



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 14, 2024

2945 College Avenue

Use Permit #ZP2023-0152 to establish a wine bar, under a Type 42 Alcoholic Beverage Control license, with on-site wine service, retail sales of wine and books, and incidental food service

I. Background

A. Land Use Designations:

- General Plan: NC (Neighborhood Commercial)
- Zoning District: C-E (Elmwood Commercial)

B. Zoning Permits Required:

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.310.020(B) to begin alcoholic beverage sales and service
- Use Permit pursuant to BMC Section 23.204.020(A) to conduct retail sales of wine
- Administrative Use Permit pursuant to BMC Section 23.204.020(B) for change of use to a bar

C. CEQA Recommendation:

It is staff's recommendation to the Zoning Adjustments Board (ZAB) that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code Section 21000, et seq. and California Code of Regulations, Section 15000, et seq.) pursuant to CEQA Guidelines Section 15301("Existing Facilities").

ZONING ADJUSTMENTS BOARD

2945 COLLEGE AVENUE

March 14, 2024

Page 2 of 12

D. Parties Involved:

- Applicant: Dane Bunton, 2169 Folsom Street, San Francisco
- Business Owners: Laura Guzman and Rita Gordon
- Property Owner John Gordon & Janis Mitchell Living Trust, 2091 Rose St., Berkeley

Figure 1: Vicinity and Zoning Districts

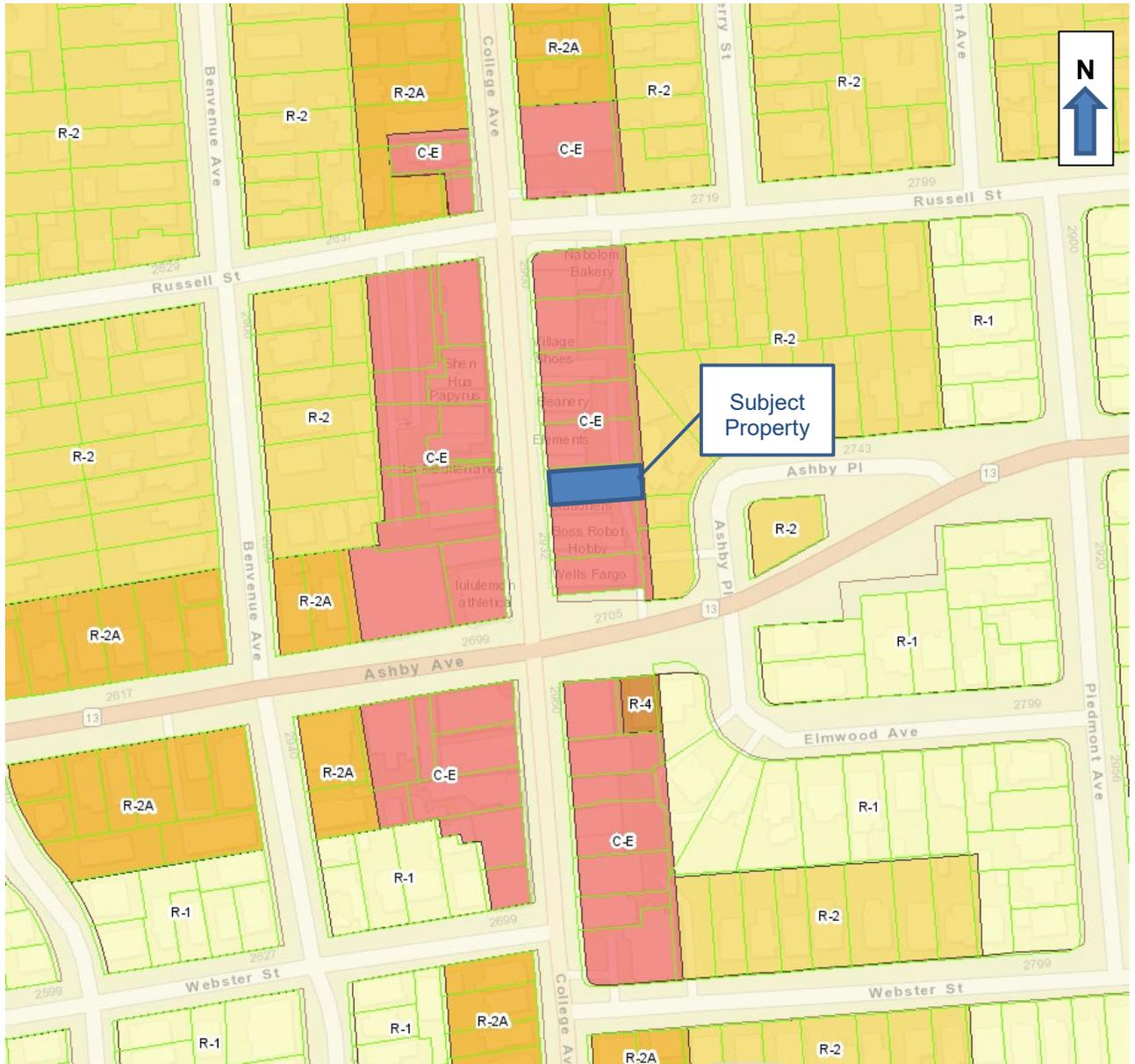
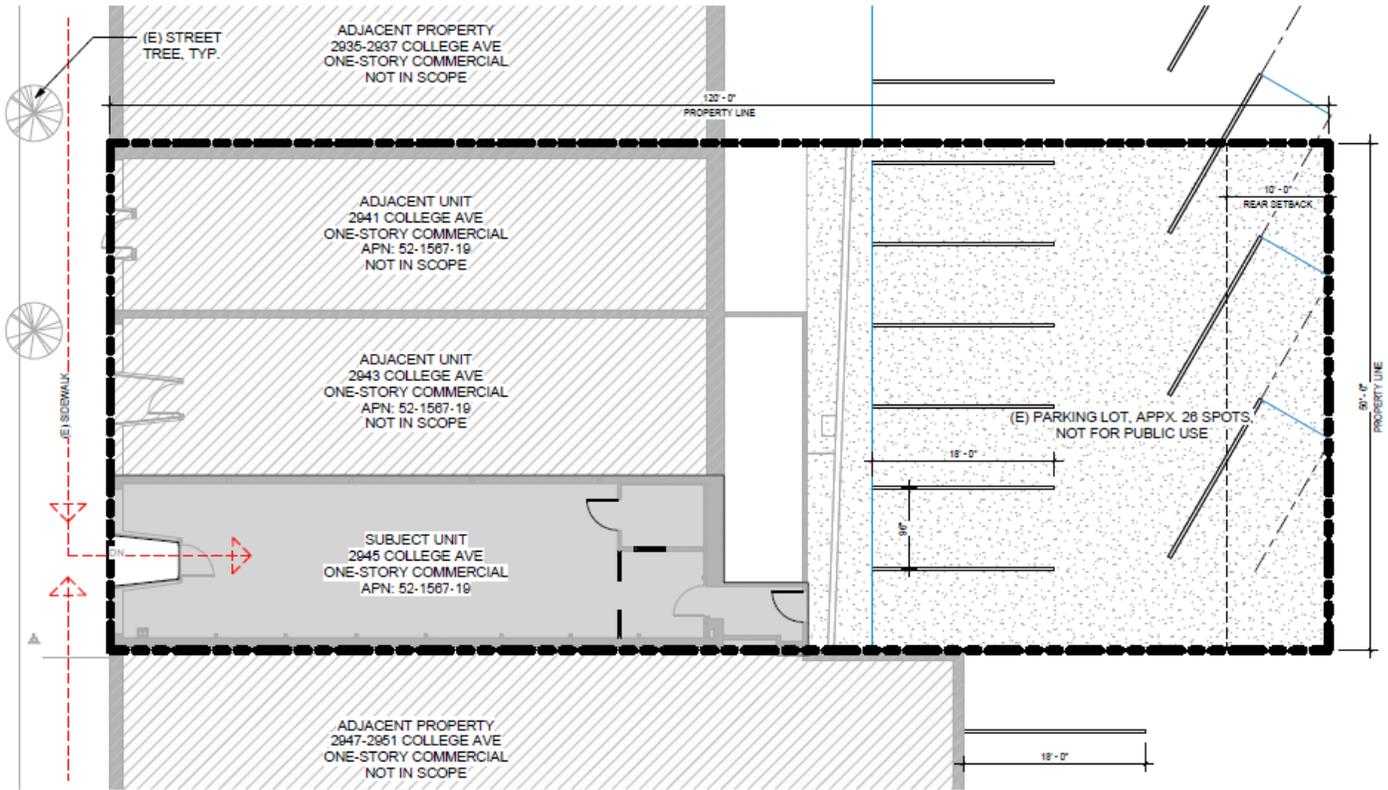
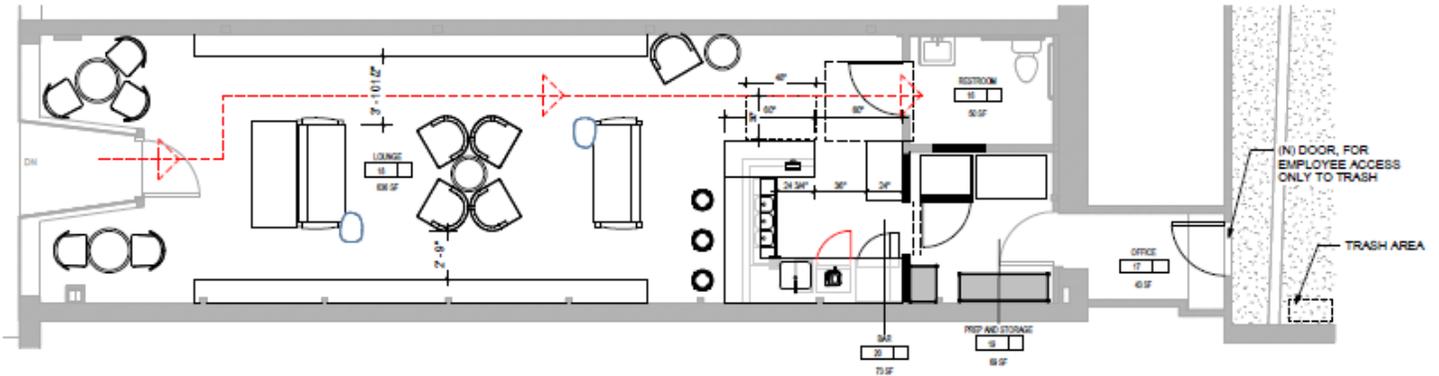


