

ATTACHMENT 1

FINDINGS AND CONDITIONS

MARCH 27, 2014

2024 Durant/2025 Channing

MODUP2014-001 to modify Use Permit #12-100000017 by permitting the conversion of an approximately 500 square foot workout room on the fifth floor to a one-bedroom dwelling unit for a total of 79 dwelling units.

CEQA FINDINGS

1. The modified 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 15332 of the CEQA Guidelines (“In-Fill Development Projects”). The modified project meets all of the requirements of this exemption, as follows:
 - A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations, with the exception of waivers/modifications and concessions pursuant to State density bonus law.
 - B. The project occurs within the Berkeley city limits on a project site of no more than five acres, and is surrounded by urban uses.
 - C. The parcels within the project site have already been developed with commercial/institutional uses, have been paved and have no value as habitat for endangered, rare or threatened species.
 - D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. Regarding traffic, the project will not exceed significance criteria for any intersections or residential streets. The traffic engineer has reviewed the project’s traffic study and concurs with its finding that there will be no significant traffic impacts.
 - E. The site is already served by required utilities and public services, which will also adequately serve the project.

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 adversely affect any historical resources. It should also be noted that the project will be subject to all applicable mitigation measures of the Downtown Area Plan EIR.

GENERAL NON-DETRIMENT FINDING

2. Pursuant to Berkeley Municipal Code Section 23B.32.040, the City finds that the proposed modification, 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. Because the proposed modification will have no impact on the building façade or massing, there will be no impacts to air, light, or privacy.
 - B. Pursuant to Section 23E.68.070.D, the modified project will provide ample Useable Open Space and project amenities for the 79 residences, including 8,167 square feet of Useable Open Space for the residents, which is 1,847 square feet more than required. Amenities include a roof-top deck, fire pit, fountain, reading and gathering areas, as well as an indoor lounge area with ribbon fireplace. There are myriad fitness options within the Downtown: Berkeley YMCA is a two block walk, 24 HR Fitness is a four block walk, and the University of California recreational center is a 10 minute walk. In addition, there are several smaller exercise studios in the immediate vicinity including yoga, CrossFit, and Zumba.
 - C. The modified project exceeds the C-DMU parking requirement by eight spaces. Pursuant to Section 23E.68.080.I, the project will make one space available to car sharing services such as City Carshare or Zipcar. In addition, residents will not be eligible for Residential Preferential Parking (RPP) permits, and the nearest non-RPP area is several blocks away. These factors will help reduce car ownership in the project and discourage use of on-street parking by residents who do not park on site.
 - D. The modified project would provide seventy-nine housing units, which would help the City to meet its housing goals.
 - E. The project helps encourage transit use and reduce greenhouse gas emissions from motor vehicles by constructing additional housing in close proximity to transit, jobs, basic goods and services, and the UC campus, and by providing car share spaces and transit benefits.

OTHER REQUIRED FINDINGS

3. Pursuant to Berkeley Municipal Code Section 23E.68.090.B, the City finds that the proposed modification is consistent with the purposes of the C-DMU District, because it is consistent with the goals and policies of the Downtown Area Plan as discussed in the project staff report dated March 27, 2014.

MODIFIED/ADDED CONDITIONS

Pursuant to BMC Section 23B.56.020, the Zoning Adjustments Board modifies conditions 1 and 43 to Use Permit #12-10000017 as follows:

1. **Conditions Shall be Printed on Plans**

The conditions of this Modification Use Permit (MODUP2014-001) and Use Permit #12-10000017 shall be printed on the first sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. The second sheet may also be used if the first 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.

43. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated March 1, 2013, with modifications dated January 24, 2014.