



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 #13-2000057

Property Address: **2988 COLLEGE AVENUE**

Permittee Name: **DAN CLARK**

Use and/or Construction Permitted: to operate an exercise/spin studio (group class instruction) in an existing, 1,105-square-foot tenant space, pursuant to:

- Section 23E.44.030 to establish group class instruction

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 June 4, 2013.

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

June 4, 2013
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

MAY 14, 2013

2988 College Avenue

Administrative Use Permit #13-20000057

To operate an exercise/spin studio (group class instruction) in an existing, 1,105-square-foot tenant 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 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

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 yoga studio is similar in intensity to those land uses “permitted by right” and does not have additional parking requirements over the District’s minimum standard. The proposed use would, therefore, not increase traffic or parking impacts to the surrounding community.
 - The yoga studio is located in an existing tenant space, creating no impacts to the neighborhood’s physical environment.
 - A condition of approval has been added to allow revocation of the use if the maintenance or operation of the establishment violates the conditions of approval or is detrimental to the health, safety, peace, morals, comfort or general welfare of the neighborhood.
3. As required by Section 23E.44.090.B of the Zoning Ordinance, the spin studio will be consistent with the purposes of the District in that it will: (1) encourage and maintain the present street frontage and pedestrian orientation of the District by establishing a

pedestrian-oriented, high turnover commercial activity; (2) not change the physical appearance of the façade, so it will be compatible in design and character with the commercial District and adjacent residential neighborhoods; and (3) will be compatible with the purposes of the District (BMC §23E.44.020) in that it will provide an exercise studio to serve the needs of surrounding neighborhoods and it has the same parking ratio as the District standard so is not expected to generate a high traffic and/or parking demand.

Additionally, the spin studio will not interfere with the continuity of retail or compatible service facilities at the ground level nor interrupt a continuous wall of building facades, as it is occupying an empty tenant space and is, in itself, a compatible ground level service facility. And due to the nature of the business (exercise studio), the project will not generate traffic and parking demand beyond the capacity of the commercial or neighboring residential districts, will not result in the domination of one type of use in the District; and will not generate objectionable odors nor excessive levels of noise.

STANDARD CONDITIONS

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 Issuance of Occupancy Permit or Final Inspection:

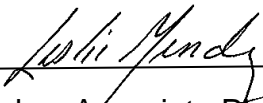
- 10. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
- 11. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **APRIL 25, 2013**.

At All Times (Operation):

- 12. Permitted hours of operation are from 7:00 a.m. to 11:00 p.m. unless otherwise expanded by right for the District.
- 13. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

14. 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.

15. 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.



Leslie Mendez, Associate Planner for
Debra Sanderson, Zoning Officer

RECEIVED

APR 29 2013

LAND USE PLANNING

COMMERCIAL TI "SPIN STUDIO"

2988 College Ave, Berkeley, CA 94705

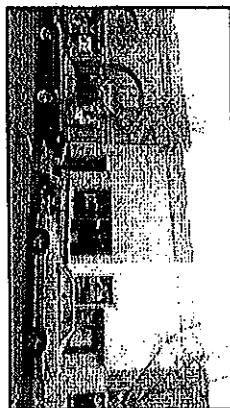
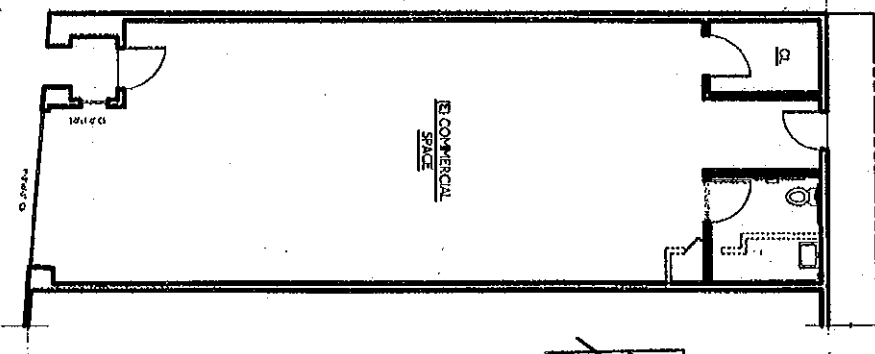


