

Office of the City Manager

ACTION CALENDAR

October 19, 2004

To: Honorable Mayor and
Members of the City Council

From: Phil Kamlarz, City Manager

Subject: Major residential addition policy interpretations (CF 32-03, 41-03, and 46-03)

INTRODUCTION

On September 23, 2003 City Council referred to staff, the Zoning Adjustments Board, and the Planning Commission several topics related to major residential additions. The referrals were based on issues generated by an addition to a house at 749 Contra Costa Avenue. This report is a response to that particular CF, and two others with similar requests and questions.

CURRENT SITUATION AND ITS EFFECTS

The ZAB and the PC approved a new interpretation by the Zoning Officer that only allows existing floor area to be counted towards a demolition if the floor area removed is completely subsumed by the new floor area. Staff has implemented the interpretations as approved by the PC and the ZAB. The issues describes below are now in effect and part of the Land Use Division's review and procedures process.

BACKGROUND

The Council's follow up request had four essential questions. The questions are listed below, followed by a summary of the actions adopted by the ZAB and the PC. Staff prepared reports for both the ZAB and the PC to review the Council's request. Staff also prepared recommendations relevant to potential zoning interpretation issues. The reports were reviewed by the ZAB on October 23 and November 18, 2003, and on January 22, 2004, and by the PC on October 22, 2003. The reports and memos relevant to their actions are attached.

1. Should there be a limit on the number of vertical feet allowed in a residential story?

Response: The ZAB determined that such a provision is probably a good idea. The PC has established a subcommittee to research the matter for consideration later this year. Any proposed Zoning Ordinance revision resulting from this consideration will be forwarded to the Council for adoption.

2. Should a homeowner receive credit towards a new addition for floor area that is demolished?

Response: Both the ZAB and the PC approved the limitation that only credits net changes to those additions that subsume the removed floor area. The only floor areas that could be credited would be those within the same footprint and shell of the credited areas that are to be removed.

3. How should additions or alterations to legal non-conforming portions of structures be handled? (Historically, work has been allowed on portions of non-conforming structures as long as the non-conformity was being reduced or eliminated)

Response: Although there is lack of clear zoning language on this matter, the ZAB and the PC determined that this is still a reasonable interpretation in order to achieve the goals of the Zoning Ordinance. This interpretation allows a property owner to bring their structure into greater compliance with current zoning development standards without additional discretionary process. Full removal of such non-conforming building portions will continue to be allowed as of right, consistent with the third sentence of Section 23C.040.050.

4. Are by-right additions treated in a cumulative manner?

Response: This issue was addressed by the ZAB as a clarification of Zoning Ordinance section 23A.12.050 in November of 2000. Staff and the ZAB clarified that residential additions are considered cumulative back to the date the original major-residential addition legislation was passed in October of 1991.

Another topic of the Council Follow-up includes landmarks adjacencies and review. When a residence is proposed to be demolished and is more than 40 years old, it is referred to the LPC for landmarks consideration. Residential additions and remodels that are adjacent to landmarks are not referred to the LPC because they do not require design review. Berkeley does not currently require design review in residential zoning districts.

POSSIBLE FUTURE ACTION

The Council could direct staff, the ZAB, and or the Planning Commission to take additional steps or measures with regard to the information and interpretations provided. However, the new interpretations and follow up items under consideration by the Planning Commission should resolve any potential for additional outstanding issues to arise.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The interpretations as implemented do not result in any new work for the staff. Therefore, it is not anticipated that there will be any fiscal or staff resource impacts.

