



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 MODIFICATION # 12-70000007

Property Address: **245 TUNNEL ROAD**

Permittee Name: **LINDA KLEIN
COX, CASTLE, & NICHOLSON, LLP**

Use and/or Construction Permitted:
to establish an eight-car parking lot for Bentley School faculty and staff at the Headmaster's house property located at 245 Tunnel Road.

- Use Permit Modification to expand land area devoted to the approved use, under BMC 23B.56.020.A.1
- Use Permit to establish a parking lot, under BMC Section 23D.16.030

RESOLUTION, FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the City Council and is in effect on March 20, 2013.

RESOLUTION NO. 66,049-N.S.

AFFIRMING THE ZONING ADJUSTMENTS BOARD'S APPROVAL OF USE PERMIT 12-10000007 TO ESTABLISH AN EIGHT-CAR PARKING LOT FOR BENTLEY SCHOOL FACULTY AND STAFF AT THE HEADMASTER'S HOUSE PROPERTY LOCATED AT 245 TUNNEL ROAD IN THE SINGLE-FAMILY RESIDENTIAL HILLSIDE OVERLAY (R-1H) ZONING DISTRICT AND DISMISSING THE APPEAL

WHEREAS, on May 07, 2012, Linda C. Klein of Cox, Castle & Nicholson LLP ("applicant") filed an application for a Use Permit on behalf of the Bentley School to establish an eight-car parking lot for school faculty and staff at the headmaster's house property located at 245 Tunnel Road ("project"); and

WHEREAS, on October 11, 2012, staff deemed this application complete; and

WHEREAS, on October 25, 2012, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on November 8, 2012, the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and approved the project; and

WHEREAS, on November 14, 2012, staff issued the notice of the ZAB decision; and

WHEREAS, on November 28, 2012, Navjot S. Athwal of Farella Braun & Martel LLP filed an appeal of the ZAB decision with the City Clerk on behalf of David Teece of 227 Tunnel Road; and

WHEREAS, on December 4, 2012, staff issued a corrected notice of the ZAB decision; and

WHEREAS, on March 19, 2013 the Council considered the record of the proceedings before the ZAB, and the staff report and correspondence presented to the Council, and, in the opinion of this Council, the facts stated in, or ascertainable from this information, do not warrant further hearing.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby adopts the findings made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Modification Use Permit No. 12-70000007, adopts the conditions in Exhibit A and the project plans in Exhibit B, and dismisses the appeals.

The foregoing Resolution was adopted by the Berkeley City Council on March 19, 2013 by the following vote:

Ayes: Anderson, Arreguin, Capitelli, Maio, Wengraf, Worthington, Wozniak and Bates.

Noes: None.

Absent: Moore.

Attest:


Mark Numainville, CMC, City Clerk


Tom Bates, Mayor

ATTACHMENT 1

~~FINDINGS AND~~
~~CONDITIONS CORRECTED~~
FINDINGS AND
CONDITIONS

NOVEMBER 8, 2012

245 Tunnel Road

Use Permit Modification #12-70000007 to establish an eight-car parking lot for Bentley School faculty and staff at the Headmaster's house property located at 245 Tunnel Road.

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 15311(B) of the CEQA Guidelines ("Accessory Structures, small parking lots"). 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 establishment of an ~~24~~ 8-car parking lot, for day time use while school is in session and for limited times for special events and weekend activities, 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. Staff from Caltrans and the City of Berkeley Traffic and Engineering Division have reviewed the proposed application and indicated that the proposed parking lot will not create significant increase to the traffic within the area and verified the parking lot meets traffic engineering standards.
 - B. The parking lot will accommodate seven cars for assigned Bentley School faculty/staff. The parking lot will be available only for use during the posted school

calendar and extracurricular activities. Due to the restricted use and small size, the project is not expected to create negative noise or traffic impacts to surrounding neighborhood.

C. The parking lot is screened from view of the public right of way and from nearby residential properties by mature vegetation surrounding the subject site.

STANDARD CONDITIONS

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 exclude 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 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

245 TUNNEL ROAD
November 8, 2012

minimum distance to any property line, and/or does not conflict with any special objective sought by the Board

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.

