

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 #2014-0084

Property Address: **2811 B NINTH STREET**

Permittee Name: **GEORGE BARRY WAGNER**

Use and/or Construction Permitted: To convert a commercial office into a dwelling unit on the first floor of an existing building pursuant to:

- Section 23E.84.030.A to establish a new dwelling unit (<4 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 September 16, 2014.

Attest: Carol Johnson
Carol Johnson, Land Use Planning Mgr.

Sept. 16, 2014
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

AUGUST 26, 2014

2811 B Ninth Street

Administrative Use Permit #AUP2014-0084

To convert a commercial office into a dwelling unit on the first floor of an existing 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 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.

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 project involves the conversion of a ground floor commercial office space to a dwelling unit; no changes to the building massing or exterior features will occur. The project will, therefore, no impact the air, light, views or privacy of adjacent neighbors.
 - The project meets the required residential development standards for off-street parking and Useable Open Space.
 - The project will maintain the existing building, which is consistent with the scale of the existing residential buildings in the neighborhood.
 - The addition of a dwelling unit will contribute to the City’s housing supply.

3. As required by Section 23E.84.090.B, the project is consistent with the purposes of the District, the West Berkeley Plan, and normal use and operation of surrounding uses and buildings in that is establishing a second unit on a lot that currently is mixed-use (residential and office); with only residential uses abutting and confronting the property. The project will strengthen the residential concentration that exists on this block without impacting the feasibility of protected industrial uses that are located elsewhere in the District. As the project is for conversion of an office use to residential in a predominantly residential neighborhood, it will not be likely 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.

 4. As required by Section 23E.84.090.L, the owner is required to record a Notice of Limitation on the property acknowledging that existing or reasonably foreseeable adjacent land uses in the M and/or MM District may create noise, dust, odors, light/glare, and other impacts that shall not be considered a nuisance if they are developed and conducted pursuant to the standards of the District.
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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. 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, pursuant to BMC 23E.84.090.L, acknowledge that that existing or reasonably foreseeable adjacent land uses in the M and/or MM District may create noise, dust, odors, light/glare, and other impacts that shall not be considered a nuisance if they are developed and conducted pursuant to the standards of the District. 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.

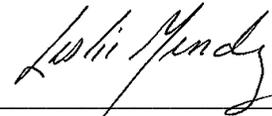
21. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
22. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties 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.

Prior to Issuance of Occupancy Permit or Final Inspection:

24. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
25. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated August 8, 2014.

At All Times (Operation):

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



Prepared by: Leslie Mendez
For Carol Johnson, Land Use Planning Manager

GENERAL INFORMATION

PROJECT ADDRESS 2811 Ninth Street
#A (dwelling & accessory building)
#B (ground floor dwelling)

ASSESSOR'S PARCEL NO. 053-166003504

OWNER G. Barry Wagner
2809 9th Street
Berkeley, CA 94710
(510) 841-4040
gbwagner@lmi.net

ARCHITECT same as owner

STRUCTURAL ENGINEER Tek Pe Engineers
2921 Carlson Street
El Cerrito, CA 94530
(510) 524-0973
tekpe@sonic.net

ZONING DISTRICT MUR
FIRE ZONE 1

APPLICABLE CODES 2010 CBC

TYPE OF CONSTRUCTION TYPE V B

OCCUPANCY TYPE Group R-3 (1st Floor Office)
Group R-3 (2nd Floor Dwelling)

DESCRIPTION OF WORK Revert ground floor to R-3 occupancy group

PREVIOUS PERMIT WORK

06-3917	Accessory Building
13-1877	Electrical & Gas Service
12-2057	Main Building slab on grade
08-3087	Sewer Lateral
01-2553	Main Building foundation

