



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 #2013-0095

Property Address: **2308 DERBY STREET**

Permittee Name: **CRAIG ALDERSON & VANESSA
TAIT**

Use and/or Construction Permitted: to allow a 438 sq. ft. Accessory Dwelling Unit without the required off-street parking space, to allow the accessory building to be 32' in length running parallel with the side lot line and 12'4" in height, and to enlarge an existing 1,446 sq. ft. single family dwelling by constructing approximately 163 sq. ft. to the main floor for a breakfast room, constructing approximately 185 sq. ft. for a new second floor office and storage, resulting in a 1,794 sq. ft. residence, increasing the average height from 14'7" to 22'5" pursuant to:

- Section 23D.28.080.A to waive the required off-street parking for an Accessory Dwelling Unit;
- Section 23D.08.010.B to allow an accessory building 32' in length running parallel with the side lot line where 24' is allowed;
- Section 23D.28.030 to allow an Accessory Dwelling Unit in an accessory structure 10'6" from the rear property line where 20' is required;
- Section 23D.28.030 to allow an Accessory Dwelling Unit in an accessory structure 12'4" in height where 12' is permitted; and
- Section 23D.28.070 to allow a residential addition exceeding 14' in height.

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 October 11, 2013.

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

Oct. 11, 2013
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

SEPTEMBER 20, 2013

2308 Derby Street

Administrative Use Permit #2013-0095

To allow a 438 sq. ft. Accessory Dwelling Unit without the required off-street parking space, to allow the accessory building to be 32' in length running parallel with the side lot line and 12'4" in height, and to enlarge an existing 1,446 sq. ft. single family dwelling by constructing approximately 163 sq. ft. to the main floor for a breakfast room, constructing approximately 185 sq. ft. for a new second floor office and storage, resulting in a 1,794 sq. ft. residence, increasing the average height from 14'7" to 24'4".

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 15301 and 15303 of the CEQA Guidelines ("Existing Facilities" and "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.

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:

Accessory Dwelling Unit

- As required under Section 23D.28.040 (Development Standards for Accessory Dwelling Units) and Section 23D.28.080.A (Parking Required) and Section

23D.28.090 (Findings), the 438 sq. ft. Accessory Dwelling Unit which involves waiving the on-site parking requirement is permissible because:

1. The gross floor area of the Accessory Dwelling Unit is 438 sq. ft. which is less than 25% of the floor area of the main house, which will be 1,794 sq. ft. after construction of the addition, and is more than 300 sq. ft., but less than 640 sq. ft. (Sections 23D.32.040.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.32.040.B.4);
 3. This permit is conditioned (see Condition #13 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 (Sections 23D.28.040.B.3 and B.5); and
 4. There is a separate entrance for the Accessory Dwelling Unit not located on the front of the existing building (Section 23D.28.040.C.1).
- As required under Section 23D.28.090.C (Findings), the parking waiver for the Accessory Dwelling Unit is found permissible because:
 1. The existing single-family residence has one enclosed parking space located in the side yard (west) and establishing a second tandem off-street parking in this location would not meet current Office of Transportation/Traffic Engineering requirements because the width of the driveway varies from 8' to 9'4" where 10' is required; and
 2. The City's Office of Transportation Division submitted a report to Planning which states that existing parking surveys exist for this area and are sufficient to show that on-street parking in the area during the day west of the address ranges from 26% to 15% occupied, and that of the 119 spaces on-street, 30 to 88 are vacant at any given time, therefore the Traffic Engineer concluded that the applicant's parking shortage of one parking space would be able to be absorbed within the current on-street parking capacities.
 - The proposed 438 sq. ft. accessory structure, located in the rear yard, setback 4' from the side yard and 10'6" from the rear yard (where 20' is allowed), 32' in length running parallel with the side lot line (where 24' is allowed), and 12'4" in height (where 12' is allowed) 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; and b) The nearest adjacent residential property to the west at 2713 Ellsworth is approximately 40' away and is separated by large trees, providing adequate screening between the properties;
 2. Sunlight – Large vegetation are currently present in the rear yard and the proposed accessory structure is not expected to significantly increase or impact

- the direct sunlight at abutting properties as it is located in the rear yard and adequately separated from adjacent residential structures. If new shadows do occur, they will occur in the evening hours at sunset in the winter months;
3. Air – The proposed accessory structure has adequate building separations between the neighboring developments on abutting properties, thereby allowing for adequate air circulation;
 4. Views – The proposed accessory structure is not expected to significantly block the adjacent neighbors' views of any significant features.
- The reduced rear yard setback and the 32' length of the accessory structure is found favorable because it maximizes the development potential on the subject lot.

