



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

2810-12 Martin Luther King Jr. Way

Administrative Use Permit #ZP2016-0120

Project Description: The proposed alterations would create a two-story 2,400 sq. ft. single family residence. Administrative Use Permit #ZP2015-0120 to convert an existing 2,256 square-foot duplex into a single family residence, thereby eliminating one unit and restoring the building to its original status as a single family dwelling.

- Administrative Use Permit to allow conversion of a duplex into a single-family dwelling unit, under BMC sections 23C.08.030.C

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 August 23, 2016.

Attest: Carol Johnson August 23, 2016
Carol Johnson, Land Use Planning Manger Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

AUGUST 2, 2016

2810-12 Martin Luther King Jr. Way

Administrative Use Permit #ZP2015-0120 to convert an existing 2,256 square-foot duplex into a single family residence, thereby eliminating one unit and restoring the building to its original status as a single family dwelling.

PERMITS REQUIRED

- Administrative Use Permit to allow conversion of a duplex into a single-family dwelling unit, under BMC sections 23C.08.030.C

CEQA FINDINGS

- I. 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.

GENERAL NON-DETRIMENT FINDING

- II. Pursuant to Berkeley Municipal Code Section 23B.28.050, the Zoning Officer finds that the proposed project, under the circumstances of the particular case existing at the time at which the application is granted, 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 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, for the following reasons:
 - A. The project would not change the residential use of the subject property; elimination of a unit will bring the property into conformance with the Restricted Multiple-Family Residential District (R-2A) requirements for density;
 - B. The project would decrease the density and intensity of use at the subject property t, and the building and use would remain consistent with the development standards, purposes and requirements of the R-2A District;
 - C. No significant exterior alterations to the building or changes to parking, access or yard areas are proposed; the only physical changes would be minor interior alterations to combine two dwelling units into one, which was the building's original configuration; and

- D. The resulting single family dwelling will be consistent and compatible with, and not detrimental to, the surrounding neighborhood, which includes many similar single family dwellings consistent with the R-2A District.

ELIMINATION OF DWELLING UNITS

III. Pursuant Berkeley Municipal Code Section 23C.08.030 (Elimination Through Conversion), the Zoning Officer finds the conversion of the building will restore or brings the building closer to the original number of dwelling units that was present at the time it was first constructed, and that the conversion meets the requirements of subsections A.2., B. C. and D. of Section 23C.08.030 as follows:

- A. Both of the effected dwelling units been occupied by the applicant's household as its principal place of residence for no less than two years prior to the date of the application and none of the affected units is currently occupied by a tenant;
- B. In a memorandum dated June 21, 2016, the Rent Stabilization Board established that the property has not been removed from the rental market under the Ellis Act at any time during the preceding five (5) years and the Rent Stabilization Board has no record of any verified cases of harassment or threatened or actual illegal eviction occurring at project location; and
- C. In compliance with BMC Section 23C.08.030.C, Condition #12 requires the Applicant to sign and file a Declaration of Restrictions with the County Recorder prior to issuance of a building permit.
- D. The project does not reduce the number of units in a building to 4.

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 attorney's 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. One off-street parking space meeting City standards shall be shown on plans submitted for building permits and constructed prior to occupancy clearance. The space shall be a minimum of 8 feet by 18 feet in size, and shall be separated from the adjacent side lot line by a minimum 2-foot wide landscaped strip.
11. Project Liaison. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis.

Project Liaison

_____ Name

_____ Phone #

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 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.
14. Notice of Limitation. To ensure owner occupancy of the single family dwelling, consistent with BMC Section 23C.08.030.C, the Applicant shall sign and file a Declaration of Restrictions with the County Recorder, in a form satisfactory to the Zoning Officer, which provides that if the future owner's household does not occupy the unit eliminated by issuance of Use Permit ZP#2015-0247 for at least two years from the date of elimination the affected units must either be restored as separate dwelling units and the vacant unit(s) offered for rent within six months or the owner must pay a fee of \$75,000 in 2013 dollars, adjusted in May of each year according to the Consumer Price Index for the San Francisco Bay Area, which shall be deposited into the City's Housing Trust Fund.

During Construction: (If a building permit is required, keep all of these unless noted)

15. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
 - 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 relevant
 - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, 3rd floor, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

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). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

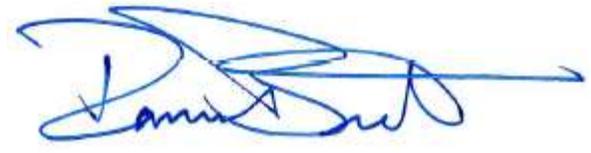
16. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
17. If underground utilities leading to adjacent properties 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.
18. 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.
19. 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.
20. 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.
21. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
22. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
23. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
24. 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.

Prior to Issuance of Occupancy Permit or Final Inspection:

25. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
26. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated June 27, 2016.

