



Planning and Development Department
Land Use Planning

U S E P E R M I T

CITY OF BERKELEY ZONING ORDINANCE
Berkeley Municipal Code Title 23

USE PERMIT # 12-10000056

Property Address: **937 CARLETON STREET**

Permittee Name: **THE RARE BARREL, LLC**

Use and/or Construction Permitted:

to establish a 1,385 square-foot quick-service restaurant with incidental alcoholic beverage service and a 15 square-foot incidental retail space to allow the retail sales of goods manufactured on-site within an existing 14,072 square-foot manufacturing space.

- Use Permit to allow incidental service of alcoholic beverages under BMC Section 23E.80.030.A;
- Administrative Use Permit to establish a less than 5,000 square-foot quick service restaurant under BMC Section 23E.80.030.A; and
- Administrative Use Permit to allow the incidental retail sales of goods manufactured on site under BMC Section 23E.80.030.A

FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the Zoning Adjustments Board and is in effect on April 3, 2013.

ATTACHMENT 1

FINDINGS AND CONDITIONS

MARCH 14, 2013

937 Carleton Street

Use Permit #12-1000056 to establish a 1,385 square-foot quick-service restaurant with incidental alcoholic beverage service for on-site consumption and a 15 square-foot incidental retail space to allow the retail sales of goods manufactured on-site within an existing 14,072 square-foot manufacturing space.

CEQA FINDINGS

1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq. and California Code of Regulations, §15000, et seq.) pursuant to Section 15301(a) of the CEQA Guidelines (“Class 1, 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 resources.

GENERAL NON-DETRIMENT FINDING

2. Pursuant to BMC Section 23B.32.040, the Zoning Adjustments Board finds that the proposal to establish a quick-service restaurant with incidental beer service and an incidental retail space within the existing manufacturing facility, under the circumstances of the particular case existing at the time at which the application is granted, will not be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area or neighborhood of such proposed use or be detrimental or injurious to property and improvements of the adjacent properties, the surrounding area or neighborhood, or to the general welfare of the City, for the following reasons:
 - A. The proposal would establish a quick-service restaurant with incidental beer service and an incidental retail space for the sale of goods manufactured on-site within an existing manufacturing and warehouse space. The proposed use would not change the permitted use within the MU-LI District and would enhance the existing use of the site and variety of offerings within the mixed use neighborhood.
 - B. The proposed service of alcoholic beverages would be incidental to food service within the quick-service restaurant and would enhance the retail experience for

patrons who wish to purchase beer manufactured on-site for off-site consumption. Because of the nature of the use, including the size and location of the quick-service restaurant as well as the specialized nature and price point of the product, alcohol service will not have a significant detrimental impact on public health, safety or peace.

- C. The business will be subject to conditions of approval restricting the sale and consumption of alcohol.

OTHER REQUIRED FINDINGS

3. Pursuant to BMC Section 23E.80.090.B.1, the Zoning Adjustments Board finds that the proposal meets the purposes of the MU-LI District because the proposed incidental retail space and quick service restaurant would not change the existing primary use of the space, which operates as a manufacturing and warehouse facility. The proposed incidental retail space and quick-service restaurant will enhance the viability of the manufacturing facility.
4. Pursuant to BMC Section 23E.80.090.B.2, the Zoning Adjustments Board finds that the proposal would be compatible with the surrounding uses and buildings in the area that include a range of light industrial, manufacturing, warehouse, commercial, office, and institutional uses. The incidental retail and quick service restaurant space within the existing manufacturing and warehouse facility would complement the existing use of the site as well as other uses in the area. No changes would be made to the building footprint or to the exterior façade.
5. Pursuant to BMC Section 23E.80.090.B.3, the Zoning Adjustments Board finds that the proposal would be consistent with the adopted West Berkeley Plan because establishment of a new incidental retail area and quick service restaurant with incidental beer service within the existing manufacturing space would contribute to the viability of the manufacturing use of the property and also complement the variety of uses within this mixed use area of West Berkeley.
6. Pursuant to BMC Section 23E.80.090.B.4, the Zoning Adjustments Board finds that the proposal would be unlikely to induce a change of use in buildings within the District from manufacturing, wholesale trade, or warehousing uses as the primary use of the facility will continue to be used for manufacturing and warehousing (of craft beer). The new incidental retail space and quick service restaurant are intended to support this existing use.
7. Pursuant to BMC Section 23E.80.090.F, the Zoning Adjustments Board finds that the proposal to establish a quick service restaurant establishment of the food service use, given its size, location, physical appearance and other relevant characteristics, will not have a significant detrimental impact on the industrial character of the area and will be complementary to the sale of goods manufactured on site. The on-site consumption of craft beers within the quick service restaurant will also encourage patrons to purchase these goods for off-site consumption, contributing to the retail sales. The proposal will

