

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

---

## 2820 Garber Street

### Administrative Use Permit #ZP2014-0074

**Project Description:** To demolish an existing 396 square-foot garage and construct a new, 423 square-foot, single-story accessory building that would contain a workshop and separate office space resulting in a total of five bedrooms on the parcel, pursuant to:

- Section 23D.08.A to construct an accessory building; and
- Section 23D.28.040 to create a fifth bedroom on a single parcel.

### 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 4, 2015.

Attest: Shannon Allen  
Shannon Allen, AICP, Principal Planner

June 4, 2015  
Effective Date

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

MAY 13, 2015

### 2820 Garber Avenue

#### Administrative Use Permit #AUP2014-0011

**To demolish an existing 396 square-foot garage and construct a new, 423 square-foot, single-story accessory building that would contain a workshop and separate office space resulting in a total of five bedrooms on the parcel.**

#### 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(e) 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 subject property is equal to or below the district standards for maximum residential density and maximum lot coverage, and complies with minimum open space requirements. It is equal to or in excess of minimum rear and side yard setbacks as related to the main building.
  - The structure would be single story with a gabled roof that complies with the 10-foot average height limit of Section 23D.08.020.A; it would be set back 1’10” from the rear property line and 3’ from the side (west) property line. As a result of this design, the building would not have any substantial adverse impacts on the sunlight or views of surrounding properties.
  - The construction of an accessory building would have no substantial privacy impacts to the immediate neighbors given that the accessory building is located at the rear of the lot and the nearest structures on adjacent properties are garages.
  - The conversion of the garage is permissible because the applicant has provided one off-street parking spaces that has been approved by the City’s traffic engineer.

- The addition of a 5<sup>th</sup> bedroom to the single-family home will provide more room for the existing residents and will not result in an increase in density.
- The building does not include bathing or cooking facilities, and a “Notice of Limitation” will be recorded on the property to notify future owners that the building is not authorized for use as a dwelling unit.

## 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 Issuance of Any Building Permit:**

- 10.** 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 a Use Permit, Administrative Use Permit, or Zoning Certificate, whichever is applicable, is issued for the dwelling unit. 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.

**During Construction:**

- 11.** 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.

12. 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.
13. 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.
14. 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.
15. 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.
16. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
17. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
18. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
19. 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.
20. 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:**

21. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
22. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **APRIL 13, 2015**.

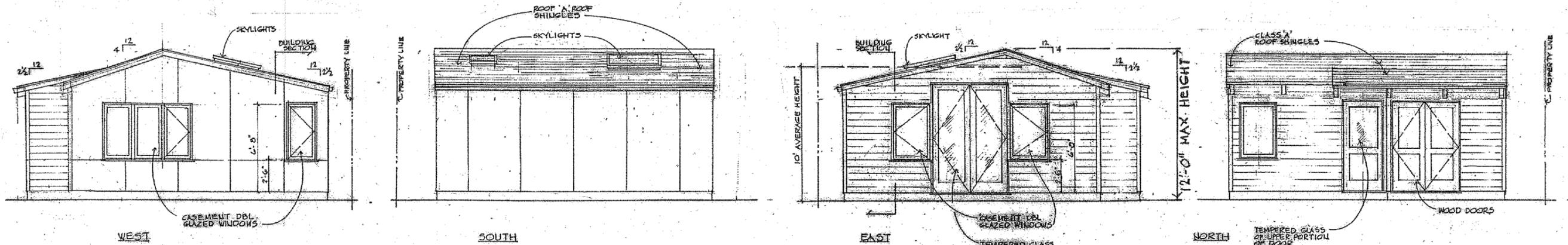
**At All Times (Operation):**

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

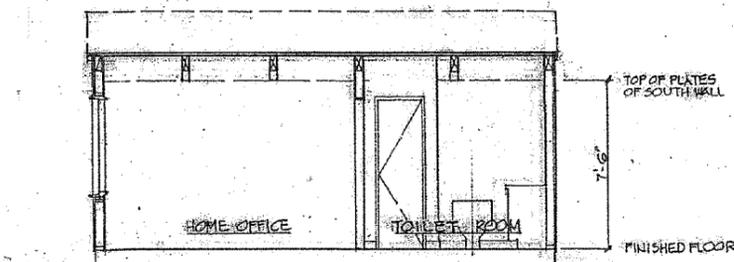
**24.** This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, 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.



