



Planning and Development Department
Land Use Planning Division

A D M I N I S T R A T I V E U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE
Berkeley Municipal Code, Title 23

AUP #12-20000136

Property Address:

2905 NEWBURY STREET

Permittee Name:

STEVE SWEARENGEN

Use and/or Construction Permitted: to construct a 946 sq. ft. accessory building containing two off-street parking spaces and a 546 sq. ft. Accessory Dwelling Unit with an average height of 19' pursuant to:

- Section 23D.08.010.B to allow an accessory building to exceed 12' in average height;
- Section 23D.08.010.B to allow an accessory building to exceed 24' in length; and
- Section 23D.08.010.B to locate an accessory building on the front half of the lot.

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

Following the expiration of the mandatory appeal period set forth in Section 23B.28.040 of the Berkeley Municipal Code, with no timely appeal being filed, the Administrative Use Permit described herein has been duly granted by the Zoning Officer on March 13, 2013.

Attest: Terry Blount
Terry Blount, AICP, Principal Planner
For Debbie Sanderson, Zoning Officer

March 13, 2013
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

FEBRUARY 20, 2013

2905 Newbury Street

Administrative Use Permit #12-20000136

To construct a 946 sq. ft. accessory building containing two off-street parking spaces and a 546 sq. ft. Accessory Dwelling Unit with an average height of 19'.

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(e) of the CEQA Guidelines ("Accessory 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.

FINDINGS FOR APPROVAL

2. As required by Section 23B.28.050.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the 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 because:
 - As required under Section 23D.08.010.B (Accessory Buildings & Structures May Exceed Limit with Use Permit) and 23D.40.090.A (Findings), the proposed 946 sq. ft., accessory building containing two parking spaces and a 546 sq. ft. Accessory Dwelling Unit, located on the front half of the lot, 19' in average height, and is 32'2" in length, does not create significant impacts to privacy, sunlight, air or views and is found to be non-detrimental and permissible for the following reasons:
 - 1) Privacy – a) Building separations and proximities to adjacent neighbors are greater than the district standards for main buildings, and are therefore found to be adequate; b) New windows proposed for the Accessory Dwelling Unit, located on the second floor are in the stairwell and the living room bay and are not expected to create significant privacy impacts to the nearest residential

- structure to the south at 2909 Newbury; and c) The project is subject to condition of approval #12 that requires that a “Notice of Limitation of Use” be placed on the deed to the property. Such deed restriction mandates that the owner shall either occupy the main dwelling or the Accessory Dwelling Unit; therefore, the owner will reside on the premises to mitigate potential complaints from neighbors (see conditions of approval below).
- 2) Sunlight – The proposed accessory building is located on the southwest corner of the lot where shadows currently exist from the existing two car garage and a large tree directly east. The addition may create additional shadows, however, these shadows are considered minimal and non-detrimental because they will be cast on the main building of the subject site.
 - 3) Air – The proposed accessory building has adequate building separations between the neighboring developments on abutting properties, thereby allowing for adequate air circulation.
 - 4) Views – The proposed accessory building is not expected to significantly block the adjacent neighbor’s views of any significant features
- As required under Section 23D.16.040 (Development Standards for Accessory Dwelling Units), the Accessory Dwelling Unit is permissible because:
 - 1) The gross floor area of the Accessory Dwelling Unit is 546 sq. ft. which is less than 25% of the floor area of the main house, which is 2,217 sq. ft. and is more than 300 sq. ft., but less than 640 sq. ft. (Sections 23D.40.060.B.1 and B.2);
 - 2) The Accessory Dwelling Unit is accessible from a roadway that meets the fire apparatus access road requirements (Section 23D.40.060.B.4);
 - 3) This permit is conditioned (see Condition #12 below) to restrict the Accessory Dwelling Unit from being sold independently of the main house, mandating that the owner shall not subdivide the land or air rights to enable sale or transfer of the Accessory Dwelling Unit, that the owner shall reside in either the main dwelling or the Accessory Dwelling Unit, and that one off-street parking space shall be provided for the resident(s) of the Accessory Dwelling Unit for the life of the unit (Sections 23D.040.060.B.3, B.5, and 23D.40.090); and
 - 4) The subject lot exceeds 4,500 sq. ft. (Section 23D.040.060.E.1).
 - The pattern of development in this neighborhood consists of late 19th and early 20th Century multi-family and single-family residential structures that do not meeting the current 15’ front setback requirement (see photos, page below). The surrounding structures have frontages which are consistent with the subject property in frontage, bulk and massing. In addition, the placement of the garage and Accessory Dwelling Unit maintains not only the existing pattern of development in the neighborhood, it reinforces and does not interrupt the orientation of surrounding structures, allows the enhancement of an existing 19th century building without disturbing the existing character, harmonizing with, and enhancing the unique architecture of the neighborhood.
 - The proposed project implements the Master Plan policy by allowing the development of a residential unit in a high density residential area and provides housing in a convenient location with an abundance of usable open space (Section 23D.40.020-Purposes of the District).

