



Z O N I N G A D J U S T M E N T S B O A R D S T A F F R E P O R T

FOR BOARD ACTION
OCTOBER 11, 2012

2010 Ninth Street

Use Permit #12-1000027 to construct three, two-story single-family homes, totaling 5,363 sq. ft. of total floor area on a vacant, 6,500 sq. ft. lot, instead of a three-story, nine-unit building containing 7,254 sq. ft. of floor area, previously approved under Use Permit #9416.

I. Background

1. Land Use Designations:

- General Plan: MDR – Medium Density Residential
- Zoning: R-3 – Multiple-Family Residential District

2. Zoning Permits Required:

Use Permit to construct three, single family homes, under 23D.36.030.A

C. CEQA Determination: Categorically exempt pursuant to Section 15332 of the CEQA Guidelines (“In-Fill Development Projects”).

D. Property Owner:

- Applicant - Prescott Holdings LLC, 2781 Piedmont Avenue #301 Oakland CA. 94611

Figure 1: Vicinity Map

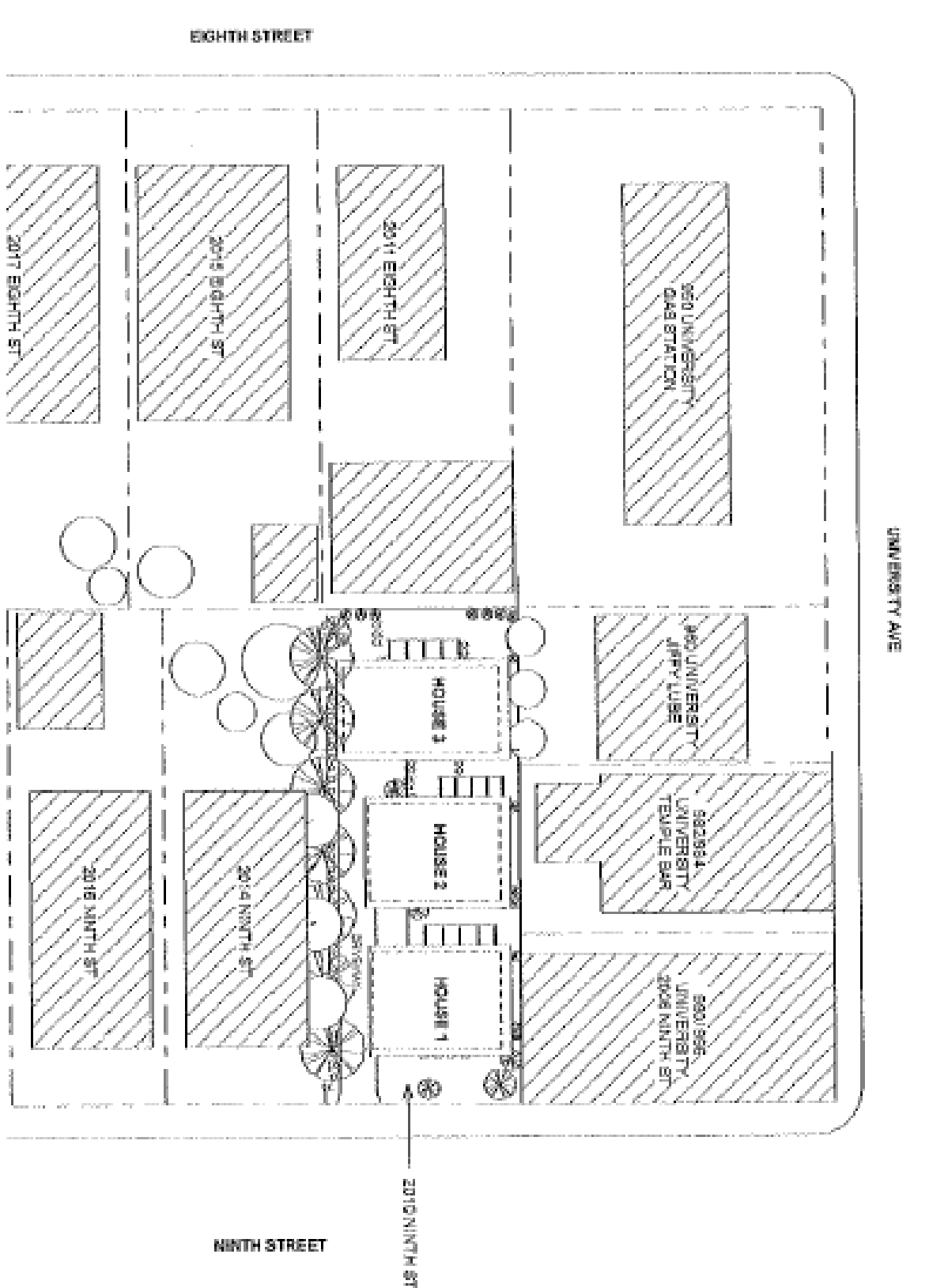


Figure 2: Site Plan

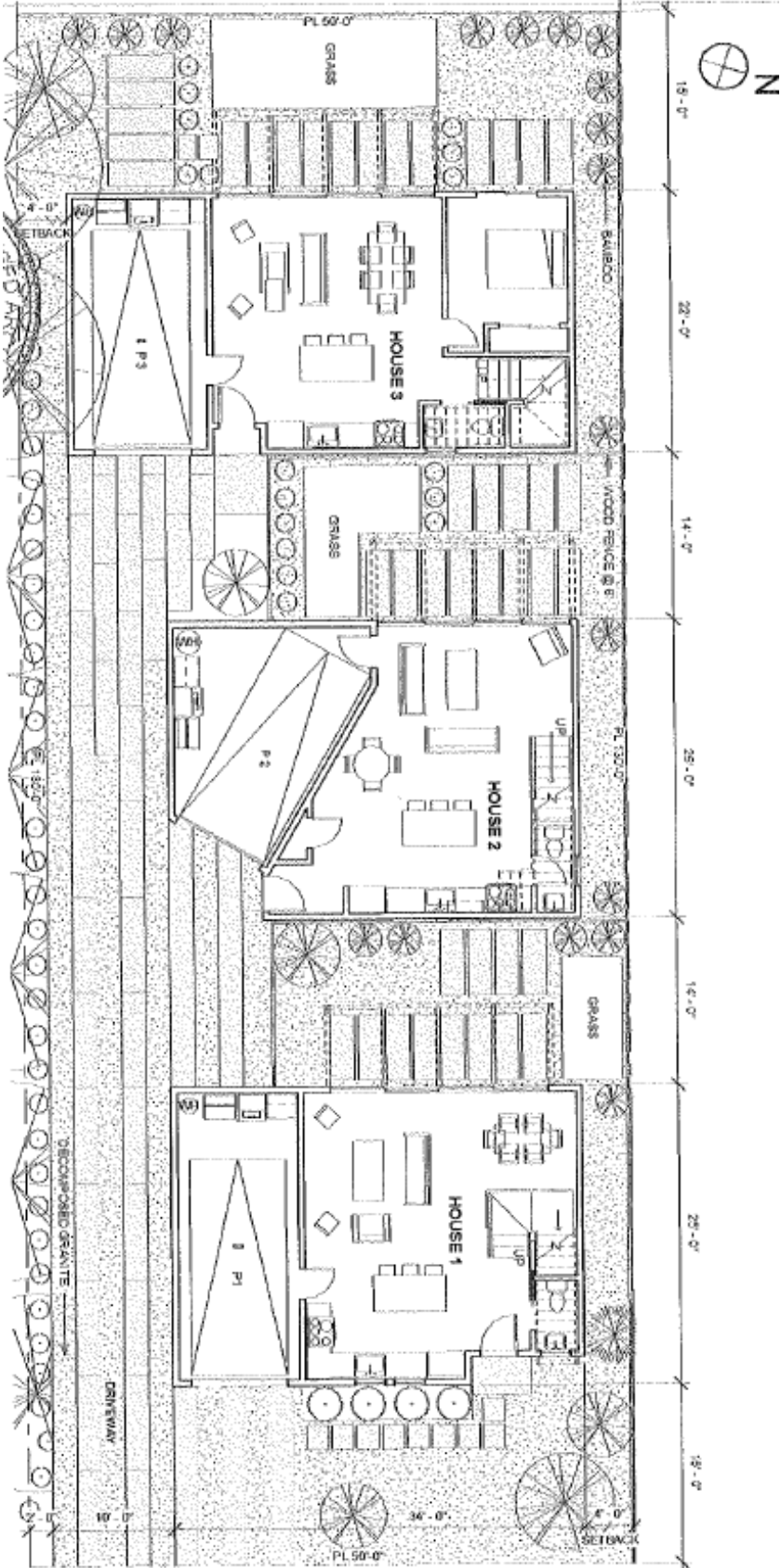


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Vacant Lot	R-3	Medium Density Residential
Surrounding Properties	North	Auto Service and Repair (Jiffy Lube), Mixed-Use Restaurant Bar/Residential	C-W	Neighborhood Commercial
	South	Low-Density Residential	R-3	Medium Density Residential
	East	Commercial Repair garages/Residential	C-W/R-3	Neighborhood Commercial
	West	Medium-Density Residential	R-3	Medium Density Residential

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Creeks	N	Does not apply to project.
Density Bonus	N	Does not apply to project.
Historic Resources	N	Does not apply to project.
Inclusionary Housing	Y	The Applicant has met with City Staff from the Housing Division and is aware of the required in-lieu fees that will be assessed.