Figure 2: Site Plan



LEGEND - SITE PLAN	
	PROPERTY LINE
	ACCESSIBLE PATH OF TRAVEL
	NOT IN SCOPE
	ADJACENT LOT
	SUBJECT PROPERTY
	PARKING LOT OR NEWAY

Figure 3: Floor Plan



LEGEND - FLOOR PLAN	
	NOT IN SCOPE
	DEMOLITION ELEMENTS
	EXISTING WALL TO REMAIN
	NEW WALL
	EXISTING ELEMENTS TO REMAIN
	NEW ELEMENTS
	ACCESSIBLE PATH OF TRAVEL TO RESTROOM
	DUPLEX OUTLET, STANDARD HEIGHT A.F.F.
	FOURPLEX OUTLET, STANDARD HEIGHT A.F.F.
	DUPLEX OUTLET, 40° A.F.F. TO CENTERLINE
	FOURPLEX OUTLET, STANDARD HEIGHT A.F.F. TO CENTERLINE
	EQUIPMENT TAG
	LIGHT FIXTURE TAG
	PLUMBING TAG
	ACCESSORY TAG
	FURNITURE TAG
	FINISH TAG

Figure 4 : ABC Licences Within 1,000 Feet of the Subject Site



ABC License Type	
■	20 - Off Beer Wine
▲	41 - On Beer Wine Eating Place
★	42 -On-Sale Beer & Wine – Public Premises
▲	47 - On General Eating Place

Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Retail	Elmwood Commercial	Neighborhood Commercial
Surrounding Properties	North			
	South			
	East	Residential	Restricted Two-Family Residential	Low Medium Density Residential
West	Retail / Restaurant	Elmwood Commercial	Neighborhood Commercial	

Table 2: Special Characteristics

Characteristic	Applicability	Explanation
Affordable Child Care Fee for qualifying non-residential projects (Per Resolution 66,618-N.S.)	No	This fee applies to net newly constructed nonresidential gross floor area over 7,500 square feet. The project would not create new floor area. Therefore, the fee does not apply.
Affordable Housing Fee for qualifying non-residential projects (Per Resolution 66,617-N.S.)	No	
Alcohol Sales/Service Public Convenience or Necessity	Yes	The project proposes to sell wine for on-site consumption under a Type 42 ABC license. There is one Type 42 ABC license within 1,000 feet of the project site. Therefore, public convenience and necessity findings are required.
Historic Resources	No	No exterior changes are proposed and the existing building is not a designated landmark. Therefore, it is not subject to Historic Resources review.
Transit	Yes	The subject site is served by AC Transit lines 7, 51B, and 851, and is about one mile from the Rockridge BART station.

Table 3: Project Chronology

Date	Action
November 14, 2023	Application submitted
November 22, 2023	Application deemed incomplete
December 7, 2023	Application resubmitted
January 11, 2024	Application deemed complete
February 29, 2024	Public hearing notices mailed/posted
March 14, 2024	ZAB hearing

II. Project Setting

A. Neighborhood/Area Description:

The project site is located on the east side of College Avenue between Ashby Avenue and Russell Street, within the Elmwood Commercial (C-E) District. The C-E District consists primarily of low-rise buildings containing various retail and dining establishments. The surrounding neighborhood consists primarily of a mix of single-family and two-family residences.

B. Site Conditions:

The project site is located on a 6,000 square-foot rectangular parcel developed with a 3,000 square-foot single story commercial building. The building includes three individual commercial spaces. The proposed project would occupy the 1,077 square-foot southernmost unit. A private 26-space surface parking lot is located behind the building. It is for employee parking for several adjacent businesses, and is not open to the public.

III. Project Description

A. Proposed Project Details: The proposed project is to remodel an existing commercial space to create a retail wine café & book shop serving a limited selection of wines by the glass, a small selection of non-alcoholic beverages, and limited pre-prepared snack foods for wine paring. There would be no cooking on site. The project includes the following primary components:

1. On-site service of wine under a Type 42 ABC license.
2. Retail sales of wine and books.
3. Change of use from a retail space to a bar.

IV. Community Discussion

A. Neighbor/Community Concerns:

Prior to submitting this application to the city, the applicant conducted door to door outreach, and mailed certified letters, to all adjacent residences. A pre-application poster was installed on site by the applicant in November 2023. On February 29, 2024, the City mailed public hearing notices (Attachment 3) to property owners and occupants within 300 feet of the project site, and to interested neighborhood organizations. The City also posted notices within the nearby neighborhood at three locations. At the time of writing this report, staff had not received any communications regarding the project.

