

**Case File Number: ZT04-197**

**February 23, 2005**

<b>Location:</b>	<b>Citywide</b>
<b>Proposal:</b>	Consideration of conceptual proposals for revised design review process for one- and two-unit residences. Request for Design Review Committee direction for preparation of zoning text. (Actual zoning amendments and related changes will be brought forward at a future date for public hearing). <b>(Continued from Design Review Committee’s May 12, 2004 meeting.)</b>
<b>Applicant:</b>	City of Oakland
<b>Environmental Determination:</b>	Exempt; Section 15061(b)(3), State CEQA Guidelines, “general rule,” no possibility of significant effect on the environment.
<b>Action to be Taken:</b>	Provide recommendation on conceptual proposals for revised design review process to full City Planning Commission.
<b>Staff recommendation:</b>	Recommend that the City Planning Commission accept the conceptual proposals.
<b>For further information:</b>	Contact case planner <b>Christopher Buckley</b> at <b>510-238-6983</b> or by email at: <a href="mailto:cbuckley@oaklandnet.com">cbuckley@oaklandnet.com</a> or <b>Ed Manasse</b> at <b>510-238-7733</b> or by email at <a href="mailto:emanasse@oaklandnet.com">emanasse@oaklandnet.com</a> .

**BACKGROUND**

At its May 12, 2004 meeting, the Design Review Committee considered staff recommendations on how to make the 1- and 2-unit residential design review program more effective, easier to understand, and more consistent Citywide. These proposals have the following primary objectives:

- To simplify and refine the existing 1- and 2-unit residential zoning standards and design review processes to improve efficiency and ease of use while maintaining intent;
- To minimize the number of different design review procedures and establish uniform Citywide decision-making criteria; and
- To consolidate the many existing Design Review criteria and guidelines into a citywide *Design Review Manual for 1-2 Unit Residences*.

The staff-recommended design review process changes described below received generally positive feedback at the Design Review Committee’s May 12, 2004 (please refer to **Attachment A** for a complete description of the original proposals, and a summary table of existing procedures).

Specific proposals included:

- Replacing the current Special Residential Design Review (SRDR) New construction Checklist with discretionary criteria that more effectively address issues such as building bulk; and view, privacy, and solar access impacts on neighbors.
- Changing the name of SRDR to “Basic Design Review.”
  
- Replacing the Mediated Residential Design Review program adopted in 2001 for City Council District One and the 1991 Firestorm Area with a variation of the City’s Regular Design Review procedure.
  
- Improving notice for Regular Design Review, Conditional Use Permits, and Variances.
  
- Creating a new “*1-2 Unit Residential Design Review Manual*” that would establish the decision-making criteria for all design review cases Citywide; incorporate existing criteria and guidelines now used only for certain situations and geographic areas; and consolidate the existing criteria and guidelines with much-needed new provisions. The Design Review Manual would initially be in an “interim” version assembled from existing design review criteria and guideline documents and which would accompany the draft zoning text changes implementing Items 1-6 above. After a 6-12 month test period, the Interim Manual would be expanded and improved to create a final definitive version.

At the May 12, 2004 meeting, the Design Review Committee also reviewed the following staff-recommended design review process changes, and expressed some concerns with these proposal elements in response to public comments:

Original Staff Recommendation regarding Basic Design Review (currently Special Residential Design Review) Notification:

- *Informational or “courtesy” notice to neighbors for Basic Design Review projects (which currently have no notice at all).*

Design Review Committee’s 5/12/04 directive:

- (a) The applicant’s notice to adjacent property owners should not be just a “courtesy notice.” It should invite neighbors to submit written comments to staff, within a specified time period, such as 10 or 15 days.
  
- (b) Staff would not issue a decision until conclusion of this 10-15 day time period.
  
- (c) A copy of the staff decision letter would be provided to anyone who submitted written comments.
  
- (d) The staff decision could be appealed to the City Planning Commission’s Residential Appeals Committee by anyone who previously submitted written comments.