CONTACT PERSON

Mark A. Rhoades, Manager
Land Use Planning Division
981-7411

Approved:

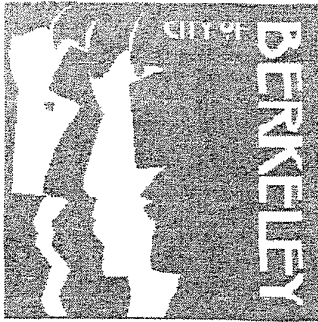


Daniel Marks, Director
Planning and Development Department
981-7401

Attachments:

1. ZAB and PC Reports and Responses
2. Council Follow-up Forms

ATTACHMENT #1



OCTOBER 23, 2003

TO: PLANNING COMMISSION AND ZONING ADJUSTMENTS BOARD

FROM: MARK RHOADES, LAND USE PLANNING MANAGER
by Matthew Le Grant, Principal Planner

RE: MAJOR RESIDENTIAL ADDITIONS – INTERPRETATIONS IN RESPONSE TO COUNCIL REFERRAL # CF-2003-41

BACKGROUND

Additions to residences are subject to a key Zoning Ordinance regulation that has been in effect since 1991. The provision, concerning “Major Residential Additions”, requires that additions of 500 square feet or more of new gross floor area be subject to an Administrative Use Permit (AUP). Such AUPs are subject to neighbor review and notice, a decision by the Zoning Officer, and may be appealed to the Zoning Adjustments Board (ZAB) and City Council. Since the provision’s enactment, several issues arising from its implementation have been identified. In 2000, the issue of serially constructed cumulative floor area that, over time exceeds 499 square feet, was addressed in a policy interpretation (see attached memo to the ZAB, dated November 27, 2000).

Council Referral

At the September 23, 2003 City Council meeting the Council directed that Staff, the ZAB and the Planning Commission review issues relevant to residential additions (CF-2003-41, See attached) as follows:

Interpretation of Major Residential Additions: Refer to the Zoning Adjustments Board (ZAB) and the Planning Commission (PC) the following issues for discussion and review; that the ZAB report to the PC with recommendations for guidelines for interpretation by Staff and/or clarifying language for related zoning ordinances; that the PC return to the Council within 120 days with proposed language for modifications to the zoning ordinance:

- 1) the number of vertical feet allowed in a story in residential construction;

- 2) the “no-net change” interpretation of the 499 square foot addition, allowed by right;
- 3) the interpretation of additions to existing nonconforming residential buildings; and
- 4) consider that an “addition by right” be allowed one time only on each property.

The recommendation to Council is due December 1, 2003. The Planning Commission will have its first review of the information on October 22, 2003 and the ZAB on October 23, 2003. Staff has prepared this analysis, and proposes the following changes, in response to the Council’s directive. Each of the four items in the Council referral list is addressed on the following pages.

1. Number of Vertical Feet Allowed in Residential Story

For residential districts, the Zoning Ordinance limits the height of main and accessory buildings to a maximum height, in terms of number of feet, and number of stories. In most R- districts main buildings are limited to three stories and 28 feet in average height. However, the height of a story, in terms of the number of vertical feet, is not defined. In some cases applicants have built one story buildings in excess of what is considered a normal height of a story, causing light and view impacts that were not subject to any discretionary permits. One case involved a one story, 28 foot tall accessory building constructed as a “spite building” as retribution to neighboring residents who prevailed in preventing construction of an application involving discretionary permits.

Recommendation: The Mayors Task Force on Permitting and Development draft report proposes to amend the definition of Story in the Zoning Ordinance to limit the maximum height of a single residential story to twelve (12) feet. Staff agrees with the Task Force and believes that it is consistent with the Zoning Ordinance’s intent to limit the height of such structures.

2. Credit for Removed Floor Areas and Net Additions

Since the enactment of the Major Residential Addition provision in 1991, staff has interpreted the Major Residential Addition provisions of the Zoning Ordinance to apply to net additions in floor area. Pursuant to that interpretation, the City has allowed the square footage of floor area proposed for removal to be subtracted from the proposed floor area to be newly constructed, so that a net total floor area can be calculated. Such net additions would be the basis for applying the Major Residential Addition’s 500 square foot threshold rule.

