



# Z O N I N G A D J U S T M E N T S B O A R D S T A F F R E P O R T

FOR BOARD ACTION  
JANUARY 28, 2010

## 2707 Rose Street

Use Permit #09-10000038 to demolish an existing two-story, 2,477 square foot, single-family dwelling and three detached one-car garages and to construct a two-story, 6,478 square foot, single-family dwelling, with a 3,394 square foot, 10-car garage, on a 29,714 square foot parcel. (Zoning: R-1 (H), Single-Family Hillside District; Planner: Greg Powell)

### I. Application Basics

#### A. Zoning Permits Required:

- Use Permit to demolish an existing dwelling unit, per BMC Sections 23C.08.010 and .020;
- Use Permit to construct a dwelling unit, per BMC Section 23D.16.030;
- Administrative Use Permit to allow a 35-foot average height limit for a main building (28-feet is the maximum), per BMC Section 23E.96.070.B; and
- Administrative Use Permit to reduce front yard setback to 16-feet (20-feet is required), per BMC Section 23E.96.070.C.

**B. CEQA Determination:** Categorically exempt pursuant to Sections 15303(a) (“New Construction”) and 15332 (“In-Fill Development Projects”) of the CEQA Guidelines.

#### C. Parties Involved:

- Owner: Mitchell D. Kapor  
543 Howard Street, Suite 500, San Francisco
- Applicant: Donn Logan (Marcy Wong / Donn Logan Architects)  
800 Bancroft Way, Suite 200, Berkeley

