



Planning and Development Department  
Land Use Planning Division

# A D M I N I S T R A T I V E U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE  
Berkeley Municipal Code, Title 23

**AUP #12-20000134**

Property Address:

**2086 UNIVERSITY AVENUE**

Permittee Name:

**DAVID LAU**

Use and/or Construction Permitted: to establish beer and wine service incidental to food service at an existing quick-service food establishment pursuant to:

- Section 23E.68.030 to establish beer and wine service incidental to a food service.

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

Following the expiration of the mandatory appeal period set forth in Section 23B.28.040 of the Berkeley Municipal Code, with no timely appeal being filed, the Administrative Use Permit described herein has been duly granted by the Zoning Officer on January 8, 2013.

Attest: Terry Blount  
Terry Blount, AICP, Principal Planner  
For Debbie Sanderson, Zoning Officer

January 8, 2013  
Effective Date

# ATTACHMENT 1

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## FINDINGS AND CONDITIONS

DECEMBER 18, 2012

### 2086 University Avenue

#### Administrative Use Permit #12-20000134

To establish beer and wine service incidental to food service at an existing quick-service food establishment.

#### CEQA FINDINGS

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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"). 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.

#### FINDINGS FOR APPROVAL

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2. As required by Section 23B.28.050.A of the Zoning Ordinance, the project, under the circumstances of this particular case existing at the time at which the application is granted, 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:
  - The proposed alcohol service would be incidental to the existing business's food service and therefore will be consumed on-site only.
  - Alcohol service is conditioned (#10-14) to limit detriment and to promote compatibility between the existing restaurant and nearby commercial uses on University Avenue.
  - As required by Section 23E.68.090.B (Findings), the service of beer and wine service incidental to an existing quick service restaurant is allowed because:
    - 1) Asha Tea House wishes to expand its menu by including beer and wine service catering to the existing University Avenue population and the surrounding residential population.

- 2) Asha Tea House currently serves specialty teas, salads, sandwiches, noodles, and deserts. The addition of beer and wine service will encourage a larger variety of goods which service the District and are not expected to generate additional vehicular traffic, but will rely on existing pedestrian traffic.
  - 3) The establishment of beer and wine for on-site consumption will support the restaurant's continued operation and is an essential component to the economic success of this small business operation, thereby contributing to the vitality and diversity of the District.
  - 4) No exterior modifications are proposed, therefore, the uniform design and character of the commercial building will be maintained.
  - 5) The continued operation and success of the restaurant helps implement the General Plan's designation of a Commercial District. The expansion of the alcohol service for a quick service restaurant will provide beer and wine with food, a service encouraged within the Downtown area.
- The applicant is currently applying for a Type 41 California Department of Alcoholic Beverage Control (ABC) License to sell beer and wine incidental to food service.

## **STANDARD CONDITIONS**

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The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

### **1. Conditions Shall be Printed on Plans**

The conditions of this Permit shall be printed on the *second* sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. *Additional sheets* may also be used if the *second* sheet is not of sufficient size to list all of the conditions. The sheet(s) containing the conditions shall be of the same size as those sheets containing the construction drawings; 8-1/2" by 11" sheets are not acceptable.

### **2. Applicant Responsible for Compliance with Conditions**

The applicant shall ensure compliance with all of the following conditions, including submittal to the project planner of required approval signatures at the times specified. Failure to comply with any condition may result in construction being stopped, issuance of a citation, and/or modification or revocation of the Use Permit.

### **3. Uses Approved Deemed to Exclude Other Uses (Section 23B.56.010)**

- A. This Permit authorizes only those uses and activities actually proposed in the application, and excludes other uses and activities.
- B. Except as expressly specified herein, this Permit terminates all other uses at the location subject to it.

### **4. Modification of Permits (Section 23B.56.020)**

No change in the use or structure for which this Permit is issued is permitted unless the Permit is modified by the Zoning Officer, except that the Zoning Officer may approve changes that do not expand, intensify, or substantially change the use or building.

### **5. Plans and Representations Become Conditions (Section 23B.56.030)**

Except as specified herein, the site plan, floor plans, building elevations and/or any additional information or representations, whether oral or written, indicating the proposed structure or manner of operation submitted with an application or during the approval process are deemed conditions of approval.