help to maintain the viability of the business as a whole and enhance the customers' experience and enjoyment of the product. The proposal will also contribute to the variety of uses within the District and would implement the vision of the West Berkeley Plan.

8. Pursuant to BMC Section 23E.80.060, the Zoning Adjustments Board finds that the incidental retail space will help maintain and enhance the economic viability of the manufacturing use (BMC Section 23E.80.020). Incidental retail sales of goods manufactured on-site would contribute to revenues and help support brewery operations. Additionally, the 15 square-foot retail use would not be the primary use of the site, would not exceed 10 percent of the total floor area, and no outdoor sales or food service would occur, subject to the conditions below which would ensure that the retail use remains incidental to the manufacturing use.

STANDARD CONDITIONS

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

The conditions of this Permit shall be printed on the first sheet of each plan set submitted for a building permit pursuant to this Use Permit, under the title 'Use Permit Conditions'. The second sheet may also be used if the first 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 exclude 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 for which this Permit is approved is permitted unless the Permit is modified by the Zoning Adjustments Board, in conformance with Section 23B.56.020.A.

Changes in the plans for the construction of a building or structure, may be modified prior to the completion of construction, in accordance with Section 23B.56.030.D. 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. The Zoning Officer may also approve a maximum two-foot variation to Board approved plans, provided, that such variation does not increase a structure's height, reduce the minimum distance to any property line, and/or does not conflict with any special objective sought by the Board.

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

Except as expressly specified herein, the site plan, floor plans, building elevations and any additional information or representations submitted by the applicant during the Staff review and public hearing process leading to the approval of this Permit, whether oral or written, which indicated the proposed structure or manner of operation are deemed conditions of approval.

6. Subject to all City and Other Regulations (Section 23B.56.040)

The approved use and/or construction are subject to, and shall comply with, all applicable City Ordinances and laws and regulations of other governmental agencies.

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 may be declared lapsed and of no further force and effect if it is not exercised within one year of its issuance

ADDITIONAL CONDITIONS

Pursuant to BMC Section 23B.32.040.D, the Zoning Adjustments Board attaches the following conditions to this Permit:

Prior to Issuance of Any Building Permit

9. Prior to issuance of a building permit, 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 this record to the project planner upon request

Noise Management Individual _____
Name Phone #

10. 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.

During Construction:

11. Prior to any excavation, grading, clearing, or other activities involving soil disturbance during the rainy season (between October 15 and April 15), the applicant shall obtain approval of an erosion prevention plan by the Building and Safety Division and the Public Works Department. The applicant shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.
12. If underground utilities leading to adjacent properties are uncovered and/or broken, the contractor involved shall immediately notify the Public Works Department and the Building & Safety Division, and carry out any necessary corrective action to their satisfaction.
13. 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.
14. 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.
15. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
16. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
17. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
18. The applicant shall ensure that all excavation takes into account surface and subsurface waters and underground streams so as not to adversely affect adjacent properties and rights-of-way.

