



Planning and Development Department  
Land Use Planning

# U S E P E R M I T

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CITY OF BERKELEY ZONING ORDINANCE  
Berkeley Municipal Code Title 23

## USE PERMIT # UP2013-0041

Property Address: **2749-A ACTON STREET**

Permittee Name: **XIAOPEI QI**

Use and/or Construction Permitted:

to construct a new, 2,344-square-foot, two-story, four-bedroom, single-family house on an existing vacant lot.

- Use Permit for construction of a new dwelling unit, under BMC Section 23D.16.030

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 February 3, 2014.

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

DECEMBER 12, 2013

### **2749-A Acton Street**

**Use Permit #2013-0041 to construct a new, 2,344-square-foot, two-story, four-bedroom single-family house on an existing vacant lot**

#### 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 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 project, 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 project is consistent with the purposes of the District in that it would allow the construction of a single-family detached home on a narrow lot while maximizing the Useable Open Space and setbacks to the greatest extent feasible. The project is proposing 4-foot side yard setbacks where only 3.5-foot setbacks are required and a 28-foot rear yard setback where only 20 feet are required. By minimizing the building footprint while maintaining a modest 22-foot height limit, and meeting all the remaining District standards, the project would protect adjacent properties from unreasonable obstruction of light and air.
  - B. The subject neighborhood is predominantly single-family with a mix of one- and two-story structures of varied architectural styles. The proposed architectural style and 22-foot height of the proposed height will fit in well with the existing neighborhood development pattern and streetscape.
  - C. The shadow studies submitted by the applicant indicate that new shadows from the project would affect the property to the north (2749 Acton) primarily in the winter months. During the morning hours, new shading will affect the front (west) side of

the elevation, moving towards the rear (east) as the day progresses. Although shading will affect the house throughout the winter days, only in the evening will the shadows affect a portion of the windows of living areas; the rest of the day the shadows either hit the enclosed front porch or side entry area. As an infill project that is consistent with the development pattern of the existing narrow lots, the City finds that the shading impact of the proposed project is to be expected and does not create a detrimental impact.

- D. The project will support the City's housing production goals by increasing the City's housing stock by one unit.

## STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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### 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. 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.

11. 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 #

12. 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:**

13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
20. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
21. 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.

22. If an archaeological resource is accidentally uncovered during demolition or construction activities for the proposed project, the project applicant shall be required to notify the City of Berkeley immediately and all excavation work within ten feet of the find shall cease immediately. A qualified archaeologist shall be consulted to determine the necessity for monitoring the remaining excavation and to evaluate any cultural resource exposed during construction. Construction activity shall resume upon consultation with the City of Berkeley and upon implementation of the recommendations of the archaeologist. Cultural resources include, but are not limited to, railroad ties, foundations, privies, shell and bone artifacts, ash and charcoal. Identified cultural resources shall be recorded on DPR 523 (historic properties) forms.
23. If a paleontological resource is accidentally uncovered during demolition or construction activities for the proposed project, the project applicant shall be required to notify the City of Berkeley immediately and all excavation work within ten feet of the find shall cease immediately. A qualified paleontologist or archaeologist shall be consulted to determine the necessity for monitoring any excavation and to evaluate any paleontological resource exposed during construction. Construction activity shall resume upon consultation with the City of Berkeley and upon implementation of the recommendations of the paleontologist or archaeologist.
24. In the event that human skeletal remains are encountered during demolition or construction activities for the proposed project, the project applicant shall immediately notify the County Coroner and the City of Berkeley. If the County Coroner determines that the remains are Native American, the Coroner shall contact the California Native Heritage Commission, pursuant to subdivision (c) of Section 7050.5 of the Health and Safety Code. In addition, all excavation work within ten feet of the find shall cease immediately.

**Prior to Final Inspection or Issuance of Occupancy Permit:**

25. The project shall conform to the plans and statements in the Use Permit.
26. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated September 12, 2013.
27. 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:**

28. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

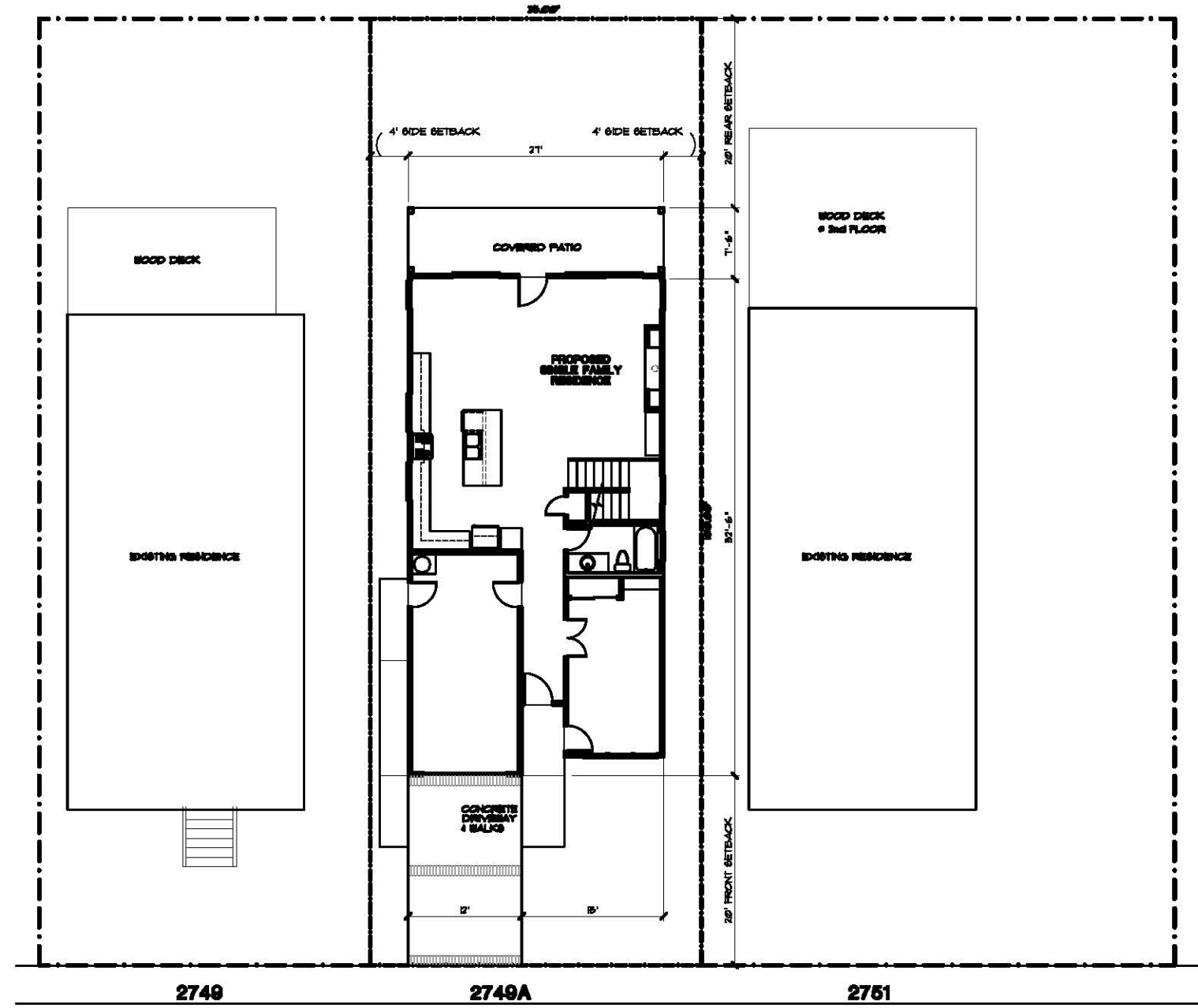


- 29.** The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
  