G. B. Wagner
ARCHITECT



2809 Ninth Street
Berkeley, CA 94710
tel: 510 841-4040
fax: 510 841-0210

**MAIN BUILDING
REMODEL & ADDITION**
2811 Ninth Street Berkeley, CA

Project

4/2/14

Revisions

SITE PLAN & PROJECT INFO.
Drawing

G.B.W.
Drawn by

as noted
Scale

8/8/14
Date

A-1

of 3 sheets

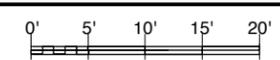
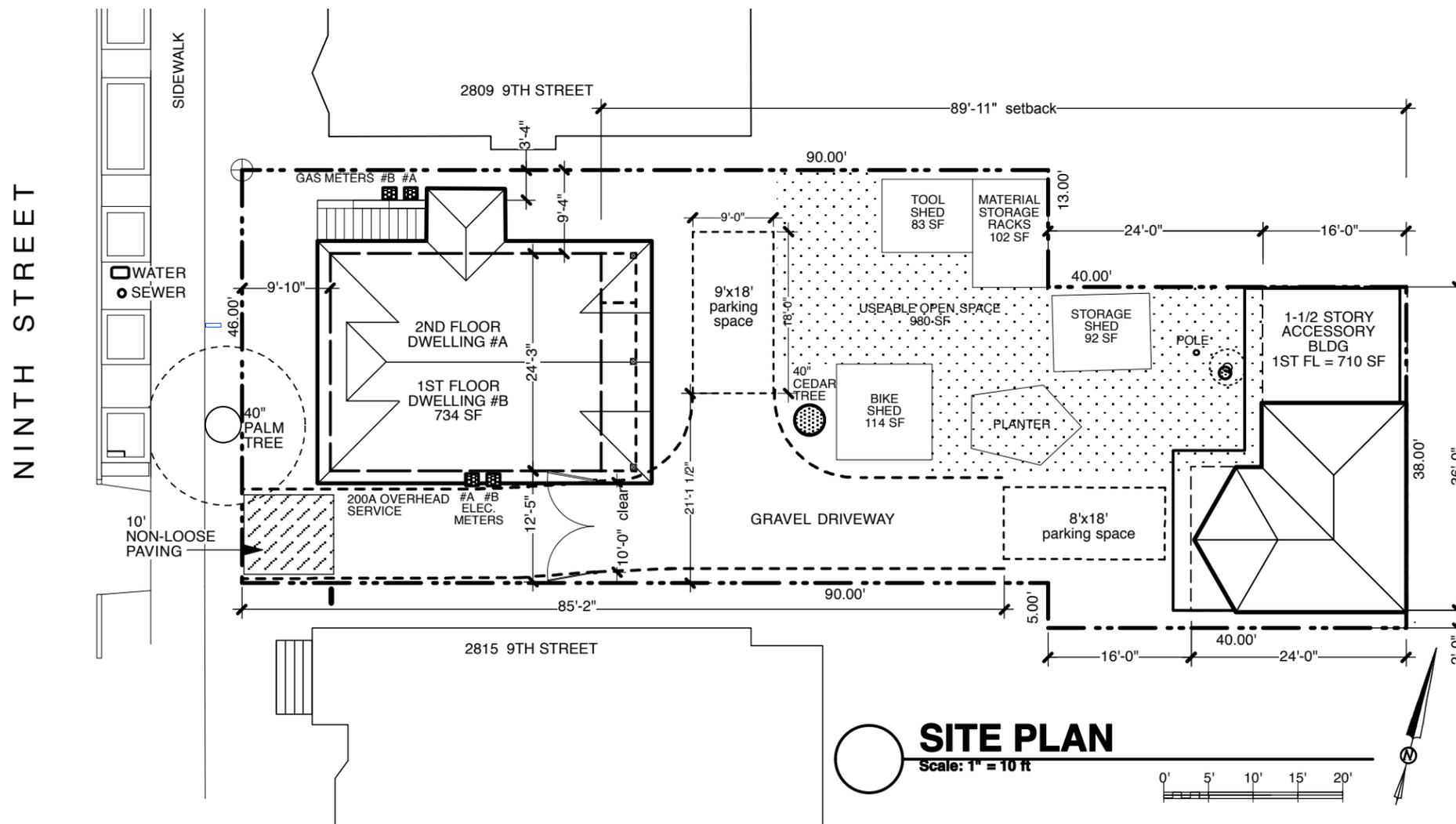
PLANS APPROVED by

