

# 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 28, 2012

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**Property Owner/Applicant/Representative:**

Paula Wagner & Gib Cattanach  
1117 Ordway  
Albany, CA 94706

<b>PROJECT:</b> 1117 Ordway Design Review & Parking Exception	Original filing: August 31, 2012
<b>FILE:</b> PA 12-045	Date Deemed Complete: September 7, 2012
<b>LOCATION:</b> 1117 Ordway	Date of Notice Posted/Mailed: 9/28/2012
<b>GP LU:</b> Low Density Residential	Date of Initial Public Hearing: 10/10/ 2012
<b>ZONING:</b> R-1 Residential Single Family	Date of 2 <sup>nd</sup> Public Hearing: 11/14/ 2012
<b>PLANNER:</b> Anne Hersch	Contd. to: November 28, 2012
	<b>Total number of days to hearing: 89 days</b>

## **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 on October 10, 2011. The original accessory structure was constructed and finalized in April 27, 2012. 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 draft findings for denial and direct to make further edits if necessary.

## **ATTACHMENTS**

1. Planning & Zoning Commission Resolution 2012-04 denying Design Review & a Parking Exception 1117 Ordway
2. Letter from the Property Owner requesting a continuance

**ATTACHMENT 1**  
**PLANNING AND ZONING COMMISSION RESOLUTION 2012-05**  
**DECISION AND ADOPTION OF FINDINGS BY THE PLANNING AND ZONING COMMISSION**  
**OF THE CITY OF ALBANY, STATE OF CALIFORNIA,**  
**DENYING DESIGN REVIEW APPROVAL AND A PARKING EXCEPTION FOR APPLICATION #**  
**PA 12-045 ACCESSORY STRUCTURE & PARKING EXCEPTION AT 1117 ORDWAY**

**WHEREAS**, an application for 1117 Ordway was received on August 31, 2012; and

**WHEREAS**, a duly noticed administrative hearing was held on October 11, 2011 for a 239 sq. ft. accessory structure proposed for the rear yard at 1117 Ordway; and

**WHEREAS**, the property owners, Paula Wagner and Gib Cattanach received administrative Design Review approval for a 239 sq. ft. Accessory Structure on October 11, 2011; and

**WHEREAS**, a building permit was issued by the City of Albany for the construction of the 239 sq. ft. accessory structure on February 3, 2012; and

**WHEREAS**, the structure was constructed per approved building permit plans and received a final inspection for occupancy on April 27, 2012; and

**WHEREAS**, the City received an anonymous phone call reporting construction work in the rear yard at 1117 Ordway on June 18, 2012; and

**WHEREAS**, the building inspector visited the property and observed unpermitted construction and issued a stop work order to the property owners of 1117 Ordway; and

**WHEREAS**, the building footprint expanded to approximately 650 sq. ft. without a City issued building permit; and

**WHEREAS**, the property owners filed a concurrent application for Design Review and a Parking Exception to legalize the unpermitted work on the accessory structure on August 31, 2012; and

**WHEREAS**, the Planning & Zoning Commission reviewed the application request at a duly noticed public hearing on October 11, 2012 and requested additional information from the applicant and staff to be brought back for a future hearing; and

**WHEREAS**, the Planning & Zoning reviewed the additional information at a duly noticed public hearing on November 11, 2012; and

**WHEREAS**, at the November 11, 2012 public hearing, the Planning & Zoning received public comments from neighboring property owners expressing concerns about the structure as constructed including lack of privacy, lack of articulation on the north wall, and intensification of property use; and

**WHEREAS**, the Planning & Zoning Commission voted 3-0 at the November 11, 2012 hearing to continue the application to a date certain of November 28, 2012 so that staff may craft draft findings for denial;

**NOW, THEREFORE, BE IT RESOLVED**, that the Planning & Zoning Commission of the City of Albany denies application request PA 12-045 based on the following findings:

## **1. Design Review**

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

1. **Finding Required for Approval:** 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.

