

City of Albany



TO: ALBANY PLANNING & ZONING COMMISSION
FROM: ANNE HERSCH, AICP, CITY PLANNER
SUBJECT: PA 12-045 Design Review & Parking Exception for 1117 Ordway
DATE: November 14, 2012

Property Owner/Applicant/Representative:

Paula Wagner & Gib Cattanach
1117 Ordway
Albany, CA 94706

| | |
|---|---|
| PROJECT: 1117 Ordway Design Review & Parking Exception | Original filing: August 31, 2012 |
| FILE: PA 12-045 | Date Deemed Complete: September 7, 2012 |
| LOCATION: 1117 Ordway | Date of Notice Posted/Mailed: 9/28/2012 |
| GP LU: Low Density Residential | Date of Initial Public Hearing: October 10, 2012 |
| ZONING: R-1 Residential Single Family | Date of 2 nd Public Hearing: November 14, 2012 |
| PLANNER: Anne Hersch | Total number of days to hearing: 75 days |

REQUEST

The applicant is seeking design review and parking exception approval for a 650 sq. ft. accessory structure in the rear yard at 1117 Ordway. The lot is 7,551 sq. ft. in area. The applicant received administrative design review approval for a 239 sq. ft. accessory structure in 2011. The original accessory structure was constructed and finalized in April 2011. Upon completion, an unpermitted expansion of the structure commenced and a stop work order was issued. The applicant was directed to file a new application to remedy the current situation. The applicant is proposing to use the structure as a multipurpose art studio.

STAFF RECOMMENDATION

The Planning and Zoning Commission review the proposed application and provide feedback to the applicant and staff. Conditions and findings are included as attachments to the staff report should the Commission choose to approve the project.

