



Office of the City Manager

CONSENT CALENDAR

July 18, 2006

To: Honorable Mayor and
Members of the City Council

From: *PK* Phil Kamlarz, City Manager

Submitted by: Dan Marks, Director, Planning and Development Department

Subject: Off-street Parking in Required Yards on Residential Lots

RECOMMENDATION

Adopt first reading of an Ordinance amending Berkeley Municipal Code (BMC) Title 23 to: 1) allow by-right one new parking space within a required side yard conditioned upon the parking area being a permeable surface deemed feasible by the Public Works Department or Office of Transportation, vegetative screening being provided, and the impact on usable open space minimized; 2) require an Administrative Use Permit (AUP) for new uncovered parking spaces in front and rear yards on residential lots, except when the space is for a by-right Accessory Dwelling Unit and not in the front yard; 3) revise the definition of “yard” to no longer prohibit parking in required yards; and, 4) expand screening requirements for uncovered parking in rear yards, eliminate landscaping requirements along shared driveways, and clarify the intent and organization of the parking regulations.

FISCAL IMPACTS OF RECOMMENDATION

The proposed Ordinance will increase demand on City staff resources to prepare AUPs and appeal reports. Fees for AUPs for rear and front yard parking spaces are expected to offset some of the cost of staff time. The proposed Ordinance will also increase demand on City staff resources to review conformance of new side yard parking with the proposed standards related to screening, pervious paving, and minimization of impacts to usable open space.

CURRENT SITUATION AND ITS EFFECTS

Currently a variance is required to permit an uncovered parking space within a required rear yard due to the definition of “yard” in the Zoning Ordinance, which prohibits the obstruction of a yard by a parking space. The difficulty of meeting the standards for issuance of a variance effectively prohibits new uncovered parking spaces within rear yards. An AUP is required for new uncovered spaces in front and side yards because these yards abut the street. Sub-section 23D.12.080.A requires an Administrative Use Permit for a parking space in “the yard abutting a street.”

BACKGROUND

This item was first on the Council's agenda on April 25, 2006. It was held over to June 13 and June 20. The item included two alternative recommendations from staff and the Planning Commission. On June 20, 2006 the City Council adopted a first reading of a substitute motion to the Planning Commission's recommendations related to discretionary thresholds for parking in required yards. The Council motion was as follows:

32. Zoning Ordinance Amendment: Off-street Parking in Required Yards on Residential Lots (*Held over from April 25 and June 13, 2006*)

Moved, seconded, carried (Capitelli/Maio; Noes – Spring, Olds, Worthington) to adopt first reading of an Ordinance adopting the Planning Commission's recommendations as amended to allow one parking space in a side yard where none exists to be approved with a zoning certificate conditioned on the following: 1) the driveway in the parking area shall be a permeable surface unless determined by the Public Works Department to be inappropriate; 2) vegetative screening shall be required; and 3) the location of the parking space shall be such that the impact on usable open space is minimized and any other car would require an Administrative Use Permit. Second reading scheduled for June 27, 2006.

A second reading of the Ordinance based on the Council's motion was scheduled for June 27, 2006, however staff continued the item to July 18, 2006 to revise the Ordinance to better reflect the Council's direction. Staff recommends the Council conduct a new first reading.

Staff added to the proposed amendments review of the permeable paving material used in the new parking area by the Office of Transportation in addition to the Public Works Department. This text is added to proposed Sub-section 23D.12.080.A so the Traffic Engineer can verify the surface is durable, dust-free, and usable under all weather conditions.

RATIONALE FOR RECOMMENDATION

The rationale for requiring an AUP for an uncovered parking space in a front or rear yard is to address potential issues of detriment resulting from the parking space through a discretionary review process and to provide notification to neighbors of this potential change. The rationale for allowing one new uncovered parking space in a side yard by-right is to provide some flexibility in locating required parking without discretionary review. The rationale for requiring the new parking area to be a pervious paving material is to attempt to decrease surface water runoff. The rationale for revising the definition of "yard" to no longer prohibit parking is to eliminate certain inconsistencies in the Zoning Ordinance. The rationale for reorganization of Section 23D.12.080 and revisions to 23D.12.080.D regarding maximum paving of the yard area abutting a street is to improve the clarity and readability of the section. The rationale for not requiring shared driveways to provide a two-foot landscaped strip is to provide consistency with past ordinance language and address the impracticality of placing a landscaped strip within shared driveways. The rationale for requiring screening of all rear yard parking spaces (not just two or more) is to reduce the impact of views of parked cars on neighboring properties.