The above changes would make Basic Design Review very similar to Regular Design Review.

Original staff recommendation regarding *Design Review Exemptions*:

- *Allow more alterations, small additions and small accessory structures to be exempt from design review if they meet zoning requirements and match the exterior treatment of the existing building.*

Design Review Committee's 5/12/04 directive:

- (a) The applicant would provide notice of exempt projects to adjacent property owners in the same manner described above for Basic Design Review for all exemptions that either involve an addition or could involve a potential view, privacy or solar access impact, e.g., a new window or deck.
- (b) If a neighbor submitted written comments, the exemption would convert to Basic Design Review, including right of appeal.
- (c) Like Basic Design Review decisions, staff would not be able to issue the exemption decision until after the end of the comment time period.

These changes would make design review exemptions that receive public comments very similar to Regular Design Review.

## **KEY ISSUES AND IMPACTS**

### **Staff response to Design Review Committee's May 12, 2004 directives concerning Design Review process changes.**

Staff has the following major concerns regarding the Design Review Committee's process directives and urges that the directives be reconsidered:

- (1) Increasing processing times for small projects, especially projects that are currently exempt, would be highly inconsistent with the process revision's intent to improve efficiency.**

A requirement to publicly notice what are now design review exemptions would in effect convert these small addition and alteration projects into Regular Design Review applications.

If comments were received, an Exemption application would result in a typical processing time of 57-62 days (about 8-9 weeks) compared to a typical processing time in the original staff proposal of 1-3 days for exemptions. Even if no public comments were received, the minimum processing times for noticed exemptions under the Committee's directives would still be 43-50 days to allow determination of whether the exemption application was complete (30 days), notice preparation (2-3 days) and the public comment period (10-15 days), and 1-2 days to issue the exemption determination. These exemption processing times would apply to even relatively minor changes such as adding or enlarging a window or deck because of the potential privacy impacts involved.

In 2004, about 300 design review exemptions were processed. Staff estimates that adopting a procedure for the review of small addition and alteration projects pursuant to the Committee's directives would increase the Zoning Division's overall workload by at least 10%. The

increased workload would be due to the fact that every project that is notified prior to decision and includes full appeal rights requires the review of a supervisor, the analysis of a case planner and the processing assistance of 1 or 2 administrative positions. It is not realistic to consider that such an increase in workload could be absorbed by the Zoning Division without the need for additional staffing.

In regard to the review of what are now Special Residential Design Review projects (equivalent to Basic Design Review under the proposed procedure changes), the actual processing time for the applications would not be known until completion of the 10-15 day public comment period. If comments were received, a Basic Design Review application would also in effect be converted to Regular Design Review. This would result in a typical processing time of 57-62 days (about 8-9 weeks), plus an additional 5-7 weeks normally required for any appeals, compared to a typical processing time in the current staff proposal of 42-47 days (about 6-7 weeks) for Basic Design Review.

In 2004, about 460 Special Residential Design Review (SRDR) projects were processed. According to the above staff estimates for typical processing times, a change in procedures pursuant to the Committee's directives would most likely increase SRDR processing times by 25-30%.

Such an increase in processing times would be a significant inconvenience for the public. It would also reduce the overall number of cases able to be processed yearly per planner, and therefore add to the need for additional staffing.

**(2) The Committee's directives would require at least two additional Full Time Equivalent (FTE) Planning and Zoning staff positions to implement.**

According to the City's Finance Department, each additional Planner II staff position would cost approximately \$133,491 per year (including benefits and overhead), for a total cost for two new positions of \$266,982 per year.

**Alternative Proposal Recommended by Staff**

To address the concerns raised at the Committee's May 12, 2004 meeting regarding potential view, solar access and privacy impacts on adjacent properties from exempt projects, staff is submitting a revised design review process proposal as an alternative to the original May 12, 2004 proposal. The revised proposal is summarized in **Attachment B** and shown in more detail in **Attachments C** through **F**.