Prior to Final Inspection or Issuance of Occupancy Permit:

19. The project shall conform to the plans and statements in the Use Permit.
20. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated "Received November 20, 2012."

At All Times:

21. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
22. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.
23. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review and/or Landmarks Preservation Commission approval.
24. The **14 dedicated parking spaces** within the shared lot shall have signage indicating that parking spaces are reserved for The Rare Barrel patrons and employees.
25. **Incidental Retail Sales shall meet the following:**
 - a. Signs for Incidental Retail Sales use shall be of such a size and character as to clearly indicate that the retail use is not the Primary Use of the site;
 - b. Retail Sales floor area shall not exceed 10% of total Gross Floor Area; and
 - c. No outdoor sales or food service is allowed.

Food Service Conditions

26. Changes in the nature of the operation including, but not limited to, the addition of seating, 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.
27. The approved floor plan shall be followed and the operation shall be conducted as presented in this application. The maximum occupancy shall be as specified in the application unless otherwise required by applicable regulations.
28. The hours of operation of the restaurant portion of the business shall be limited to: **4:00 p.m. to 10:00 p.m. Monday through Friday, 12:00 p.m. to 10:00 p.m. Saturday, and 12:00 p.m. to 8:00 p.m. Sunday.** 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 or designee. Hours of operation

are subject to review and amendment as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.

29. 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.
30. 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.
31. 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.

Alcoholic Beverage Service Conditions

32. The establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control. The consumption of alcohol on site is incidental to the established food service restaurant.
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. The service of alcohol shall be limited to beer and wine and limited to the hours of **4:00 p.m. to 10:00 p.m. Monday through Friday, 12:00 p.m. to 10:00 p.m. Saturday, and 12:00 p.m. to 8:00 p.m. Sunday.** The Zoning Adjustments Board or designee shall approve any change in the hours of restaurant operations, of alcohol service, or both. 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.

38. Neither alcohol-dispensing facilities nor sign(s) advertising alcoholic beverages shall be visible from the public right-of-way.
39. There shall be no service or consumption of alcohol on the public right-of-way.
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. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.
42. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.
43. 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.
44. 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.
45. The operator of the restaurant/bar shall place a waste receptacle near the entry way and shall insure that garbage on the sidewalk in front of the establishment and within 50 feet thereof will be picked up periodically during each day, so that the sidewalk remains clean.
46. This permit is subject to review, imposition of additional conditions, or revocation if factual complain is received by the Zoning Officer that the maintenance or operation of the proposed establishment violates any of the conditions of approval 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.

937 Carleton Site Plan (reduced plan set)






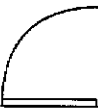
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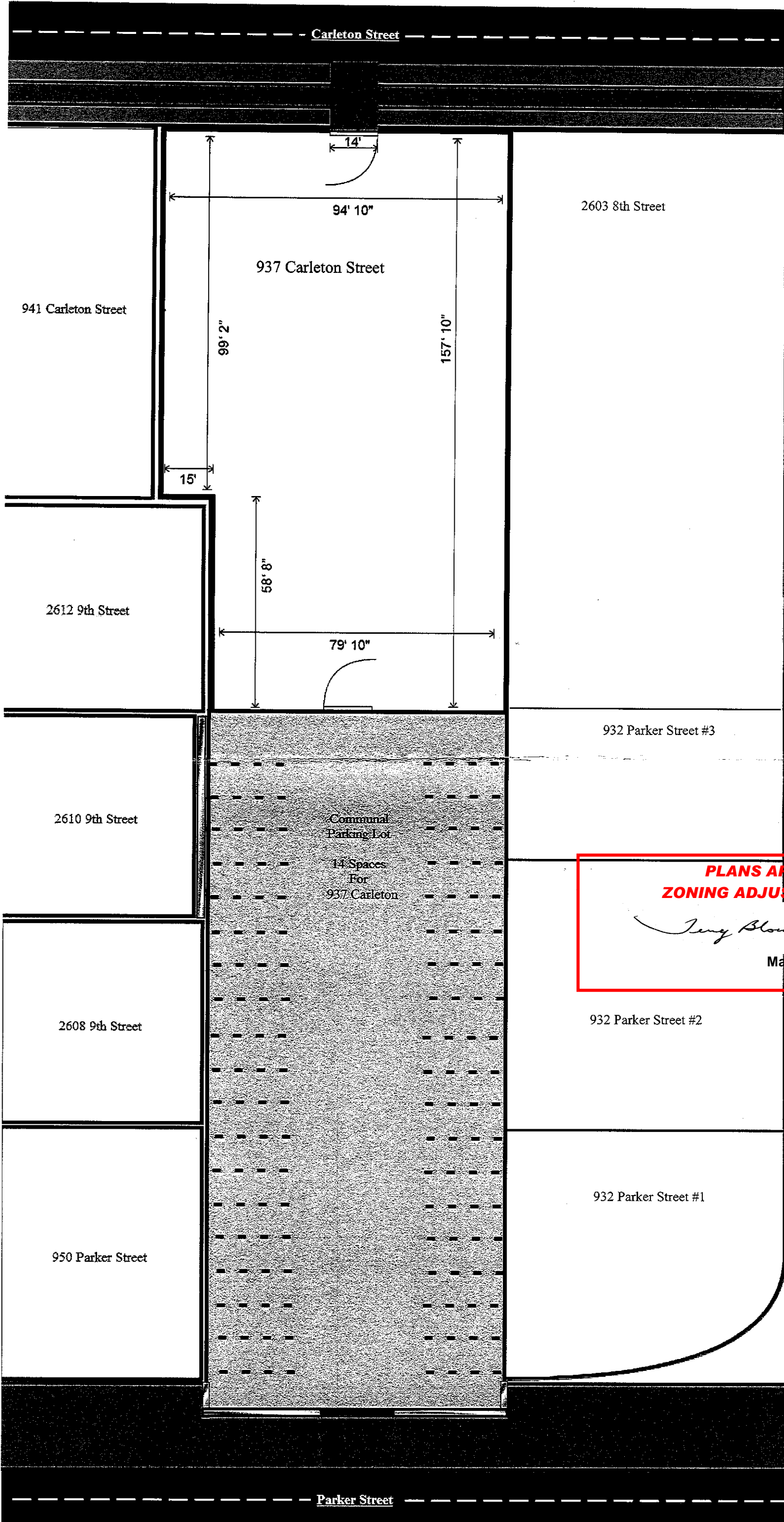
DUPLICATED
RECEIVED

NOV 20 2012

LAND USE PLANNING

Legend

-  Street
-  Sidewalk Grass
-  Sidewalk
-  Parking Spot
-  Fence
-  Entrance / Exit

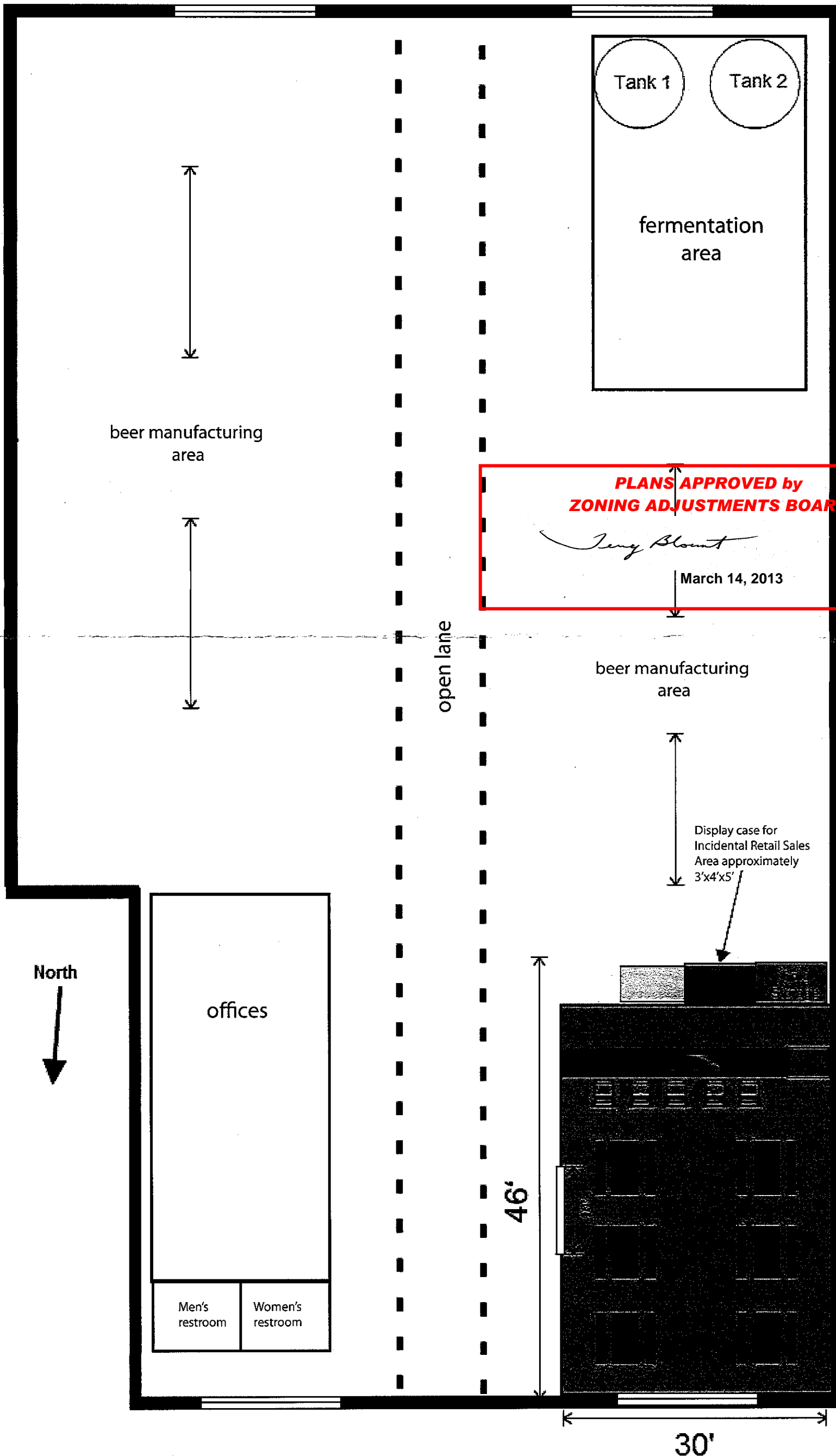
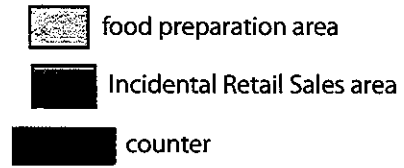
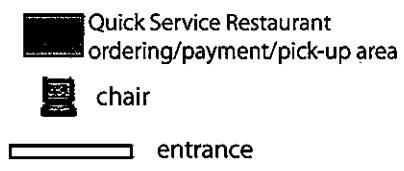
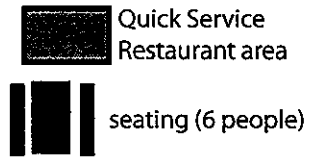
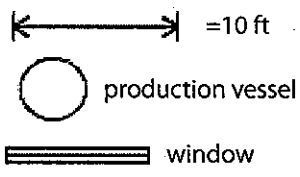


PLANS APPROVED by
ZONING ADJUSTMENTS BOARD

Jerry Blount

March 14, 2013

937 Carleton Floor Plan (reduced plan set)



Quick Service Restaurant and Incidental Retail Sales Area, 46' x 30', 1,380 sq. ft. ~42 seats