ALTERNATIVE ACTIONS CONSIDERED

The Council may refer the matter back to the Commission with further direction for its consideration or adopt one of the two Ordinances recommended in the April 25, 2006 report (either the Staff recommendation or the Planning Commission recommendation).

CONTACT PERSON

Dan Marks, Director, Planning, 981-7401

Attachments:

1: Ordinance

ORDINANCE NO. -N.S.

AMENDING BERKELEY MUNICIPAL CODE SECTIONS 23F.04.010 AND 23D.12.080 TO CORRECT INTERNAL CONFLICTS REGARDING OFF-STREET PARKING WITHIN REQUIRED YARDS AND CLARIFY PERMITTING THRESHOLDS, PAVING, LANDSCAPING, AND SCREENING STANDARDS FOR OFF-STREET PARKING SPACES ON RESIDENTIAL LOTS

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 23F.04.010 is amended to read as follows:

23F.04.010 Definitions

Yard: A required open area on a lot that is between a property line and a setback line. A yard is unoccupied and unobstructed from the ground upward by any portion of a building or structure, ~~or by the presence of a parking space~~, except as otherwise permitted in ~~Section 23D.04.030~~ this Title. Specified Yard areas are as provided in individual District Sections of this chapter and defined as follows:

Front Yard: A yard extending across the full width of the front of a lot from the front lot line to the front setback line.

Rear Yard: A yard extending across the full width of the lot between the rear lot line and the rear setback line.

Side Yard: A yard between the side lot line and the side setback line, and extending from the front lot line to the rear lot line.

Section 2. That Berkeley Municipal Code Section 23D.12.080 is amended to read as follows:

Section 23D.12.080 Site Location and Screening of Uncovered Parking Spaces and Driveways

A. One new off-street parking space in a side yard where none exists may be allowed by right. Such space must be constructed of a permeable surface unless it is determined to be infeasible by the Public Works Department or Office of Transportation. Vegetative screening shall be provided pursuant to this Section. Location of the space shall minimize impact on usable open.

B. No portion of an off-street parking space may be located in ~~the~~ required front or rear yard ~~abutting a street~~, unless such location is authorized by an AUP, approved by the Traffic Engineer, and meets all of the requirements in this section. However, an off-street parking space that is required for a new Accessory Dwelling Unit that is otherwise allowed by right may be located by right in a required yard that does not run parallel to and abut a street.

CB. No off-street parking space shall be located closer than ten feet in horizontal distance from a door or a window of any building containing three or more dwelling units, which is located on the same or approximately the same level, unless authorized by an AUP. For the purposes of this section, a window whose bottom edge or point is more than six feet in vertical height from the level of the subject off-street parking space shall not be considered on the same or approximately the same level.

DE. The difference in elevation between an off-street parking space and the finished grade on adjacent areas of the lot shall not exceed five feet at any point. Where such difference in elevation is greater than three feet and the parking space is lower than finished grade, the space shall not be located closer than four feet to any lot line. Where the space is higher than finished grade it shall not be located closer than six feet to any lot line. This section does not apply to parking decks.

EF. All paved areas for off-street parking spaces, driveways and any other vehicle-related paving, except for pedestrian walkways that are separated from such areas by a landscaped strip at least two feet wide, must be separated from any adjacent rear or interior side lot line by a landscaped strip at least two feet wide, except that driveways spanning a side lot line which are designed to serve two (2) adjacent lots are not subject to the landscape strip requirements along that side lot line.

FE. Screening must be provided for two or more off-street parking spaces, or any parking space located partly or entirely within a required rear yard, in a manner that effectively screens parked vehicles from view from buildings and uses on adjacent, abutting and confronting lots. Such screening must consist of a continuous view-obscuring wood fence, masonry wall or evergreen hedge, not less than four feet, and not more than six feet in height, which may be broken only for access driveways and walkways.

G. In the case of parking areas of four or more off-street spaces, the parking area must be separated from an adjacent rear or interior side lot line by a landscaped strip which averages at least four feet in width along the applicable property line.

HD. The total area of pavement devoted to off-street parking spaces, driveways and other vehicle-related paving shall not exceed 50% of any required yard area that runs parallel to and which-abuts a street.

IH. No driveway may exceed 20 feet in width at any property line abutting a street or one-half of the width of the street frontage of the lot, whichever is less.

JH. Driveways must be spaced at least 75 feet from one another, as measured along any continuous property line abutting a street for each lot in any residential District.

Section 3. The proposed action is exempt from review under the California Environmental Quality Act because it can be seen with certainty that the proposed amendment would not have a significant effect on the environment.

Section 4. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of Old City Hall, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.