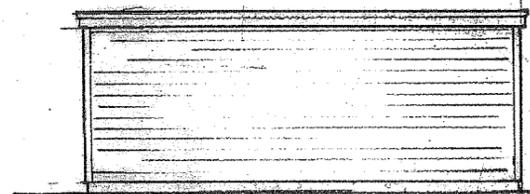
Prepared by: Claudine Asbagh  
For Shannon Allen, AICP, Principal Planner



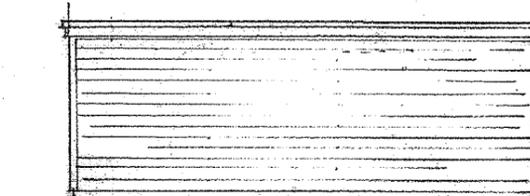
EXTERIOR ELEVATIONS - PROPOSED  
 $\frac{1}{8}'' = 1'-0''$



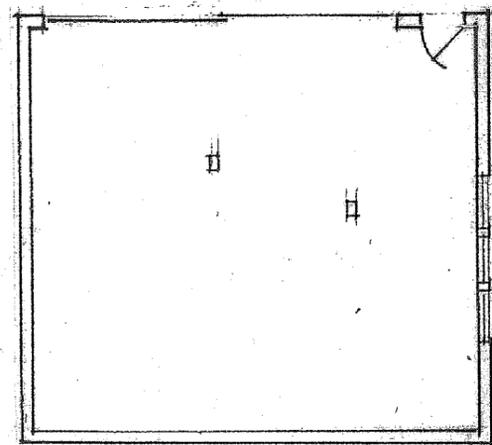
BUILDING SECTION



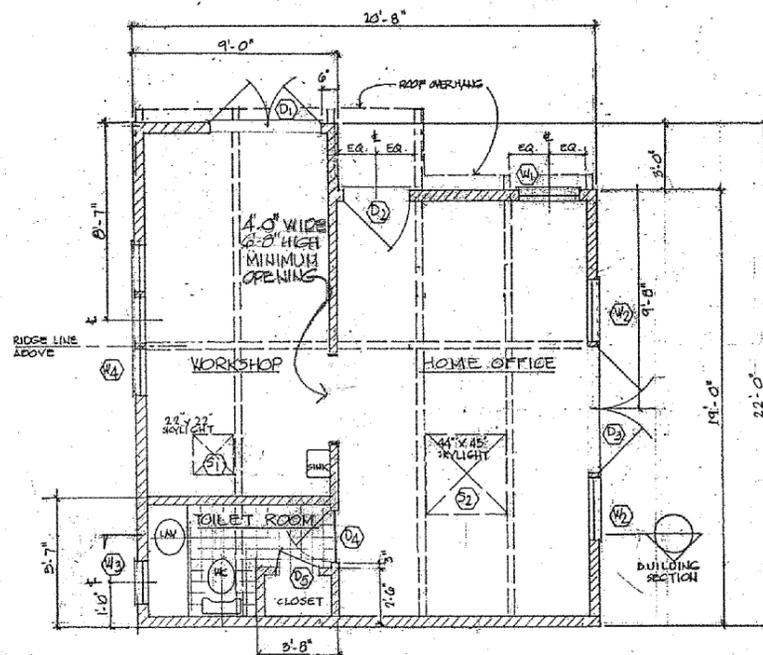
WEST



SOUTH



FLOOR PLAN - EXISTING  
 $\frac{1}{8}'' = 1'-0''$



FLOOR  
 $\frac{1}{8}'' = 1'-0''$

**PLANS APPROVED by**

*Al Ashraf*

May 13, 2015

SIGNATURE

DATE

\*AUP Findings and Conditions Attached

22 OCTOBER 2014  
 13 APRIL 2015 REVISION

Accessory Building for:

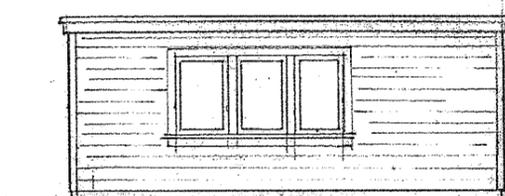
Ira & Tara Ellman

2820 Garber street,  
 Berkeley, California

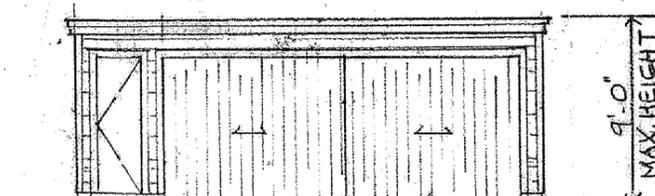
Bennett Christopherson ARCHITECT AIA

DESIGN STUDIO  
 6101 Colby Street Oakland CA 94618

T 510.383.8900 M 510.541.9331  
 E [benchr@pacbell.net](mailto:benchr@pacbell.net) F 510.636.8668



EAST



NORTH

EXTERIOR ELEVATIONS - EXISTING  
 $\frac{1}{8}'' = 1'-0''$

Sheet  
 3/3