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.

Planning and Development Department, Land Use Division

Roll Call: 7:00 PM
Present: A. Kaufer, B. Allen, R. Judd, S. Wilson, M. Cohen, D. Stoloff, J. Arreguin (arrived at 8:40 PM)
Absent: J. Anthony, T. Doran, J. Arreguin, S. Shumer
Substitutes: A. Kaufer for T. Doran; D. Stoloff for D. Matthews

Public Attendance: ~35

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 three types of Consent Calendar items: (1) Approval of previous meeting minutes; (2) Modifications of existing Use Permits (which have not been noticed for public hearings); (3) 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. 1181 Laurel added to Consent Calendar for a Continuance.
Item 5. 1 Bolivar added to Consent Calendar for Approval.
Item 6. 1513-A Shattuck added to Consent Calendar for Approval.
Item 7. 1365 Summit added to Consent Calendar for Approval.
Item 8. 1612-14 Francisco added to Consent Calendar for a Continuance.

1. Approval of Previous Meeting Minutes
   Minutes from 08-14-08 ZAB Meeting
   Recommendation: Approve Minutes
   Action: No Action Taken. Only 3 Board Members at this meeting were present at the 8/14/2008 meeting. Therefore, Continued to 09/25/2008.

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

Appeal of Administrative Use Permit/Staff Level Design Review:
Appeals of Administrative Use Permit and Design Review applications 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 or Design Review Secretary’s decision.

Continued Items (Public Hearing has been closed):

2. 1181 Laurel
   Applicant: Murray Bruce 1181- Laurel Street, Berkeley CA 94708
   Appeal of Administrative Use Permit # 07-20000138 to raise a single-family home approximately 4’, thereby 1) creating a new 554 sq. ft. accessory dwelling unit, 2) increasing the usability of approximately 540 sq. ft. of storage space by increasing the clearance height from 6’ to 9’, and 3) creating approximately 110 sq. ft. of new floor area by increasing the clearance height from just under 6’ to 9’ (R-1H, NFD)
   Continued From: 06/26/2008, 07/24/2008, 08/14/2008
   Recommendation: Deny Appeal and Approve Project
   Action: Continued to 09/25/2008 on Consent Calendar (6-0-0-3; Absent: J. Anthony, J. Arreguin, S. Shumer)
3. **2421 Ninth**  
**Applicant:** Gregory VanMechelen, 1117 Virginia Street, Berkeley, CA 94702  
Use Permit 05-1000084 to construct a two-story 1,776 sq. ft., detached dwelling unit at the rear of a 6,500 sq. ft. lot with one existing dwelling unit, (R-1A, ES)  
Continued From: 08/14/2008  
Recommendation: Approve  
Action: Continued to 10/06/2008 on Consent Calendar (6-0-0-3; Absent: J. Anthony, J. Arreguin, S. Shumer)  

Compliance Determination:  

4. **2116 Allston – GAIA Building**  
Review of Conformance with Use Permits # 97-10000093, # 02-70000014. (C-2, WC)  
Continued From: 08/14/2008  
Recommendation: Provide direction regarding the conformance with use permits or continue for six months as requested by the owner  
Action: Continue for 6 months. Allow owner to prepare and implement a marketing plan and report findings back to ZAB within six months. Applicant to work with staff, including progress reports after 60 days and 120 days. Staff will report to the ZAB during the interim if needed. (6-0-1-2; Abstain: J. Arreguin; Absent: J. Anthony, S. Shumer)  

New Hearings:  

5. **1 Bolivar**  
**Applicant:** Primitivo Suarez-Wolfe, Assistant Architect, City of Berkeley, Public Works Department, 1947 Center Street, 4th Floor, Berkeley CA 94704  
Use Permit #08-10000077 to demolish an 11,311 square foot, two-story commercial building; (C-W, GMS)  
Continued From: NONE  
Recommendation: Approve  
Action: Approved on Consent Calendar (6-0-0-3; Absent: J. Anthony, J. Arreguin, S. Shumer)
6. **1513-A Shattuck**  
*Applicant:* John E. Gutierrez, 2550 Ninth Street, Suite 202 Berkeley CA 94710  
Use Permit #08-10000079 to allow the sale of distilled spirits in addition to wine and beer at the existing full service restaurant (“Mint Leaf”) (C-NS, EJS).  
Continued From: NONE  
Recommendation: Approve  
Action: Approved on Consent Calendar (6-0-0-3; Absent: J. Anthony, J. Arreguin, S. Shumer)

7. **1365 Summit Road**  
*Applicant:* Charlotte Von Der Hude, P.O. Box 9795, Berkeley, CA 94709  
Use Permit Modification #08-70000016 to modify the single family home project approved by Use Permit #06-10000105 to demolish an existing 1,575 square foot single story residence and replace it with a new three story, 3,598 square foot single family home; (R-1(H), SDR)  
Continued From: NONE  
Recommendation: Approve  
Action: Approved on Consent Calendar (6-0-0-3; Absent: J. Anthony, J. Arreguin, S. Shumer)

8. **1612-14 Francisco**  
*Applicant:* Adlai Leiby, 1616 Francisco Street, Berkeley, CA 94703  
Use Permit 08-10000068 to construct a single story, 1,000 sq. ft. dwelling unit on a 13,500 sq. ft. lot with three existing dwelling units. (R-2, EJS).  
Continued From: NONE  
Recommendation: Approve  
Action: Continued to 09/25/2008 on Consent Calendar (6-0-0-3; Absent: J. Anthony, J. Arreguin, S. Shumer)

9. **1540 Shattuck**  
Use Permit #03-10000048 to construct a new wireless telecommunications facility (including ten antennas and related equipment) for Verizon Wireless Communications (C-NS, PJ)  
Continued From: NONE  
Recommendation: Approve  
Action: No Action Taken. Not enough votes to pass the motion to approve (4-3-0-2; No: S. Wilson J. Arreguin, M. Cohen; Absent: J. Anthony, S. Shumer). Continued to 09/25/2008, Public Hearing Closed.
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" 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]