Preliminary Matters:

**Roll Call:** Michael Alvarez Cohen (Chairperson), appointed by Councilmember Wozniak
Prakash Pinto (Vice Chairperson), appointed by Councilmember Maio
Denise Pinkston, appointed by Mayor Bates
George Williams, appointed by Councilmember Capitelli
Robert Allen, appointed by Councilmember Wengraf
Sophie Hahn, appointed by Councilmember Worthington
Steven Donaldson, appointed by Councilmember Moore
Igor Tregub, appointed by Councilmember Arreguin

**Excused:** Shoshana O'Keefe, appointed by Councilmember Anderson

**Substitute:** John Selawsky, appointed by Councilmember Anderson

**Members of the Public**
Present: 64
Speakers: 35

**Ex Parte Communication Disclosures:**
I. Tregub: I had ex parte communications in regard to 2526 Durant Avenue, item 3, received an e-mail from Alejandro Soto-Vigil asking about the number of affordable units. Item 7, 2135 Roosevelt Avenue, received communications with Jim Berenholtz and Dean Metzger regarding concerns. And item 9, 750 Hearst, I received a communication from Meryl Segal with concerns and Nicola Bourne that she does not have concerns.
S. Hahn: I had an ex parte communication from Alejandro Soto-Vigil in regard to 2526 Durant Avenue, item 3, about the changes in affordable housing requirement.

**Public Comment:**
1

**Agenda Changes:**
Item #7, 2230 Shattuck Avenue taken off of the consent calendar and add 1820-28 San Pablo Avenue to the agenda
1. 1820-28 San Pablo Avenue - NUISANCE ABATEMENT HEARING

The Zoning Adjustments Board, on referral from the Zoning Officer, will hold a public hearing to consider whether 1820/1828 San Pablo Avenue and the uses therein are in violation of The Patients Access to Medical Cannabis Act of 2008 (BMC Chapter 12.26), The Medical Cannabis Dispensaries and Collectives Ordinance (BMC Chapter 12.27) and/or the Zoning Ordinance and, if so, whether to recommend to the City Council that a Public Nuisance exists and, if so, the appropriate remedy.

PROPERTY OWNER: Janet Wong and Clarence Soe, 7296 Stanwood Way, Sacramento CA, 95831
ZONING DISTRICT: (C-W) West Berkeley Commercial District
ENVIRONMENTAL REVIEW STATUS: Categorically exempt under Section 15301 of the California Environmental Quality Act (CEQA) Guidelines (“Existing Facilities”).

Continued From: November 6, 2014
Recommendation: That the Board ADOPT a resolution to recommend to the City Council that it find that the uses at 1820/1828 San Pablo Avenue are:
1) in violation of Berkeley Municipal Code (BMC) Chapter 12.26;
2) in violation of BMC Chapter 12.27;
3) in violation of the Zoning Ordinance; and
4) a public nuisance under BMC Chapter 23B.64 and that it order: a) the unlawful medical cannabis use enjoined and terminated; and b) the 11 separate tenant spaces removed.

2. 3012 College Avenue – New Public Hearing

Use Permit #UP2014-0003 to convert an existing three-story single-family residence into a two-unit duplex by converting the upper floor into a dwelling unit.

CEQA Action: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).
Applicant: Victor Rasilla
Zoning: R-2A – Restricted Multiple-Family Residential District
Staff Planner: Fatema Crane, fcrane@ci.berkeley.ca.us, (510) 981-7413

Continued From: None
Recommendation: CONTINUE off calendar

3. 1039 Delaware Street – New Public Hearing

Use Permit #ZP2014-0030 to allow an increase in height for an existing 2,104 square foot, 2-story single-family residence by 2-feet on a property that is non-conforming to lot coverage.

CEQA Action: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).
Applicant & Owner: Hans Ashlock – 1039 Delaware Street, Berkeley
Zoning: R-1A Limited Two Family Residential
Staff Planner: Greg Powell, gpowell@ci.berkeley.ca.us, (510) 981-7414

Continued From: None
Recommendation: APPROVE Use Permit #ZP2014-0030 pursuant to Section 23B.32.040 and subject to Findings and Conditions.

