



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 #2014-0007**

Property Address: **1637 FRANCISCO STREET**

Permittee Name: **DOUGLAS LeMOINE**

Use and/or Construction Permitted: To demolish an existing garage and shed in the rear yard of a residence, relocate a required off-street parking space within a side yard setback, and construct a new arts and crafts studio of approximately 300 sq. ft. in floor area and 16 ft. – 7 in. at its tallest point pursuant to:

- Section 23D.08, Paragraph A to construct a habitable accessory building; and
- Section 23D.08.010 to construct an accessory building within 10 ft. of a property line that exceeds 12 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 May 28, 2014.

Attest: Sally Zarnowitz  
Sally Zarnowitz, Senior Planner  
For Eric Angstadt, Zoning Officer

May 28, 2014  
Effective Date

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

MAY 6, 2014

### 1637 Francisco Street

#### Administrative Use Permit #AUP2014-0007

**To demolish an existing garage and shed in the rear yard of a residence, relocate a required off-street parking space within a side yard setback, and construct a new arts and crafts studio of approximately 300 sq. ft. in floor area and 16 ft. – 7 in. at its tallest point.**

#### 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 (“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:

- The proposal to construct a habitable accessory building to be used presently as a textile designer’s home-based studio is consistent with the single-family use of the subject property where the new building will function as an extension of the main building and its dwelling activities. The accessory building’s design preserves and ensures a reasonable level of privacy for abutting residences where its entry points face the interior of the property and its windows are similarly positioned on the south elevation but screened by boundary fencing on the north and east.
- The south elevation of the proposed accessory building faces the interior of the subject property with a maximum height of 16 ft. – 7 in., while the north elevation faces the adjacent residential property abutting at the rear, 1722 McGee Street, and is only 10 ft. in height. Due to the limited height at the rear and the presence of a boundary fence approximately 6 ft. in height, the building will not result in significant massing impacts for the residence at 1722 McGee. Adequate building

separations, boundary fences and, in some cases, mature trees and vegetation will reduce potential impacts for the properties to the east (1635 Francisco) and west (1639 Francisco) of this site.

Due to its location, distance from buildings and structures on the abutting properties, and the general openness in the abutting rear yards to the north and west, the proposed accessory building will not substantially affect the existing sunlight and shading pattern in the immediate vicinity of 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 maximum Lot Coverage and minimum Useable Open Space. In accordance with Sections 23D.12.080 (*Site, Location and Screening for Uncovered Parking Spaces*) and 23D.28.080 (*Parking*), the location of a parking space in the required side yard setback is permissible because it satisfies all site, location and screening standards and maintains one required parking space with this single-family residence.
- As required under Section 23D.08.010 (*Accessory Buildings & Structures May Exceed Limits with Use Permit*) Paragraph B, the proposed building setback from the rear property line of 2 ft. is found to be reasonable because the height of the building at this location is limited to 10 ft. and, therefore, will not result in significant massing or shading impacts for the property at 1722 McGee, as described previously.

The proposed east side setback of 3 ft. – 1 in. is acceptable because the portion of the building that is within 6 ft. of the east side property is designed with a pitched roof that averages 10 ft. – 3 in. in height in order to limited potential massing impacts for the residence at 1639 Francisco, immediately to the east. This condition is found to be reasonable and effective in reducing these potential impacts.

## **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.

**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 Issuance of Any Building Permit:**

12. 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 Property" (available from Land Use Planning Division) and provide a recorded copy thereof to the project planner. This Notice of Limitation shall stipulate that no part of this accessory building shall be used or converted to use a dwelling unit unless and until permission is requested of the City of Berkeley and authorized a Use Permit, Administrative Use Permit, or Zoning Certificate, whichever is applicable. This limitation shall include the explicit acknowledgment that no shower, tub, or kitchen facilities may be installed in this habitable accessory building. This limitation may not be revised or removed from this property without the prior written permission of the Zoning Officer of the City of Berkeley.
13. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

**During Construction:**

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 in thickness 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 establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
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.
23. 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.
24. The height and location of the proposed structure, property lines and spot elevations shall be verified by a licensed surveyor or engineer on site after foundation forms are placed, but before pouring concrete or placing construction material in its permanent position. This verification shall be to the satisfaction of the Zoning Officer.

**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 January 27, 2014.

**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.



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



DEEDS DESIGN  
510.407.0418  
1300 SHAWAN WAY  
BERKELEY, CA 94703  
6/1/10  
Architectural  
P.L.L.C.