- As required by Section 23D.40.070 (Development Standards), this project is permissible because the subject property satisfies the development standards for lot coverage, maximum residential density, maximum building height, and rear and side yard setbacks.



STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Conditions Shall be Printed on Plans

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* 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 issued is permitted unless the Permit is modified by the Zoning Officer, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

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

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

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. Indemnification Agreement

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 IMPOSED BY THE ZONING OFFICER

Pursuant to BMC 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

Prior to Submittal of Any Building Permit:

- 10.** 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 written reports of such complaints and actions to the project planner on a weekly basis. **Individual Responsible for Noise Management:**

Name: _____ Phone: _____

- 11.** 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.

Prior to Issuance of Any Building Permit:

12. All owners of record of the subject property shall sign and record with the Alameda County Clerk-Recorder a "Notice of Limitation on Use of Property" (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall prohibit the Accessory Dwelling Unit from being sold independently of the main house, mandating that the owner shall not subdivide the land or air rights to enable sale or transfer of the accessory dwelling unit, that the owner shall reside in either the main dwelling or the accessory dwelling unit, and that one (1) on-site parking space shall be provided for the resident(s) of the accessory dwelling unit for the life of the unit. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.
13. 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 prior to issuance of a building permit.
14. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

During Construction:

15. 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.
16. 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.

17. 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.
18. 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 in thickness and secured to the ground.
19. 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.
20. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
21. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
22. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
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.
24. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

Prior to Issuance of Occupancy Permit or Final Inspection:

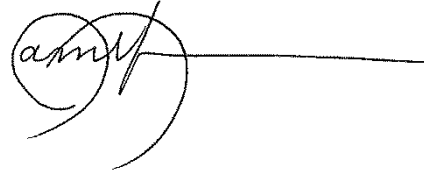
25. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
26. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **OCTOBER 29, 2012**.

At All Times (Operation):

27. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
28. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is

detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

- 29.** Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood.

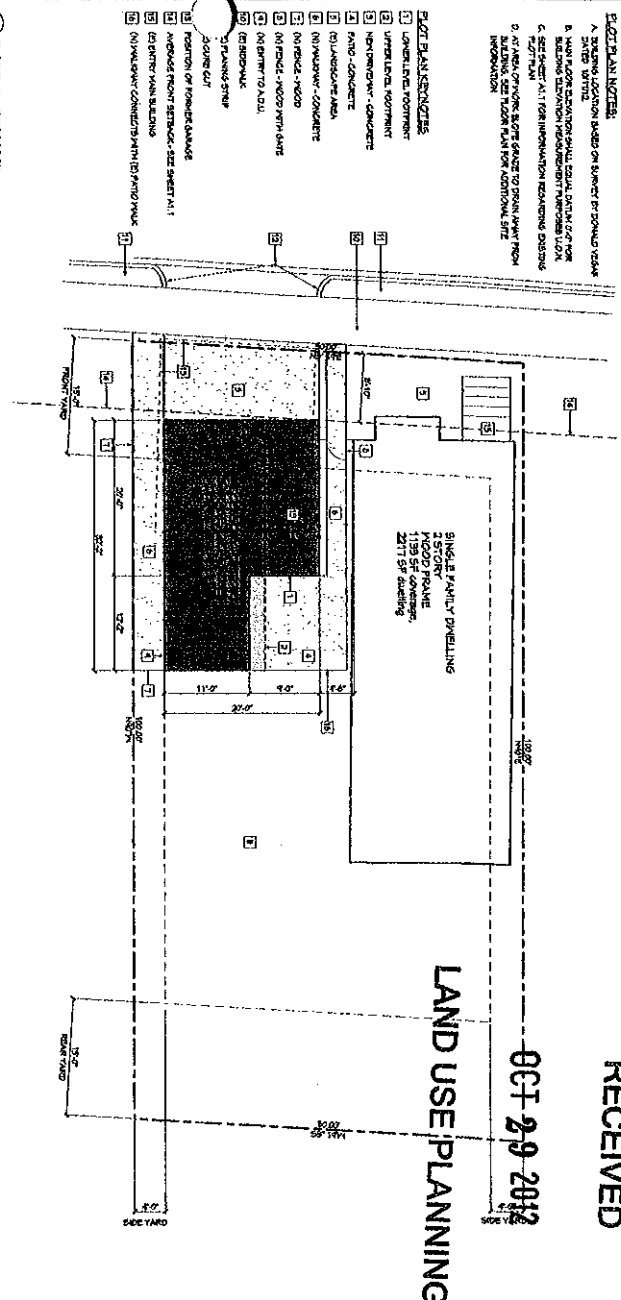
A handwritten signature in black ink, appearing to read 'amy', enclosed within a circular scribble. A long horizontal line extends to the right from the end of the signature.

