



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

1350 Fourth Street

Administrative Use Permit #ZP2014-0005

Project Description: To repair and renovate existing buildings, including landmarked structures (Flint Ink Factory), to demolish and existing metal building; to construct a new metal building; to construct an 8-foot perimeter fence; to reduce the parking setback on Camelia St.; and to receive a 10% parking reduction, to provide equipment storage space and ancillary offices associated with an existing contractors yard, pursuant to:

- Section 23E.72.050 to modify existing buildings and construct new floor area;
- Section 23E.72.030 to construct ancillary office space in the M-Manufacturing District;
- Section 23E.72.080.G to reduce the off-street parking requirement by 2 spaces by providing additional bicycle parking spaces;
- Section 23E.28.080.B to reduce the parking setback along site frontage of a secondary street; and
- Section 23E.04.030.B to construct an 8-foot tall perimeter fence.

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 24, 2015.

Attest: Greg Powell
Greg Powell, Principal Planner

March 24, 2015
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS FEBRUARY 19, 2015

1350 Fourth Street

Administrative Use Permit #AUP2014-005

To repair and renovate existing buildings, including landmarked structures (Flint Ink Factory), to demolish and existing metal building; to construct a new metal building; to construct an 8-foot perimeter fence; to reduce the parking setback on Camelia St.; and to receive a 10% parking reduction to provide equipment storage space and ancillary offices associated with an existing contractors yard.

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 (“minor alteration of existing facilities”) and pursuant to Section 15331 (“Historic Resource Restoration/Rehabilitation”). Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) although the site is located in an environmentally sensitive area (an area mapped as having a potential for liquefaction in a major earthquake), a site specific geotechnical report was prepared, and peer reviewed, and included foundation design recommendations, which will be incorporated into the final design, in order to minimize the potential risks to the buildings from liquefaction during a major earthquake (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) although two of the affected buildings are landmarked structures, the Landmarks Preservation Commission has approved a Structural Alteration Permit and determined that the project will not adversely affect this 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:
 - a) The on-going use of this former manufacturing site as a contractor’s yard is permitted pursuant to AUP #11-20000014, and is subject to the conditions thereunder;
 - b) The project involves modifications to existing buildings on the site, including the demolition of a metal shed (2,911 sq. ft.) and its replacement with a new metal shed

- (4,690 sq. ft.) in a different location, such that there will be a net increase in development from 38,454 sq. ft. to 39,315 sq. ft. Although the net increase is only 861 sq. ft., much of the space in the 2 existing landmarked buildings and 2 attached buildings is vacant, unused, and in need of repair and restoration. Considering that most of the construction will be focused on these 4 interconnected structures, the project will involve more than 20,000 sq. ft. and less than 40,000 sq. ft. of construction, which requires an Administrative Use Permit under 23E.72.050 B.
- c) The office space to be created in the existing, vacant manufacturing buildings will support the primary use of the site as a contractor's maintenance and storage yard by providing ancillary office space for the owner and operator of the site, ProVen Construction. Offices ancillary to a permitted use are allowed in the M-Manufacturing District under Section 23E.72.030;
 - d) The Floor Area Ratio (FAR) for the overall project is 0.66 where a FAR as high as 2.0 is permitted under 23E.72.070 A.
 - e) The maximum height (and existing height) of the tallest building is 44' 6", where 45 feet is permitted under 23E.72.070 B. The existing elevator tower, which is proposed to remain, has a maximum height of 62' 4". Elevator towers are allowed to exceed a District's height limit, subject to an Administrative Use Permit, as long as they do not exceed 15% of the average floor area. The existing elevator tower has a footprint of approximately 110 sq. ft., which is 2.5% of the 3rd floor roof area.
 - f) The project will create 22 designated off-street parking spaces, separated from the open contractors yard, as well as 16 bicycle parking slots. This will be consistent with the parking requirement of 24 spaces established for this use in AUP #11-20000014, less a 10% reduction for bicycle parking, as permitted in Section 23E.72.080 G. It also conforms to the parking requirement set out in Section 23E.72.080, of one space per 1,500 sq. ft. (for buildings over 10,000 sq. ft.).
 - g) The 8-foot high, corrugated concrete panel solid fence is appropriate to shield views of equipment and material inside the contractor's yard, and is permissible, subject to an Administrative Use Permit under Section 23E.04.030 B.
 - h) The 4-foot setback to the parking lot along the Camelia Street frontage is allowed, subject to a Use Permit, under Section 23E.28.070, because the site is a corner lot and Camelia Street is the secondary street.
 - i) The Landmarks Preservation Commission completed Design Review of the project, pursuant to Section 23E.12.020, and approved a Structural Alteration Permit (LM SAP #2014-0004) regarding the Landmarked Structures involved, pursuant to Section 3.24.240, unanimously, on September 4, 2014.

