

ZONING ADJUSTMENTS BOARD
RESOLUTION NO. 11-03

RECOMMENDING TO THE CITY COUNCIL THAT IT DECLARE THE USE AT
2133 PARKER STREET A NUISANCE AND THAT CERTAIN REMEDIES BE IMPOSED

WHEREAS, prior to 2010, the building consisted of an unfinished ground floor with one parking space; a two-bedroom, 1 bath dwelling on the second floor; and two, two-bedroom, 1 bath dwellings on the third floor; and

WHEREAS, on March 17, 2010, the City issued a Building Permit (#09-3183) to completely renovate the interior and exterior of the building, to relocate one of the three existing dwellings from the third floor to the ground floor and to increase the number of bedrooms from the historic condition of 5 within the entire building to 19; and

WHEREAS, on June 8, 2010, the City issued a Notice of Violation based on an unauthorized alteration of the roofline without approval of building permit revision; and

WHEREAS, on June 28, 2010, the City issued a Notice of Violation based on unauthorized alterations to the building that required approval of an Administrative Use Permit; and

WHEREAS, on August 12, 2010, the property owner submitted Application #10-20000097 for an Administrative Use Permit to: 1) alter the roofline at the southeast corner of the building above the front entry stair; 2) expand a deck and access stair to the third floor; and 3) relocate the parking to the front yard; and

WHEREAS, on September 11, 2010, the Administrative Use Permit application was deemed complete; and

WHEREAS, on October 14, 2010, the City released a Public Hearing Notice to notify the public of a hearing to be held by the Zoning Adjustments Board on October 28, 2010; and

WHEREAS, on October 28, 2010, the Zoning Adjustments Board held a hearing to review Administrative Use Permit #10-20000097 and directed Staff to prepare findings for denial; and

WHEREAS, on December 2, 2010, the property owner requested that the ZAB continue the hearing to allow time to revise the project; and

WHEREAS, on December 9, 2010, the Zoning Adjustments Board continued the hearing; and

WHEREAS, on January 13, 2011, the Zoning Adjustments Board denied Administrative Use Permit #10-20000097 (Vote: 7-0-0-1; Yes: Allen, Alvarez Cohen, Kopelson, Matthews, Romo, Shumer, Williams; Absent: Mikiten), after finding that the project would cause detriment for the following reasons: 1) The alteration to the front roofline would be detrimental because the revised roofline would not be architecturally compatible with the existing building; 2) That the rear deck and stair accessed from the third floor would be detrimental because the height above grade and the large size would create a privacy and noise impact to adjacent residential properties; and 3) That parking within the front yard would be crowded, unworkable, and unattractive, and thus, a replacement parking space, within the building, is required; and

WHEREAS, on February 2011, the City approved a revision to Building Permit #09-3183 to restore the roofline to the historic condition at the southeast corner of the building, omit the 3rd floor access stair to the rear of the building, to restore the one off-street parking space within the building, and to reduced the total number of bedrooms within the building from 19 to 17; and

WHEREAS, on March 10, 2011, the City released the Notice of Decision for the January 13, 2011, action by the ZAB to deny Administrative Use Permit #10-20000097; and

WHEREAS, on March 10, 2011, per Section 23B.64.030.A of the Zoning Ordinance, the Zoning Adjustments Board, scheduled an abatement hearing on the grounds that the project is over density and is incompatible with the neighborhood and purposes of the R-2A zoning district; and

WHEREAS, on March 24, 2011, the 14-day appeal period for the Administrative Use Permit denial ended without submission of an appeal; and

WHEREAS, on April 7, 2011, per Section 23B.64.030.B of the Zoning Ordinance, the City released a Public Hearing Notice to notify the public of an abatement hearing to be held by the Zoning Adjustments Board on May 12, 2011; and

WHEREAS, on May 12, 2011, per Section 23B.64.040 of the Zoning Ordinance, the Zoning Adjustments Board held a hearing and passed a motion (Vote: 7-2-0-0; Yes: Alvarez Cohen, Friedrich, Groves, Hahn, Matthews, Shumer, Williams; No: Kopelson, Allen) to find that the property was a nuisance because of violation of the ordinance due to the building's design (many small bedrooms with little common space), which is a de facto group living accomodation; and

WHEREAS, on May 12, 2011, per Section 23B.64.040 of the Zoning Ordinance, the Board directed staff to consider remedies to include: 1) return the building to its original configuration; 2) to arrive at a maximum "persons per square foot of land" density such as 1/800 (as expressed elsewhere for group living accomodations, even though group living accomodations are not permitted in this District); 3) require minimum 1,000 square foot flats; or 4) significantly reduce the number of bedrooms; and

WHEREAS, on June 9, 2011, the Zoning Adjustments Board continued the Public Hearing, without discussion or taking testimony, to July 14, 2011; and

WHEREAS, on July 14, 2011, the Zoning Adjustments Board closed the public hearing, and passed a motion (Vote: 7-0-0-1; Yes: Allen, Alvarez Cohen, Groves, Hahn, Matthews, Mikiten, Shumer, Williams; Absent: Kopelson), stating that: 1) the Zoning Ordinance anticipated this use (Group Living Accomodation); 2) the use of this building falls under the Group Living Accomodation designation; 3) Group Living does not rely exclusively on the definition of household but also on the design of the dwelling units; 4) designating this building as a Group Living Accomodation is based on the judgement of the Zoning Adjustments Board; 5) the Zoning Adjustments Board believes the design intent is as a group living due to the number of small bedrooms and minimal common space; 6) the imminent rental of this property as a Group Living Accomodation constitutes serious detriment to the neighborhood; and

NOW THEREFORE, BE IT RESOLVED that the Zoning Adjustments Board, per Section 23B.64.040 of the Zoning Ordinance, hereby makes a recommendation to the Council that: 1) zoning language defining dwelling units and group living be tightened to limit similar developments; 2) it impose group living limitations/requirements for this development to impose a maximum number of bedrooms, based on the lot area of the site, available useable open space and off-street parking; and 3) occupants are not eligible to participate in the City's Residential Preferential Parking (RPP) Program.

Steven Buckley
Secretary, Zoning Adjustments Board

Date