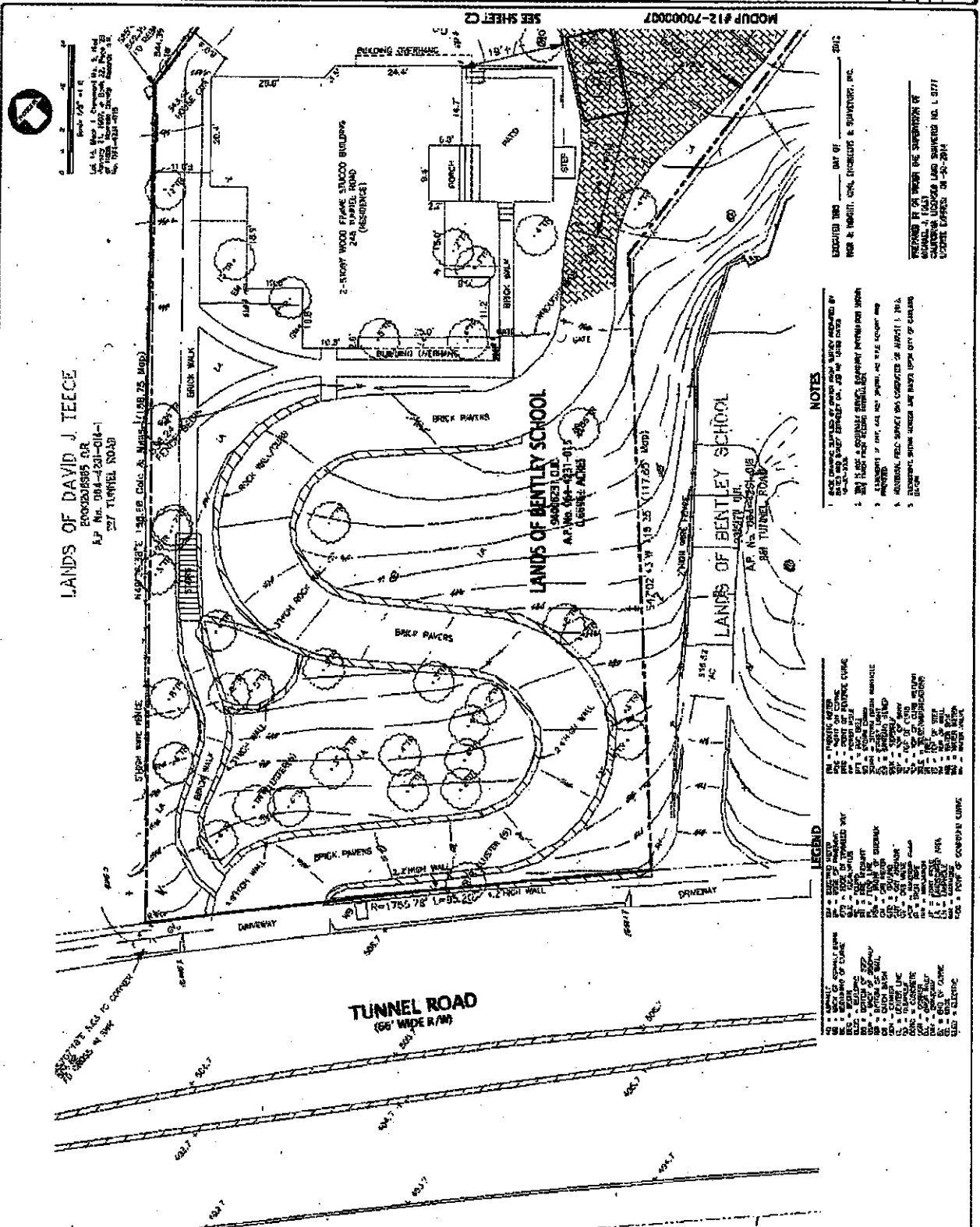
ADDITIONAL CONDITIONS

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

At All Times:

10. The project shall conform to the plans and statements in the Use Permit.
11. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated September 26, 2012.
12. 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.
13. The parking lot shall be used by the Bentley School only and shall not be rented, leased, sold or in any other way used by another entity without prior approval from the Zoning Officer.
14. The parking lot shall be limited as follows: Staff and faculty shall primarily use the parking lot for normal school operating hours, typically arriving between 7 a.m. and 9 a.m. and departing between the hours of 3 p.m. and 6 p.m. on weekdays, late August through mid June. The school may conduct some activities throughout the year outside of these hours such as open house events, parent nights, performances, etc. that are limited by the Oakland Use Permit to 20 evening events from 6 p.m. to 9 p.m. and 10 Saturday events between the hours of 9 a.m. and 6 p.m. throughout the school year. Additionally, the Oakland Use Permit allows for two, single day summer events between the hours of 8 a.m. and 6 p.m. on weekdays only. Any change to these assumed operations shall require approval of a Use Permit Modification.
15. Each parking space shall be assigned to a specific Bentley staff or faculty person and must remain available for him/her during the approved school hours/activity times listed in Condition #14 above. One space shall be reserved for use of the on-site dwelling unit (Headmaster's house).
16. All vegetation shall be removed from the back of sidewalk to the inside edge of the retaining wall along the property frontage and maintained in a manner that ensures a clear view of the sidewalk for a minimum distance of 10 feet from the driveway in each direction.
17. The applicant shall install a sign at the top of the driveway that states "EXITING DRIVERS MUST YIELD TO ENTERING DRIVERS." No sign of any other kind, other than those designating the parking lot name, entrances, exits, or conditions of use, may be erected or maintained.