### **6. Subject to All Applicable Laws and Regulations (Section 23B.56.040)**

The approved use and/or construction is subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies. Prior to construction, the applicant shall identify and secure all applicable permits from the Building and Safety Division, Public Works Department and other affected City divisions and departments.

**7. Exercised Permit for Use Survives Vacancy of Property (Section 23B.56.080)**

Once a Permit for a use is exercised and the use is established, that use is legally recognized, even if the property becomes vacant, except as set forth in Standard Condition #8, below.

**8. Exercise and Lapse of Permits (Section 23B.56.100)**

- A. A permit for the use of a building or a property is exercised when, if required, a valid City business license has been issued, and the permitted use has commenced on the property.
- B. A permit for the construction of a building or structure is deemed exercised when a valid City building permit, if required, is issued, and construction has lawfully commenced.
- C. A permit may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance, except that permits for construction or alteration of structures or buildings may not be declared lapsed if the permittee has: (1) applied for a building permit; or, (2) made substantial good faith efforts to obtain a building permit and begin construction, even if a building permit has not been issued and/or construction has not begun.

**9. Indemnification Agreement**

The applicant shall hold the City of Berkeley and its officers harmless in the event of any legal action related to the granting of this Permit, shall cooperate with the City in defense of such action, and shall indemnify the City for any award of damages or attorneys fees that may result.

**ADDITIONAL CONDITIONS IMPOSED BY THE ZONING OFFICER**

Pursuant to BMC 23B.28.050.D, the Zoning Officer attaches the following additional conditions to this Permit:

**Conditions Relating to Alcohol Service:**

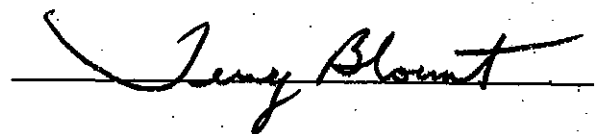
10. Pursuant to BMC Section 23F.04.010, alcohol sales “may not generate gross receipts in excess of thirty-three percent (33%) of the gross receipts generated by the primary (food service) use.” In addition, the California Department of Alcohol Beverage Control (ABC) allows this alcohol use only as part of a “bona fide eating place” making “actual and substantial sales of meals,” and stringently enforces this requirement.
11. No sign(s) advertising alcoholic beverages shall be visible from the public right-of-way.
12. Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.
13. All employees selling and/or serving alcohol, or directly supervising such sales and/or service, shall complete a course in Responsible Beverage Sales and Service (RBSS) through 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.

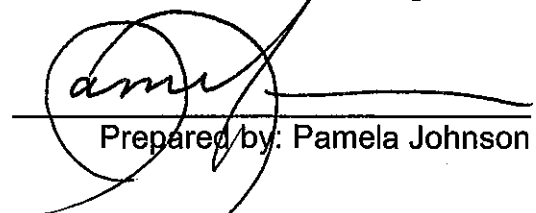
14. The owner or operator of the establishment shall take reasonable measures to prevent disturbances by patrons in the immediate vicinity. Such measures shall include signs reminding patrons of nearby residences and requests not to congregate or loiter near such residences nor operate vehicles in a 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.

**At All Times (Operation):**

15. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
16. 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.
17. Noise and exterior lighting shall be controlled so as to prevent verified complaints from the surrounding neighborhood. This shall include noise created by employees working on the premises before or after patrons arrive.



