

**CITY OF ALBANY  
PLANNING AND ZONING AGENDA  
STAFF REPORT**

Agenda date: 11/10/09  
Prepared by: JB

**ITEM/ 6b**

**SUBJECT: Planning Application 09-052. Design Review and Conditional Use Permit.**  
The applicant is requesting Design Review approval to allow a 502 sq. ft. two-story addition to the home. The maximum height of the home will increase from 20' 8" to 23' 5". A Conditional Use Permit is required to allow the vertical extension of a non-confirming exterior wall on the north side of the residence. A secondary residential unit also is proposed as part of the project.

**SITE: 524 Talbot**

**APPLICANT/  
OWNER: Erick Mikiten for Preston & Michelle Jordan**

**ZONING: R-1 (Single-Family Residential)**

---

**STAFF RECOMMENDATION**

Staff recommends that the Planning and Zoning Commission approve the project, subject to the attached conditions of approval.

**BACKGROUND/PROJECT DESCRIPTION**

The application was first discussed by the Commission at the October 13, 2009 meeting (staff report and meeting minutes attached). The application was first continued to the October 27, 2009 meeting and then, without analysis or discussion, further continued to November 10.

**ENVIRONMENTAL ANALYSIS**

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15303, "New Construction or Conversion of Small Structures" of the CEQA Guidelines, which exempts small additions.

**DISCUSSION OF KEY ISSUES**

Several issues were raised at the October 13 2009 public hearing:

- **Gross Square Footage of the Secondary Unit** - The floor plan of the secondary unit (second floor of the residence) to create a light well allowing the light from the windows on the south elevation of the second floor to shine into the first floor kitchen of the

primary resident primary residence. This reduces the square footage of the secondary residence to comply with the 650 square foot limit established in Section 20.20.080 of the Planning and Zoning Code. In some cases, the Code provides an explicit mechanism to waive or modify Code requirements.

- **Front Stair Encroachment** - The revised plans propose that in the process of lifting the existing residence to the second level, the second level will be shifted to the west a sufficient distance to ensure the entire stairwell to comply with the maximum six foot encroachment into the front yard setback.
- **Design Changes** - the revised plans include a change in the design of the stairs to the secondary unit to feature vertical wood rather than a stucco wall. Also vertical wood treatment has been proposed for the second story front elevation gable. Minor changes in the size and placement of windows on the south, west, and north elevations.

**Attachments:**

1. Analysis of Zoning Requirements
2. Findings and Conditions of Approval
3. Project Application & Plans
4. Letter from the Applicant
5. October 13, 2009 Staff Report
6. Draft Minutes from October 13, 2009 Commission Meeting



20.24.050 Floor-Area-Ratio.

	Existing (approx.)	Proposed	Requirement
Lot Size	5,000	No change	--
Floor Area			
Garage	158	0	
First-floor	907	1,843	--
Second-floor	1,034	753 (649 sq ft second unit floor area)	
Total	2,099	2,596	--
Total Counted	1,941*	2,596	--
Floor Area Ratio	39%	52%	55%

\* 158 sq. ft. exempted from "total counted" as permitted by MC 20.24.050 for enclosed parking spaces.

20.24.060 Setback Areas, Encroachments.

Not applicable.

20.24.100 Distances between Structures.

Not applicable.

20.24.110 Fences, Landscaping, Screening.

Not applicable.

20.24.130 Accessory Buildings.

Not applicable.

20.28 Off-Street Parking Requirement.

See discussion in October 13, 2009 staff report.

20.40 Housing Provisions

Not applicable.

20.44 Non-conforming Uses, Structures and Lot

Not applicable.

20.48 Removal of Trees

Not applicable.

20.52 Flood Damage Prevention Regulations

Not applicable.

20.100.030 Use Permits.

Not applicable.

20.100.040 Variances.

Not applicable.

20.100.010 Common Permit Procedures.

Public notice of this application was mailed on October 2, 2009, in the form of mailed notice, to property owners and occupants within a 300-foot radius, and posted in three locations. The Public Hearing was continued by the Planning and Zoning Commission to October 27, 2009 and then to November 10, 2009.

20.100.050 Design Review.

See Summary of Key Issues.

**ATTACHMENT - 3**

**FINDINGS AND CONDITIONS OF APPROVAL**

**Findings for Design Review approval (Per section 20.100.050.E of the AMC)**

<i>Required Finding</i>	<i>Explanation</i>
1. <i>The project conforms to the General Plan, any applicable specific plan, applicable design guidelines adopted by the City of Albany, and all applicable provisions of this Chapter.</i>	The General Plan designates this area for residential development. Additionally, the project meets City zoning standards for location, intensity and type of development.
2. <i>Approval of project design is consistent with the purpose and intent of this section, which states "designs of projects...will result in improvements that are visually and functionally appropriate to their site conditions and harmonious with their surroundings, including natural landforms and vegetation. Additional purposes of design review include (but are not limited to): that retention and maintenance of existing buildings and landscape features are considered; and that site access and vehicular parking are sufficient."</i>	The proposal is in scale and harmony with existing development in the vicinity of the site. The architectural style, design and building materials are consistent with the existing dwelling and with the City's Residential Design Guidelines. The proposed project will provide safe and convenient access to the property for both vehicles and pedestrians. The project will maintain the primary trees on the site and will not require significant grading. The project will create attractive new entrance to the residence.
3. <i>Approval of the project is in the interest of public health, safety and general welfare.</i>	The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area. The project will include removal of vinyl siding and upgrade the structural strength of the residence.
4. <i>The project is in substantial compliance with applicable general and specific Standards for Review stated in Subsection 20.100.050.D.</i>	The project as designed is in substantial compliance with the standards as stated, including access, architecture, natural features, coordination of design details, retention and maintenance of buildings, and privacy.

