



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
SEPTEMBER 8, 2022

2390 Fourth Street

Use Permit #ZP2022-0088 to allow an existing full-service restaurant to serve beer and wine incidental to food service under a Type 23 (small beer manufacturer) license.

I. Background

A. Land Use Designations:

- General Plan: M (Manufacturing)
- Zoning: MU-LI (Mixed Use Light Industrial)

B. Zoning Permits Required:

- Use Permit, pursuant to Berkeley Municipal Code (BMC) Section 23.310.030, to add service of beer and wine incidental to food service.

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

D. Parties Involved:

Applicant/Property Owner: Amod Chopra
2390 Fourth Street

Figure 1: Vicinity Map



Figure 2: Site Plan

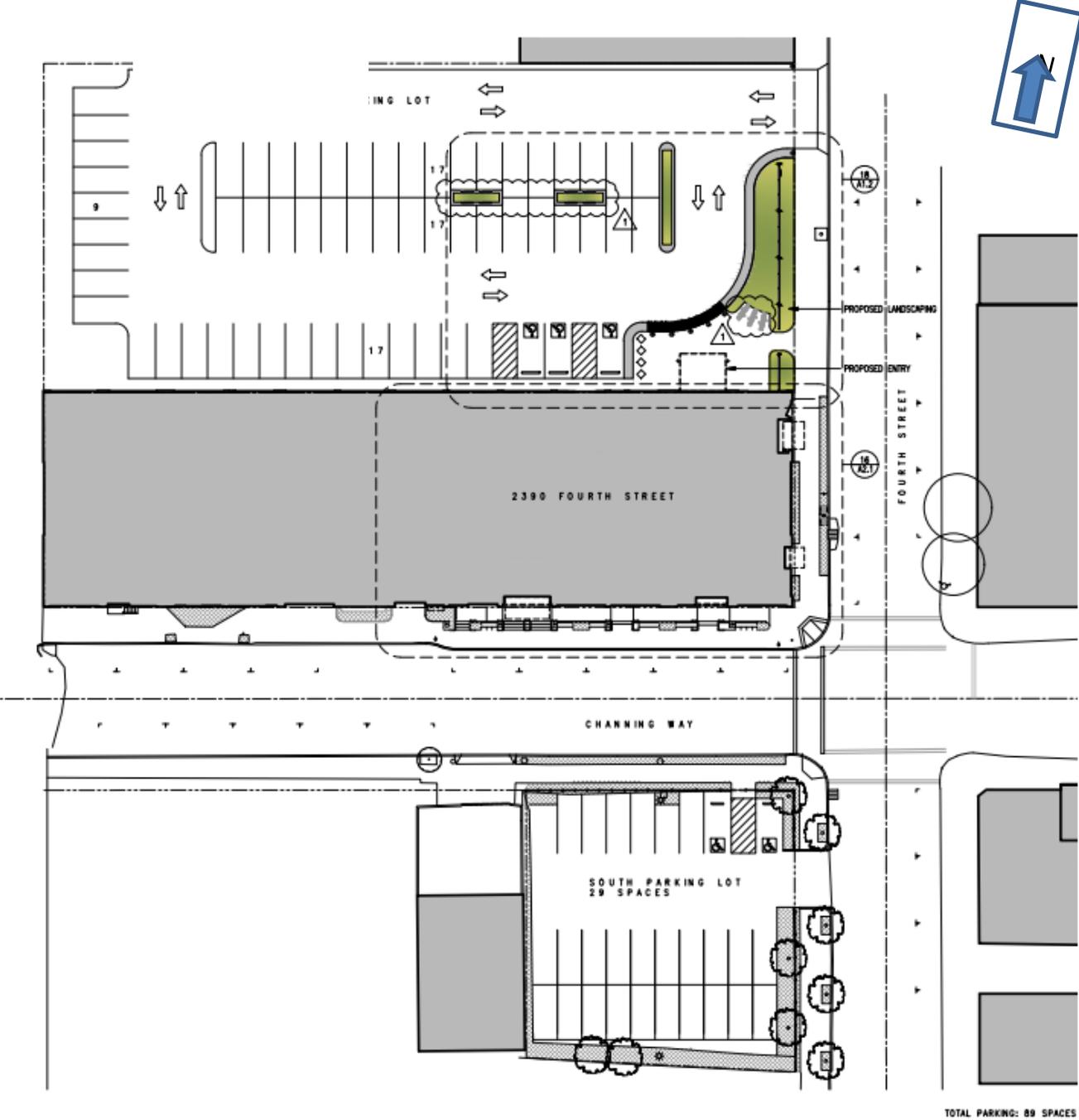


Figure 3: Seating Plan – Temporary Outdoor Use per ZCMS2020-0008

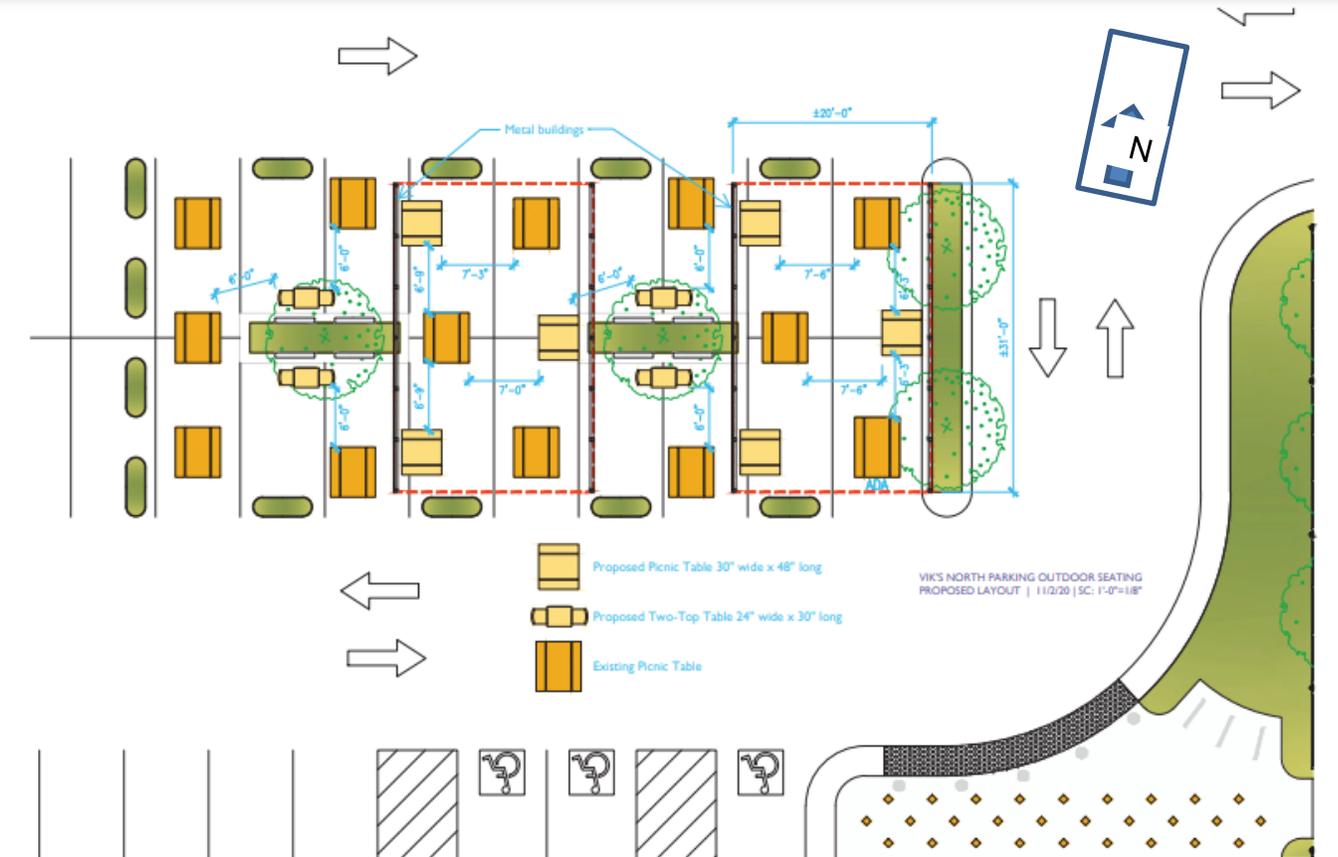
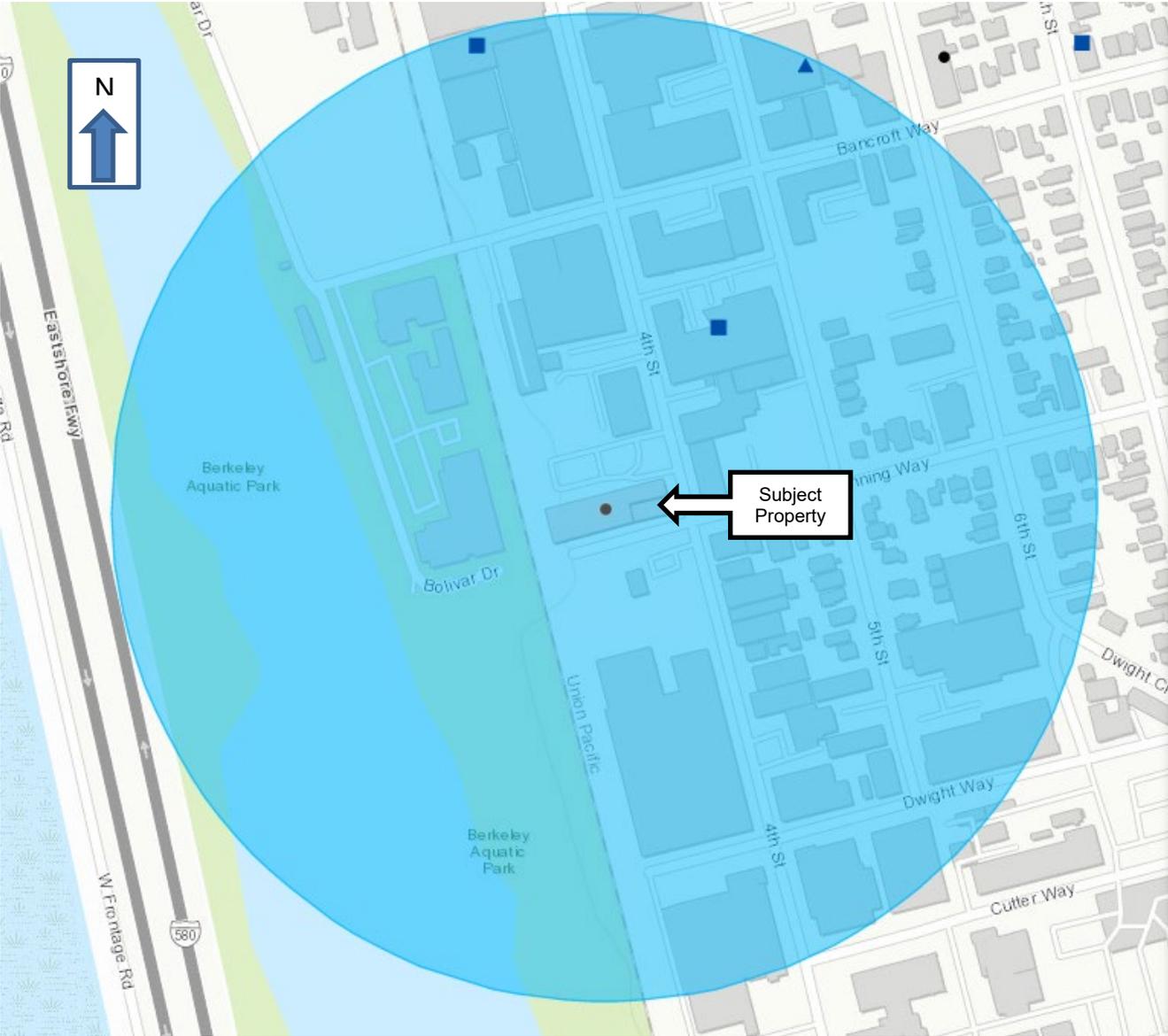