Terry Blount, Principal Planner for  
Debra Sanderson, Zoning Officer

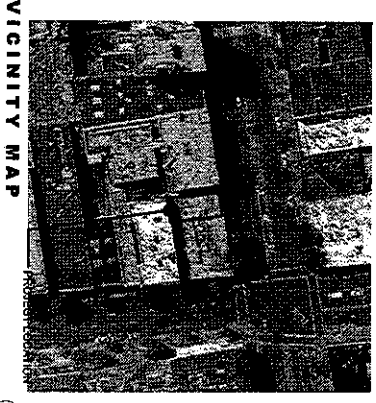
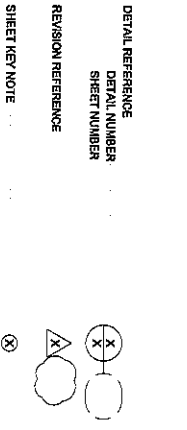


Prepared by: Pamela Johnson

**GENERAL NOTES**

1. ALL CONSTRUCTION IS TO BE IN ACCORDANCE WITH THE SANITATION CODE AND THE CODE CONSISTING OF THE 2010 CALIFORNIA BUILDING CODE (CBC), 2010 CALIFORNIA ELECTRICAL CODE (CEC), 2010 CALIFORNIA MECHANICAL CODE (CMC), 2010 CALIFORNIA PLUMBING CODE (CPL), 2010 CALIFORNIA FIRE CODE (FC), 2010 CALIFORNIA ENERGY CODE (CEC), 2010 CALIFORNIA LANDMARK PRESERVATION ACT (LMPA) AND ALL APPLICABLE ORDINANCES AND REGULATIONS.
2. ALL WORK SHALL COMPLY WITH THE CITY OF SAN FRANCISCO'S ORDINANCES AND REGULATIONS.
3. THE CONTRACTOR SHALL NOTIFY ALL AGENCIES AND AGENCIES SHALL COMPLY WITH THE CITY OF SAN FRANCISCO'S ORDINANCES AND REGULATIONS.
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**SYMBOL LEGEND**



**PROJECT SCOPE**

Interior non-structural conversion of an existing commercial tenant space presently classified as mechanical and use into a TEA HOUSE AND QUICK SERVICE RESTAURANT establishment. NO CHANGES TO EXISTING SCOPE OF WORK INCLUDE DEMOLITION, NEW PARTITIONS, KITCHEN AND SERVICE EQUIPMENT AND TWO NEW ACCESSIBLE BATHROOMS. DEMOLITION IS OF ONLY NON-STRUCTURAL PARTITIONS. THE SCOPE OF BUILDING AND CHANGE DATA

**OCCUPANCY NOTES**

BEFORE DATA FOR CONSTRUCTION TYPE AND OCCUPANCY FOR THIS PROJECT. OCC LOADS BASED ON FOLLOWING AREA CALCOS.

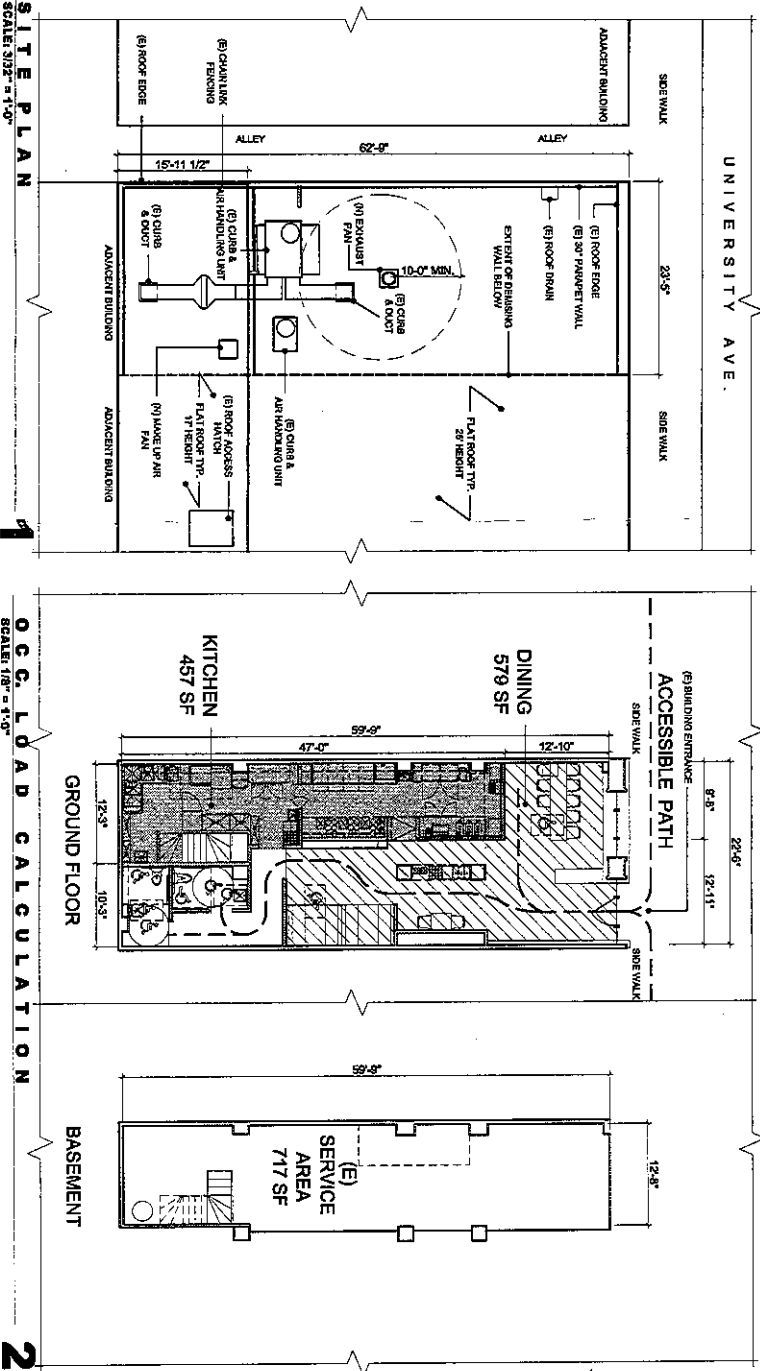
AREA TYPE	TOTAL AREA	OCC. LOAD
KITCHEN	678 SF	37
STORAGE	467 SF	3
STORAGE	717 SF	3
TOTAL OCCUPANT LOAD		43