1637 FRANCISCO STREET  
BERKELEY, CALIFORNIA, 94703  
10/16/14-200

LEMOINE & GREENAWAY ACCESSORY BUILDING REPLACEMENT

OCTOBER, 2014

1

RECEIVED

JAN 27 2014

LAND USE PLANNING

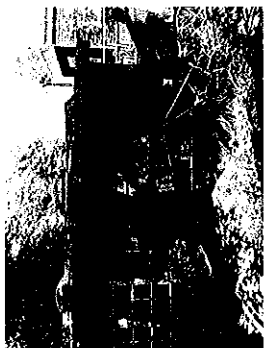
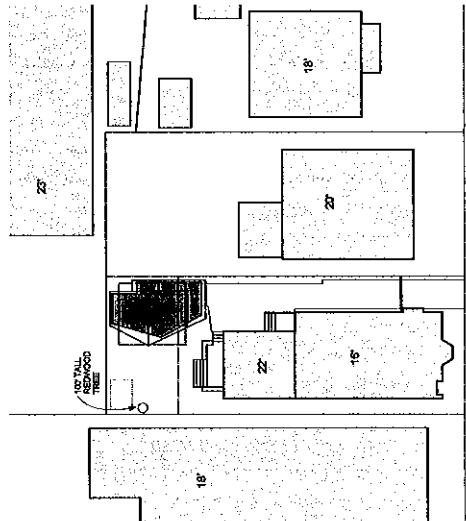
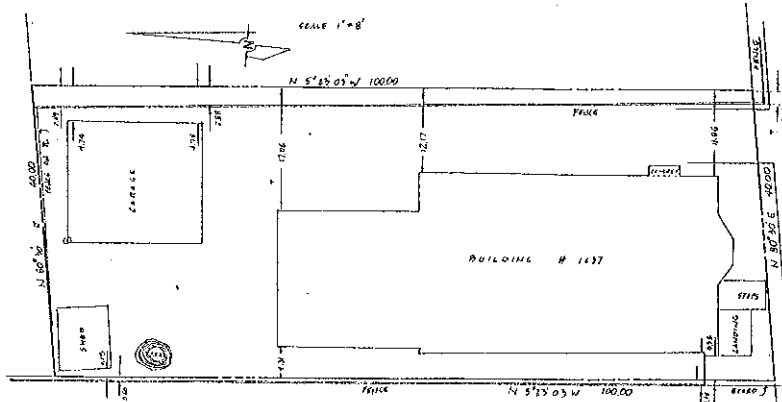


PHOTO OF EXISTING STUDIO



8 VICINITY MAP  
SCALE: 1/16" = 1'-0"



EXPIRES 9-30-2015

BOUNDARY AND SITE SURVEY OF  
1637 FRANCISCO ST., BERKELEY, CALIFORNIA  
FOR MR. DOUG LEMOINE  
BY AUOREN DEAC  
216 BUENA VISTA AVE., ALHAMBRA, CA 94501  
12436 1"=60' CMC 8-21-1465 AND 58-1977-4

FRANCISCO STREET

FRANCISCO STREET

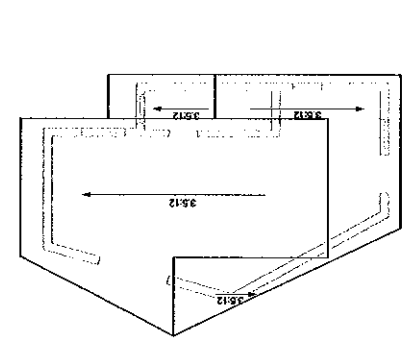
1 SITE PLAN

SURVEY

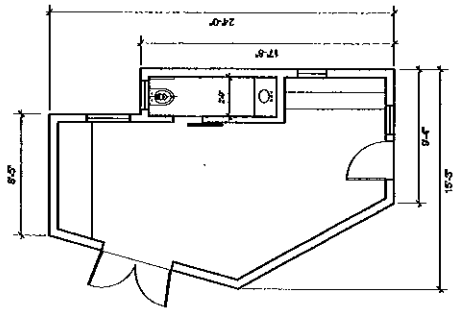
Name (Printed)	Signature	Address	Owner	Date	Have no objections	Have objections (please state briefly)	Have no comment

APPROVED PLAN 04/29/14  
PLANNING DATE  
 D.R. Conditions Attached Pg  
 A.U.P. Conditions Attached Pg  
 U.P. Conditions Attached 1/2

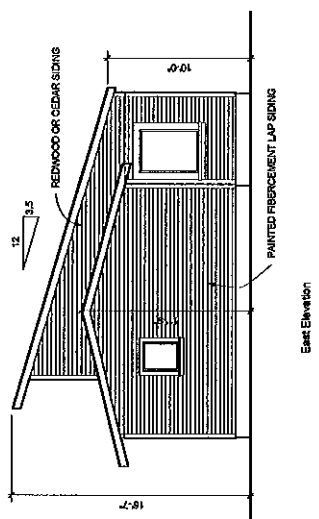




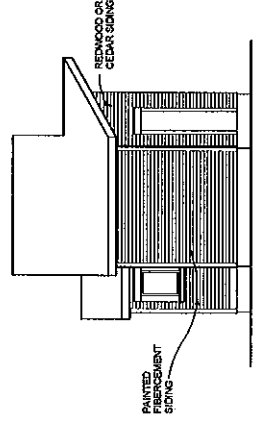
3 ROOF PLAN  
Scale: 1/4" = 1'-0"



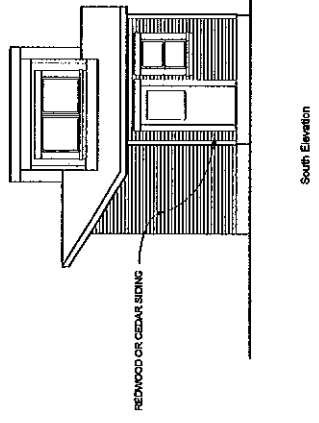
4 FLOOR PLAN



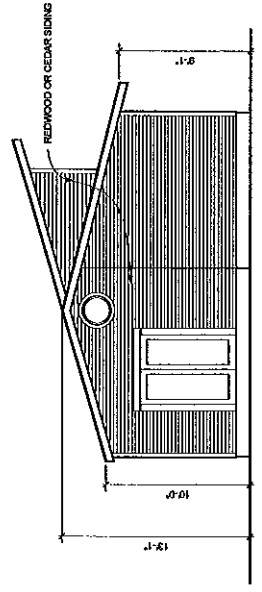
East Elevation



North Elevation



South Elevation



West Elevation

1 EXTERIOR ELEVATIONS

APPROVED PLAN 01/29/14 DATE  
 PLANNING EG DATE  
 D.R. Conditions Attached  
 A.U.P. Conditions Attached 2/2  
 U.P. Conditions Attached