SITE LOCATION

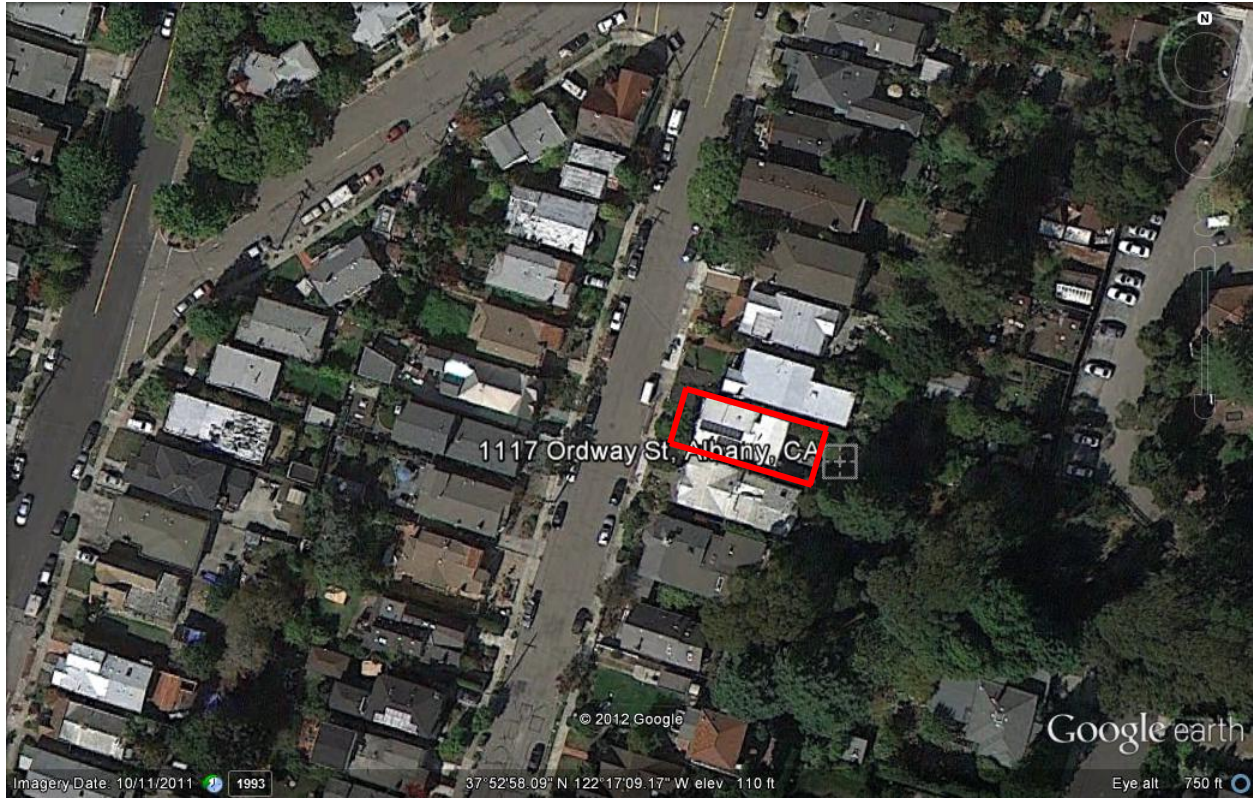


Figure 1. Site Location

BACKGROUND/PROJECT DESCRIPTION

The subject property is a 7,551 sq. ft. lot with a 1,191 sq. ft. three bedroom, one bath home. The applicant received administrative design review approval on October 10, 2011 for a 239 sq. ft. accessory structure in 2011. Notices were sent to property owners within 100 ft. of the subject site. The original accessory structure included a half bathroom facility and was proposed to be used as an artist studio. The structure was constructed and passed final inspection in April 2011.

Staff received an anonymous phone call on June 18, 2012 indicating that construction had commenced in the rear yard. Concern was also expressed that this unit could potentially be used as a secondary dwelling unit. The Building Inspector visited the property and issued a stop work order after observing unpermitted construction. Upon visiting the site, the structure had increased from 239 sq. ft. to 650 sq. ft., an increase of 411 sq. ft. The east and west walls were opened and conjoined with pre-fabricated accessory structures and located on previously installed concrete pads designated for patio use. Staff observed that a kitchen area may have been framed in the rear of the structure and the existing bathroom had been modified to include a floor drain. Window openings less than three feet from the property line were also installed on the east and west elevations. This is inconsistent with Section 20.24.130 (H) (1) of the Albany Municipal Code which prohibits window openings less than 3 ft. from the property line.

*H. **Setbacks.** Accessory buildings shall be within six (6) inches of the side or rear lot line, or shall be set back at least three (3) feet, and shall be subject to the following provisions:*

1. *Accessory buildings shall not have openings (windows, doors, and vents) within three (3) feet of the property line. This includes openings on walls that are perpendicular to a property line. An exception shall be made for garage (vehicle) doors.*

Recent Review

The Commission initially reviewed the project at its October 10, 2012 hearing. At that time, the Commission requested that the applicant provide the following additional information:

- Site survey with the creek boundaries/setback area
- Letter from contractor explaining the construction details
- Work with the neighbor to the north on a mutually agreed upon treatment of the north wall
- Determine if the property is subject to FEMA Guidelines

The Planning Commission also requested that staff consult with the City Attorney regarding an option for the applicant to pursue a variance for the side yard setback and deviation from the required parking standards.

A site survey, letter from the original contractor, and letter to the next door neighbor are included as Attachments to the staff report.

The property is subject to FEMA Guidelines. However, the subject property is located approximately 19 ft. above the creek, at the 124 ft. elevation. The creek is located at the 105 ft. elevation.

ANALYSIS

The subject property is located in the Water Course Overlay District. The Cordinices Creek is located towards the south side of the property line. The Overlay District establishes an additional setback requirement of 20 ft. from the top of the natural Creek bank (Section 20.24.030 (G) (1)). The applicant chose to locate the structure away from the house and construct concrete patios on either end of the structure. The structure was located towards the rear yard property line. The original structure was configured in an "L" shape 21'6" in length x 8'5" in width with a bump out of 4'1 x 13'6".

Setback requirements for accessory structures are different than the requirements for secondary dwelling units. The structure was located outside of the require Creek setback area and sited 5" from the northeast property line. Since the structure is located so close to the property line it may only be used as an accessory structure, and not a secondary residential unit.

