



Planning and Development Department  
Land Use Planning

# U S E P E R M I T

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CITY OF BERKELEY ZONING ORDINANCE  
Berkeley Municipal Code Title 23

## USE PERMIT #MODUP2014-0011

Property Address: **1931-35 ADDISON STREET**

Permittee Name: **AVI NEVO**  
**1935 Addison LLC**

Use and/or Construction Permitted:  
to modify Use Permit #12-10000042 to allow construction activity between the hours of 7:00 a.m. and 6:00 p.m. Monday – Friday, and between 9:00 a.m. and 4:00 p.m. on Saturday

- Use Permit Modification, under BMC Section 23B.56.020

FINDINGS, CONDITIONS ATTACHED

The Use Permit herein described has been duly granted by the Zoning Adjustments Board and is in effect on September 23, 2014.

# ATTACHMENT 1

## FINDINGS AND CONDITIONS

JULY 10, 2014

### 1931-35 Addison Street

**MODUP2014-0011 to modify Use Permit #12-1000042 to allow construction activity between the hours of 7:00 a.m. and 6:00 p.m. Monday – Friday, and between 9:00 a.m. and 4:00 p.m. on Saturday**

#### INTRODUCTION

This is an update of the Findings and Conditions adopted by the ZAB for Use Permit #12-1000042. Revisions to the findings and conditions necessary to address the modified plans are shown with strikeouts (~~strikeout~~) for deleted text and underlines (underline) for added text. Only the modified Findings or Conditions are included; all other findings or conditions shall continue to apply except for the following:

#### GENERAL NON-DETRIMENT FINDING FOR USE PERMIT MODIFICATION 2014-0011:

In addition to the findings made by the Board to approve Use Permit #12-1000045, the Zoning Adjustments Board finds that the change to Condition of Approval #36 to expand the construction hours, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or 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, for the following reasons:

- A. The changes will not introduce potential for new detriment;
- B. The site does is not adjacent to a residential district or property;
- C. The expanded hours would not impact any adjacent business as the earlier start time is generally before the start of business; and surrounding uses are predominantly office, which are typically closed on weekends;
- D. The expanded hours are consistent with the City's Noise Ordinance (BMC 13.40);
- E. The basis for the original findings for approval continue to apply; and
- F. The Board has considered the modified project, the previously adopted environmental determination, and the information submitted in the staff report, and found that its previous environmental clearance is adequate for the modified project.

#### MODIFIED CONDITION

Pursuant to BMC Section 23B.56.020, the Zoning Adjustments Board modifies condition 36 to Use Permit #12-1000042 as follows:

36. Construction Hours. Construction activity shall be limited to between the hours of ~~8~~7:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and ~~noon~~ 4:00 p.m. on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday. It is recognized that certain construction activities, such

as the placement of concrete, must be performed in a continuous manner and may require an extension of these work hours. Prior to initiating any activity that might require a longer period, the developer must notify the Zoning Officer and request an exception for a finite period of time. The project shall not be allowed more than 15 extended working days. If the Zoning Officer approves the request, then two weeks prior to the expanded schedule, the developer shall notify businesses and residents within 500 feet of the project site describing the expanded construction hours. A copy of such notice and methodology for distributing the notice shall be provided in advance to the City for review and approval.