For example, a residential remodel and addition project proposes to remove a room at the rear of a residence that contains 90 square feet of floor area. A new room of 560 gross square feet at the front of the house is also proposed. By allowing a ‘credit’ of the floor area that is being removed of 90 square feet, the ‘net addition’ totals 470 square feet. As this is under the 499 square floor thresholds which constitutes a “Major Residential Addition” as defined by the Zoning Ordinance, the example project is considered as of right (assuming all other development standards of building envelope and lot coverage are met), and no discretionary permits apply.

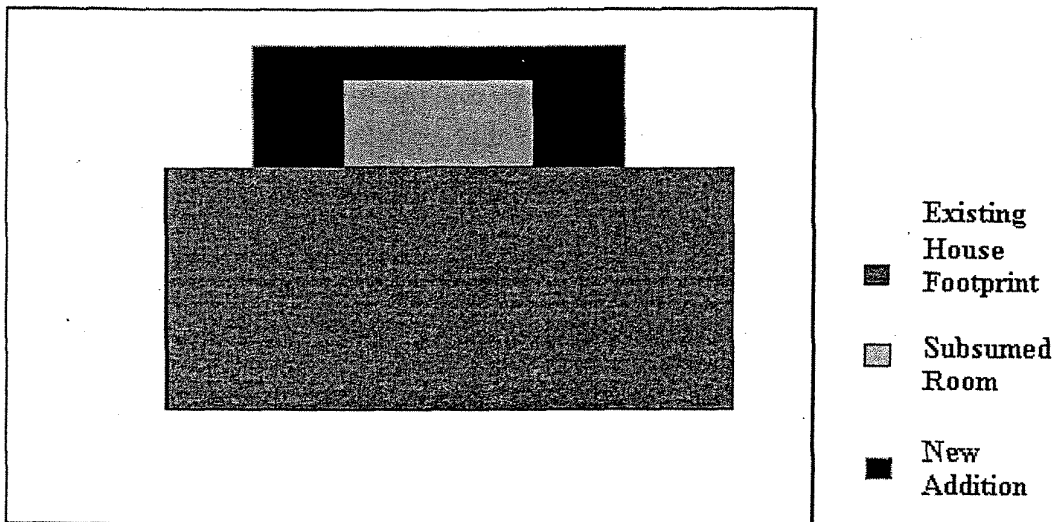
This allowance of ‘off-setting’ square footage has, in some instances, been controversial. In one case, 749 Contra Costa Avenue, 750 square feet of newly constructed floor area was built, but was offset by the removal of more than 250 square feet of pre-existing floor area. Since the total net floor area was less than 500 square feet, the project was not identified as a Major Residential Addition, and no AUP

or other discretionary permit was required. Although the City was subject to a lawsuit over this and other aspects of the project, the City's review of the project and although permitted, construction was later stopped for other reasons.

Recommendation: The Zoning Officer now proposes to only allow crediting net changes to those additions that subsume the removed floor area. The only floor areas that could be credited would be those within the same footprint and shell of the credited areas that are to be removed. Thus, both the hypothetical example and the 749 Contra Costa Avenue cases above, would not be allowed as of right and would be, under the new, stricter interpretation, subject to an AUP.

An example of the new interpretation, as shown in Figure 1 below, would be a case in which an existing ground level room at the rear of a house is removed and replaced by an enlarged room that subsumes the footprint of the removed room. In this case, the addition would be an enlargement of the smaller room, and is located on the same building side as the removed floor area. The existing floor area to be subsumed is contained wholly within the perimeter of the proposed addition. Staff recommends that the ZAB and the Planning Commission endorse this interpretation, but staff does not believe that a change in the Zoning Ordinance is necessary.

Figure 1: Subsuming Addition



3. Additions/Alterations to Non-conforming Buildings

The Zoning Ordinance requires that buildings, and additions thereto, be subject to height, setback, and lot coverage development standards. Pre-existing buildings that were legally constructed prior to such standards are deemed legal non-conforming buildings. Additions and alterations to such legal non-conforming buildings must either conform to applicable development standards, or be subject to an

AUP to alter or extend non-conforming setbacks or heights in a horizontal or vertical plane. Removal of non-conforming portions of buildings are allowed as of right. Applicable Sections 23C.04.050 and 23C.04.070.B are included in Attachment 2.