**EMPLOYEES NOT TO EXCEED: 4**

DEFERRED SUBMITTALS  
 DESIGN DOCUMENTS SHALL BE SUBMITTED TO THE CITY OF SAN FRANCISCO FOR ALL DEFERRED ITEMS SHALL BE SUBMITTED TO AND APPROVED BY THE BUILDING OFFICIAL, PRIOR TO FABRICATION AND ERECTION OF THE ITEMS. IN ADDITION, THE PROJECT DESIGNER SHALL PROVIDE A SIGNED APPROVAL FOR THE DEFERRED ITEMS AS BEING IN CONFORMANCE WITH THE PROJECT INTENT.  
 ANY SUB-COMMITTEE REPORTS INCLUDING BUT NOT LIMITED TO MECHANICAL, PLUMBING, ELECTRICAL, AND FIRE SUPPRESSION

**DRAWING INDEX**

NO.	DESCRIPTION	DATE	STATUS
1	PROJECT DIRECTORY		△
2	LIGHTING COMPLIANCE CALCULATION		△
3	FOODSERVICE EQUIPMENT		△
4	OWNER / LEASE CONTRACT		△
5	ENERGY CONSULTANT		△
6	FOODSERVICE EQUIPMENT		△
7	FOOD SERVICE ELECTRICAL SCHEMATIC		△
8	FOOD SERVICE PLUMBING SCHEMATIC		△
9	HOOD MECHANICAL SCHEMATIC		△
10	HOOD MECHANICAL SCHEMATIC		△
11	LIGHTING COMPLIANCE CALCULATION		△
12	PROJECT DIRECTORY		△



**WYLIE PRICE DESIGN**  
 491 32nd Street  
 Oakland, CA 94612  
 510.464.2222  
 wylieprice.com

**RECEIVED**  
 OCT 18 2012  
 LAND USE PLANNING

**DUBICATED**  
 2086 UNIVERSITY AVE.  
 BERKELEY, CA.

**ASHA TEA HOUSE**  
 2086 UNIVERSITY AVE.  
 BERKELEY, CA.

APPROVED PLAN  
 Approved by [Signature]  
 DATE 12/17/2012

PLANNING  
 D.P. Conditions Attached  
 M.U.P. Conditions Attached  
 L.U.F. Conditions Attached

REVISIONS:

NO.	DESCRIPTION	DATE
1	SCHEMATIC DESIGN 1	04/27/2011
2	SCHEMATIC DESIGN 2	04/28/2011
3	PERMIT SUBMITTAL	04/28/2011
4	PERMIT REVISION 1	04/28/2011
5	PERMIT REVISION 2	04/28/2011
6	PERMIT REVISION 3	04/28/2011
7	PERMIT REVISION 4	04/28/2011

SHEET: D.L. 03 - 017  
**AO**  
 SITE PLAN & PROJECT DATA

**GEN. NOTES FOR ALL DOORS**

- HANDLE:** All doors equipped with single-effort non-grip hardware (e.g., lever) centered between 36" and 48" above the floor. (CBC 11538.2(8))
- CLOSER:** If a door is equipped with a closer, then the sweep period of the closer shall be adjusted so that from an open position of 70-degree the door will take at least 3 seconds to move to a point 3" from the latch, measured at the leading edge of the door. (CBC 11538.2(1))
- THRESHOLD:** ADA compliant transition
- ACCESSORIES:** Where doors are glazed, provide 10" high glass at bottom of glazed door. (CBC 11538.2(6))

**DOOR SCHEDULE**

TAG	ROOM NAME	SIZE	TYPE	JAMB	HWDR
1	ENTRY	38' X 60'	ALUM. ANOD. GLAZED	(G)	(G)
2	RESTROOM	38' X 50'	SOLID CORE	(M)	GROUP-1
3	KITCHEN	38' X 60'	ELIASON ALUMINUM LAM	(M)	N/A

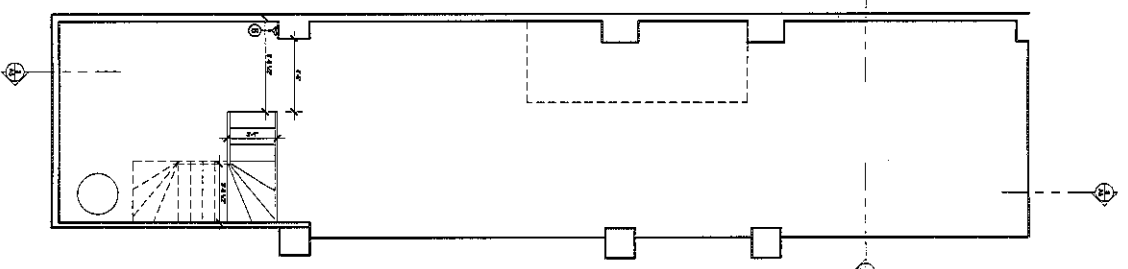
**ADA DOOR HARDWARE**

- HARDWARE GROUP #1**  
 HANDLE: ADA COMPLIANT FLUSH PULL, TIRKO 106R.  
 CLOSER: ADA COMPLIANT CLOSER AND DOOR BUMPER TRACK.  
 TRACK: ADA COMPLIANT POCKET DOOR TRACK  
 THRESHOLD: PEWKO SADDLE/ADA COMPLIANT-171A  
 DOOR BOTTOM: PEWKO 218AV
- HARDWARE GROUP #2**  
 HANDLE: ADA COMPLIANT PULL (no latch) OCCUPANCY BOLT  
 CLOSER: ADA COMPLIANT CLOSER  
 HINGES: HAGER AS 350  
 THRESHOLD: PEWKO SADDLE/ADA COMPLIANT-171A  
 DOOR BOTTOM: PEWKO 218AV
- ① TEMPERED SINGLE LIGHT DOOR, 12" SOLID KICK PLATE AT BOTTOM, ADA CONFORMING HANDLE AND CLOSER TO BE ADDED
- ② SOLID CORE POCKET DOOR, 12" SOLID KICK PLATE TO BE ADDED AT BOTTOM, ADA CONFORMING HANDLE AND CLOSER
- ③ DOUBLE SWINGING UTILITY DOOR
- ④ SOLID CORE DOOR, 12" SOLID KICK PLATE TO BE ADDED AT BOTTOM, ADA CONFORMING HANDLE AND CLOSER