At All Times (Operation):

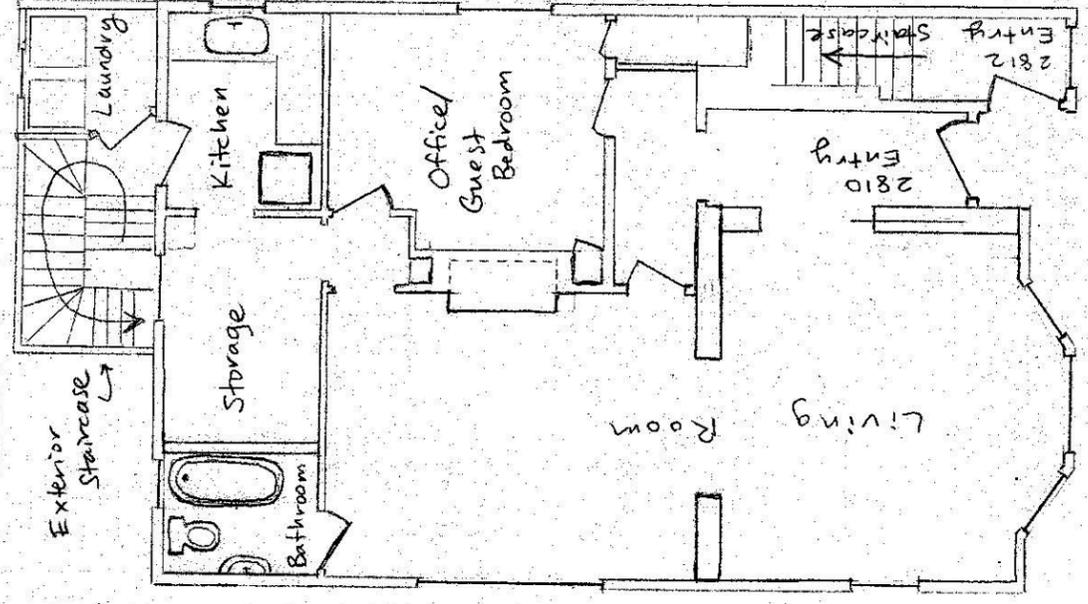
27. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.



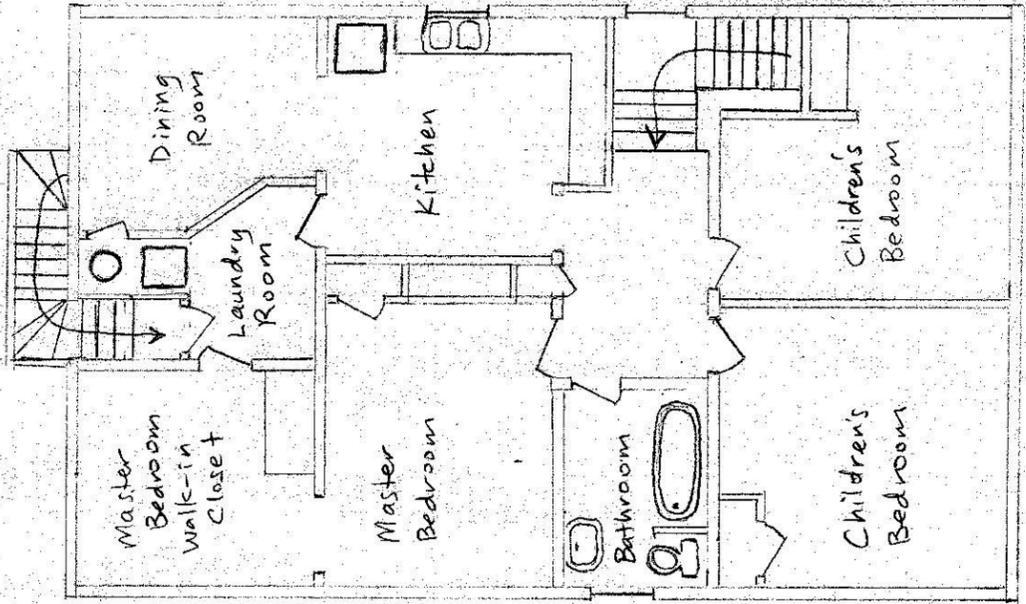
Prepared by: Immanuel Bereket, Associate Planner
For City of Berkeley Zoning Officer

