



Planning and Development Department
Land Use Planning Division

A D M I N I S T R A T I V E U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE
Berkeley Municipal Code, Title 23

AUP #13-2000027

Property Address: **781 SANTA BARBARA**

Permittee Name: **GARDEN ARCHITECTURE**

Use and/or Construction Permitted: to install an unenclosed hot tub in the rear yard area and a 7-foot tall fence with 9.7-foot tall arbor pursuant to:

- Section 23D.08.060 to install an unenclosed hot tub; and
- Section 23D.08.060 to construct a fence over 6' in 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 April 3, 2013.

Attest: Terry Blount
Terry Blount, AICP, Principal Planner
For Debbie Sanderson, Zoning Officer

April 3, 2013
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

MARCH 13, 2013

781 Santa Barbara Road

Administrative Use Permit #13-20000027 to install an unenclosed hot tub in the rear yard area with a 7-foot screening fence with 9.7-foot tall arbor.

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 15303 of the CEQA Guidelines (“New Construction or Conversion of Small Structures”). 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 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, will 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:
 - The installation of the hot tub in the rear yard area of the subject property will not be detrimental to the abutting neighbors’ privacy because it will be screened from view by existing retaining wall and mature landscaping, as well as new fencing and screen walls. The new fencing will not block any significant views enjoyed by the neighbors.
 - The hot tub is a self-contained unit that includes the motor. The tub has a wood skirt with insulation on all sides to muffle any sound and vibration from the unit. Additionally, the vegetation and fencing will further mitigate any sound and vibration from the motor so that it will not be audible over the property line.
 - No grading is required for installation of the hot tub.
 - The hot tub will be subject to the conditions of this permit, which will ensure that neighbors are not adversely affected by noise, lighting, or drainage from the use of the pool. In particular, the operation of the pool equipment is subject to the controls imposed under the Berkeley Municipal Code (Chapter 13.40) as it relates to maximum noise levels.

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 attorneys 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. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Individual Responsible for Noise Management:**

Name: _____ Phone: _____

11. The applicant and all persons associated with the project are hereby notified that a Transportation Management Permit (TMP) would be required under any of the following circumstances:

- 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
- Significant truck activity.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Public Works Traffic Engineering (981-6400) reviews all submitted TMP requests.

The TMP may include designation of a specific truck haul route. Meter heads (if in the construction area) shall be removed only by City staff. Contact the site inspector 72 hours in advance of required removal so arrangements can be made.

During Construction:

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.

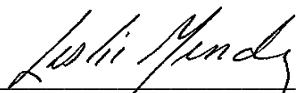
Prior to Issuance of Occupancy Permit or Final Inspection:

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 **February 26, 2013**.

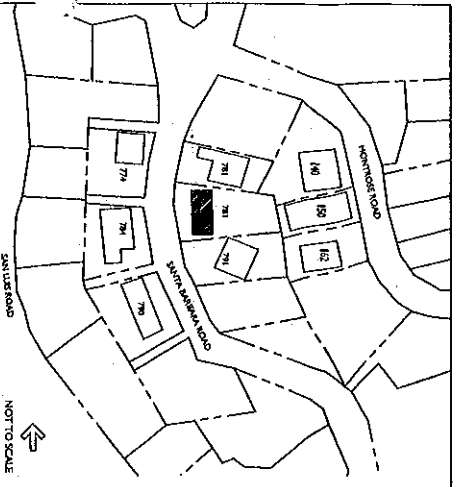
At All Times (Operation):

23. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
24. The pump shall be mounted, enclosed and maintained to prevent noise from disturbing the occupants of neighboring properties.
25. The pool shall be drained into the sanitary sewer connection of the subject property, and not into any storm drain.
26. The pool shall be equipped with safety features in accordance with Chapter 31B, Division II of the California Building Code.
27. This permit shall be subject to review and modification as necessary to alleviate excessive noise or disturbance to the neighborhood.
28. Mechanical operation and use must adhere to the exterior noise standard of the Berkeley Municipal Code section 13.40.050, limiting noise levels from the property line for any 30 minute period to:

R-1 District	7:00 a.m. - 10:00 p.m.	55 (dBA)
	10:00 p.m. - 7:00 a.m.	45 (dBA)



