



PLANNING & DEVELOPMENT

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BY-RIGHT RESIDENTIAL ADDITIONS

GUIDELINES FOR PROPERTY OWNERS AND APPLICANTS

Version 5-24-07

PURPOSE

The purpose of this document is to assist property owners and others contemplating residential additions in understanding the guidelines they must meet in order to obtain a building permit without having to go through a discretionary review process (what many jurisdictions call "design review"). Discretionary permits (e.g., Administrative Use Permits and Use Permits) are subject to neighbor notification and appeal, and may not be allowed at all, if the City deems the project to be "detrimental." (**Note:** This handout does not pertain to detached accessory buildings/structures.)

"RED FLAGS"

Property owners should be aware of the following potential "red flags." If any of the following issues apply, the project may require discretionary review and/or revisions prior to building permit approval.

Issue	Explanation	Code Reference/ Further Information
Landmarks	If the subject property or building is a designated City Landmark or Structure of Merit, exterior alterations and additions require approval from the Landmarks Preservation Commission (LPC).	<ul style="list-style-type: none"> Section 3.24.200 Janet Homrighausen, LPC Secretary (981-7484)
Design Review	Additions to residential structures located in non-residential districts are subject to design review. Design review staff may be able to waive design review for minor projects such as window replacement, repair work, or work not visible from the public right-of-way.	<ul style="list-style-type: none"> Section 23E.08.020 Anne Burns, Design Review Planner (981-7415)
Creeks/Culverts	Additions are not allowed within 30 feet of any creek, or any culvert following a historic creek, except with a Use Permit under limited circumstances. For culverts not following a historic creek, the required setback is 15 feet.	<ul style="list-style-type: none"> Chapter 17.08 Jordan Harrison, Creeks Task Force Secretary (981-7416) Lorin Jensen, Public Works Dept. (981-6411)
M Districts	Residential uses are prohibited in the M, MM, and MU-LI districts, and may not be expanded except with a Use Permit.	<ul style="list-style-type: none"> Sections 23C.04.060.B, 23E.72.030, 23E.76.030, 23E.80.030

Issue	Explanation	Code Reference/ Further Information
Nonconforming Lot Coverage	Additions on properties that exceed the maximum lot coverage are not allowed except with a Use Permit. Such additions may not further increase the lot coverage.	<ul style="list-style-type: none"> • Section 23C.04.070.C
Nonconforming Density	Additions on multi-unit properties that exceed the maximum residential density are not allowed except with a Use Permit. Such additions may not create any new dwelling units.	<ul style="list-style-type: none"> • Section 23C.04.070.E • Sections 23D.XX.070.B (density standard for R districts)
Partial Demolition	If a project involves removal of 50 percent or more of the existing exterior wall framing <u>and</u> 50 percent or more of the roof framing (even if these are to be replaced in kind by new construction), it is considered a "demolition" and a Use Permit is required. Projects involving removal of more than 25 percent of these elements may be required to submit a structural and pest report to document the integrity of remaining portions of the building.	<ul style="list-style-type: none"> • Section 23C.08.010 • Section 23F.04.010 (see "Demolition")
Unauthorized Conditions	If there are unauthorized conditions on the property, such as illegal dwelling units or removal of required parking spaces, these conditions must be legalized or corrected before any further permits can be issued.	<ul style="list-style-type: none"> • Sections 23A.12.010 and 23B.20.020
Consistency with Approved Use	The proposed floor plan must be consistent with the approved use of the property, and all habitable areas of a dwelling unit must be internally connected. For example, if the building is a single-family dwelling, the addition may not include a second kitchen. Laundry rooms, wet bars, secondary entrances, number of bedrooms, and other features will be carefully reviewed to ensure that the plan does not facilitate creation of an illegal dwelling unit or boarding house. In some cases, owners may be required to file a deed restriction with the County of Alameda to discourage unauthorized use of the property. Full bathrooms (toilet and bath/shower) are not allowed in areas of buildings without an internal connection to the rest of the dwelling unit.	

