Administrative Use Permit #ZP2015-0027

Project Description: To remodel an existing 1,856 sq.ft. single-family dwelling on a 4,288 sq.ft. lot by constructing a 178.5 sq. ft. residential addition, 98 sq. ft. of which is over 14’ in average height, and extending/modifying the non-conforming rear yard setback (5’-6” existing, 12’-1” required), pursuant to:

- Section 23D. 16.070.C to allow a residential addition exceeding 14 feet in average height; and
- Section 23C.040.070.B to extend a non-conforming rear setback.

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 1, 2015.

Attest:  Carol Johnson  September 1, 2015
Carol Johnson, Land Use Planning Manger  Effective Date
10 Claremont Crescent

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To remodel an existing 1,856 sq.ft. single-family dwelling on a 4,288 sq.ft. lot by constructing a 178.5 sq. ft. residential addition, 98 sq. ft. of which is over 14’ in average height, and extending/modifying the non-conforming rear yard setback (5’-6” existing, 12’-1” required). Elements of the proposed project requiring an Administrative Use Permit are:

- Adding 80.5 sq. ft. to the ground floor north-west corner by extending the non-conforming west wall and roof-line 7’ to the north;
- Adding 22 sq. ft. above 14’ in average height to the second floor of the north wall by modifying the roof;
- Adding 76 sq. ft. above 14’ in average height by extending the second floor non-conforming west wall dormer 10’ 6” to the South;
- Expanding 2 windows and adding 1 new window to the first story of the non-conforming west wall;
- Removing 1 and adding 2 new windows to the second story of the non-conforming west wall, which is above 14’ in average height;
- Adding 2 new windows to the new second story north-west corner addition, which is above 14’ in average height.
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 would 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, would 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 existing use of the property is conforming as the site is zoned for residential use and is presently developed with a single-family residence;
- Aside from the continuation of a non-conforming encroachment into the rear yard setback, the project conforms to the development standards of the R-1 District in regards to height, stories, lot coverage, usable open space, and off-street parking;
- The proposed project’s size and location are consistent with the neighborhood development pattern and will not impact light, air or views beyond existing conditions.
  - This area is generally flat and developed with one and two-story residences between 1,700 and 2,400 sq. ft., most of which, like the proposed project, are on lots less than 5,000 sq. ft..
  - Claremont Crescent has an established development pattern of dwelling separation between 5’ and 20’. The northern and western portions of 10 Claremont Crescent where the proposed additions are located are separated from neighboring dwellings by 20’ – 25”, and therefore has a greater degree of building separation than most dwellings on Claremont Crescent.
  - Privacy impacts will be minor as the nearest dwellings to the proposed west and north additions are approximately 20’ and are surrounded by mature vegetation. Additionally, the north and west additions are not oriented towards neighboring properties’ living space; rather they are oriented towards 2935 Elmwood Court’s rear yard and 2 Claremont Crescent’s driveway, respectively.
  - The proposed non-conforming west wall ground floor window additions and enlargements face into the subject property’s rear yard and do not provide views into neighboring properties.
  - The project proposes adding a new 1.5’ x 3’ window and a new 4.5’ X 4’ window to the second story north wall to replace the existing 1’ X 5.5’ and 3.5’ x 2.5’ windows that would be eliminated by the ridge extension. Although the new second story north wall windows are larger than the current
windows, they are generally in the same location as the existing windows and are not windows for spaces in which residents would spend a great deal of time. The new 4.5’ X 4’ window on the north wall is a hall window that is necessary to comply with fire and egress regulations, and the 1.5’ X 3’ window is a bathroom window. Additionally, the north wall windows do not overlook 2 Claremont Crescent’s living space, rather are oriented towards the driveway and rear yard.

- The project proposes removing a 4.5’ X 4.5’ second story window on the west wall and adding a 3.5’ X 3’ window and a 3’ x 2’ window. These windows would not overlook 2935 Elmwood Court’s living space; rather they are oriented towards neighboring properties’ the rear yard. Additionally, the applicant has stated in their project description letter that frosted windows will be used for the new second story west wall windows to lessen privacy impacts of the abutting property at 2935 Elmwood.

- The new windows are architecturally compatible with the age and style of the residence and will not radically change, obscure, or destroy potentially character-defining materials or features of this building.

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.

During Construction:

12. 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.

13. 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.

14. 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.

15. 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.

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

18. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.

19. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.

20. 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.

21. 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:

22. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.

23. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated July 17, 2015.

Prepared by: Amanda Wallace, Assistant Planner
For Greg Powell, Principal Planner
PLANS APPROVED by

August 7, 2015

*AUP Findings and Conditions Attached
PLANS APPROVED by

August 7, 2015

SIGNATURE

DATE

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