



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 #2013-0099**

Property Address: **2025 ROSE STREET**

Permittee Name: **DAVID STOLOFF**

Use and/or Construction Permitted: to allow the conversion of an existing, lawful non-conforming office use to a non-conforming medical office use in an existing 755 square foot lease space pursuant to:

- Section 23C.04.060 to allow a change in a lawful non-conforming use;

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 November 21, 2013.

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

November 21, 2013  
Effective Date

# REVISED

## ATTACHMENT 1

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### FINDINGS AND CONDITIONS

OCTOBER 30, 2013

## 2025 Rose Street

### Administrative Use Permit #2013-0099

**To convert an existing, lawful non-conforming office use to a non-conforming medical office use in an existing 755 square foot lease space.**

#### CEQA FINDINGS

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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 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.

#### FINDINGS FOR APPROVAL

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2. As required by Section 23B.28.050.A of the Zoning Ordinance, the proposed change of use of 755 sq. ft. (office to medical office) to allow the establishment of a two-person psychotherapy office, 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:
  - A. The proposed psychotherapy office will not substantially increase the intensity of use at the site as the project does not involve the creation of additional square footage and is approximately 755 sq. ft., a relatively small tenant space, and the use is similar to the existing office.
  - B. The project does not include a change of use that will require additional parking spaces not already provided, as the current office building provides 10 off-street parking spaces. The existing and proposed office structure is 3,205 sq. ft. The proposed psychotherapy office is 755 sq. ft. which requires 3 parking spaces (1

space per 300 sq. ft. of gross floor area<sup>1</sup>) and the remaining office tenants require 6 spaces (1 space per 400 sq. ft.<sup>2</sup>), therefore the parking for the entire 3,205 sq. ft. office is 9 where 10 spaces are provided. The conversion for general office to medical office will not exceed the amount and intensity of use that can be served by the available traffic capacity and potential parking supply. Moreover, the subject site is located adjacent to AC transit lines and is readily accessible by bicycle, which would provide alternative means of transportation for clients.

- C. The permit and all activity on the site will be subject to the standard conditions of approval designed to reduce impacts to adjacent properties.

### **OTHER REQUIRED FINDINGS**

3. Pursuant to Berkeley Municipal Code Section 23C.04.060, the Zoning Officer finds that the proposed conversion of 755 sq. ft. of lawful, non-conforming office use to a non-conforming medical office use will not substantially expand or change in character the existing, non-conforming 3,205 sq. ft. office building. The proposed use will not expand the floor area devoted to the use, expand the customer service area and/or increase the number of customer seats; will not change the building's occupant load rating under the City's Building Code so that is classified in a different category with a higher occupancy rating; will not increase the number of rooms or entrances, introduce a new service or function, or a change that expands, intensifies or otherwise substantially changes the use or building, and therefore the conversion is permissible. Moreover, the proposed medical office use utilizes a vacant ground floor office suite and will generally support the existing retail, office and commercial uses of the adjacent C-NS District as well as the residential uses of the R-2A District.

<sup>1</sup>There are no parking standards for non-conforming commercial uses within residential zones. Staff therefore utilized the more restrictive medical office parking standards of commercial districts when calculating the required off-street parking spaces (1 space per 300 sq. ft. of gross floor area).

<sup>2</sup> UP#97-1000003 calculated the then off-street parking requirements for commercial office use at 1 space per 400 sq. ft. of gross floor area. Staff utilized these requirements when calculating the required parking for the remaining office space.

## **STANDARD CONDITIONS**

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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.

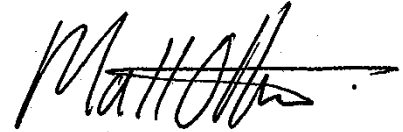
**9. Indemnification Agreement**

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.

**At All Times (Operation):**

- 10. From the normal business hours of 8:00 AM to 5:30 PM Monday through Friday use of the parking lot is limited to the tenants and their visitors to the office building, except that the owners and occupants of 1390, 1392, and 1394 Henry Street (hereafter "North Berkeley Townhouses") and their visitors will share the use of any designated handicapped parking space(s). Signs shall be posted on the parking lot informing users and potential users of the parking lot of week day conditions and that violators will be towed. Between 10:00 PM and 7:00 AM daily, use of the parking lot is limited to the North Berkeley Townhouses and their visitors, except for occasional late night use by office tenants and their visitors. At all other times the use of the parking lot is limited to the tenants of the office building and their visitors, and the North Berkeley Townhouses and their visitors and guests. All other parking is prohibited and violators may be towed.**
- 11. Any plans for exterior alterations or signage are subject to approval of the Zoning Officer.
- 12. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

- 13.** 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.



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Prepared by: Matthew Ottoson, Land  
Use Planning Intern/ZAB Clerk for  
Debra Sanderson, Zoning Officer

FENCE

PLANTINGS

DRIVEWAY

8 7 6 5 4 3 2 1

PARKING

FENCE

STAIRS

SUITE 100

MEN

9

HANDOUT  
PARKING

WOMEN

LOBBY

SUITE 101  
755 sqft

FENCE

CONDOMINIUMS

2025  
ROSE ST

HENRY ST.

→ N

SCALE: 1" = 16'

REV: 9/18/13

RECEIVED

SEP 18 2013

LAND USE PLANNING

APPROVED PLAN	09/30/13
PLANNING	DATE
<input type="checkbox"/> D.R. Conditions Attached	
<input checked="" type="checkbox"/> A.U.P. Conditions Attached	
<input type="checkbox"/> U.P. Conditions Attached	