Addition

- As required under Section 23D.28.070 (Development Standards) and 23D.28.090 (Findings), the proposed addition may exceed 14' in average height because the addition is found to be non-detrimental. The height of the proposed addition does not create significant impacts to sunlight, air, views, or privacy for the following reasons:
 1. Sunlight – The proposed addition involves expanding the main floor at the rear for a breakfast room and for an office with storage on the second floor. The addition will increase the average height from 14'7" to 24'4", however, the addition may cast shadows at the property to the west at 2304 Derby however, these shadows are expected to cast at the yard and not at windows and only for a few hours in the morning during the winter.
 2. Air – Because the proposal satisfies the District standards for minimum side, front, and rear setbacks, it is expected to provide adequate spatial separations between developments on abutting properties, thereby allowing for adequate air circulation;
 3. Views – The proposed addition would not significantly block the adjacent neighbors' views of any significant features. The proposed addition will not extend to the full height limit of the R-2 District or exceed the maximum number of stories allowed; and
 4. Privacy – The proposed addition includes new windows at this feature is not expected to create significant privacy impacts to the immediate neighbors given that: a) The north (front) facing window is approximately 50' from the front of the house; b) The south (rear) facing windows are approximately 55' to the rear property line; and c) The east (side) facing window is approximately 26' from the abutting property to the east at 2312 Derby (see Exhibit A below).

EXHIBIT A



- As required under Section 23D.28.070 (Development Standards), this project is permissible because the subject property satisfies the development standards for maximum allowable lot coverage, maximum residential density, maximum main building height, minimum yard setbacks, and minimum open space.

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 Submittal of Any Building Permit for the Accessory Dwelling Unit

12. Construction for the 348 sq. ft. addition to the main dwelling must be completed prior to final of the building permit for the construction of the Accessory Dwelling Unit.

Prior to Issuance of Any Building Permit:

13. Prior to issuance of a building permit, 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 Accessory Dwelling Unit" (form available from Land Use Planning Division), prohibiting 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, and that the owner shall reside in either the main dwelling or the accessory dwelling unit,

City Monitor: Project Planner

Signature

Date

14. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
15. 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.

During Construction:

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 in thickness 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 establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
24. 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.
25. 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.

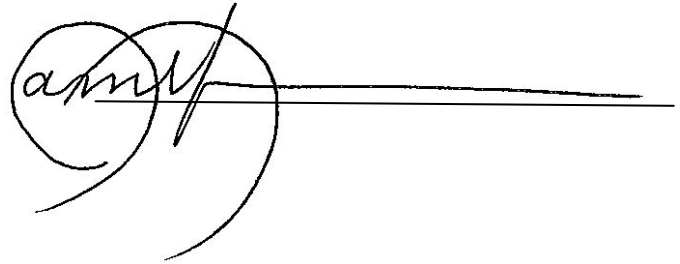
Prior to Issuance of Occupancy Permit or Final Inspection:

26. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.

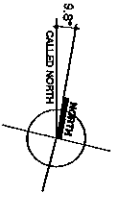
27. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **JULY 23, 2013**.

At All Times (Operation):

28. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
29. 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.
30. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood.