Pamela Johnson, Assistant Planner for
Debra Sanderson, Zoning Officer

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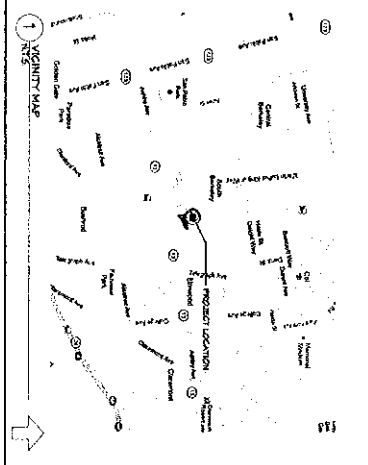
OCT 29 2012

LAND USE PLANNING



GADWAY/HALL RESIDENCE
 2905 NEWBURY STREET
 BERKELEY, CA 94703
 APN: 53-1590-21
**GARAGE REPLACEMENT
 & NEW ACCESSORY
 DWELLING UNIT**

APPROVED PLAN
 DATE 2-14-13
 D.M. PORTER
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached



- EXCISE NOTES:
- A. DRAWING LOCATION BASED ON SURVEY BY GOWALD USAK DATED 11/11/11.
 - B. HAVE A COPY DRAWING WITH LOCAL OFFICE OF THE PLANNING DEPARTMENT.
 - C. SEE PLAN 11 FOR INFORMATION REGARDING DISTRICT INFORMATION.
 - D. IF ANY OF THESE NOTES ARE NOT TO BE MAINTAINED FROM THIS INFORMATION, SEE LOCAL OFFICE FOR ADDITIONAL SIZE INFORMATION.

- EXCISE NOTES (CONTINUED):
- 1. LOCATION OF PROPERTY CORNER
 - 2. UPPER LEVEL FLOOR PLAN
 - 3. NON-TYPICAL CONNECTIONS
 - 4. FLOOR CONNECTIONS
 - 5. NON-TYPICAL CONNECTIONS
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2. PLANTING NOTES:

- ABBREVIATIONS:
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PROJECT NARRATIVE / APPLICATION SUMMARY

Project: 2905 Newbury Street
 The Project Narrative provides a general overview of the proposed project, including a description of the project, the site, the proposed building, and the proposed use. It also provides information on the project's location, the project's history, and the project's goals and objectives.

Project Location: The project is located at 2905 Newbury Street, Berkeley, CA 94602. The site is a 10,000 square foot lot, bounded by Newbury Street to the north, Hall Street to the east, and a residential street to the south. The site is currently vacant.

