



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 #2013-0154

Property Address: **2132 ESSEX STREET**

Permittee Name: **DAVID BAEHREND**

Use and/or Construction Permitted: to authorize a proposal to construct a residential addition that includes raising an existing 2-story, single-family house approximately 4 ft. to create a new average building height of 26 ft. and 3 in., and extending a non-conforming front yard setback of 16 ft. and 3 in. where a minimum of 20 ft. is required and extending a side yard setback of 3 ft. and 6 in. where a minimum of 3 ft. and 7.5 in. is required pursuant to:

- Section 23C.04.070 to expand a building within a non-conforming front yard setback;
- Section 23C.04.070 to expand a building within a non-conforming side yard setback; and
- Section 23D.28.070 to construct an addition that would exceed 14 ft. in average 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 March 28, 2014.

Attest: Aaron Sage
Aaron Sage, Senior Planner
For Eric Angstadt, Zoning Officer

March 28, 2014
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

MARCH 6, 2014

2132 Essex Street

Administrative Use Permit #2013-0154

This permit conditionally authorizes a proposal to construct a residential addition by raising an existing 2-story, single family house approximately 4 ft. to a new average building height of 26 ft. and 3 in., and to create this change within a non-conforming front yard setback of 16 ft. and 3 in. where a minimum of 20 ft. is required and within a side yard setback of 3 ft. and 6 in. where a minimum of 3 ft. and 7.5 in. is required.

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”). 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 Berkeley Municipal Code Section 23B.28.050.A, 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 for the following reasons:

- In accordance with provisions of 23C.04.020 Paragraph B (Lawful Non-conforming Lots), this proposal will continue but will not worsen the lawfully, non-conforming lot size of approximately 3,800 sq. ft. where a minimum of 5,000 sq. ft. is otherwise required and, therefore, is permissible.

- As required under Section 23C.04.070 Paragraph B (Expansions of Non-conforming Buildings and Structures), the proposed vertical extension of the existing, non-conforming front yard and west side yard setback are permissible because: (1) the single-family use of the subject property conforms to the R-2 District standards for Uses Permitted; (2) the extension will not further reduce these setbacks; and (3) the resulting average building height of 26 ft. and 3 inches will not exceed the R-2 District limit of 28 ft. in average height.
- As required under Sections 23D.28.030 (Uses and Required Permits) and 090 Paragraph B (Findings), this proposal is permissible because it will not unreasonably obstruct sunlight, air or views. There will be no significant change from the existing sunlight and shadow pattern in the project area as a result of the increased building height, size and mass. The existing distances between the subject main building and its neighbors will remain unchanged thus ensuring the preservation of adequate air and spatial separation. There are no protected views or significant view corridors to consider with this project.
- As required under Section 23D.28.070 (Development Standards) this proposal is permissible where it complies with the R-2 District Development Standards for minimum side yard setback on the east side as well as for minimum rear yard setback. It complies with the standards for maximum Lot Coverage, minimum Useable Open Space and on-site parking by maintaining one space for the single-family residence in accordance with Section 23D.28.090 (Parking).

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.

12. OFF-STREET PARKING SPACE. The proposed building permit application site plan shall call out a parking space that complies with the Traffic Engineer's minimum dimension and access standards in accordance with BMC 23D.12.040 as well as with the location, separation and screenings standards of BMC 23D.12.080.

Prior to Issuance of Any Building Permit:

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

14. ZONING APPLICATION FEES DUE: The applicant shall submit payment of the fee for an *additional AUP on the same project*, currently \$414.00, as this payment was omitted at the time of application submittal.

