



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 #2014-0002

Property Address: **2110 SIXTH STREET**

Permittee Name: **JOHN AND ADDIE RASSIER**

Use and/or Construction Permitted: This permit will conditionally authorize the conversion of a Victorian-era City Landmark building, originally constructed as a residence but currently used as a commercial office, to a residential duplex. No on-site parking exists at this site and no parking is required for this conversion pursuant to:

- Section 23E.84.020 to establish dwelling units.

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 June 3, 2014.

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

June 3, 2014
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

MAY 12, 2014

2110 Sixth Street

Administrative Use Permit #AUP2014-0002

This permit conditionally authorizes the conversion of a Victorian-era City Landmark building, originally constructed as a residence but currently used as a commercial office, to a residential duplex. No on-site parking exists at this site and no parking is required for this conversion.

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 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 for these reasons:

- The alternations required for this conversion will occur within the building thereby avoiding impacts to neighboring properties and inhabitants as well as to the character of this Landmark building and the Oceanview Sistrina Historic District.
- The proposed residential use of this property is consistent with requirements of this Zoning District for Uses Permitted and minimum Usable Open Space (23E.84.020 and 070 Paragraph G), and is compatible with the other abutting residential and live/work developments in the immediate vicinity.
- The creation of two dwelling units is found to be a general benefit because it will increase the City’s supply of family-sized housing units as directed by the objectives of the City’s adopted Housing Element (2010; page 75).

- No on-site parking is required for this proposed change of use in accordance with Sections 23C.04 for the Continuation of Non-conforming Buildings and Structures and 23E.28.130 for Change of Use in C, M, MM, MU and R-SMU Districts.
3. This proposed change of use within the Oceanview Sistrina Historic District is not subject to review under Section 3.24.220 for Landmarks Preservation because no exterior alternations will occur with this building conversion to residential use.
4. As required by the provisions of Section 23E.84.090 (Findings) Paragraph B, this proposal is consistent with the Purposes of the Mixed Use/ Residential Zoning District as follows:
- A. *Implement the West Berkeley Plan's designation of a Mixed Residential District;*
 - The directive to codify the West Berkeley Plan does not apply to this project.
 - B. *Support the continued development of a mixed use District which combines residential, live/work, light industrial, arts and crafts and other compatible uses;*
 - C. *Strengthen residential concentrations which exist within the District;*
 - This proposal continues the development of a mixed use District and strengthens the existing residential concentration in the immediate area by restoring the original residential use at this location in direct response to the Purposes of items B and C, above.
 - D. *Provide appropriate locations for a broad range of live/work activities to occur;*
 - This Purpose is not applicable to this proposal.
 - E. *Provide a transitional district between the residential districts to the east of the MU-R and the industrial districts to the west of the MU-R;*
 - The subject property is located at the periphery of the MU-R District and immediately adjacent to the Restricted Multiple-Family Residential to the east. A change to residential use at this location will contribute to the existing transition between these two Districts and will establish a new use that is compatible with both.
 - F. *Encourage light manufacturers and wholesalers which are compatible with a mixed use-residential district;*
 - G. *Support the development of businesses of all types which contribute to the maintenance and improvement of the environment;*
 - The Purposes described in items F and G, above, do not apply to this proposal.
 - H. *Protect residents from unreasonably detrimental effect of nonresidential uses, such as noise, vibration, odors, smoke, fumes, gases, dust, heat and glare, to the extent possible and reasonable within a mixed use West Berkeley context;*
 - I. *To the extent feasible, protect industrial uses, particularly light industrial uses, from unreasonable intrusions on their ability to operate lawfully;*

- This proposal will not expose residents to detrimental effects of non-residential uses because the impacts cited above are not present in this project site. Similarly, the industrial uses in this District are not located in the immediate vicinity of the subject property.

J. *Permit retail and food service activities which are either limited and small scale, primarily serving persons living and/or working in the District, but not a citywide or regional clientele, or which are ancillary and designed to maintain and enhance the economic viability of manufacturers in the District.*

- This Purpose is not applicable to this proposal.

5. As further required under this Section, this proposal is found to be:

Paragraph 2 - *“Be consistent with the normal use and operation of surrounding uses and buildings, including residential and industrial buildings.”*

- The surrounding uses in this case are primarily residential and some live/work, and this proposal is consistent with their normal use and operation.

