MEMORANDUM

TO: Steve Buckley, Planning
FROM: Sara Schumer, George Williams & Sophie Hahn
RE: Proposed Code Changes to address “Mini-Dorms”
DATE: November 1, 2011

The three of us met to consider potential solutions to the problem of excessive occupancy of residential units in Berkeley, sometimes referred to as “mini-dorms”. We reviewed the memorandum presented to ZAB on August 11, 2011 and considered all of the proposals, as well as discussing other possible avenues to address legitimate neighborhood concerns. In considering options, we considered the problem of over- and under-reaching, and believe the following would capture most potentially egregious situations without burdening an excessive number of legitimate applicants, or exhausting staff resources.

We propose two changes to the code which would elevate the permitting requirement for potentially troublesome configurations from non-discretionary over the counter permits to discretionary Administrative Use Permits. Staff would be required to make a non-detriments determination and the determination would be subject to appeal.

Wording below is not proposed code language, but captures our intent:

1. Any new dwelling unit or any addition to or remodel/reconfiguration of an existing dwelling unit that results in 5 or more bedrooms is subject to an Administrative Use Permit
2. Any building non-conforming as to number of units or parking cannot increase the number of bedrooms in the building or convert non-habitable space to habitable without an Administrative Use Permit

The above addresses the most obvious culprit—excessive number of bedrooms is the most likely indicator of excessive number of habitants. By making the permit discretionary and requiring a determination of non-detriments, Staff is empowered to make the judgment that one or another project will exceed the carrying capacity of the building and/or neighborhood, while allowing projects which do not present such concerns to move forward without excessive permitting requirements.

This permitting review will operate independently of the question of whether one or another project is a GLA and thus either prohibited (in areas where GLAs are not allowed) or subject to GLA requirements (where GLAs are allowed), reducing the need to make this difficult determination to be able to impose limits on a given project.

We invite staff to consider this proposal.