

1310 HASKELL STREET APPEAL

Background

- ❑ Project involves:
 - ❑ Demotion of an existing dwelling unit;
 - ❑ Construction three detached dwelling units.
 - ❑ Increase the number of dwelling units on the site from one to three and the number of bedrooms from two to nine.
- ❑ Project is located in the R-2A Zoning District.
- ❑ At the meeting of **March 10, 2015**, the ZAB reviewed and approved the Use Permit request because it found the project:
 - Complies with the R-2A Development Standards; and
 - Would not be detrimental the neighboring properties.

Background - continued

- ❑ Appeal submitted on **April 4, 2016**
- ❑ City Council hearing, **July 12, 2016**
 - ❑ Denied the Use Permit without prejudice
- ❑ On **October 7, 2016**, a lawsuit filed against the City
 - ❑ Bay Area Renter's Federation, et al. v. City of Berkeley;
 - ❑ The City did not base its decision upon written findings supported by substantial evidence in the record that both of the following conditions exist:
 - 1) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density.
 - 2) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

Background - continued

- On **October 10, 2016**, the civil suit was settled subject to the following terms:
 - Resolution No. 67, 512-N.S., denying Use Permit No. ZP2015-0087 is rescinded;
 - The Berkeley City Council schedule a rehearing of the appeal of Use Permit to occur within two to four months from date of settlement;
 - In its decision on the rehearing of the appeal, the City Council shall comply with the Housing Accountability Act;
 - The City must now conduct a Housing Accountability Act analysis for all pending and future housing construction, including the subject project; and,
 - The City must pay attorney's fees and costs.

R-2A Development Standards

The project would be incompatible with the R-2A District.

Standard	R-2A Standards	Proposed Project	Compliance
Number of Units	4	3	Complies
Open Space	900 sq. ft. (300 sq. ft. per unit)	1,541 sq. ft.	Complies
Height	28'	22' - 8"	Complies
Stories	3	2	Complies
Lot Coverage	40%	39%	Complies
Setbacks			
Front	15	15	Complies
Rear	15	15	Complies
Side	4	12	Complies
Side	4	4	Complies

Appeal Points

The project would be increase density on the parcel:

Standard	R-2A Standards	Proposed Project	Compliance
Density	Up to 4	3	Complies

Based on the R-2A density requirements for this lot, the ZAB concluded the project would be consistent with the neighborhood and the district.

Appeal Points - continued

The ZAB ignored the neighbors' concerns:

- ❑ Staff provided the ZAB with advance copies of petitions and letters, both in support and opposition of the application.
- ❑ The ZAB considered concerns expressed by the neighbors; however, it voted to approve the project because it met all applicable development standards.

Appeal Points - continued

The proposed project would demolish an existing house that is compatible with neighborhood and should be renovated:

- ❑ At the hearing, the ZAB explored ways to save the existing house.
 - ❑ A substitute motion was made to retain the existing house and added two more units in the back. However, the motion did not pass.

Housing Accountability Act

- Uphold the ZAB's decision:
 - Because the project meets all of the R-2A Development Standards;
 - No modification to the R-2A Development Standards

Recommendation

- Uphold the ZAB's decision:
 - **The project meets the R-2A Development Standards.**

QUESTIONS?