

CITY OF BERKELEY - NOTICE OF PUBLIC HEARING

Proposed Amendments to Zoning Ordinance - BMC 23C.08.010 & 030; 23C.08.030.A.2; and 23D.12.080.C-I

The Planning Commission of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23A.20.030, on Wednesday, July 28, 2004 at the North Berkeley Senior Center, 1901 Hearst Avenue, Berkeley, CA at Martin Luther King Jr. Way (wheelchair accessible). The meeting starts at 7:00 p.m.

DESCRIPTION: Proposed Zoning Ordinance Amendment ZA 5-04

Staff proposes that the Planning Commission amend Berkeley Municipal Code 23C.08.010 & 030; 23C.08.030.A.2; and 23D.12.080.C-I. These are Zoning Ordinance sections in need of minor changes to either correct drafting errors which inadvertently occurred when the Zoning Ordinance was re-codified in 1999, or to clarify the wording of specified sections to reflect longstanding City interpretations of the intent of such sections. This Amendment proposes three revisions for correction and clarification. These amendments are declaratory of existing law.

Following the public hearing, the Planning Commission may vote to adopt, modify, or reject the proposed amendments. If adopted by the Planning Commission, the proposed amendments will be forwarded for action by the City Council.

Proposed amendment: exempt accessory dwelling unit re-conversions from the Use Permit requirement for demolition or elimination of dwelling units - BMC 23C.08.010 and 030.

Proposed New Language:

- 23C.08.010.A No Dwelling Unit or units may be eliminated or demolished except as authorized by the provisions of this Chapter.
- 23C.08.030.D Notwithstanding the general Use Permit requirement under 23C.08.030.A, an accessory dwelling unit created as a result of a residential conversion under Sections 23D.16.040C, 23D.20.040C, 23D.28.040C, 23D.32.040C, 23D.36.040C, 23D.40.040C, or 23D.44.040C, may be eliminated subject to the issuance of a Zoning Certificate when the re-conversion restores the original single family use of the main building.
- 23C.08.030.E The Board may approve a Use Permit to eliminate a controlled rental unit if it makes all of the following findings:
1. The dwelling unit to be eliminated is neither occupied nor has a rent set at a level that is affordable by a person or a family of very low income, low income or moderate income, as defined by HUD Section 8 program guidelines;
 2. The elimination of the dwelling unit will not adversely affect the supply of housing in the City;
 3. The applicant cannot make a fair return on investment by maintaining the dwelling unit as a part of the rental housing market;
- 23C.08.030.F Notwithstanding the above, the Board shall approve a Use Permit to eliminate a controlled rental unit only when it finds that:

1. The dwelling unit is in a building that is seriously deteriorated beyond the conditions which might reasonably be expected due to normal use in the written determination of the Building Official and will be rehabilitated to meet City housing code requirements;
2. The replacement dwelling unit shall be available for occupancy to Households for Lower Income or Very Low Income Households;
3. The elimination of the dwelling unit will not cause displacement of any tenant against that tenant's will; and
4. A signed statement supporting the application has been filed from of all of the tenants whose units will be physically modified and from all tenants who may be required to move temporarily.

Proposed amendment: add the word "or" to the requirements for the elimination of dwelling units (conversions and Changes of Use) - BMC 23C.08.030.A.

Proposed New Language:

- A. The Board may approve a Use Permit for the elimination of a dwelling unit resulting from a residential conversion or a change of use if it finds that:
1. The number of dwelling units to be eliminated, at the time of the application, exceeds the number permitted by the maximum residential density applicable to the District where the subject building is located; or
 2. The conversion will create common space for residents of a co-housing community, as defined in Section 21.28.030 and is in conformance with the regulations of the District in which it is located; or
 3. The proposed changes would not result in a reduction of housing supply essential to the well-being or housing needs of the City or of persons residing in the neighborhood in the vicinity of the building involved; or
 4. Each dwelling unit affected is situated in an environment unsuitable for residential occupancy and suitable housing will be made available to the present occupants.

Proposed amendment: reformat BMC 23E.12.080 to eliminate the subsections 1-4, making these sections stand alone provisions for site location and screening requirements of parking spaces and driveways in residential districts.

Proposed New Language:

- A. No portion of an off-street parking space may be located in the required yard abutting a street, unless such location is authorized by an AUP, approved by the Traffic Engineer, and meets the requirements set forth in this Section.
- B. 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.
- C. 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.
- D. 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 which abuts a street.

- E. Screening is provided for two or more off-street parking spaces 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.
- F. 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.
- 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.
- H. 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.

ENVIRONMENTAL REVIEW STATUS: Categorically exempt under Section 2180.17 of the California Environmental Quality Act (CEQA).

PUBLIC COMMENT: Comments may be made verbally at the public hearing and in writing before the hearing. Those wishing to speak at the hearing must submit a speaker card by 7:15 p.m. The Commission may limit the number of speakers and the time granted to each speaker. Written comments to the Commission are encouraged and should be directed to: Planning and Development Dept., 2120 Mivlia St., Berkeley, CA 94704; telephone 510-981-7428; e-mail fcrane@ci.Berkeley.ca.us.

To assure distribution to Commission members prior to the meeting, correspondence must be received by 12:00 noon, seven (7) days before the meeting. 15 copies must be submitted of any correspondence with more than ten (10) pages or any item submitted less than seven days before the meeting.

COMMUNICATION ACCESS: To request a meeting agenda in large print, Braille, or on audiocassette, or to request a sign language interpreter for the meeting, call (510) 981-7410 (voice) or 981-6903 (TDD). Notice of at least five (5) business days will ensure availability. Agendas are also available on the Internet at: www.ci.berkeley.ca.us.

FUTHER INFORMATION: Questions about the project should be directed to Fatema Crane at (510) 981-7481 or FCrane@ci.berkeley.ca.us.