**Findings for Conditional Use Permit approval (Per section 20.100.030.D of the AMC)**

Required Finding	Explanation
<p>1. <b>Necessity, Desirability, Compatibility.</b> <i>The project's size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.</i></p>	<p>The General Plan designates this area for residential development. Additionally, the project meets City zoning standards for location, intensity and type of development. The granting of a conditional use permit will not result in any adverse impacts or development.</p>
<p>2. <b>Adverse Impacts.</b> <i>The project's use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:</i></p> <ul style="list-style-type: none"> <li>a. <i>The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;</i></li> <li>b. <i>The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;</i></li> <li>c. <i>The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;</i></li> <li>d. <i>Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;</i></li> </ul>	<p>The proposal is in scale and harmony with existing development in the vicinity of the site. The architectural style, design and building materials are consistent with the existing dwelling and with the City's Residential Design Guidelines. The project will maintain the primary trees on the site and will not require significant grading. The project will create attractive new entrance to the residence. The project will not create a visual detriment at the site or the neighborhood. The use remains the same and will not produce any noxious or offensive emissions, noise, glare, dust or odor.</p>
<p>3. <b>Consistency with Zoning Ordinance, General Plan and Specific Plan.</b> <i>That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</i></p>	<p>The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area.</p>

## CONDITIONS OF APPROVAL

### GENERAL PROJECT CONDITIONS

- Gen-1      **Project Approval.** This Design Review approval is for Kate & Eric Schorger, as substantially shown and described on the project plans, except as may be modified by conditions herein. Plans include preliminary master site plan prepared by Alyson Kaldis with Jason Kaldis Architect, Inc for, date received October 7, 2009, architectural plans (project perspectives, building sections, and floor plans, all as presented to the Planning and Zoning Commission on October 27, 2009. For any condition herein that requires preparation of a Final Plan where the project developer has submitted a conceptual plan, the project developer shall submit final plan(s) in substantial conformance with the conceptual plan, but incorporate the modifications required by the conditions herein for approval by the City.
- Gen-2      **Project Approval Expiration.** This Design Review approval expire on November 10, 2010 (one year from the date on which this approval becomes effective) or at an alternate time specified as a condition of approval, unless a building permit has been issued and construction diligently pursued; a certificate of occupancy has been issued; the use is established; the use permit, variance or design review approval is renewed]. The approval may be renewed by the Community Development Director for a period up to an additional two (2) years, provided that, at least ten (10) days before expiration of one (1) year from the date when the approval becomes effective, an application for renewal of the approval is filed with the Community Development Department. The Community Development Director may grant a renewal of an approval where there is no change in the original application, or there is no request to change any condition of approval.
- Gen-3      **Fees.** The applicant shall pay any and all City and other related fees applicable to the property, as may be modified by conditions herein. Fees shall be based on the current fee structure in effect at the time the relevant permits are secured, and shall be paid before issuance of said permit or before any City Council final action approval. Notice shall be taken specifically of Plan Check, Engineering, Fire and Inspection Fees. The project developer shall also reimburse the City for direct costs of planning; building and engineering plan check and inspection, as mutually agreed between the City and developer.
- Gen-4      **Appeals.** The Albany Municipal Code provides that any action of the Planning staff may be appealed to the Planning and Zoning Commission, and any action of the Planning and Zoning Commission may be appealed to the City Council as per the procedures described in Section 20.100.080. The City Clerk will then schedule the matter for the next available City Council meeting.



- Gen-5 **Requirement for Building Permit.** Approval granted by the Planning and Zoning Commission does not constitute a building permit or authorization to begin any construction or demolish an existing structure. An appropriate permit issued by the Community Development Department must be obtained before constructing, enlarging, moving, converting, or demolishing any building or structure within the City.
- Gen-6 **Fire Department Approval.** As part of a building permit application, the applicant shall submit written documentation that all requirements of the Albany Fire Department have, or will be, met to the satisfaction of the AFD.
- Gen-7 **Engineering Approval.** As part of a building permit application, the applicant shall submit written documentation that all requirements of the Public Works Department have, or will be, met to the satisfaction of the City Engineer.
- Gen-8 **Construction Hours.** Construction activity shall be restricted to the hours of 8:00 a.m. to 6:00 p.m. Mondays through Saturdays, and 10:00 a.m. to 6:00 p.m., Sundays and legal holidays, unless otherwise approved in writing by the City Engineer for general construction activity. Failure to comply with construction hours may result in stop work orders or other administrative actions.
- Gen-9 **Archeological Remains.** In the event subsurface archeological remains are discovered during any construction or preconstruction activities on the site, all land alteration work within 100 feet of the find shall be halted, the Community Development Department notified, and a professional archeologist, certified by the Society of California Archeology and/or the Society of Professional Archeology, shall be notified. Site work in this area shall not occur until the archeologist has had an opportunity to evaluate the significance of the find and to outline appropriate mitigation measures, if deemed necessary. If prehistoric archeological deposits are discovered during development of the site, local Native American organizations shall be consulted and involved in making resource management decisions.
- Gen-10 **Modifications to Approved Plans.** The project shall be constructed as approved. Planning staff may approve minor modifications in the project design, but not the permitted land use (per Albany Municipal Code 20.12). A change in an item requiring discretionary approval and any other changes deemed appropriate by the Planning staff shall require further Planning and Zoning Commission approval through the Design Review process.
- Gen-11 **Hold Harmless Agreement.** Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless, the City of Albany and its agents, officers and employees, from any claim, action, or proceeding against the City or its agents, officers or employees to attack, set aside, void, or annul the City's approval concerning this application, which action is brought within the time period provide for in Section 66499.37. The City will promptly notify the applicant of any such claim action or proceeding and cooperate fully in the defense.

- Gen-12      **Public Improvements Standards.** Public improvements shall be designed and constructed in accordance with the City's Standard Specifications and Standard Details, unless specifically waived in writing by the City Engineer.
- Gen-13      **Title 24 Standards.** All construction shall be designed and built in accordance with California Title 24 handicap accessibility standards. Appropriate details and specifications shall be incorporated into the plans and submitted at time of building permit application.
- Gen-14      **Energy Conservation Standards.** All buildings shall be designed in accordance with the State of California energy conservation standards for residential buildings. The necessary plans and documentation shall be submitted at time of building permit application.