Under the third sentence of Section 23C.04.050 the City has allowed reductions of legal non-conforming portions of buildings as of right. The supporting rationale is that such reductions are bringing the structure closer into conformance to the currently applicable development standard and therefore, no discretionary permit is required. The issue identified by the Council involves the removal of non-conforming portions of structures that lessen but do not eliminate the non-conformity, which is similar to an alteration of a non-conforming portion of a building.

Recommendation: Although there is lack of clear zoning language on this matter, the Zoning Officer believes that this is still a reasonable interpretation in order to achieve the goals of the Zoning Ordinance. This interpretation allows a property owner to bring their structure into greater compliance with current zoning development standards without additional discretionary process. Full removal of such non-conforming building portions will continue to be allowed as of right, consistent with the third sentence of Section 23C.040.050.

4. Addition by Right Be Allowed One Time Only

Under the Major Residential Addition regulation, additions less than 500 square feet (which meet all other Zoning Ordinance requirements) are allowed as of right. The issue of cumulative additions over time is raised in this Council referral. This would be the case of constructing additions in a series over time, which individually are each less than 500 square feet but cumulatively exceed 500 square feet. As an example, an applicant may construct an addition of 300 square feet in one year, and wait a year before proposing another in excess of 199 square feet. Staff believes that this issue was addressed in a previous staff interpretation embodied in the November 27, 2000 memorandum to the ZAB (Attachment 1) that clarifies language added to the Zoning Ordinance from the 1998 revisions. The ZAB endorsed this clarification. The cumulative consideration goes back to 1991 when the Major Residential Addition provision was originally adopted. Therefore, Staff does not see the need for further changes to this interpretation at this time.

Recommendation: This issue addressed by November 27, 2000 memorandum to the ZAB, subsequent to 1998 Zoning Ordinance revisions.

Summary of Zoning Officer's Recommendations

The Planning Commission and Zoning Adjustments Board should review and discuss the information and provide direction relevant to amending the Zoning Ordinance or interpretations thereof. Staff will then forward the recommendations to Council.

ATTACHMENTS

1. November 27, 2000 Staff Report
2. Relevant Ordinance Section



Policy Interpretation

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 INFORMATION
NOVEMBER 27, 2000

Policy Interpretation of Section 23A.12.050 - Cumulative Floor Area Calculations for Major Residential Additions

The major residential addition regulation was added to the Zoning Ordinance by the Council in 1991. This regulation requires that additions of 500 square feet or more of new floor area to residences triggers an Administrative Use Permit (AUP). Such AUP's are subject to neighbor review and notice, a decision by the Zoning Officer, and may be appealed to the Zoning Adjustments Board. Recently the issue of how the amount of floor area for major residential additions is calculated for serial projects over time was raised for a previously approved "499 square foot addition".

During the period between 1991 and 1999 Staff had a policy referred to as the "one year rule". That policy was that serial projects separated by over one year of time (after the building permit was finalized) would not be counted cumulatively, but instead would be each be counted as a separate project. This would have the effect to allowing (by right) an addition of up to 499 square feet, waiting a year, and then being able to add another 499 square foot by right addition. Such a series of additions would not, under the "one year rule", be subject to an AUP for a major residential addition.

When the City Council reviewed the revised Zoning Ordinance, it specifically addressed this issue. Staff had proposed to codify the "one year rule" in the wording for Section 23A.12.050, entitled "Phases within One Year Time Period Count as One Project for Threshold Regulations", to apply to residential and non-residential projects (including major residential additions). However, after the Council learned of the policy it directed that the Ordinance be revised to remove the Section's applicability for residential projects, with the intent that it not apply to major residential additions. The text was changed to refer to only non-residential projects (see attached Section 23A.12.050), and the revised Zoning Ordinance was approved on February 9, 1999.

