

# **Bond Case Briefs**

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## **ZONING & PLANNING - CALIFORNIA**

### **Old East Davis Neighborhood Association v. City of Davis**

**Court of Appeal, Third District, California - December 20, 2021 - Cal.Rptr.3d - 2021 WL 64260822 - 2 Cal. Daily Op. Serv. 789 - 2022 Daily Journal D.A.R. 446**

Neighborhood association filed petition for writ of mandate challenging city council's approval of proposal for mixed-use building project.

The Superior Court granted petition. City, city council, and developer appealed, and association filed cross-appeal.

The Court of Appeal held that:

- Substantial evidence supported city's approval of project;
- City's downtown and traditional residential neighborhoods design guidelines did not preclude approval of project; and
- City council did not abuse its discretion in determining that project complied with guidelines.

Substantial evidence supported city's approval of proposed four-story mixed use building on land zoned mixed-use in transition area between downtown core and residential neighborhood, even though building would exceed height of mixed-use buildings inside downtown core, and buildings in core area were generally one or two stories; general plan required that new buildings "maintain scale transition" and provide "architectural 'fit'," and that there be "scale transition between intensified land uses and adjoining lower intensity land uses," building featured greater architectural relief and setbacks than case study image demonstrated and did not exceed height permitted in core area, and residential neighborhood contained number of large, monolithic structures.

Provision of city's downtown and traditional residential neighborhoods design guidelines (DTRN) stating that "building shall appear to be in scale with traditional single-family houses along the street front" was not mandatory, and thus did not preclude city council's approval of proposed four-story mixed use building on land zoned mixed-use in transition area between downtown core and residential neighborhood; guideline was subjective and not sort of unequivocal and quantifiable language that might be seen to set minimum acceptable limits.

City council did not abuse its discretion in determining that proposed four-story mixed use building in transition area between downtown core and residential neighborhood complied with provision of city's downtown and traditional residential neighborhoods design guidelines (DTRN) stating that "building shall appear to be in scale with traditional single-family houses along the street front"; building's design was predominantly two and three stories on alley side, with third level set back, and mass pushed toward train tracks.