



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 #2013-0115

Property Address:

1349 JOSEPHINE STREET

Permittee Name:

**LORI BOCKHOLT/MITCHELL
HOLLADAY ARCHITECT**

Use and/or Construction Permitted: to enlarge an existing 1,884 sq. ft. two-family residential building by constructing 431 sq. ft. to the first floor to relocate the studio unit and to expand the family room in the main unit, constructing 649 sq. ft. to the second floor to enlarge the existing bedroom and add one new bedroom, for a total 1,080 sq. ft. major residential addition, resulting in a 2,964 sq. ft. two-unit building, increasing the average height from 17' to 24'6", install an unenclosed hot tub, constructing a second floor deck 15'3" in height from grade to the top of the guardrail, and construct a new roof deck 24'4" in height from grade to the top of the guardrail pursuant to:

- Section 23D.28.070.C to construct a residential addition over 14' in height;
- Section 23D.28.030 to allow a residential addition over 600 sq. ft.;
- Section 23D.28.070.C to construct decks over 14' in height; and
- Section 23D.28.050 to allow a fifth bedroom on a parcel.

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 December 5, 2013.

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

December 5, 2013
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

NOVEMBER 14, 2013

1349 Josephine Street

Administrative Use Permit #2013-0115

To enlarge an existing 1,844 sq. ft. two-family residential building by constructing approximately 431 sq. ft. to the first floor to relocate the studio unit and to expand the family room in the main unit, to construct approximately 649 sq. ft. to the second floor to enlarge the existing bedroom and add one new bedroom, for a total 1,080 major residential addition resulting in a 2,964 sq. ft. two-unit building (2,652 sq. ft. main dwelling and a 312 sq. ft. studio unit), increasing the average height from 17' to 24'6", to install a new unenclosed hot tub on a rear deck, construct a new second floor deck 15'3" in height from grade to the top of the guardrail and to construct a new roof deck 24'4" in height from grade to the top of the guardrail.

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 15301 of the CEQA Guidelines ("Existing Facilities"). 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:
 - As required under Section 23D.28.030 (Uses Permitted) and 090 (Findings), the proposed addition and deck may exceed 14' in average height and the addition may exceed 600 sq. ft. and the addition and deck do not create significant impacts

to sunlight, air, or views, and is found to be non-detrimental and permissible for the following reasons:

1. Sunlight – Because of the mass of the existing structure, shadows currently exist at the abutting properties, however, the deck and the addition are not expected to significantly increase shadows at neighboring properties because if new shadows occur they cast shadows at the rear of the yard at the abutting property to the north at 1345 Josephine for a few hours in the winter during the afternoon and at the rear yard at the abutting property to the south at 1829 Rose in the summer months in the evening;
 2. Air – Because the proposed addition and deck exceed the district standards for minimum front, rear yard, and side yard setbacks, it is expected to provide adequate spatial separations between developments of abutting properties, thereby allowing for adequate air circulation;
 3. Views – The proposed addition is not expected to significantly block the adjacent neighbors' views of any significant features. The proposed addition will not exceed the full height limit allowed in the R-2 District, and will not exceed the number of stories allowed: and
 4. Privacy – The proposed addition includes new windows and a door at the north (side) elevation, new windows at the south (side) elevation, new windows at the west (front) elevation, and new windows and two proposed decks at the east (rear) elevation. However, these features are not expected to create privacy impacts to the immediate neighbors given that at the rear elevation, the distance to the closest residential structure to the east at 1837 Rose Street is approximately 53' away and large trees current exist between the properties, the distance from the proposed windows to the nearest residential structure to the north at 1345 Josephine is approximately 12' away and the proposed door leading to the trash bins is approximately 7' away, the distance from the proposed windows at the south to the nearest residential structure at 1829 Rose Street is approximately 9' away. In addition, it is unlikely that either of the proposed decks will significantly impact privacy at neighboring properties the decks are not expected to view directly into neighboring windows.
- As required under Section 23D.28.070 (Development Standards), the project is permissible because the addition satisfies the development standards for minimum lot area, maximum residential density, maximum main building height, minimum yard setbacks, and minimum open space.
 - As required by Section 23D.08.060.C, the installation of the hot tub is permissible because this location is found to be non-detrimental for the following reasons:
 - 1) The distances to neighboring properties is sufficient and it is unlikely to create significant privacy concerns;
 - 2) Large trees are present on the rear of the subject lot providing adequate screening;
 - 3) The hot tub will be insulated around the pump motor and is housed within a synthetic wood panel cover. The pump is sited on rubber feet to further dampen vibration and sound transfer and the pump is located under the deck away from the property line to further limit the transfer of sound;

- 4) The operation of the hot tub is subject to the controls imposed under the Berkeley Municipal Code (Section 13) as it relates to maximum noise levels (Restrictions included in conditions of approval #31); and
- 5) The installation of 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 hot tub.