### ARCHITECTURAL CONDITIONS

- Arch-1      **Material Samples.** Samples of final exterior materials and the proposed color palette shall be submitted for review and approval by the Community Development Department as part of building permit application.
- Arch-2      **Final Architectural Drawings.** The applicant shall submit final architectural elevations, details and revisions for the review and approval of the Community Development Department as part of building permit application.
- Arch-3      **Window Recess.** All new windows shall be recessed two inches from face of building to provide adequate shade and shadow and to promote visual relief. Final window details shall be submitted for review and approval at the time of building permit application.
- Arch-4      **Non-Reflective Glazing.** Any glazing material shall be non-reflective.

### LIGHTING CONDITIONS

- Lght-1      **Exterior Lighting.** All exterior lighting shall be installed in such a manner that glare is directed away from surrounding properties and rights-of-way. If required, exterior light fixtures shall be equipped with "cut off" lenses to minimize light and glare spill over onto adjacent properties.
- Lght-2      **Shielding of Lighting.** Prior to the certificate of occupancy, all accent lighting shall be directed downward and, if necessary, fixed with cut-off lenses to ensure that no glare spills onto neighboring properties.

### LANDSCAPING CONDITIONS

- Lndsc-1      **Street Tree Requirement.** The applicant shall apply for one street tree before the issuance of the building permit. The City's Environmental Resource Assistance will determine the type and location of the tree and may waive this requirement if site conditions will not reasonably support establishment of a new tree.

## PUBLIC WORKS DEPARTMENT CONDITIONS

### *General Engineering Conditions*

- Engr-1      **Backflow Device.** Any required water service for fire protection purposes shall be equipped with a City approved backflow device. Services for irrigation purposes also require a separate City approved backflow prevention device.

### GRADING CONDITIONS

- Grad-1      **Grading Permit.** Any grading required in association with the project shall require a grading permit from the Community Development Department. To obtain this permit, the applicant shall submit a grading plan, indicating the extent and volumes of earth proposed to be moved. A grading permit is subject to 2001 California Building, Appendix 33.
- Grad-2      **Demolition Permit.** Site demolition shall not occur until construction permits are issued for the development project. All demolition shall be in accordance with permits issued by the City and Bay Area Air Quality Management District (BAAQMD).
- Grad-3      **Water on Site.** The site shall be graded so as to prevent rainfall runoff originating from improved areas on the project site from crossing onto adjoining private property. Building floor elevations shall be above the FEMA-mapped 100-year flood plain as established by a licensed civil engineer. Provide the elevation and compaction certificates during and upon the completion of grading required by the California Building Code and in conformance with the recommendations of the geotechnical engineer's report. Shore and dewater all excavations in accordance with the requirements of the geotechnical engineer's report.
- Grad-4      **Flooding Damages.** The project developer shall execute an assumption of risk, indemnification and hold harmless agreement as required by the City. The agreement, in substance, shall state that the project developer, and any successor in interest, shall assume all risk for damages to the project and to project improvements, flooding caused by surface water intrusion, stormwater runoff, or water under the ground surface pressing on or flowing or seeping through foundations, walls, floors, or paved surfaces, basements, whether paved or not, or windows, doors or other openings, and shall indemnify and hold the City harmless from any claims of such damages, including third-party claims, of such damage or of such damages or of damages arising from rainfall runoff which is not prevented from leaving the project site in violation of Condition GRAD-3.
- Grad-5      **Dust Control Program.** A dust control program shall be prepared by the project developer and approved by the Community Development Department and City Engineer before issuance of a grading permit. The dust control plan shall address such items as covering stockpiled material, frequent watering of graded areas, revegetating graded areas, speed limits for grading equipment and similar items.

- Grad-6      **Stormwater Pollution Prevention Plan.** The project developer shall submit a Stormwater Pollution Prevention Plan (SWPPP) for review by the City before the issuance of a building or grading and/or building permit. The SWPPP shall be consistent with standards adopted by the Regional Water Quality Control Board and the City of Albany Clean Water Program and implemented by the project general contractor, all subcontractors and suppliers of material and equipment. Construction site cleanup and control of construction shall also be addressed in the SWPPP. The project developer shall be responsible for SWPPP compliance. A copy of the SWPPP shall be kept at the construction site at all times.

## INFRASTRUCTURE CONDITIONS

- Infr-1      **Sewer System Requirements.** The sewer system for the subject building shall comply with Chapter 15 of the Albany Municipal Code and to the satisfaction of the City Engineer before Final Inspection approval of the construction permit.
- Infr-2      **Two-Way Cleanout.** Installation of a two-way curbside cleanout shall be required per Chapter 15 of the Albany City Code. This applies to all properties, including properties with a valid upper sewer lateral certificate of compliance. All 2-way curbside clean outs shall be fitted with a loose cap in accordance with the City's standard detail SS6.
- Infr-3      **Property Run-off Requirements.** All runoff from impervious surfaces shall be intercepted at the project boundary and shall be collected and conducted via an approved drainage system through the project site to an approved storm drain facility, as determined by the City Engineer. Development that contributes additional water to the existing drainage system shall be required to complete a hydraulic study and make improvements to the system as required to accommodate the expected ultimate peak water flow and to stabilize erosive banks that could be impacted by additional storm water flow.
- Infr-4      **Roof Drainage.** Roof drainage from the structure shall be collected via a closed pipe and conveyed to an approved storm drain system off the street curb. No concentrated drainage of surface flow across sidewalks shall be permitted. Alternative natural treatment measures are subject review and approval by the City Engineer.
- Infr-5      **Completion of Off-Site Improvements.** Off-site improvements, as required by the City Engineer, shall be complete before issuance of a Certificate of Occupancy unless alternatives are approved in writing by the Albany City Engineer.