Paragraph 3 - *“Be consistent with the adopted West Berkeley Plan.”*

- This proposal is consistent with the West Berkeley Plan policy directive to channel development and expand uses into appropriate Zoning districts. In this case the Mixed Use/ Residential District is the most appropriate location for this conversion from office to residential use.

Paragraph 4 - *“Not be likely, under reasonably foreseeable circumstances, to either induce or contribute to a cumulative change of use in buildings away from residential; live/work; light industrial, or arts and crafts uses.”*

- This proposal will re-establish a residential use at this property and, therefore, is not found to induce change away from residential use in general.

Paragraph 5 - *“Be designed in such a manner to be supportive of the character and purposes of the District.”*

- This Landmark building was designed in the Victorian tradition and has been maintained in this architectural style. The building’s design and this proposal to restore the residential use of this property preserve the varied and eclectic character of this Zoning District in a supportive manner.

Paragraph 6 - *“Be able to meet any applicable performance standards as described in Section 23E.84.070.”*

- The City Manager has not promulgated or revised performance standards for the subject uses.

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.

Prior to Issuance of Any Building Permit:

12. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
13. The applicant shall file an "Address Assignment Request Application" with the Permit Service Center (2120 Milvia Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned prior to issuance of a building permit.
14. LANDMARK DESIGNATION COMPLIANCE – Oceanview Sistrina Historic District. The application for Building Permit shall not include alternation of the exterior of this City Landmark building. Any repair or replacement of existing building features shall restore the original materials and features to the building as directed by the Landmark Designation of this building, site and historic district.

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 January 9, 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.
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.
29. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood.

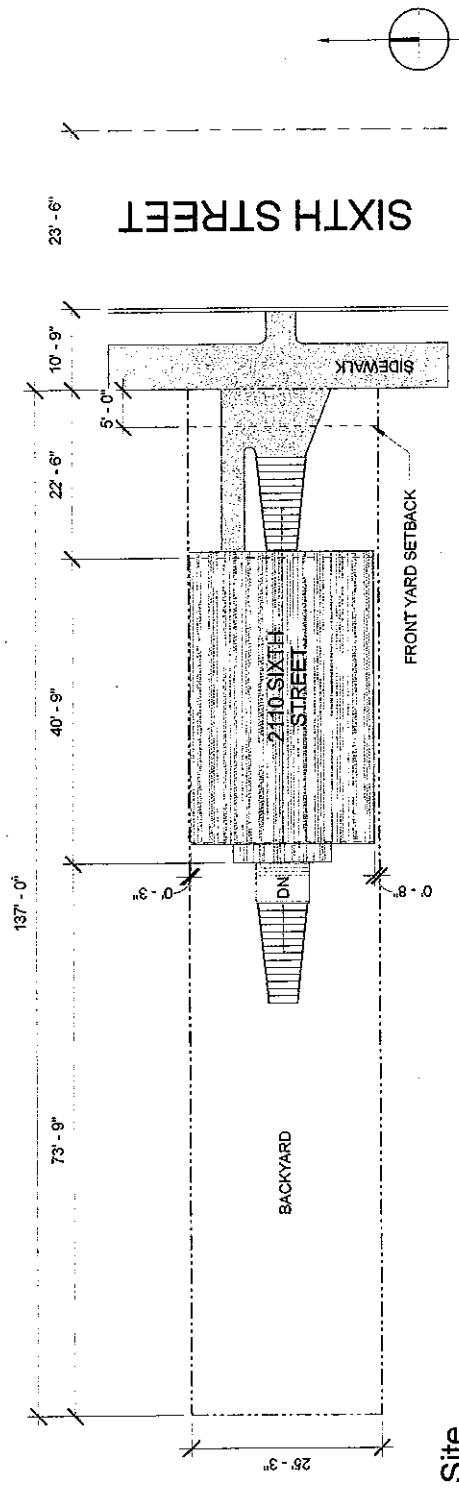


Prepared by: Fatema Crane, Associate Planner
For Eric Angstadt, Planning & Development Director

APPROVED PLAN
 05/68
 DATE
 PLANNING
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached

RECEIVED
 JAN 09 2014

LAND USE PLANNING



Site
 1/16" = 1'-0"