**Figure 1: Vicinity Map**

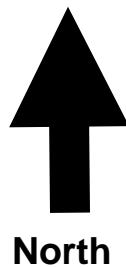
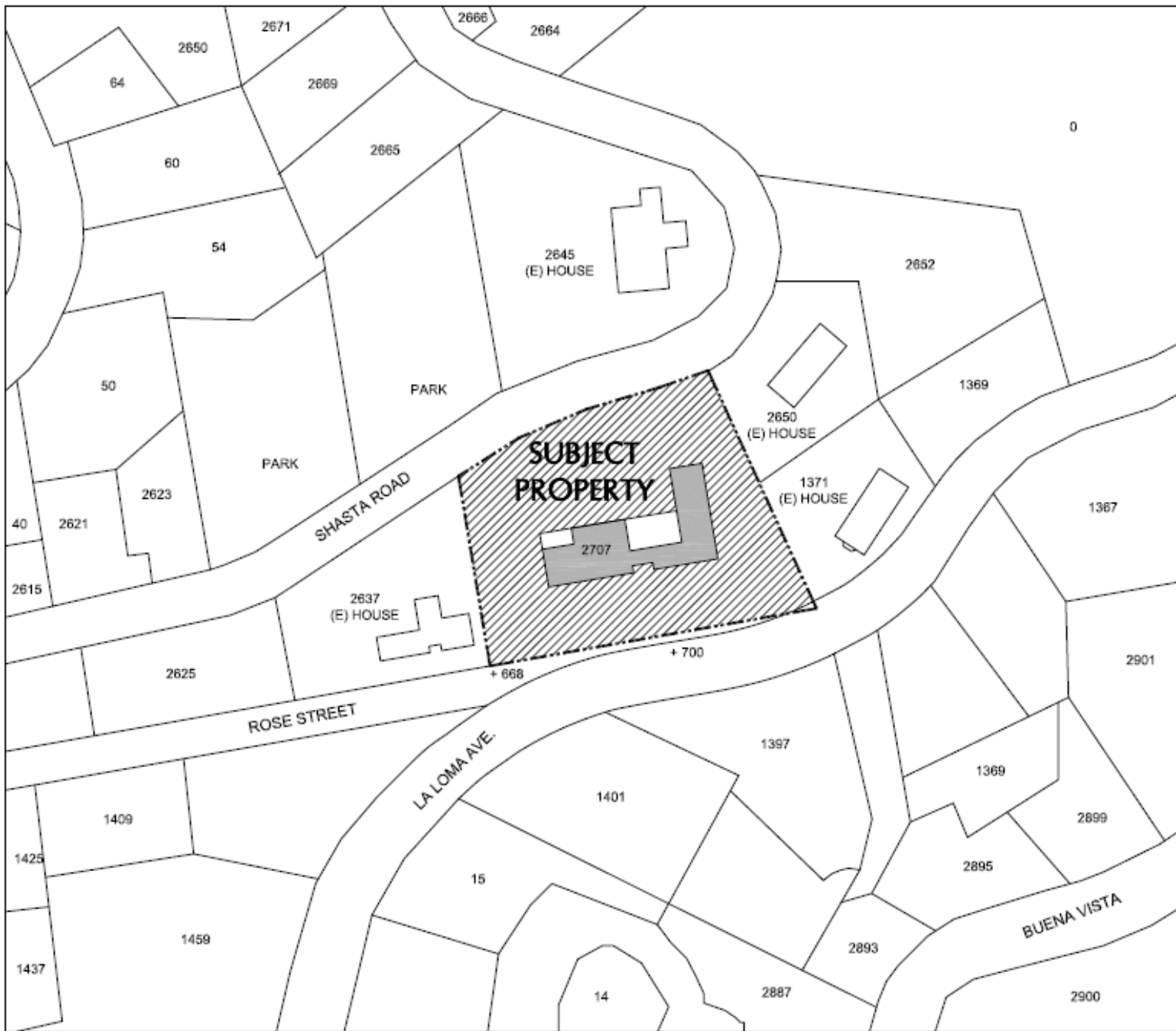
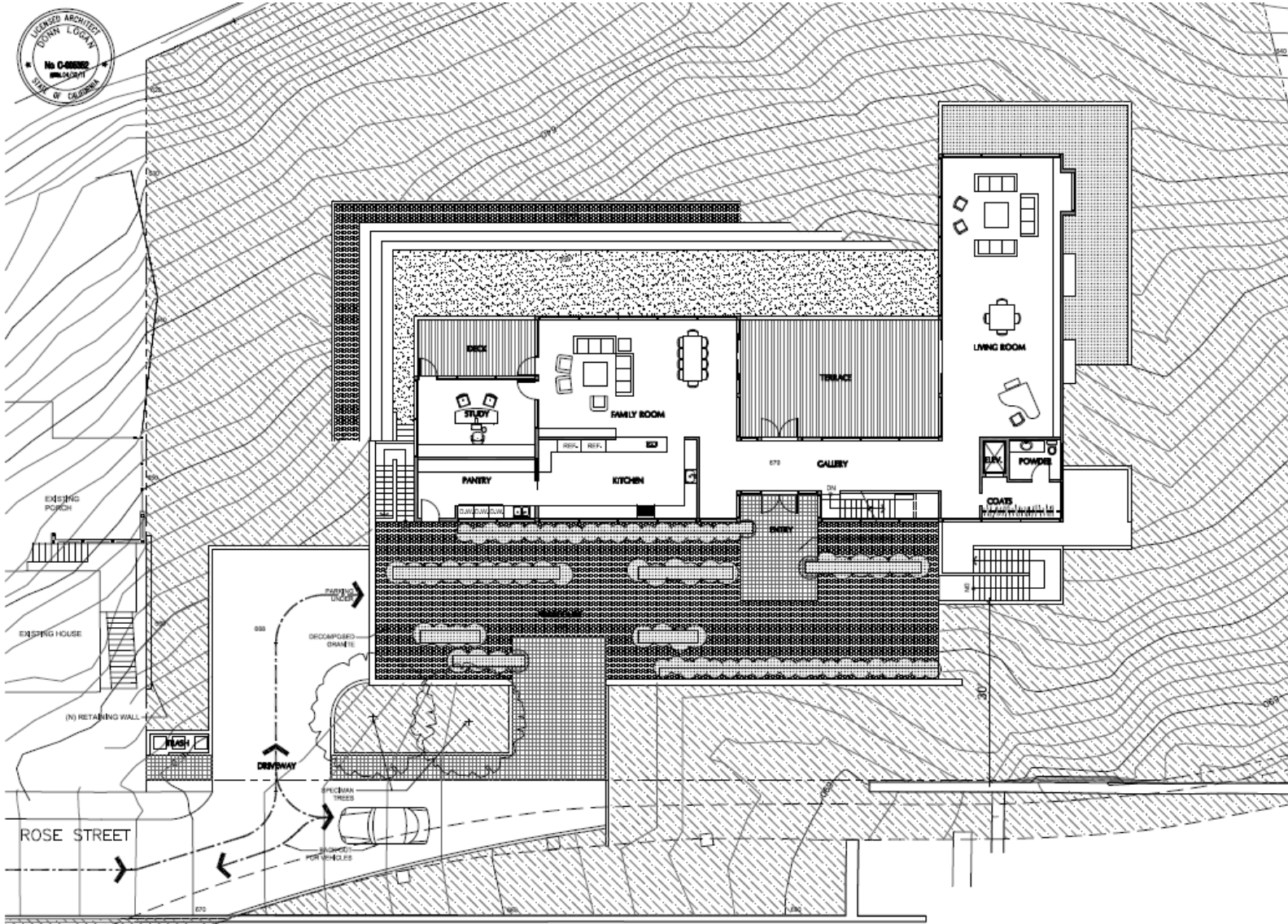