## PUBLIC IMPROVEMENTS CONDITIONS

- Pubim-1      **Encroachment Permit.** The applicant shall obtain an encroachment permit from the Engineering Division before commencing any construction activities within any public right-of-way or easement.

- Pubim-2      **Debris Removal.** All mud, dirt or construction debris carried off the construction site onto adjacent streets shall be removed each day. No materials shall be discharged onto a sidewalk, street, gutter, storm drain or creek.
- Pubim-3      **Damage to Street Improvements.** Any damage to street improvements now existing or done during construction on or adjacent to the subject property, shall be repaired to the satisfaction of the City Engineer at the full expense of the applicant. This shall include sidewalk repair, slurry seal, street reconstruction or others, as may be required by the City Engineer.
- Pubim-4      **Right-of-Way Construction Standards.** All improvements within the public right-of-way, including curb, gutter, sidewalks, driveways, paving and utilities, shall be reconstructed in accordance with approved standards and/or plans and shall comply with the standard plans and specification of the Community Development Department and Chapter 14 of the City Code.

### **FIRE DEPARTMENT CONDITIONS**

- Fire-1      **Construction of 1,500 Square Feet or Greater.** 1500 sq. ft. or more or any addition, remodel, rehabilitation, etc. is 50% of the existing sq. ft.:
- a) This dwelling will be required install an Automatic Fire Extinguishing System throughout the entire dwelling. Ordinance No. 94-010, Albany Municipal Code, Chapter 11, Section 11-2.3a(3)(a).
  - b) Plans, information sheets on all sprinkler components and hydraulic calculations are required.
  - c) A 110-volt interconnected smoke alarm system with a 10-year lithium battery back-up is acceptable with a fire suppression system.
- Fire-2      **Fire Rated Construction.** Any portion of a building five (5) feet or less from the property line shall comply with fire-rating requirements of the CBC.
- Fire-3      **Gallons-per-Minute Requirement.** The water system for fire protection shall comply with City of Albany Fire Department standards. Fire flow test data and water system plans must be provided at time of building plan check. The plans must include all equipment, components and layout of the system. Private fire protection water systems shall be supplied through an approved backflow device per City Engineering Division standards.

### **STRUCTURAL CONTROL MEASURES**

- Struc-1      **Illegal Dumping to Storm Drain Inlets and Waterways.** On-site storm drain inlets shall be clearly marked with the words "No Dumping! Flows to Bay," or equivalent, using methods approved by the City of Albany.
- Struc-2      **Pesticide/Fertilizer Application** Landscaping shall be designed to minimize irrigation and runoff, promote surface infiltration where appropriate, and minimize the use of fertilizers and pesticides that can contribute to stormwater

pollution. If a landscaping plan is required as part of a development project application, the plan shall meet the following conditions related to reduction of pesticide use on the project site:

- a) Where feasible, landscaping shall be designed and operated to treat stormwater runoff by incorporating elements that collect, detain, and infiltrate runoff. In areas that provide detention of water, plants that are tolerant of saturated soil conditions and prolonged exposure to water shall be specified.
- b) Plant materials selected shall be appropriate to site specific characteristics such as soil type, topography, climate, amount and timing of sunlight, prevailing winds, rainfall, air movement, patterns of land use, ecological consistency and plant interactions to ensure successful establishment.
- c) Existing native trees, shrubs, and ground cover shall be retained and incorporated into the landscape plan to the maximum extent practicable.
- d) Proper maintenance of landscaping, with minimal pesticide use, shall be the responsibility of the property owner.

### OPERATIONAL BEST MANAGEMENT PRACTICES (BMPS)

- Bmp-Gen1 **Stormwater Pollution Prevention Control Measures.** The project plans shall include stormwater pollution prevention and control measures for the operation and maintenance of the project during and after construction for the review and approval of the City or County Engineer. The project plan shall identify Best Management Practices (BMPs) appropriate to the uses conducted on-site in order to limit to the maximum extent practicable the entry of pollutants into stormwater runoff.
- Bmp-Gen2 **Erosion Control Measures.** The project plan shall also include erosion control measures to prevent soil, dirt and debris from entering the storm drain system, in accordance with the practices outlined in the ABAG *Erosion and Sediment Control Handbook*, California Storm Water Best Management Practice Handbooks, and Regional Water Quality Control Board's *Erosion and Sediment Control Field Manual*
- Bmp-Gen3 **Responsibility of Contractors.** The applicant is responsible for ensuring that all contractors and subcontractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations and/or a project stop order.
- Bmp-1 **Paved Sidewalks and Parking Lots.** Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. Debris resulting from pressure washing shall be trapped and collected to prevent entry into the storm drain system. Washwater containing any soap, cleaning agent or degreaser shall be collected and discharged to the sanitary sewer and shall not be discharged to a storm drain. The applicant shall contact the City Engineer for specific connection and discharge requirements.

Bmp-2a **Private Streets, Utilities and Common Areas.** The owner of private streets and storm drains shall prepare and implement a plan for street sweeping of paved private roads and cleaning of all storm drain inlets.

## GENERAL CONSTRUCTION BEST MANAGEMENT PRACTICES (BMPS)

Bmp-Cnst1 **Construction Access Routes.** Construction access routes shall be limited to those approved by the City Engineer and shall be shown on the approved grading plan.

Bmp-Cnst2 **Collection of Construction Debris.** Gather all construction debris on a regular basis and place them in a dumpster or other container which is emptied or removed on a weekly basis. When appropriate, use tarps on the ground to collect fallen debris or splatters that could contribute to stormwater pollution.

Bmp-Cnst3 **Removal of Waste.** Remove all dirt, gravel, rubbish, refuse and green waste from the sidewalk, street pavement, and storm drain system adjoining the project site. During wet weather, avoid driving vehicles off paved areas and other outdoor work.

Bmp-Cnst4 **Sweeping of Public Right-of-Way.** Broom sweep the sidewalk and public street pavement adjoining the project site on a daily basis. Caked on mud or dirt shall be scraped from these areas before sweeping.