A letter dated January 8, 2024, from Berkeley Police Chief Jennifer Louis, supports the project, noting that it “is not likely to increase crime or disorder in the south/east

Berkeley area”, and that the police “see no reason to believe this business would increase crime or calls for service in the neighborhood” (Attachment 4)

B. Landmark Preservation Commission / Design Review Committee Review:

This project is not subject to review by the Landmarks Preservation Commission or Design Review Committee because it is not a designated historic landmark and it does not propose exterior changes to the building. Any signs erected on the property would be applied for under a separate permit and undergo design review at that time.

V. Issues and Analysis

A. CEQA Approach and Recommendation

It is staff’s recommendation that the project qualifies for a Class 1 Categorical Exemption pursuant to CEQA Guidelines Section 15301 (“Existing Facilities”). The project complies with this exemption due to the fact that no changes are proposed to the existing structure’s footprint. In addition, none of the exceptions to eligibility for a categorical exemption as listed under CEQA Guidelines Section 15300.2, apply to the project:

- The project is currently developed/characterized as developed by the California Natural Diversity Database;¹ therefore, it is not located in an environmentally sensitive area;
- The cumulative impact of successive projects of the same type in the same place, over time would not be significant;
- There are no “unusual circumstances” at the project site that would result in significant environmental effects;
- There are no eligible or designated scenic highways within the City of Berkeley;² therefore, the project site is not in view of a state scenic highway;
- The site is not included on a list compiled pursuant to Government Code Section 65962.5;³ and
- The project would not result in a substantial adverse change in the significance of a historical resource.

The CEQA determination is made by ZAB, as the decision-making body.

B. General Non-Detriment Finding:

BMC Section 23.406.040(E) states 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

¹ California Department of Fish and Wildlife. California Natural Diversity Database. Available: <https://apps.wildlife.ca.gov/bios6/?tool=cnddbqv>

² California Department of Transportation. California Scenic Highway Program’s Scenic Highway System List. Available: <https://dot.ca.gov/programs/design/lap-landscape-architecture-and-community-livability/lap-liv-i-scenic-highways>

³ California Environmental Protection Agency. Cortese List Data Resources. Available: <https://calepa.ca.gov/sitecleanup/corteselist/>

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. This project doesn't propose any exterior changes and, therefore, would not create additional impacts to sunlight, air, or views of nearby neighbors.
2. The project is a small business that would not add to increased parking or traffic congestion.
3. The project would not operate outside of the allowable hours for the C-E district, and does not propose amplified live entertainment.
4. The project is subject to the City's standard conditions of approval regarding hours of operation and alcoholic beverage sales, thereby ensuring that the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area.

C. Use Permits in the Elmwood Commercial (C-E) District and District Purposes:

To approve a wine bar (BMC Section 23.204.020(B)), ZAB must find that the proposed use is compatible with the district purposes in which is located. Additionally, in order to approve any Use Permit and/or Administrative Use Permit in the C-E District, ZAB must make the applicable findings in BMC Section 23.204.080(E):

- 1) Encourages and maintains the character of the street frontage and pedestrian orientation of the district;
- 2) Is compatible in design and character with the district and the adjacent residential neighborhoods;
- 3) Is compatible with the purposes set forth in Section 23.204.050(A)(1-2) (District Purpose) and the existing character of the district;
- 4) Does not interfere with the continuity of retail or compatible service facilities at the ground level, or interrupt a continuous wall of building facades;
- 5) Does not generate traffic and parking demand or significantly increase impacts on adjacent residential neighborhoods;
- 6) Does not result in the domination of this district by on type of use; and
- 7) Does not generate objectionable odors nor excessive levels of noise.

Staff Analysis: The addition of a wine bar and retail book shop would strengthen the character of the neighborhood, which doesn't currently have a similar business. Due

to the shop's small size, the addition of beer and wine services and retail sales would not result in increased parking and traffic demand, nor would it have significant impacts on the adjacent residential neighborhoods. The use would be compatible with the district purposes in that it is consistent with the General Plan's designation for a community commercial district in this area, it is compatible with the pedestrian nature of the district, it maintains a scale and balance of retail goods and services in the district to compatibly serve the everyday needs of surrounding neighborhoods, and it does not involve new additions or exterior alterations to the building.

D. Alcoholic Beverage Service: With use permits, alcoholic beverage retail sales (BMC 23.204.020(A) and service of beer and wine (BMC 23.310.020(B)) is allowed in the C-E District if a Use Permit is granted in accordance with BMC 23.310 Alcoholic Beverage Sales and Services.

E. Per BMC 23.310.020(D), ZAB must 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. In this case there is one other Type 42 license in the neighborhood, owned by Vintage Berkeley at 2949 College Avenue. Therefore, ZAB may approve the application only if it makes all of the following findings:

- 1) The proposed establishment will promote the City's economic health, contribute to General Plan or area plan policies, or further the district purpose.
- 2) The economic benefits associated with the establishment could not reasonably be achieved without the proposed alcohol sales or service.
- 3) If the applicant has operated a licensed establishment that has been the subject of violations regarding alcohol in the State of California, or violations of public safety or nuisance statutes or regulations in Berkeley as verified by the Police Department, such violations do not indicate a high likelihood of further violations and/or detrimental impacts from the proposed establishment. In making this finding, the ZAB may consider the number, frequency, and severity of prior violations, the time elapsed since the last violation, and other relevant factors.
- 4) If the proposed establishment is within 1,000 feet of any public park or public school, the ZAB has taken into consideration the effect of the proposed establishment upon such sensitive public uses.
- 5) The Police Department has reported that the proposed establishment would not be expected to add to crime in the area.

Staff Analysis: This project would add to the economic health of the district and the City of Berkeley, support General Plan policies, and enhance the quality of life in the neighborhood by creating a unique wine bar and book shop combination. The economic benefits of the project could not be achieved without the wine sales

because a small book shop would likely not be viable entirely on its own. The Berkeley Police Department has issued a letter of support for the project and indicated that the applicant has not been the subject of previous alcohol-related violations. The subject site is not within 1,000 feet of any public school or park.

VI. Other Considerations (Zoning and Land Use Considerations)

A. 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.
2. **Policy LU-7 Neighborhood Quality of Life, Action B:** Carefully evaluate and monitor new and existing uses to minimize or eliminate negative impacts on adjacent residential uses.

Staff Analysis: As noted above, this project adds unique character to the neighborhood in that it combines a wine bar with a small retail book shop. Furthermore, it would not have negative impacts on the adjacent residential areas due to the fact that it is a small business that would generate relatively few customers at any one time, and they would not be engaging in noise-generating activities.

VII. 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:

FIND that the project is categorically exempt from the provisions of the CEQA pursuant to Section 15301 of the CEQA Guidelines ("Existing Facilities"); and

APPROVE Use Permit ZP2023-0152 pursuant to Section 23.406.040(D) and subject to the attached Findings and Conditions (see Attachment 1).

Attachments:

1. [Findings and Conditions](#)
2. [Project Plans, received December 7, 2023](#)
3. [Notice of Public Hearing](#)
4. [Berkeley Police Department letter, dated January 8, 2024](#)

Staff Planner: Russell Roe, rroe@berkeleyca.gov, (510) 981-7548

ATTACHMENT 1

FINDINGS AND CONDITIONS

MARCH 14, 2024

2945 College Avenue

Use Permit #ZP2023-0152 to establish a wine bar, under a Type 42 Alcoholic Beverage Control license, with on-site wine service, retail sales of wine and books, and incidental food service

ZONING PERMITS REQUIRED

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.310.020(B) to begin alcoholic beverage sales and service
- Use Permit pursuant to BMC Section 23.204.020(A) to conduct retail sales of wine
- Administrative Use Permit pursuant to BMC Section 23.204.020(B) for change of use to a bar

I. CEQA FINDINGS

- A.** 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”).
- B.** Furthermore, none of the exceptions in CEQA Guidelines Section 15300.2 apply, as follows: (a) the site is not located in an environmentally sensitive area, (b) there are no cumulative impacts, (c) there are no significant effects, (d) the project is not located near a scenic highway, (e) the project site is not located on a hazardous waste site pursuant to Government Code Section 65962.5, and (f) the project will not affect any historical resource.