The Council has also referred the matter to the Planning Commission as part of the list of Zoning Ordinance revisions. The Commission has been directed to determine what approach is appropriate for calculating the floor area for serial projects for major residential additions.

1. Although the "one year rule" was Staff policy, there are no instances that it was actually applied to a project.

Recommendation

Staff proposes, given Council's direction, that the "one year rule" policy no longer apply to Major Residential Additions, and instead that residential additions be counted cumulatively since the enactment of the Major Residential Addition regulation which occurred on October 31, 1991. This interpretation would be in effect until such time that the Planning Commission changes the Ordinance to define a specified timeframe, if any.

ATTACHMENT
1. Section 23A.12.050

[G:\CURPLAN\00ZAB\11-27\MRA]

Relevant Ordinance Sections

Section 23C.04.050 Continuance of Non-conforming Buildings and Structures

A lawful non-conforming structure may be maintained and repaired, as long as such maintenance or repair does not result in a change of the use thereof. Replacement of portions of a non-conforming structure is allowed provided that the removed portions were lawfully constructed and are replaced to the same size, height, extent and configuration as previously existed. Non-conforming portions of non-conforming structures may be removed by right if such removal does not constitute demolition (For buildings and structures subject to the Landmarks Preservation Ordinance, the regulations under BMC Chapter 3.24 shall apply). (Ord. 6478-NS § 4 (part), 1999)

Section 23C.04.070 Expansions of Non-conforming Buildings and Structures

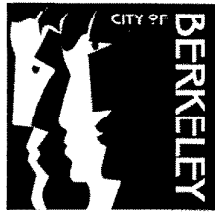
- A. Additions to and/or enlargements of lawful non-conforming structures are allowed to the extent such addition/enlargement complies with all applicable laws, if the existing use of the property is conforming.
- B. Additions or enlargements which vertically and/or horizontally extend a non-conforming yard and/or horizontally extend a non-conforming height, or an alteration of a portion of a building which encroaches into a non-conforming yard or which extends above the permitted height, may be authorized by an AUP if the existing use of the property is conforming and if the addition/enlargement would not:
 - 1. Reduce any yard below the minimum setback requirements, or further reduce existing non-conforming yards; or
 - 2. Exceed the maximum or calculated height limits.

Definitions under Sub-title 23F.04.010:


Addition, Major Residential: The construction of additional gross floor area to an existing building, where such floor area is 500 square feet or more. For purposes of this definition gross floor area shall include additions which either expand the building's footprint, excavations of earth which would create gross new floor area where less than six feet of vertical clearance previously existed, or add new stories that enlarge the building's shell; but shall not include additions of gross floor area devoted to required off-street parking spaces, creation of mezzanines or lofts within the building's shell, or making previous unusable attics into habitable floor area.

Floor Area, Gross: The total gross horizontal areas of all floors of a building or enclosed structure, including, but not limited to, usable basements and cellars, below the roof and within the outer surface of the main walls of principal or accessory buildings (or the

centerlines of party walls separating such buildings or portions thereof) or within lines drawn parallel to and two (2) feet within the roof line of any building or portion thereof without walls, except that in the case of a multi-story building which has covered or enclosed stairways, stairwells and elevator shafts, the horizontal area of such features shall be counted only once at the floor level of their greatest area of horizontal extent. Areas that shall be excluded from gross floor area shall include covered or uncovered areas used for off-street parking spaces or loading spaces and driveways, ramps between floors of a multi-level parking garage and maneuvering aisles relating thereto; mechanical, electrical and telephone equipment rooms below Finish Grade; and areas which qualify as usable open space. For non-residential uses, Gross Floor Area includes pedestrian access interior walkways or corridors, or interior courtyards, walkways, paseos or corridors covered by a roof or skylight; but excludes arcades, porticoes and similar open areas which are located at or near street level, which are accessible to the general public and which are not designed or used as sales, display, storage, service or production areas.