Oak Trees	N	Does not apply to project.
Seismic Hazards	Y	The project site is within a City designated liquefaction zone. The applicant will be subject to the necessary engineering and structural design requirements of the Building and Safety Division at the time of construction.
Soil/Groundwater Contamination	N	Does not apply to project.
Green Building Score	Y	The applicant has proposed a project that has a GreenPoint rating of 119. Staff analysis on Policy UD-33 Sustainable Design can be found below.

Table 3: Project Chronology

Date	Action
July 16, 2012	Application submitted
September 10, 2012	Application deemed complete
September 27, 2012	Public hearing notices mailed/posted
October 11, 2012	ZAB hearing
November 9, 2012	PSA deadline ¹

1. Project must be approved or denied within 60 days after being determined to be exempt from CEQA, or 60 days after adoption of a negative declaration, or 180 days after adoption of an EIR (Govt. Code Section 65950).

Table 4: Development Standards

Standard BMC Sections 23D.36.070-080		Existing	Approved under Use Permit #9416	Proposed under Use Permit #12- 10000027	Permitted/ Required
Lot Area (sq. ft.)		6,500	No Change	6,500	5,000
Gross Floor Area (sq. ft.)		0	7,254	5,363	N/A
Dwelling Units	Total	0	9	3	Limited by Lot Development Standards in 23D.36.070
	Affordable	0	2.25	In lieu fee equal to .6 Units	20% of total units
Building Height	Average (ft.)	0	33	21'6"	35'
	Maximum (ft.)	0	33	21'6"	35'
	Stories	0	3	2	3
Building Setbacks (ft.)	Front	0	15	15	15
	Rear	0	36	15	15
	Left Side	0	6	4	4
	Right Side	0	6	4	4
Lot Coverage (%)		0	39.75	40	40
Usable Open Space (sq. ft.)		6,500	1,800	1,200	600
Parking		0	9	3	1 Per unit

II. Project Setting

A. Neighborhood/Area Description:

The subject site is on the west side of Ninth Street, just south of University Avenue. The residential neighborhood to the south of the site is made up of an eclectic blend of housing types ranging from large single-family homes, duplexes and medium density housing complexes. The commercial district to the north, running east and west along University Avenue consists of a variety of uses including food service, auto service and repair, gas stations, retail and neighborhood and household services.

B. Site Conditions:

The subject site is a 6,500 sq. ft. vacant lot that has never been developed. The Zoning Board of Adjustments approved Use Permit #9416 to allow a nine-unit residential building in February of 1981 and the City Council upheld the project, supporting the Board's decision and denying an appeal, in June of 1981. However, the project was never constructed. (See Attachment #3 - Use Permit #9614 and approved plans).

III. Project Description

The applicant is proposing to build three, single-family homes on the lot. Each unit is a detached, two-story building with a kitchen, living and dining space on the ground floor and bedrooms on the second floor. Each unit has access to useable open space, both in front of, and behind the respective buildings and each unit has a dedicated parking space within the attached, ground floor garages. The applicant has designed the project with attention to the spatial relationship between the buildings and landscaping, creating driveways and walkways with minimal paving to allow for various vegetative elements and good rainwater permeability. Trees along the south and west property lines will help to maintain privacy between the new dwelling units and the established adjacent residents to the south and west. (See applicant statement in Attachment #4).