Figure 4: Liquor Licenses Within 1,000 Feet of Subject Site



- 20 ■ Off-site beer and wine
- 23 ● Manufacturer/Importer
- 41 ▲ On-site beer and wine

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Existing Restaurant	MU-LI	M-Manufacturing
Surrounding Properties	North	Offices, Printing, Design	MU-LI	
	South	Nursery/Parking Lot	MU-LI	
	East	Manufacturing	MU-LI	
	West	Railroad tracks	MU-LI / Unclassified	

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Alcohol Sales/Service	Yes	The operator has applied for a Type 23 ABC License, which authorizes the manufacturing and on-site service of beer, and allows for off-site tasting rooms and service of beer manufactured onsite. The beer will be manufactured at the business's Oakland facility and served at the subject site.
Public Convenience or Necessity	No	There are no other Type 23 licenses within 1000 feet of the subject property.
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-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
Historic Resources	No	
Oak Trees	No	
Soil/Groundwater Contamination	No	

Table 3: Project Chronology

Date	Action
May 12, 2022	Application submitted
August 3, 2022	Application deemed complete
August 25, 2022	Public hearing notices mailed/posted
September 8, 2022	ZAB hearing

II. Project Setting

A. Neighborhood/Area Description: The project parcel is a through lot located on the north side of Channing Way, extending from Fourth Street on its east to the Union Pacific Railroad tracks on its west. The subject neighborhood is a mixture of manufacturing and business offices, with small amounts of residential, retail, and automotive repair.

B. Site Conditions: The project site is developed with a 24,000 square foot two-story structure on a 30,000 square foot lot. The subject restaurant occupies 5,800 square feet of the building. The adjacent lot to the north serves as parking and an outdoor dining area for the restaurant. The project also encompasses the through lot at 2334 Fourth Street, which is immediately to the north of the subject, under the same ownership as the restaurant, and serves as a parking lot and a temporary outdoor dining area that was authorized under Berkeley's Urgency Ordinance No. 7,730-N.S. (ZCMS2020-0008).

III. Project Description

The owners of the restaurant already have a Type 23 ABC license as a small beer manufacturer in Oakland at 95 Linden Street, Suite 7. Due to some unusual aspects of this license type, ABC was already able to grant them a Type 23 license on the subject site as well, allowing them to operate it as a tasting room and serve the beer at their restaurant. This license type also permits them to serve other manufacturers' beer and wine in their restaurant. This application is, therefore, the final step in legalizing the on-site service of beer and wine with the City of Berkeley.

IV. Community Discussion

A. Neighbor/Community Concerns: A pre-application poster was installed on the building by the applicant in May 2022. There are no neighboring residential units that needed to be notified. On August 25, 2022, the City mailed public hearing notices to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations, and posted notices within the neighborhood in three locations (Attachment 5). At the time of writing this report, staff has received one public comment (Attachment 4).

Neighbor Concerns: In the public comment letter that was received, a neighbor said he did not oppose the service of beer at the restaurant, but was concerned by the lack of trash, recycling, or cigarette receptacles on Channing Way. He stated that he picks up take-out containers, cutlery, and other items from the restaurant daily from the vicinity. He also said that restaurant customers regularly double-park in front of his business, sit in his driveway, and lean up against his garage door to eat their food.

Staff Analysis:

The applicant submitted the following statement: *"It is a requirement of ABC as well that we keep the area around us clean. My staff starts and ends their day by cleaning around us and across the street as well. Most of my customers eat at the outdoor picnic area in the parking lot. We have garbage cans set up there. We can also set up garbage cans on the South side for the customers that eat on the concrete benches there. Our current cleaning schedules will be maintained and we will check to see if there is garbage during the middle of the day and add to our schedule accordingly. Signs will also be made. Customers don't eat on the*

sidewalk. Those were the old days. They eat at the picnic benches in the lot or on the concrete benches on the south side.”

To address concerns about outdoor cleanliness and customer behavior, site management conditions have been added that require adherence to regular litter checks around the business, signage, and additional solid waste and recycling containers next to the business. (See conditions 21 – 23).

B. Committee Review: This project is not subject to design or landmark review. If exterior changes and/or signage are later proposed as part of the associated tenant improvement(s), they will be evaluated by the applicable land use staff at that time.

V. Issues and Analysis

A. Alcoholic Beverage Service: Alcoholic beverage sales and service incidental to food service is allowed in the MU-LI District (BMC 23.310.030(A)) if a Use Permit is granted by the Zoning Adjustments Board in accordance with required findings.

Alcoholic beverage service is also regulated by BMC 23.310.020(D) for Special Use Standards. This section requires the City to make all of the "Public Convenience or Necessity" findings if an existing establishment has an ABC license of the same type, other than beer and wine service incidental to food service, within a 1,000-foot radius of the project site. There are no other Type 23 permits within a 1,000-foot radius of the project site. Therefore, these standards do not apply to this project.

Staff referred this application to the Berkeley Police Department (BPD) for review and comment. In a letter from Berkeley Interim Police Chief Jennifer Louis, dated July 12, 2022, it was stated that "BPD does not have any significant concerns" (see Attachment 3).