- 30.** Only one electrical meter fixture may be installed per dwelling unit

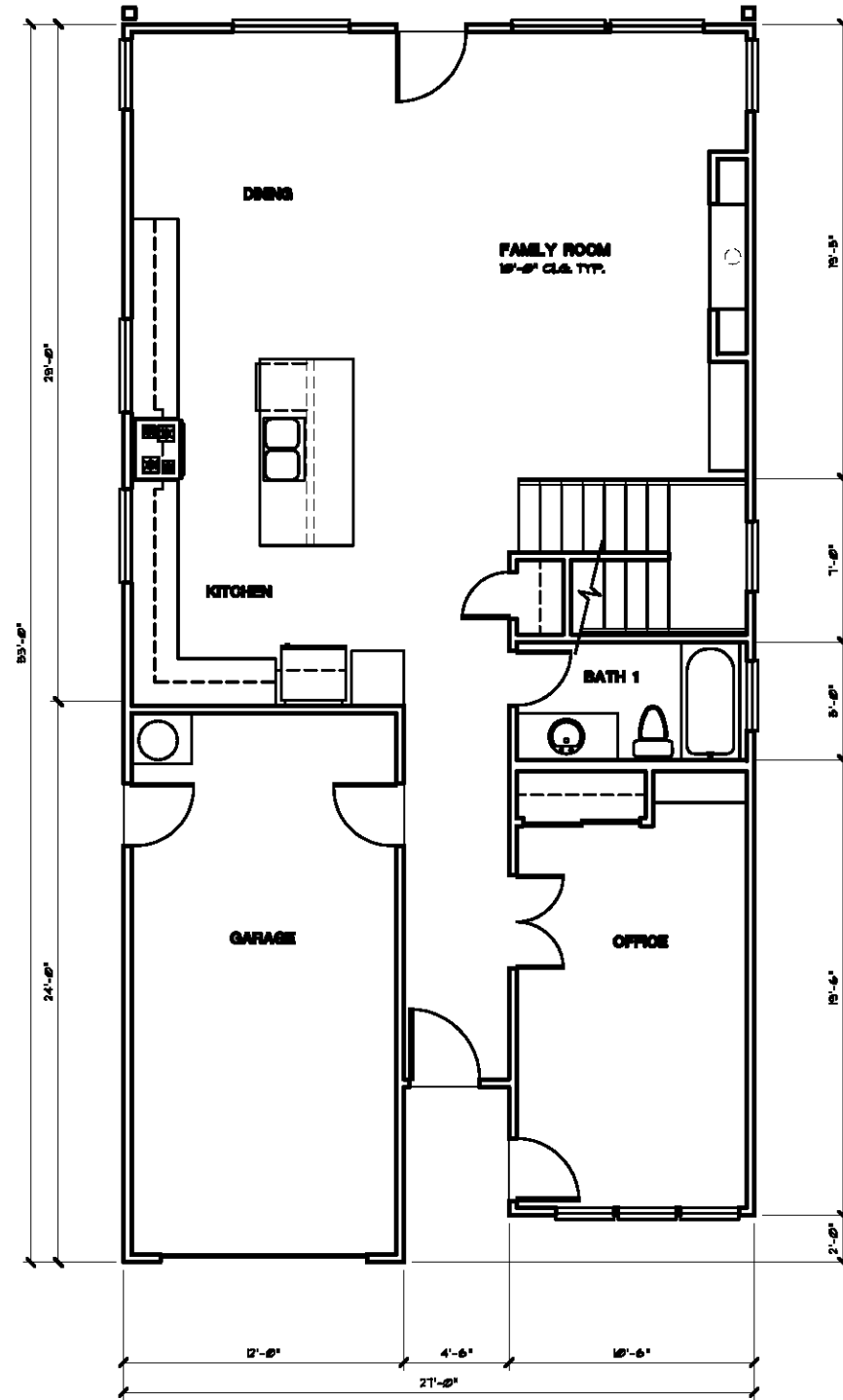
**PLANS APPROVED by**  
**ZONING ADJUSTMENTS BOARD**  
 December 12, 2013  
*Delicia R. Sanderson*

