



Planning & Development  
Land Use Planning Division

## MEMORANDUM

April 7, 2026

To: Zoning Adjustments Board

From: Joshua Muller, Associate Planner

Subject: Revision to the Staff Report and Conditions of Approval for Item 6C, #ZP2025-0113, 2128 Oxford Street

Chair Gaffney and Members of the Zoning Adjustments Board,

Although the modified project is removing the proposed parking from the approved #ZP2022-0135 project pursuant to AB 2097, there are still transportation conditions that apply which were erroneously proposed for removal.

Additionally, although the modified project is eliminating the rooftop restaurant within the original approval, the ground-floor tenant spaces may still contain uses that include alcohol sales and services, so the conditions of approval regarding alcohol that were applied to the original entitlement still apply. Accordingly, the line item in Attachment 1, Table 2 regarding alcohol sales and service should be updated as shown below:

Alcohol Sales/Service	<del>No</del> -Yes	<del>The modified project is not proposing any alcohol sales or service with this permit. The project is proposing</del> <i>Alcoholic Beverage Service of beer and wine incidental to seated food service in each retail space. (Alcohol Beverage Control license Type 41).</i>
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### Recommended Action:

Staff recommends that the ZAB modify Attachment 2 to not remove Conditions of Approval 73C, 90, 91, and 92-110 as follows:

**73. Transportation Demand Management.** Prior to issuance of a Certificate of Occupancy, the property owner shall facilitate a site inspection by Land Use Division staff to confirm that the physical improvements required in BMC Section 23.322.060 have been installed. A Parking and Transportation Demand Management (PTDM) compliance report documenting that the programmatic measures required in BMC Section 23.322.060 are implemented shall be submitted to the Land Use Division prior to occupancy, and on an annual basis thereafter, which demonstrates that the project is compliant with the applicable requirements in this section:

~~A. New construction that results in an off-street total of more than 25 publicly available parking spaces shall install dynamic signage to Transportation Division specifications, including real-time garage occupancy signs at the entries and exits to the parking facility with vehicle detection capabilities and enabled for future connection to the regional 511 Travel Information System; or equivalent, as determined by the Land Use Division in consultation with the Transportation Division. The information panels shall be shown in the construction drawings and shall be installed prior to occupancy.~~

~~B. For any new building with residential units or structures converted to a residential use, required parking spaces shall be leased or sold separate from the rental or purchase of dwelling units for the life of the dwelling units. The property owner shall notify all residents of this restriction in leases and/or contracts, and shall provide sample leases and/or contracts including such notification to the project planner prior to issuance of Certificate of Occupancy or final inspection.~~

~~C. For new structures or additions over 20,000 square feet, the property owner shall provide transportation benefits at no cost to every employee, residential unit, and/or group living accommodation resident, one pass for unlimited local bus transit service; or (subject to the review and approval of the Zoning Officer in consultation with the Transportation Division) a functionally equivalent transit benefit in an amount at least equal to the price of a non-discounted adult monthly local bus pass. A notice describing these transportation benefits shall be posted in a location or locations visible to all employee and residents~~

~~D. For residential structures constructed or converted from a non-residential use that provide off-street parking, vehicle sharing spaces shall be provided in the amounts shown in BMC Table 23.322-6, to be offered to vehicle sharing service providers at no cost, for as long as providers request the spaces, and otherwise consistent with BMC Section 23.322.060(D).~~

**90. Guaranteed Ride Home.** If qualifying for participation in the Alameda County Guaranteed Ride Home program (or successor program), shall participate in the “Guarantee Ride Home” program to reduce employee single occupant vehicle trips by providing alternate means of leaving work in an emergency. Enrollment shall be encouraged by providing Guarantee Ride Home information to all employees. An affidavit/statement indicating number of participating employees shall be provided annually to the Transportation Division Manager

**91. Transit Subsidy Condition.** If 10 or more employees, the business operator shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area as per BMC Chapter 9.88.

### **ALCOHOLIC BEVERAGE SERVICE CONDITIONS (on-site)**

**92.** The Food Service Establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control (ABC).

**93.** Alcoholic beverage service shall be “incidental” to the primary food service use, as defined in Zoning Ordinance 23.502. 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.

**94.** Alcohol beverage service shall be 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.

- 95.** 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.
- 96.** During operating hours, 100 percent of the service area shall be designed and used for and must possess the necessary utensils, and condiment dispensers with which to serve meals to the public.
- 97.** The sale of alcoholic beverages for consumption off the premises is prohibited.
- 98.** There shall be no service or consumption of alcohol on the public right-of-way, unless authorized by a Public Works sidewalk seating permit.
- 99.** 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.
- 100.** 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.
- 101.** 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.
- 102.** A Berkeley Police Department Crime Prevention Through Environmental Design (CPTED) survey shall be completed prior to commencing alcohol service.
- 103.** 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.
- 104.** Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.
- 105.** 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.
- 106.** Fortified alcohol products (e.g., malt liquor), shall not be sold on the premises.
- 107.** The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.
- 108.** At no time shall the operator rent the restaurant space to a third-party promoter.
- 109.** 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.

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