B. Use Permits in the MU-LI District:

To approve any use permit in the MU-LI, the Board must make the applicable findings in BMC Section 23.206.100 that the project:

- Is consistent with the purposes of the district;
- Is compatible with surrounding uses and buildings;
- Complies with the adopted West Berkeley Plan; and
- Meets any applicable performance standards for off-site impacts.

Staff Analysis: The service of beer and wine will strengthen the existing restaurant that serves both area residents and a citywide clientele while maintaining compatibility with surrounding uses and buildings. This popular restaurant's location in West Berkeley helps to strengthen the commercial environment of this MU-LI district and contributes to the diverse character of the neighborhood. The use is compatible with the purposes of the district and the West Berkeley Plan. The project does not include the construction of new floor area or exceed allowable intensities development, performance standards for

off-site impacts, or intensities of use that can be served by available traffic capacity and potential parking supply.

C. General Non-Detriment Finding: BMC Section 23.406.040(A) 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 alcoholic beverage service, and additional conditions related to site management, 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 serving of beer and wine at an existing restaurant will enhance customer experiences and help the restaurant to continue to promote the character of Berkeley as a special, diverse, and unique place to live and work.

- 1) Policy LU-33–West Berkeley Plan: Implement the West Berkeley Plan and take actions that will achieve the 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 serving of beer and wine incidental to food service would be consistent with ethnic and economic diversity activities in the District, and would contribute to the diversity and range of land use activities that are among the goals of the Berkeley General Plan.

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 use permit ZP2022-0088 pursuant to Section 23.406.040 and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. Findings and Conditions
2. Plans
3. Berkeley Police Department Letter
4. Correspondence Received
5. Public Hearing Notice

Staff Planner: Russell Roe, roe@cityofberkeley.info, (510) 981-7548

FINDINGS AND CONDITIONS

SEPTEMBER 8, 2022

2390 Fourth Street

Use Permit #ZP2022-0088 to allow an existing full-service restaurant to serve beer and wine incidental to food service under a Type 23 (small beer manufacturer) license.

PERMITS REQUIRED

- Use Permit, pursuant to Berkeley Municipal Code (BMC) Section 23.310.030, to add service of beer and wine incidental to food service

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 MU-LI District standards, including use and hours of operation;
- B. The addition of beer and wine service in the restaurant will not expand the footprint of the business. The proposed service will provide an additional option for patrons in the West Berkeley area;
- C. The alcohol service will be incidental to the overall food service 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 and additional conditions for site management, which will ensure that the restaurant will continue to be a good neighbor.

III. OTHER FINDINGS FOR APPROVAL

1. As required by Section 23.206.100 of the BMC, the Zoning Adjustments Board finds that:
 - A. This project is consistent with the purposes of the MU-LI District, which allows the service of beer and wine for on-site consumption incidental to food service;
 - B. The project is compatible with surrounding uses and buildings;
 - C. The project is consistent with the West Berkeley Plan which has the goals of maintaining the full range of land uses and economic activity in West Berkeley, maintaining the ethnic and economic diversity of West Berkeley's resident population, and maintaining and improving the quality of urban live for West Berkeley residents and workers;
 - D. The project will not result in significant off-site impacts, as no changes to the exterior of the building are planned, and as the effect on the neighborhood of serving beer and wine would be negligible off site;
 - E. The project is unlikely to induce a substantial change of use in the building, and does not conflict with the industrial character of the district; and
 - F. 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 will be small at any given time.

IV. STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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. 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 comply 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 BMC 23.404.050(H), the Zoning Adjustments Board attaches the following additional conditions to this Permit:

ALCOHOLIC BEVERAGE SERVICE CONDITIONS (on-site)

1. The Food Service Establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control (ABC).
2. Alcoholic beverage service shall be "incidental" to the primary food service use, as defined in Zoning Ordinance 23.502.020. An incidental use shall not exceed 25 percent of the floor area of the primary use, and if it consists of the commercial sales of a different line of products or services than the primary use, such incidental use may not generate gross receipts in excess of 33 percent of the gross receipts generated by the primary use.
3. Alcohol beverage service shall only be allowed as part of a "bona fide eating place" making "actual and substantial sales of meals," and stringently enforces this requirement as determined and required by the ABC.
4. The service of alcohol shall be limited to normal meal hours (per ABC) during the restaurant's hours of operation. Patrons may only purchase food or finish drinks already purchased within the approved service hours. The Zoning Adjustments Board shall approve any change in the hours of restaurant operations and/or alcohol service (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.

