Mixed- Use Overlay, FC)  
- **Continued From:** 02/14/2008  
- **Recommendation:** Approve  
- **Action:** Approved on Consent (9-0-0-0)

**Compliance Determination:** NONE

**New Hearings:**

4. **2130 Center Street**  
**Applicant:** Niloo Nouri, 2721 Shattuck Avenue, Berkeley, CA  
Use Permit #07-10000146 to establish a full-service restaurant with operating hours of 8 a.m. to 2 a.m. daily, sidewalk café seating, and alcoholic beverage service of beer, wine, and distilled spirits; (Central Commercial (C-2) District, GP/JL)  
- **Continued From:** None  
- **Recommendation:** Approve  
- **Action:** Approved (7-2-0-0; No: S.Shumer, J.Arreguin)

5. **1698 University Ave**  
**Applicant:** Brian Baniqued, 2801 Pinole Valley Rd., Suite 210, Pinole, CA 94564  
Modification #07-70000027 to modify approved plans for 5-story mixed-use building, including increased setback from redwood trees, refined architectural details and landscaping, increased open space and parking, and increased elevator shaft height; no changes to building height or number of units (C-1, General Commercial; AS)  
- **Continued From:** None  
- **Recommendation:** Approve  
- **Action:** Approved (9-0-0-0)

6. **1037 Pardee**  
**Applicant:** Hoss Azimi, HOPA LLC; 1511 Hearst Avenue, Suite C, Berkeley, CA 94703  
Use Permit #06-10000138 to allow a new three story mixed-use building with four dwelling units, one commercial office space, and eight parking spaces within a garage on a 5,335 square foot vacant lot (C-W, West Berkeley Commercial; SR)  
- **Continued From:** None  
- **Recommendation:** Approve  
- **Action:** Approved (9-0-0-0)
Additional Agenda Items:
A. Information/Communication
   • Elections: Chair and Vice-Chair
      • Chair Nominations: Bob Allen, Rick Judd
      • Chair: Rick Judd (5-4-0-0; No: J.Anthony, T.Doran, B.Allen, D.Matthews)
      • VICE-CHAIR: Bob Allen (8-1-0-0; No: J.Arreguin)
   • Development Standards and Zoning Ordinance Training by Debra Sanderson
   • Continued to March 13th, 2008

B. Business Meeting
C. Chair’s Report
D. Current Business/Committee Appointment
E. Future Agenda Items
F. Other Matters
G. Adjourn 9:30 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
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 Steven D. Ross, Secretary, Zoning Adjustments Board]