



Z O N I N G
A D J U S T M E N T S
B O A R D
S T A F F R E P O R T

FOR BOARD ACTION
MARCH 24, 2022

2361 San Pablo Avenue

Use Permit #ZP2021-0196 to add the Alcoholic Beverage Retail Sale of beer and wine for off-site consumption to an existing Retail Store.

I. Background

A. Land Use Designations:

- General Plan: Avenue Commercial
- Zoning: West Berkeley Commercial District, C-W

B. Zoning Permits Required:

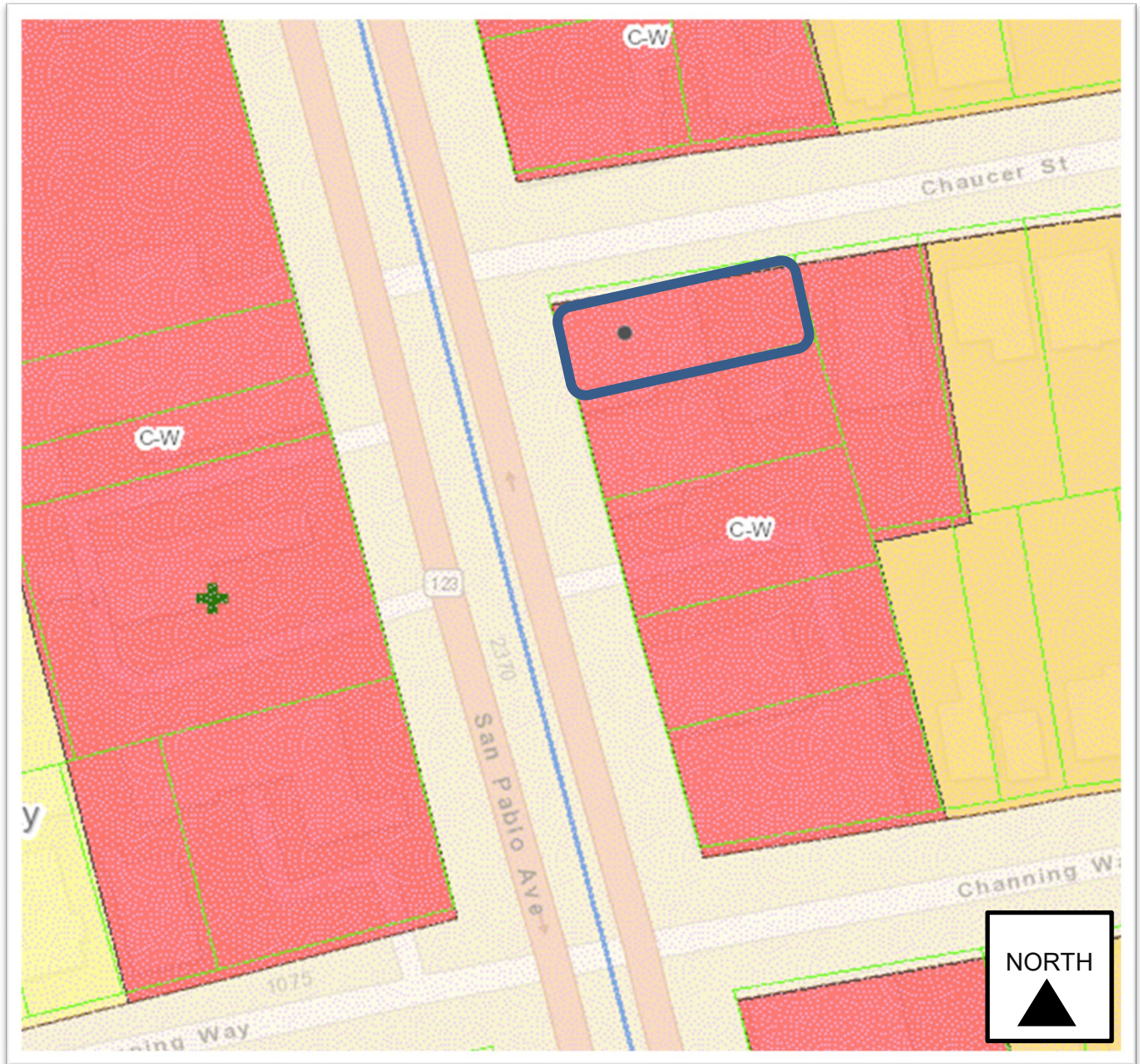
- Use Permit, under Berkeley Municipal Code (BMC) Section 203.204.020 to commence Alcoholic Beverage Retail Sales of beer and wine for off-site consumption at an existing Retail Store.