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.

Prior to Issuance of Any Building Permit:

12. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

During Construction:

13. 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.
14. 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.
15. 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.
16. 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.
17. 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.
18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.

20. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
21. 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.
22. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

Prior to Issuance of Occupancy Permit or Final Inspection:

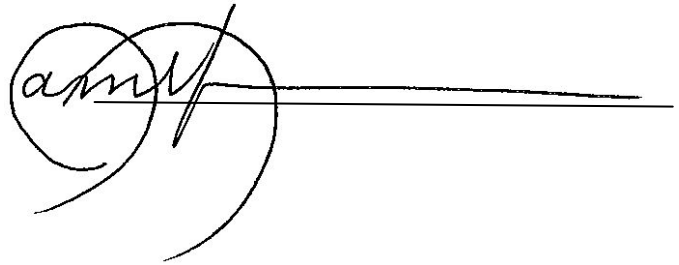
23. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
24. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **OCTOBER 31, 2013**.

At All Times (Operation):

25. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
26. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the neighborhood or is detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.
27. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood.
28. The hot tub pump shall be mounted, enclosed and maintained to prevent noise from disturbing the occupants of neighboring properties.
29. The hot tub shall be drained into the sanitary sewer connection of the subject property, and not into any storm drain or within the yard. The hot tub shall be equipped with safety features in accordance with Chapter 31B, Division II of the California Building Code.
30. The design and use of the hot tub facility shall be subject to review and modification as necessary to alleviate excessive noise or disturbance to the neighborhood.

31. The mechanical operation and use of the hot tub 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)

A handwritten signature in black ink, appearing to read 'amj', is written over a horizontal line. The signature is enclosed within a circular scribble.

Prepared by: Pamela Johnson, Assistant Planner for
Debra Sanderson, Zoning Officer

APPROVED PLAN
11-6-13
 DATE
 PLANNING
 D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached

RECEIVED
 OCT 31 2013
 LAND USE PLANNING

SCANNED

11-6-13

<p>GENERAL NOTES</p> <ol style="list-style-type: none"> The work shall be in accordance with the California Building Code, 2010 Edition, City of Berkeley adoption. The Contractor shall verify the conditions and dimensions of the project to determine if the existing structure meets the minimum requirements of the applicable building code. The Contractor shall verify the condition of the existing foundation and framing. The Contractor shall verify the condition of the existing roof structure. The Contractor shall verify the condition of the existing exterior walls. The Contractor shall verify the condition of the existing interior walls. The Contractor shall verify the condition of the existing floor joists. The Contractor shall verify the condition of the existing floor slab. The Contractor shall verify the condition of the existing stairs. The Contractor shall verify the condition of the existing foundation and framing. The Contractor shall verify the condition of the existing roof structure. The Contractor shall verify the condition of the existing exterior walls. The Contractor shall verify the condition of the existing interior walls. The Contractor shall verify the condition of the existing floor joists. The Contractor shall verify the condition of the existing floor slab. The Contractor shall verify the condition of the existing stairs. 	<p>PROJECT DATA</p> <p>OWNER: [Name Redacted] PROJECT ADDRESS: 1349 JOSEPHINE STREET CITY: BERKELEY, CA 94704</p> <p>PROJECT SCOPE:</p> <ul style="list-style-type: none"> RENOVATE EXISTING 1,800 SQ FT GARAGE AND ATTACHED BATHROOM. CONVERT EXISTING ATTACHED BATHROOM TO TWO (2) BATHS. CONVERT EXISTING ATTACHED BATHROOM TO ONE (1) BATH AND ONE (1) KITCHEN AND BREAKFAST ROOM. CONVERT EXISTING ATTACHED BATHROOM TO ONE (1) BATH AND ONE (1) KITCHEN AND BREAKFAST ROOM. CONVERT EXISTING ATTACHED BATHROOM TO ONE (1) BATH AND ONE (1) KITCHEN AND BREAKFAST ROOM. 	<p>DRAWING INDEX</p> <ul style="list-style-type: none"> A-01: EXISTING LOTS / SITE PLAN/PROJECT DATA A-02: EXISTING PLANS AND DIMENSIONS A-03: PROPOSED FIRST AND SECOND FLOOR PLANS A-04: PROPOSED ROOF PLAN A-05: PROPOSED CONTRACTOR PLAN 																				
<p>VICINITY MAP</p>	<p>ASSESSORS MAP</p>	<p>AREA CALCULATIONS</p> <table border="1"> <thead> <tr> <th>DESCRIPTION</th> <th>EXISTING</th> <th>REMOVED</th> <th>NEW</th> <th>TOTAL</th> </tr> </thead> <tbody> <tr> <td>FIRST FLOOR</td> <td>1,800 SQ FT</td> <td>168 SQ FT</td> <td>660 SQ FT</td> <td>2,460 SQ FT</td> </tr> <tr> <td>SECOND FLOOR</td> <td>1,765 SQ FT</td> <td>474 SQ FT</td> <td>697 SQ FT</td> <td>2,388 SQ FT</td> </tr> <tr> <td>TOTAL</td> <td>3,565 SQ FT</td> <td>642 SQ FT</td> <td>1,357 SQ FT</td> <td>4,280 SQ FT</td> </tr> </tbody> </table> <p>SITE PLAN NOTES</p> <ul style="list-style-type: none"> 1. The existing garage and bathroom shall be demolished and removed from the site. 2. The Contractor shall construct a new two-story structure with a total floor area of 4,280 square feet. 3. The Contractor shall construct a new two-story structure with a total floor area of 4,280 square feet. 4. The Contractor shall construct a new two-story structure with a total floor area of 4,280 square feet. 	DESCRIPTION	EXISTING	REMOVED	NEW	TOTAL	FIRST FLOOR	1,800 SQ FT	168 SQ FT	660 SQ FT	2,460 SQ FT	SECOND FLOOR	1,765 SQ FT	474 SQ FT	697 SQ FT	2,388 SQ FT	TOTAL	3,565 SQ FT	642 SQ FT	1,357 SQ FT	4,280 SQ FT
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<p>NEIGHBORS SIGNATURES</p> <ol style="list-style-type: none"> 1345 JOSEPHINE ST. 1347 JOSEPHINE ST. 1349 JOSEPHINE ST. 1351 JOSEPHINE ST. 1353 JOSEPHINE ST. 1355 JOSEPHINE ST. 1357 JOSEPHINE ST. 1359 JOSEPHINE ST. 1361 JOSEPHINE ST. 	<p>1 I have reviewed the plans for the addition and renovation at 1349 Josephine Street, signed:</p>	<p>SITE PLAN</p>																				

MITCHELL hollday

ARCHITECT

301 J. ROBERTS STREET
 BERKELEY, CA 94703

TEL: 415.863.1111
 FAX: 415.863.1112

SPENCER NGUYEN
 RESIDENCE ADDITION AND RENOVATION

1349 JOSEPHINE STREET
 BERKELEY, CA 94703

CONSULTANTS

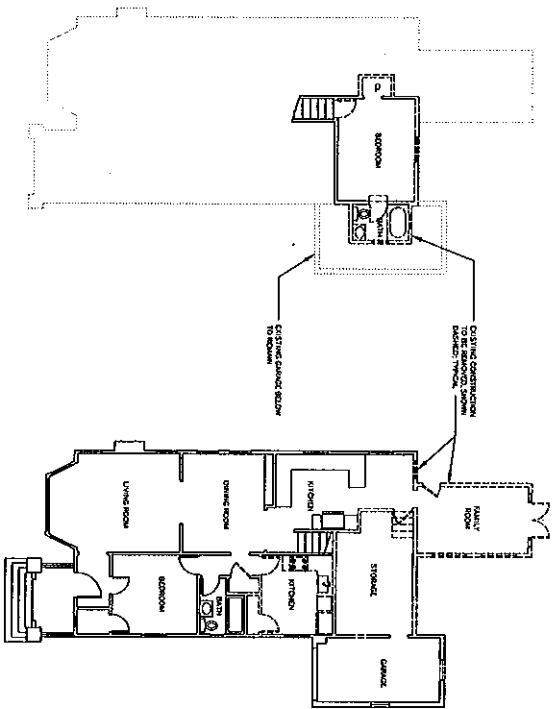
STRUCTURE ENGINEER
 DAN DONOVAN
 1351 JOSEPHINE STREET
 BERKELEY, CA 94703
 510.835.7777