Figure 2: Site Plan/ Upper Floor Plan



North

**Figure 4: View from Rose Street (looking north)**



**Figure 5: View from Shasta Road (looking south)**



**Table 1: Land Use Information**

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Single-family Dwelling	R-1 (H)	Low-density Residential
Surrounding Properties	North	Single-family Dwelling	R-1 (H)	Low-density Residential
	South	Single-family Dwelling	R-1 (H)	Low-density Residential
	East	Single-family Dwellings	R-1 (H)	Low-density Residential
	West	Single-family Dwelling	R-1 (H)	Low-density Residential

**Table 2: Special Characteristics**

Characteristic	Applies to Project?	Explanation
CEQA	No	<p>The project satisfies the conditions of CEQA Guidelines Section 15332 for In-Fill Development Projects, as follows:</p> <ul style="list-style-type: none"> <li>• The project is consistent with the applicable General Plan designation and applicable General Plan policies (see “General Plan” discussion in this report), as well as with the applicable zoning designation and regulations.</li> <li>• The project occurs within the Berkeley city limits on a project site of no more than five acres, and is surrounded by urban uses.</li> <li>• The site has no value as habitat for endangered, rare or threatened species.</li> <li>• The project would not result in any significant effects relating to traffic, noise, air quality or water quality.</li> <li>• The site is already served by required utilities and public services, which will also adequately serve the project.</li> </ul> <p>Furthermore, the project does not trigger any of the exceptions in CEQA Guidelines Section 15300.2. In particular, the project will not have any significant effects due to unusual circumstances, or any cumulatively significant impacts (such as traffic), and it will not adversely impact any designated historical resources. Therefore, because the project meets the requirements of CEQA Guidelines Sections 15332 and 15300.2, it is exempt from further review under CEQA.</p>
Creeks	No	Codornices Creek is 50’ north west of the site and approx. 110’ from the proposed footprint.
Excavation/Slope	Yes	Excavation is approx. 1,500 cubic yards and on-site fill would be approx. 800 cubic yards. Slope is approx. 50%.
Historic Resources	No	No locally designated properties exist in the vicinity.
Oak Trees	Yes	The proposed dwelling would be adjacent to several Coast Live Oaks. An Arborist Report, prepared by a Certified Arborist, was prepared to assess the potential impacts related to the proposed footprint and related construction. The Tree Preservation mitigations identified in this report will be included in the conditions of approval for this permit.
Seismic Hazards - Landslide - Alquist Priolo	Yes Yes	Mapped within Landslide and Alquist Priolo Zone, but exempt from additional study because proposed project involves a two-story, wood-frame, single-family dwelling.
Green Building Score	Yes	Expected Score: 91 Points out of a total of 251; a score of over 60 is considered ‘green’.