C. CEQA Recommendation: It is staff's recommendation that the project is categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"). The determination is made by ZAB.

D. Parties Involved:

- Applicant Clarence Lalaind , 255 Yachtsman Drive, Vallejo
- Property Owner Helen Hsu, P.O Box 2751, San Francisco

Figure 1: Vicinity Map



2361 San Pablo Avenue

Figure 2: Site Plan

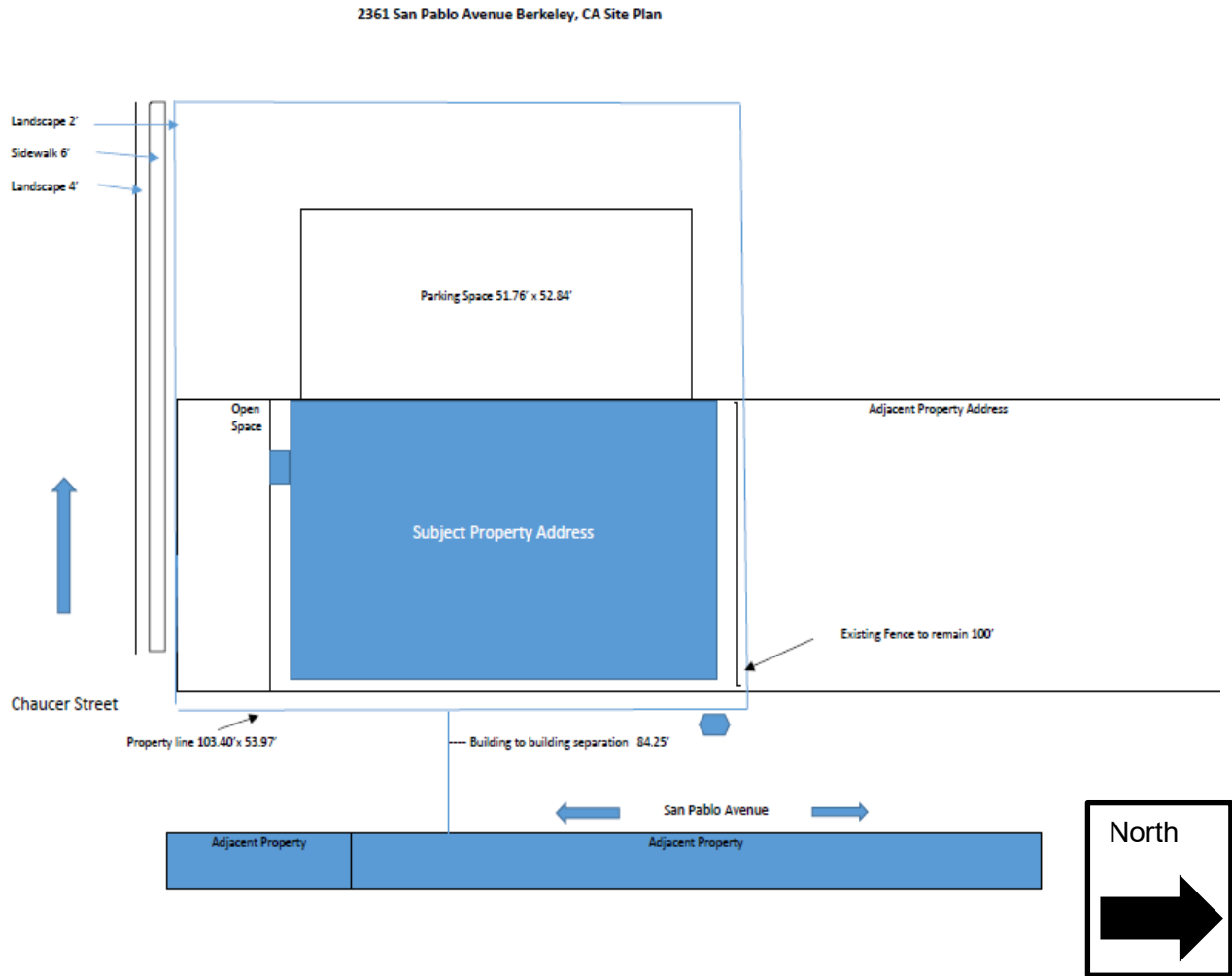


Figure 3: Floor Plan

Diagram: C & L Convenience Store 2361 San Pablo Avenue, Berkeley CA, 94702