Staff's revised proposal includes:

- **Eliminating design review exemptions for small additions, and replacing exemptions with a requirement for Small Project Design Review (SPDR).**

*Under staff's current proposal, small additions that are now processed as design review exemptions would instead require Small Project Design Review (Small Project Design Review is now mostly used for small non-residential projects, such as signs and awnings). All project decisions would be based on either:*

- *A revised version of the 'Oakland Small Project Design Guidelines' – with a new section added for small residential additions (exterior treatments must match existing building);*
- *Or as an alternative, the applicable sections in the new '1-2 Unit Residential Design Review Manual'.*

*If a project does not meet the Small Project Design Review thresholds and/or review criteria, the applicable Design Review process for each zone would apply. A courtesy notice would be posted at the project site prior to issuance of a building permit and would remain posted until the building permit is issued.*

- **Expanding the project types reviewed under Small Project Design Review to include: front and street-side yard fences over 42 inches in height, but not exceeding 6 feet; a secondary unit of 650 square feet or less on a lot with only one existing or proposed primary dwelling unit; and either a one-story structure and/or addition located to the rear and/or side of a primary facility, or an increase in floor area or footprint of no more than 15 percent.**

*In the original 5-12-04 staff proposal, all of the above projects, except for fences over 42" in height, would have been exempt from design review.*

- **Replacing the current Special Residential Design Review-New Construction Checklist with discretionary criteria that more effectively address issues such as building bulk; and view, privacy, and solar access impacts on neighbors. The proposal also includes changing the name of Special Residential Design Review to "Basic Design Review".**

*The above is unchanged from the original 5/12/04 staff proposal.*

- **Adding a requirement to both Basic Design Review and Regular Design Review that applicants must provide (by mail or hand delivery) reduced sets of plans to all adjacent neighbors.**

*In order to address the Design Review Committee's directive regarding increased public notice (especially for SRDR or Basic Design review cases), staff's current proposal requires that applicants provide reduced sets of project plans directly to all adjacent neighbors.*

- **Requiring Regular Design Review for all new construction projects Citywide on footprint slopes over 20%.**

*This is a significant change. In the original 5-12-04 staff proposal, many steep slope or hillside projects would have continued to be processed as SRDR or Basic Design Review cases. But in response to the Design Review Committee's directive regarding increased public notice and staff's experience that steep slope or hillside projects are more likely to involve impacts to views, privacy or solar access, the current proposal specifies that all new construction Citywide on footprint slopes over 20% will trigger Regular Design Review.*

- **Replacing the current S-18 Mediated Design Review process with a variation of Regular Design Review.**

*The above is unchanged from the original 5/12/04 staff proposal.*

- **More restrictive lot coverage standards and addition of a new floor area ratio standard as further discussed in the "Revised Zoning Standards" section below.**

**Revised Zoning Standards, including Revisions to Lot Coverage Limits and New Floor-Area Ratio (FAR) Standard.**

The May 12, 2004 staff report recommended various changes to the 1-2 unit zoning standards to be adopted concurrent with the 1-2 unit design review process changes. The proposed zoning standards changes included:

- a) Revising the 35-foot limit on building length in side yards on sloped lots,
- b) Changing the amount of building width that can utilize the reduced 5-foot front yard setback on sloped lots,
- c) Changing the 3½-foot front yard fence height limit to 4 feet by right and up to 6 feet in certain cases with Small Project Design Review, and
- d) In certain cases, allowing additions to maintain existing substandard side yards without the requirement for a variance.

While it is staff's opinion that the above individual proposals continue to warrant consideration, the focus since the May 12, 2004 meeting has been on a more comprehensive effort to simplify, clarify and condense the overall zoning regulations. A proposal related to this goal is currently before the Planning Commission's Zoning Update Committee, involving a reformat of many of the zoning chapters in order to display summary tables of regulations wherever feasible.