II. FINDINGS FOR APPROVAL

- A.** 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, will not be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City because:
1. The project does not include any exterior changes and will, therefore, not be a detriment or create new impacts to sunlight, air, or views of nearby neighbors; and
 2. It is a small business that will not add to increased parking or traffic congestion; and
 3. The use will operate during normal district hours and will not have amplified live entertainment;

4. The project is subject to the City's standard conditions of approval regarding hours of operation and alcoholic beverage sales, thereby ensuring that the project would not be detrimental to the health, safety, peace, morals, comfort or general welfare of persons residing or working in the area.

III. OTHER FINDINGS FOR APPROVAL

- A. As required by BMC Section 23.204.020(B), the Zoning Adjustments Board can approve the wine bar because it is compatible with the pedestrian nature of the district, it maintains scale and balance of retail goods and services in the district to compatibly serve the everyday needs of surrounding neighborhoods, and it does not involve new additions or exterior alterations to the building.
- B. As required by BMC Section 23.204.080(E), the Zoning Adjustments Board finds that it can approve a Use Permit for alcoholic beverage sales because:
 1. The addition of a wine bar and retail book shop will strengthen the character of the neighborhood, which doesn't currently have a similar business;
 2. Due to the shop's small size, the addition of beer and wine and book sales would not result in increased parking and traffic demand or have significant impacts on the adjacent residential neighborhood;
 3. It is compatible with the district purposes in that it is consistent with the General Plan's designation for a community commercial district in this area in that it is compatible with the pedestrian nature of the district, it maintains a scale and balance of retail goods and services in the district to compatibly serve the everyday needs of surrounding neighborhoods, and it does not involve new additions or exterior alterations to the building.;
 4. It maintains a scale and balance of retail goods and services in the district to compatibly serve the everyday needs of surrounding neighborhoods; and
 5. It does not involve new additions or exterior alterations to the building.
- C. As required by BMC Section 23.310.020(D) for Special Use Standards, the Zoning Adjustments Board finds that it can make the Public Convenience and Necessity findings because:
 1. The project will add to the economic health of the district and the City of Berkeley, support General Plan polices and enhance the quality of life in the neighborhood by creating a unique wine bar and book shop combination;
 2. The economic benefits of the project could not be achieved without the wine sales because a small book shop would likely not be viable entirely on its own;
 3. The Berkeley Police Department has issued a letter of support for the project and indicated that the applicant has not been the subject of previous alcohol-related violations; and
 4. The subject site is not within 1,000 feet of any public school or park.

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.
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 re-establish 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. Hold Harmless.** The permittee agrees as a condition of approval of this application to indemnify, protect, defend with counsel selected by the City, and hold harmless, the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents, from and against any and all liabilities, claims, actions, causes of action, proceedings, suits, damages, judgments, liens, levies, costs and expenses of whatever nature, including reasonable attorney's fees and disbursements (collectively, "Claims") arising out of or in any way relating to the approval of this application, any actions taken by the City related to this entitlement, or any environmental review conducted under the California Environmental Quality Act, Public Resources Code Section 210000 et seq., for this entitlement and related actions. The indemnification shall include any Claims that may be asserted by any person or entity, including the permittee, arising out of or in connection with the approval of this application, whether or not there is concurrent, passive or active negligence on the part of the City, and any agency or instrumentality thereof, and its elected and appointed officials, officers, employees and agents. The permittee's duty to defend the City shall not apply in those instances when the permittee has asserted the Claims, although the permittee shall still have a duty to indemnify, protect and hold harmless the City.

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:

Prior to Submittal of Any Building Permit:

10. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related 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. Please designate the name of this individual below:

Project Liaison _____
Name Phone #

Prior to Issuance of Any Building & Safety Permit (Demolition or Construction)

11. Toxics. The applicant shall contact the Toxics Management Division (TMD) at 1947 Center Street or (510) 981-7470 to determine which of the following documents are required and timing for their submittal:

- A. Phase I and Phase II Environmental Site Assessment (ESA) (per ASTM 1527).** A recent Phase I ESA (less than 2 years old) shall be submitted to the Toxics Management Division for developments for: all new commercial, industrial and mixed-use developments and all improvement projects that require work 5 or more feet below grade, and all new residential buildings with more than four dwelling units located in the Environmental Management Area (or EMA). The EMA can be viewed at: [City of Berkeley Community GIS Portal \(arcgis.com\)](http://City of Berkeley Community GIS Portal (arcgis.com))
- B.** Depending on the findings in the Phase I, a Phase II or additional investigation may be necessary. Any available soils and groundwater analytical data available for projects listed in this section must also be submitted to TMD.
- C. Environmental Site Clearance.** The applicant shall provide environmental screening clearance from either the San Francisco Bay Regional Water Quality Control Board (RWQCB), Department of Toxic Substances Control (DTSC), or the Alameda County Department of Environmental Health's Local Oversight Program (LOP). Clearance from one of these regulatory agencies will ensure that the property meets development investigation and cleanup standards for the specific use proposed on the property. Environmental screening clearance shall be submitted to the City of Berkeley's Toxics Management Division prior to issuance of any building permits.

D. Soil and Groundwater Management Plan. A site-specific Soil and Groundwater Management Plan (SGMP) shall be submitted to Toxics Management Division (TMD) for all non-residential projects, and residential or mixed-use projects with more than four dwelling units, that: (1) are in the Environmental Management Area (EMA), as shown on the most recent City of Berkeley EMA map, and (2) propose any excavations deeper than 5 feet below grade or if significant soils removal is anticipated. The SGMP shall be submitted to the TMD with the project's building permit application and shall be approved by TMD prior to issuance of the building permit.

The SGMP shall comply with the hazardous materials and waste management standards required by BMC Section 15.12.100, the stormwater pollution prevention requirements of San Francisco Bay Regional Water Quality Control Board's Order No. R2-2009-0074, California hazardous waste generator regulations (Title 22 California Code of Regulations (CCR) 66260 et seq.), and the East Bay Municipal Utility District's Ordinance 311, and shall include the following:

- i. procedures for soil and groundwater management including identification of pollutants and disposal methods;
- ii. procedures to manage odors, dust and other potential nuisance conditions expected during development;
- iii. notification to TMD within 24 hours of the discovery of any previously undiscovered contamination; and
- iv. the name and phone number of the individual responsible for implementing the SGMP and who will respond to community questions or complaints.

TMD may require additional information or impose additional conditions as deemed necessary to protect human health and the environment. All requirements of the approved SGMP shall be deemed conditions of approval.

E. Demolitions & Renovations – Building Materials Survey. A hazardous materials survey for building materials and plans on hazardous materials and hazardous waste removal and disposal is required and must be prepared by qualified professionals, and submitted to the Toxics Management Division (TMD) prior to issuance of the building permit.

- i. The survey shall include the identification of all materials to be disturbed for lead-based paints, PCB containing equipment and caulking, hydraulic fluids, refrigerants, treated wood, and mercury containing devices (including fluorescent light bulbs and mercury switches), asbestos and other hazardous materials and chemicals.
- ii. If asbestos is identified, Bay Area Air Quality Management District Regulation 11-2-401.3 a notification must be made and the J number must be made available to the City of Berkeley Permit Service Center. Contractors must follow state regulations where there is asbestos-related work involving 100 square feet or more of asbestos containing material (8 Cal. Code Regs. §1529, §341.6 et seq.)