18. All exterior lighting shall be shielded and directed downward and away from property lines to direct the light away from adjacent lots and prevent excessive glare beyond the subject property.
19. No commercial repair work or service of any kind will be conducted on the lot.
20. Screening must be provided for two or more off-street parking spaces, or any parking space located partly or entirely within a required rear yard, in a manner that effectively screens parked vehicles from view from buildings and uses on adjacent, abutting and confronting lots. Such screening must consist of a continuous view-obscuring wood fence, masonry wall or evergreen hedge, not less than four feet, and not more than six feet in height, which may be broken only for access driveways and walkways. In the case of parking areas of four or more off-street spaces, the parking area must be separated from an adjacent rear or interior side lot line by a landscaped strip which averages at least four feet in width along the applicable property line.
21. A durable and dustless surface will be provided and maintained and the lot will be graded to dispose of all surface water. The project provides a durable and dustless surface for parking, which consists of five spaces on brick, and two enclosed within a garage with a concrete floor. The outdoor brick areas have spaces between them to allow water infiltration into the ground. Additionally, the parking area is surrounded by landscaping that absorbs runoff. The parking lot and all outdoor areas will be maintained by Bentley School's landscaping contractor.



LANDS OF DAVID J. TEECE
 PROCESSIONS OR
 A.P. No. 004-4201-011-1
 237 TUNNEL ROAD

LANDS OF BENTLEY SCHOOL
 SACRIFICED OR
 A.P. No. 004-4201-011-1
 245 TUNNEL ROAD

LANDS OF BENTLEY SCHOOL
 SACRIFICED OR
 A.P. No. 004-4201-011-1
 245 TUNNEL ROAD

LOT 5
 A.P. No. 004-4201-004
 240 TUNNEL ROAD
 PATRICIA J. GRANBERG

LOT 6 (PORTION)
 A.P. No. 004-4201-005-1
 TUNNEL ROAD
 155 ROBLE ROAD
 LANDS OF ROBERT R. SHIMCHAK & MARION D. BRENNER

LOT 7
 A.P. No. 004-4201-006-1
 240 TUNNEL ROAD
 THOMAS E. AND
 PAMELA T. JAGMAN

EXERCISED THIS _____ DAY OF _____ 2012
 FOR & IN TRUST, CIVIL ENGINEERS & SURVEYORS, INC.

- NOTES**
1. ALL DIMENSIONS SHOWN ARE IN FEET AND INCHES UNLESS OTHERWISE NOTED.
 2. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.
 3. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.
 4. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.
 5. ALL DIMENSIONS SHOWN ARE TO THE CENTERLINE OF THE ROAD UNLESS OTHERWISE NOTED.

- LEGEND**
- EXISTING ASPHALT DRIVEWAY
 - EXISTING CONCRETE DRIVEWAY
 - EXISTING BRICK DRIVEWAY
 - EXISTING BRICK PAVERS
 - EXISTING BRICK WALL
 - EXISTING CONCRETE WALL
 - EXISTING STONE WALL
 - EXISTING WOOD FENCE
 - EXISTING METAL FENCE
 - EXISTING CHAIN LINK FENCE
 - EXISTING POST AND RAIL FENCE
 - EXISTING RAILROAD CROSSING
 - EXISTING HIGHWAY CROSSING
 - EXISTING AIRCRAFT CROSSING
 - EXISTING WATER CROSSING
 - EXISTING POWER CROSSING
 - EXISTING TELEPHONE CROSSING
 - EXISTING GAS CROSSING
 - EXISTING WATER MAIN CROSSING
 - EXISTING SEWER CROSSING
 - EXISTING SANITARY CROSSING
 - EXISTING DRAINAGE CROSSING
 - EXISTING EROSION CONTROL CROSSING
 - EXISTING LANDSCAPE CROSSING
 - EXISTING UTILITIES CROSSING
 - EXISTING OBSTACLES CROSSING
 - EXISTING OBSTRUCTIONS CROSSING
 - EXISTING OBSTACLES AND OBSTRUCTIONS CROSSING

PREPARED BY OR UNDER THE SUPERVISION OF
 CIVIL ENGINEER AND SURVEYOR NO. 1, 0777
 CIVIL ENGINEERS & SURVEYORS, INC.