Planning and Development Department
Land Use Planning Division

DATE: January 22, 2004
TO: Zoning Adjustments Board, Laurie Capitelli, Chair
FROM: Mark Rhoades, Land Use Planning Manager 
SUBJECT: Comments on "Major Residential Additions" memo of October 23, 2003

The memo referenced above was discussed with ZAB at its October 23, 2003 meeting and with Planning Staff at its November 18, 2003 meeting. Subsequent to the ZAB's review there were additional areas for follow-up discussion. This item is the subject of a City Council Follow-Up request, and the response is due to the Council in February. Staff requests that the ZAB provide its final recommendation relevant to each outstanding point of discussion.

Item 1: Number of Vertical Feet Allowed in Residential Story –

Proposes amending the definition of "Story" to limit the maximum height of a single residential story to 12 feet:

The ZAB Commented that it would not like the definition changed, since it would then apply to all residential construction, whether or not involved in a major residential project. The ZAB did indicate comfort around an application of this standard to by right projects, such that you could build more than 12-foot stories with an Administrative Use Permit or Use Permit.

Staff Comments – Staff also thought it might be acceptable if applied only to by right construction. Staff discussed several options for consideration: (1) allow applicant to exceed 12-foot with shadow study showing under a certain amount of shadow impact; (2) allow if double counting the floor area for the tall ceiling area (i.e., in this case, the area of the raised ceiling would have to be small to stay within the 500 square foot limit); (3) check with other jurisdictions; some have a concept of "useable height" that might apply here; (4) open ceiling might be allowed if it didn't affect the roofline.

Item 2: Credit for Removed Floor Areas and Net Additions:

No credit for removed floor area unless totally subsumed within the new construction.

ZAB Comments – (1) Concerned that demolished area may be nearby – i.e., taking down an old porch and replacing it with a new porch that doesn't have completely overlapping footprint; perhaps it should still be considered the same project. (2) In a non-conforming structure, consider counting the square footage, even if not completely subsumed, if the demolition is moving the structure toward conformance; could provide incentive to increase transition to conforming structures.

Staff Comments - The Zoning Officer believes that this issue should remain a “bright line” issue. The City’s experience with determinations of what counts as floor area toward an addition has been a very difficult one. The proposed recommendation for only considering area subsumed by a proposed addition provides staff with a standard that can easily be applied. And would provide neighbors a level of certainty for the juxtaposition of square footage on a lot.

Item 3: Additions/Alterations to Non-conforming Buildings

Bring non-conforming element of a structure into greater compliance with current zoning development standards without additional discretionary review.

ZAB Comments: None

Staff Comments: Concerned that some changes might in and of themselves create an impact, such as additional windows and doorways. These issues would be reviewed on a case-by-case basis.

Item 4: Addition by Right Allowed One Time Only

No change is proposed relevant to the current allowance and requirement.

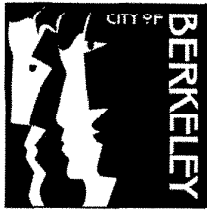
Recommendation:

Item 1 – Require a maximum interior height for a story that could be exceeded subject to discretionary approval.

Item 2 – Apply credit for square footage for an addition only if the area removed is completely subsumed by the proposed addition.

Item 3 – Allow modifications to non-conforming areas of structures without discretion so long as the proposal brings the property into closer conformance with the Zoning Ordinance.


Item 4 – No change proposed at this time.



Planning and Development Department
Current Planning Division

DATE: January 8, 2004

TO: Mark Rhoades

FROM: Debbie Sanderson 

SUBJECT: Comments on "Major Residential Additions" memo of October 23, 2003

The memo referenced above was discussed with ZAB at its October 23, 2003 meeting and with Planning Staff at its November 18, 2003 meeting. Comments are as follows:

Item 1: Number of Vertical Feet Allowed in Residential Story –

Proposes amending the definition of "Story" to limit the maximum height of a single residential story to 12 feet:

ZAB Comments – would not like the definition changed, since it would then apply to all residential construction, whether or not involved a major residential project. Comfortable with it if applied only to projects by right, such that you could build more than 12 foot stories with an Administrative Use Permit or Use Permit.

