ADMINISTRATIVE USE PERMIT

1536 Le Roy Avenue

Administrative Use Permit #ZP2016-0180

Project Description: To alter the garage and rebuild the rear balcony on portions of the existing single-family dwelling which encroach into non-conforming front and rear yards.

- Section 23C.04.070 to alter the front and rear portions of an existing building which encroach into the front and rear non-conforming yards;
- Section 23D.16.070.C to construct a balcony that exceeds the 14-foot maximum allowable height limit for residential additions; and
- Section 23E.96.070.B.1 to construct a balcony that exceeds the 20-foot maximum allowable height limit for residential additions in the Hillside Overlay District.

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 4, 2017.

Attest: Steven Buckley ___________________________ April 4, 2017
Steven Buckley, Land Use Planning Manager     Effective Date
1536 Le Roy Avenue

Administrative Use Permit #ZP2016-0180

To alter the garage and rebuild the rear balcony on portions of the existing single-family dwelling which encroach into non-conforming front and rear yards.

PERMITS REQUIRED

- Administrative Use Permit under BMC 23C.04.070 to alter the front and rear portions of an existing building which encroach into the front and rear non-conforming yards; and
- Administrative Use Permit under BMC 23D.16.070.C to construct a balcony that exceeds the 14-foot maximum allowable height limit for residential additions in the R-1 district.
- Administrative Use Permit under BMC 23E.96.070.B.1 to construct a balcony that exceeds the 20-foot maximum allowable height limit for residential additions in the Hillside Overlay District.

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 for the following reasons:

- The alteration to the garage and replacement of the rear balcony will not add area (square footage) to the existing building, and therefore will not be additions/expansions to the development on a lot that already exceeds the maximum lot coverage limit (the
lot coverage is 45.3%, where 40% is the R-1 district limit). Rather, the proposal reduces the lot coverage to 42.5% by reducing the paved area underneath the balcony.

- The rear balcony replacement and garage alteration will not conflict with R-1(H) district standards for density\(^1\), height, usable open space, and parking.

- The 21’-6”-high, replacement rear balcony will not cast significant new shadows onto adjacent dwellings, because the balcony will be in same location, and will generally be the same size and shape as the existing balcony that is to be replaced.

- The proposal will not significantly impact air access, views or privacy for adjacent homes, because the replacement balcony will be in same location, and will generally be the same size and shape as the existing balcony that is to be replaced; and garage alteration will reduce the overall garage encroachment into the front setback by 1’-3” through eliminating area from north half of the garage while adding the same area to the south half of the garage.

- The garage alteration will improve the front façade aesthetically, because the alteration will make the garage façade into a single plane, which will allow the two-car garage to have a single door, with a single aesthetic that matches the house, rather than two separate doors with competing aesthetics (the current condition).

3. Pursuant to Berkeley Municipal Code Section 23C.04.070.B the Zoning Officer finds that the proposed alterations to the existing building with non-conforming yards will not further reduce the non-conforming front and rear setbacks. The existing Gate House, which will remain, is 8’-6” from the front lot line, whereas the garage alteration will be 10’-10” from the front lot line (20’ is the minimum requirement for the front yard). The existing balcony, to be demolished and replaced, is 4’-8” from the rear lot line, whereas the replacement balcony will be 5’-0” from the rear lot line.

4. Pursuant to Berkeley Municipal Code Section 23E.96.070.C, the Hillside Overlay district allows a height modification if it is consistent with the purposes of the overlay district, which allow modifications to height due to irregular lot shape or topographical constraints. The applicant is constructing a 21’-6”-high balcony, where 20’ is the height limit for residential additions in the district, exceeding the limit by 1’-6”. The new balcony will replace the deteriorating rear balcony, and will be the same height, in same location, and will generally be the same size and shape as the one to be replaced. The garage alterations, as discussed in the general detriment findings (finding #1), will reduce the overall encroachment into the front setback by 1’-3”. Thus, the proposed alterations to the existing building will be minor, and will not adversely impact existing views in the neighborhood, nor adversely impact the character of the neighborhood, and are reasonable modifications to the house on a lot which is subject to the district’s more restrictive height limits because of its steep topography.