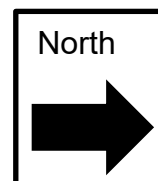
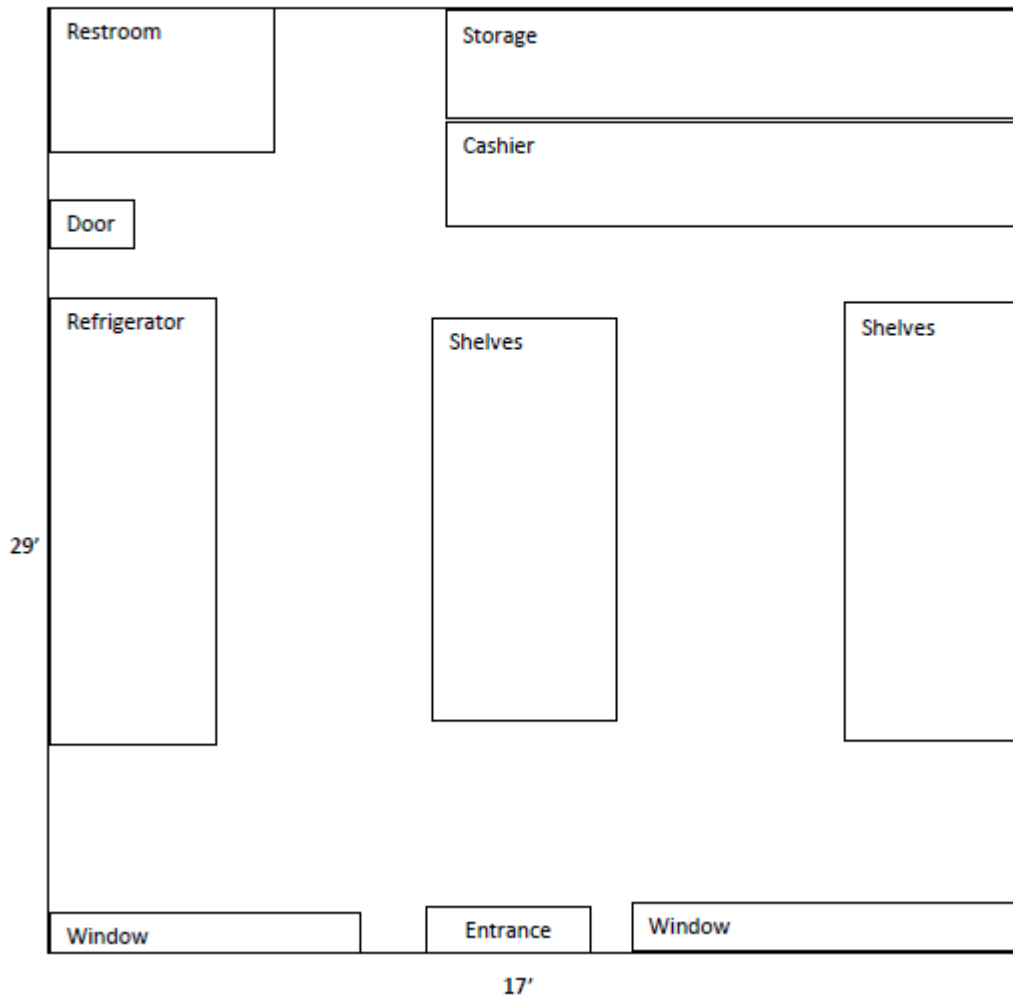


Figure 4: Liquor Licenses within 1,000 of the subject site

C&L Convenience Store-2361 San Pablo Avenue



■	20	Off-site beer and wine
■	21	Off-site beer, wine, and liquor
▲	41	On-site beer and wine
▲	47	On-site beer, wine, and liquor

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Retail	C-W	Avenue Commercial
Surrounding Properties	North	Gym		
	South	Real Estate Office		
	West	Auto-Body Shop		
	East	Residence	C-W	

