



Planning and Development Department
Land Use Planning

U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE
Berkeley Municipal Code Title 23

USE PERMIT # 12-10000038

Property Address: **2420 ROOSEVELT AVENUE**

Permittee Name: **MAXWELL BEAUMONT**

Use and/or Construction Permitted: to raise an existing 3-story single-family dwelling by 3 feet, 7 inches to create a new 1,172-square-foot dwelling unit on the ground floor

- Use Permit to create a new dwelling unit, under BMC Section 23D.28.030.A
- Administrative Use Permit for a residential additional exceeding 14 feet in height, under BMC Section 23D.28.070.C
- Administrative Use Permit to extend non-conforming front and side yards, under BMC Section 23C.04.070.B
- Administrative Use Permit to legalize existing uncovered parking within required rear yard (due to demolition of garage without permit), under BMC Section 23D.12.080.B

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the Zoning Adjustments Board and is in effect on January 22, 2013.

ATTACHMENT 1

FINDINGS AND CONDITIONS

NOVEMBER 29, 2012

2420 Roosevelt Avenue

Use Permit #12-1000038 to raise an existing 3-story single-family dwelling by 3 feet, 7 inches to create a new 1,172-square-foot dwelling unit on the ground floor.

CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15303(a) of the CEQA Guidelines (“New Construction or Conversion of Small Structures”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

GENERAL NON-DETRIMENT FINDING

2. Pursuant to Berkeley Municipal Code Section 23B.32.040, the Zoning Adjustments Board finds that the proposed dwelling unit, height increase, extension of non-conforming setbacks, and rear parking, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City, for the following reasons:
 - A. The proposed height increase of 3 feet, 7 inches would increase the amount of shading on the 3-unit building to the north. However, this increased shading would not be excessive because the two buildings are located approximately 12 feet apart, which would preserve mid-day sunlight to the adjacent building’s windows for much of the year. In addition, the proposed height increase is relatively modest, and the roof shape of the subject building allows more sunlight to reach adjacent properties than a building with a full third story would. Finally, the two buildings are approximately the same length, and there are windows at the front and rear of the adjacent building which would not be shaded by the subject building during morning and evening hours.
 - B. The existing building has non-conforming setbacks on the front and north side. The proposed vertical extension of the north setback would not be detrimental because of the roughly 12-foot distance to the building on the north, and due to the fact that

the existing windows on the north side of the subject building would not be enlarged. The front setback extension would not be detrimental because the vast majority of the buildings in this neighborhood also have non-conforming front setbacks, and therefore the project would be compatible with the existing development pattern and aesthetic character of the neighborhood.

- C. As discussed above, the proposed height increase is relatively modest and will not dramatically change the appearance of the building. Furthermore, the project maintains the existing architectural character of the building by utilizing matching siding, windows and doors. The buildings on either side, as well as several others in the vicinity, are several feet taller than the subject building, so the proposed increase would be consistent with the overall neighborhood scale.
- D. The proposed uncovered parking in the rear yard would not be detrimental because the parking area is surrounded on the sides and rear by fences and vegetative screening, which would help reduce noise and privacy impacts related to the use of the parking area. Locating the parking at the rear of the site also contributes to a better project design by allowing more green space immediately to the rear of the main building. In order to ensure compliance with landscaping and open space requirements, this permit includes a condition of approval requiring a two-foot landscaped buffer along the south and west sides of the parking area, and removal of the northern portion of the parking pad to reduce it to two spaces in width.
- E. Other than the setbacks noted above, the project would comply with all applicable R-2 District standards for a new dwelling unit, including parking and usable open space.
- F. The project promotes environmental sustainability by providing a new dwelling unit in an existing urban setting with proximity to jobs, services and public transportation. The subject property is located within walking distance of several bus lines on Martin Luther King, Jr. Way and Dwight Way, and is therefore an ideal location for an infill dwelling unit.
- G. The project helps achieve the City's housing production goals by creating an additional dwelling unit.

STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the first sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. The second sheet may also be used if the first sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the

same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

2. Applicant Responsible for Compliance with Conditions

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)

- A. This Permit authorizes only those uses and activities actually proposed in the application and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

4. Modification of Permits (Section 23B.56.020)

No change in the use or structure for which this Permit is approved is permitted unless the Permit is modified by the Zoning Adjustments Board, in conformance with Section 23B.56.020.A.