Reviewed by Leslie Mendez, Senior Planner

Downstairs



Upstairs



PLANS APPROVED by

Mark Quady

August 2, 2016

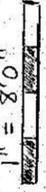
SIGNATURE DATE

***AUP Findings and Conditions Attached**

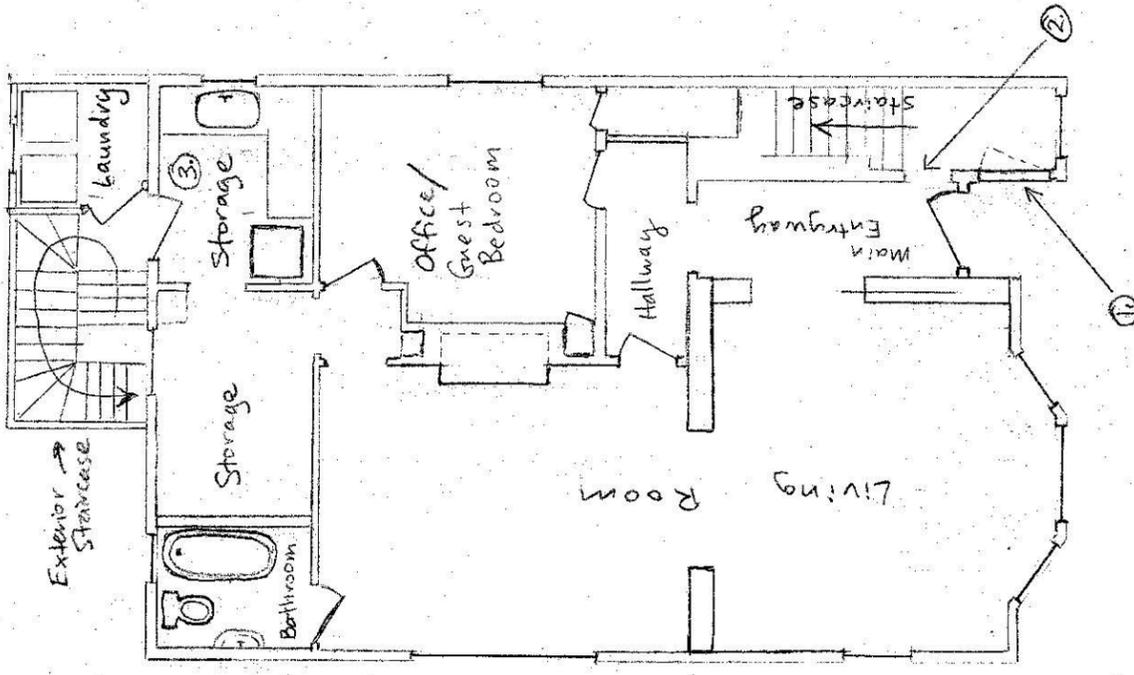
2810 Martin Luther King Jr way
 Prepared by Mark Quady
 5/28/16

General Plan & Floor Plan
 (Existing)

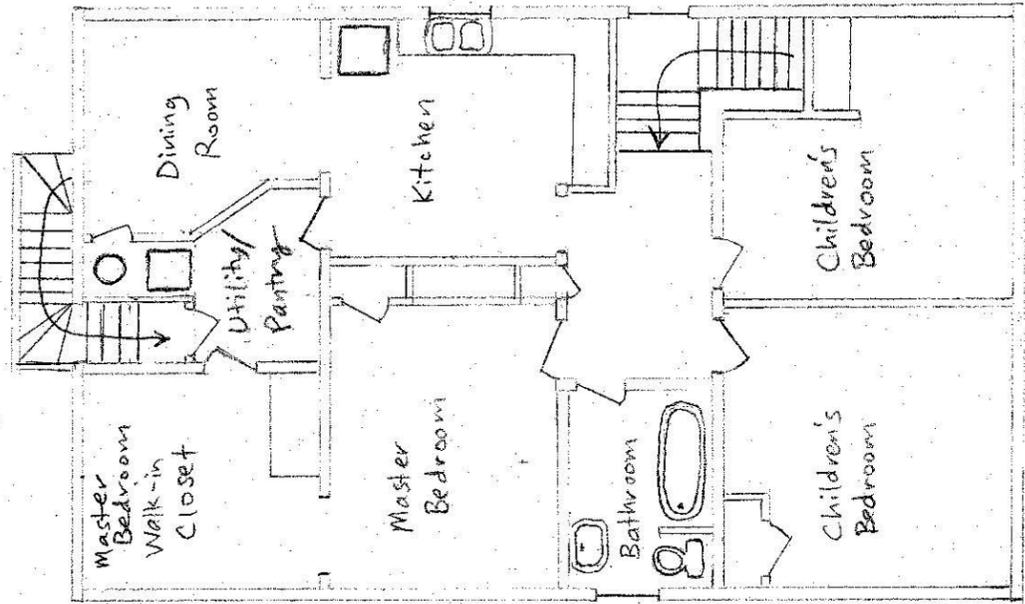
Scale: 1/8" = 1'0" (1:96)
 1" = 8'0"



Downstairs



Upstairs



Proposed Changes:

- ① Fill in 2812 unit front door.
- ② Add interior walking between first and second floor.
- ③ Remove 1st floor kitchen - becomes storage room.



2810 Martin Luther King Jr way
 Prepared 5/28/16
 by Mark Quady

General Plan & Floor Plan
 (Proposed)

Scale: 1/8" = 1'0" (1:96)
 1" = 8'0"