DATE: 11/6/13
DRAWN BY: [Name Redacted]

SCALE:
 SITE PLAN: AS SHOWN
 PROJECT DATA: AS SHOWN
 GENERAL NOTES: AS SHOWN

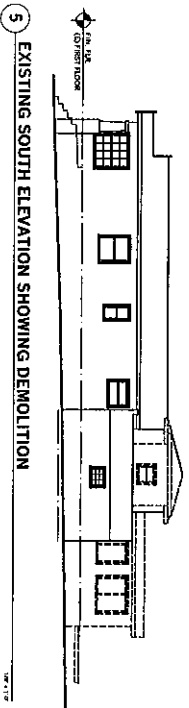
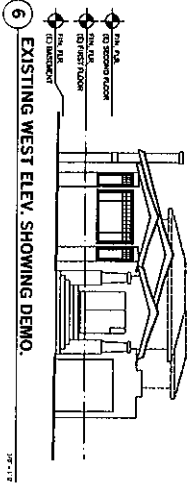
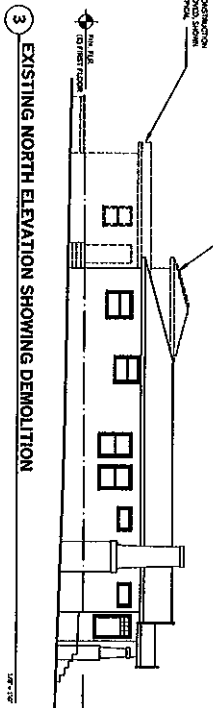
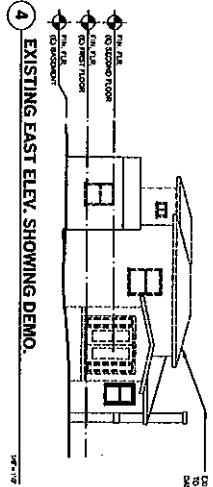
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APPROVED PLAN
 PLANNING
 DATE
pm 11.6.13
 P.F. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached



2 EXISTING SECOND FLOOR PLAN SHOWING DEMO. 1/27/12

1 EXISTING FIRST FLOOR PLAN SHOWING DEMO. 1/27/12



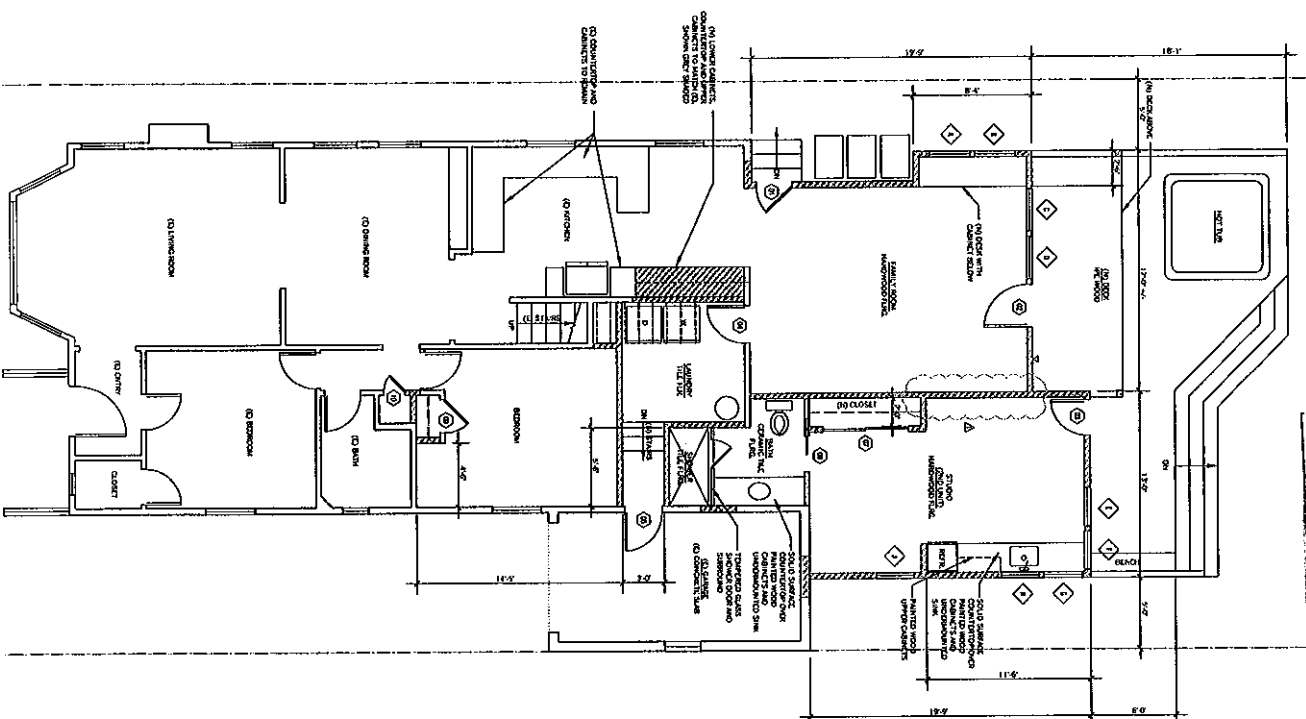
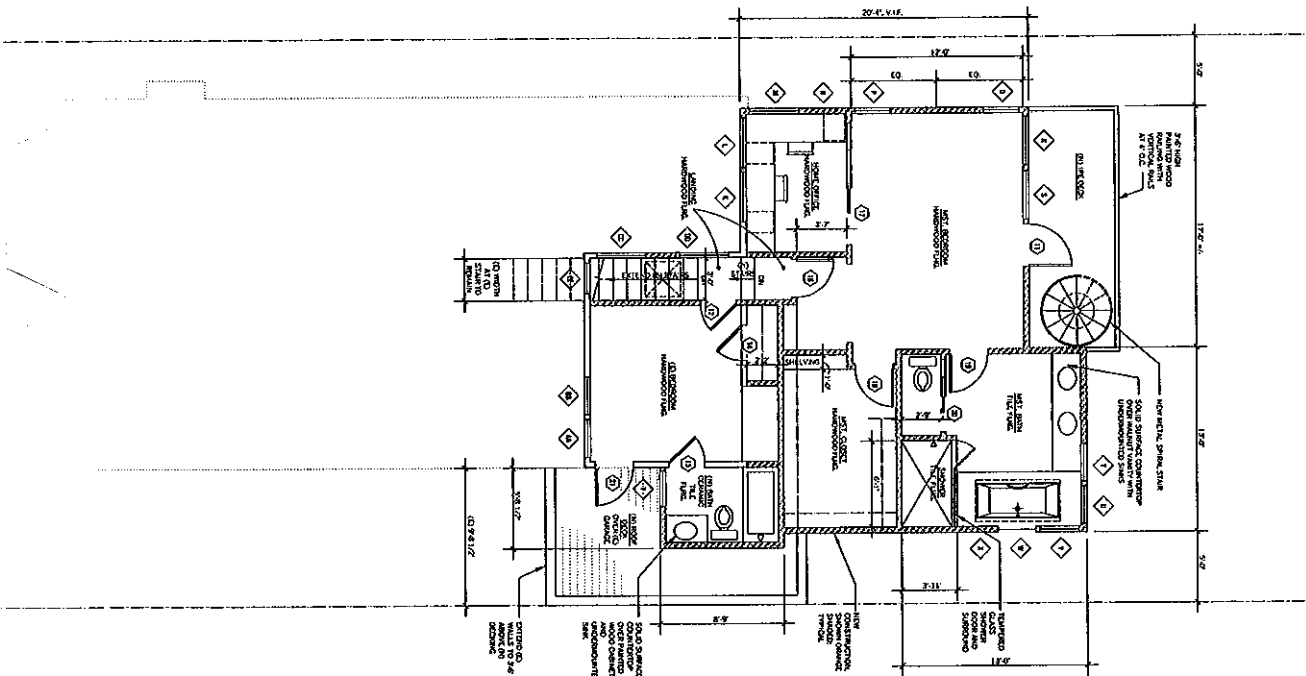
mitchell
 holladay