Bmp-Cnst5 **Filter Materials at Storm Drain Inlet.** Install filter materials (such as sandbags, filter fabric, etc.) at the storm drain inlet nearest the downstream side of the project site prior to:

- a) start of the rainy season (October 1);
- b) site dewatering activities;
- c) street washing activities;
- d) saw cutting asphalt or concrete; and
- e) order to retain any debris or dirt flowing into the City storm drain system.

Filter materials shall be maintained and/or replaced as necessary to ensure effectiveness and prevent street flooding. Dispose of filter particles in the trash.

Bmp-Cnst6 **Containment of Materials.** Create a contained and covered area on the site for the storage of bags of cement, paints, flammables, oils, fertilizers, pesticides, or any other materials used on the project site that have the potential for being discharged to the storm drain system by wind or in the event of a material spill.

Bmp-Cnst7 **Cleaning of Equipment.** Never clean machinery, tools, brushes, etc. or rinse containers into a street, gutter, storm drain or stream. See the *Building Maintenance/Remodeling* flyer for more information.

Bmp-Cnst8 **Minimize Removal of Natural Vegetation.** Minimize removal of natural vegetation or ground cover from the site in order to minimize the potential for erosion and sedimentation problems. Replant the area as soon as possible. All cut

and fill slopes shall be stabilized as soon as possible after grading is completed. No site grading shall occur between October 1 and April 15 unless approved erosion and sedimentation control measures are in place.

**Appeals:** The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council, if such appeal is filed within 14 days of the date of the action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.





# City of Albany



## PLANNING APPLICATION FORM FOR DESIGN REVIEW AND CONDITIONAL USE PERMITS FOR RESIDENTIAL PROJECTS + 2nd unit

For PLANNING & ZONING COMMISSION action:	
<input checked="" type="checkbox"/> Design Review - residential additions or exterior modifications.	\$560* / Admin. \$400*
<input type="checkbox"/> Parking Exceptions/Reductions - see separate handout	\$620*
<input checked="" type="checkbox"/> Conditional Use Permit - Non-Conforming Wall(s)	\$1110

\* When obtaining more than one planning approval, the full amount for the highest fee will apply and a fee will be charged for any other ones.

The City of Albany Municipal Code has certain requirements for approving Design Review of additions to Single Family Residences. Please complete the following application to initiate the process. Please be aware that staff may have additional questions for you based on your responses. You should anticipate that planning staff and/or Planning and Zoning Commissioners will visit your site prior to your Planning and Zoning Commission meeting.

Job Site Address: <b>524 TALBOT AVE.</b>		Zone: <b>(R1)</b> R2 R3 R4 Other overlays:
Property Owner(s) Name: <b>PRESTON &amp; MICHELLE JORDAN</b>	Phone: <b>510-559-8684</b> Fax:	Email: <b>pdjordan@lbl.gov</b>
Mailing Address: <b>524 TALBOT AVE.</b>	City: <b>ALBANY</b>	State/Zip: <b>CA 9406</b>
Applicant(s) Name (contact person): <b>ERICK MIKITEN MIKITEN ARCHITECTURE</b>	Phone: <b>510-540-7111 EXT.</b> Fax: <b>510-540-7117</b>	Email: <b>ERICK@MIKITENARCH.COM</b>
Mailing Address: <b>2415 FIFTH STREET</b>	City: <b>BERKELEY</b>	State/Zip: <b>CA 94710</b>

GENERAL INFORMATION (Please fill out this Chart - existing & proposed; )

Item	Required	Existing	Proposed
How big is your lot? Express in square feet.	N/A	5,000SF	5,000SF
What is the floor area of: your existing residence (see additional handout on how to measure this)		2,130SF	2,433SF
any detached buildings—garage, sheds, etc.		NO	NO
How many square feet is your addition?	N/A	N/A	503SF
What is the Floor Area Ratio (FAR) <sup>1</sup> (see additional handout on how to measure this)	35% maximum allowed	.43	.52
What is your lot coverage? <sup>2</sup>		22%	41%
What is the amount of impervious surface on the lot?		300SF	390SF
What is the maximum height of your residence?	25' maximum	20'-8"	23'-5"
How many dwelling units are on your site?	2 units maximum	1	2
How many parking spaces do you have in a garage? <sup>3</sup>	2 spaces minimum	1	0
What are the interior dimensions of your garage?		9'x18'6"	NA
What is the narrowest width of your driveway?	6 feet minimum allowed	7'-9"	7'-0"

PROJECT ADDRESS: 524 Talbot Ave.

Item	Required	Existing	Proposed
Setbacks:			
Front yard: What is the minimum distance between the front wall of your house and the front property line?	15 feet minimum	15'	15'
Side yards: What is the shortest distance between a side wall of your house and a side property line?	10% of lot width; min. 3 ft; max. 5 ft. Corner lot 7 ft. 6 in.	9' @ porch	9' @ porch
Rear Yards: What is the minimum distance between the rear wall of your house and the rear property line?	20 feet minimum	3'-5"	3'-5"
Hillside District only: What is the slope of your lot?		31'-11"	20'-0"
		NA	NA

Notes:

- 1 Floor Area Ratio (FAR) applies to single family residential development in all zones. It is defined as the ratio between the gross floor area of a building(s) on a lot compared to gross square feet of lot (see FAR Handout).
- 2 Lot Coverage is defined as the land area covered by all structures except uncovered decks, porches, landings, balconies or stairways that are less than 6 feet above grade as well as eaves, trellises and similar structures that do not have solid roofs.
- 3 The Albany Municipal Code requires that every residential unit must have 2 off-street parking spaces. Some exceptions may apply in your situation. See the parking section of the Zoning Ordinance for a complete list of possible exceptions.

(Please use additional sheets to explain any of your responses to the following).