Leslie Mendez for
Debra Sanderson, Zoning Officer



VICINITY MAP
 NOT TO SCALE

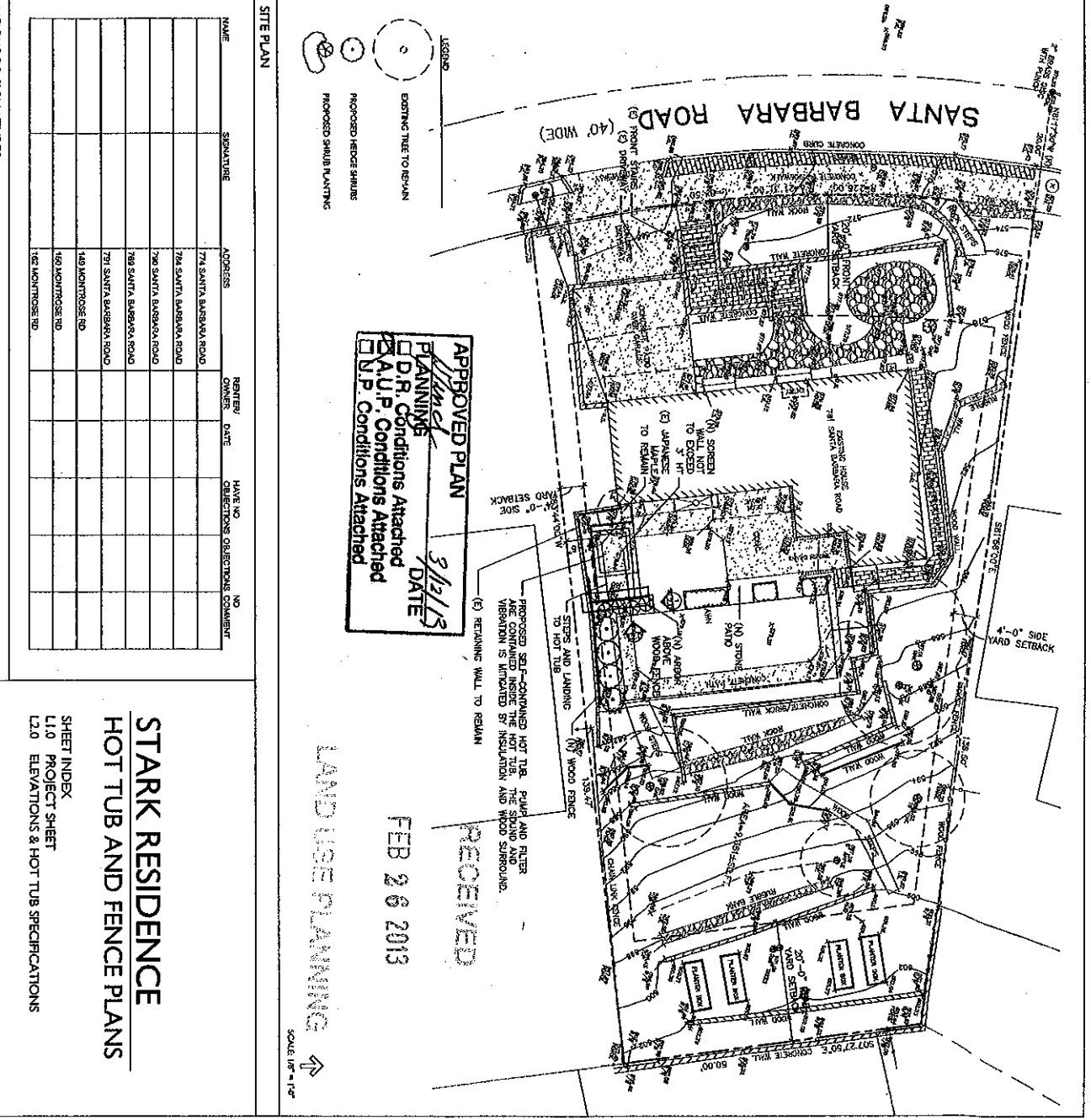
PARCEL SUMMARY
 OWNER: ROBERT AND JOYAN STARK
 ADDRESS: MARIPOSA ROAD
 ADDRESS TYPE: W MAP
 ZONE: T1
 USE CODE: T1
 LOT AREA: 5,282.00
 BUILDING SIZE: 2,582.00

PARCEL CONDITIONS
 ZONING: COMMERCIAL, P.U.M.
 AGENT SIGNATURE: [Signature]
 COMMERCIAL, DISTRICT WITH USE DISTRICTS:
 GENERAL PLAN AREA: COMMERCIAL
 GENERAL DISTRICT: [Signature]

REGULATION APPLICABLES
 NO
 NO
 YES
 YES
 YES
 YES
 YES
 YES
 YES

PROPERTY INFORMATION

ENVIRONMENTAL SAFETY: NO
 ENVIRONMENTAL MANAGEMENT AREA: NO
 FLOOD ZONE (FIRM) OR IAP: NO
 AGRICULTURAL PARCELS AND HISTORIC PRESERVATION: NO
 LAND USE DESIGN: NO
 LAND USE DESIGN MAP: NO
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APPROVED PLAN
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached

RECEIVED
 FEB 26 2013

SITE PLAN

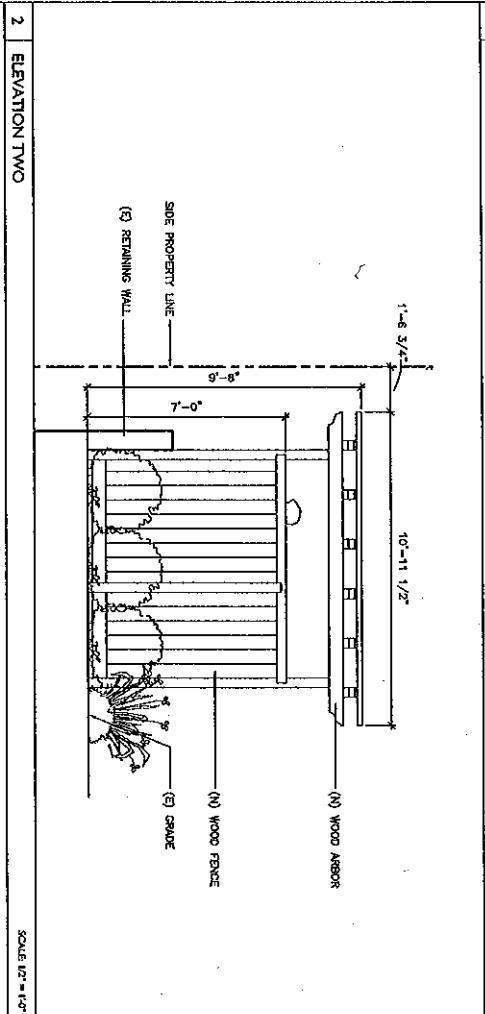
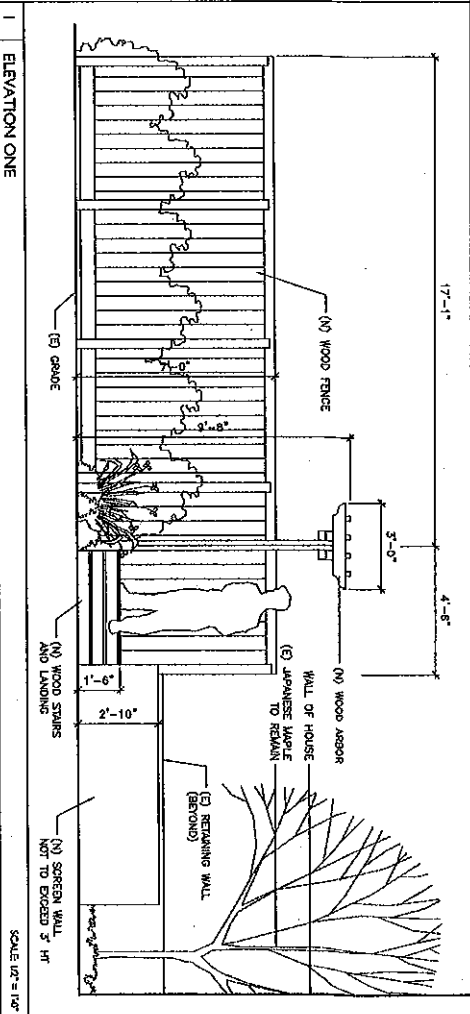
NAME	SIGNATURE	ADDRESS	OWNER	DATE	HAVE NO OBJECTIONS	COMMENTS
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800 SANTA BARBARA ROAD						

LAND USE PLANNING

STARK RESIDENCE
HOT TUB AND FENCE PLANS

SHEET INDEX
 L1.0 PROJECT SHEET
 L2.0 ELEVATIONS & HOT TUB SPECIFICATIONS

APPROVED PLAN
 PLANNING: [initials]
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached
 DATE: 3/12/13



SCALE AS SHOWN
 DRAWN BY DP
 JOB NO.
 SHEET

ALP # 041 238206000
STARK RESIDENCE
 781 SANTA BARBARA ROAD
 BERKELEY, CA 94707

GARDEN ARCHITECTURE
 Robert Teuchiesing, Inc. # 21889
 614 Park Street, Berkeley, CA 94706
 510-525-5517 phone 510-525-9995 fax
 staff@gardenarchitecture.com

REVISION	DATE

L2.0