2254 1/2  
 DOHR STREET

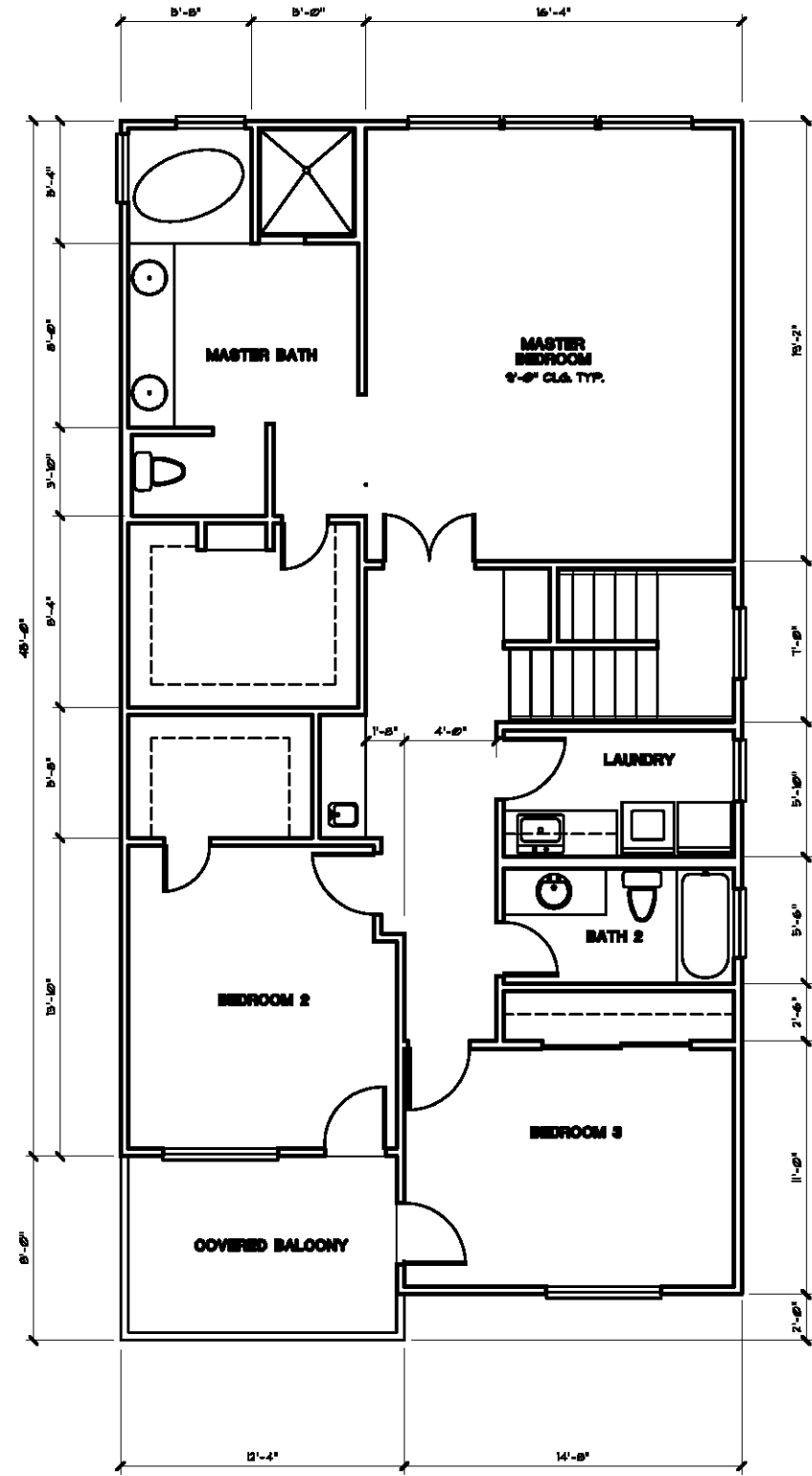
2749A ACTON STREET	
BUILDING HEIGHT:	(2 STORY) 25'-4"
LOT AREA:	3,500 SF
BUILDING AREAS:	
(a) 1st FLOOR LIVING:	1,098 SF
(b) 2nd FLOOR LIVING:	1,246 SF
TOTAL:	2,344 SF
(c) GARAGE:	277 SF
(d) COVERED ENTRY:	25 SF
(e) BALCONY:	108 SF
LOT COVERAGE (a+d+e):	1,400 SF, 40.0%
USABLE OPEN SPACE:	1,098 SF, 31.3%



**PLANS APPROVED by**  
**ZONING ADJUSTMENTS BOARD**  
 December 12, 2013  
*Delora R. Sanders*



**FIRST FLOOR PLAN**  
 LIVING AREA: 1,098 S.F.  
 GARAGE: 277 S.F.  
 COVERED ENTRY: 25 S.F.



**SECOND FLOOR PLAN**  
 LIVING AREA: 1,948 S.F.  
 BALCONY: 128 S.F.



**ELEVATIONS**  
PROPOSED DESIGN CHARACTERISTICS

**PLANS APPROVED by**  
**ZONING ADJUSTMENTS BOARD**  
December 12, 2013  
*Delora R. Sanders*



2749A ACTON STREET

**PLANS APPROVED by**  
**ZONING ADJUSTMENTS BOARD**  
December 12, 2013  
*Debra R. Sanders*

**STREET VIEW STRIP ELEVATION**

DATE: JULY 2013  
SCALE:  
JOB: 13-200

**RESIDENTIAL**  
DRAFTING & DESIGN - LANDSCAPE  
TITLE 24 ENERGY DOCUMENTATION  
**WHITNEY SHUMAKER**  
4A COLLEGE STREET, OAKLAND, CA 94606  
(510) 881-9715

**NEW SFR**  
2749A ACTON STREET  
BERKELEY, CALIFORNIA

Qi  
636 Jerome Street  
Davis, California 95616  
(530) 304-5457  
STRUCTURAL ENGINEERING SERVICE