1. Will the construction of the addition require the removal of any mature trees? YES  
If yes, please describe: ONE OF THE TREES IS DANGEROUS, ONE IS UNHEALTHY, TWO ARE MORE LIKE BUSHES AND ARE BEING REMOVED FOR PARKING REQ.
2. Are the architecture, materials and colors of the proposed addition consistent with the existing dwelling? YES  
If yes, please describe how: DESIGN IS SENSITIVE TO (E) ARCHITECTURE & CONTEXT OF NEIGHBORHOOD.
3. Is the proposed addition sensitive to the size or mass of the surrounding properties? YES  
If yes, please describe how: HEIGHT, ROOF LINES, & PROPORTIONS ARE APPROPRIATE
4. If you have no garage, where do you park vehicles? IN REAR YARD

Story Poles - For new residential construction and exterior alterations that increase the height, an applicant is required to erect at least two "story poles", a temporary construction for the purpose of visually displaying the outer limits, including the height, of the proposed structural alterations. These poles shall be erected at least ten (10) days prior to the design review meeting, and shall be maintained in place through the date of the meeting.

The signature of the property owner is required for all projects. By executing this form you are affirming that you are the property owner.

[Signature]  
Signature of Property Owner      Date

[Signature]      10.1.09  
Signature of Applicant (if different)      Date

Community Development Department staff is available Monday, 8:30 AM to 7:00 PM, Tuesday through Thursday 8:30 AM to 5:00 PM, and Friday 8:30 AM to 12:30 PM at 979 San Pablo Avenue, 2<sup>nd</sup> Floor, Albany, CA 94706 (510) 528-5760.

Preston and Michelle Jordan  
524 Talbot Avenue  
Albany, CA 94706

October 7, 2009

Planning and Zoning Commission  
Planning Division Staff  
City of Albany  
979 San Pablo Avenue  
Albany, CA 94706

Re: Residential remodel permit application for 524 Talbot Avenue

Dear Planning and Zoning Commissioners and Planning Division staff,

We have submitted an application for a building permit to remodel our home at 524 Talbot Avenue. We look forward to your review.

We are pursuing this project to accommodate Michelle's disability from multiple sclerosis (MS). She was diagnosed in 2001 and now requires a walker in the home, a Segway to get around town, and a manual wheelchair for many other places.

We like our current home. We were first attracted to our home by the vegetated wide side yard running the length of the house on the south side, and the view of this yard from the house's living space, which is six feet above ground. With three bedrooms and two baths in a thousand square feet, we also appreciated the balance between privacy and intimacy the living space provided. The partially finished downstairs, which accommodated working at home, guests, laundry, work bench and storage, was an added advantage.

While our home has its quirks (such as a too small dining area), we were happy and planned to raise our children in it without significant modification. Unfortunately, our home's above ground height and compact layout have become a significant impediment for Michelle due to the progressive nature of MS, and probably will soon be completely unworkable.

We considered installing a lift and remodeling within the existing building envelope to accommodate this need. The conclusion is that even with the expenditure of considerable funds, the result would still not really accommodate the regular use of a wheelchair.

We explained our situation to two real estate agents in consideration of moving to a different home in Albany. Both agents told us we would not readily find a property that was significantly better in terms of access. Both agents recommended a remodel of our current home as the better option. Obviously when a real estate agent tells you not to sell and buy, that is honest advice best followed! And because we love our neighborhood and neighbors, we were happy to get this advice.

In considering a remodel that would accommodate Michelle, it became clear that living entirely at ground level would provide her easiest access to the outdoors and the community.

**ATTACHMENT #3**

One option to achieve this was to lower our current home to ground level. Still, making the space accessible would require demolishing most of the interior walls, at least one exterior wall, probably replacing the floor system with a slab on grade, and just generally expanding the space. This struck us as wasteful.

We have settled on another option of raising the original portion of the house and preserving this living space as a second unit (the originally unpermitted 70's addition in the back, built by a former Mayor no less, is too poorly constructed to warrant preserving). Besides avoiding waste, this approach appealed to us because this unit could be occupied by an attendant for Michelle, should that become necessary, and secondarily because it would accommodate another person within a half mile of the El Cerrito Plaza BART station. Of course, a bit of extra income from renting the unit in the meantime doesn't hurt either!

We look forward to a renewed home that will serve our family's needs while maintaining and enhancing its connection to the outdoors. Thank you for considering our building permit application. We appreciate your service to the City.

Respectfully,

Preston Jordan

Michelle Jordan

**Anne Hsu**

---

**From:** Jeff Bond  
**Sent:** Thursday, October 08, 2009 9:26 PM  
**To:** Anne Hsu  
**Subject:** FW: 524 Talbot

Jeff Bond  
Planning and Building Manager  
City of Albany  
979 San Pablo Avenue  
Albany, CA 94706  
direct: 510-528-5769  
fax: 510-524-9359

-----Original Message-----

**From:** Michelle Jordan [mailto:talbotalbany@yahoo.com]  
**Sent:** Thu 10/8/2009 7:40 PM  
**To:** Jeff Bond  
**Cc:** Preston Jordan  
**Subject:** RE: 524 Talbot

Jeff - is this what you had in mind for a parking narrative?  
- Michelle

\*\*\*\*\*  
Dear Planning and Zoning Commissioners and City Planning Staff-

Planning Director Jeff Bond suggested it might be helpful to describe our parking situation. Our family has one car. We have had only one car for more than 20 years. Our car is used primarily by Michelle. The primary mode for the rest of the family is biking or walking. On the rare occasion when we need two cars, Preston gets a City CarShare vehicle from the El Cerrito Plaza BART station.

Our home has one off-street parking space currently, in a 1920's-era garage. We used it for parking until recently, but due to its inaccessibility for Michelle we now park our car on the street.

Our intention is to continue to have only one car associated with our property. We feel confident that we will be able to continue this choice for ourselves. However we have included a second unit in the proposed project. Certainly the tenant of this unit may own a car as well. Our preference is for a tenant that does not.

