

Appendix A - Existing Procedures to Legalize Non-Permitted Housing Units That Require Planning and Zoning Relief

Re: CF 14-1150

Property owners needing a modification or waiver from planning or zoning regulations most often require either a Zone Variance or Zoning Administrator Adjustment. Given their discretionary nature, property owners can never be sure these zoning requests will be granted. In some cases, other options may exist (including Density Bonus and the Bicycle Parking Ordinance), which property owners are may not be aware of.

Slight Modifications (SM)

The Zoning Administrator may grant up to 20% modifications in the yard and area requirements where circumstances make the literal application of the requirements impractical. Deviations of no more than 10% are also permitted from the required lot area regulations under this procedure. The request must be filed incidental to another application or appeal within the jurisdiction of the Zoning Administrator. The procedures for notice, hearing, time limits and appeals shall be the same as those applicable to the underlying application or appeal. In granting a slight modification, a Zoning Administrator may impose conditions related to compatibility with the surrounding neighborhood.

Zoning Administrator Adjustments (ZAA)

The Zoning Administrator may grant up to a 20 percent reduction in the required yard, area, building line, and height requirements where circumstances make the literal application of the requirements impractical. A floor area ratio increase may also be granted of up to 10 percent under a ZAA. While 20% increases in lot area per unit (i.e. "density") are permitted by this process, it only applies to the last unit unable to satisfy the lot area requirement (not a 20% increase in allowable units). So in the majority of cases, any additional unit beyond allowable density cannot be processed using a ZAA, and will instead require a Zone Variance.

Public hearings and notifications for modifications and adjustments may be waived if the Zoning Administrator finds neighbors will not be significantly impacted and little public controversy is likely. In approving an adjustment or slight modification, the Zoning Administrator may impose those conditions deemed necessary to remedy a disparity of privileges and that are necessary to protect the public health, safety or welfare and assure compliance with the objectives of the General Plan and the purpose and intent of the zoning. Appeals of modifications and adjustment decisions are heard by the local Area Planning Commission.

Zoning Variances (ZV)

No variance may be granted unless the Zoning Administrator finds that practical difficulties or unnecessary hardships inconsistent with the intent of the zoning regulations prevent adherence to the code. These special circumstances must not apply to other property in the same zone and vicinity. A variance may not be used to grant a special privilege or to permit a use substantially inconsistent with the limitations upon other properties in the same zone and vicinity. The Zoning Administrator may deny a variance if the conditions creating the need for the variance were self-imposed. Therefore the bar is high when owners petition for

a Zone Variance to relieve a situation they or prior owners created with the establishment of an illegal unit.

Density Bonus

Under the Density Bonus program, projects that commit to a certain level of affordable housing are eligible for increases in density (up to 35%), decreased parking ratios and the 20% adjustment for up to three zoning incentives such as open space, yards and height. In addition, a Density Bonus project can request the waiver or modification of any other development standard that prevents the density and incentives from being realized. Many people (staff included) may not realize the Density Bonus program can be used for unit legalizations of existing units, not just new construction. Also, the Density Bonus program is not eligible for projects with less than 5 (pre Density Bonus) units. About half of the multifamily units lost to inspection and removal each year are in buildings with 4 units or less.