5. During operating hours, 100 percent of the service area shall be designed and used for, and must possess the necessary utensils and condiment dispensers, to serve meals to the public.
6. The sale of alcoholic beverages for consumption off the premises is prohibited, except that the manufacturer may sell their own brand of beer only for off-premises consumption, per the provisions of the Type 23 ABC license.
7. There shall be no service or consumption of alcohol on the public right-of-way, unless authorized by a Public Works sidewalk seating permit.
8. All alcoholic beverages served to patrons must be served in durable restaurant tableware (i.e. cups or glasses). No beer or wine may be distributed in its original bottle or can, or in any other potentially disposable container.
9. 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.
10. 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. Neither alcohol-dispensing facilities nor sign(s) advertising alcoholic beverages shall be visible from the public right-of-way. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
11. A Berkeley Police Department Crime Prevention Through Environmental Design (CPTED) survey shall be completed prior to commencing alcohol service.
12. All employees selling and/or serving alcohol, or directly supervising such sales and/or service, 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.
13. Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.
14. 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.
15. Fortified alcohol products (e.g., malt liquor), shall not be sold on the premises.
16. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.
17. At no time shall the operator rent the restaurant space to a third-party promoter.

18. The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a noisy manner on residential streets. The operator shall give surveillance to public areas near the establishment, keep such areas free of trash and litter, provide lighting, and otherwise attempt to prevent conduct that might disturb the peace and quiet of residences in the vicinity. Furthermore, the operator shall assume reasonable responsibility for ensuring that patrons do not block the entrance or interfere with pedestrian activity on the adjacent public sidewalk.
19. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.
20. 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.

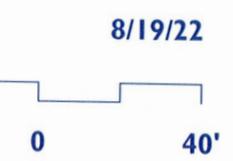
SITE MANAGEMENT CONDITIONS

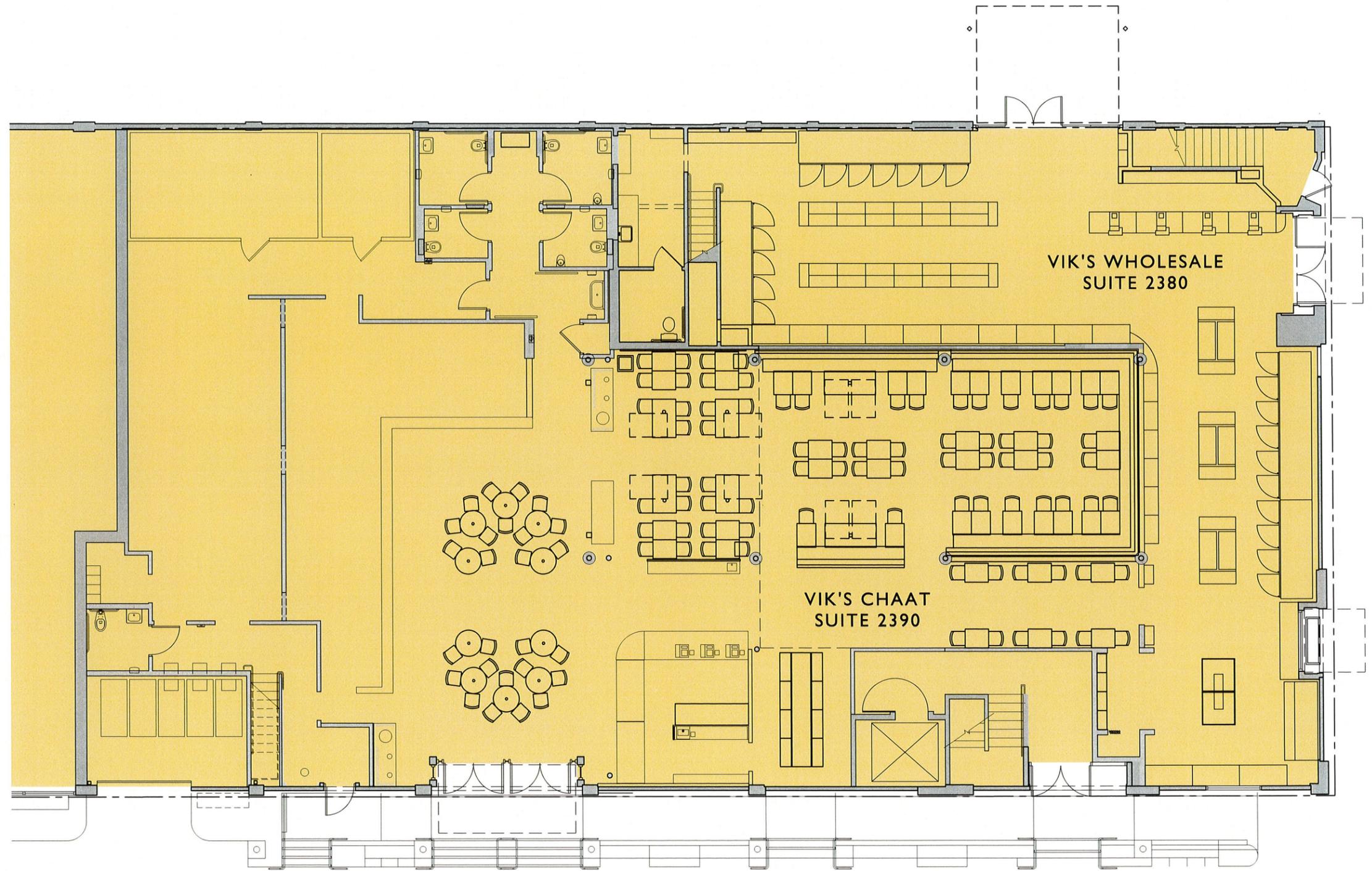
21. Restaurant personnel shall inspect the adjacent sidewalks along Channing Way and Fourth Streets three times per day and ensure that any litter dropped by customers is removed, and that customers are not eating on the sidewalks or neighboring private properties.
 22. Management shall post signs directing customers not to eat and drink on the adjacent sidewalks and neighboring properties.
 23. During all business hours, management shall place outdoor trash, recycling, and organics containers next to the building so that customers have a place to dispose of unwanted to-go containers, food, and other disposable items.
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Existing Site Plan