**Table 3: Project Chronology**

Date	Action
May 19, 2009	Application submitted
October 13, 2009	Revised Application submitted
November 12, 2009	Application deemed complete
January 11, 2010	CEQA deadline / PSA deadline
January 14, 2010	Public hearing notices mailed/posted
January 28, 2010	ZAB hearing

**Table 4: Development Standards**

Standard BMC Sections 23D.16.070-080 & 23E.96.070		Existing	Proposed Total	Permitted/ Required
Lot Area (sq. ft.)		29,714	N/A	5,000 Min
Gross Floor Area (sq. ft.)				
Dwelling		2,477	6,478	N/A
Garage		384	3,394	
Floor Area Ratio		.10	.28	N/A
Dwelling Units	Total	1	1	1 <sup>1</sup>
Building Height	Average	N/A	31'-6"	28'
	Maximum	N/A	35'	35'
	Stories	2	2	3
Building Setbacks	Front (south) -Dwelling - Garage (partially below grade)	N/A	45' 16'	20'
	Rear (north)	N/A	50'	20'
	Side yard (west)	N/A	45'	4'
	Side yard (east)	N/A	40'	4'
Lot Coverage (Sq Ft/%)		N/A	4,654/15.6%	11,885/40%
Usable Open Space (sq. ft. - Min)		N/A	400	400
Landscaped			160	160
Parking	Automobile	3	10	1

N/A: Not available

<sup>1</sup> Per Section 23D.16.040.B.4 of the Zoning Ordinance, only one dwelling is allowed for this portion of Rose Street.

## II. Project Setting

### A. Neighborhood/Area Description:

The project is located in a hillside neighborhood of single-family dwellings. A mix of native and non-native vegetation is in the area, including many Coast Live Oaks. Development in the surrounding area represents a mixture of architectural eras and styles and the dwellings range in size from 728 to 5,746 square feet<sup>2</sup>. Due to the steep slope of the area, many properties enjoy views of the San Francisco Bay.

### B. Site Conditions:

The parcel slopes downward towards Shasta Road to the north and abuts an elevated portion of La Loma Avenue to the south. Pedestrian and automobile access is via Rose Street, which terminates at the project site. Rose Street is approximately 25 feet wide adjacent to the site and for 600 feet to the west. The site is heavily wooded and is presently developed with an existing single-family dwelling.

## III. Project Description

The project would demolish the existing two-story, 2,477 square foot, single-family dwelling, a detached one-car garage, and two one-car carports to facilitate the construction of a two-story, wood-frame dwelling intended for the use of the property owner. The single-family dwelling would be approximately 6,478 square feet on two floors plus an open-air lower level. The upper floor would include a kitchen, family room, study and living rooms. The lower floor is oriented towards the rear yard and would include a master bedroom, two guest rooms, a craft/study/exercise room and a 10-space parking garage. Due to the downward slope of the site, a third open-air lower level would be constructed beneath a portion of the house and would extend to the north as a patio/yard. The view of the dwelling from Rose Street would appear as a one-story dwelling. From the north at Shasta Road, which is below the site, the proposed dwelling would be visible upslope, setback approximately 35 to 65 feet from the street and roughly 45 feet above the roadway, behind significant vegetation. The garage would be accessed from a driveway at the southwest corner of the site near the terminus of Rose Street. The residence is intended to meet green building goals by achieving a score of 91, which far exceeds the threshold of 60, by incorporating a variety of features including PV panels.

## IV. Community Discussion

### A. Neighbor/Community Concerns:

The pre-application poster was erected in May 2009. On January 14, 2010, the City mailed 119 notices to adjoining property owners and occupants, and to interested neighborhood organizations. As of the writing of this staff report, staff received three comment letters, each are attached.

### B. Committee Review:

No advisory committee review is required.

---

<sup>2</sup> Of dwellings shown on the vicinity map in Figure 1, based on Alameda County Assessor's information.

