

July 12, 2018
Re: 2501-2509 Haste & 2433 Telegraph - El Jardin

JUL 12 2018
RECEIVED
at Meeting

Dear ZAB Members,

It may be too late to fix the Use Permits already granted to this Project, which I understand involves a settlement with the Project applicant. But I have to point out some significant Planning errors that could have profoundly negative impacts, both in terms of the impact of this project and as a precedent.

This project does not meet the Zoning Ordinance definition of a Dormitory, and it is not exempt from the Affordable Housing Mitigation Fee. A dorm is "a building providing Group Living Accommodations, occupied by individuals not sharing a common household, characterized by separate sleeping rooms without individual kitchen facilities and containing congregate bath and/or dining facilities or rooms." Under the reasoning used to approve this project, every new rental unit in Berkeley could avoid paying the AHMF by renting bedrooms separately while providing substandard kitchens. Loss to City: \$1,480,000 in Affordable Housing Mitigation Fees (half the 161 bedrooms x \$37k). Is this what the public can expect going forward?

"Modifications to Required Findings—Group Living Accommodations" claims, "The C-T District does not provide a useable open space requirement for this project."

Either Planning staff has interpreted the Zoning Ordinance incorrectly, or Berkeley has no development standards requiring a single foot of open space for Group Living Accommodations in the C-T (where this project is located), Downtown, or along South Berkeley's commercial corridors. All of these Districts specify that GLAs are subject to R-3 standards, and the R-3 requirement for open space in GLAs is 90 square feet per person.

This project allows 1 person per 79 square feet of lot area where the R-3 standard for GLAs is 1 per 350 sq. ft. By comparison, the R-5 density standard for GLAs is 1 person per 175 sq. ft. In other words, this project has over twice the population density envisioned by the 2002 General Plan for GLAs in the Downtown (which was zoned R-5 for residential density).

According to the Land Use Element of the General Plan, R-3 population density will generally range from 44 to 88 persons per acre. High density (R-4 and R-5) will generally range from 88 to 220 persons per net acre.

The population density of El Jardin is 553 persons per acre, where 123 persons per acre (53 persons on .43 acres) would be the limit without the use of discretion. The City has not analyzed the impact of successive projects with this extraordinary level of density on Southside open space, and it will also intensify the need for affordable housing without contributing BMR units or even mitigation fees.

The C-W allows GLAs “subject to development standards under 23E.64.070,” but this section addresses only dwelling units and live/work. Does this mean that GLAs along San Pablo have no open space requirements either? Or can 5- and 6-bedroom units be rented by the bedroom with only 40 square feet of open space per unit?

Planning’s position in the past was that 40 square feet per unit was inadequate. It’s particularly unacceptable in Districts already underserved by publicly accessible open space, like South Berkeley. Developments on University and part of Telegraph must provide 200 square feet of open space per unit, while the standard for South and West Berkeley mixed-use developments is ⅓ of that. And since the City hasn’t commissioned a comprehensive nexus study to analyze the impact of new development on our need for parks and other open space, developments outside the Downtown pay no impact fees to cover their share of the burden. The community will literally and figuratively pay the price.

Zoning for the portion of Telegraph Avenue zoned C-1 specifies that R-3 open space standards apply to GLAs, and requires 90 square feet of open space per person. Same with the portion of University Avenue not included in the Downtown. ZAB can’t reduce this open space unless the Board makes findings that aren’t applicable to this particular development standard, or unless the reduction is a State Density Bonus incentive or concession.

We are in a regional affordable housing crisis, and Berkeley should use higher levels of density as an incentive for developers of on-site affordable housing. Allowing this extraordinary intensity of development with no affordable housing or fees is inconsistent with the Southside Plan, the Housing and Land Use elements of the General Plan, or the State Density Bonus Law. It also punishes tenants who live a car-free lifestyle by providing them with substandard open space in an area already underserved by parks. This is not a humane or practical way to combat climate change. Please adopt consistent and clear GLA standards as soon as possible, because this is not tenable.

Sincerely,

Marianne Sluis