



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

901 Arlington Avenue

Administrative Use Permit #ZP2016-0187

Project Description: To construct a 726 square foot, one-story addition with an average height of 14 feet and 9 inches at the rear of the existing one-story, 610 square foot, single family dwelling; and demolish an existing 232 square foot detached garage in the rear yard, in the R-2 District.

- Administrative Use Permit under BMC 23D.28.030 to allow a Major Residential Addition (over 600 square feet).
- Administrative Use Permit under BMC 23D.28.070 to allow a residential addition to exceed 14 feet in average height, up to the district limit.

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 January 12, 2017.

Attest: Carol Johnson
Carol Johnson, Land Use Planning Manger

January 12, 2017
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

DECEMBER 22, 2016

901 Arlington Avenue

Administrative Use Permit #ZP2016-0187

To install an unenclosed hot tub in the front portion of the lot and construct a fence over 6 feet tall in the R-1 (H) District.

PERMITS REQUIRED

- Administrative Use Permit under BMC 23D.08.060.C to allow for a hot tub, jacuzzi, or spa; and
- Administrative Use Permit under BMC 23D.08.060.A.2 to allow a fence within the required yard to exceed six feet in height at any point.

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 Structures and 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 would 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, would 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:
 - A. The unenclosed hot tub will be added to an existing deck in the front portion of the lot. The unenclosed hot tub is approximately 27 feet from the front (west) property line and approximately 14 feet from the side (north) property line. The proposed unenclosed hot tub will be screened from view on the north and east sides by a new proposed fence surrounding the deck and mature vegetation located along the front (east) and side (north) property lines. Thus, the unenclosed hot tub will not be detrimental to the abutting neighbors’ privacy. There will be no changes to access of light, shadows, or air.
 - B. The hot tub equipment will be installed will be installed and enclosed under the deck about 14 feet from the north-side property line. The equipment will abut the main building on two sides and will be located more than 40 feet from 899 Arlington, north of the subject property and the closest residence.

- C. 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. In particular, the operation of the hot tub equipment is subject to the controls imposed under the Berkeley Municipal Code (Chapter 13.40) as it relates to maximum noise levels and Conditions of Approval numbers 27-31.
 - D. The proposed 7-foot fence to enclose the existing deck and unenclosed hot tub, are below the height of the residence, will not block any significant views enjoyed by the neighbors. The fence will be set back approximately 19 feet from the front property line and approximately 11 feet from the north-side property line.
3. Pursuant to Berkeley Municipal Code Section 23D.08.060.C, the Zoning Officer finds that the hot tub pump will be enclosed so that its sound is not audible over a property line of any abutting property. Additionally, the vegetation and fencing will further mitigate any sound and vibration from the motor.

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 attorney's 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. Project Liaison. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis.

Project Liaison _____
Name Phone #

During Construction:

11. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:
- 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 relevant
 - Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, 3rd floor, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

12. 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). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.
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:

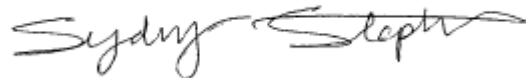
23. All construction at the subject property shall substantially conform to the approved Administrative Use Permit drawings or to modifications approved by the Zoning Officer.
24. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated November 28, 2016.

At All Times (Operation):