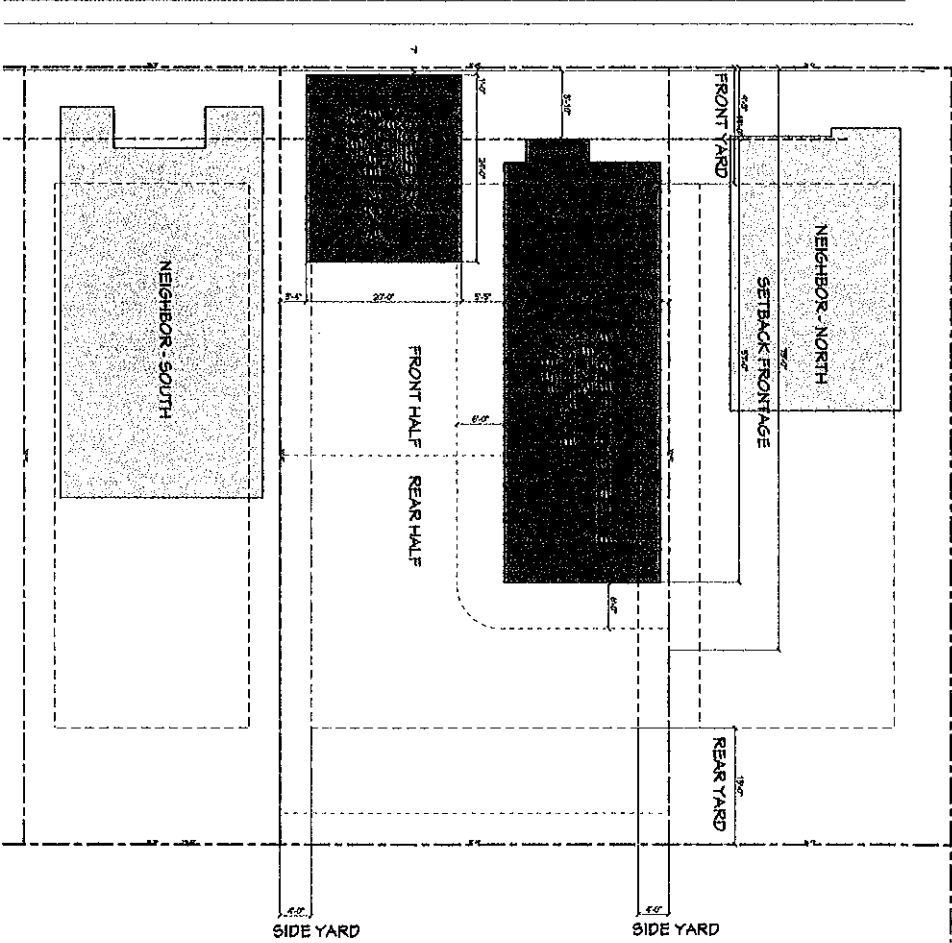
Proposed Building: The proposed building is a two-story, single-family residence. It is a modern, minimalist design with a flat roof, large windows, and a mix of materials. The building is approximately 30 feet wide and 40 feet deep. It includes a garage, a kitchen, a living area, a dining area, a bedroom, and a bathroom. The building is designed to be a high-quality, sustainable residence that fits in with the surrounding neighborhood.

Proposed Use: The proposed use is a single-family residence. The building is designed to be a high-quality, sustainable residence that fits in with the surrounding neighborhood. The use is consistent with the zoning regulations for the area.

Proposed Site Plan: The proposed site plan shows the location of the proposed building on the site. It also shows the location of the garage, the driveway, and the landscaping. The site plan is designed to be a high-quality, sustainable site that fits in with the surrounding neighborhood.

Proposed Landscaping: The proposed landscaping includes a mix of native and non-native plants. It includes a lawn, a garden, and a driveway. The landscaping is designed to be a high-quality, sustainable landscape that fits in with the surrounding neighborhood.

Proposed Construction: The proposed construction includes the foundation, the framing, the roof, and the exterior walls. The construction is designed to be a high-quality, sustainable construction that fits in with the surrounding neighborhood.