Staff Comments – Staff also thought it might be acceptable if applied only to by right construction. Staff discussed several options for consideration: (1) allow applicant to exceed 12-foot with shadow study showing under a certain amount of shadow impact; (2) allow if double count the floor area (i.e., in this case, the area of the raised ceiling would have to be small to stay within the 500 square foot limit); (3) check with other jurisdictions; some have a concept of "useable height" that might apply here; (4) open ceiling might be allowed if it didn't affect the roofline.

Item 2: Credit for Removed Floor Areas and Net Additions:

No credit for removed floor area unless totally subsumed within the new construction.

ZAB Comments – (1) Concerned that demolished area may be nearby – i.e., taking down an old porch and replacing it with a new porch that doesn't have completely overlapping footprint; perhaps it should still be considered the same project. (2) In a non-conforming structure, consider counting the square footage, even if not completely subsumed, if the demolition is moving the structure toward conformance; could provide incentive to increase transition to conforming structures.

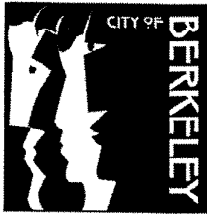
Staff Comments – none. Already discussed this issue with you.

Item 3: Additions/Alterations to Non-conforming Buildings

Bring non-conforming element of a structure into greater compliance with current zoning development standards without additional discretionary review.

ZAB Comments: None

Staff Comments: Concerned that some changes might in and of themselves create an impact, such as additional windows and doorways. Staff questioned whether it should be any change that makes it better. In the case of complete removal of non-conforming element, do we exercise any discretion of what is put in its place, such as windows or doors? If not, then we should exercise no more discretion for small improvements.



Planning and Development Department

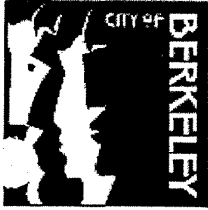
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CURRENT PLANNING

MEMORANDUM

December 16, 2003

To: Mark Rhoades, Zoning Officer
From: *RJG* Ruth Grimes, Secretary to the Planning Commission
Subject: MAJOR RESIDENTIAL ADDITIONS

At the Planning Commission meeting of October 22, 2003, the Planning Commission reviewed the recommendations contained in the staff report on major additions to residential properties. The Commission endorsed the staff interpretation covering removed floor areas and net additions, (M/S Wengraf/Pollack; unanimous; absent: Bronstein, Wrenn), and the staff interpretation covering the full and/or partial removal of non-conforming aspects of non-conforming buildings (M/S Pollack/Tabb; unanimous; absent: Bronstein, Wrenn). The Planning Commission also established a sub-committee (Commissioners Poschman, Wengraf, and Tabb) to discuss additional issues, including what should be permitted by right, and the need to balance a need for expansion with the impacts on the neighbors. The sub-committee will be reporting back to the Planning Commission in 2004.



Office of the City Clerk

ATTACHMENT #2 CF Detail Report

Department: **Planning**

Division:

Date of Assignment: **6/24/2003**

CF Number **32** Year: **2003** Due Date: **7/15/2003**

Date Completed

Work Plan Number: **0** New Due Date: **7/15/2003**

Sponsor: **Hawley and Olds** Type of Action: **Agenda Report**

Agenda Item **37**. Review of "By-Right" Addition: **749 Contra Costa Blvd**

Comments For Department:

Status on **749 Contra Costa Blvd**.

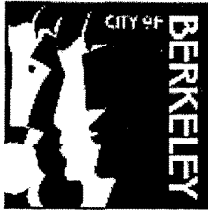
New Due Date
Comments :

Recommendations/Contacts/Actions

Recommendation: Refer to the Zoning Adjustments Board for review and consideration of a hearing on the staff-designated by-right addition to the house at 749 Contra Costa Blvd. Refer to the Landmarks Preservation Commission a review of the impacts of the addition to the landmarked house at 1962 Yosemite Avenue.

