ADMINISTRATIVE USE PERMIT

1224 Masonic Avenue

Administrative Use Permit #ZP2016-0237

Project Description: To construct a 900 square foot, second story addition on an existing 1,034 square foot, one-story single family dwelling, increasing the average height from 12 -feet 7 inches to 21 feet 11 inches and vertically extend a 17-foot 2-inch non-conforming front yard setback.

- Section 23C.04.070 to vertically extend a non-conforming front yard;
- Section 23D.28.030 to construct a major residential addition; and
- Section 23D.28.070 to construct an addition greater than 14 feet 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 May 9, 2017.

Attest: Steven Buckley May 9, 2017
Steven Buckley, Land Use Planning Manager Effective Date

You may choose to file with the State and County either the enclosed Notice of Exemption or Notice of Determination (which ever applies). Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code section 21167, the time in which a legal challenge will be accepted is shortened if this form is filed within 5 days of the effective date of the City’s action.
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Administrative Use Permit #ZP2016-0237

To construct a 900 square foot, second story addition on an existing 1,034 square foot, one-story single family dwelling, increasing the average height from 12 -feet 7 inches to 21 feet 11 inches and vertically extend a 17-foot 2-inch non-conforming front yard setback.

PERMITS REQUIRED
- Administrative Use Permit under BMC Section 23C.04.070 to vertically extend a non-conforming front yard;
- Administrative Use Permit under BMC Section 23D.28.030 to construct a major (> 600 sq. ft.) residential addition; and
- Administrative Use Permit under BMC Section 23D.28.070 to construct an addition greater than 14 feet 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:
- With exception of vertically extending the nonconforming 17-foot 2-inch front yard setback, the addition and all structures on the subject lot will conform to the development standards of the R-2 District. The project will result in 37% lot coverage where a maximum of 40% is allowed. Approximately 1,250 square feet of Usable
Open Space will be provided, which exceeds the district standard of 400 square feet. All setbacks will remain unchanged. The rear yard setback will be 32 feet 8 inches where a minimum of 20 feet is required. The north side yard setback will be 5 feet and south side yard setback 4 feet where 3 feet 4 inches is the minimum. Due to these reasons, the project will allow for adequate air circulation.

- All new fenestration is outside of required setbacks and will create new sight lines but will not impact privacy of neighboring dwellings because: 1) the primary view will be of the rear yard of the subject property and the roofs of the one-story adjacent dwellings at 1220 and 1226 Masonic Avenues, and 2) openings at the rear abutting dwellings at 1229 Evelyn Avenue are approximately 33 feet away. Due to the reasons above, privacy impacts are deemed not detrimental.

- Shadow studies submitted by the applicant demonstrate that during winter mornings four (4) bedroom windows at 1220 Masonic Avenue will be shaded. During winters at noon and in the evening the entire south elevation at 1220 Masonic Avenue will be shaded further to also include the bathroom and entry openings. New shading will not occur throughout the year, the abutting property will have adequate access to light, and shadows are to be expected provided the infill pattern of development, therefore will not be non-detrimental.

- The addition will not result in obstruction of significant views in the neighborhood as protected views are slight, or non-existent. (Significant views as defined by the Berkeley Municipal Code include views of the Berkeley Hills, San Francisco Bay, Mt. Tamalpais, or a significant landmark.) This area is generally flat, developed with one- and two-story buildings.

3. Pursuant to Section 23C.04.070.B, the Zoning Officer finds that the construction of a second story that will vertically extend the non-conforming front yard of 17-feet 2-inches, where a minimum of 20-feet is required, is permissible as it will not further reduce the existing non-conforming setback:

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 # ______________

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, pedestrian paths or vehicle travel lanes (including bicycle lanes);
   - Storage of building materials, dumpsters, debris anywhere In the public ROW;
   - Provision of exclusive contractor parking on-street; or
   - 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, 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 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.

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.

22. The height and location of the proposed structure, property lines and spot elevations shall be verified by a licensed surveyor or engineer on site after foundation forms are placed, but before pouring concrete or placing construction material in its permanent position. This verification shall be to the satisfaction of the Zoning Officer.

**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 **November 29, 2016**.
**At All Times (Operation):**

25. 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: Charles Enchill
For City of Berkeley Zoning Officer

Reviewed by Leslie Mendez, Senior Planner
I have reviewed the plans for an addition of a second story and remodel at 1224 Masonic Avenue, Berkeley.

<table>
<thead>
<tr>
<th>Name (Print)</th>
<th>Signature</th>
<th>Address</th>
<th>Renter or Owner</th>
<th>Date</th>
<th>Have no objections</th>
<th>Have objections (Please state briefly)</th>
<th>Have no comment</th>
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ABUTTING AND CONFRONTING LOTS

1. SITE PLAN

2. STATEMENT AND NEIGHBORHOOD SIGNATURES

3. ABUTTING AND CONFRONTING LOTS

Plans approved by:

[Signature]

April 17, 2017

* NOP findings and conditions attached
3. REAR - WEST (EXISTING)

4. SIDE - NORTH (EXISTING)

5. FRONT - EAST (EXISTING & PROPOSED)

**KEY NOTES:**

A. (E) CLASS 'A' FIBERGLASS SHINGLES (TO REMAIN)
B. (E) GUTTER SYSTEM, DOWNSPOUTS, ETC. (TO REMAIN, EXTEND & PATCH AND MATCH AS REQ'D)
C. (E) WINDOWS ON UPPER FLOOR, TYP. (TO REMAIN)
D. (E) STUCCO (TO REMAIN)
E. (E) ELECT. METER (TO REMAIN)
F. (N) WINDOWS ON LOWER FLOOR, TYP. (MODERATOR LOW E GLAZING)
G. (N) ROOF STUCCO SHEET
H. (N) DECORATIVE STUCCO BAND
I. DECORATIVE STUCCO SURROUND TO REMAIN
J. (N) DECORATIVE STUCCO SURROUND (TO MATCH (E) WITH MODIFICATIONS)
K. (E) STEPS (TO REMAIN)