DEVELOPMENT STANDARDS

If an addition does not involve any of the “red flags” above, it is allowed by right provided that it complies with the following development standards:

Issue	Explanation	Code Reference/ Further Information
New Dwelling Units	Except for accessory dwelling units (ADUs) that meet applicable requirements, additions may not contain a separate dwelling unit unless a Use Permit is obtained. Additions containing ADUs are only permitted on lots with at least 4,500 sq. ft., unless the ADU is created with a separate building permit after the permit for the addition has received final inspection approval.	<ul style="list-style-type: none"> • Sections 23D.XX.040 and .080 (Accessory Dwelling Units) • Section 23F.04.010 (see “Accessory Dwelling Unit”)
“Major Residential Additions”	Additions that create 600 square feet or more, or exceed 15% of the lot area (whichever is more restrictive), are considered “Major Residential Additions” and require an Administrative Use Permit (AUP). Previous additions since October 31, 1991 are included for the purposes of this requirement. If an AUP for a Major Residential Addition has already been granted, any further addition requires another AUP.	<ul style="list-style-type: none"> • Section 23D(E).XX.030 (all R and C Districts) • Section 23F.04.010 (see “Addition”)
Building Height	In most R districts, additions may not exceed 14 feet in average height (16 feet in R-3 and R-4 districts), unless an AUP is approved. Key issues with additions that exceed the height limit include views, shadows, privacy, and compatibility of mass/bulk with surrounding neighborhood.	<ul style="list-style-type: none"> • Section 23D.XX.070.C (all R districts) • Section 23D.04.030.A (projections above height limit) • Section 23F.04.010 (see “Addition” and “Height of Building”)
Building Setbacks	Additions must meet required setbacks from property lines. If an existing building does not meet a setback requirement, an addition may vertically or horizontally extend the nonconforming setback with an AUP. For example, if the existing side setback is 3 feet, where 4 feet is required, the addition may match the existing setback, either at the ground level or above, with an AUP.	<ul style="list-style-type: none"> • Section 23D.XX.070.D (all R districts) • Section 23D.04.030.A (projections into required yards)
Lot Coverage	Additions, along with existing buildings and roofed structures, may not exceed the maximum lot coverage, or the maximum area of the lot that may be covered by buildings and roofed	<ul style="list-style-type: none"> • Section 23D.XX.070.E (all R districts) • Section 23D.04.040

Issue	Explanation	Code Reference/ Further Information
	structures. Covered porches, decks and other features that cover a paved or enclosed area, and eaves that extend more than 2 feet, are included in lot coverage.	<ul style="list-style-type: none"> Section 23F.04.010 (see "Coverage Area")
Usable Open Space	Dwelling units are required to have a minimum amount of open space devoted to landscaping and recreation. Additions may not occupy required open space unless the required space can be provided elsewhere on the property.	<ul style="list-style-type: none"> Section 23D.XX.070.F (all R districts) Section 23D.04.050 (open space criteria)
Parking	Additions may not interfere with access to required parking spaces, such as blocking driveways or garage entrances, unless the required space(s) can be provided elsewhere on the property, in compliance with current parking regulations. Projects that appear to interfere with required parking will be sent to the Office of Transportation for review.	<ul style="list-style-type: none"> Section 23D.12.020.B
Distance from Accessory Buildings/Structures	Additions must be located at least 3 feet from accessory buildings and structures, unless such buildings and structures meet the setback requirements for the main building.	<ul style="list-style-type: none"> Section 23D.04.030.C

DISCLAIMER: Staff has made every effort to ensure the accuracy of the information provided in this document. However, this document does not supercede the Zoning Ordinance (BMC Title 23), and it may not address certain circumstances. Therefore, property owners and applicants are strongly advised to consult the current version of the Zoning Ordinance (www.cityofberkeley.info/bmc), and discuss preliminary plans with a planner, prior to proceeding with a building permit application.

[DRS, 5-11-07]