- iii. The report to the TMD shall include, in addition to the survey, plans on hazardous materials and hazardous waste removal and disposal that comply with State and Federal codes including California Code of Regulations (CCR) 66260 et seq.
- iv. Documentation evidencing disposal of hazardous waste in compliance with the survey shall be submitted to TMD within 30 days of the completion of the demolition.

Please note, the PCB Screening Form required by Public Works, Engineering, is a separate requirement and does not address the PCB identification requirement of the Toxics Management Division.

F. Hazardous Materials Business Plan. A Hazardous Materials Business Plan (HMBP) in compliance with BMC Section 15.12.040 and California Health & Safety Code, Chapter 6.95 Div. 20, shall be submitted to the Toxics Management Division through the California Environmental Reporting System: <http://cers.calepa.ca.gov/> for chemicals used or stored on site during construction that exceed reporting thresholds. The reporting is required if your facility stores or handles hazardous materials in aggregate quantities equal to or greater than 55 gallons for liquids, 500 pounds for solids, or 200 cubic feet of compressed gases, or generates any quantity of hazardous waste. This includes welding gases, emergency generator fuel, paints, etc.

Additionally, the business occupant must submit an HMBP within 30 days of starting operations.

G. Petroleum Storage. An (SPCC) Plan is required to be prepared and implemented for facilities with any one of the following:

- i. aggregate aboveground petroleum storage capacities of 1,320 gallons or more stored in aboveground storage containers, tanks, oil-filled equipment, or
- ii. one or more tank(s) in an underground area (TIUGA) with petroleum storage capacities of 55 gallons or greater. More information on TIUGAs can be found here: <https://osfm.fire.ca.gov/divisions/pipeline-safety-and-cupa/certified-unified-program-agency-cupa/aboveground-petroleum-storage-act/tank-in-an-underground-area-tiuga/>

The SPCC plan must be prepared prior to beginning operations and you must submit facility information to Toxics Management Division (TMD) through the California Environmental Reporting System: <http://cers.calepa.ca.gov/>. The SPCC plan will be reviewed during the site inspection and shall not be submitted in CERS or to the TMD.

Prior to Issuance of Any Building (Construction) Permit

- 12. HVAC Noise Reduction.** Prior to the issuance of building permits, the project applicant shall submit plans that show the location, type, and design of proposed heating, ventilation, and cooling (HVAC) equipment. In addition, the applicant shall provide product specification sheets or a report from a qualified acoustical consultant showing that operation of the proposed HVAC equipment will meet the City's exterior noise requirements in BMC Section 13.40.050. The City's Planning and Development Department shall review the submitted plans, including the selected HVAC equipment, to verify compliance with exterior noise standards.
- 13. Recycling and Organics Collection.** Applicant shall provide recycling and organics collection areas for occupants, clearly marked on plans, which comply with the Alameda County Organics Reduction and Recycling Ordinance (2021-02). Contact the Zero Waste Division's Recycling Program Manager, Julia A. Heath, at jheath@berkeleyca.gov.
- 14. Public Works ADA.** Plans submitted for building permit shall include replacement of sidewalk, curb, gutter, and other streetscape improvements, as necessary to comply with current City of Berkeley standards for accessibility.

Prior to Demolition or Start of Construction:

- 15. Construction/No Parking Permits.** Contact the Permit Service Center (PSC) at 1947 Center 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.

During Construction:

- 16. Construction Hours.** Construction activity shall be limited to between the hours of 7:00 AM and 6:00 PM on Monday through Friday, and between 9:00 AM and 4:00 PM on Saturday. No construction-related activity shall occur on Sunday or any Federal Holiday.
- 17. Air Quality - Diesel Particulate Matter Controls during Construction.** All off-road construction equipment used for projects with construction lasting more than 2 months shall comply with one of the following measures:
- A.** The project applicant shall prepare a health risk assessment that demonstrates the project's on-site emissions of diesel particulate matter during construction will not exceed health risk screening criteria after a screening-level health risk assessment is conducted in accordance with current guidance from BAAQMD and OEHHA. The health risk assessment shall be submitted to the Land Use Planning Division for review and approval prior to the issuance of building permits; or

- B. All construction equipment shall be equipped with Tier 2 or higher engines and the most effective Verified Diesel Emission Control Strategies (VDECS) available for the engine type (Tier 4 engines automatically meet this requirement) as certified by the California Air Resources Board (CARB). The equipment shall be properly maintained and tuned in accordance with manufacturer specifications.
- C. In addition, a Construction Emissions Minimization Plan (Emissions Plan) shall be prepared that includes the following:
 - i. An equipment inventory summarizing the type of off-road equipment required for each phase of construction, including the equipment manufacturer, equipment identification number, engine model year, engine certification (tier rating), horsepower, and engine serial number. For all VDECS, the equipment inventory shall also include the technology type, serial number, make, model, manufacturer, CARB verification number level, and installation date.
 - ii. A Certification Statement that the Contractor agrees to comply fully with the Emissions Plan and acknowledges that a significant violation of the Emissions Plan shall constitute a material breach of contract. The Emissions Plan shall be submitted to the Public Works Department for review and approval prior to the issuance of building permits.

18. Construction and Demolition Diversion. Divert debris according to your plan and collect required documentation. Get construction debris receipts from sorting facilities in order to verify diversion requirements. Upload recycling and disposal receipts if using [Green Halo](#) and submit online for City review and approval prior to final inspection. Alternatively, complete the [Construction Waste Management Plan](#) and present it, along with your construction debris receipts, to the Building Inspector by the final inspection to demonstrate diversion rate compliance. The Zoning Officer may request summary reports at more frequent intervals, as necessary to ensure compliance with this requirement.

19. Low-Carbon Concrete. The project shall maintain compliance with the Berkeley Green Code (BMC Chapter 19.37) including use of concrete mix design with a cement reduction of at least 25 percent. Documentation on concrete mix design shall be available at all times at the construction site for review by City Staff. (Project required to meet applicable code at time of building permit application, if different from above.)

20. Stormwater Requirements. The applicant shall demonstrate compliance with the requirements of the City's National Pollution Discharge Elimination System (NPDES) permit as described in BMC Section 17.20. The following conditions apply:

- A. The project plans shall identify and show site-specific Best Management Practices (BMPs) appropriate to activities conducted on-site to limit to the maximum extent practicable the discharge of pollutants to the City's storm drainage system, regardless of season or weather conditions.