During Construction:

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

23. 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.
24. 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:

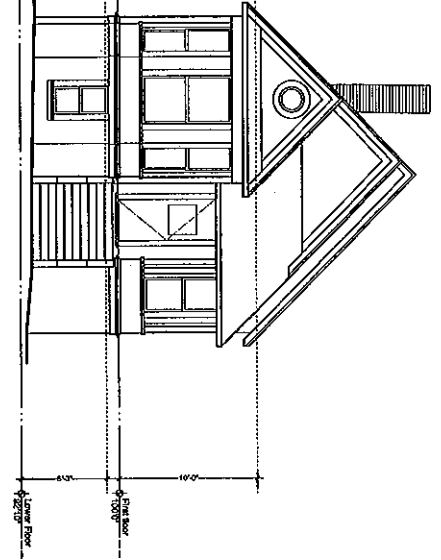
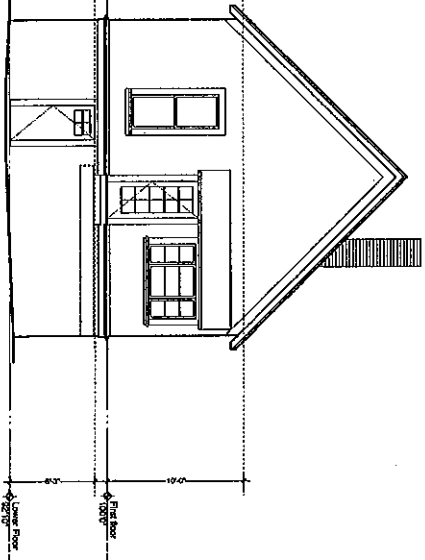
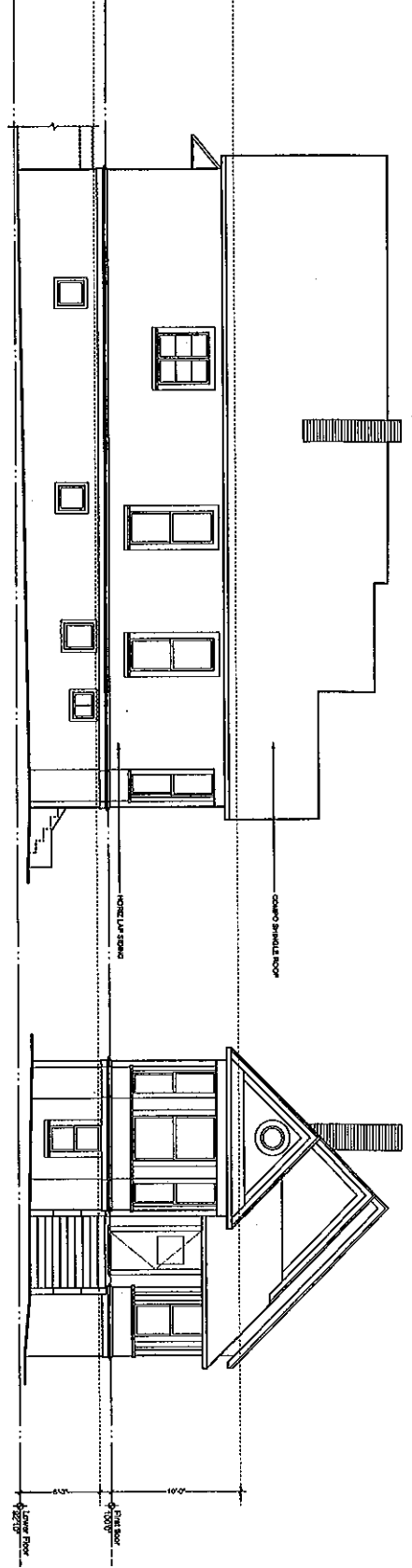
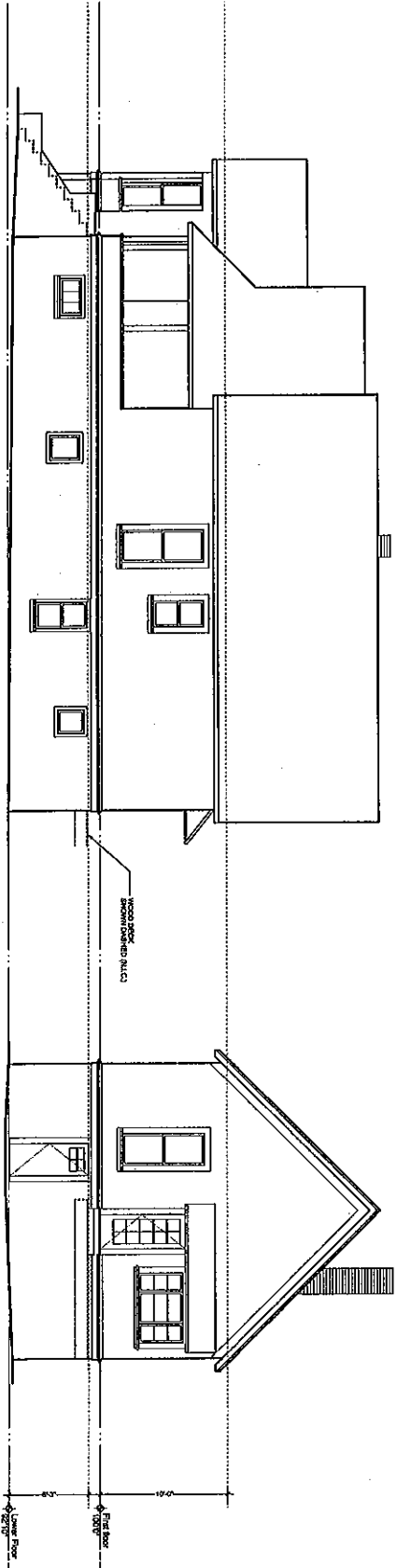
25. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
26. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **DECEMBER 5, 2013**.