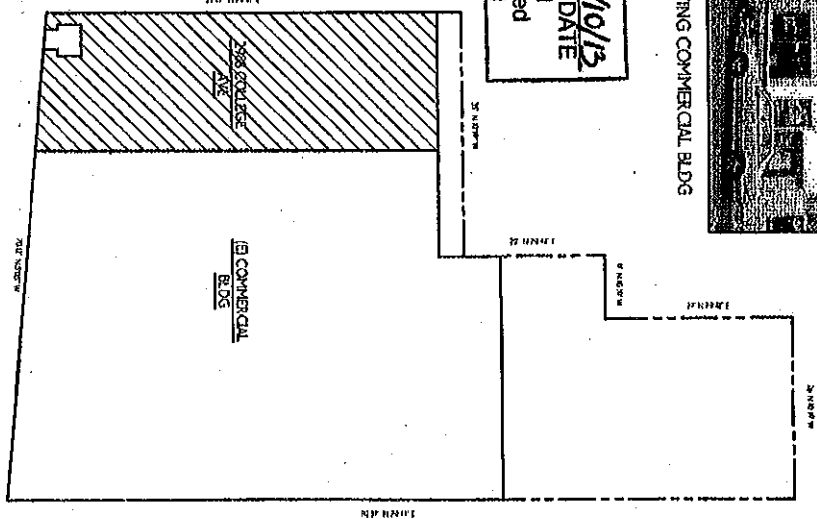
PHOTO OF EXISTING COMMERCIAL BLDG

APPROVED PLAN *Alan S.* **5/10/13**
PLANNING **DATE**

D.R. Conditions Attached
 A.U.P. Conditions Attached
 U.P. Conditions Attached



EXISTING FLOOR PLAN



SITE PLAN

COLLEGE AVENUE



VICINITY MAP

SYMBOL LEGEND

- REPORT
- SECTION
- EXPLANATION
- DRIVE
- ONE LINE
- DOCK
- WATER
- NOTE

PROJECT INFORMATION

PROJECT ADDRESS
 2988 College Ave
 Berkeley, CA 94705
 (415) 577-8286

DESCRIPTION OF WORK

LAND USE PLANNING
 PREPARE U.P. AND A.U.P. FOR COMMERCIAL SPACE
 TO BE REDEVELOPED AS COMMERCIAL TI "SPIN STUDIO"

CODE COMPLIANCE

THE PROJECT IS SUBJECT TO THE CITY OF BERKELEY'S ZONING ORDINANCE AND THE CITY OF BERKELEY'S SUBDIVISION MAP ACT. THE PROJECT IS SUBJECT TO THE CITY OF BERKELEY'S LAND USE PLANNING ACT AND THE CITY OF BERKELEY'S COMMERCIAL TI "SPIN STUDIO" REGULATIONS. THE PROJECT IS SUBJECT TO THE CITY OF BERKELEY'S COMMERCIAL TI "SPIN STUDIO" REGULATIONS. THE PROJECT IS SUBJECT TO THE CITY OF BERKELEY'S COMMERCIAL TI "SPIN STUDIO" REGULATIONS.

John Nester Owner & Development 3000 Telegraph Ave, Ste. 1 Oakland, CA 94612 (510) 526-5370		PROJECT ADDRESS 2988 College Ave Berkeley, CA 94705 (415) 577-8286		CONSULT NO.: DRAWING NO.: PROJECT NO.: DATE:	
REVISION NO. DESCRIPTION DATE		COMMERCIAL TI "SPIN STUDIO"		A1.0	