Site Survey/Side Yard Setback

A site survey showing the setback from the creek is included below. The setback requirement is only necessary at the rear of the property, where the Creek boundary is located. Due to the large rear yard area, the project could have been configured to be out of the Watercourse Overlay entirely, and maintain the same side yard setback as the main residence.

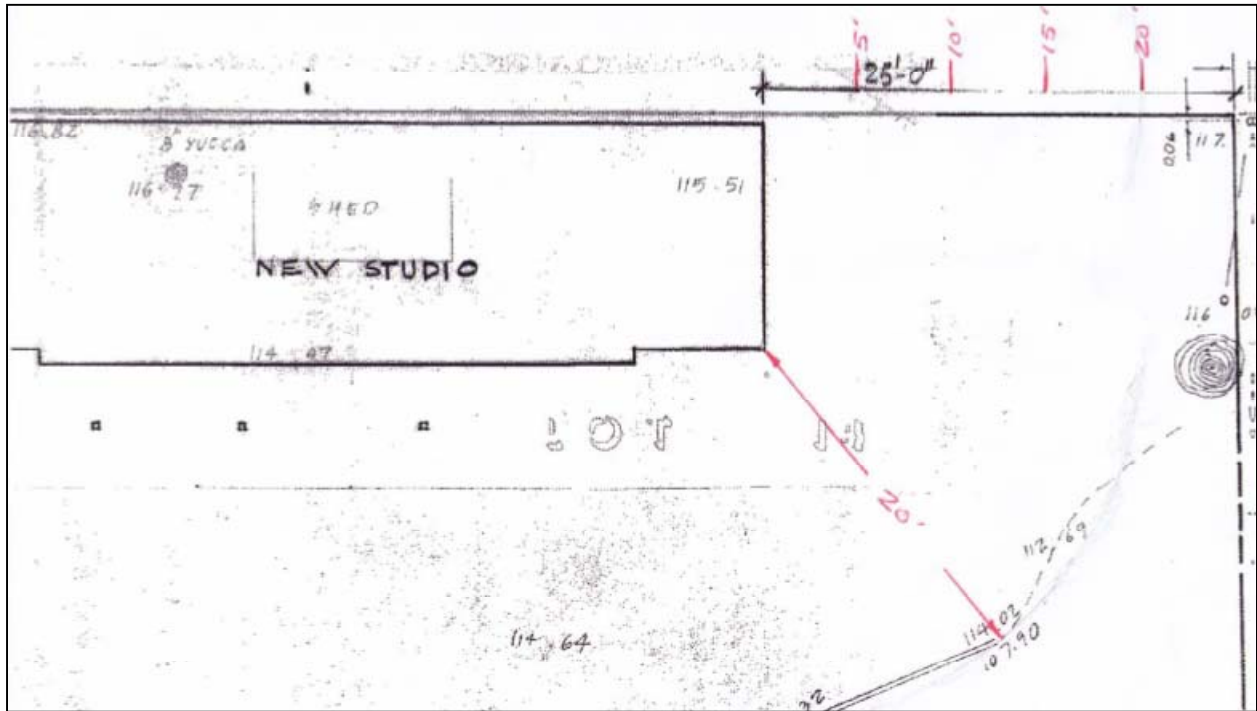


Figure 2. Watercourse Overlay Setback for 1117 Ordway

Section 20.20.080 (C) (3) (e) (1) requires that a secondary dwelling unit have the same minimum side yard setbacks as the main residence. A secondary unit is required to meet the setbacks of the main structure (3.5 ft from the side yard property line). In this case, the accessory structure is setback 5 inches from the side property line, as it was originally constructed as an accessory structure and not a secondary dwelling unit. This is consistent with the Accessory Structure provisions contained in Section 20.24.130 of the Albany Municipal Code.

e. *Detached Structure.* The following development standards shall apply to secondary units created in detached structures:

- 1) **The setback from rear and side property lines shall meet or exceed the minimum side yard setback required for the lot.**
- 2) Detached secondary units shall be at least six (6) feet from the main structure.
- 3) Detached secondary units shall not exceed the height limitations specified for accessory structures in subsection 20.24.130.
- 4) The total coverage of a detached secondary unit and any accessory buildings located to the rear of the main structure shall not exceed thirty (30%) percent of the area located between the main structure and the rear property line.

