

To: Zoning Adjustment Board: August 24 , 2020

Dear Zoning Adjustment Board Members,

We have examined the revised application and plans for 2435 San Pablo Ave and recommend that the Board deny the application on health and safety grounds. We fully support housing that abides by standards that allow good living for both the tenants and their neighborhood. This does neither.

These are our main concerns:

No attention is being paid to the General Plan which by law sets standards to be upheld in the City.

Health and safety issues are especially heightened due to Covid 19 and the absence of a resident manager.

An ambiguous housing model that is a residential hotel that is currently unregulated in the Berkeley Zoning Code.

The building touts itself as addressing the affordability crisis, but avoids paying the affordable housing mitigation fees and charges higher rents per sq ft than standard studios.

The current proposal does not address the issues raised by ZAB in December - less robust managerial plan with unenforceable rules, which could lead to substandard and dangerous living conditions.

The entire proposed layout of the building is substandard for health and safety due to the density and overcrowding on the 3 residential floors. It does not meet the standards of density laid out by Berkeley's General Plan which is law. It needs to be built less dense.

The large ratio of bedrooms to kitchen , 12 - 15 : 1 is unprecedented in Berkeley or elsewhere. Approved co-living units have a maximum of 6 bedrooms to a kitchen at 2720 San Pablo Avenue and 3000 Shattuck Ave. This de-facto standard should be used in a redesign of this building.

As to the global pandemic, Leslie Mendez emailed, August 20, 2020, the following : *"There are no changes to density, design, or building code in response to COVID-19. If changes were to occur, they would be adopted through the building code."*

City Planning clearly could make adjustments to the building concept for the purpose of ensuring health and safety.

We request that you ask staff to produce the State code requirements for residential hotels, including cooking facilities and to show how the appliances in these rooms meet the requirements. Do they qualify as Efficiency Units as defined by State Law?

We are living in a global pandemic, COVID19, with no end in sight at this time. This reality- increases the inherent problems of the proposal for 2435 San Pablo.

It would be impossible to follow the current CDC health directives for social distancing in this living arrangement and to self-quarantine in case of a positive test where quarters are too cramped.

In an email of August 18, 2020, Charles Kahn wrote *"We felt the operations manual was the most essential concern voiced from the neighborhood and from ZAB; that is where we have put our greatest effort. My memory is that the other items were mostly requests to "consider", which we did."* This ignores neighbors concerns including, parking, traffic, health and safety issues and ZAB's suggestions including bedroom to kitchen ratio and on-site management, among others. In the current Plan there is no longer a manager's unit, just a janitor's room, as there is *no* resident manager, which was recommended by DRC and ZAB.

In the Management Plan, contracted from a New York company called 'Common', residents would not be able to follow the City of Berkeley's Public Health directive to shelter at home safely. Dr Lisa Hernandez cited GLA as ' your bubble' and that you must have no interaction outside that. The tenants would have nothing in common and not be able to choose their co-habitants. This is a hotel where the residents have no relationship but share a common kitchen with 12 - 15 others. In a transient hotel guests have lots of choices. They can walk out. Here residents are stuck in a year's lease.

Berkeley is not prepared. Since Berkeley has no ordinance for the management and enforcement of residential hotels, who is going to monitor and enforce the management plan? Who will make regular inspections? Does the City have mechanisms currently in place to monitor and enforce? Where is accountability and enforcement?

Right now the management plan is not in compliance with local guidelines to shelter in place. The COVID related cautions in the management plan include 'wash hands' and 'wear masks'. It is not safe to mix with 12 -15 people who are not family with no security between floors so the tenants can and will mingle, so they cannot come and go safely to shop everyday.

We ask you to imagine how you would live here. Now try to follow health and safety guidelines during a pandemic. You don't have a safe domicile. You cannot follow city directives. Now imagine you have surveillance cameras on you all the time, a KDA initiative for safety.

This is not Affordable Housing where 200 square feet (SF) at \$2000 = \$10/SF. Affordable Housing is available at \$3-\$4/SF. Neither is the developer paying an in lieu fee to Berkeley Affordable Housing Trust having changed designation mid process to avoid such fees. The architect sent [this note](#) to Planning on August 22, 2019.

The City is clearly unprepared for this type of building, either designated as co-living or as a residential hotel, which needs public consideration, thought, rules and regulations. This is especially so now in the COVID pandemic.

Before COVID and certainly now with a global pandemic this development is bad public health the City should not accept. New developments need to be built with responsibility to the future city and citizens.

Building a crowded situation during a global pandemic is putting on blinders as a high incidence of Covid is in direct correlation to density. The City is setting up a situation. The units are not adequate to live in without going out into the common space and the common space is not safe as there are 12 -15 individuals who are not your family.

New building developments have a responsibility toward the future. When this building is completed (in 3 years?), will there be enough renters willing to live in this type of housing? If they do manage to get this funded, what will happen if they can't fill it? What will become of it? As Chair O'Keefe pointed out it is not traditional Affordable Housing that can survive 200 years. What will it be in 10?

ZAB should invoke the health impacts section of the Housing Accountability Act:

(A) 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. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

ZAB should use the authority of the CDC guidelines on shared and congregate living:

<https://www.cdc.gov/coronavirus/2019-ncov/community/shared-congregate-house/guidance-shared-congregate-housing.html>

We have highlighted those CDC recommendations that cannot be achieved in this building layout in an attached file..

ZAB has a responsibility not only to ensure the health and safety of future tenants but also to the surrounding neighborhood it is joining.

Thank you very much for your consideration of our comments.

Whit and Una Ingram

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