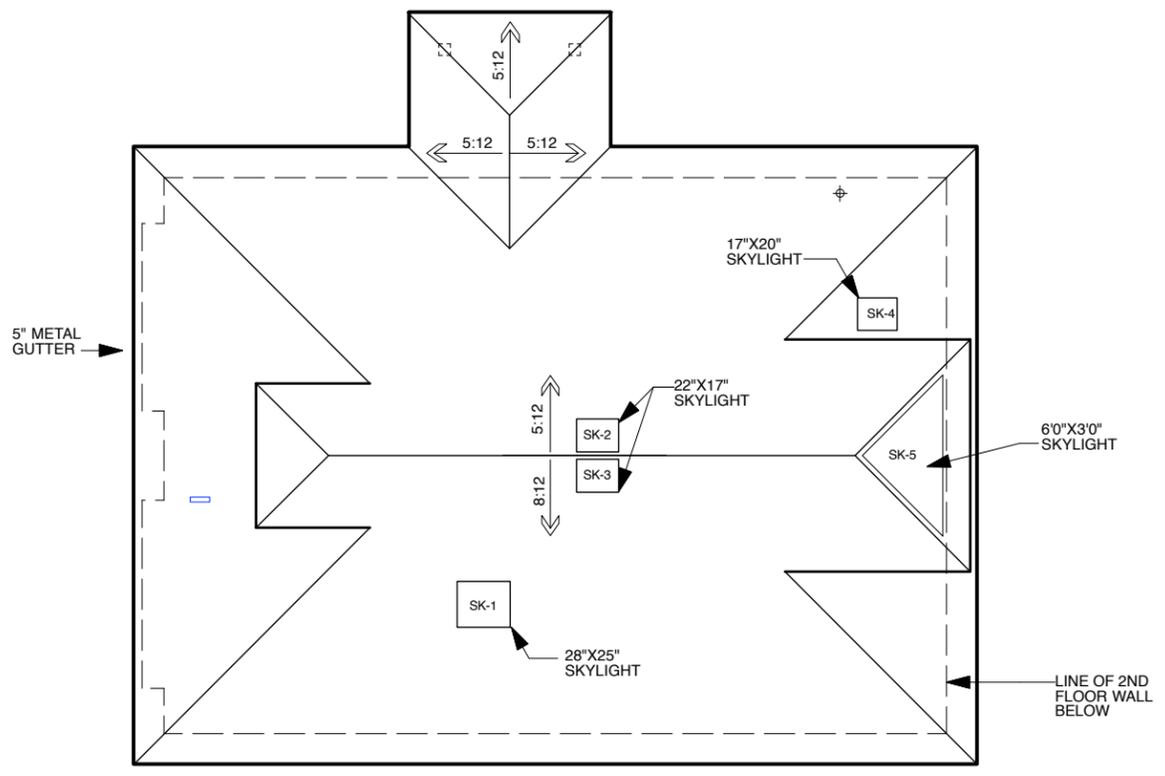
SIGNATURE

August 25, 2014

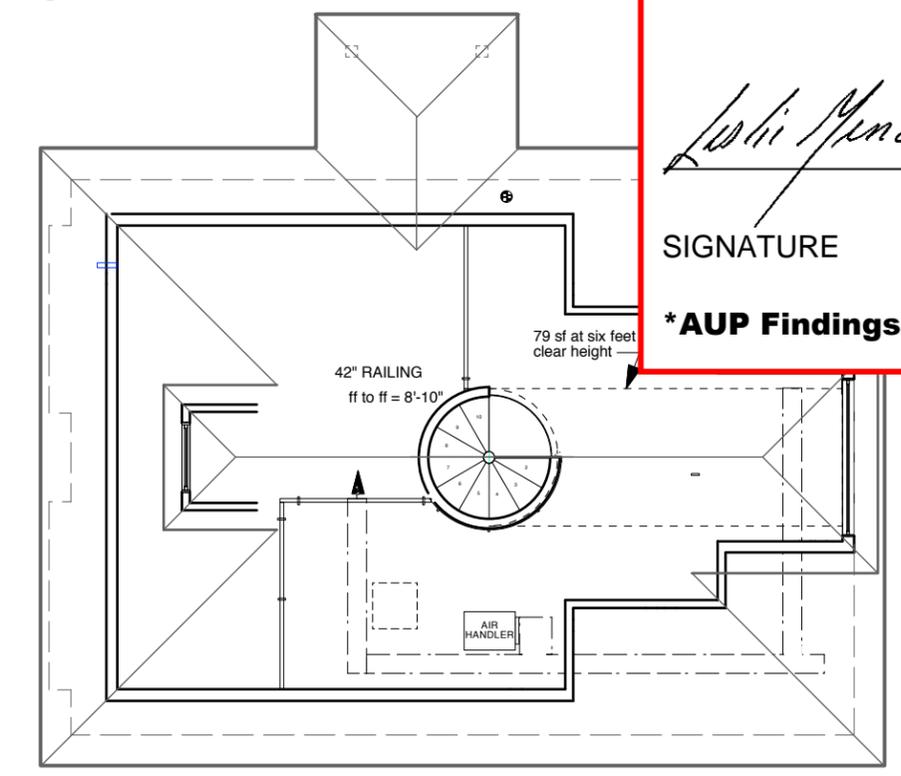
DATE

*AUP Findings and Conditions Attached



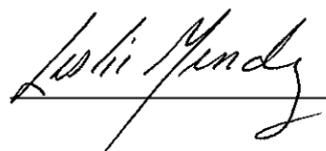


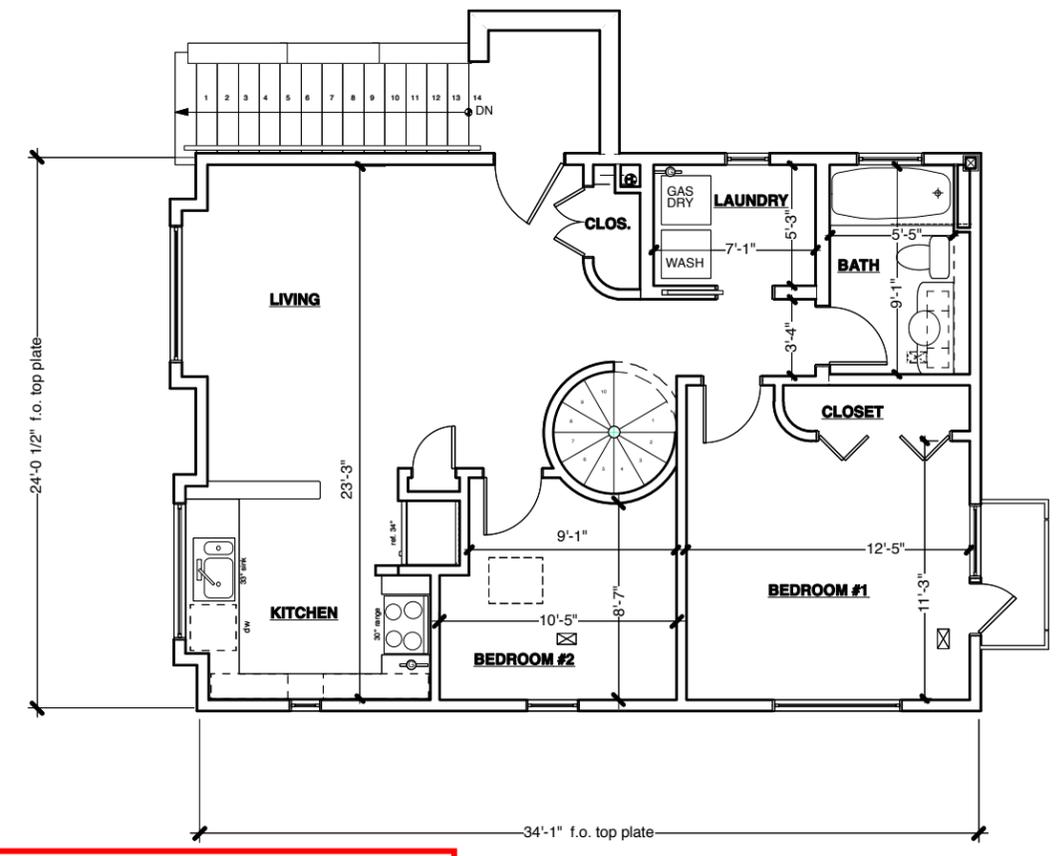
ROOF PLAN
Scale: 1/4" = 1'-0"