IV. Community Discussion

A. **Neighbor/Community Concerns:** Prior to submitting the application to the City, the applicant held a neighborhood meeting on June 18, 2012 to discuss the proposed project and the current entitlements allowed under Use Permit #9416. Prior to the meeting, the applicant sent a letter to all abutting and confronting neighbors and some additional residential neighbors further south of the project site. The meeting was attended by six neighborhood residents who expressed concerns relating to the size and massing of the proposed development at the site as well as traffic circulation and parking impacts related to a new development. Generally, the neighbors agreed that the proposed project of three, two-story single-family homes on the lot is preferable to a three-story, nine-unit building as was approved by Use Permit #9614. (See Neighborhood pre-planning letters to neighbors and meeting minutes in Attachment #5)

Prior to submitting the application to the City, the applicant erected a pre-application poster in June, 2012. On September 27, 2012, the City mailed 156 notices to adjoining property owners and occupants, and to interested neighborhood organizations. On August 14, 2012, the staff planner received a phone message relating to the project in which the caller indicated her concern about the size and massing of the project. Several return calls from staff to the caller went unanswered. Responses to the issue of size and mass of the project can be found below in the Key Issues section.

B. Committee Review:

There is no committee review required for this project.

V. Issues and Analysis

A. Key Issues:

1. Shadow Impacts: Shadow studies submitted by the applicant (Attachment #6) show that due to the orientation of the lot and the relatively low height of the buildings, there would be no shading to the abutting residential neighbors to the south. Proposed unit #3 at the rear of the subject lot would create some new shading to the three-unit apartment building to the west, primarily shading the first floor, east facing windows in the morning hours during summer, spring and fall months. The three-unit apartment building to the west has a setback from the property line of approximately 5' where 15' is typically required. The reduced setback contributes to the amount of shading that the proposed project would create, however, staff believes that the proposed project would not create detrimental shading impacts as the new shading would only occur in the mornings and would only affect first floor windows on the building's rear façade. The proposed project would have very minimal shading impacts to the commercial properties to the north, casting some shade in the evenings of winter months over the rear facades of the commercial buildings.

The shadows created by the proposed project do not result in a significant loss of solar access to the adjacent properties and would create less shading than the project approved under Use Permit #9614. The scale and design of the project is sensitive to the surrounding properties and is appropriate for development within the R-3 Zoning District creating minimal new shading impacts.

2. Views: There are no prominent views that would be obstructed by the proposed project. Prominent views, as described in the Zoning Ordinance, include features such as the Golden Gate Bridge, the Bay, the San Francisco skyline, Alcatraz Island and the Marin Headlands. The construction of the three, two-story residential buildings would not obstruct any prominent views and thus, the proposed project would not be unreasonably detrimental to surrounding neighbor's views.
3. Height and Bulk: The height and size of the proposed project is comparable to other existing buildings in the area and although many nearby homes are smaller than the proposed ones, many others are of equal size or larger. Staff believes that the proposed project is similar in height, size, bulk and with other buildings in the immediate vicinity and would not create any significant impacts to surrounding neighbor's air or be out of scale with surrounding development in the area.
4. Neighborhood Context: Neighbors have indicated that they would like to see the property developed with consideration for the surrounding residential context and architectural style of nearby Victorian homes. Staff believes that the subject area has an eclectic blend of architectural styles and that there is no uniform architectural style that must be followed in order to maintain an architectural context. While there is no design review process or criteria for residential development within residential districts, staff believes that the proposed project is sensitive of the existing neighborhood context and is designed to reflect the transition from the commercial district to the north to the residential district south of University Avenue. The

buildings are designed with a modern style and use architectural articulation to break up massing.

Discretionary design review is not applicable for residential projects in the R-3 Zoning District.