Similar to the intent of proposed design review process changes, the goal of any comprehensive zoning code revision will be to improve efficiency and ease of use while maintaining intent. For instance, many of the new standards adopted in December 2001 have proven overly complicated, and in some cases, unnecessarily restrictive on design.

A review of notes and reports produced by the 'Working Group' that met regularly between 1996 and 2001 to craft the residential zoning changes finally adopted in December 2001 shows that a Floor Area Ratio (FAR) standard had at one time been proposed and endorsed by both the Working Group and the City Council as an alternative to many of the regulations that were finally adopted. Therefore, staff would like to bring forward again the idea of adopting a residential FAR standard as part of a comprehensive revision to the City's residential zoning code regulations.

Many communities, both locally and nationwide, have adopted residential FAR standards, and their experience indicates that it can be an effective supplement to height and setback regulations. The advantage of an FAR standard is that it sets a clear parameter for building size - making it a function of lot size - and is relatively easy to understand and administer.

In addition to a new floor area ratio (FAR) standard, staff is also proposing revisions to the City's lot coverage standards. The existing lot coverage standard will be expanded to slopes over 20 percent, and the existing 40 percent lot coverage limit in the R-30 Zone is proposed to be reduced to 35 percent. In addition, the maximum 2,000 square feet of lot coverage now allowed for any lot in zones R-1 through R-30 is proposed to be reduced to 1,750 square feet.

The preliminary lot coverage and FAR proposals are shown in Attachment G. Attachment H compares the proposed FAR standard with FARs used in other cities for various lot sizes. The lot coverage and FAR proposals are still very tentative and are being submitted now to initiate discussion.

The revised lot coverage limits in conjunction with the new FAR are intended, among other things, to address the potential view, solar access and privacy impact concerns related to exempt projects expressed at the May 12, 2004 meeting. Projects with reduced lot coverage limits and subject to FAR are less likely to create these impacts.

Expanding lot coverage limits to sloped sites will also help address conversion of pervious to impervious surfaces in the hills and the adverse hydrological impacts associated with such conversion. In addition, the expanded lot coverage limits together with FAR will establish additional limits on building size and reduce the likelihood of excessively bulky buildings.

Because the zoning standards changes are closely related to other zoning text changes being considered by the Planning Commission's Zoning Update Committee, the revised standards will be considered by the Zoning Update Committee rather than the Design Review Committee.

**Timing for next steps**

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| Design Review Committee completes consideration of design review process changes.                          | February, 2005       |
| Zoning Update Committee reviews zoning code changes.   | March or April, 2005 |
| Conceptual zoning standards and design review process changes considered by full City Planning Commission. | May, 2005            |
| Conceptual zoning standards and design review process changes considered by City Council.                  | June-July, 2005      |
| Staff prepares draft zoning text for zoning standards and Design Review process changes.                   | August-October, 2005 |
| Public review of draft zoning text.  | November, 2005       |
| Public hearing and City Planning Commission recommendation on zoning text changes.                         | December, 2005       |
| City Council adoption of zoning text changes.  | Early 2006           |
- Preparation of the Final 1-2 Unit Residential Design Review Manual, including public workshops, would be concurrent with the above schedule.

**RECOMMENDATION:** Recommend that the City Planning Commission accept the revised conceptual design review process as set forth in Attachments B through F.

Respectfully submitted:

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**ATTACHMENTS:**

- A. 1-2 Unit Residential Design Review Process Changes as Presented at 5-12-04 DRC Meeting.
- B. Alternative 1-2 Unit Residential Design Review Process.
- C. Small Project Design Review Flow Chart
- D. Basic Design Review Flow Chart
- E. Regular Design Review Flow Chart
- F. S-18 Design Review Flow Chart
- G. Proposed Lot Coverage and Floor Area Ratio Standards
- H. Comparison of Proposed Floor Area Ratios and Floor Area Ratios Used in Other Cities for Various Lot Sizes