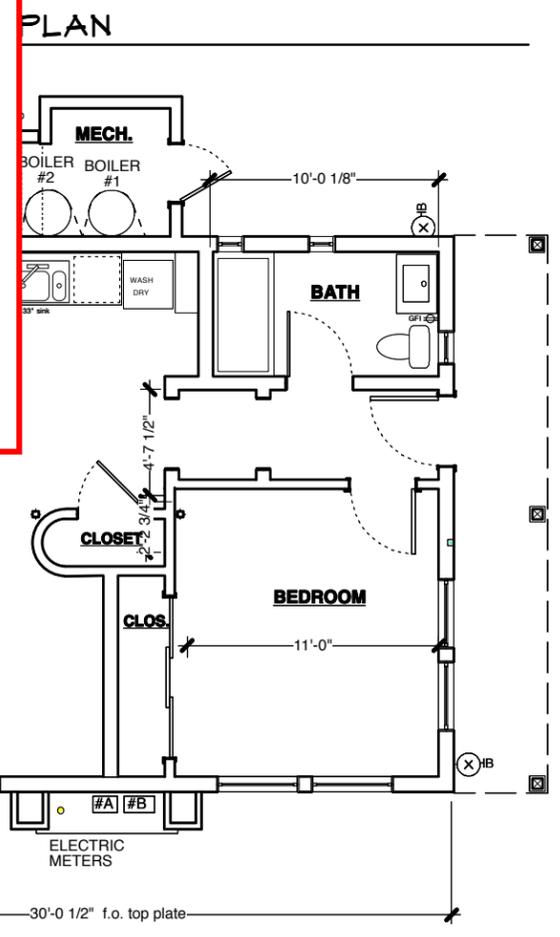
STORAGE LOFT FLOOR PLAN
Scale: 1/4" = 1'-0"

GENERAL NOTES
1. INTERIOR DIMENSIONS ARE TO FINISHED

PLANS APPROVED by

August 25, 2014
 SIGNATURE DATE
***AUP Findings and Conditions Attached**



1ST FLOOR PLAN
Scale: 1/4" = 1'-0"



MECH. PLAN