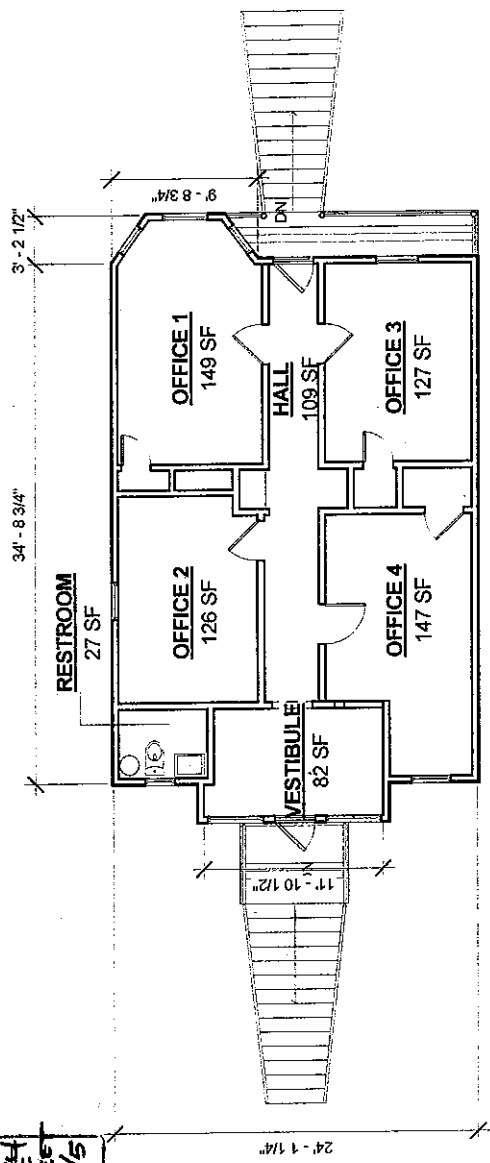
TRISTAN WARREN
 ARCHITECT
 THREE MANZANITA ROAD
 FAIRFAX, CA 94930
 P. 610 210 2375
 tristan.warren@architect.com

PROJECT: RASSIER
 2110 SIXTH STREET, BERKELEY, CA

TITLE: SITE PLAN
 DATE: 12/20/13

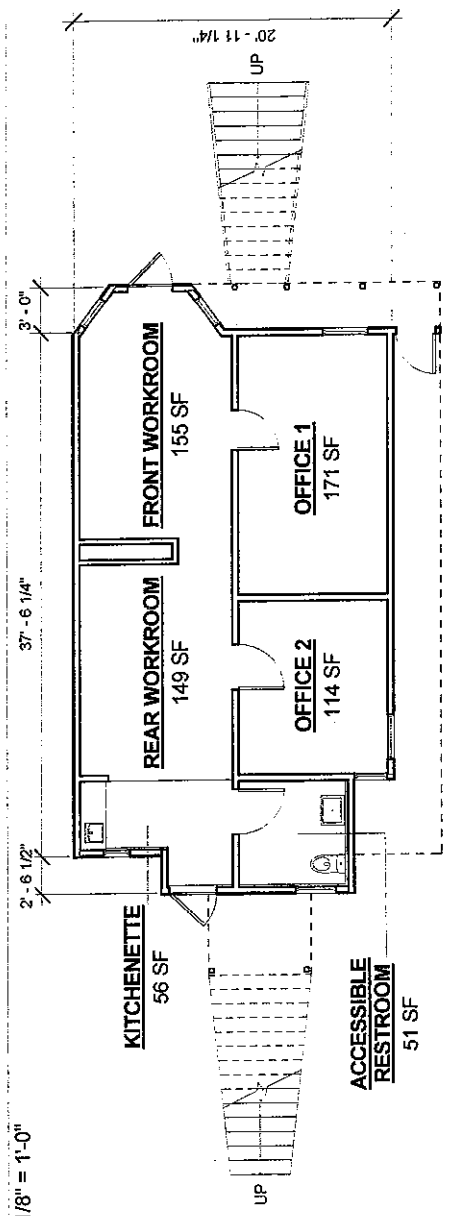
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APPROVED PLAN 05/08/14
 PLANNING DATE
 D.R. Conditions Attached SHEET
 U.P. Conditions Attached 2/5
 U.P. Conditions Attached



UPPER UNIT PLAN - EXISTING

1/8" = 1'-0"



LOWER UNIT PLAN - EXISTING

1/8" = 1'-0"