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Alcohol	Yes	The operator has applied for a Type 20 ABC License, which authorizes the sale of beer and wine only for consumption off-site.
Public Convenience or Necessity	No	There are no other type 20 ABC licenses within 1000 feet of the subject property.
Affordable Child Care or Housing Fee for qualifying non-residential projects (Per Resolutions 66,618-N.S. & 66,617-N.S.)	No	The proposed project does not include new floor area or a new use in a space vacant for more than three years; therefore, this mitigation fee payment does not apply.
Creeks	No	No new construction is proposed; the project involves the sale of beer and wine for consumption off-site at a retail store.
Green Building Score	No	
Historic Resources	No	
Liquefaction (Seismic Hazards Mapping Act)	No	
Oak Trees	No	
Soil/Groundwater Contamination	No	

Table 3: Project Chronology

Date	Action
October 29, 2021	Application submitted
February 16, 2022	Application deemed complete
March 10, 2022	Public hearing notices mailed/posted
March 24, 2022	ZAB hearing

II. Project Setting

A. Neighborhood/Area Description: The project parcel is located on the east side of San Pablo Avenue between Chaucer Street and Channing Way. The subject neighborhood has a mix of uses, including auto repair, office space, retail, and residential units. Buildings surrounding the site are primarily one-story commercial buildings.

- B. **Site Conditions:** The project site is developed with an existing, one-story, 4,486 square foot commercial building with two tenant spaces. The subject tenant space is 500 square feet. C and L Convenience Store has been in operation since XXXX, with operation hours of 7:00 AM to 10:00 PM Monday through Sunday. The retail store serves customers living and working in the neighborhood, and is located in area accessible by transit. Paid public parking is also available on the street.

III. Project Description

The applicant proposes adding the sale of beer and wine for off-site consumption to an existing convenience store with an ABC Type 20 license.

IV. Community Discussion

- A. **Neighbor/Community Concerns:** On February 7, 2022, the applicant posted a yellow project sign in their shop window. On March 10, 2022, the City mailed xxx public hearing notices to property owners and occupants and to interested neighborhood organizations, and the City posted notices within the neighborhood in three locations. At the time of this writing this report, staff has not received any communications regarding the project.

- B. **Committee Review:** This project is not subject to landmark or design review committee review.

V. Issues and Analysis

A. **Alcoholic Beverage Service:**

Alcoholic beverage sales are also regulated by BMC 23.310 for Special Use Standards. This section requires the City to make special "Public Convenience or Necessity" findings if an existing establishment has an ABC license of the same type, other than alcohol service incidental to foodservice, within a 1,000-foot radius of the project site. There are no other type 20 ABC licenses within a 1,000-foot radius of the project site so the findings of public convenience do not need to be made..

B. **Use Permits in the C-W District:**

BMC Section 23.202.020 allows the sale of alcohol for off-site consumption with approval of a Use Permit. In order to approve any Use Permit in the C-W District, the Board must find, pursuant BMC 23.204.140.F, that the proposed use is:

- 1) Consistent with the purposes of the District:
 - Provide locations for commercial services which primarily serve area residents and/or businesses.
 - Support the retention and attraction of a balance of both smaller and larger stores and restaurants.
 - Provide appropriate locations consistent with West Berkeley Plan policies, for commercial services which serve a citywide or broader clientele.

- 2) Compatible with the surrounding uses and buildings.
- 3) Complies with the adopted West Berkeley Plan;
- 4) Supports an increase in the continuity of retail and service facilities at the ground level to the degree feasible;
- 5) Does not substantially degrade the existing urban fabric of the street and area;
- 6) If the project includes the construction of new floor area, provides an intensity of development which does not underutilize the property;
- 7) Meets any applicable performance standards for off-site impacts; and
- 8) Does not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply.

Staff Analysis: The additional service of beer and wine sales will strengthen the existing retail store that serves both area residents and a citywide clientele while maintaining compatibility with surrounding uses and buildings. See Section E below for analysis of consistency with the West Berkeley Plan.

Exterior changes are not proposed and the project will not impact the existing urban fabric. New floor is not proposed, and the addition of alcohol sales to an existing retail use will not change the intensity of the use and will not impact traffic or parking supplies. There are no additional performance standards.

C. General Non-Detriment Finding: BMC Section 23.406.040.E requires that before the ZAB approves an application for a Use Permit, it must find that 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.

- 1) General Non-Detriment: The project is subject to the City's standard conditions of approval regarding hours of operation and sales of alcoholic beverages (see Conditions #1-8), thereby ensuring the project would 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.