VIK'S CHAAT CORNER . 2390 4TH STREET . BERKELEY

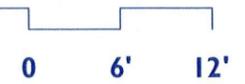




Existing Floor Plan

VIK'S CHAAT CORNER . 2390 4TH STREET . BERKELEY

8/19/22





Police Department

July 12th, 2022

To Russell Roe, Associate Planner

Subject **2390 4th St (Vik's Chaat), Berkeley, CA**

Dear Russell Roe,

This letter is in response to a request to add a Type 23 ABC License (Small Beer Manufacturer) at **2390 4th St (Vik's Chaat), Berkeley, CA**. This location will be used as a tasting room for an existing brewery business they currently own located in the City of Oakland. **2390 4th St (Vik's Chaat), Berkeley, CA** is located in west Berkeley.

There have been no calls for services at **2390 4th St (Vik's Chaat), Berkeley, CA** in the past 3 years for any disturbances, noise complaints, criminal complaints or any complaints directly related to alcohol or alcohol consumption. The business appears to reflect a positive vision to enhance this area of 4th St, which is growing with new businesses and I believe this change will be a positive addition to the neighborhood.

The Berkeley Police Department does not have any significant concerns with this change. BPD does recommend the ownership and staff of **2390 4th St (Vik's Chaat), Berkeley, CA** to develop a relationship with the Berkeley Police Department Area 4 Coordinator and the current beat officer(s) to address any issues or concerns with this new proposal.

The Berkeley Police Department also encourages ownership and staff of **2390 4th St (Vik's Chaat), Berkeley, CA** to participate in the local Business/Merchant Association, as it will contribute towards the success of their business in the City of Berkeley.

Sincerely,


Jennifer Loujs
Interim Chief of Police

JL/bah

Roe, Russell

From: Garvey, Brian
Sent: Tuesday, July 05, 2022 10:00 AM
To: Roe, Russell
Subject: FW: proposed project - 2390 4th Street neighbor comments

Internal

Hi Russell,

Looks like this project is assigned to you.

Thanks

From: Planning Dept. Mailbox
Sent: Monday, June 27, 2022 1:54 PM
To: ZoningCounter <ZoningCounter@cityofberkeley.info>
Subject: Fw: proposed project - 2390 4th Street neighbor comments

Hi Counter,

Public comment on ZP2022-0088, which is under review. Please forward to assigned Planner (not yet listed in ACA).

Thanks.