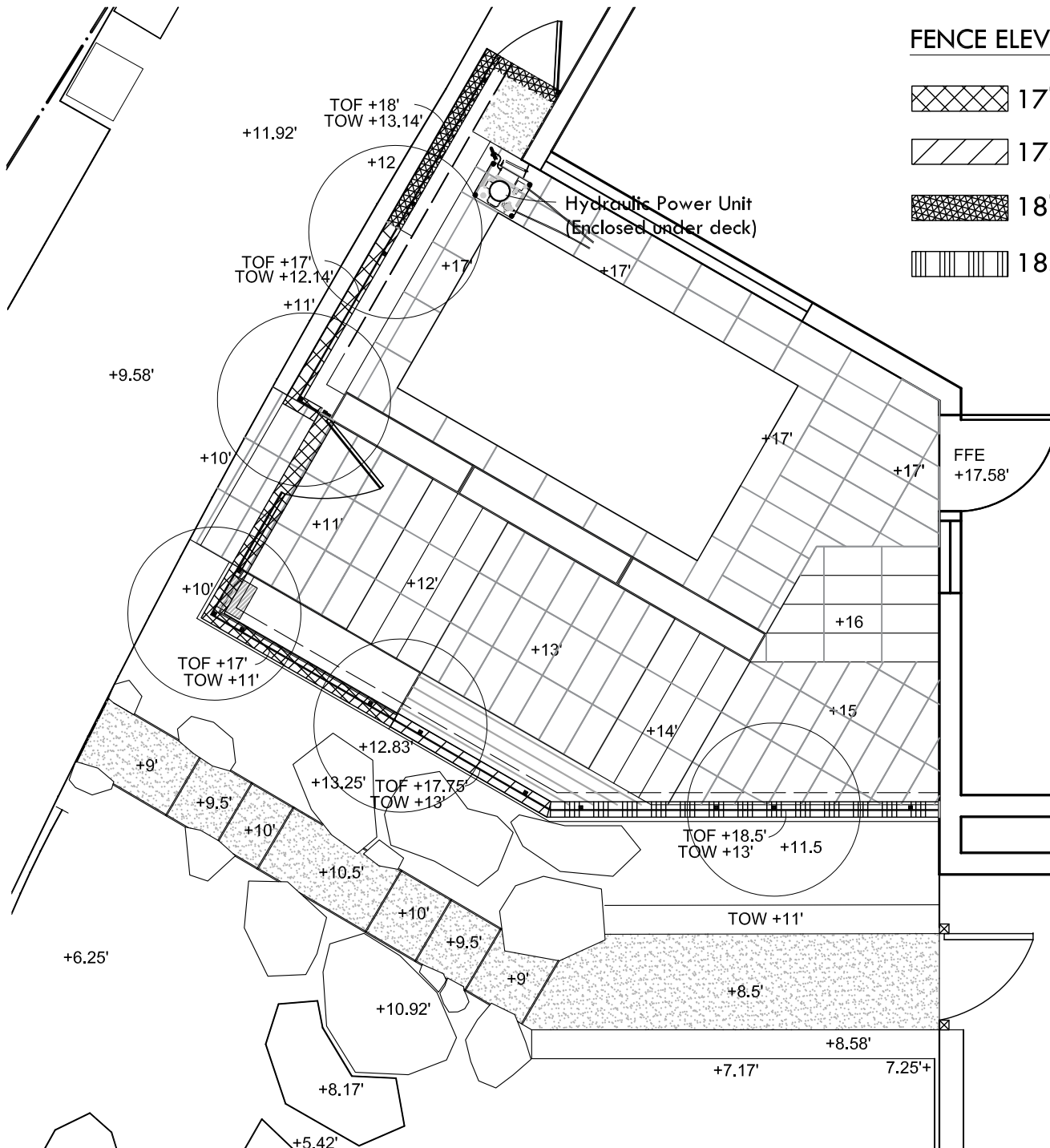
25. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
26. The pump shall be mounted, enclosed and maintained to prevent noise from disturbing the occupants of neighboring properties.
27. The hot tub shall be drained into the sanitary sewer connection of the subject property, and not into any storm drain.
28. The hot tub shall be equipped with safety features in accordance with Chapter 31B, Division II of the California Building Code.
29. 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.
30. 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)


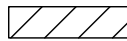
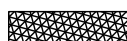

31. This permit is subject to review, imposition of additional conditions, or revocation if factual compliant is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, 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 the general welfare of the City.



Prepared by: Sydney Stephenson, Assistant Planner
For Greg Powell, Principal Planner



FENCE ELEVATION LEGEND

-  17'
-  17.25'
-  18'
-  18.5'



BaDesign
1601 32nd Street
Oakland, CA 94608
510.444.2922

PLANS APPROVED by

Sydney Stept **December 22, 2016**

SIGNATURE DATE

***AUP Findings and Conditions Attached**

901 Arlington Ave
Berkeley, CA

CURRENT RELEASE DATE:
11.28.16

SHEET TITLE:
FENCE
ELEVATIONS

FENCE ELEVATIONS & LOW POINTS

3/16" = 1'-0"



Lx.x