



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

## 1335 Santa Fe Avenue

**UPDATED MAY 13, 2015 as per ZP2015-0077 – See Condition #24 and #28.**

### Administrative Use Permit #ZP2015-0013

**Project Description:** To Modify Administrative Use Permit #ZP2013-0141 to legalize a third story master bedroom, for a total of five bedrooms on the parcel. As part of this project, twenty-five (25) square feet of the existing rear yard shed would be removed so that the property will meet the required lot coverage, pursuant to:

- Section 23B.56.020.B to Modify an Administrative Use Permit; and
- Section 23D.28.070.C to construct a residential addition exceeding 14' 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 April 8, 2015.

Attest: Greg Powell  
Greg Powell, Principal Planner

April 8, 2015  
Effective Date

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

MARCH 17, 2015

**UPDATED MAY 13, 2015 as per ZP2015-0077 – See Condition #24 and #28.**

## 1335 Santa Fe Avenue

### Administrative Use Permit Modification #ZP2015-0013

**To Modify Administrative Use Permit #ZP2013-0141 to legalize a third story bedroom, for a total of five bedrooms on the parcel. As part of this project, twenty-five (25) square feet of the existing rear yard shed would be removed so that the property will meet the required lot coverage.**

#### 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 because:
  - On February 13, 2014, Administrative Use Permit #2013-0141 approved the construction of 74 sq. ft. to the ground floor for a new mudroom and internal stairway, 922 sq. ft. for a new second story addition for an office, recreation room, bathroom, and two new bedrooms, increasing the average height from 17’2” to 28’, and to construct a new rear deck measuring 16’6” in height from grade to the top of the guardrail, and establishing the required off-street parking space within the rear yard (see Attachment 3-AUP#2013-0141).
  - The current AUP Modification (ZP#2015-0013) is to legalize the construction of a third story master bedroom and to correctly reflect the average height to 28’6” where 28’ was approved. Although AUP#2013-0141 included the dormer, the

approved AUP plans did not include habitable attic space; therefore, per BMC Section 23F.04 (Definitions), the approved space was not considered a story. The attic space is a bedroom, and constitutes a third story.

- As required under Section 23D.28.090 (Findings), the third story bedroom will exceed 14' in average height and does not create significant impacts to sunlight, air, or views, and is found to be non-detrimental and permissible for the following reasons:
  1. Sunlight – The shadow study prepared for AUP2013-0141 reflected the average height at 28' where the actual average height of the project is 28'6". The incremental 6" difference in average height will not add significant shading at neighboring properties.
  2. Air – The addition as approved under AUP#2013-0141 exceeds the district standards for minimum front, rear yard, and side yard setbacks and provides adequate spatial separations between developments of abutting properties, thereby allowing for adequate air circulation.
  3. Views – The change of the third story from attic space to a bedroom will not significantly block the adjacent neighbors' views of any significant features. The addition does not exceed the full height limit allowed in the R-2 District (35' maximum), and will not exceed the number of stories allowed (3 stories maximum); and
  4. Privacy – The change of attic space to a bedroom does not include new or enlarged windows than what was depicted on the approved AUP#2013-0141. The dormer window at the north elevation is setback 8' from the north side property line and approximately 9' from the nearest residential structure at 1333 Santa Fe Avenue. The single family residential structure at 1333 Santa Fe is a two-story dwelling, therefore, the third story bedroom at 1335 Santa Fe will not have a direct line of vision into the neighboring property, and is not expected to create significant privacy impacts.
- The proposed project is consistent with the purposes of the R-2 District (Section 23D.28.020) because the project meets the General Plan Policy by encouraging the development because of low medium density residential uses, characterized by a reasonably open and spacious single family home a range of housing choices, with a relatively large amount of open space while protecting the adjacent properties from unreasonable obstruction of light and air (see Findings above regarding Sunlight and Air).
- As required under Section 23D.28.050, the addition of a fifth bedroom on the subject parcel will not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area or neighborhood of the proposal or be detrimental or injurious to property and improvements of the adjacent properties, surrounding area or neighborhood or to the general welfare of the City because the use of the property will remain as a single-family dwelling, the applicant has stated that the new bedroom is not intended for rental, and the dwelling will remain as owner occupied.

- The lot size for the subject parcel is 3,750 square feet. The footprint of the dwelling is 1,218 square feet. The existing storage shed is 120 square feet. Twenty-five square feet will be removed from the storage shed in order to comply with the maximum 35% allowable lot coverage.
- As required under Section 23D.28.070 (Development Standards), the project is permissible because the third story bedroom satisfies the development standards for minimum lot area, maximum residential density, maximum main building height, minimum yard setbacks, and minimum open space.
- The proposed project retains the character of a mixture of single and multiple storied single-family and multi-family homes and is consistent with the overall scale of development in the neighborhood.

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

**During Construction:**

13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.

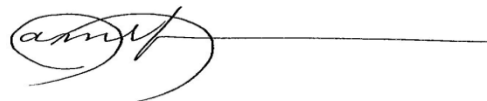
19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
20. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
21. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.
22. 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:**

23. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
24. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated January 22, 2015 and Revised Sheet A0, ~~twenty-five (25) square feet shall be removed from the existing rear yard shed.~~

**At All Times (Operation):**

25. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
26. 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.
27. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood.
- ~~28. The lot coverage shall not exceed 35% as defined by BMC Section 23F.04 (Definitions).  
**Coverage Area:** All the area of a lot, as projected on a horizontal plane, which is enclosed by the exterior walls of buildings or enclosed Accessory Structures; or covered by decks, porches, stairs and/or landings which cover an enclosed space or paved ground area~~



Prepared by: Pamela Johnson  
For Shannon Allen, AICP, Principal Planner