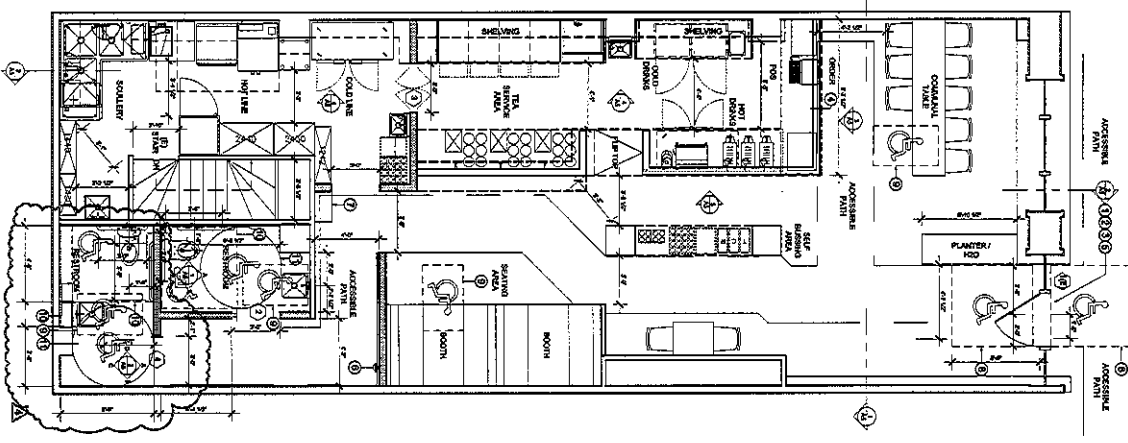
**FF&E KEY NOTES**

- LOCATION OF ACCESSIBLE ENTRANCE SIGN AS REQUIRED PER CBC 1127B.3
- EFFORT TO OPERATE EXTERIOR DOORS SHALL NOT EXCEED 8 lbs., INTERIOR DOORS SHALL NOT EXCEED 5 lbs., AS REQUIRED PER CBC 10045.1
- LEVER TYPE OPERING HARDWARE SHALL BE GENERATED BETWEEN 58" AND 108" ABOVE FLOOR SURFACE AS REQUIRED PER CBC 10045.1
- LOCATION OF ACCESSIBLE COUNTER, +38" - 34" A.F.F.
- LABEL ON DOOR FRAME: DOOR TO REMAIN UNLOCKED DURING BUSINESS HOURS
- LOCATION OF 2A-109C FIRE EXTINGUISHER
- EMPLOYEE STORAGE LOCKERS
- 60" X 60" MIN. CLEAR LANDING, MAX. 1/4" SLOPE
- 30" X 48" MIN. CLEAR AREA, 19" MAX DEPTH FOR KNEE SPACE
- 60" X 56" MIN. CLEAR AREA
- 60" MIN. CLEAR RADIOUS TURNING AREA

**BASEMENT FLOOR**



**GROUND FLOOR**



APPROVED PLAN  
 Planning  
 DATE 12/17/10  
 APPROVED BY  
 DATE  
 APPROVED BY  
 DATE  
 APPROVED BY  
 DATE

**FURNISHINGS FIXTURES & EQUIPMENT PLAN**

SCALE: 1/8" = 1'-0"

**WYLIE PRICEN DESIGN**  
 491 23rd Street  
 Oakland, CA 94612  
 510.884.2122  
 wyliepricen.com

**ASHA TEA HOUSE**  
 2086 UNIVERSITY AVE.  
 BERKELEY, CA.

DATE:	DESCRIPTION:
MAY 27 2011	SUBMITTAL 1
JUN 13 2011	SUBMITTAL 2
JUN 13 2011	SUBMITTAL 3
JUN 13 2011	SUBMITTAL 4
JUN 13 2011	SUBMITTAL 5
JUN 13 2011	SUBMITTAL 6
JUN 13 2011	SUBMITTAL 7
JUN 13 2011	SUBMITTAL 8
JUN 13 2011	SUBMITTAL 9
JUN 13 2011	SUBMITTAL 10
JUN 13 2011	SUBMITTAL 11

**A1**