Given the proximity of numerous stores and services within walking and biking distance of our home, the proximity of the El Cerrito Plaza BART station, which has the aforementioned City CarShare vehicles as well as electronic bike lockers, and the proximity of the Ohlone Greenway, our home seems to be in just about the best portion of Albany to attract such a tenant. To enhance this possibility further, we are going to include the City CarShare deposit, monthly membership fee and bike locker card cost should we rent the unit.

In accord with the existing parking ordinance, our project application provides for three parking spaces with two spaces in tandem. We hope to not use these spaces, but rather park

our car to the side of the house where it will be more readily available for Michelle. Still, it is a comfort to know that should the need arise for us or a future property owner, there would be space for parking additional cars.

Thank you for the opportunity to provide this information, for your consideration of our project application, and for your service to Albany.

Preston and Michelle Jordan

--- On Wed, 10/7/09, Jeff Bond <[jbond@albanyca.org](mailto:jbond@albanyca.org)> wrote:

From: Jeff Bond <[jbond@albanyca.org](mailto:jbond@albanyca.org)>  
Subject: RE: 524 Talbot  
To: "Jeff Bond" <[jbond@albanyca.org](mailto:jbond@albanyca.org)>, "Michelle Jordan" <[talbotalbany@yahoo.com](mailto:talbotalbany@yahoo.com)>  
Cc: "Preston Jordan" <[pdjordan@lbl.gov](mailto:pdjordan@lbl.gov)>  
Date: Wednesday, October 7, 2009, 7:53 PM

Michelle & Preston,

It occurs to me that might be helpful to have a narrative on your actual off-street parking requirements.

Thanks,

Jeff

Jeff Bond  
Planning and Building Manager  
City of Albany  
979 San Pablo Avenue  
Albany, CA 94706  
510-528-5769

From: Jeff Bond  
Sent: Wednesday, October 07, 2009 7:02 PM  
To: 'Michelle Jordan'  
Cc: Preston Jordan  
Subject: RE: 524 Talbot

Michelle & Preston,

Thanks for the email. I had not yet received the letter, so I am glad you sent it over.

Jeff

Jeff Bond  
Planning and Building Manager  
City of Albany  
979 San Pablo Avenue  
Albany, CA 94706  
510-528-5769

From: Michelle Jordan [mailto:talbotalbany@yahoo.com]  
Sent: Wednesday, October 07, 2009 12:57 PM  
To: Jeff Bond  
Cc: Preston Jordan; Michelle Jordan  
Subject: 524 Talbot

Hello Jeff,

I wasn't sure whether you already had this letter from me and Preston regarding our application for remodeling/rebuilding. Sorry if it is the 2nd time you've received it.

- Michelle Jordan

**CITY OF ALBANY  
PLANNING AND ZONING AGENDA  
STAFF REPORT**

Agenda date: 10/13/09  
Prepared by: JB  
Reviewed by: \_\_\_

**ITEM/**            6b  
**SUBJECT:**    **Planning Application 09-052. Design Review and Conditional Use Permit.**  
The applicant is requesting Design Review approval to allow a 502 sq. ft. two-story addition to the home. The maximum height of the home will increase from 20' 8" to 23' 5". A Conditional Use Permit is required to allow the vertical extension of a non-confirming exterior wall on the north side of the residence. A secondary residential unit also is proposed as part of the project.

**SITE:**            524 Talbot

**APPLICANT/  
OWNER:**        Erick Mikiten for Preston & Michelle Jordan

**ZONING:**        R-1 (Single-Family Residential)

---

**STAFF RECOMMENDATION**

Staff recommends that the Planning and Zoning Commission receive testimony from the applicant and members of the public, and provide direction to the applicant and staff on issues of interest. No action is to be taken at this time.

**BACKGROUND/PROJECT DESCRIPTION**

The subject property is a 5,000 square foot lot with a 2,130 square foot two-story, single-family home. The applicant is requesting Design Review approval to allow a 502 square foot two-story addition to the home. The addition would be accomplished by raising the existing home and constructing new main level. The maximum height of the home will increase from 20' 8" to 23' 5". A Conditional Use Permit is required to allow the vertical extension of a non-confirming exterior wall on the north side of the residence. A secondary residential unit also is proposed as part of the project.

**ENVIRONMENTAL ANALYSIS**

Staff has determined that the proposed project is categorically exempt from the requirements of CEQA per Section 15303, "New Construction or Conversion of Small Structures" of the CEQA Guidelines, which exempts small additions.



## DISCUSSION OF KEY ISSUES

The applicant has provided a letter describing their objectives and considerations in proposing the project. Of particular note are the dual objectives of having the primary residence being 100% accessible at the ground level and the availability of a second unit on the second level for use of an attendant if necessary in the future. It also should be noted that the applicant strives for a sustainable project that among other things, preserves as much of the existing construction as possible.

### Secondary Unit

The primary issue raised by the proposed secondary unit is that the total gross square footage of the secondary unit exceeds the 650 square foot limit established in Section 20.20.080 of the Planning and Zoning Code. In some cases, the Code provides an explicit mechanism to waive or modify Code requirements. Conditional use permits for side yard setbacks and parking exceptions are common examples of this type of flexibility. The Code also allows flexibility under "Planning Unit Development" procedures, but PUD applies to projects on sites greater than 10,000 square feet. Finally, the Code also allows for applicants to seek a variance. Specific factual findings related to unique size, shape, topography, location, or surroundings, however, need to be made to support a variance. In this case, staff could not recommend making findings for a variance.

One approach would be to simply reduce the size of the second level. For example, a portion of the dining area could be converted to a balcony. Alternatively, if the existing configuration is kept, a portion of the second level could be made directly accessible to the resident in the primary unit.

Once the issue of the size of the secondary unit is resolved, and with Commission concurrence on the proposed parking arrangement, formal action on the proposed second unit would be taken by staff pursuant to the requirements of state law. The merits of a secondary unit in an R-1 district are not subject to Commission review.