Jim

From: Ariel Gordon Maffei <ariel@arielgordonjewelry.com>
Sent: Monday, June 27, 2022 11:26 AM
To: Planning Dept. Mailbox <planning@cityofberkeley.info>
Subject: proposed project - 2390 4th Street neighbor comments

WARNING: This is not a City of Berkeley email. Do not click links or attachments unless you trust the sender and know the content is safe.

Hi there

I'm writing regarding a notice I saw in the window of my neighbor's building. The proposed project is for 2390 4th Street and the applicant's name is Amod Chopra. I see that they are applying for a beer and wine permit. I have no issue with this request as long as necessary steps are taken for their customers to have access to proper trash / recycling / cigarette disposal on Channing Way. Right now, there are no trash cans or ashtrays in front of their busy restaurant and the result of this is that daily I have to pick up take-out containers, cutlery, rubber gloves, used masks, cigarette butts, beverage cans, etc. It's quite the public nuisance. I've put in 2 requests with the City of Berkeley to have public trash can installed on the street since I've moved in but I haven't seen any progress on this yet. Adding alcohol to the mix will only exacerbate an already rough situation.

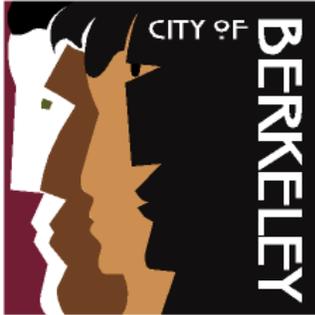
In addition, restaurant goes double park in front of my building to pick up their food + sit in my driveway (leaning up against my garage door) to eat their food. Is there any signage that 2390 4th St can put up to discourage this behavior? Perhaps signage that directs eaters to their huge parking lot on the other side of the building that has ample seating?

Please take these issues into account as you review this permit request.

Thanks
Ariel

.....

ariel gordon jewelry
710 channing way berkeley, ca 94710
studio: 213.488.2618
[shop online](#) | [instagram](#) | [facebook](#) | [pinterest](#) | [spotify](#)



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

2390 FOURTH STREET

Use Permit #ZP2022-0088 to allow an existing full-service restaurant to serve beer and wine incidental to food service under a Type 23 (small beer manufacturer) license.

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 September 8, 2022, conducted via Zoom, see the **Agenda for details at:** https://berkeleyca.gov/sites/default/files/legislative-body-meeting-agendas/2022-09-08_ZAB_Agenda.pdf 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.

• **Land Use Designations:**

- General Plan: M (Manufacturing)
- Zoning: MU-LI (Mixed Use Light Industrial)

• **Zoning Permits Required:**

- Use Permit, pursuant to Berkeley Municipal Code (BMC) Section 23.310.030, to add service of beer and wine incidental to food service.

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

D. Parties Involved:

- Applicant/Owner: Amod Chopra, 2390 Fourth Street

Further Information:

All application materials are available online at:

<https://aca.cityofberkeley.info/CitizenAccess/Welcome.aspx>.

The Zoning Adjustments Board final agenda and staff reports will be available online 6 days prior to this meeting at: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>.

Questions about the project should be directed to the project planner, Russell Roe, at (510) 981-7548 or rroe@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://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board>.

Correspondence received by 8:00 AM, on the Thursday before this public hearing, will be provided with the agenda materials provided to the Board. Note that if you submit a 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 Noon Tuesday**, the week of this public hearing, will be conveyed to the Board in Supplemental Communications and Reports #1, which is released the end of the day Tuesday, two days before the public hearing;
- **Correspondence received by Noon Wednesday**, the week of this public hearing, will be conveyed to the Board in Supplemental Communications and Reports #2, which is released the end of the day Wednesday, one day before the public hearing; or
- **Correspondence received by 3 PM Thursday** will be given to the Zoning Adjustment Board just prior to the public hearing.

Members of the public may submit written comments themselves at the meeting. To distribute correspondence at the meeting, please provide 15 copies and submit to the Zoning Adjustments Board Clerk. Correspondence received later, and after the meeting, will be posted to the web site following the meeting.



Accessibility Information / ADA Disclaimer:

This meeting is being held in a wheelchair accessible location. 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. Please refrain from wearing scented products to this meeting.

SB 343 Disclaimer:

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at the Land Use Planning Division, during regular business hours.

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, or in written correspondence delivered to the Zoning Adjustments Board at, or prior to, the public hearing.
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.