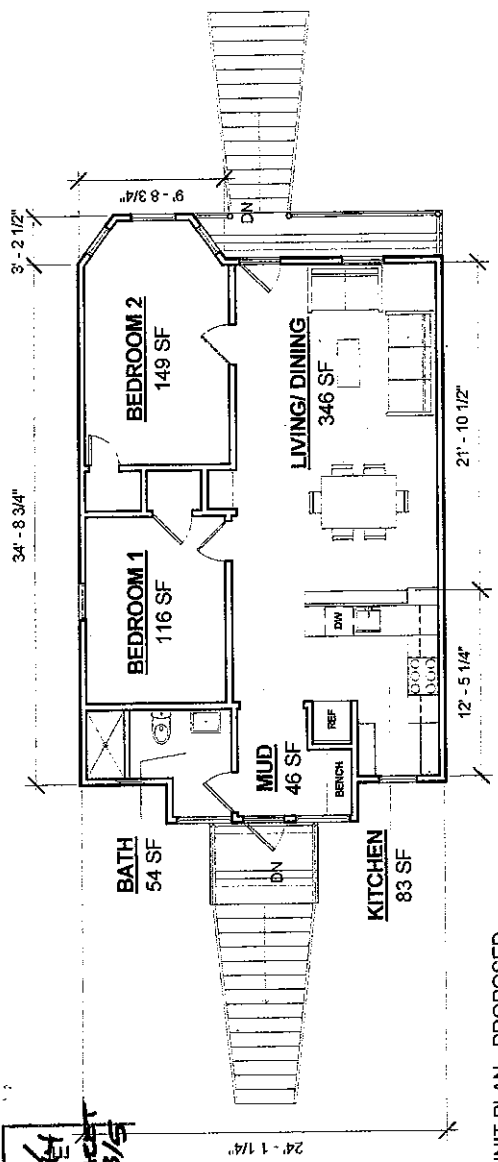
TRISTAN WARREN
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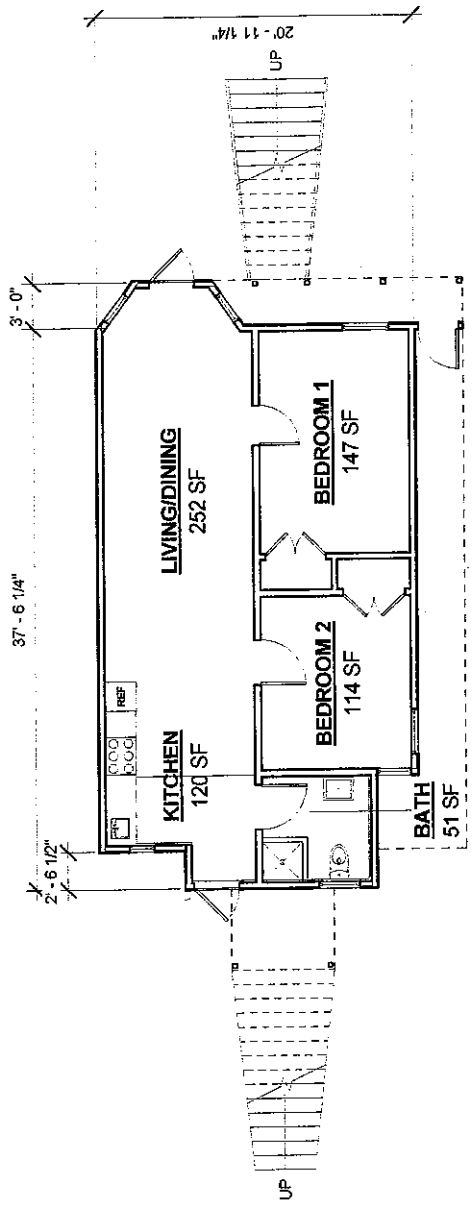
PROJECT RASSIER
 2110 SIXTH STREET, BERKELEY, CA

BUILD EXISTING PLANS DATE 12/20/13

APPROVED PLAN 05 13/14
 PLANNING DATE
 D.R. Conditions Attached
 S.A.U.P. Conditions Attached 3/5
 Other Conditions Attached



(1) UPPER UNIT PLAN - PROPOSED
 1/8" = 1'-0"



(2) LOWER UNIT PLAN - PROPOSED
 1/8" = 1'-0"