Changes in the plans for the construction of a building or structure may be modified prior to the completion of construction, in accordance with Section 23B.56.020.D. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project. The Zoning Officer may also approve a maximum two-foot variation to Board approved plans, provided that such variation does not increase a structure's height, reduce the minimum distance to any property line, and/or conflict with any special objective sought by the Board. In the case of modifications to Use Permits for construction of, or additions or changes to, single-family homes which required Board review, the Zoning Officer shall follow Board policy adopted March 13, 1997, as follows:

- A. Upon applications for modifications to a home where a Use Permit has been granted, Staff shall review the Use Permit to determine if any explicit conditions were placed on the Use Permit that would be affected by the proposed modification.
- B. If, prior to acting on a Building Permit, Staff becomes aware of controversy over an earlier application, Staff may choose to conduct a more detailed review of the record to determine if conditions were implied by the Board or offered by the applicant (but not included in the Use Permit conditions) that would be affected by the proposed modification (this does not imply that Staff will review the whole Use Permit record for all applications).

- C. If there are explicit conditions (#A) or implied conditions (#B) affected by the proposed modification, the project shall be brought back to the Board as a Use Permit Modification.
- D. If there are no explicit conditions that would be affected by the proposed modification, and if Staff is not otherwise aware of implied conditions, and the project would otherwise meet the requirements of the Zoning Ordinance, Staff will approve the Building Permit without Board or public review.

5. Plans and Representations Become Conditions (Section 23B.56.030)

Except as expressly specified herein, the site plan, floor plans, building elevations and any additional information or representations submitted by the applicant during the Staff review and public hearing process leading to the approval of this Permit, whether oral or written, which indicated the proposed structure or manner of operation are deemed conditions of approval.

6. Subject to all City and Other Regulations (Section 23B.56.040)

The approved use and/or construction are subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.

7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8 below.

8. Exercise and Lapse of Permits (Section 23B.56.100)

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has (1) applied for a building permit or (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

9. The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

ADDITIONAL CONDITIONS OF APPROVAL

Pursuant to BMC Section 23B.32.040.D, the Zoning Adjustments Board attaches the following conditions to this Permit:

Prior to Issuance of Any Building Permit

10. Plans submitted for building permit shall include the following modifications to the approved Use Permit drawings: (1) the northern portion of the rear parking area shall be removed, reducing the parking area to two spaces; (2) the parking area shall either (a) be converted to a garage or carport, provided the lot coverage limit can be met, or (b) a two-foot landscaped buffer shall be added along the south and west sides of the parking area.
11. Prior to applying for a building permit, the applicant shall file an "Address Assignment Request Application" with the Permit Service Center (2120 Milvia Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned and entered into the City's database prior to issuance of an occupancy permit.
12. Prior to issuance of a building permit, the applicant shall complete and submit an updated *Draft GreenPoint Checklist* to the project planner with comments on any revisions to the project that affect the project's green building score.
13. Prior to issuance of a building permit, the applicant shall provide the project planner with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit this record to the project planner upon request.
- Noise Management Individual _____
Name Phone #
14. The applicant and all persons associated with the project are hereby notified that a Transportation Management Permit (TMP) would be required under any of the following circumstances:
- Alterations, closures, or blockages to sidewalks or pedestrian paths

- Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
- Storage of building materials, dumpsters, debris anywhere in the public ROW
- Provision of exclusive contractor parking on-street
- Significant truck activity.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Public Works Traffic Engineering (981-6400) reviews all submitted TMP requests.

The TMP may include designation of a specific truck haul route. Meter heads (if in the construction area) shall be removed only by City staff. Contact the site inspector 72 hours in advance of required removal so arrangements can be made.

During Construction:

15. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season (between October 15 and April 15), the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
16. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
17. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
18. Subject to approval of the Public Works Department, the applicant shall repair any damage to public streets and/or sidewalks by construction vehicles traveling to or from the project site.
19. All piles of debris, soil, sand, or other loose materials shall be covered at night and during rainy weather with plastic at least one-eighth millimeter thick and secured to the ground.
20. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
21. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.

22. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
23. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

Prior to Final Inspection or Issuance of Occupancy Permit:

24. The project shall conform to the plans and statements in the Use Permit, except as modified by these conditions.
25. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated September 6, 2012, except as modified by these conditions.
26. Prior to issuance of an occupancy permit or final inspection approval, the applicant shall update, sign, and submit an *As-Built GreenPoint Checklist* reflecting final as-built conditions, including the total green building score, to the project planner.

At All Times:

27. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
28. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
29. Only one electrical meter fixture may be installed per dwelling unit