Consent Calendar:

Take Item #7 off of the Consent calendar, and approve the consent calendar with changes.
Action: APPROVED
Motion / Second: S. Donaldson / R. Allen
Vote: 9-0-0-0 (S. Hahn abstains on 2526 Durant Avenue)
4. 2526 Durant Avenue – New Public Hearing

Use Permit Modification #UP2014-0019 to: 1) increase the building height to 61'; 2) revise the findings and conditions of approval for the Affordable Dwelling Units; and 3) increase the commercial floor area.


Applicant: Kirk Peterson, 5253 College Avenue, Oakland

Property Owner: Ruegg & Ellsworth, 2437 Durant Avenue, Berkeley

Zoning: C-T – Telegraph Commercial

Staff Planner: Greg Powell, gpowell@ci.berkeley.ca.us, (510) 981-7414

Continued From: None

Recommendation: APPROVE Use Permit Modification #UP2014-0019 pursuant to Section 23B.32.040 and subject to Findings and Conditions.

5. 2501-2509 Haste Street & 2433 Telegraph Avenue – El Jardin – Continued Public Hearing

Use Permit #12-10000012 to demolish a 6,950 square foot retail building at 2433 Telegraph Avenue and to construct an 89,054 square foot, 69'/6-story, mixed-use building to include 79 dwelling units, 30,356 square feet of commercial floor area and no off-street parking spaces.

CEQA Action: Pending

Applicant: Kirk Peterson, 5253 College Avenue, Oakland

Zoning: C-T, Commercial-Telegraph

Staff Planner: Greg Powell, gpowell@ci.berkeley.ca.us, (510) 981-7414

Continued From: October 9, 2014

Recommendation: HOLD hearing and CONTINUE to December 11, 2014

6. 715 Santa Barbara Road – Continued Public Hearing

Use Permit #10-10000030 to construct a new, three-story single-family residence of approximately 3,700 sq. ft. with an average height of 28 ft. - 6 in. that will replace a previously demolished and smaller-scaled residence.

CEQA Status: Categorically exempt pursuant to Sections 15303 of the California Environmental Quality Act (CEQA) Guidelines (“New Construction or Conversion of Small Structures”).

Applicant: Patrick Sheehan, 2413 C, 5th Street, Berkeley

Owner: Crooked Lane LLC, P. O. Box 1364, Lafayette

Zoning: R-1 (H) Single-Family Residential, Hillside Overlay

Staff Planner: Fatema Crane, fcrane@ci.berkeley.ca.us, (510) 981-7413

Continued From: October 30, 2014

Recommendation: APPROVE Use Permit #10-10000030 pursuant to Section 23B.32.040 and subject to Findings and Conditions.
Action Calendar:

7. 2230 Shattuck Avenue – Continued Public Hearing
   Use Permit Modification #MODUP2014-0008 of Use Permit #08-10000116 that established alcohol consumption in two theater auditoriums. The application seeks to expand alcohol consumption to all theaters and modify conditions related to the service of alcohol.
   CEQA Action: Categorically exempt pursuant to Section 15303(c) of the CEQA Guidelines (“New Construction or Conversions of Small Structures”).
   Applicant / Owner: Pathos Management Group, LLC, 2344 Bundros Ct. Martinez
   Zoning: C-DMU Downtown Mixed Use District
   Staff Planner: Claudine Asbagh, casbagh@ci.berkeley.ca.us, (510) 981-7424
   Continued From: October 30, 2014
   Recommendation: APPROVE Use Permit Modification #2014-0008 pursuant to Section 23B.32.040 and subject to Findings and Conditions.
   Action: APPROVED with changes to the conditions of approval.
   Motion / Second: S. Donaldson / R. Allen
   # of Speakers: 1
   Vote: 8-1-0-0 (No: S. Hahn)

8. 2135 Roosevelt Avenue – Continued Public Hearing
   Appeal of Administrative Use Permit #AUP2014-0032 to enlarge an existing 1,070 sq. ft. single family residence by raising the structure 10’3” to create 1,357 sq. ft. of habitable space at the ground floor, increasing the average height from 12’11” to 22’10”, resulting in a 2,427 sq. ft. single-family residence, and to install a hot tub on the rear deck.
   CEQA Determination: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).
   Property Owner: Adam Berman, 1727 Delaware Street, Berkeley
   Appellant: Jim Berenholtz and Deborah Todd, et. al., 2131 Roosevelt Avenue, Berkeley
   Zoning: R-2, Restricted Two-Family Residential
   Staff Planner: Pamela Johnson, pjohnson@ci.berkeley.ca.us, (510) 981-7458
   Continued From: October 9, 2014
   Recommendation: APPROVE Administrative Use Permit #AUP2014-0032 as presented in the revised Findings and Conditions, and DISMISS the Appeal.
   Action: APPROVED the AUP #2014-0032 and DISMISSED the Appeal.
   Motion / Second: P. Pinto / R. Allen
   # of Speakers: 3
   Vote: 8-1-0-0 (No: I. Tregub)
9. 750 Hearst Street & 1919 Fourth Street – New Public Hearing