### On-Site Parking

The existing home has a single car garage. The secondary unit creates the need for a second off-street parking space and the proposed addition creates the need for a third off-street parking space. Only two of the three required spaces can be aligned in tandem.

The proposal is to remove the existing curb cut on the north side of the home and create new curb cut on the south side. The rear yard would be designated for parking, with space preserved for three separate vehicles. The existing garage would be modified to serve as storage.

The current owners do not intend to utilize three vehicles, and thus propose not to pave the side yard or rear yard. If the configuration is approved, staff would propose that the site plan showing the parking arrangement be recorded along with any relevant conditions of approval so that future owners are aware that the rear yard must be preserved for parking.

## Design Review

Unlike most residences in Albany, this property has a large side yard with attractive mature trees that the applicant will utilize as their private open space. Thus, the functional design of the residence is different than most homes that emphasize front and rear yards.

The existing home is rectangular in configuration with a low-pitch front gabled roof and horizontal siding. The proposed design involves maintaining the front gable roof on the second level and the addition of a new similarly-proportioned front gable over the new ground level entrance to the primary residence.

The ground level front entry porch encroaches into the front setback by the allowed six feet. The porch includes a low wall and vertical wood siding within the gable. Although the proposed porch is nicely proportioned, the Commission may wish to explore with the applicant some of the materials and details associated with the porch, including gable vents and other decorative features.

The access to the proposed secondary unit would be by stairway that encroaches into the front setback by approximately 6 feet 9 inches to an existing enclosed porch. (The six foot encroachment provided by the Planning and Zoning Code is not sufficient to provide the building code-mandated 36 inch stair width plus handrails.) The stair to the second unit would be protected by a stucco wall on the ground level and vertical wood railing on the second level that matches the proposed gable on the ground level.

The applicant proposes to preserve the large existing window on the second floor porch. The Commission may wish to discuss whether preservation of the large porch window is consistent with the scale and style of the new design. It also should be noted that the combination of the front porch entry to the primary unit and the front stairs to the entry of the second unit result in a considerable encroachment into the front yard setback. It also should be noted that if the proposed parking arrangement is approved, preservation of the large garage opening is not required.

For the remainder of the home, the existing horizontal vinyl siding would be removed and a stucco exterior finish is proposed. Existing windows on the second level would be preserved where possible. New craftsman style windows are proposed in an attractive and consistent pattern on the front side and rear elevations of the home.

## Conditional Use Permit

A conditional use permit is required in order to allow the vertical extension of the existing non-conforming north side wall. It should be noted that the applicant proposes to demolish the rear portion of the existing home, and thus eliminating a portion of the existing non-conforming situation. In some situations in the past, when homes are lifted, the Commission has required non-conforming walls be moved into compliance with side yard setbacks. In this case, however, shifting the entire home to the south would encroach into the proposed driveway, impacting the proposed parking arrangement.

## Green Building Requirements

Detailed information on the projects green building features have not yet been submitted.

### **Attachments:**

1. Analysis of Zoning Requirements
2. Project application, plans
3. Letter from the Applicant



20.24.050 Floor-Area-Ratio.

	Existing (approx.)	Proposed	Requirement
Lot Size	5,000	No change	--
Floor Area			
Garage	158	0	
First-floor	907	1,880	--
Second-floor	1,034	753	
Total	2,099	2,632	--
Total Counted	1,941*	2,632	--
Floor Area Ratio	39%	53%	55%

\* 158 sq. ft. exempted from "total counted" as permitted by MC 20.24.050 for enclosed parking spaces.

20.24.060 Setback Areas, Encroachments.

Not applicable.

20.24.100 Distances between Structures.

Not applicable.

20.24.110 Fences, Landscaping, Screening.

Not applicable.

20.24.130 Accessory Buildings.

Not applicable.

20.28 Off-Street Parking Requirement.

See discussion.

20.40 Housing Provisions

Not applicable.

20.44 Non-conforming Uses, Structures and Lot

See discussion.

20.48 Removal of Trees

Not applicable.

20.52 Flood Damage Prevention Regulations

Not applicable.

20.100.030 Use Permits.

Not applicable.

20.100.040 Variances.

See discussion.

20.100.010 Common Permit Procedures.

Public notice of this application was mailed on October 2, 2009, in the form of mailed notice, to property owners and occupants within a 300-foot radius, and posted in three locations.

20.100.050 Design Review.

See Summary of Key Issues.

**DRAFT – EXCERPT FROM UNAPPROVED MINUTES  
CITY OF ALBANY PLANNING AND ZONING COMMISSION MEETING  
OCTOBER 13, 2009**

- a. **524 Talbot. Planning Application 09-052. Design Review. Conditional Use Permit.**  
Request for Design Review approval to allow a 502 sq. ft. two-story addition to the home, which would include a new second unit. A Conditional Use Permit is required to allow the vertical extension of a non-confirming exterior wall on the north side of the residence. A secondary residential unit also is proposed as part of the project.

*Staff recommendation: for discussion only. Provide direction to the applicant and staff on issues of interest. No action is to be taken at this time.*

Commissioner Moss recused himself ownership of property within 500 feet of the application. Planning Manager Bond delivered the staff report. Chair Maass opened the public hearing and invited the applicant to make a presentation. Eric Mikiten, the project architect, was available to answer questions. No one else wished to speak. Chair Maass closed the public hearing.

Commissioner Arkin found it a handsome, modest proposal. Regarding the parking, he recommended a deed restriction on access and the open spaces. He presented a suggestion for getting the square footage down to 650 square feet, by reducing part of the second story to a bay window and a light well. The property owners and Mr. Mikiten responded positively to his design solution. Commissioner Panian asked about addressing the nine-inch encroachment. Commissioner Arkin suggested changing the direction of the stairs. Chair Maass recommended adding detail to the gable end. Commissioner Arkin moved continuation to the October 27, 2009, meeting. Commissioner Panian seconded.

Vote to continue item **6b**:

Ayes: Arkin, Maass, Panian

Nays: None

Motion passed, 3-0.