D. General Plan Consistency: The 2002 General Plan contains several policies applicable to the project, including the following:

- 1) Policy LU-1-Community Character: Maintain the character of Berkeley as a special, diverse, unique place to live and work.

Staff Analysis: The sale of beer and wine at an existing retail store that specializes in ingredients and equipment for making beer and wine would enhance customer

experiences and expand the range of services, thus helping to maintain the character of Berkeley as a special, diverse, unique place to live and work.

- 2) Policy LU-33–West Berkeley Plan: Implement the West Berkeley Plan and take actions that will achieve the three purposes of the Plan:
 - A. Maintain the full range of land uses and economic activities including residences, manufacturing, services, retailing, and other activities in West Berkeley.
 - B. Maintain the ethnic and economic diversity of West Berkeley's resident population.
 - C. Maintain and improve the quality of urban life, environmental quality, public and private service availability, transit and transportation, and aesthetic and physical qualities for West Berkeley residents and workers.

Staff Analysis: The sale of beer and wine would increase the diversity of economic activities in a District that is well served by transit.

E. West Berkeley Plan Consistency: The West Berkeley Area Plan, adopted in 1993, also contains policies applicable to the project, including the following:

- 1) LU Goal 1, Policy C: Provide space for, and designate appropriate locations for – in planning and zoning policies – both neighborhood and regional serving retail businesses.
- 2) LU Goal 2, Policy E: Create a Commercial district that will foster the continued vitality of West Berkeley's neighborhood and regional serving retail trade, in as pedestrian- friendly a manner as possible.
- 3) "Overview of the Districting Concept": Retail uses should be clustered, to strengthen existing retail areas, to make them for walkable, and to prevent retail sprawl.

Staff Analysis: The sale of beer and wine would support the existing retail business, which offers a unique range of goods and experiences and serves both the immediate and outlying neighborhoods. The increase in the options available to West Berkeley shoppers would further diversify the San Pablo commercial corridor.

VI. Recommendation

Because of the project's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding properties, staff recommends that the Zoning Adjustments Board:

- A. APPROVE ZP2021-0196 pursuant to Section 23.406.040 **and** subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Project Plans, received February 2, 2022
3. Notice of Public Hearing

Staff Planner: Cecelia Mariscal, CMariscal@cityofberkeley.info, (510) 981-7439

ATTACHMENT 1

FINDINGS AND CONDITIONS

MARCH 24, 2022

2361 San Pablo Avenue

Use Permit #ZP2021-0196 to add the Alcoholic Beverage Retail Sale of beer and wine for off-site consumption to an existing Retail Store.

PERMITS REQUIRED

- Use Permit, under Berkeley Municipal Code (BMC) Section 203.204.020 and to commence Alcoholic Beverage Retail Sales of beer and wine for off-site consumption at an existing Retail Store.

I. 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”).

The project meets all of the requirements of this exemption, as follows:

- A. The project is consistent with the applicable General Plan designation and policies, and with the applicable zoning designation and regulations.
 - B. The project occurs within the Berkeley City limits on a project site of no more than five acres, and is surrounded by urban uses.
 - C. The parcels within the project site have previously been developed and have no value as habitat for endangered, rare or threatened species.
 - D. The project would not result in any significant effects relating to traffic, noise, air quality or water quality. The Traffic Impact Analysis prepared for the project was reviewed by the City Transportation Division which concurred with the findings of less than significant impacts. City Standard Conditions would address potential impacts related to traffic, noise, air quality, and water quality.
 - E. The site can be adequately served by all required utilities and public services.
2. 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.

II. FINDINGS FOR APPROVAL

1. As required by Section 23.406.040.E of the BMC, 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 project is consistent with all applicable C-W District standards, including use and hours of operation;
- B. The expansion of sales in an existing retail store will not change the use of the property or expand the footprint of the existing business. The proposed service will provide an additional option for patrons along the San Pablo commercial corridor;
- C. The alcohol sales will be incidental to the overall retail use, and as such, alcohol sales will not have detrimental impact on public health, safety, or peace; and
- D. The permit is subject to the standard conditions for alcohol sales, which will ensure that the retail store will continue to be a good neighbor.