At All Times (Operation):

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



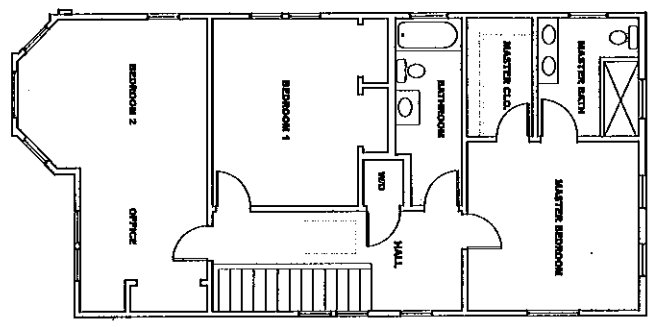
Prepared by: Fatema Crane, Associate Planner
For Eric Angstadt, Planning Director



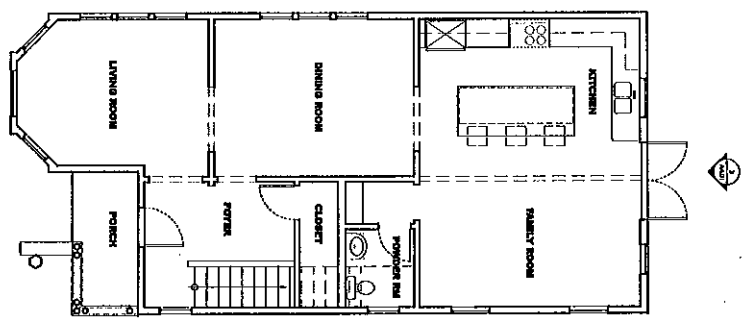
PROJECT	2132 ESSEX STREET
DATE	28 OCTOBER 2018
SCALE	AS SHOWN
BY	ASBUILT
CHECKED	ASBUILT
DATE	10/28/18

ASBUILT
 ARCHITECTURE
 1000 CALIFORNIA STREET
 BERKELEY, CA 94705
 510.546.1198

2 PROPOSED SECOND FLOOR PLAN
1/4" = 1'-0"



1 PROPOSED FIRST FLOOR PLAN
1/4" = 1'-0"



APPROVED PLAN
 PLANNING
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached
 DATE 03/05/14

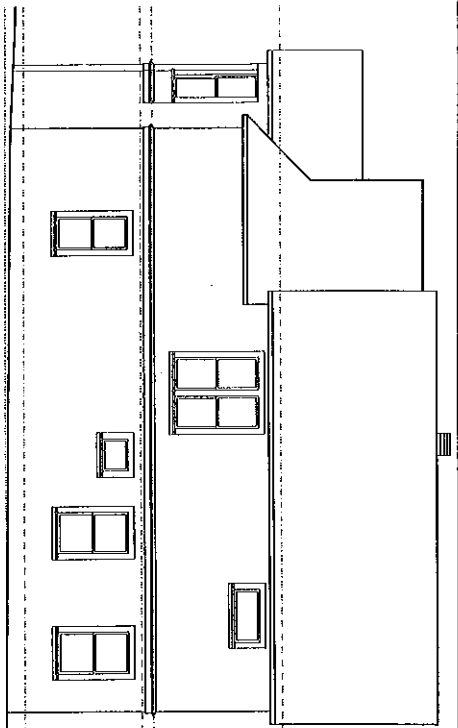
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PROPOSED FLOOR PLANS
 DATE 11/26/13
 SHEET NO.