Use Permit #UP2014-0041, to 1) construct a 2-story, 17,695 sq. ft. bldg at the southeast corner of Fourth & Hearst; 2) demolish a 1,200 sq. ft. office addition at the northern end of the Spenger’s restaurant building at 1919 Fourth; 3) convert 5,790 sq. ft. of restaurant space to retail space; 4) convert 2,320 sq. ft. of restaurant storage space to a beer garden restaurant with a 1,080 sq. ft. exterior seating area; 5) demolish a 13,300 sq. ft. retail building at 1914 Fifth Street; 6) construct a 2-story, 5,720 sq. ft. bldg at the southwest corner of 5th & Hearst; and reconfigure and expand an existing parking lot at the corner of Fifth and University to provide 104 parking spaces.

CEQA Action: Categorically exempt pursuant to Sections 15331 & 15332 of the CEQA Guidelines (“maintenance, restoration, and preservation of historical resources”, and “infill development projects”).

Applicant: Elliot Abrams, 1834 Fourth St., Berkeley

Property Owner: Jamestown Properties, 101 California St., Suite 3155, San Francisco

Zoning: C-W West Berkeley Commercial, Designated Node

Staff Planner: Greg Powell, gpowell@ci.berkeley.ca.us, (510) 981-7414

Planning Consultant: Doug Donaldson, dougdonaldson@me.com, (510) 528-3684

Continued From: None

Recommendation: APPROVE Use Permit #UP2014-0041 pursuant to Section 23B.32.040 and subject to Findings and Conditions.

Action: APPROVED

Motion / Second: D. Pinkston / S. Donaldson

# of Speakers: 4

Vote: 9-0-0-0

8. 2211 Harold Way – New Public Hearing

Review and comment on Use Permit #13-10000010’s Draft EIR for proposed 18-story mixed-use development in Downtown Berkeley, with 302 dwelling units, a six-theater cinema, about 10,500 square feet of ground-floor commercial space, and a 171-space underground parking garage. Project includes demolition of 1959 “Hink’s Building” at Harold and Allston Ways, and removal of portions of the Shattuck Hotel building, primarily the 1926 addition fronting on Harold Way and Kittredge Street, and the portion of the 1913 addition extending west of the hotel along Kittredge Street.

CEQA Determination: An Environmental Impact Report (EIR) has been prepared and is available for public comment until November 18, 2014.

Applicant: Rhoades Planning Group, 505 17th St., 2nd Floor, Oakland

Property Owner: HSR Berkeley Investments, LLC, 11100 Santa Monica Blvd., Suite 880, Los Angeles

Zoning: C-DMU Downtown Mixed Use District

Staff Planner: Aaron Sage, AICP; asage@ci.berkeley.ca.us, (510) 981-7425

Continued From: N/A

Recommendation: Staff recommends that the ZAB provide comments on the Draft EIR. The ZAB may make a motion reflecting the comments of the ZAB as a whole, and/or individual ZAB members may offer comments. All comments will be recorded and responded to in the Response to Comments document, which is tentatively scheduled for publication in early January, 2015.

Action: Request that staff extend the public comment period to December 1, 2014.

Motion / Second: I. Tregub / J. Selawsky

# of Speakers: 26

Vote: 8-0-1-0 (Abstain: S. Donaldson)
10. Approval of Action Minutes from October 30, 2014
   Continued From: None
   Recommendation: APPROVE
   Action: APPROVED
   Motion / Second: I. Tregub / S. Donaldson
   Vote: 7-0-2-0 (Abstain: J. Selawsky, M. Alvarez-Cohen)

11. 2015 Zoning Adjustment Board Calendar
   Approve 2015 ZAB Calendar
   Continued From: None
   Recommendation: APPROVE
   Action: APPROVED
   Motion / Second: R. Allen / I. Tregub
   Vote: 8-0-1-0 (Abstain: M. Alvarez-Cohen)

Adjourned at 11:20 PM