Parking for Secondary Dwelling Units

Section 20.28.040 “Exceptions to Parking Space Requirements” of the Albany Municipal Code requires that there be at least two off-street parking spaces for a home constructed prior to 1958. Section 20.28.040 (A) (4) (a) specifically states that the parking requirements shall be followed “without reduction or exception” and does not allow a deviation from the prescribed parking standards.

A. *Exceptions for Residential Uses.*

4. *Exception for Secondary Residential Units.*

- a. *Where a secondary residential unit is legally added to a single family dwelling located in the R-1 Zoning District, in accordance with subsection 20.20.080, the total number of off-street parking spaces required on the site shall be based on the age of the main dwelling unit according to the following schedule, **without reduction or exception:***

| Construction Date of Main Dwelling Unit: | Number of Parking Spaces: | |
|--|-------------------------------------|---------------------|
| | Prior to Creation of Secondary Unit | With Secondary Unit |
| Before 1958 | 0 | 2 |
| 1958 - 1978 | 1 | 3 |
| After 1978 | 2 | 4 |

Additionally, this is cross-referenced in Section 20.20.080 (D) which requires the Commission to make findings consistent with the parking requirements in 20.28.040 (A) (4).

D. *Off-Street Parking Requirements. The Planning and Zoning Commission shall use the parking standards set forth in subsection 20.28.040.A.4. as a minimum parking requirement for the second unit applications. All off-street parking spaces shall meet the specifications of subsection 20.28.050.A.1. (Off-Street Parking.) Finding: Where more than one parking space is required for a secondary unit, the Planning and Zoning Commission shall make a finding that:*

The requirement for more than one parking space for the secondary unit is directly related to the use of the secondary unit and is consistent with existing neighborhood standards applicable to existing dwellings, as described in subsection 20.28.040.A.4.

Variance

If a variance were to be considered, the Commission would have to determine if the variance findings can be made based on the facts of application. The Code clearly indicates that a variance or exception cannot be granted for off-street parking space requirements. A second off-street parking space has not been proposed at any point during project review and the property has one off-street parking space.

The Commission would also have to consider if variance findings could be made for a deviation in the development standards for side yard setback requirements. If findings are approved, a

variance could be applicable to many properties on this block of Ordway as well as elsewhere in the City.

C. *Required Findings for Approving Variances. A variance may be granted only if the Planning and Zoning Commission makes all of the following findings:*

1. *Unique Site Characteristics. That there are exceptional or extraordinary circumstances applying to the property involved, including size, shape, topography, location or surroundings, and*

2. *Preservation of Property Rights. That the strict application of this Chapter deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification; and*