- B.** Trash enclosures and/or recycling area(s) shall be covered; no other area shall drain onto this area. Drains in any wash or process area shall not discharge to the storm drain system; these drains should connect to the sanitary sewer. Applicant shall contact the City of Berkeley and EBMUD for specific connection and discharge requirements. Discharges to the sanitary sewer are subject to the review, approval and conditions of the City of Berkeley and EBMUD.
- C.** Landscaping shall be designed with efficient irrigation to reduce runoff, promote surface infiltration and minimize the use of fertilizers and pesticides that contribute to stormwater pollution. Where feasible, landscaping should be designed and operated to treat runoff. When and where possible, xeriscape and drought tolerant plants shall be incorporated into new development plans.
- D.** Design, location and maintenance requirements and schedules for any stormwater quality treatment structural controls shall be submitted to the Department of Public Works for review with respect to reasonable adequacy of the controls. The review does not relieve the property owner of the responsibility for complying with BMC Chapter 17.20 and future revisions to the City's overall stormwater quality ordinances. This review shall be conducted prior to the issuance of a Building Permit.
- E.** All paved outdoor storage areas must be designed to reduce/limit the potential for runoff to contact pollutants.
- F.** All on-site storm drain inlets/catch basins must be cleaned at least once a year immediately prior to the rainy season. The property owner shall be responsible for all costs associated with proper operation and maintenance of all storm drainage facilities (pipelines, inlets, catch basins, outlets, etc.) associated with the project, unless the City accepts such facilities by Council action. Additional cleaning may be required by City of Berkeley Public Works Engineering Dept.
- G.** All on-site storm drain inlets must be labeled "No Dumping – Drains to Bay" or equivalent using methods approved by the City.
- H.** Most washing and/or steam cleaning must be done at an appropriately equipped facility that drains to the sanitary sewer. Any outdoor washing or pressure washing must be managed in such a way that there is no discharge or soaps or other pollutants to the storm drain. Sanitary connections are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.
- I.** All loading areas must be designated to minimize "run-on" or runoff from the area. Accumulated waste water that may contribute to the pollution of stormwater must be drained to the sanitary sewer or intercepted and pretreated prior to discharge to the storm drain system. The property owner shall ensure that BMPs are implemented to prevent potential stormwater pollution. These BMPs shall include, but are not limited to, a regular program of sweeping, litter control and spill cleanup.

J. Sidewalks and parking lots shall be swept regularly to prevent the accumulation of litter and debris. If pressure washed, debris must be trapped and collected to prevent entry to the storm drain system. If any cleaning agent or degreaser is used, wash water shall not discharge to the storm drains; wash waters should be collected and discharged to the sanitary sewer. Discharges to the sanitary sewer are subject to the review, approval and conditions of the sanitary district with jurisdiction for receiving the discharge.

K. The applicant is responsible for ensuring that all contractors and sub-contractors are aware of and implement all stormwater quality control measures. Failure to comply with the approved construction BMPs shall result in the issuance of correction notices, citations, or a project stop work order.

21. **Public Works.** 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.

22. **Public Works.** 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 thick and secured to the ground.

Prior to Final Inspection or Issuance of Occupancy Permit:

23. **Compliance with Conditions.** The project shall conform to the plans and statements in the Use Permit. The developer is responsible for providing sufficient evidence to demonstrate compliance with the requirements throughout the implementation of this Use Permit.

24. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated November 21, 2023.

At All Times:

25. **Compliance with Approved Plan.** The project shall conform to the plans and statements in the Use Permit.

26. **Exterior Lighting.** 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.

27. **Loading.** All loading/unloading activities associated with deliveries to all uses shall be restricted to the hours of 7:00 a.m. to 10:00 p.m. daily.

28. **Periodic Review and Reporting.** The City may require periodic review of this approved project to verify compliance with permit requirements and conditions of approval. The permit holder or property owner is responsible for complying with any periodic reporting, monitoring, or assessments requirement. This permit is subject to the provisions of BMC Section 23.404.080 (Permit Revocation) if violations of the permit requirements are found by the Zoning Officer.

- 29.** 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.

ALCOHOLIC BEVERAGE SERVICE CONDITIONS (on-site)

- 30.** The Establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control (ABC).
- 31.** There shall be no service or consumption of alcohol on the public right-of-way, unless authorized by a Public Works sidewalk seating permit.
- 32.** The business shall comply with any applicable provisions of BMC 20.67.030 related to exterior advertising.
- 33.** A Berkeley Police Department Crime Prevention Through Environmental Design (CPTED) survey shall be completed prior to commencing alcohol service.
- 34.** 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.
- 35.** Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.
- 36.** 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.
- 37.** Fortified alcohol products (e.g., malt liquor), shall not be sold on the premises.
- 38.** The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.
- 39.** At no time shall the operator rent the space to a third-party promoter.

- 40.** 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.
- 41.** This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.

COMMUNITY OUTREACH: I HAVE REVIEWED THE PLANS FOR A CHANGE OF USE FOR AN EXISTING 1-STORY BUILDING FOR A BOOKSHOP AND WINE CAFE AT 2945 COLLEGE AVE, BERKELEY, CA, 94705. DIGITAL PLANS AVAILABLE AT <https://tinyurl.com/BookSocietyOutreach>

NAME	SIGNATURE	ADDRESS	RENTER OR OWNER?	DATE	HAVE NO OBJECTIONS	HAVE OBJECTIONS (PLEASE STATE BRIEFLY)	HAVE NO COMMENT
		2723 ASHBY PL. (PRIM. UNIT)					
		2723 ASHBY PL. (UNIT A)					
		2723 ASHBY PL. (UNIT B)					
		2723 ASHBY PL. (UNIT C)					
		2723 ASHBY PL. (UNIT D)					
		2723 ASHBY PL. (UNIT E)					
		2723 ASHBY PL. (UNIT F)					
		2721 ASHBY PL.					

GENERAL NOTES

1. SITE PLAN IS FOR REFERENCE ONLY. NO SITE WORK PROPOSED IN CURRENT SCOPE

PROJECT INFO

ARCHITECT
BUNTON MOUSAVI ARCHITECTURE,
d.b.a. "Studio BANAA"

DANE BUNTON, RA
PRINCIPAL ARCHITECT
dane@studiobanaa.com
415.610.8100

TENANT
BOOK SOCIETY LLC
CONTACT: LAURA GUZMAN
lguz1202@gmail.com
415.602.4169

PROJECT ADDRESS: 2945 COLLEGE AVE, BERKELEY, CA 94705

APN: 52-1567-19

ZONING: C-E (ELMWOOD COMMERCIAL)

BUILDING USE (EXISTING): COMMERCIAL/RETAIL
BUILDING USE (PROPOSED): COMMERCIAL/RETAIL/RESTAURANT/BAR

TOTAL # STORIES: 1

OCCUPANCY TYPE (EXISTING): B

OCCUPANCY TYPE (PROPOSED): B

BUILDING AREA (EXISTING): 1077 GROSS SF

BUILDING AREA (PROPOSED): 1077 GROSS SF (NO CHANGE)

CONSTRUCTION TYPE: V-B

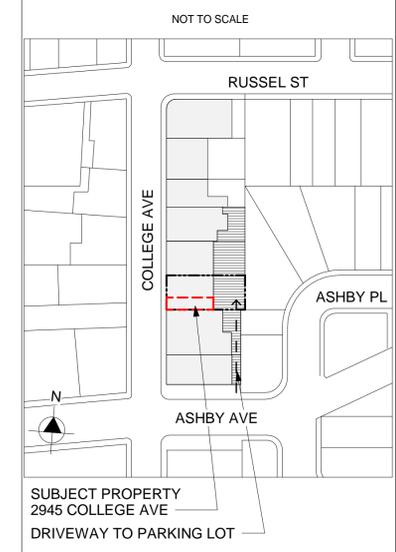
SPRINKLED(EXISTING): NO

SPRINKLED(PROPOSED): NO (NO CHANGE)