**Evidence:** The Commission is unable to make the required findings for approval because the project fails to comply with the Residential Design Review Guidelines

adopted by the City. The project as proposed would approve a 53'6" long wall within 5 inches of the northern property line without any articulation, decorative treatment, or attempt to alleviate building mass and bulk.

2. **Finding Required for Approval:** 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."

**Evidence:** The Commission is unable to make the required findings for approval because the project as proposed would legalize unpermitted work. The proposed architecture of the accessory structure is not consistent with the Residential Design Guidelines. Additionally, the accessory structure as it was substantially constructed and later proposed fails to account for future structure maintenance, sensitivity to surrounding properties, and neighbor privacy.

3. **Finding Required for Approval:** Approval of the project is in the interest of public health, safety and general welfare.

**Evidence:** The Commission is unable to make the required findings for approval because the Zoning Code is adopted in order to protect and promote public health, safety, peace, comfort, convenience, prosperity, and general welfare. The project as it is proposed fails to provide the required off-street parking as required in Section 20.28.040 (A) (1) where more than 240 sq. ft. has been added and additional off-street parking space is required. By failing to comply with provisions contained in the Zoning Code, the project as proposed does not protect the public health, safety and general welfare of the community.

4. **Finding Required for Approval:** The project is in substantial compliance with applicable general and specific Standards for Review stated in Subsection 20.100.050.D.

**Evidence:** The Commission is unable to make the required findings for approval because the proposed project is inconsistent with Section 20.100.050 (D) (1) (b) “Design Guidelines”, (c) “Site Planning”, and (e) “Architecture.” The project fails to comply with the Residential Design Guidelines and does not provide trim and details which provide warmth and character to the structure. The site planning fails to account for the surrounding properties and creates a 53’6” non-articulated wall on the common northern property line. The architecture of the building fails to alleviate mass and bulk, particularly on the northern elevation where no articulation is provided.

## 2. Parking Exception

The Planning and Zoning Code allows an exemption to parking standards with the following Findings for Parking Exceptions (Per section 20.28.040.A.2 of the AMC)

1. **Finding Required for Approval:** Required spaces cannot be located in front or side yards.  
**Evidence:** The Commission can make this finding.
  
2. **Finding Required for Approval:** Space is not available to provide required parking facilities without undue hardship.  
**Evidence:** The Commission can make this finding.
  
3. **Finding Required for Approval:** Provision of required parking spaces would be disruptive to landmark trees or would severely restrict private outdoor living space on the site.  
**Evidence:** Not applicable
  
4. **Finding Required for Approval:** Creation of new off-street spaces would require the elimination of an equivalent or higher number of on-street parking spaces.  
**Evidence:** The Commission can make this finding.

5. **Finding Required for Approval:** The proposed reduction in parking requirements is appropriate to the total size of the dwelling unit upon completion of the proposed addition.

**Evidence:** The Commission is unable to make the required findings for approval because a 640 square foot accessory building is an unusually large accessory structure by community standards and over the life of the structure has the potential to result in an intensification of use property beyond a level that can be supported by one off-street parking space.

**PASSED AND ADOPTED** by the Planning & Zoning Commission of the City of Albany on the 28<sup>th</sup> day of November 2012.

AYES:

NOES:

ABSENT:

ABSTAIN:

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DAVID ARKIN, PLANNING AND ZONING COMMISSION CHAIR

ATTEST: \_\_\_\_\_

Jeff Bond, Community Development Director

**ATTACHMENT 2**  
**LETTER FROM PROPERTY OWNER REQUESTING A CONTINUANCE**

To: City of Albany Planning & Zoning Commission  
From: Paula Wagner & Herbert G. Cattanach, Owners  
Re: PA 12-045 Design Review & Parking Exception for 1117 Ordway  
Date: November 20, 2012 (for November 28 P&Z meeting)

