

Burns, Anne M

From: Toni Mester <healthyparks@comcast.net>
Sent: Tuesday, April 18, 2023 10:16 AM
To: Burns, Anne M
Subject: DRC April meeting
Attachments: 2435_ SPA_APPEAL_FINAL4.pdf

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To: Anne Burns and the Design Review Committee

From: Toni Mester D2

RE: April meeting, 2147 San Pablo Avenue

This is one of three projects on San Pablo Avenue between University Avenue and Dwight Way that feature efficiency units of approximately 220 sf each, bathroom included. They are:

2435 San Pablo Avenue, approved 1/21/2021 in appeal hearing by the City Council and is currently under construction. Contains 42 efficiency units, sub-standard in size according to the CBC (California Building Code) 1208.4 which then required a combined living/kitchenette area of 220 sf plus a separate bathroom. The appeal by 30 neighbors is attached FYI. It was approved as a GLA (group living accommodation), which was exempt from paying the affordable housing mitigation fee until April 1, 2023. The City has counted these "rooms" as units towards Berkeley's RHNA quota (regional housing needs allocation).

Since that approval, several changes in the applicable laws affect the applications of 2147 (April 2023 Design Review meeting) with 128 efficiency units and 2427 -2433 (May 2023 Design Review meeting) with 77 efficiency units and 8 replacement units.

- Efficiency Unit standards in the CBC were changed in 2022 to:

1208.4 Efficiency Dwelling Units

Efficiency dwelling units shall conform to the requirements of the code except as modified herein:

.The unit shall have a living room of not less than 190 square feet (17.7 m²) of floor area.

The unit shall be provided with a separate closet.

For other than accessible A and Type B dwelling units, the unit shall be provided with a kitchen sink, cooking appliance and refrigerator, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.

The unit shall be provided with a separate bathroom containing a water closet, lavatory and bathtub or shower.

The units in these projects equal or approximate the state standards for self-sufficient efficiency dwelling units, and therefore are not group living accommodation rooms. The common areas, which incidentally include kitchen appliances,

are amenities, not necessities. And indeed, it would be impossible for so many people to use a common kitchen on a daily basis for regular meals. The refrigerator space, stove tops, and seating areas are simply inadequate for any practical rotation to prepare and serve even one regular meal a day without kitchen staff.

By state law, therefore, these arrangements are not communal residences but efficiency dwelling units with a common area that includes kitchen appliances for occasional use.

● The City of Berkeley's affordable housing mitigation fee, which had a loophole that exempted GLAs, was changed from a fee of approximately \$43,000 per unit to a square footage fee on a sliding scale, and GLAs are limited to UC sororities, fraternities, and co-ops. The new fee structure went into effect April 1. In closing the loophole, the City made it clear that only University GLAs will be exempt from the affordable housing mitigation fee that is deposited in the housing trust fund pays for such worthy projects as the new Hope Center on Berkeley Way.

These three applications, which total 247 efficiency units within 4 blocks of San Pablo Avenue, do not reflect the needs of the community, but the profit of the developers, pushed through before changes in the affordable housing mitigation fee. They are not "naturally occurring" affordable housing but lucrative income, as smaller units produce more rent per square foot. They are too far way from campus to serve as student dormitories, and their structure is unsuited for the formerly homeless who need supportive services or for seniors. The average household size of the general population in the urban East Bay is 2-3 persons, who are best housed in spacious studios or one and two bedroom apartments/condos - not 220 sf efficiency units. Since most single people can tolerate such limited space and over-crowded conditions for a short period of time, the turnover will make these living arrangements even less attractive. It's time to stop the profiteering and start building permanent housing that provides working people stability, comfort, and privacy.

The attachment is the appeal of 2435 San Pablo Avenue, which contains much of interest including appendices with legal opinions and floor plan analysis.