PARKING SPACES (EXISTING): NONE

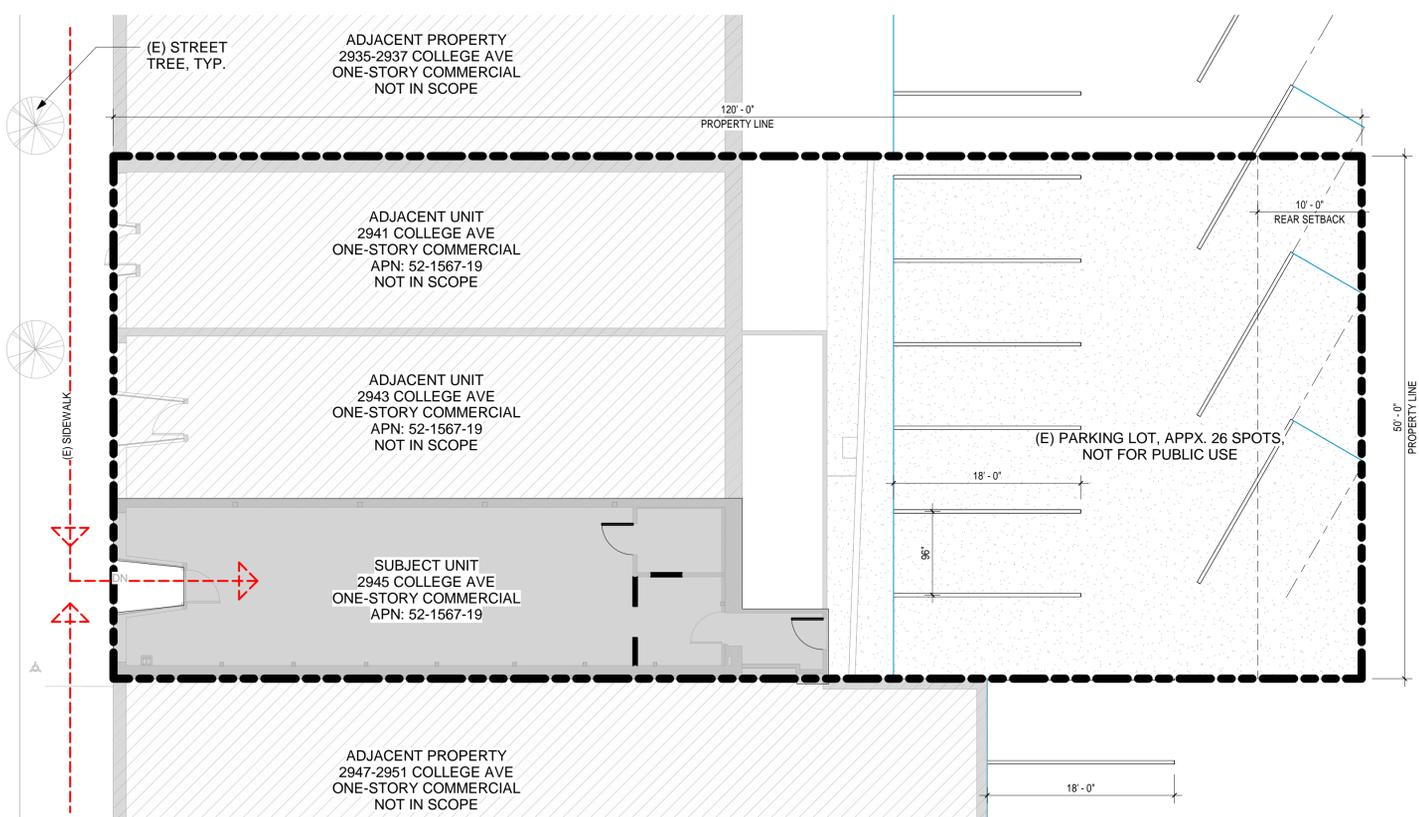
PARKING SPACES(PROPOSED): NONE (NO CHANGE)

VICINITY MAP



LEGEND - SITE PLAN

	PROPERTY LINE
	ACCESSIBLE PATH OF TRAVEL
	NOT IN SCOPE
	ADJACENT LOT
	SUBJECT PROPERTY
	PARKING LOT/DRIVEWAY

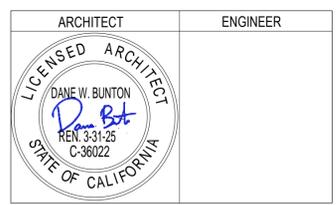


SITE PLAN 1
1/8" = 1'-0"

Studio BANAA

architecture
planning
interiors

2169 FOLSOM STREET, #S106
SAN FRANCISCO, CA 94110
[T] (415) 610-8100
www.studiobanaa.com



- GENERAL NOTES**
- This sheet is part of a set and is not to be used alone.
 - This sheet is not to be used for construction unless the architect's stamp and signature appear on the drawings and the status box indicates drawings have been released for construction.
 - These plans and prints thereof, as instruments of service, are owned by the architect and are for use on this project only. Reproduction and/or distribution without the prior written consent of the architect is forbidden.
 - Copyright Burton Mousavi Architecture Inc. 2023

NO.	REMARKS	DATE

KEY

ZONING APPLICATION

BOOK SOCIETY

2945 COLLEGE AVE

BERKELEY, CA

94705

PROJECT INFORMATION AND SITE PLAN

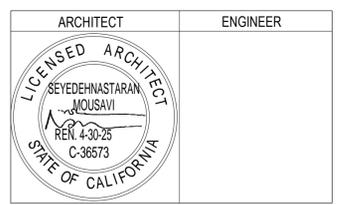
Date 11/27/2023	Drawing Number A1.0
Scale As indicated	Project Number 23017

GENERAL NOTES

KEYNOTES

Studio | BANAA
architecture
planning
interiors

2169 Folsom St, #S106
San Francisco, CA 94110
[T] 415.314.7386
[T] 510.612.7758
www.studiobanaa.com



GENERAL NOTES
1. This sheet is part of a set and is not to be used alone.
2. This sheet is not to be used for construction unless the architect's stamp and signature appear on the drawings and the status box indicates drawings have been released for construction.
3. These plans and prints thereof, as instruments of service, are owned by the architect and are for use on this project only. Reproduction and/or distribution without the prior written consent of the architect is forbidden.
4. Copyright Bunton Mousavi Architecture Inc. 2022

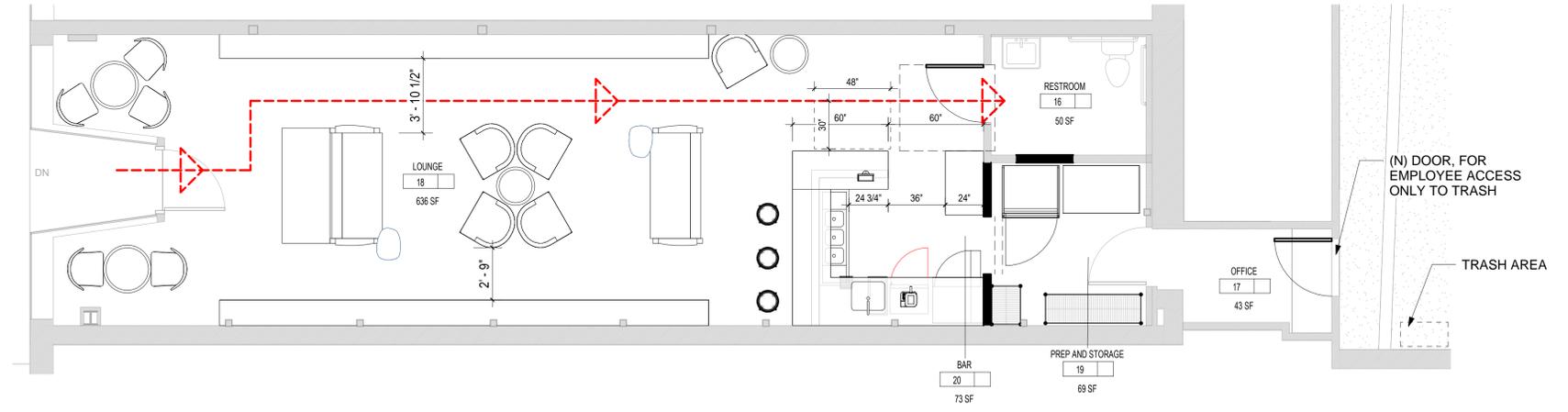
NO.	REMARKS	DATE

KEY
ZONING APPLICATION
BOOK SOCIETY
2945 COLLEGE AVE
BERKELEY, CA
94705
FLOOR PLANS

Date: 11/27/2023
Drawing Number: A2.0
Scale: As indicated
Project Number: 23017



FLOOR PLAN - EXISTING + DEMOLITION 3
1/4" = 1'-0"