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Honorable Commissioners:

Due to time constraints, we respectfully request a continuation to a date uncertain, in order to submit revised plans within a reasonable timeframe. The notice we received from Staff Planner Anne Hersch late on Thursday, Nov. 15 (see email thread), requested plans by Tuesday Nov. 20 – a three-day turnaround! (Apparently the regular deadline had been moved up due to the Thanksgiving holiday.) Since we were out of town and offline for two of those days, this left even less time to reconsider the project, let alone submit drawings for the November 28 meeting. However, we were told that since staff needed to comply with the Commission’s request for a finding of denial by Nov. 28, our only choice was to submit a request for continuation – or face denial by default. Rather than act under pressure, a continuation would allow us to present a well-thought-out revised plan.

Although we lack drawings at this point, one concept would be to articulate the buildings, as briefly mentioned by Commissioner Moss on November 14. For example, by opening the enclosed 6-foot space (72-square-foot) between the main structure and the east accessory building, a breezeway garden area could be created. This would leave a 120-square foot accessory building (not requiring a permit) and reduce the remaining studio to 488 square feet, while maintaining its architectural and structural integrity. Although this solution would require a parking exemption, it would address size, drainage and roofline view. We would appreciate the Commission’s feedback to this concept before developing drawings.

Concerning use, we want to re-emphasize that any future plans will be consistent with a multipurpose space for family activities. This is our sole intent. (Somehow, the *multipurpose* concept seems to have been lost in previous discussions.) A family room would allow for a variety of creative and recreational activities such as hobbies basic and art projects (*not* professional art), a home office, writing space, ping pong, storage or similar functions – *all of which are consistent with the Accessory Building Code 20.24.130-C*. These activities cannot be done in our small house when our eight grandchildren are visiting! However, we most definitely do not envision loud parties, metalworking, rock bands, kitchen, sleeping, renting, or an art gallery in the studio, as suggested at the November 14 hearing, and future owners would be subject to the same restrictions.

Our project’s parking needs and potential noise levels would also be consistent with current neighborhood uses already allowed. For example, the Luce Family has a Co-Op nursery school next door at 1119 Ordway. As neighbors, we have always welcomed the sounds of preschoolers, whether playing or crying, as well as the view of play structures and a tree house. We

accommodate the daily parking needs of parents pulling in and out during busy drop-offs and pick-ups, often by moving our own single vehicle. The impact of our proposed project would be the same or less.

Regarding drainage, we would like to correct a misimpression from the last meeting. After checking, we learned that is in compliance with the city's requirement for a small amount of water (about 2%) to be channeled away from the retaining wall toward the creek. This is what you see on the current plans. In fact, the city did not have a problem with all drainage flowing to the creek. However, to maximize protection for the creek, we opted for the soil engineer's recommendation to pipe water to the street, despite significant added expense. We have always valued the creek as a beautiful natural asset and we take its stewardship seriously. To that end, Gib has been a long-time volunteer with the Codonices Creek Committee. He monitors the creek everyday and has contributed countless hours to a major restoration project. Given this commitment, you can be sure we will consider flow levels in any revised plans.

Finally, as you know, the FAR is well below the maximum, the building materials have a high green rating and the wood-shingled exterior blends well with the natural environment.

Our main concern is to have enough time to create a reasonable plan that a) meets Commission approval, b) maintains structural and esthetic integrity, and c) satisfies neighbors' concerns. It will require some time to bring fresh eyes to the project and work out technical details and drawings. With our designer away next month, hiring a new architect would be a last resort that would take even longer. We have travel plans in December that are not subject to change and weather could also be a factor in restarting the project during the winter.

For these reasons, we hope you will honor our request for a continuation to a date uncertain, preferably around February 2013. With respect for the time of the Commission and Staff, we want to present something you can approve, rather than a fruitless plan submitted under pressure.

Respectfully,

Paula Wagner & Gib Cattanach