SPENCER NGUYEN RESIDENCE ADDITION AND RENOVATION

3242 OLIVE STREET
 BERKELEY, CA 94709

CONSULTANTS
 ARCHITECTURAL ARCHITECT
 JOHN SANCHEZ
 JOHN SANCHEZ ARCHITECT
 BERKELEY, CA 94709
 510-842-1111

APPROVED PLAN 1.6.13
 DATE
 PPM
 PLANNING
 Conditions Attached
 Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached



mitchell holiday
 1250 West Orange Ave
 Suite 200
 Raleigh, NC 27607
 (919) 887-2000

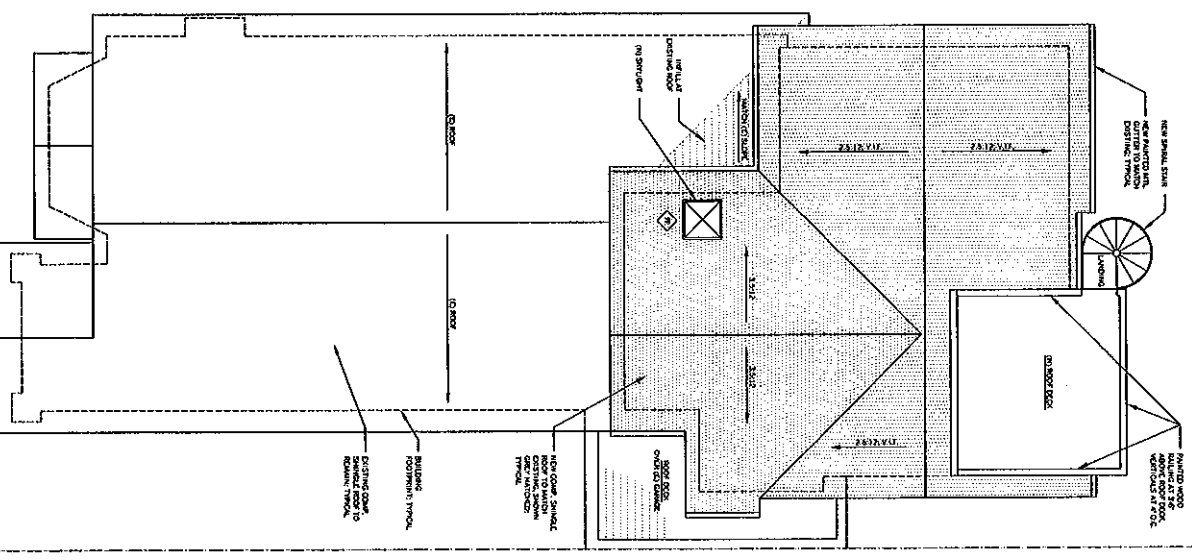
SPENCER NGUYEN RESIDENCE ADDITION AND RENOVATION
 124 ASPEN STREET
 SHEROKEE, GA 30756

CONTRACTORS
 STRUCTURAL ENGINEER
 4201 WOODBRIDGE
 SHEROKEE, GA 30756
 770-420-1170

DATE
 1/13/13

PROPOSED PLANS

APPROVED PLAN 11.6.13
 DATE
 PLANING
 D.F. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached



1 PROPOSED ROOF PLAN

mitchell holladay

100 West 47th Street, New York, NY 10019
 Tel: 212 755 6600
 Fax: 212 755 6601
 www.mitchellholladay.com

SPENCER NGUYEN RESIDENCE ADDITION AND RENOVATION

CONSULTANTS
 SPENCER NGUYEN
 ARCHITECTS
 2500 S. JAMES STREET
 BERKELEY, CA 94709
 510.862.1114

DATE
 12/14/13

PROPOSED ROOF PLAN

A-2.1

APPROVED PLAN 11-6-13
 DATE
 DRAWING
 Conditions Attached
 Conditions Attached
 Conditions Attached

mitchell holiday
 2000 North Main Street
 Suite 100
 Raleigh, NC 27601
 919.833.1111

SPENCER NGUYEN RESIDENCE ADDITION AND RENOVATION

1525 GERRARD STREET
 RENOVALE, VA 4702

CONSULTANTS
 STRUCTURAL ENGINEER
 JEFFREY B. BARNES
 1000 S. MAIN STREET
 SUITE 200
 RENOVALE, VA 4702

DATE
 DRAWING
 PROJECT

PROPOSED EXTERIOR ELEVATIONS

A - 3.0

