



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 #13-2000018

Property Address: **1423 ARCH STREET**

Permittee Name: **LIOR PACHTER**

Use and/or Construction Permitted: to build a nine-foot tall fence (five-foot fence on top of a four-foot retaining wall) within the front and side yard setbacks pursuant to:

- Section 23D.08.060.A.2 to build a fence exceeding six feet in height at any point.

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 October 2, 2013.

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

Oct. 2, 2013
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

SEPTEMBER 11, 2013

1423 Arch Street

Administrative Use Permit #13-20000018

To build a fence over 6 feet tall within the front and side yard setbacks.

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:
 - Based on photos taken in 2012, the fence replaces a fence that was of a similar height and in the same location.
 - The retaining wall below the fence was granted an encroachment permit (Minor Encroachment Permit 13-05) to locate within the City right-of-way.
 - The fence will not create an unreasonable shading impact as the shadows will fall on the adjacent front yards and fall in the front yards.
 - The fence and new trellis over the gate will not block significant views from the primary living areas of adjacent neighbors.

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

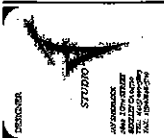
Pursuant to BMC 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

- 10. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **JULY 24, 2013**.
- 11. The maximum total height of the fence, including the retaining wall, shall range from 7 feet, 11.5 inches to 8 feet, 7.5 inches per the Minor Encroachment Permit 13-05 issued for the wall and recorded on July 26, 2013 with the Alameda County Recorder.
- 12. The maximum height of the trellis shall be 8 feet, 10 inches tall as measured from grade at the base of the trellis.
- 13. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

A handwritten signature in black ink, reading "Elizabeth R. Greene". The signature is written in a cursive style and is positioned above a horizontal line.

Elizabeth Greene, Senior Planner

File: Document1



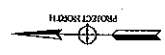
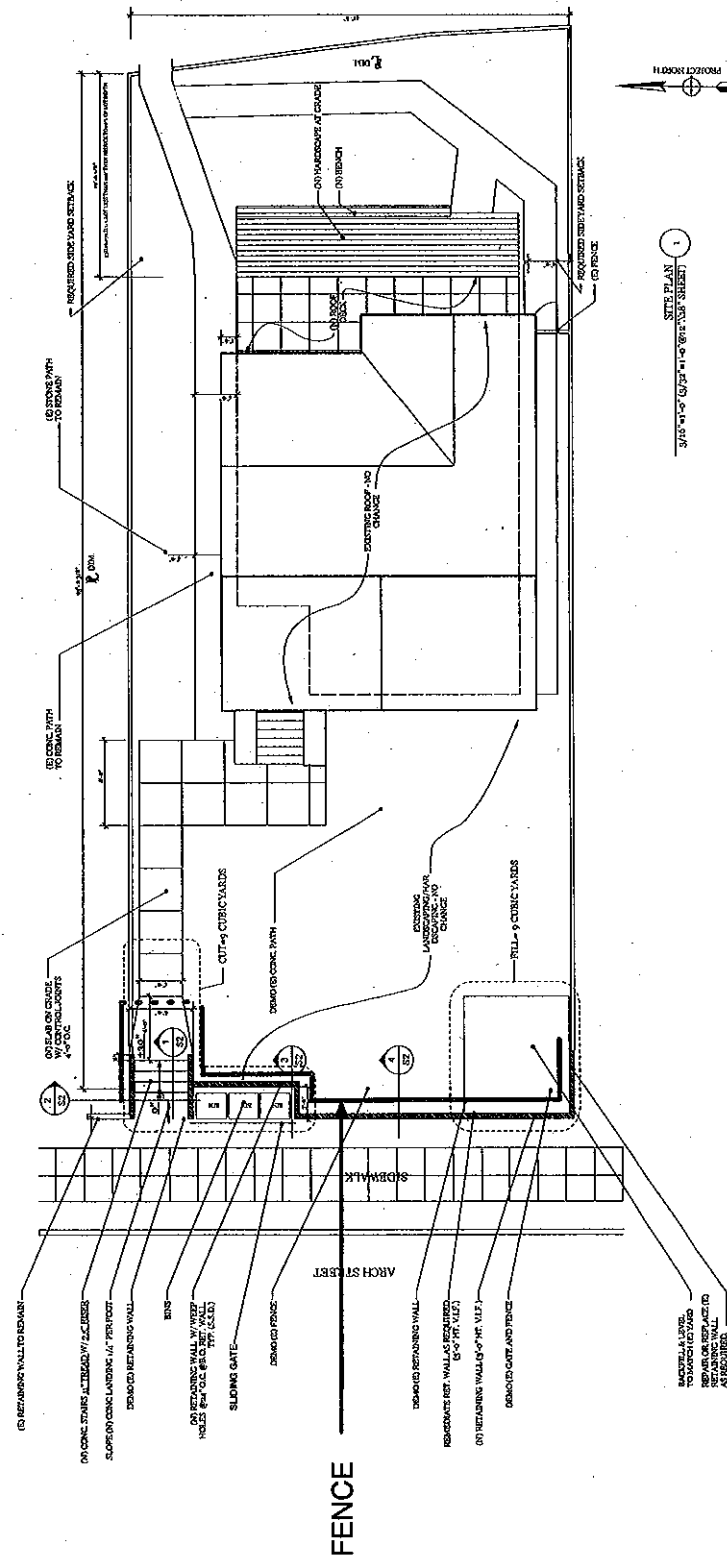
CONTRACTOR:
STRUCTURAL: [blank]
DATE: [blank]

LIOR PACHTER IMPROVEMENTS
1423 ARCH STREET
BERKELEY, CA

SCALE: 1/8" = 1'-0"
DATE: 10/11/13
SHEET PLAN
PROJECT NO: 13-001
SCALE: 1/8" = 1'-0"
DATE: 10/11/13

RECEIVED
JUL 24 2013
LAND USE PLANNING

APPROVED PLAN
DATE 7/16/13
DATE
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached



3/15" x 15" (0/25" x 15" 8 1/2" x 10 1/2" SHEET) 1

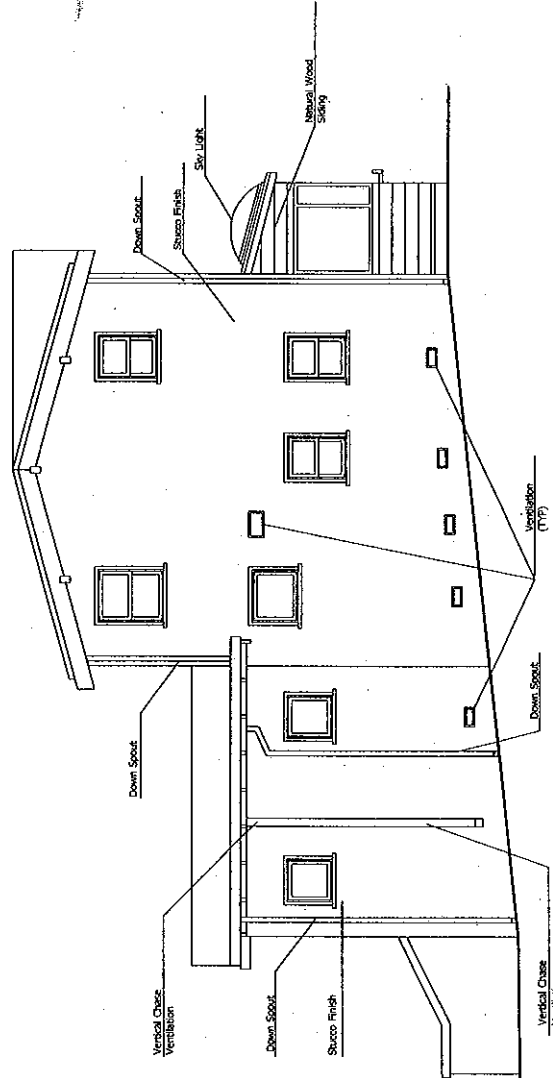
FENCE

RECEIVED

JUL 24 2013

LAND USE PLANNING

APPROVED PLAN	<i>Spencer</i>	DATE	7/24/13
PLANNING	<i>Spencer</i>	DATE	
<input type="checkbox"/> D.R. Conditions Attached			
<input type="checkbox"/> A.U.P. Conditions Attached			
<input type="checkbox"/> U.P. Conditions Attached			



Fence, height 49.5"

Retaining wall, height 44"-54"

Sidewalk, 10.5'

EXISTING SOUTH ELEVATION
 1/4" = 1'-0" (1/8" = 1'-0" @ 12"x48" SHEET)