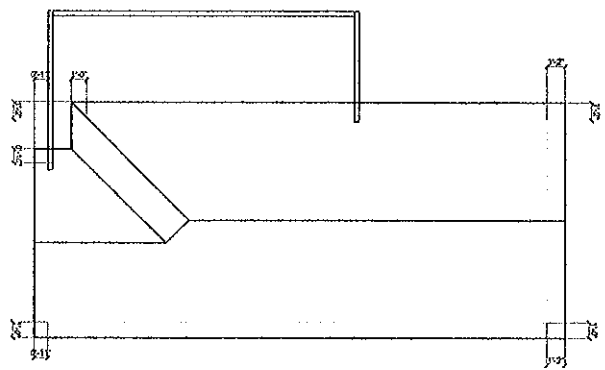
1 EXISTING PLOT PLAN
 SCALE 1/8" = 1'-0"

APPROVED PLAN	DATE
PM	2.14.13
PLANNING	
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<input type="checkbox"/> U.P. Conditions Attached	

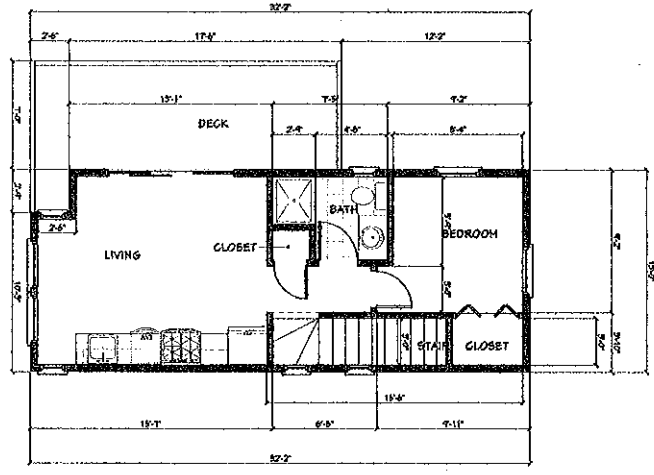
PLANNING APPLICATION - NOT FOR CONSTRUCTION

<p>PROJECT INFO</p> <p>EXISTING PLOT PLAN AND PARCEL INFO PROJECT NARRATIVE</p> <p>A1.1</p>	<p>PROJECT</p> <p>Garage and Accessory Dwelling Unit for the Gaway/Hall Residence</p> <p>2905 Newbury Street Berkeley, CA</p>	<p>REVISIONS</p> <p>PLANNING APPLICATION 100012</p>	<p>Architects office</p> <p>5955 Glavin Drive, Oakland, CA 94611 - TEL 510.531.7371</p>
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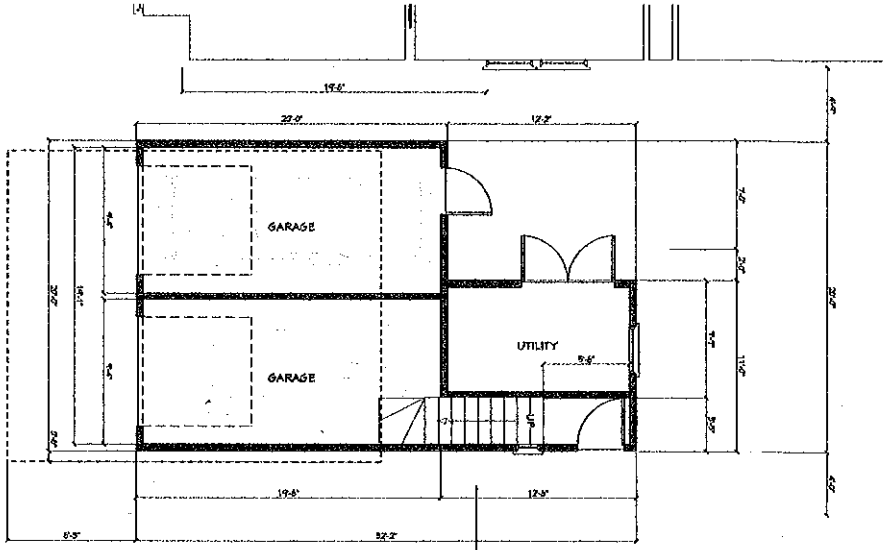
1 ROOF PLAN



2 UPPER FLOOR PLAN



3 GROUND FLOOR PLAN



APPROVED PLAN
 PLAN BY T.B. DATE 2.14.13
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached

PLANNING APPLICATION - NOT FOR CONSTRUCTION

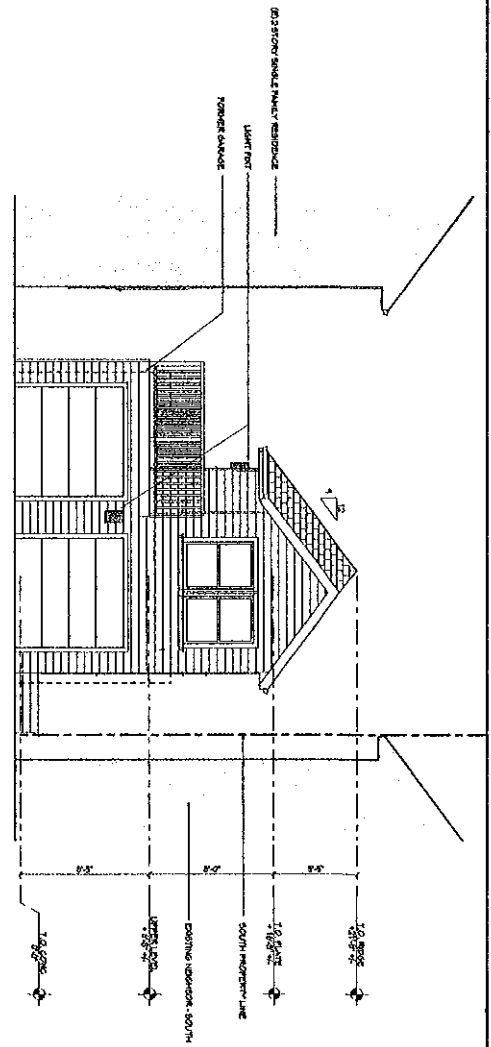
8 A2.0

PROJECT TITLE:
 FLOOR PLANS
 ROOF PLAN

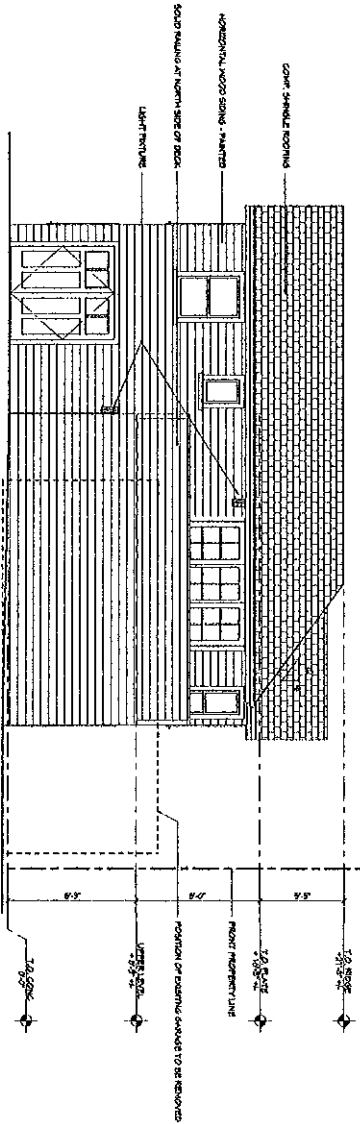
PROJECT:
 Garage and Accessory Dwelling Unit
 for the Gadoway/Hall Residence
 2905 Newbury Street
 Berkeley, CA

REVISIONS:
 PLANNING APPLICATION 10/11/13

Architects office
 5555 Glavin Drive, Oakland, CA 94611 - TBL 510.531.7371



1 FRONT FACADE ELEVATION



2 LEFT FACADE ELEVATION

APPROVED PLAN
 PLAN FOR 18
 DATE 2.14.13
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached

PLANNING APPLICATION - NOT FOR CONSTRUCTION

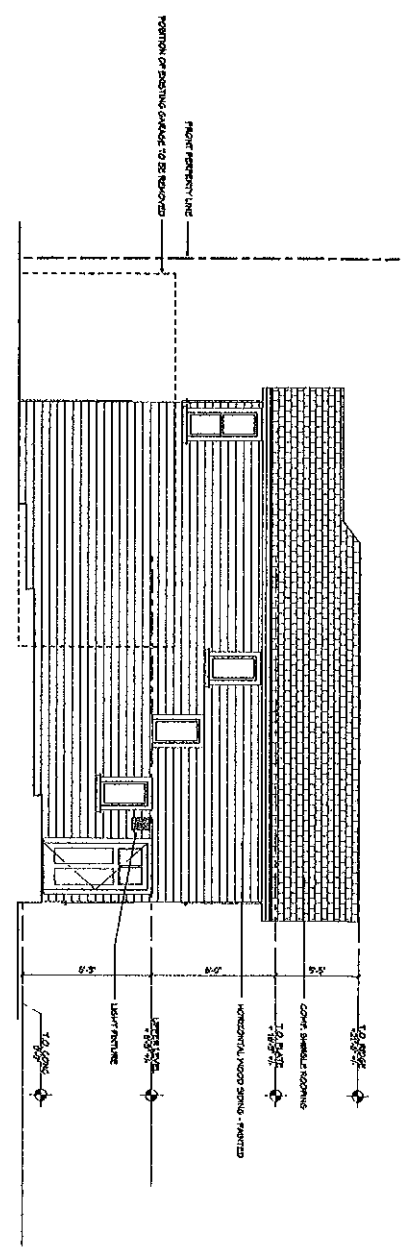
AS.0

SHEET TITLE
 ELEVATIONS

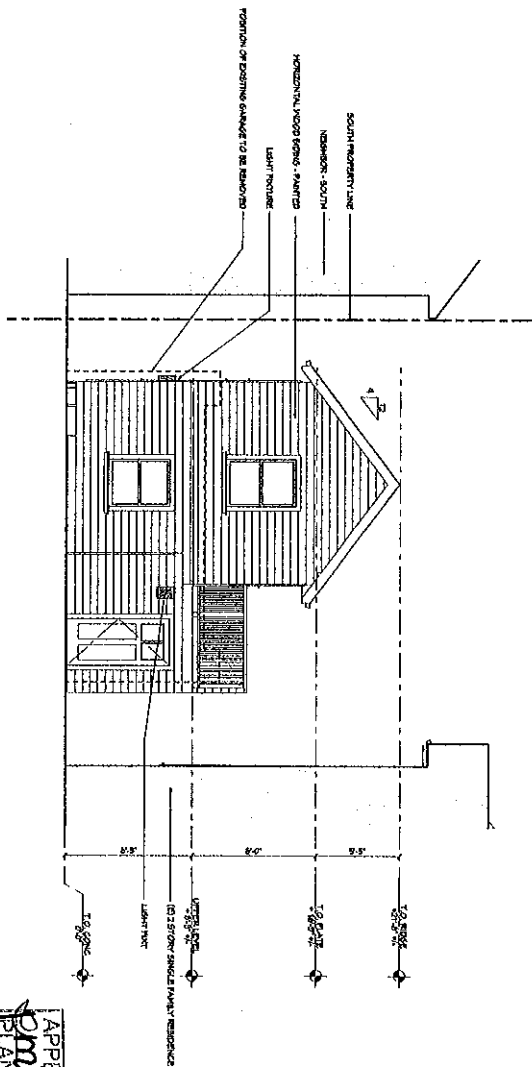
28018017
 Garage and Accessory Dwelling Unit
 for the Gadway/Hall Residence
 2905 Newbury Street
 Berkeley, CA

REVISIONS
 PLANNING APPLICATION 10012

Architects
 office
 5855 Girvin Drive, Oakland, CA 94611 - TEL 510.531.7371



1 FRONT (EXISTING) ELEVATION



2 REAR (EXISTING) ELEVATION

APPROVED PLAN
 DATE 2-14-13
 PLANNING
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached

PLANNING APPLICATION - NOT FOR CONSTRUCTION

<p>AS.1</p>	<p>SHEET TITLE ELEVATIONS</p>	<p>PROJECT Garage and Accessory Dwelling Unit for the Gadway/Hall Residence 2905 Newbury Street Berkeley, CA</p>	<p>REVISIONS PLANNING APPLICATION 10/12</p>	<p>Architects office 5955 Glavin Drive, Oakland, CA 94611 - TEL 510.531.7371</p>
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