PROJECT RASSIER 2110 SIXTH STREET, BERKELEY, CA
 DATE 12/20/13
 PROPOSED FLOOR PLANS

TRISTAN WARREN
 ARCHITECT

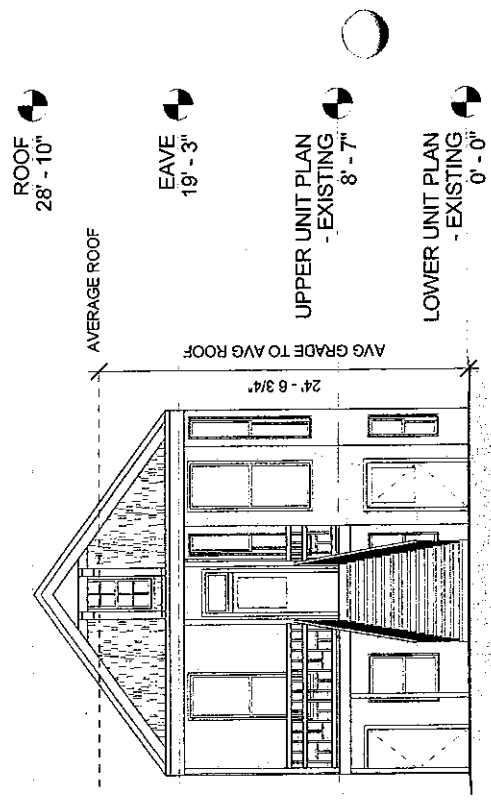
THREE MANZANITA ROAD
 FAIRFAX, CA 94530
 P 510 219 2975
 tristan.warren.arch@gmail.com

APPROVED PLAN 05/12/14
 PLANNING DATE
 D.R. Conditions Attached
 A.U.P. Conditions Attached 4/15
 U.P. Conditions Attached

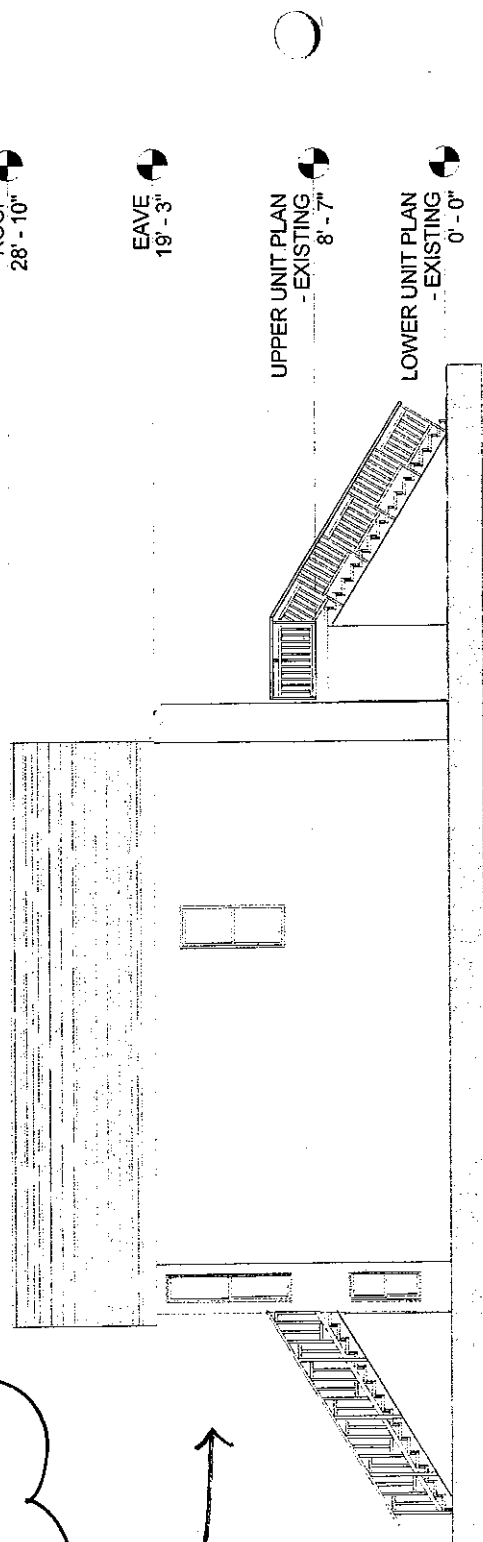
RECEIVED
 JAN 09 2014

LAND USE PLANNING

NO EXTERIOR ALTERATIONS



East
 1/8" = 1'-0"



