

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 # UP2013-0056

Property Address: **1515 DWIGHT WAY**

Permittee Name: **GELSO INVESTMENTS V, LLC**

Use and/or Construction Permitted:
to establish a five-bedroom, single-family dwelling in an existing, single-story \pm 1,850-square-foot building

- Use Permit to establish a dwelling unit, under BMC Section 23D.28.030 and 23E.52.030
- Administrative Use Permit to establish five bedrooms on one parcel, under BMC Section 23D.28.030

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 March 7, 2014.

ATTACHMENT 1

FINDINGS AND CONDITIONS

FEBRUARY 13, 2014

1515 Dwight Way

Use Permit #2013-0056 to establish a five-bedroom, single-family dwelling in an existing, single-story ±1,850-square-foot building

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 of the CEQA Guidelines (“Existing Facilities”).

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 subject parcel is split zoned between the South Avenue Commercial (C-SA) and the Restricted Two-Family Residential (R-2) Districts. While, both the C-SA and the R-2 Districts permit dwelling units, the existing entitlement of office and training facility is a non-conforming use for the R-2 District. Converting the commercial space to a dwelling unit would, therefore, create a fully conforming use on the subject parcel.
 - B. By establishing a single-family dwelling, the project would meet the C-SA District’s purpose of encouraging residential development for persons who desire both the convenience of location and more open space than is available in the Downtown (§23E.52.020) and the R-2 District’s purposes of encouraging the development of low medium density residential areas characterized by a reasonably open and spacious type of development with a pattern of housing types ranging from single-family to duplexes and small apartment structures and making housing available for persons who desire a range of housing choice with a relatively large amount of open space (§23D.28.020).
 - C. The project will legalize an existing one-story structure that was illegally converted to a residential unit in the 1980s. The project does not propose any change to the existing bulk or massing on the parcel. The project, therefore, will have negligible impact on the scale and character of the existing neighborhood and will not create any new impacts to light or air. Additionally, the establishment of a dwelling unit at the subject site is compatible with the existing development pattern of residential units that surround the parcel on three (north, south, and east) of its four sides.

- D. The project would both provide/retain the existing off-street parking space for the new dwelling unit, as well as provide the 400-square feet of Useable Open Space required for each dwelling unit in the R-2 District. The proposed project would, therefore, satisfy the development standards required for establishing a dwelling unit in an existing structure.
- E. The project would support the City's housing production goals by providing one additional dwelling unit.

OTHER REQUIRED FINDINGS

- 3. Pursuant to Berkeley Municipal Code Section 23E.52.090, the Zoning Adjustments Board finds that approval of the project is: 1) compatible with the purposes of the District as discussed in Finding 2.B. above; 2) is compatible in design and character with the District and the adjacent residential neighborhoods as discussed in Finding 2 A-D above; and 3) will not result in the domination of one type of commercial/retail use in any one area of the District as the approval is for a residential dwelling.

STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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.

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 including, but not limited to, BMC Chapter 12.26.

- 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:

- 10.** In order to make the Use Permit effective, the applicant must obtain a building permit to legalize the change of occupancy of the subject building to a single-family dwelling unit.

Prior to Issuance of Any Building Permit

- 11.** 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.
- 12.** 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 #

13. 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:

14. 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.
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 thick 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 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.

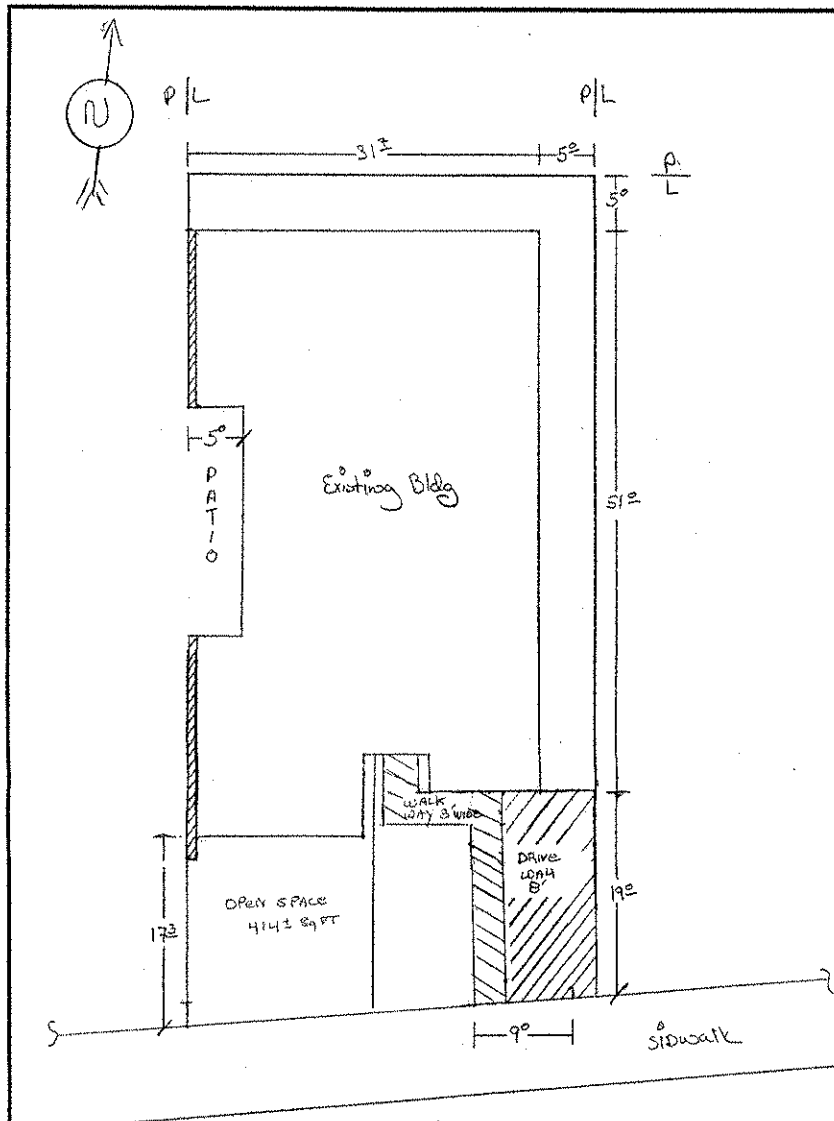
Prior to Final Inspection or Issuance of Occupancy Permit:

23. The project shall conform to the plans and statements in the Use Permit.
24. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated December 9, 2013.
25. 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:

26. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
27. 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.

REVISIONS	BY



Dwight WAY

Plot PLAN
1/8" = 1'

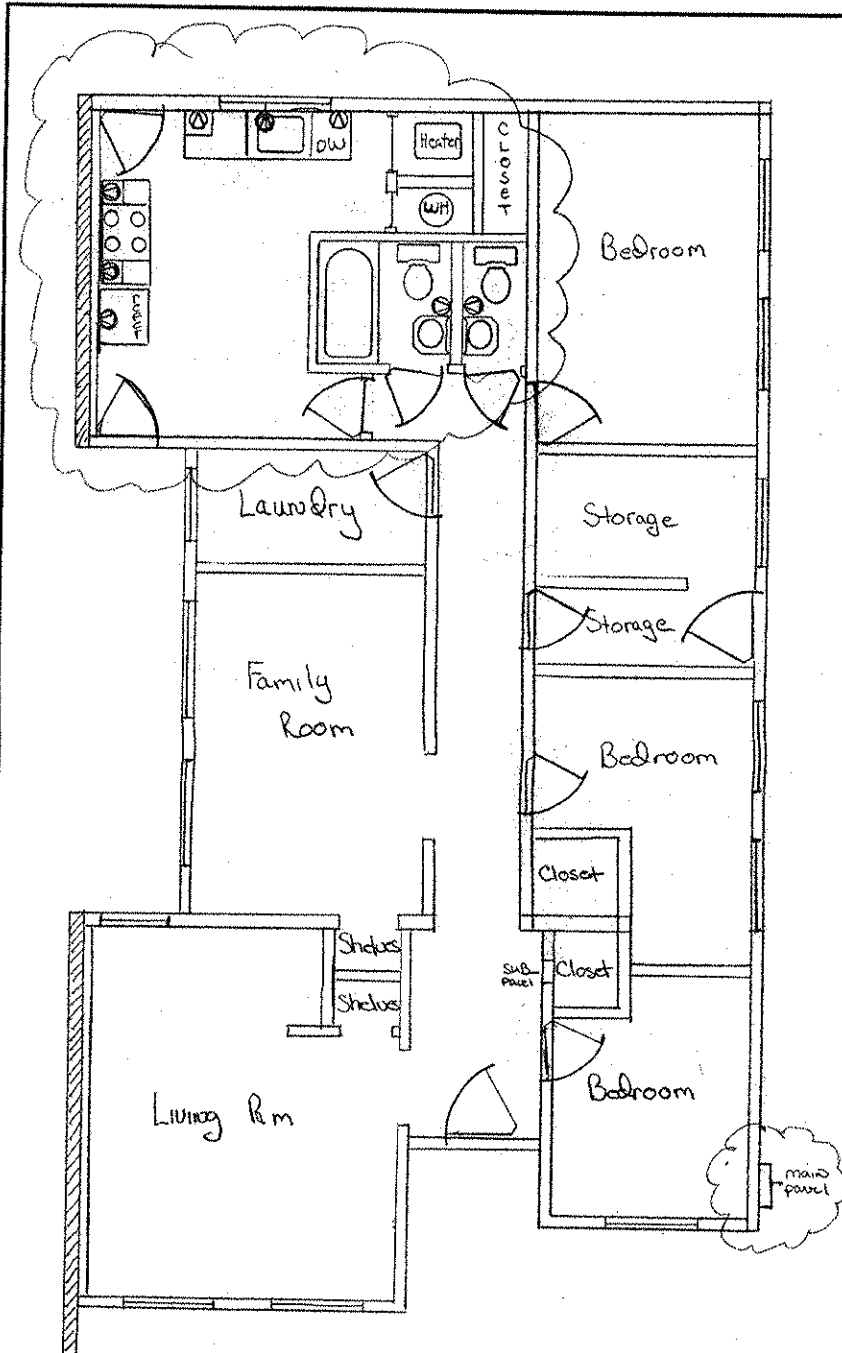
**PLANS APPROVED by
ZONING ADJUSTMENTS BOARD**

McDull

FEBRUARY 13, 2014

Gelso Investments
 1515 Dwight Way
 Berkeley

Date	11-28-12
Scale	1/8" = 1'
Drawn	MS
Job	
Sheet	1 of 3
Of	3 Sheets



PLANS APPROVED by
ZONING ADJUSTMENTS BOARD

Maxwell
 FEBRUARY 13, 2014

REVISIONS	BY

Gelso Investments
 1515 Dwight Way
 Berkeley

Date	11-28-12
Scale	1/4" = 1'
Drawn	MS
Job	
Sheet	3 of 3
Of	3 Sheets

Proposed
 1/4" = 1'