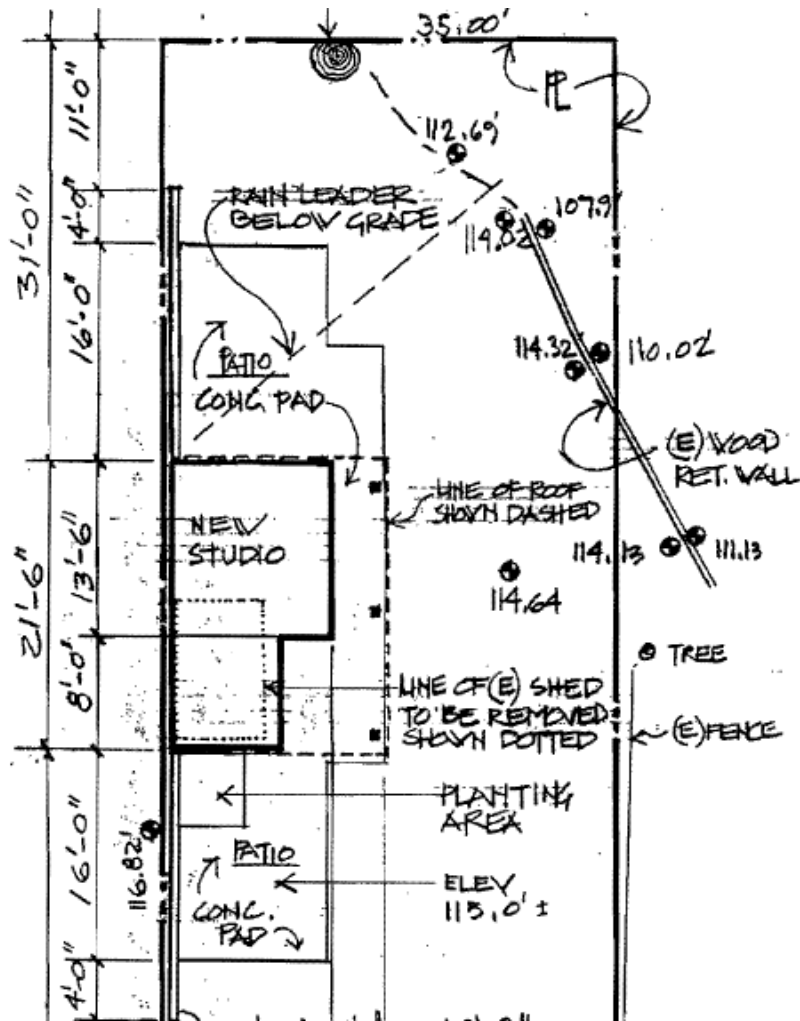
3. *No Special Privilege. That such variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties; and*

4. *Adverse Impacts. That the granting of such variance will not be materially detrimental to the public welfare or materially injurious to the property or improvements in the vicinity; and*

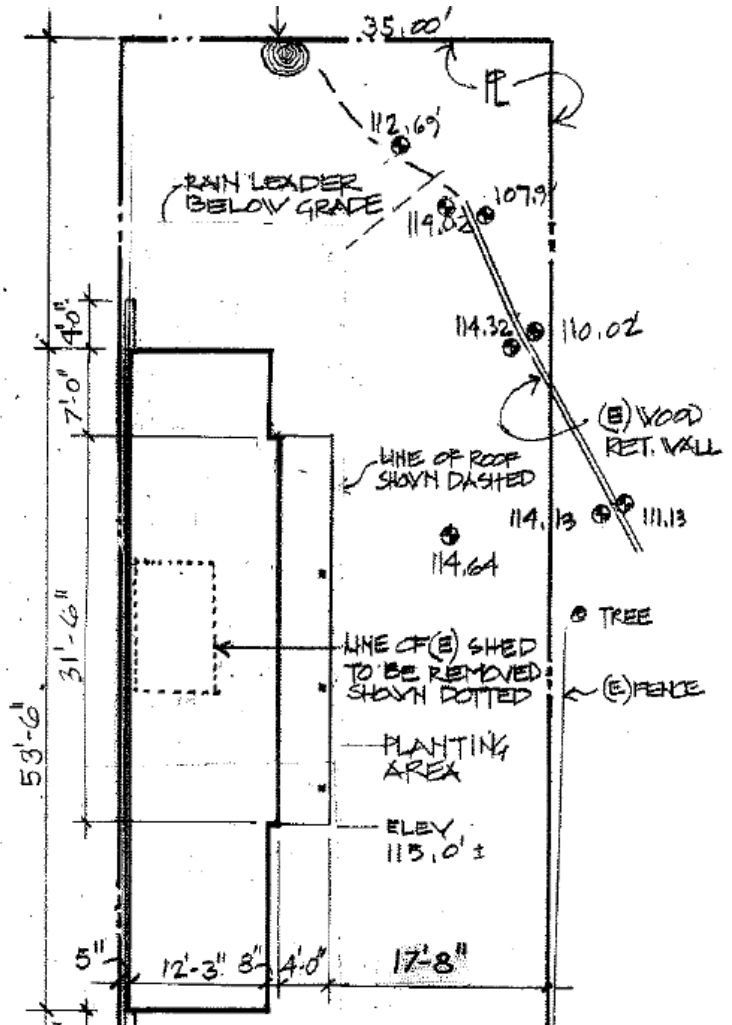
5. *Limitations. That such variance does not permit a use other than a use permitted in the zoning district in which the site is located, increase the permitted residential density, or establish a newly-created lot that does not meet the minimum lot area or minimum lot width requirements of the zoning district.*

Site Plan Comparison

The original site plan approved in 2011 and the proposed site submitted in 2012 are shown below. The original site plan shows a total length of 53'6" on the northeast property line, from the edge of the west concrete patio pad beyond the structure and terminating at the edge of the east concrete patio. The proposed site plan shows a building length of 53'6" along the northeastern property line. Both concrete patio pads have been eliminated. The northeast wall now runs the entire 53'6" length, approximately 5" off of the property line. California Building Code requires that walls are a distance of 5 ft. or less from the property line must have a 1 hour fire rated wall. Since subsequent construction was unpermitted, it is unknown if the expanded walls are fire rated.



Original Site Plan 2011



Revised Site Plan 2012

Exterior Elevations



Photo 1. West Elevation



Photo 2. East Elevation



Photo 3. South Elevation



Photo 4. Northeast Property Line

Design Review

The structure is proposed to be clad in recycled redwood with recycled windows. The roofline is shown as a side gable, with a 5:12 pitch roof, though it is slightly off center as observed in the field. A concrete pathway with overhang is proposed for the south elevation.

Currently, there are window openings less than three feet from the side yard property line. Section 20.24.130 (H) (1) requires that there not be any window openings within 3 ft. of the property line. A special condition has been included which requires compliance with this Code provision.

Project Size

In reviewing the City's records for previously approved accessory structures, most structures range in size from 160 sq. ft.-515 sq. ft. Typically, if the structure is greater than 400 sq. ft. it usually contains a partial garage area for vehicle storage. Most recently, accessory structures were approved for 951 Ordway (440 sq. ft.) and 920 Masonic (515 sq. ft.) and contained covered parking for one car. The largest accessory structure approved in recent years is 600 sq. ft. and located in the rear yard at 1137 Stannage.

While the project complies with the lot coverage and FAR requirements, if this were to be approved as proposed, it would establish a precedent as the largest accessory structure in Albany.

Parking

Due to the size of the proposed structure, a Parking Exception is required. There is one off-street parking provided in the detached garage facing Ordway. Due to the uphill slope of the lot, a second parking space cannot be accommodated.



Photo 5. Garage

ENVIRONMENTAL REVIEW

Staff has determined that the proposed project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) per Section 15303 “New Construction or Conversion of Small Structures” of the CEQA Guidelines, which exempts small additions.

ATTACHMENTS:

1. Analysis of Requirements with the Zoning Code
2. Findings of Fact
3. Conditions of Approval
4. Letter from Property Owner to next door neighbor
5. Letter from Property Owner to Commission regarding sink & cabinet installation
6. Letter from Contractor
7. Project Plans

ATTACHMENT 1 – ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts and Permitted Uses

General Plan: Residential Low Density
 Zoning: R-1 Residential Single Family

20.16 Land Use Classifications

Single family residential

| | | |
|--------------|-------------|--|
| Surrounding | North - SFR | East – PF (St. Mary’s College High School) |
| Property Use | South - SFR | West – SFR |

20.20.080 Secondary Residential Units.

Not applicable.

20.24.020 Table of Site Regulations by District.

| | Existing (approx.) | Proposed Construction (approx.) | Requirement |
|----------------------------------|-----------------------|------------------------------------|-------------|
| Setbacks | | | |
| Front (west) | 22' | No Change | 15' |
| Side (south) | 20' | No Change | 20'* |
| Side (north) | 5" | 5" | Within 6" |
| Rear (east) | 15' | 15' | Within 6" |
| Area | | | |
| Lot Size | 7,551 | No change | -- |
| Lot Coverage (rear yard only) | 5% | 12.7% | 30% |
| Maximum Height | 12' | No Change | 12' max. |

*20 ft. setback required for Watercourse Overlay District.

20.24.030 Overlay District Regulations.

Water Course Overlay District requires 20 ft. setback from the top of the creek bank.