III. OTHER FINDINGS FOR APPROVAL

- 1. As required by Section 23.210 of the BMC, the Zoning Adjustments Board finds that there are no establishments within a 1,000 foot radius of the site of the proposed use that are in the same category of alcoholic beverage sales or service.
- 2. As required by Section 23.204.140.F of the BMC, the Zoning Adjustments Board finds:
 - A. The project will be consistent with the purposes of the C-W district, which allows retail sale uses and the sale of alcoholic beverages retail sales of beer and wine for off-site consumption.
 - B. Will support the retention and attraction of smaller stores on San Pablo.
 - C. The project is compatible with the surrounding uses and buildings, which mostly comprised of auto repair, retail, restaurants, and residential units in the West Berkeley area.
 - D. The project is consistent with the adopted West Berkeley Plan, including its policies that call for a diversity of commercial uses, clustering of commercial uses, and providing space for, both neighborhood and regional serving retail businesses.”
 - E. The project will not add floor area to the approved building.
 - F. The project will not result in significant off-site impacts, as no changes to building are planned and as the effect on the neighborhood of adding alcohol sales would be generally similar to the effect of the retail store as currently approved.
 - G. The project will not exceed the amount and intensity of use that can be served by available traffic capacity and potential parking supply, as customer numbers would not be substantially higher than those of the retail store that did not offer beer and wine service.
 - H. The project will support the retention and attraction of a balance of both smaller and larger stores.
 - I. The project will provide appropriate locations, consistent with West Berkeley Plan policies, for commercial services which serve a citywide or broader clientele

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

The following conditions, as well as all other applicable provisions of the Berkeley Municipal Code, 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. Compliance Required (BMC Section 23.102.050)

All land uses and structures in Berkeley must comply with the Zoning Ordinance and all applicable City ordinances and regulations. Compliance with the Zoning Ordinance does not relieve an applicant from requirements to comply with other federal, state, and City regulations that also apply to the property.

3. Approval Limited to Proposed Project and Replacement of Existing Uses (BMC Sections 23.404.060.B.1 and 2)

- A. This Permit authorizes only the proposed project described in the application. In no way does an approval authorize other uses, structures or activities not included in the project description.
- B. When the City approves a new use that replaces an existing use, any prior approval of the existing use becomes null and void when permits for the new use are exercised (e.g., building permit or business license issued). To reestablish the previously existing use, an applicant must obtain all permits required by the Zoning Ordinance for the use.

4. Conformance to Approved Plans (BMC Section 23.404.060.B.4)

All work performed under an approved permit shall be in compliance with the approved plans and any conditions of approval.

5. Exercise and Expiration of Permits (BMC Section 23.404.060.C)

- A. A permit authorizing a land use is exercised when both a valid City business license is issued (if required) and the land use is established on the property.
- B. A permit authorizing construction is exercised when both a valid City building permit (if required) is issued and construction has lawfully begun.
- C. The Zoning Officer may declare a permit lapsed if it is not exercised within one year of its issuance, except if the applicant has applied for a building permit or has made a substantial good faith effort to obtain a building permit and begin construction. The Zoning Officer may declare a permit lapsed only after 14 days written notice to the applicant. A determination that a permit has lapsed may be appealed to the ZAB in accordance with Chapter 23.410 (Appeals and Certification).
- D. A permit declared lapsed shall be void and of no further force and effect. To establish the use or structure authorized by the lapsed permit, an applicant must apply for and receive City approval of a new permit.

6. Permit Remains Effective for Vacant Property (BMC Section 23.404.060.D)

Once a Permit for a use is exercised and the use is established, the permit authorizing the use remains effective even if the property becomes vacant. The same use as allowed by the original permit may be re-established without obtaining a new permit, except as set forth in Standard Condition #5 above.

7. Permit Modifications (BMC Section 23.404.070)

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Board. The Zoning Officer may approve changes to plans approved by the Board, consistent with the Board's policy adopted on May 24, 1978, which reduce the size of the project.

8. Permit Revocation (BMC Section 23.404.080)

The City may revoke or modify a discretionary permit for completed projects due to: 1) violations of permit requirements; 2) Changes to the approved project; and/or 3) Vacancy for one year or more. However, no lawful residential use can lapse, regardless of the length of time of the vacancy. Proceedings to revoke or modify a permit may be initiated by the Zoning Officer, Zoning Adjustments Board (ZAB), or City Council referral.