Contact: Mim Hawley, Councilmember District 5, 981-7150; Betty Olds, Councilmember District 6, 981-7160

Action: Moved, seconded, carried (Hawley/Maio; Absent – Worthington) to refer to the City Manager.



Office of the City Clerk

CF Detail Report

Department: **Planning**

Division:

Date of Assignment: **7/15/2003**

CF Number **41** Year: **2003** Due Date: **12/9/2003**

Date Completed

Work Plan Number: **0** New Due Date: **3/9/2004**

Sponsor: **Olds, Hawley, and Spring** Type of Action: **Agenda Report**

Agenda Item **39. Interpretation of Major Residential Additions**

Comments For Department:

Refer to ZAB and PC for ordinance amendment on major residential additions

New Due Date **12/9/2003**

Comments :

Recommendations/Contacts/Actions

a. From: Councilmembers Olds, Hawley and Spring

Recommendation: Refer to the Zoning Adjustments Board (ZAB) and the Planning Commission (PC) the following issues for discussion and review; that the ZAB report to the PC with recommendations for guidelines for interpretation by staff and/or clarifying language for related zoning ordinances; that the PC return to the Council within 120 days with proposed language for modifications to the zoning ordinance: 1) the number of vertical feet allowed in a story in residential construction; 2) the "no-net change" interpretation of the 499 square foot addition, allowed by right; 3) the interpretation of additions to existing nonconforming residential buildings; and 4) consider that an "addition by right" be allowed one time only on each property.

Contact: Betty Olds, Councilmember District 6, 981-7160, Miriam Hawley, Councilmember District 5, 981-7150, and Dona Spring, Councilmember District 4, 981-7140

Action: Removed from the Consent Calendar by Councilmember Hawley. Moved, seconded, carried (Hawley/Olds) to approve recommendation.

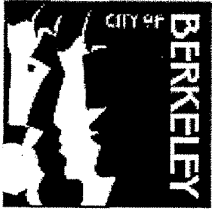
b. From: Councilmember Spring

Recommendation: Amend this item to: 1) request that the issues on "499 square foot additions by right" be allowed one time only on each property; 2) request the Planning Commission consider that the "addition by right" be allowed one time only on each property; and 3) request the Planning Commission also review how "addition by right" affects nearby property owners' views and rights to solar protection in the Solar Protection Ordinance as well as landmark issues. In addition, the commission should consider whether "addition by right" can occur with additional square feet from a demolition on the same property.

Contact: Dona Spring, Councilmember District 4, 981-7140

Monday, January 26, 2004

If you have any questions regarding this report, please contact Dawn Bullwinkel in the City Clerk Department at 981-6911.



Office of the City Clerk

CF Detail Report

Department: **Planning**

Division:

Date of Assignment: **9/9/2003**

CF Number **46** Year: **2003** Due Date: **2/10/2004**

Work Plan Number: **0**

New Due Date: **3/23/2004**

Date Completed

Sponsor: **Spring**

Type of Action: **Agenda Report**

Agenda Item **42. Interpretation of Major Residential Additions**

Comments For Department:

Referred to Planning and Zoning Commissions for review and clarification of addition by right.

New Due Date **2/10/2004**

Comments :

Recommendations/Contacts/Actions

Recommendation: Request the Planning and Zoning Commissions review and clarify how "addition by right" interfaces/effects nearby property owners' views and rights to solar protection granted in Berkeley's Solar Protection Ordinance. In addition, the commissions should consider whether "addition by right" could occur with additional square feet from a demolition on the same property. The commissions should also clarify that the "addition by right" be allowed one time only on each property.

Contact: **Dona Spring, Councilmember District 4, 981-7140**

Action: **Moved, seconded, carried (Hawley/Spring) to approve the recommendation amended by Councilmember Hawley to eliminate language already approved in a previous motion as noted above.**

Monday, January 26, 2004

If you have any questions regarding this report, please contact Dawn Bullwinkel in the City Clerk Department at 981-6911.