20.24.040 Hillside Residential Regulations.

Not applicable

20.24.050 Floor-Area-Ratio.

| | Existing (approx.) | Proposed | Requirement |
|-------------------|-------------------------------|-----------------|--------------------|
| Lot Size | 7,751 | No change | -- |
| Floor Area | | | |
| Garage/Storage | 180 | No change | |
| Main Level | 1191 | 1,841 | -- |
| Second-floor | N/A | N/A | |
| Total | | | -- |
| Total Counted* | 1191 | 1841 | -- |
| Floor Area Ratio* | 15% | 24% | .55 |

* 220 sq. ft. exempted from "total counted" as permitted by MC 20.24.050 for garage and stairs.

20.24.060 Setback Areas, Encroachments.

Not applicable.

20.24.100 Distances between Structures.

See Analysis.

20.24.110 Fences, Landscaping, Screening.

Not applicable.

20.24.130 Accessory Buildings.

See Analysis.

20.28 Off-Street Parking Requirement.

See Analysis.

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 November 2, 2012, in the form of mailed notice, to property owners and occupants within a 100-foot radius, and posted in one location.

20.100.050 Design Review.

See Analysis.

ATTACHMENT 2 – FINDINGS

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

| Required Finding | Explanation |
|---|---|
| <p>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></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.</p> |
| <p>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></p> | <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 City’s Residential Design Guidelines. The project will not require significant grading or excavation. The project will not create a visual detriment at the site or the neighborhood.</p> <p>The proposed addition is attractive in appearance, and is in scale with the surrounding neighbors. The design is complementary with the existing home.</p> |
| <p>3. <i>Approval of the project is in the interest of public health, safety and general welfare.</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> |
| <p>4. <i>The project is in substantial compliance with applicable general and specific Standards for Review stated in Subsection 20.100.050.D.</i></p> | <p>The project as designed is in substantial compliance with the standards as stated, including harmonious materials, and well proportioned massing.</p> |

Findings for Parking Exceptions (Per section 20.28.040.A.2 of the AMC)

| Required Finding | Explanation |
|---|---|
| 1. <i>Required spaces cannot be located in front or side yards.</i> | The existing driveway is located within the front yard setback area. |
| 2. <i>Space is not available to provide required parking facilities without undue hardship.</i> | It is not feasible to expand the existing parking area due to the configuration of the existing garage and short driveway. |
| 3. <i>Provision of required parking spaces would be disruptive to landmark trees or would severely restrict private outdoor living space on the site.</i> | Not applicable. |
| 4. <i>Creation of new off-street spaces would require the elimination of an equivalent or higher number of on-street parking spaces.</i> | Not applicable. |
| 5. <i>The proposed reduction in parking requirements is appropriate to the total size of the dwelling unit upon completion of the proposed addition.</i> | The home will remain a single-family home and the single-car existing garage will remain. The addition adds an additional bedroom and bathroom as well as a slight expansion of existing space. |

ATTACHMENT 3
Draft Conditions of Approval

SPECIAL CONDITIONS

- Special 1 The applicant shall record a deed restriction against the property indicating that the accessory structure will not be converted to a secondary dwelling unit. Proof of the recordation shall be provided to staff prior to the issuance of a Certificate of Occupancy.
- Special 2 The applicant shall eliminate all window openings less than 3 ft. from the property line consistent with Section 20.24.130 (H) (1) of the Albany Municipal Code.
- Special 3 The building inspector shall inspect the building addition including walls, foundation, and anchor bolts, to ensure that it is structurally sound.

GENERAL PROJECT CONDITIONS

- Gen-1 **Project Approval.** This Design Review approval is for 1117 Ordway, as substantially shown and described on the project plans, except as may be modified by conditions herein. Plans prepared by Vincent Costa, date received August 31, 2012, as presented to the Planning and Zoning Commission on November 14, 2012. 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 28, 2013 (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. 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 MC 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 non-residential buildings. The necessary plans and documentation shall be submitted at time of building permit application.

ARCHITECTURE CONDITION

- ARCH-1 **Material Samples.** Descriptions or 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

LNDS-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 **Title Report.** n/a.