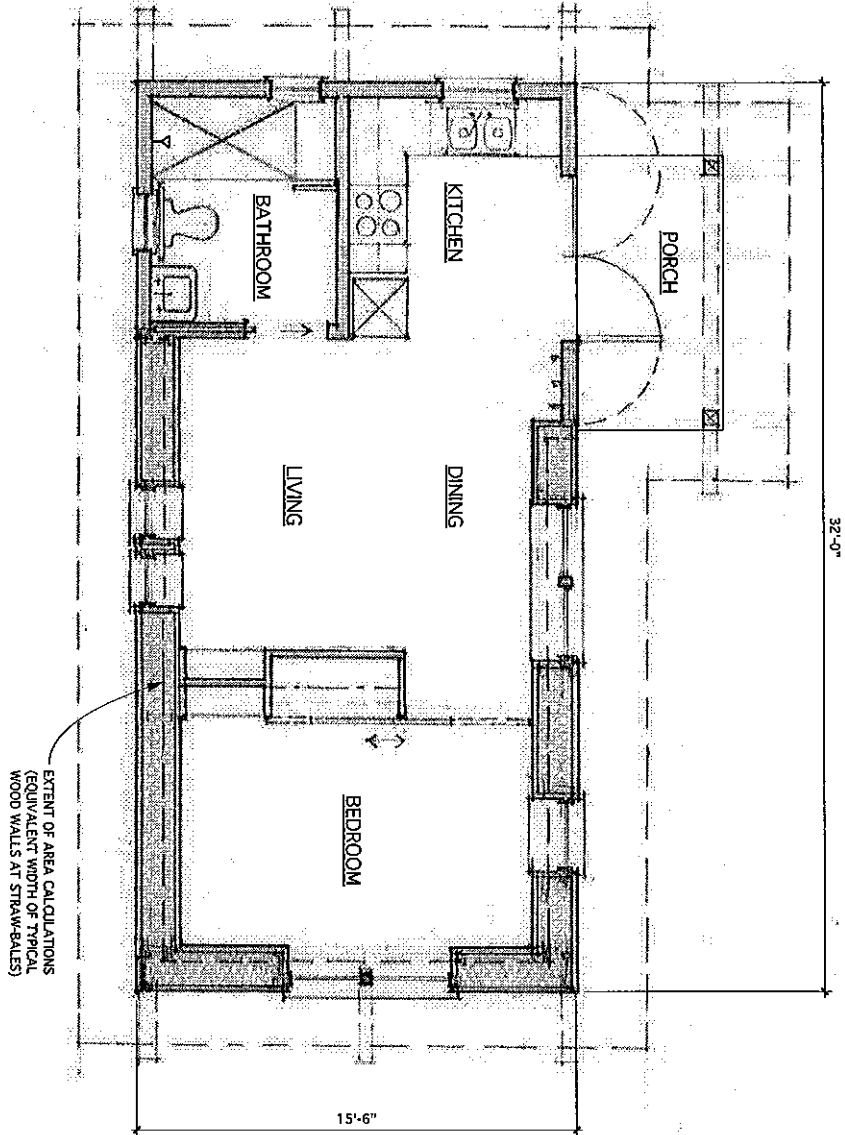
A handwritten signature in black ink, appearing to read 'amj', is written over a horizontal line. The signature is stylized and somewhat cursive.