\(^1\) The alterations will not cause the development to further exceed the lot density standard; the lot contains one dwelling unit on a lot that is 3,367 square feet in area, where a minimum of 5,000 square feet is required for one 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 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. 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:

During Construction:

11. 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, 4th 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 1947 Center Street, 3rd floor, 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.

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.

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 January 24, 2017.

At All Times (Operation):

23. 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: Sharon Gong, Associate Planner
For the Zoning Officer
NEIGHBOR'S SIGNATURE: NOTE. THERE ARE ONLY 3 NEIGHBORS. OPPOSITE ON LE ROY IS THE PLAYGROUND FOR THE GERMAN INTERNATIONAL SCHOOL.

I have been given the opportunity to review the plans for the removal of the single family residence located at 1536 Le Roy Avenue. I understand the temporary construction of an extension will be constructed through the rear deck. Building codes and regulations govern the use of such space, as well as the addition of an extension or addition, as per the code of such. I appreciate the opportunity to review the plans for the removal of the single family residence located at 1536 Le Roy Avenue. I understand the temporary construction of an extension will be constructed through the rear deck. Building codes and regulations govern the use of such space, as well as the addition of an extension or addition, as per the code of such.

STORAGE PROVIDED:
- Owner's Name: Anne Forell, Architect
- Address: 1536 Le Roy Avenue

PROJECT INFORMATION:
- LICENSE NO. 23,146
- LICENSED CONTRACTOR, THROUGH CUSTOM CONSTRUCTION
- San Francisco, CA 94103
- Tel. 415.312.9827
- email walker92160@aol.com

ARCHITECT:
- Architect: Anne Forell, Architect
- Address: 1536 Le Roy Avenue

CONSULTANTS:
- Consulting Engineers: Semco Engineering
- Tel. 415.553.8810
- email: Shaun@semcoengineering.net
- Consulting Engineers: Custom Construction
- Tel. 415.381.9050
- email: bryan@custom-construction.net

CONTRACTOR:
- Contractor: San Francisco Building
- Tel. 415.381.9050
- email: sanfranciscobuilding@gmail.com

PROJECT NO:
- Project No: 1536 Le Roy

TABULATION FORM:

<table>
<thead>
<tr>
<th>MEASUREMENT</th>
<th>ACTUAL</th>
<th>PROPOSED</th>
<th>PERMITTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross Floor Area</td>
<td>2,089 sf</td>
<td>2,089 sf</td>
<td>1,932 sf</td>
</tr>
<tr>
<td>Lot Area</td>
<td>3,367 sf</td>
<td>3,367 sf</td>
<td>2,536 sf</td>
</tr>
<tr>
<td>Building Height</td>
<td>2 stories o/basement</td>
<td>2 stories o/basement</td>
<td>2 stories o/basement</td>
</tr>
<tr>
<td>Number of Bedrooms</td>
<td>2</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Number of Stories</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Feet of Walls</td>
<td>2,570 SF (2,108 CONDITIONED)</td>
<td>2,570 SF (2,108 CONDITIONED)</td>
<td>2,570 SF (2,108 CONDITIONED)</td>
</tr>
<tr>
<td>Feet of Roofs</td>
<td>2,108 SF</td>
<td>2,108 SF</td>
<td>2,108 SF</td>
</tr>
<tr>
<td>Feet of Ground Area</td>
<td>2,089 SF</td>
<td>2,089 SF</td>
<td>2,089 SF</td>
</tr>
</tbody>
</table>

PLANS APPROVED BY:
- March 10, 2017
- Shaun@semcoengineering.net
- bryan@custom-construction.net

ARCHITECTURE PLANNING INTERIOR DESIGN
- 12/31/17
- 1536 Le Roy Avenue
- Berkeley CA 94708
- Tel: 510.981.7410
- TDD: 510.981.6903
- Fax: 510.981.7420
- Email: Planning@ci.berkeley.ca.us