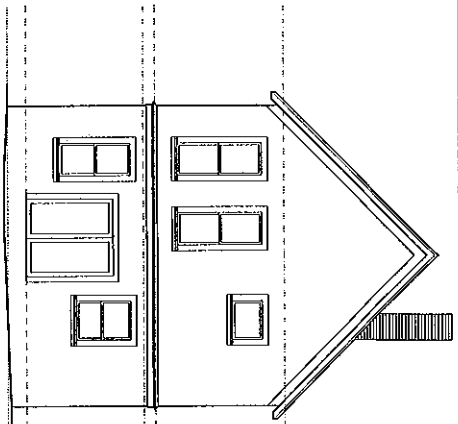
ESSEX RESIDENCE
 ESSEX STREET, BERKELEY, CA

SRG ARCHITECTS
 1000 UNIVERSITY AVENUE, SUITE 100
 OAKLAND, CALIFORNIA
 415.435.8833

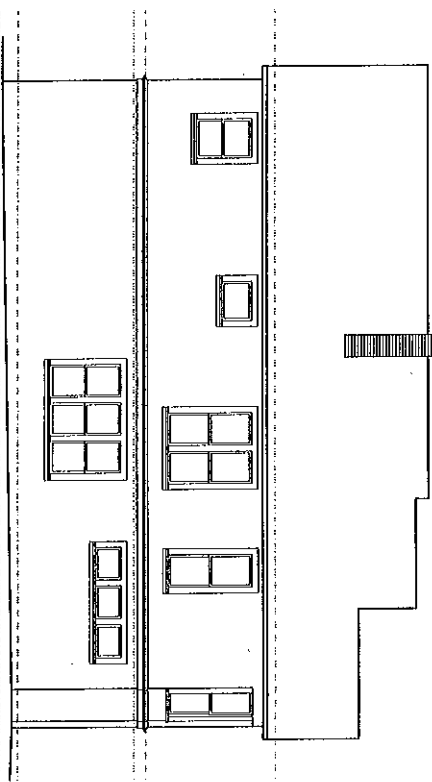
NO.	REVISION



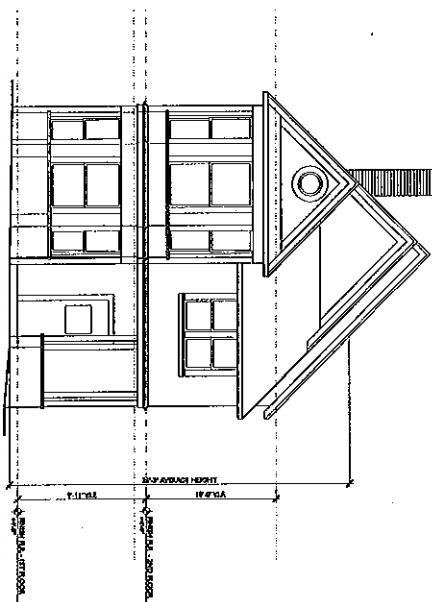
1
1/4" = 1'-0"
PROPOSED SIDE ELEVATION



1
1/4" = 1'-0"
PROPOSED REAR ELEVATION



2
1/4" = 1'-0"
PROPOSED SIDE ELEVATION



1
1/4" = 1'-0"
PROPOSED FRONT ELEVATION

GENERAL NOTES:

SRG
ARCHITECTS
200 CALIFORNIA
580 4th ST, SUITE 200
BERKELEY, CA 94702

ESSEX RESIDENCE
ESSEX STREET, BERKELEY, CA

PROPOSED
EXTERIOR
ELEVATIONS

A4.1

APPROVED PLAN
DATE 01/05/14
PLANNING
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached