

ATTACHMENT 1
DRAFT FINDINGS AND CONDITIONS

8 Greenwood Common – Greenwood Common

Structural Alteration Permit #LMSAP2022-0002

Structural Alteration Permit #LMSAP2022-0002 to make limited exterior alterations to a residential property in the Hillside neighborhood.

FINDINGS REQUIRED UNDER CEQA

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 15331 of the CEQA Guidelines (“Historic Resource Restoration/Rehabilitation”). 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, and (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5.

FINDINGS RELATED TO THE SECRETARY OF THE INTERIOR’S STANDARDS

Regarding the Secretary of the Interior’s Standards for Rehabilitation, the Landmarks Preservation Commission of the City of Berkeley makes the following findings:

1. The property will continue to be used as a residence, consistent with its historic use.
2. The scope of proposed work is limited to window and door replacement, and removal and in-fill of exterior building materials will match the existing historic features and materials. The project would not remove any significant features of the building design or alter its distinctive architectural character.
3. This property does not feature changes that have acquired significance in their own right, and, therefore, it cannot affect such features.
4. The approved alterations to the building are limited in scope, would replace and in-fill exterior building materials, and would not impair any distinctive materials, features, finishes, and construction techniques, or examples of craftsmanship that characterize this property.
5. Has conditioned herein, if deteriorated historic features will be affected by this request, then they would be repaired or replaced to match the materials, design, and finishes of the original items.

6. The applicant does not propose chemical or physical treatments. However, standard conditions of Structural Alteration Permit approval would require any chemical or physical treatments to be undertaken using the gentlest means possible.
7. The project does not have the potential to affect any archaeological resources because the applicant proposes no excavation.
8. The proposed new windows and doors feature a selection of style and materials that are compatible with the historic building design. These new elements are more contemporary than the features to be removed and, yet, are similarly understated in style and tone (color). They are found to be sufficiently differentiated and compatible.
9. If the proposed improvements were removed, they would not permanently impair the integrity or essential form of the subject building or collective Common.

FINDINGS REQUIRED UNDER LANDMARK PRESERVATION ORDINANCE

1. As required by Section 3.24.260 of the Landmarks Preservation Ordinance, the Commission finds that proposed work is appropriate for and consistent with the purposes of the Ordinance, and will preserve and enhance the characteristics and features specified in the designation for this property. Specifically:
 - A. The character-defining exterior features of this Third Bay Tradition residential property include its overall building massing, low-pitched shed roof, horizontal wood siding, use of natural materials and understated detailing. These features would be retained and unaffected by the proposed alteration of the window/door configuration.
 - B. The special character of the subject property may lie in its relationship to the other properties in the Common where they form a collective representation of Third Bay Tradition architectural and landscape design. The proposed door and window alterations at 8 Greenwood Common are limited in their scope and location, and would not be readily visible from the public right-of-way along Greenwood Terrace, or from within the Common owing to their location on the southside of the subject building and behind an existing perimeter fence.

STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Landmarks Preservation 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 Permit, under the title 'Structural Alteration 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. Plans and Representations Become Conditions

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.

3. Subject to All Applicable Laws and Regulations

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 Zoning Adjustments Board or Zoning Officer, Building and Safety Division, Public Works Department and other affected City divisions and departments.

4. Exercise and Lapse of Permits (Section 23.404.060.C)

- A. 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.
- B. 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.

5. 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 attorneys fees that may result.

ADDITIONAL CONDITIONS

The following additional conditions are attached to this Permit:

6. The proposed project is approved as shown on the drawings dated “received March 1, 2022,” and “May 5, 2022.”
7. No changes shall be made to these approved plans without prior approval.
8. This Structural Alteration Permit approval is contingent upon use permit approval.
9. **Repair and replacement of character-defining features.** Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old or historic feature in design, color, texture, and, where possible, materials. Replacement of missing features will be substantiated by documentary and physical evidence.
10. **COLORS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit color and materials information for review and approval by Landmarks staff, in coordination with the LPC Chair as needed.
11. **CLEAR GLASS.** All glass is assumed to be clear glass. Any proposed glass that is not clear glass, or includes signage, shall be indicated on all drawings, and shall be reviewed for approval by Landmarks staff.
12. **DETAILS.** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit window, door, base, and trim details for review and approval by the Landmarks plan checker.
13. **ROOF EQUIPMENT.** Any above ground or roof equipment, such as transformer(s), utilities, fire apparatus, air conditioning units, compressors, etc. shall be shown to scale on the architectural drawings of the building permit set of drawings in both plan and elevation, in order to determine if additional screening and SAP may be required.
14. **LIGHTING** Prior to Landmarks plan checker sign-off of the building permit set of drawings, the applicant shall submit lighting details showing all existing and proposed site and building lighting. Exterior lighting shall be downcast and not cause glare on the public right-of-way and adjacent parcels.
15. **LANDSCAPE PLANS** Prior to Landmarks plan checker sign-off of the Building Permit set of drawings, the applicant shall submit a Landscape plan including the number, location, and species of all proposed plantings, and which existing plantings shall be removed. The applicant shall provide irrigation for all landscaped areas or provide drought tolerant plant palette. This shall be called out on Landscape building permit drawings.
16. The applicant shall be responsible for identifying and securing all applicable permits from the Building and Safety Division and all other affected City divisions/departments prior to the start of work.

17. The applicant is responsible for complying with all the above conditions. Failure to comply with any condition could result in construction work being stopped, issuance of citations, as well as further review by the Landmarks staff, which may modify or impose additional conditions, or revoke approval.
18. All building permit drawings and subsequent construction shall substantially conform to the approved plans as outlined in Condition #1. Any modifications must be reviewed by the Landmarks plan checker to determine whether the modification requires approval.
19. The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.