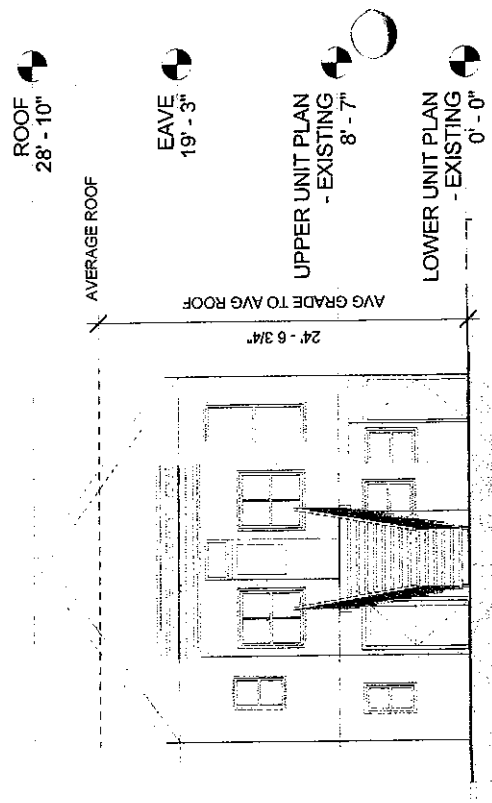
North
 1/8" = 1'-0"

PROJECT: RASSIER 210 SIXTH STREET, BERKELEY, CA
 DATE: 12/15/13
 EXISTING ELEVATIONS

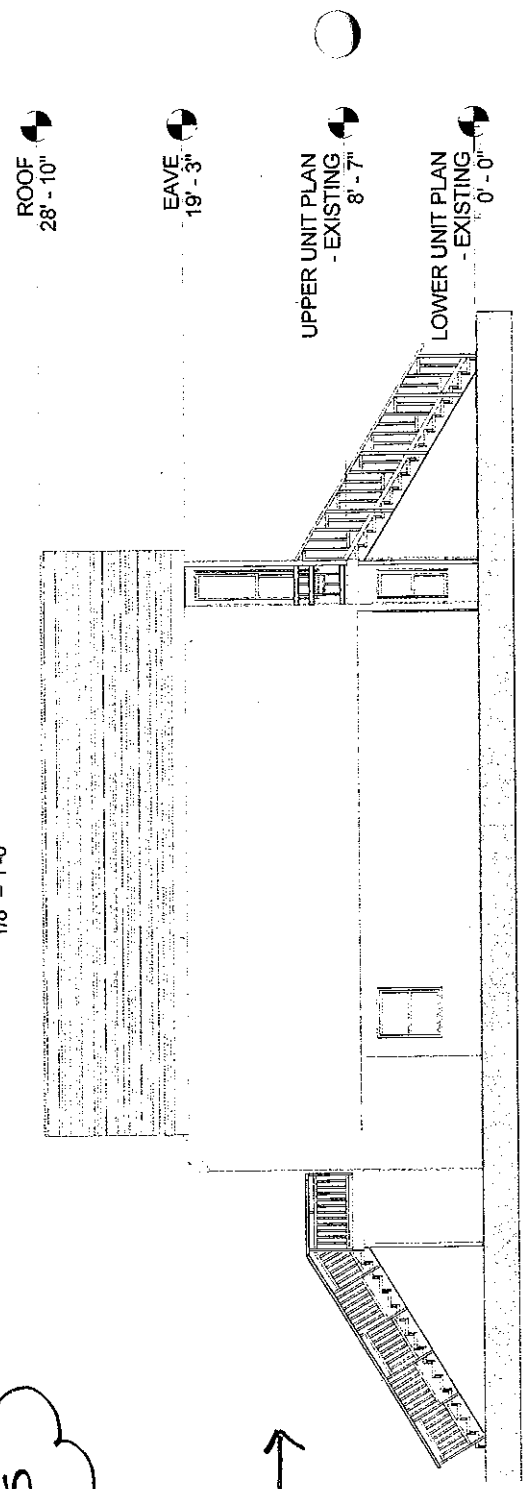
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APPROVED PLAN 05/28/14
 PLANNING DAYS
 D.R. Conditions Attached
 A.U.P. Conditions Attached 5/5
 U.P. Conditions Attached

NO EXTERIOR ALTERATIONS



West
 1/8" = 1'-0"



South
 1/8" = 1'-0"

PROJECT RASSIER
 210 SOUTH STREET, BERKELEY, CA
 DATE 12/20/13
 TITLE EXISTING ELEVATIONS

TRISTAN WARREN
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