9. Indemnification Agreement

The applicant shall hold harmless, defend, and indemnify the City of Berkeley and its officers, agents, and employees against any and all liability, damages, claims, demands, judgments or other losses (including without limitation, attorney's fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from, or caused by, any action or approval associated with the project. The indemnity includes without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set aside, stay or otherwise rescind any or all approvals granted in connection with the Project, any environmental determination made for the project and granting any permit issued in accordance with the project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs shall include, without limitation, any attorney's fees, expert witness and consultant fees, court costs, and other litigation fees. City shall have the right to select counsel to represent the City at Applicant's expense in the defense of any action specified in this condition of approval. City shall take reasonable steps to promptly notify the Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

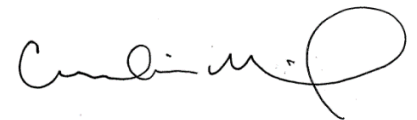
V. ADDITIONAL CONDITIONS IMPOSED BY THE ZONING ADJUSTMENTS BOARD

Pursuant to 23.402.050.H, the Zoning Adjustments Board attaches the following additional conditions to this Permit:

ALCOHOLIC BEVERAGE SALE CONDITIONS (off-site)

1. The establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control.
2. The applicant shall comply with ABC regulations for License Type 20, which authorizes the sale of beer, wine for consumption off the premises.

3. All employees selling alcohol, or directly supervising such sales, shall complete the Licensee Education on Alcohol and Drugs (LEAD) program, or another equivalent program offered or certified by the California Department of Alcoholic Beverage Control within 6 months of employment at the establishment. Employees who have completed the course within the last five (5) years shall be exempt from this requirement.
4. Any operator of the licensed establishment shall not have had a prior licensed establishment that was the subject of verified complaints or violations regarding alcohol, public safety or nuisance statutes or regulations to be confirmed by the Zoning Officer prior to issuance or transfer of a business license at this location.
5. The sale of alcohol shall be limited to 7:00 AM to 10:00 PM, Monday through Saturday. The Zoning Adjustments Board shall approve any change in the hours of operations and/or alcohol sales (except decreased hours in compliance with applicable ABC regulations). Hours of operation are subject to review and amendment by the Zoning Adjustments Board as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.
6. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.
7. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.
8. The project shall conform to the plans and statements in the Use Permit. Specifically:
 - A. The sale of alcoholic beverages for consumption on the premises is strictly prohibited;
 - B. There shall be no bar or lounge area upon the licensed premises maintained for the sole purpose of sales, service or consumption of alcoholic beverages directly to patrons for consumption;
 - C. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.



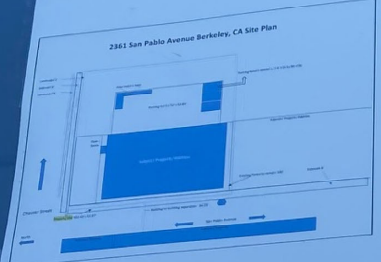
Prepared by: Cecelia Mariscal, Assistant Planner
For Samantha Updegrave, Zoning Officer

PROPOSED PROJECT

PROJECT INFORMATION

2361 San Pablo Avenue:

Proposed application for certified use permit for an approximately 29' x 17' squareft mixed-use/residential and commercial building space at 2361 San Pablo Avenue.



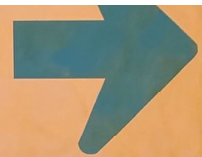
APPLICANT INFORMATION

Clarence Lalaind/Anna Lalaind
2361 San Pablo Avenue
Berkeley, Ca 94702 4153124653

For more information check the
Planning Department Web Page:
www.cityofberkeley.info/planning
or call 510-981-7410

Public Notices:



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OVER HERE** 

PROPOSED PROJECT

PROJECT INFORMATION

2251 San Pablo Avenue

Proposed application for certified permit for an approximately 29,000 sq ft, single-story, professional and commercial building space at 2251 San Pablo Avenue.

APPLICANT INFORMATION

Clarence Lalanda
2251 San Pablo Avenue
Berkeley, CA 94702-653124653

For more information check the Planning Department Web Page: www.cityofberkeley.info/planning or call 310-981-7410

Public Notices:

**NEED CASH?
ATM
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Z O N I N G
A D J U S T M E N T S
B O A R D
NOTICE OF PUBLIC HEARING

2361 San Pablo Avenue

Use Permit #ZP2021-0196 to add the Alcoholic Beverage Retail Sale of beer and wine for off-site consumption to an existing Retail Store.