ENGR-2 **Geo-Technical Report.** The applicant shall submit, as part of a building permit application, a geotechnical investigation report prepared by a California certified engineering geologist and geotechnical engineer, if determined necessary by the City Engineer. The investigation shall specifically address any hazards of surface fault rupture in accordance with the Alquist-Priolo Special Study Zones Act. Any mitigation measures or conditions requiring further review noted during the Planning process shall be fully addressed prior to plan check.

ENGR-3 **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 Uniform 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 **Hydraulic Calculations.** The applicant shall submit hydraulic calculations, prepared by a California licensed civil engineer, necessary to determine if the existing water and sewer mains that serve this lot have available capacity for the addition of the proposed development. If capacity is not available, sewer and water mains of adequate size shall be designed and secured prior to issuance of building permits and constructed in a manner acceptable to the City Engineer prior to occupancy release, unless determined otherwise by the City Engineer.
- INFR-6 **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.

FIRE-5 Distance From Fire Hydrant. Before building permit issuance the distance from existing fire hydrants to the building shall be verified and if necessary, a new hydrant shall be shown on the plans and installed prior to combustible construction.

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 approval 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 that 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 calendar days of the date of 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.

ATTACHMENT 4
Letter to Next Door Neighbor

Paula Wagner
Gib Cattanach
1117 Ordway Street
Albany, CA 94706

Truman Family
1115 Ordway Street
Albany, CA 94706

October 29, 2012

Dear Allison, Rhys and Margaret,

We just wanted to follow up on the concerns you presented to the Planning & Zoning Commission on October 10 regarding the gutters and the appearance of the north wall of our studio.

Regarding the gutters, we're happy to report that they did not overflow, even during the heavy downpour a week ago. We were able to clean them out beforehand and wire mesh is now being installed to prevent any future build-up of debris.

Regarding the north wall of the studio, how would you like it to look from your side of the fence, if not the current treatment of redwood stain?

If you have any other concerns or suggestions, please let us know. Again, our intention is to resolve these matters in a spirit of neighborliness.

Regards,

Paula & Gib

ATTACHMENT 5

Letter from Property Owner to Commission regarding sink & cabinets

From: Paula Wagner & Herbert G. Cattanach, Owners
1117 Ordway Street, Albany, CA 94706

To: City of Albany Planning & Zoning Commission
City of Albany Planning Department

Re: Application for Approval of Multipurpose Art Studio

Date: November 3, 2012

We would like to request the Commission's approval for a deep sink, workspace countertop and storage cabinets in keeping with the uses of a multipurpose art studio in our application for an accessory building at 1117 Ordway. These items would be helpful in working with pottery clay, dye or other art materials that can be messy or deteriorate easily if not properly cleaned up and stored.

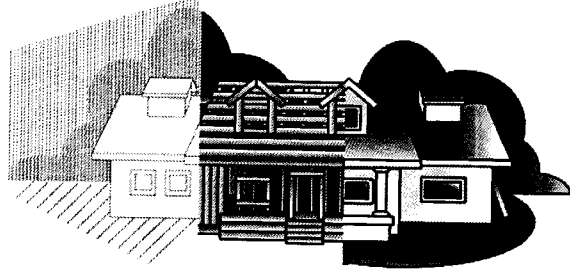
Thank you for your consideration,

Paula Wagner
Gib Cattanach

Transformers

General Contractor

Craig S. Volpe
662 Moraga Way
Orinda, CA 94563
925-376-7910
License # 652361



October 26, 2012

Albany Planning and Zoning Commission

To Whom It May Concern:

My company, Transformers, is the contractor of record for the permitted accessory building at 1117 Ordway Avenue, Albany, CA. All work on the original building has been approved and finalled by the Albany Building Department.

The drainage for the building and the additional slabs was installed as per the requirements of Alex Ortiz, a soil engineer. He visited the job and inspected the project during construction. The drainage was also finalled by the Albany Building Department.

If you have any questions please call me at 510-912-2502.

Sincerely,

A handwritten signature in cursive script that reads "Craig S. Volpe".

Craig S. Volpe
Owner