Pamela Johnson, Assistant Planner for
Debra Sanderson, Zoning Officer




1
A2

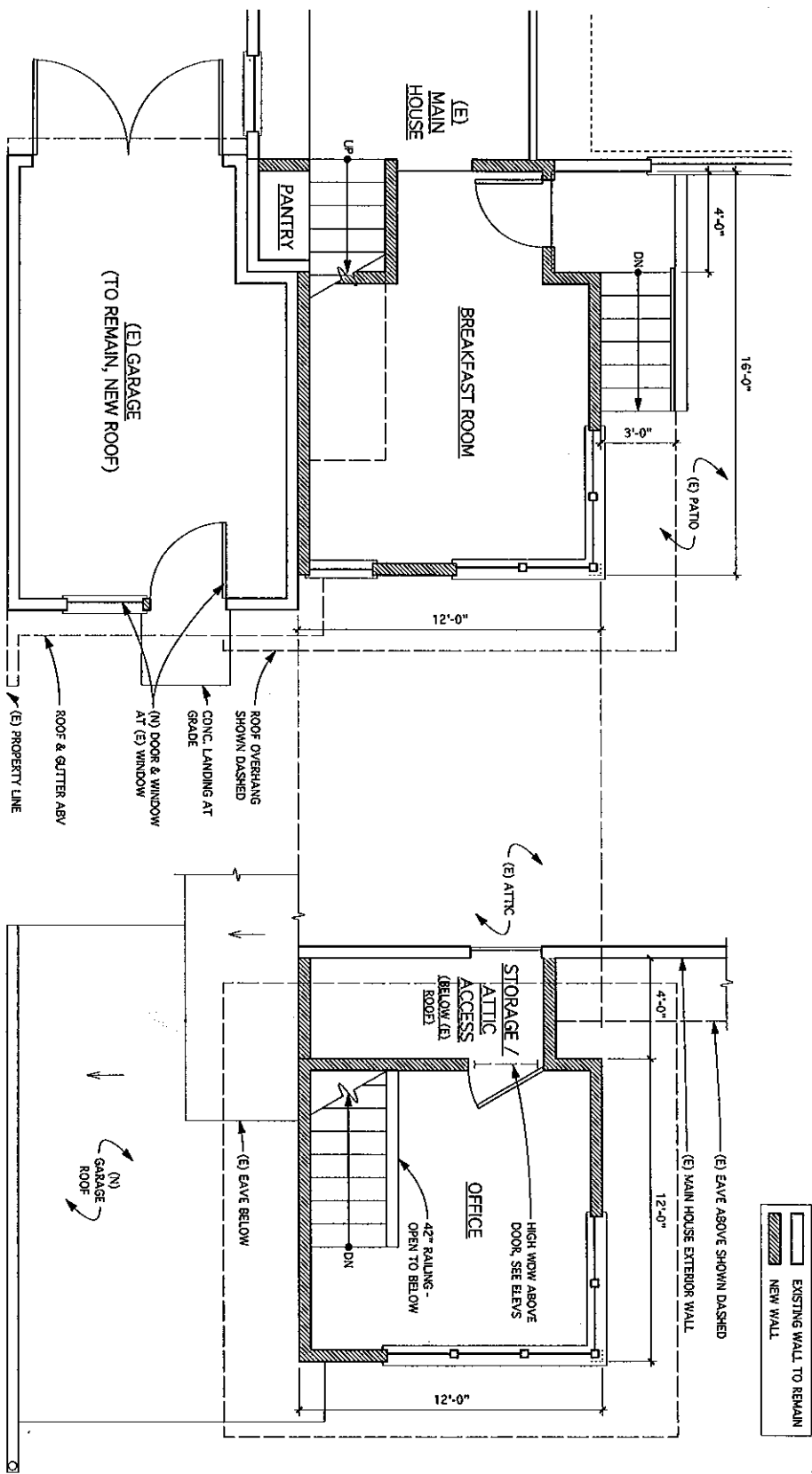
ACCESSORY DWELLING UNIT FLOOR PLAN
SCALE: 1/4" = 1'-0"



APPROVED PLAN	DATE
PLANNING	9.11.13
<input type="checkbox"/> D.R. Conditions Attached	
<input type="checkbox"/> A.U.P. Conditions Attached	
<input type="checkbox"/> U.P. Conditions Attached	

07-03-13	A2	PROPOSED ADU FLOOR PLAN	Tall-Alderson Addition & ADU 2308 Derby St Berkeley, CA 94704 APN # 54-1715-22-1	 ARKIN • TILT ARCHITECTS 1101 8th Street (#180), Berkeley, CA 94710 phone: (510) 528-9690, info@arkintilt.com
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APPROVED PLAN
 PLANING 913.13
 DATE
 D.H. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached

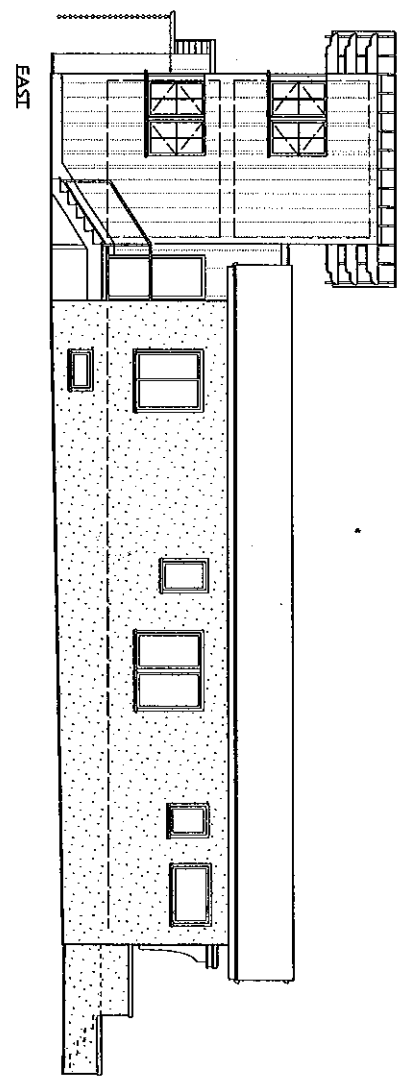
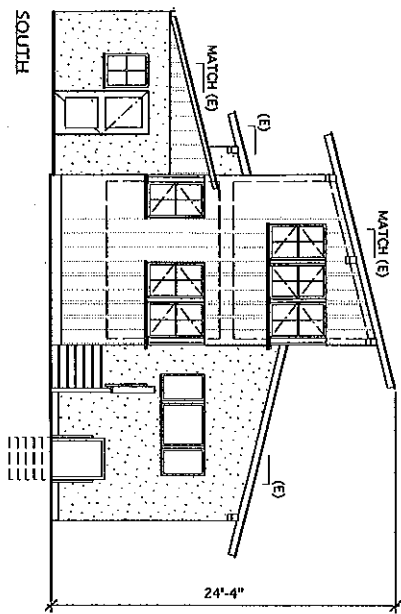


1 BREAKFAST ROOM ADDITION & GARAGE REPAIRS 1ST FLOOR
 SCALE: 1/4" = 1'-0"

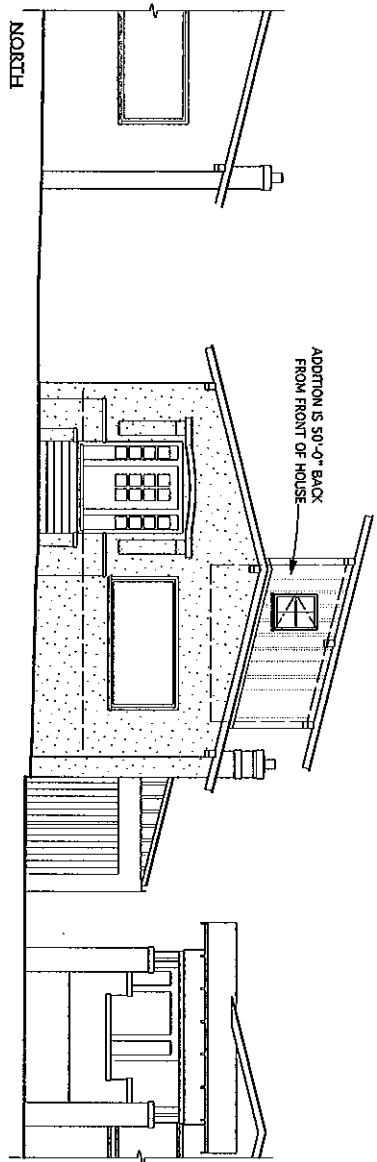
2 2ND FLOOR OFFICE ADDITION
 SCALE: 1/4" = 1'-0"

<p>ARKIN • TILT ARCHITECTS 1101 8th Street (e180), Berkeley, CA 94710 phone: (510) 528-9830, info@arkintilt.com</p>	<p>Tilt-Alderson Addition & ADU 2308 Derby St Berkeley, CA 94704 APN # 54-1715-22-1</p>	<p>PROPOSED ADDITION FLOOR PLANS</p>	<p>A3 07-03-13</p>
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APPROVED PLAN
 PLANNING *pm*
 DATE 9.11.13
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached



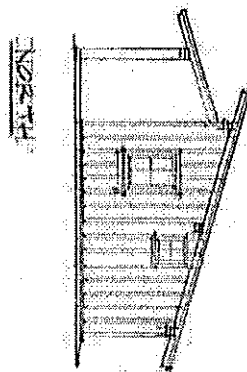
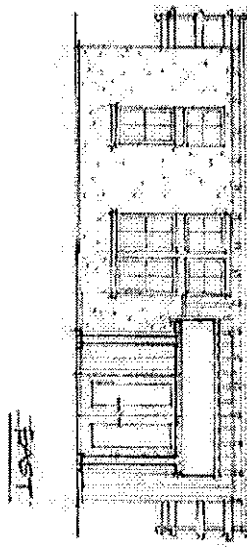
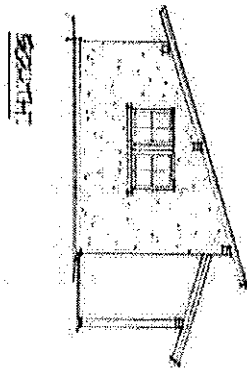
1 MAIN HOUSE AND ADDITION ELEVATIONS
 SCALE: 1/8" = 1'-0"



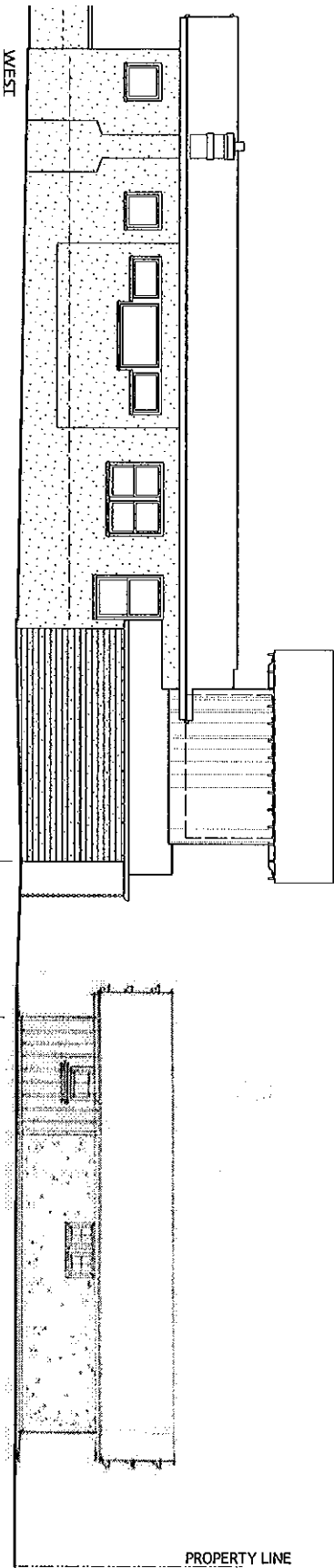
2 MAIN HOUSE AND ADDITION ELEVATION (SHOWING ADJACENT HOUSES)
 SCALE: 1/8" = 1'-0"

<p>A4 07-03-13</p>	<p>PROPOSED ELEVATIONS</p>	<p>Tait-Alderson Addition & ADU 2308 Derby St Berkeley, CA 94704 APN # 54-1715-22-1</p>	<p>ARKIN · TILT ARCHITECTS 1101 8th Street (#180), Berkeley, CA 94710 phone: (510) 528-9830, info@arkintilt.com</p>
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APPROVED PLAN
 PLANNING *DMY* 9.11.13
 DATE
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached

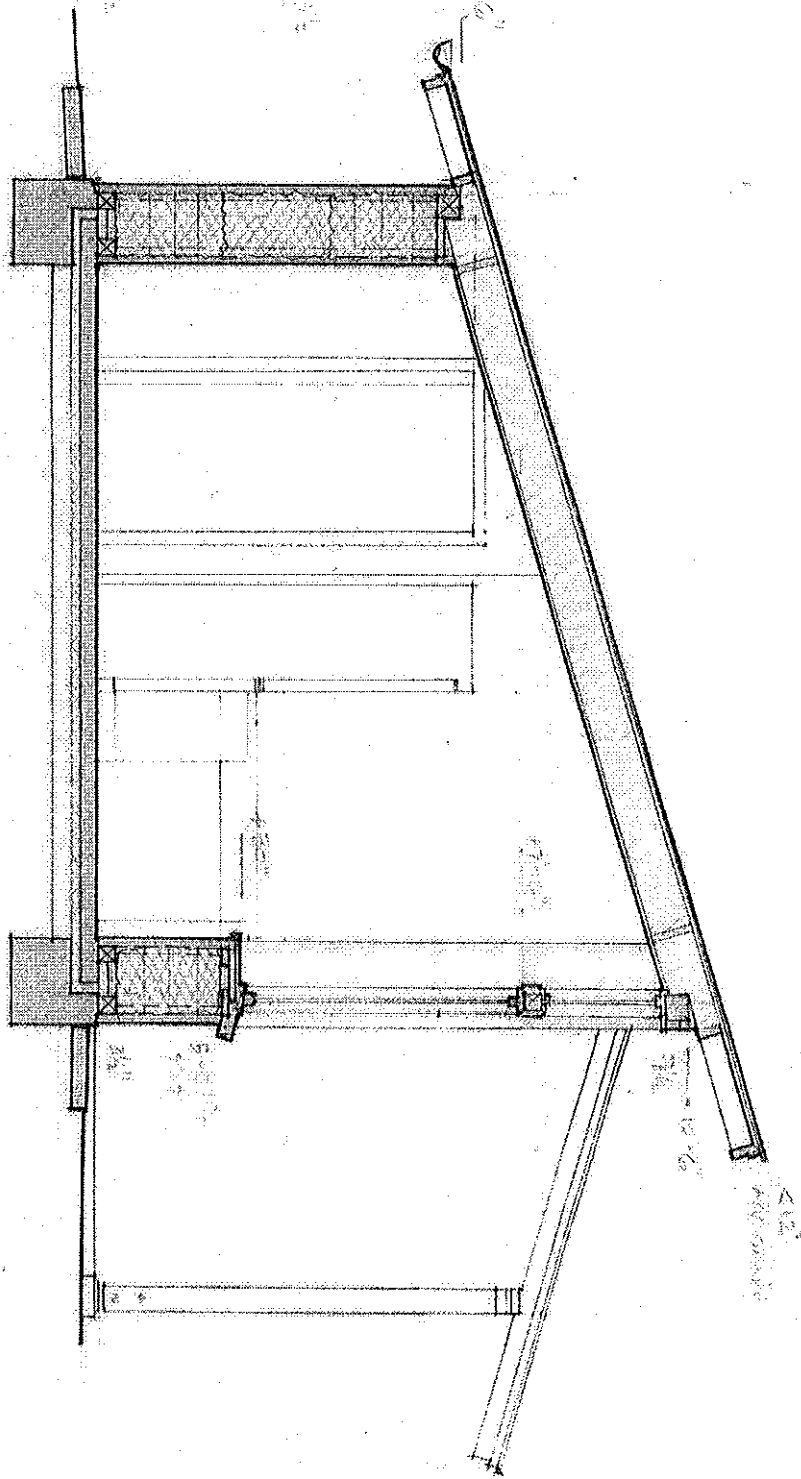


1 PROPOSED ADU ELEVATIONS
 AS SCALE: 1/8" = 1'-0"



2 FULL-LENGTH PROPERTY ELEVATION
 AS SCALE: 1/8" = 1'-0"

1 PROPOSED ADU SECTION LOOKING NORTH
 A6 SCALE: 1/2" = 1'-0"



APPROVED PLAN
 PLANNING *DMV* DATE 9.11.13
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached