

1615 Martin Luther King Jr. Way

Use Permit #ZP2014-0025 to establish and to install a new roof-top wireless telecommunication facility with eight antennas and eight remote radio units concealed within a 10-ft tall enclosure screen atop an existing four-story residential building and related support equipment to be mounted atop a third-story roof and similarly screened.

PERMITS REQUIRED

- Use Permit, under BMC Section 23C.17.100.A to establish a wireless telecommunication facility
- Use Permit, under BMC Section 23D.32.030 to establish a wireless telecommunication facility in the R-2A district
- Administrative Use Permit, under BMC Section 23D.04.020.B to build a roof-mounted wireless telecommunication antennas to a greater height than the average building height limit of the R-2A district
- Administrative Use Permit, under BMC Section 23D.32.070.C for a residential addition averaging more than 14 ft. in height

FINDINGS FOR DENIAL

1. 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 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:
 - Although the applicant has demonstrated that the proposed facility would meet the Federal Communication Commission's operational requirements for a new wireless telecommunication facility, this proposal fails to meet all requirements of the City of Berkeley to establish such a facility and to develop this proposed facility in a residential district. It fails to meet the requirements to maintain and preserve existing parking (BMC Section 23D.12.020.B); to avoid unreasonable obstruction of views (BMC Section 23D.32.090.B); to limit the intensity of use of a property in the R-2A district (BMC Section 23D.32.020.D); to minimize visual impacts (BMC 23C.17.070.B); and to represent the least intrusive means for filling a significant gap in coverage or capacity (BMC 23C.17.100.B.3). And, therefore, the proposal is found to be impermissible.
 - The proposal to locate an emergency generator within an existing vehicle aisle at the subject property is prohibited under BMC Section 23D.12.020.B because, in this

location, the generator would impede access to required parking spaces. Therefore, the Board denies this request to establish a wireless telecommunication facility because it proposes this condition.

- The proposed wireless telecommunication facility use and residential additions (screening enclosures) are contrary to the regulatory Purpose of the R-2A district - BMC 23D.32.020. D - which prohibits any use intensification that would be incompatible with and detrimental to the existing low-density residential neighborhood. In this case, the subject building has already exceeded the prescribed development capacity for this district and, if installed, the proposed roof-mounted facility and building would be taller and significantly larger than the existing two- and three-story residential developments that abut the project site and comprise the majority of the developments in the existing neighborhood. The Board finds that these proposed conditions would exacerbate the building's non-conforming mass, would be incompatible with the existing low-density neighborhood and, thereby, would intensify the use of the subject property in a matter that is prohibited in this district.
 - As mandated by the provisions of BMC Section 23D.32.090.B, the Board denies this request to construct a residential addition in the form of a 10 ft.-tall screen wall enclosure because it would unreasonably obstruct a view corridor as defined in BMC 23F.04 (Definitions – "*addition, residential,*" "*view corridor*").
 - The Board finds that the project is not designed to satisfactorily minimize its potential visual impacts as the City requires for all wireless telecommunication facilities in accordance with BMC 23C.17.070. B. The proposed screening devices would conceal the otherwise readily visible antennas and equipment, however they would also create their own visual impacts such as increased building mass and view obstruction which are prohibited as described previously.
 - The Board disproves this request in accordance with BMC Section 23C.17.100.B.3 because it would result in the impacts stated above and there is not enough evidence in the record to determine that it would be least intrusive means of achieving the applicant's coverage goals.
-