



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 #12-20000152**

Property Address: **1912 SHATTUCK AVENUE**

Permittee Name: **TRIPLE ROCK BREWING CO., INC.**

Use and/or Construction Permitted: to establish a new 3,080 square foot full service restaurant with incidental beer and wine service for on-site consumption pursuant to:

- Section 23E.68.030 to establish a new restaurant over 2,000 square feet in size (roughly 3,000 sq. ft.);
- Section 23E.16.040.A to include incidental service of beer and wine with food in the new restaurant.

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 February 28, 2013.

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

February 28, 2013  
Effective Date

# ATTACHMENT 1

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## FINDINGS AND CONDITIONS

FEBRUARY 7, 2013

### 1912 Shattuck Avenue

#### Administrative Use Permit #12-20000152

To establish a new 3,080 square foot full service restaurant with incidental beer and wine service for on-site consumption. The new restaurant will provide food to the existing adjacent brewpub located at 1920 Shattuck Avenue and will be physically connected to the brew pub facility, but will not include brewing of beer or sale for off-site consumption.

#### 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 business is an expansion of an existing full service restaurant within an approved new commercial building on a previously vacant lot and thus would not change an existing permitted use within the Commercial-Downtown Mixed Use District.
  - The proposed service of alcoholic beverages would be incidental to food service and because of the incidental nature of the service and the size and location of the restaurant, alcohol sales will not have a significant detrimental impact on public health, safety, or peace.
  - The Berkeley Police Department reviewed the application and has no objection to the project given the proposed findings and conditions.

- The business will be subject to conditions of approval restricting the sale, consumption, and expanded production of alcohol.
3. Pursuant to Berkeley Municipal Code Section 23E.68.090.B.1, the proposal meets the purposes of the C-DMU District because the new business would implement the vision and goals of the Downtown Area Plan by establishing a full service restaurant on a vacant and underutilized site, which would contribute to the pedestrian-oriented vitality and economic revitalization of the Downtown. In addition, the new restaurant would be located within walking distance of theaters and other cultural uses, providing additional dining opportunities for patrons of these uses.
  4. Pursuant to Berkeley Municipal Code Section 23E.68.090.B.2, the project is compatible with the surrounding uses and buildings because the restaurant business represents a continuation and expansion of an existing restaurant use, which is located in a commercial area characterized by restaurants and retail sales and services, as well as office/research and development, civic, and entertainment uses.
  5. Pursuant to Berkeley Municipal Code Section 23E.16.040.A, the service of beer and wine incidental to the operation of a full-service restaurant at this location will promote the City's economic health, contribute to the implementation of General Plan and Downtown Area Plan policies and further the purposes of the C-DMU Core District as previously described.
  6. Pursuant to Berkeley Municipal Code Section 23E.28.130.A, a change of use is not required to meet off-street parking requirements if the new use has the same numeric parking standard as the previous use. No parking is required for the proposed restaurant use because under the C-DMU parking standards, office and restaurant uses require the same amount of parking spaces and a parking waiver was granted for a proposed ground level office use in the approved 3-story building addition at 1906-1908 Shattuck. Further, pursuant to 23E.28.140:
    - a. The use is located less than one-third of a mile from the downtown BART station;
    - b. The use is located less than one-quarter of a mile from the public parking lot on Berkeley Way;
    - c. A restaurant is a neighborhood-serving use; and
    - d. The applicant has incorporated four on-site bicycle parking racks and will install two off-site bicycle parking racks that can accommodate up to two bicycles each as a condition of approval.

## **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:

**Prior to Submittal of Any Building Permit:**

- 10. The applicant shall provide the project planner with the name and telephone number of the individual empowered to manage construction noise from the project. The individual's name, telephone number, and responsibility for noise management shall be posted at the project site for the duration of construction in a location easily visible to the public. The individual shall record all noise complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Individual Responsible for Noise Management:**
  - Name: \_\_\_\_\_ Phone: \_\_\_\_\_
- 11. The applicant and all persons associated with the project are hereby notified that a Transportation Management Permit (TMP) would be required under any of the following circumstances:
  - Alterations, closures, or blockages to sidewalks or pedestrian paths
  - Alterations, closures, or blockages to vehicle travel lanes (including bicycle lanes)
  - Storage of building materials, dumpsters, debris anywhere in the public ROW
  - Provision of exclusive contractor parking on-street
  - Significant truck activity.

Contact the Permit Service Center (PSC) at 2120 Milvia Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Public Works Traffic Engineering (981-6400) reviews all submitted TMP requests.

The TMP may include designation of a specific truck haul route. Meter heads (if in the construction area) shall be removed only by City staff. Contact the site inspector 72 hours in advance of required removal so arrangements can be made.

**Prior to Issuance of Any Building Permit:**

12. The applicant shall incorporate four bicycle spaces on the project site and shall submit a public works permit application to the City Traffic Engineer for the installation of a minimum of two bicycle racks able to accommodate four bicycles located within the sidewalk area adjacent to the expanded restaurant space for a total of eight spaces. Alternately, the applicant may pay an in-lieu fee for the eight bicycle spaces equivalent to the cost of standard bicycle racks installed by the city; or may install a bicycle corral on the street in the public-right-of-way, subject to approval of a public works permit from the City Traffic Engineer.

**During Construction:**

13. Construction activity shall be limited to between the hours of 6:00 a.m. and 9:00 p.m.

**Prior to Issuance of Occupancy Permit or Final Inspection:**

14. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
15. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **DECEMBER 3, 2012**.

**At All Times (Operation):**

16. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
17. 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.
18. 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.

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

19. Alcoholic beverage service shall be “incidental” to the primary food service use, as defined in Zoning Ordinance 23F.04.010. An incidental use shall not exceed twenty-five percent (25%) 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 thirty-three percent (33%) of the gross receipts generated by the primary use. In addition, the California Department of Alcoholic 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.
20. This permit approval does not include expansion of beer manufacturing operations.
21. The establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control.
22. The applicant shall comply with ABC regulations for License Type 41, which requires that the food establishment operate as a bona fide eating place, make actual and substantial sales of meals during normal meal hours, and that the establishment operate at least five days a week. In addition, the applicant shall request that the ABC place the following conditions on the ABC permit for this site, and this Use Permit shall only be operative for as long as these conditions are placed on the associated ABC license:
  - a. There shall be no sale of alcohol for off-site consumption from 1912 Shattuck;
  - b. There shall be no bar or lounge area within 1912 Shattuck maintained for the sole purpose of sales, service or consumption of alcoholic beverages directly to patrons for consumption;
  - c. During operating hours, 100% 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;.
23. A Berkeley Police Department Crime Prevention Through Environmental Design (CPTED) survey shall be completed prior to commencing alcohol service.
24. 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.
25. Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.
26. 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.

27. There shall be no service or consumption of alcohol on the public right-of-way.
28. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.
29. This Use Permit, including these and all other required conditions, shall be kept on-site and available for viewing by any interested party.

### **FOOD SERVICE CONDITIONS**

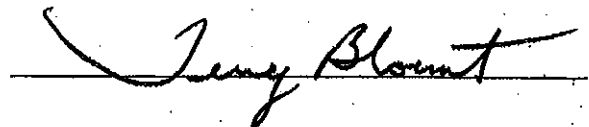
(These requirements are in addition to any other requirements under the City's Building, Health or Fire Codes or by agencies such as the Alcoholic Beverage Control Department of the State of California. The applicant is responsible for contacting these and other departments and agencies to identify and secure all applicable permits and licenses).

30. 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.
31. Changes in the nature of the operation including, but not limited to, the expansion of seating area, changes in hours, and the addition of live entertainment, shall require modification of this permit subject to approval by the Zoning Officer or the Zoning Adjustments Board.
32. The approved floor plan shall be followed and the operation shall be conducted as presented to the Zoning Officer. Expansion of the seating area or changes to the building occupant load rating shall require modification of this permit subject to approval by the Zoning Officer or the Zoning Adjustments Board.
33. Changes to the building's facade, including doors or windows, site plans, landscaping, signage, and awnings are subject to Design Review and approval prior to issuance of a building permit.
34. The hours of operation of the restaurant shall be limited to: 11:00 a.m. to 2:00 a.m. daily. Hours of operation refer to arrival of the first patron and departure of the last patron. Any change in the hours of operation shall be approved by the Zoning Adjustments Board, Zoning Officer or designee. Hours of operation are subject to review and amendment by the Zoning Officer or Zoning Adjustments Board as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.
35. Cooking odors, noise, exterior lighting and operation of any parking area shall be controlled so as to prevent verified complaints from the surrounding neighborhood.

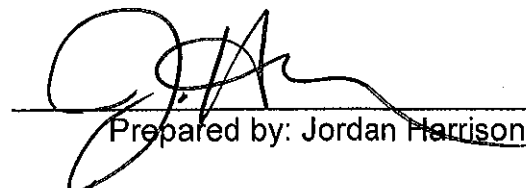


This shall include noise created by employees working on the premises before or after patrons arrive.

36. Smoke and odor control equipment approved by the City Environmental Health Division and providing adequate protection to residential uses above and to the east of the restaurant shall be installed prior to issuance of an Occupancy Permit.
37. Garbage and trash containers that are suitably enclosed and screened from view shall be provided subject to approval of the Zoning Officer, the Health Department and, where applicable, the Design Review Planner. Any establishment selling beverages in cans or bottles that are subject to the State of California Container Deposit Law shall provide separate bins or cans for the placement of such cans or bottles to ensure recycling of such containers.
38. Containers used for the dispensing of prepared food shall identify the establishment. Polystyrene foam food packing is prohibited by Section 11.60.030 of the Berkeley Municipal Code.
39. Any establishment selling beverages in cans or bottles that are subject to the State of California Container Deposit Law shall recycle such containers.
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.
41. 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.
42. The applicant 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, consistent with BMC Chapter 9.88.



Terry Blount, Principal Planner for  
Debra Sanderson, Zoning Officer



Prepared by: Jordan Harrison

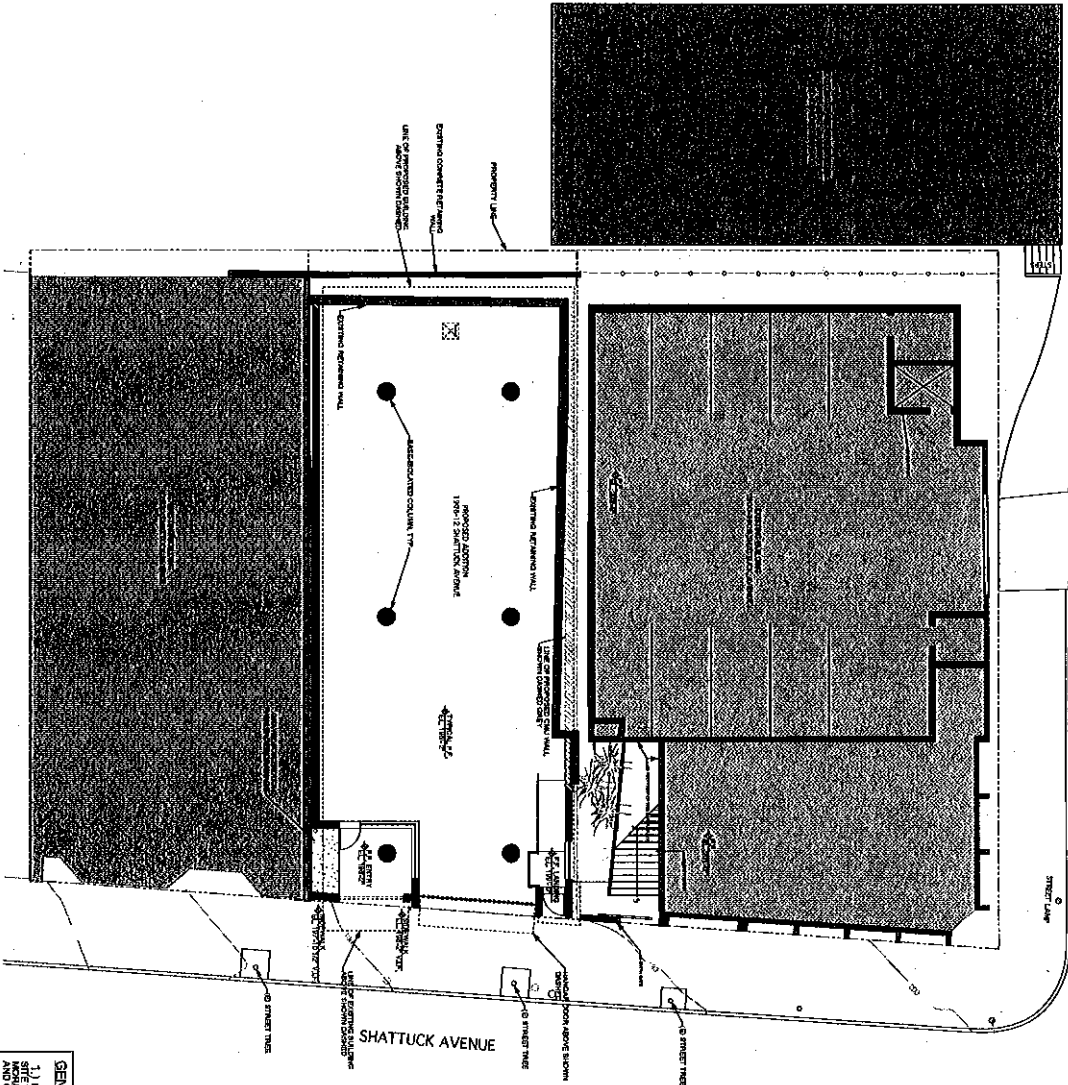
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DEC 03

LAND USE PLANNING

HEARST STREET

APPROVED PLAN  
*[Signature]* 1/31/13 DATE  
 PLANNING  
 D.R. Conditions Attached  
 A.U.P. Conditions Attached  
 U.P. Conditions Attached



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

GENERAL NOTES:  
 1) PROPERTY LINES, TERRAINS, ELEVATIONS AND SURROUNDING SITE INFORMATION FROM THE SITE SURVEY OF 198 SHATTUCK AVENUE BY MORAN ENGINEERING, INC. FOR ADDITIONAL SITE INFORMATION SEE THE SURVEY AND SITE PLAN.

1908 SHATTUCK AVENUE  
 BERKELEY  
 CA 94704

AO.1

<p>PROJECT NO. 1908 SHATTUCK AVENUE</p>	<p>DATE: 1/31/13</p>	<p>PROJECT: 1908 SHATTUCK AVENUE</p>	<p>CLIENT: [Name]</p>	<p>DESIGNER: [Name]</p>	<p>ARCHITECT: [Name]</p>	<p>ENGINEER: [Name]</p>	<p>PLANNING: [Name]</p>	<p>CONTRACTOR: [Name]</p>	<p>DATE: 1/31/13</p>	<p>PROJECT: 1908 SHATTUCK AVENUE</p>	<p>CLIENT: [Name]</p>	<p>DESIGNER: [Name]</p>	<p>ARCHITECT: [Name]</p>	<p>ENGINEER: [Name]</p>	<p>PLANNING: [Name]</p>	<p>CONTRACTOR: [Name]</p>
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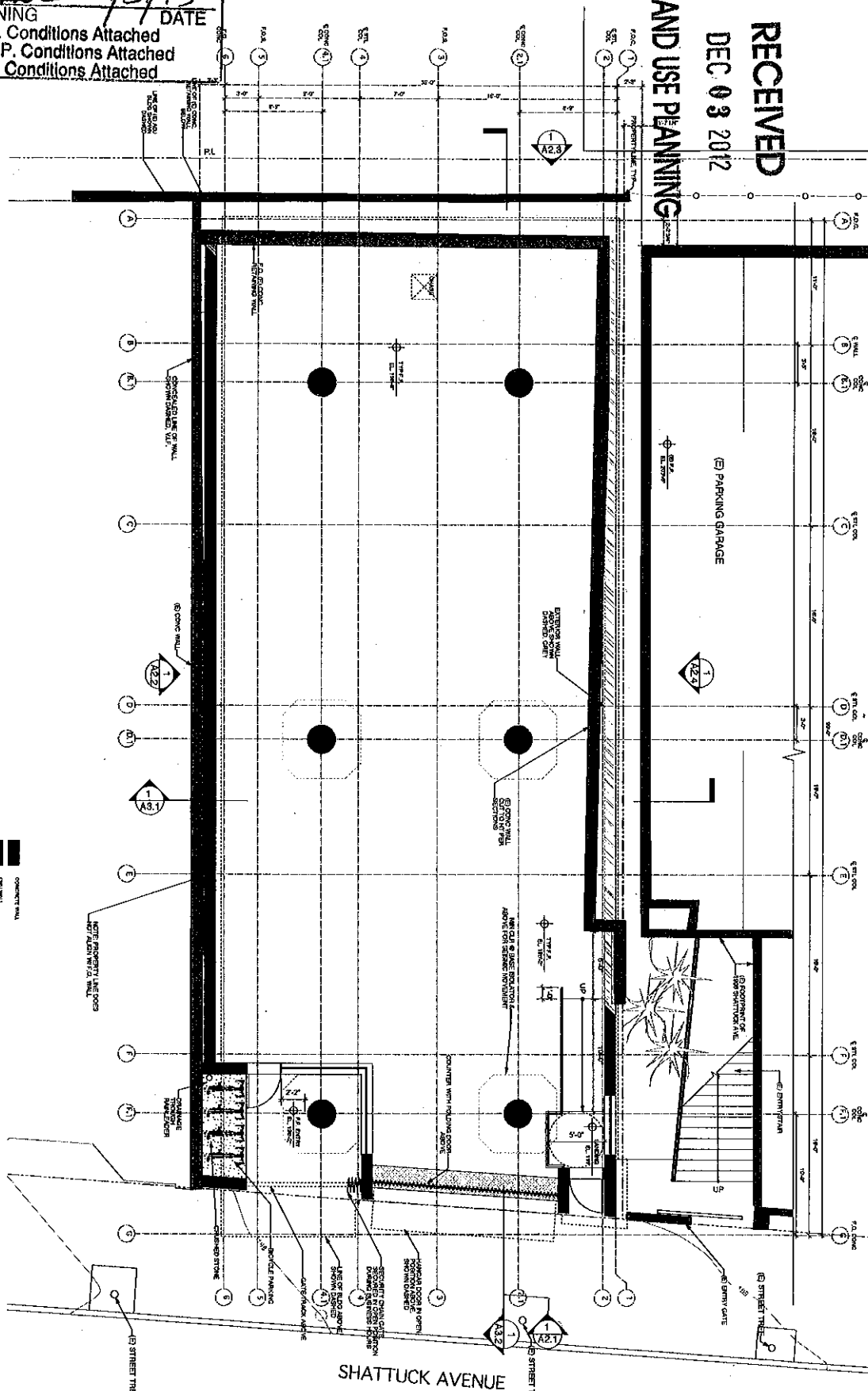
Attachment 2  
 DSC 08-15-12  
 Project: 1908

RECEIVED

DEC 03 2012

LAND USE PLANNING

APPROVED PLAN  
 PLANNING  
 DATE 1/3/13  
 G.O.R. Conditions Attached  
 A.U.P. Conditions Attached  
 U.P. Conditions Attached



1 GROUND FLOOR PLAN  
 SCALE: 1/8" = 1'-0"

- CONCRETE WALL
- CMU WALL
- EXTERIOR MASONRY WALL
- INTERIOR MASONRY WALL
- EXTERIOR BRICK WALL
- INTERIOR BRICK WALL
- EXTERIOR STONE WALL
- INTERIOR STONE WALL
- EXTERIOR WOOD SIDING
- INTERIOR WOOD SIDING
- EXTERIOR VINYL SIDING
- INTERIOR VINYL SIDING
- EXTERIOR STUCCO
- INTERIOR STUCCO
- EXTERIOR PLASTER
- INTERIOR PLASTER
- EXTERIOR DRYWALL
- INTERIOR DRYWALL
- EXTERIOR INSULATION
- INTERIOR INSULATION
- EXTERIOR WATERPROOFING
- INTERIOR WATERPROOFING
- EXTERIOR SEALANT
- INTERIOR SEALANT
- EXTERIOR PAINT
- INTERIOR PAINT
- EXTERIOR WALLPAPER
- INTERIOR WALLPAPER
- EXTERIOR TILE
- INTERIOR TILE
- EXTERIOR CARPET
- INTERIOR CARPET
- EXTERIOR HARDWOOD
- INTERIOR HARDWOOD
- EXTERIOR LAMINATE
- INTERIOR LAMINATE
- EXTERIOR VINYL
- INTERIOR VINYL
- EXTERIOR LINOLEUM
- INTERIOR LINOLEUM
- EXTERIOR STONE
- INTERIOR STONE
- EXTERIOR BRICK
- INTERIOR BRICK
- EXTERIOR CONCRETE
- INTERIOR CONCRETE
- EXTERIOR MASONRY
- INTERIOR MASONRY
- EXTERIOR WOOD
- INTERIOR WOOD
- EXTERIOR METAL
- INTERIOR METAL
- EXTERIOR GLASS
- INTERIOR GLASS
- EXTERIOR PLASTIC
- INTERIOR PLASTIC
- EXTERIOR FABRIC
- INTERIOR FABRIC
- EXTERIOR LEATHER
- INTERIOR LEATHER
- EXTERIOR FABRIC
- INTERIOR FABRIC
- EXTERIOR METAL
- INTERIOR METAL
- EXTERIOR GLASS
- INTERIOR GLASS
- EXTERIOR PLASTIC
- INTERIOR PLASTIC
- EXTERIOR FABRIC
- INTERIOR FABRIC
- EXTERIOR LEATHER
- INTERIOR LEATHER

GENERAL NOTES:  
 - SEE THE SUPPLEMENT FOR THE SITE INFORMATION  
 - SEE THE SUPPLEMENT FOR THE CITY CONNECTIONS  
 - SEE THE SUPPLEMENT FOR THE FINISHING INFORMATION  
 - SEE THE SUPPLEMENT FOR THE FINISHING INFORMATION  
 - SEE THE SUPPLEMENT FOR THE FINISHING INFORMATION

A1.1

GROUND FLOOR PLAN

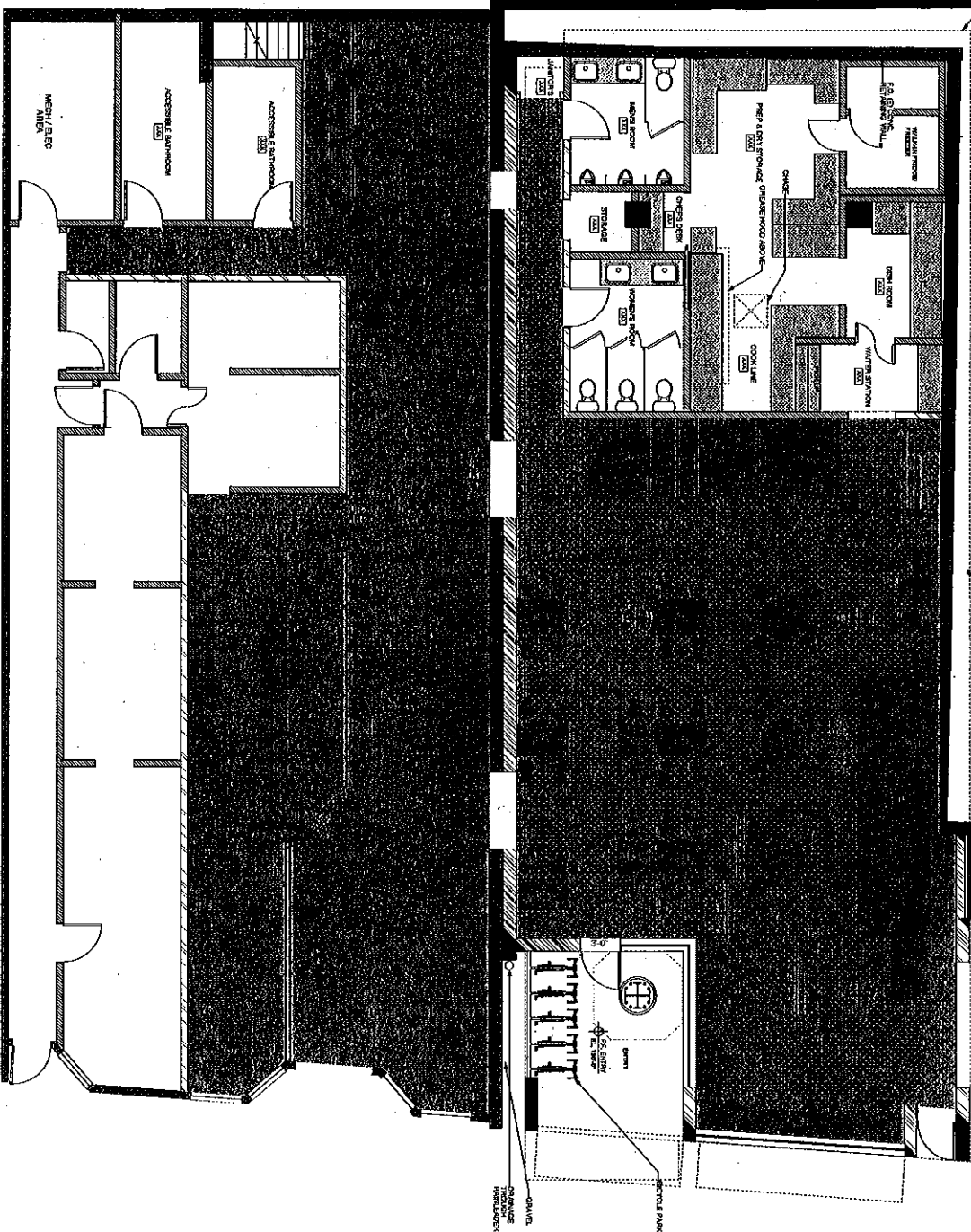
1908 SHATTUCK AVENUE  
 BERKELEY  
 CA 94704

Attachment 2  
 DRG 05-15-12  
 1/3/13

DRAFT  
 PROGRESS PRINT  
 051512  
 NOT FOR CONSTRUCTION

RECEIVED  
 DEC 03 2012  
 LAND USE PLANNING

APPROVED PLAN  
*[Signature]* 1/31/13 DATE  
 PLANNING  
 D.R. Conditions Attached  
 A.U.P. Conditions Attached  
 U.P. Conditions Attached



1 GROUND FLOOR PLAN  
 SCALE: 1/4" = 1'-0"

GENERAL NOTES:  
 - SEE THE SUPPLIER FOR SEATING AND SEATING INFORMATION  
 - SEE THE SUPPLIER FOR LIGHT FIXTURES AND LIGHT CONNECTIONS  
 - SEE STRUCTURAL DRAWINGS FOR FINISHING INFORMATION  
 - GRID LINES TO CENTER LINE OF FINISHING UO/L

EXISTING  
 1982 1000' x  
 OCCUPANCY TYPE: A-1  
 REQUIRED SPECIFICATION: 1-4' x  
 ALLOWED OCCUPANCY: 110  
 SEATING PROVIDED: 110

PROPOSED  
 1982 1000' x  
 OCCUPANCY TYPE: A-1  
 REQUIRED SPECIFICATION: 1-4' x  
 ALLOWED OCCUPANCY: 110  
 SEATING PROVIDED: 110