5. Traffic and Parking: Neighbors have indicated that they are concerned about the additional traffic and parking demand that the neighborhood would endure with the development of the proposed project. Staff believes that the current proposal of three new dwelling units would have less of an impact than the previously approved project for nine new dwelling units and that the current proposal, which includes one dedicated off-street parking space per unit meets the development standard requirements for the district. The City Traffic Engineer has reviewed the development plans and has indicated that the proposed project would not create a significantly higher on-street parking demand or increase vehicular flow in the area to a level that would require special traffic mitigation measures.
6. New Dwelling Units: The proposed project meets all of the requirements for creating three new dwelling units on the site, including residential density requirements, required off-street parking and useable open space. The original Use Permit, issued by the Board in 1981, would allow the owner to develop the property with nine dwelling units, an entitlement that the project applicant has indicated he would consider building if the Board is unfavorable to this project. Staff believes that the current proposal is a better fit for the neighborhood, as it has less mass and residential density than the previously approved project, a quality that the neighbors have indicated is more desirable and which staff believes is more appropriate for the existing urban development and context of the area.
7. Affordable Housing Requirement: The applicant has met with City staff from the Housing Division and is aware of the requirement to develop inclusionary housing or pay an in-lieu fee to the City for the purpose of developing affordable housing elsewhere in the City. The inclusionary housing requirement for this project is 20% of the total residential units developed for a total of .6 units. As outlined in Conditions of Approval #30 in Attachment 1, the applicant has agreed to provide an in-lieu fee equivalent to .6 inclusionary units. The applicant shall pay an in-lieu fee, in accordance with BMC Section 23C.12.040.E.1. The applicant shall have the option of designating one of the three units as an inclusionary unit instead of paying the in-lieu fee. Such designation must be made before the applicant obtains a certificate of occupancy.

B. General and Area Plan Consistency:

General Plan Policy Analysis: The 2002 General Plan contains several policies applicable to the project, including the following:

Land Use Element

Policy LU-3 Infill Development

Encourage infill development that is architecturally and environmentally sensitive, embodies principles of sustainable planning and construction, and is compatible with neighboring land uses and architectural design and scale

Policy LU-26 Neighborhood Commercial Areas

Maintain and improve neighborhood Commercial areas . . . as pedestrian-friendly, visually attractive areas and ensure that Neighborhood Commercial areas fully serve neighborhood needs.

Action F. Encourage sensitive infill development of vacant or underutilized property that is compatible with existing development patterns.

Urban Design Element

1. Policy UD-16 Context

The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings. (*Also see Land Use Policies LU-3, LU-4, LU-7, LU-17, and LU-21.*)

2. Policy UD-17 Design Elements

In relating a new design to the surrounding area, the factors to consider should include height, massing, materials, color, and detailing or ornament.

3. Policy UD-18 Contrast and Cohesiveness

The overall urban experience should contain variety and stimulating contrasts achieved largely through contrast between different areas each of which is visually cohesive.

4. Policy UD-19 Visually Heterogeneous Areas

In areas that are now visually heterogeneous, a project should be responsive to the best design elements of the area or neighborhood.

Analysis: The project addresses all of the above policies through a design that uses architectural creativity and detail that results in a sensitive in-fill development. The proposed building incorporates some of the architectural character from the neighboring structures and is not out of scale with the surrounding neighborhood. The design of the project helps to facilitate the transition of the boxy commercial buildings abutting the subject site to the north along University Avenue. The design also includes architectural detail that enhances its visual interest and helps to reduce the mass of the building. Furthermore, the increase in density is consistent with the intent of the district and the City's Climate Action Plan.

5. Policy EM-5—"Green" Buildings: Promote and encourage compliance with "green" building standards. (*Also see Policies EM-8, EM-26, EM-35, EM-36, and UD-6.*)

6. Policy UD-33—Sustainable Design: Promote environmentally sensitive and sustainable design in new buildings.

Staff Analysis: The project at 2010 Ninth St. has identified 119 points out of a possible 350 points on a preliminary GreenPoint Rated checklist. This score exceeds the minimum 50 points required for projects that are GreenPoint rated. The project incorporates high performance building measures, such as envelop sealing using blower door diagnostics and insulation installation best practices, which will allow optimal energy efficiency in heating and cooling. The applicant has completed the required Impervious Surface Form and has designed the project to limit impervious paved areas allowing for rainwater permeability on the site (See Attachments #7&8).

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, Staff recommends that the Zoning Adjustments Board APPROVE Use Permit # 12-1000027 pursuant to Section 23B.32.040 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received July 16, 2012
3. Use Permit #9614 and Approved Plans
4. Applicant Statement
5. Neighborhood Pre-Planning meeting letter and meeting notes.
6. Shadow Studies, dated July 12, 2012
7. GreenPoint Rated Checklist
8. Impervious Surface Form
9. Photos
10. Notice of Public Hearing

Staff Planner: Nathan Dahl, ndahl@ci.berkeley.ca.us, (510) 981-2482