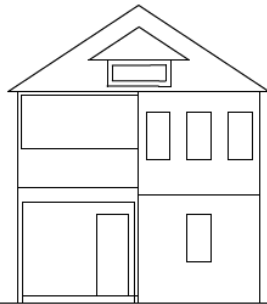


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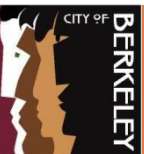


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2212 TENTH STREET APPEAL



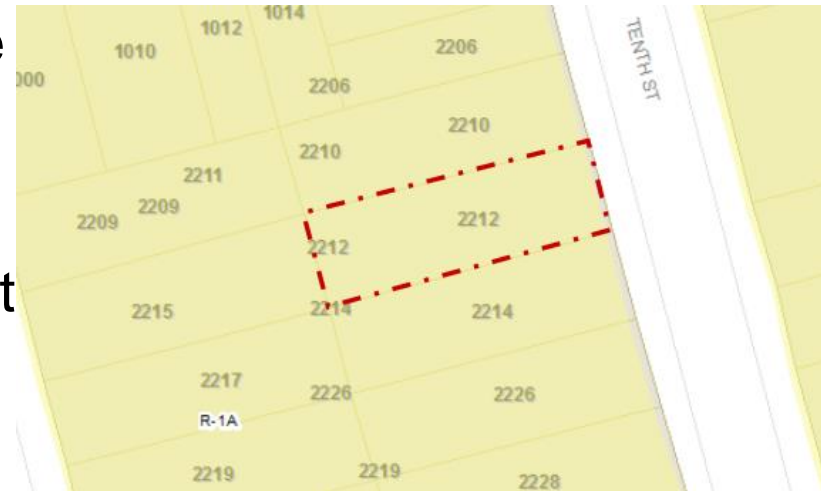
City of
Berkeley

Immanuel Bereket, Associate Planner
March 13, 2018

Project Overview

2

- Demolish dwelling unit and garage
- Construct two detached dwelling units
- Located in the R-1A Zoning District



Background

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- ❑ Application filed on **June 28, 2016**

- ❑ ZAB Hearings:
 - ❑ **December 8, 2016**, continued item
 - ❑ **January 12, 2017**, continued item
 - ❑ **February 9, 2017**, approved as amended

- ❑ City Council Hearing:
 - ❑ **June 13, 2017**, remanded to ZAB with direction

- ❑ ZAB Remand Hearing:
 - ❑ **August 24, 2017, approved with conditions**

Appeal Points

4

1. The owner is entitled to a decision regarding the application of BMC Chapter 23C.08 that the owner complied with all provisions of the demolition ordinance. The Board's condition of approval requiring "a signed and notarized declaration by the tenants attesting to a voluntary vacate, that they voluntarily vacated the premises without any retaliatory or harassing behavior" exceeds the Board's authority.
2. The condition of approval stipulating that "rent increases that would force the tenants to move would not be found to be voluntary" violates the owner's rights pursuant to California law as provided in the Costa Hawkins Rental Housing Act.
3. The Board provided no justification for reducing the size of the rear unit.

Revised Project Data – rear unit

5

- **Decreased** overall size from **1,952** to **1,680** sq. ft.
- **Increased** both side yard setbacks from **4'-1"** to **6'**
- **Decreased** bedroom count from **4** to **3**
- **Reduced** average height from **21'** to **20'-3"**
- **Increased** maximum height from **22'-1"** to **23'-5"**
- **Decrease** building-to-building separation from **20'** to **14'**

ZAB Action

6

Approved:

1. Approve the Use Permit to demolish the existing dwelling
2. Approve the Use Permit to construct two detached dwellings

Conditions:

1. Further reduce the rear unit by **200 sq. ft.** (from **1,680** to **1,480 sq. ft.**) by eliminating one bedroom and one bathroom on the second floor.

The Board provided no justification for further reducing the size of the rear unit

7

Response:

- Revised Project taller than previous project
- No change to shading of neighbor's yard with revised project
- Proposed rear unit inconsistent with City Council direction

Housing Accountability Act

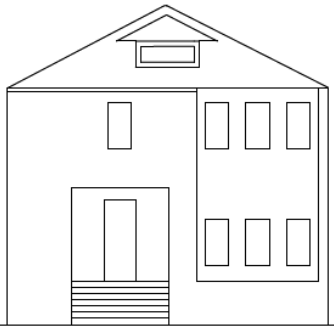
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- Government Code §65589.5(j) does not apply:
 - Reduced rear yard setback

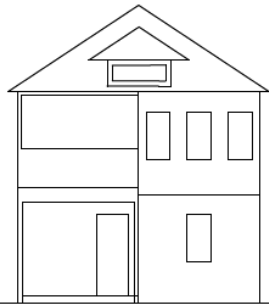
Staff Recommendation

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- Deny the appeal and uphold the ZAB's decision, approving the project as revised during the ZAB deliberations and as conditioned.



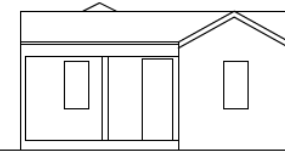
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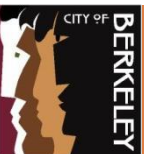


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2212 TENTH STREET APPEAL



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Standard	R-1A Standards (Existing)	R-1A Standards (Proposed)	Approved Aug. 2017	Compliance
Dwelling Units	2 or SFR + ADU	No Change	2 units	Complies
Building Height (avg.)	28'	Front: 28' Rear: 22'	Front: 20' - 11" Rear: 20' - 3"	Complies
Building Height (max.)	N/A	N/A	N/A	N/A
Stories	3	Front: 3 Rear: 2	Front: 2 Rear: 2	Complies
Lot Coverage	40%	No Change	38%	Complies
Open Space	800 sq. ft.	No Change	1,311 sq. ft.	Complies
Gross Floor Area	N/A	N/A	Front: 1,839 Rear: 1,480	N/A
Building Separation	N/A	First = 8' Second = 12 Third = 16	14'	Complies
Setbacks				
Front	20'	No Change	20'	Complies
Rear	20'	No Change	15'	No
Left Side	4'	Front: 4' Rear: 6'	Front: 5' Rear: 6'	Complies
Right Side	4'	Front: 4' Rear: 6'	Front: 11' Rear: 6'	Complies