## **V. Issues and Analysis**

### **A. Views:**

Many dwellings within this neighborhood benefit from views of the Bay. However, protected views are not available across this site due to the relatively flat east to west topography and the presence of mature vegetation. Based on staff's review of the plans and observations made when visiting the site, the project would only minimally alter the views available from one abutting dwelling at 1371 La Loma. However, any significant view to the west from 1371 La Loma would remain as 1371 La Loma is located at a slightly higher elevation and is much taller.

The dwellings to the north and south currently do not have views across the site due to building orientation, significant change in topography and the presence of mature trees.

### **B. Shadows:**

Existing vegetation, the La Loma Road overpass and slope, affect the amount of natural light available in the area. The proposed project adds to existing shading conditions as shown within the attached plan set (See pages 17-25<sup>3</sup>). While the proposed dwelling would increase shading, the project would not create unreasonable shading impacts onto any adjacent dwelling due to the horizontal separation between the dwellings, existing tree cover, and the change in grade between buildings.

The worst-case scenario for off-site shade impacts is depicted on pages 17 and 23 of the attached plan set. Each depicts the shading that would occur on the dwelling to the west at 2637 Rose Street, two hours after sunrise at the winter and summer solstice. New shadows would be cast on the roof and yard two hours after sunrise on the winter solstice and on the rear yard at the summer solstice. This impact is not considered detrimental because the shadows fall on the roof or yard for a short period of time but would not fall on any window of this dwelling.

---

<sup>3</sup> Note that the shadow studies include a 2-story structure at the southwest corner of the site that is no longer part of the project. Thus, the shadow studies overstate the shading impact of the proposed project.



### **C. Neighborhood Compatibility:**

No objections have been raised by the abutting and confronting property owners, as evidenced by signatures on the applicant's plan submittal. Assessor's data for the 41 neighboring dwellings shown on the vicinity map in Figure 1 indicates that the average floor area is 2,440 square feet and that two dwellings have floor and lot area similar to the proposed project. The dwelling would not be readily visible from the west or east due to the presence of mature vegetation and the significant building-to-building setback (53-feet to the west; 63-feet to the east), as well as topographic variations in the area. From Rose Street, only one floor of the dwelling would be visible, and this is at the terminus of Rose Street below the La Loma Avenue overpass. From Shasta Road, the dwelling would not be readily visible due to the significant setback of 35 to 77-feet, the 40 to 50-foot change in elevation from the road to the building, and the intervening vegetation. Thus, while the proposed project is larger than the average home size within this area, the volume would not be readily apparent when viewed from the public right-of-way or from any adjacent dwelling.

The applicant also proposes to plant several trees around the property that will fill in a small open area along Shasta Road and near the immediate neighbor to the west. The neighborhood is comprised of a variety of architectural styles, and so would accommodate the modern design of the proposed residence. The residence is also designed to fit the topography of the site and provides ample off-street parking for residents and guests, minimizing potential impacts in this constrained access area.

### **D. General and Area Plan Consistency:**

The 2002 General Plan contains several policies applicable to the project, including the following:

- Policy LU-3 Infill Development: Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale.
- Policy UD-16 Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.
- Policy UD-17 Design Elements: In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.
- Policy UD-24 Area Character: Regulate new construction and alterations to ensure that they are truly compatible with and, where feasible, reinforce the desirable design characteristics of the particular area they are in.
- Policy UD-31 Views: Construction should avoid blocking significant views, especially ones toward the Bay, the hills, and significant landmarks such as the Campanile, Golden Gate Bridge, and Alcatraz Island. Whenever possible, new buildings should enhance a vista or punctuate or clarify the urban pattern.
- Policy UD-32 Shadows: New buildings should be designed to minimize impacts on solar access and minimize detrimental shadows.

Staff Analysis: See “Project Description” and “Key Issues” section above. In summary, staff believes that the project protects views, incorporates green building design and materials and reflects the character of the buildings in the vicinity.

## VI. Recommendation

Because of the project’s consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board **APPROVE Use Permit #09-10000038** pursuant to Section 23B.32.040 and subject to the attached Findings and Conditions (see Attachment 1).

**Attachments:**

1. Findings and Conditions
2. Project Plans and Applicant Statement
3. Notice of Public Hearing
4. Correspondence Received

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