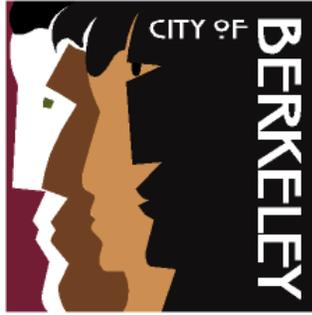


FLOOR PLAN - PROPOSED 4
1/4" = 1'-0"



LEGEND - FLOOR PLAN

- NOT IN SCOPE
- DEMOLITION ELEMENTS
- EXISTING WALL TO REMAIN
- NEW WALL
- EXISTING ELEMENTS TO REMAIN
- NEW ELEMENTS
- ACCESSIBLE PATH OF TRAVEL TO RESTROOM
- DUPLEX OUTLET, STANDARD HEIGHT A.F.F.
- FOURPLEX OUTLET, STANDARD HEIGHT A.F.F.
- DUPLEX OUTLET, 40\"/>
- FOURPLEX OUTLET, STANDARD HEIGHT A.F.F. TO CENTERLINE
- EQUIPMENT TAG
- LIGHT FIXTURE TAG
- PLUMBING TAG
- ACCESSORY TAG
- FURNITURE TAG
- FINISH TAG



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

2945 College Avenue

Use Permit #ZP2023-0152 to establish a wine bar, under a Type 42 Alcoholic Beverage Control license, with on-site wine service, retail sales of wine and books, and incidental food service

The Zoning Adjustments Board of the City of Berkeley will hold a public hearing on the above matter, pursuant to Zoning Ordinance, Section [23.404.050 \(Public Hearings and Decisions\)](#)

When: Thursday, March 14, 2024, 7:00 pm

Where: Berkeley Unified School District meeting room, 1231 Addison Street, (wheelchair accessible) with remote/hybrid option (via Zoom).

Please visit: <https://berkeleyca.gov/your-government/boards-commissions/zoning-adjustments-board> and click on the hearing date to access the most up-to-date meeting information, or call the Land Use Planning division (510) 981-7410.

PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED IN A HYBRID MODEL WITH BOTH IN-PERSON ATTENDANCE AND VIRTUAL PARTICIPATION AVAILABLE FOR MEMBERS OF THE PUBLIC.

For in-person attendees, face coverings or masks that cover both the nose and mouth are encouraged. If you're feeling sick, please do not attend the meeting in-person as a public health precaution.

Currently, there are no physical distancing requirements in place by the State of California or the Local Health Officer for an indoor event similar to a Commission meeting. However, all attendees are requested to be respectful of the personal space of other attendees. An area of the public seating area will be designated as "distanced seating" to accommodate persons that need to distance for personal health reasons.

A. Land Use Designations:

- General Plan: NC (Neighborhood Commercial)
- Zoning: C-E (Elmwood Commercial)

B. Zoning Permits Required:

- Use Permit pursuant to Berkeley Municipal Code (BMC) Section 23.310.020(B) to begin alcoholic beverage service
- Use Permit pursuant to BMC Section 23.204.020 to conduct retail sales of wine
- Administrative Use Permit pursuant to BMC Section 23.204.020(B) to allow a bar (use not listed)

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

D. Parties Involved:

Applicant: Dane Bunton, 2169 Folsom Street, San Francisco

Business Owners: Laura Guzman and Rita Gordon

Property Owner: John Gordon & Janis Mitchell Living Trust, 2091 Rose St., Berkeley

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, Samantha Updegrave, at (510) 981-7414 or supdegrave@berkeleyca.gov.

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

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.

Written Comments, 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@berkeleyca.gov. 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>

All persons are welcome to attend the 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.



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@berkeleyca.gov) to request hard-copies or electronic copies.

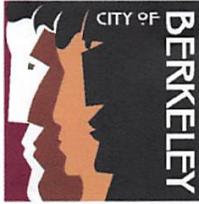
Notice Concerning Your Legal Rights:

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 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 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 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.

Internal



Police Department

January 8th, 2023

TO: Russell Roe, Associate Planner
City of Berkeley, Department of Planning and Development
1947 Center Street
Berkeley, CA 94704

Re: Book Society., 2945 College Ave. Berkeley 94703

Dear Mr. Roe,

This letter is in response to your request to review a proposed change to the above business as outlined in the attached Zoning Project Application. The owner (Dane Bunton) of Book Society is requesting to begin alcoholic beverage service, to conduct retail sales of wine and incidental food service, and change of use to a bar. The service of alcoholic beverages will be incidental to food service. The applicant/owner indicates they will obtain an Alcohol Beverage Control License Type 42 (On-Sale Beer & Wine – Public Premises).

Based on the information from the applicant's statement and research of our records, Berkeley Police Department supports approval of this application.

From the application it appears as though this is a new business operation. There are no substantive changes to the streetscape, front of the business, or anywhere else on the exterior, with the exception of a door to the back-parking lot and new exterior signage. The rear door is not a public entrance, but will only be used to provide employee access.

We believe the addition of this new business in the neighborhood will not cause a radical change to the neighborhood. The neighborhood is very active with businesses, other restaurants/bars, nightlife and students. The business will most certainly be a welcomed addition to the neighborhood. A record check with ABC shows Book Society LLC has no prior operating restrictions, disciplinary action or disciplinary history to report. The location appears to be in good standing with ABC.

2100 Martin Luther King Jr. Way, Berkeley, CA 94704 Tel: 510.981.5900 TDD: 510.981.5799 Fax: 510.981.5704 E-mail:
police@cityofberkeley.info Website: <http://www.CityofBerkeley.info/Police>

Internal

2 | Page

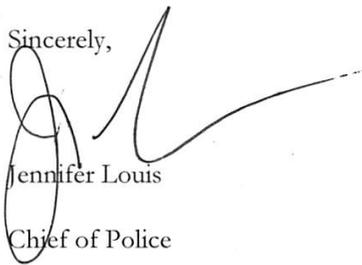
The business will not significantly alter vehicle or pedestrian traffic in the area. The space is in an existing commercial space, located on the east side of the street, just north of the intersection. As stated above, this area of College Ave and Ashby Av. is a very active business district. Book Social at this address seems to easily fit in with the character of this neighborhood.

An analysis of police calls for service data shows 30 calls for service in the current BPD database which dates to 2009. There is a broad range of miscellaneous calls between 2009-2019 including thefts, disturbances, trespassing and alarm calls. The location was owned/operated by a different business from 2009-2019. Nothing indicates a pattern of conduct from the prior business that caused or aided to crime or disorder. We have received no calls for service at 2945 College Av. since 11/2019.

Based on this information we believe the proposed addition is not at all likely to increase crime or disorder in the south/east Berkeley area. Researching other applications, we have noticed a correlation between businesses having live music and increased calls for service to BPD, often for noise complaints. Book Social will not have any live music or amplified sound.

In conclusion, we see no reason to believe this business would increase crime or calls for service in the neighborhood, and see no reason it would have an adverse effect on the health or safety, of the people in the area. This proposed use will not be detrimental or injurious to property and improvements of the adjacent properties, the surround area or neighborhood, or to the general welfare of the city.

Sincerely,



Jennifer Louis

Chief of Police

JL/kf