3. As required by Section 23E.72.090 of the Zoning Ordinance, the Zoning Officer finds that:
- a) The proposed project is consistent with the purposes of the M – Manufacturing District in that the project will support and expand the on-going operations of a permitted heavy industrial business, which has been found to be particularly suited to West Berkeley’s physical environment (AUP #11-20000014);
 - b) The project is consistent with the purposes of the M – Manufacturing District in that it will maintain and improve the quality of the West Berkeley environment by repairing, restoring and returning the four long-vacant manufacturing buildings (including 2 landmarked structures) to productive use thereby helping to retain the stock of manufacturing and industrial buildings in West Berkeley for manufacturing and industrial uses;
 - c) The project is consistent with the purposes of the M – Manufacturing District in that it will encourage the creation and continuation of well-paid industrial jobs;
 - d) The project is consistent with the purposes of the M – Manufacturing District in that it will retain and restore four dilapidated manufacturing and industrial buildings and a large site for manufacturing industrial uses;
 - e) The project is consistent with surrounding manufacturing, warehouse and industrial operations;
 - f) That the project is consistent with the West Berkeley Plan, in that it supports an on-going heavy industrial use and also provides for the repair, restoration and preservation of four long-vacant manufacturing buildings on the former Flint Ink Site (including 2 landmarked buildings), placing them into active industrial use;
 - g) That the project will not induce or contribute to a cumulative change of use in buildings from manufacturing uses, because the site is protected for Manufacturing in the event the Contractor use is vacated, per Condition 12 of AUP #11-20000014;
 - h) The project design is physically compatible with the industrial character of the District, in particular because it calls for the restoration of the exteriors of the Landmarked manufacturing buildings consistent with the Secretary’s Standards for the Rehabilitation of Historic Structures;
 - i) The project will meet performance standards for off-site impacts because the use is not expected to generate noise, dust or odor dissimilar to other local uses or previous uses at the site, and therefore is not expected to have a detrimental impact on the surrounding uses.
 - j) The substitution of bicycle parking for 2 auto parking spaces will not lead to an undue shortage of auto parking because there is additional space in the open contractor’s yard that could be made available, if necessary, and because it is reasonable to

expect that the bicycle parking may be utilized by employees and visitors to the offices that will be provided.

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

File: G:\LANDUSE\Projects by Address\Fourth\1350 4th - 1335-1375 4th - 1300-1360 5th -711 camelia - 748-750 Gilman - Former Flint Ink\1350\ZP2014-0005\DOCUMENT FINALS\2015-02-19_APFC__1350 Fourth.docx

- 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 foundation designs shall conform to the recommendations in the Geotechnical Report by Langan Tredwell Rollo dated November 10, 2014, and shall be reviewed and approved by the Building & Safety Division and Public Works Department, if required.
14. 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.

During Construction:

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:

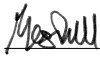
24. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
25. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated July 29, 2014.

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.
27. 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.
28. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood.



Prepared by: Greg Powell and Doug Donaldson (Contract Planner)
For Carol Johnson, Land Use Planning Manager



July 29, 2014

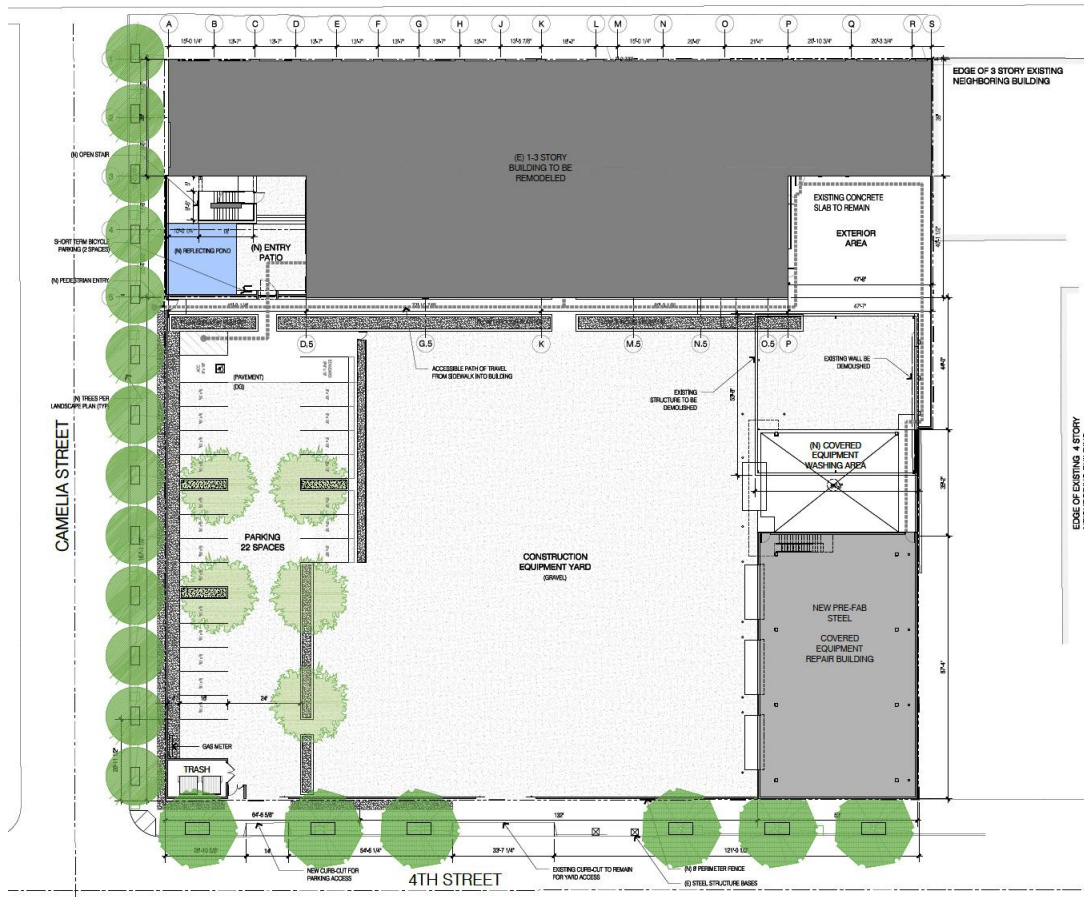
SIGNATURE

DATE

*AUP Findings and Conditions Attached

ATTACHMENT 2

SITE PLAN



ProVen Management

1350 4th Street Berkeley, CA



TRACHTENBERG ARCHITECTS