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance Section 23.406.040.D, on March 24, 2022, **conducted via Zoom**, [see the Agenda for details](#). The meeting starts at 7:00 p.m.

PUBLIC ADVISORY: This meeting will be conducted exclusively through videoconference and teleconference. Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, and the Shelter-in-Place Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

A. Land Use Designations:

- General Plan: Avenue Commercial
- Zoning: West Berkeley Commercial, C-W

B. Zoning Permits Required:

- Use Permit, under BMC Section 23.204 to add Alcoholic Beverage Retail Sales of beer and wine for off-site consumption.

C. CEQA Recommendation: Categorically exempt pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities").

D. Parties Involved:

- Applicant Clarence Lalaind, 255 Yachtsman Drive, Vallejo
- Property Owner Helen Hsu, P.O Box 2751, San Francisco

Further Information:

All application materials are available online at: <http://www.cityofberkeley.info/zoningapplications>. The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <http://www.cityofberkeley.info/zoningadjustmentsboard>.

Questions about the project should be directed to the project planner, Cecelia Mariscal, at (510) 981-7439 or cmariscal@cityofberkeley.info.

Written comments or a request for a Notice of Decision should be directed to the Zoning Adjustments Board Secretary at zab@cityofberkeley.info.

Communication Disclaimer:

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. **Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to a City board, commission or committee, will become part of the public record.** If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information.

Communications and Reports:

Written comments must be directed to the ZAB Secretary at the Land Use Planning Division (Attn: ZAB Secretary), or via e-mail to: zab@cityofberkeley.info. All materials will be made available via the Zoning Adjustments Board Agenda page online at this address: <https://www.cityofberkeley.info/zoningadjustmentboard/>.

All persons are welcome to attend the virtual hearing and will be given an opportunity to address the Board. Comments may be made verbally at the public hearing and/or in writing before the hearing. The Board may limit the time granted to each speaker.

Correspondence received by 5:00 PM, eight days before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a hard copy document of more than 10 pages, or in color, or with photos, you must provide 15 copies. Correspondence received after this deadline will be conveyed to the Board in the following manner:

- **Correspondence received by 5:00 PM two days before** this public hearing, will be conveyed to the Board in a Supplemental Communications and Reports, which is released around noon one day before the public hearing; or
- **Correspondence received after 5:00 PM two days before** this public hearing will be saved in the project administrative record.

It will not be possible to submit written comments at the meeting.



Accessibility Information / ADA Disclaimer:

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6342 (V) or 981-6345 (TDD) at least three business days before the meeting date.

SB 343 Disclaimer:

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available to the public. Please contact the Land Use Planning Division (zab@cityofberkeley.info) to request hard-copies or electronic copies.

Notice Concerning Your Legal Rights:

If you object to a decision by the Zoning Adjustments Board regarding a land use permit project, the following requirements and restrictions apply:

1. If you challenge the decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice.
2. You must appeal to the City Council within fourteen (14) days after the Notice of Decision of the action of the Zoning Adjustments Board is mailed. It is your obligation to notify the Land Use Planning Division in writing of your desire to receive a Notice of Decision when it is completed.
3. Pursuant to Code of Civil Procedure Section 1094.6(b) and Government Code Section 65009(c)(1), no lawsuit challenging a City Council decision, as defined by Code of Civil Procedure Section 1094.6(e), regarding a use permit, variance or other permit may be filed more than ninety (90) days after the date the decision becomes final, as defined in Code of Civil Procedure Section 1094.6(b). Any lawsuit not filed within that ninety (90) day period will be barred.
4. Pursuant to Government Code Section 66020(d)(1), notice is hereby given to the applicant that the 90-day protest period for any fees, dedications, reservations, or other exactions included in any permit approval begins upon final action by the City, and that any challenge must be filed within this 90-day period.
5. If you believe that this decision or any condition attached to it denies you any reasonable economic use of the subject property, was not sufficiently related to a legitimate public purpose, was not sufficiently proportional to any impact of the project, or for any other reason constitutes a "taking" of property for public use without just compensation under the California or United States Constitutions, the following requirements apply:
 - A. That this belief is a basis of your appeal.
 - B. Why you believe that the decision or condition constitutes a "taking" of property as set forth above.
 - C. All evidence and argument in support of your belief that the decision or condition constitutes a "taking" as set forth above.

If you do not do so, you will waive any legal right to claim that your property has been taken, both before the City Council and in court.
