



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 #13-20000030**

Property Address: **1808 SAN PABLO AVENUE**

Permittee Name: **EVAN McDONALD**

Use and/or Construction Permitted: to convert 4,905 sq. ft. of retail space to four new live-work spaces pursuant to:

- Section 23E.64.030 to allow four live work spaces.

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 25, 2013.

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

June 25, 2013  
Effective Date

# ATTACHMENT 1

---

## FINDINGS AND CONDITIONS

JUNE 4, 2013

### 1808 San Pablo Avenue

**Administrative Use Permit #13-20000030**

**Design Review #13-30000018**

**To convert 4,905 sq. ft. of retail space to four new live-work spaces.**

#### **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:
  - As required under Section 23E.20.090 (Findings) and 23E.20.020 (Purposes), the establishment of four Live/Work units:
    - a) Is an appropriate development which incorporates both living and working space;
    - b) Utilizes an existing vacant retail storefront to provide flexibility for the development of Live/Work Units;
    - c) Is an appropriate location where a new business can start up;
    - d) Provides opportunities for individuals to live in a commercial area which is compatible with the existing uses in the vicinity;
    - e) Will not conflict with neighboring industrial and residential uses;

- f) Functions predominantly as workspaces and secondarily as residences and the division of space between living and working space reflects the priority of workspace; and
  - g) Is designed as live/work units and are compatible with the exterior design of commercial, industrial, and residential buildings in the area while remaining consistent with the predominantly workspace character of live/work buildings, and the project has received Staff-Level Design Review Approval subject to conditions contained in this permit.
- As required under Section 23E.64.090 (Findings) and 23E.64.020 (Purposes), the establishment of four Live/Work units:
    - a) Are consistent with the purposes of the C-W District as they are on the ground floor; provides a location for commercial services which will serve the area residents and businesses; supports the retention and attraction of a balance of small and large stores and restaurants; is an appropriate location, consistent with West Berkeley Plan policies for commercial services that serves the City and other clientele; converts an existing commercial space to live-work and encourages the development of an underutilized space; are compatible with the adjacent commercial, residential and industrial uses; provides a location for cultural activities such as an artist studio; and are not designed nor intended to cause detriment to adjacent residents or workers;
    - b) Provides commercial vitality in a commercial district;
    - c) Provides housing while increasing the continuity of commercial services at the ground floor;
    - d) Are not expected to negatively impact on-site or off-site uses; and
    - e) The existing off-street parking meets the parking requirement and is therefore adequate.
  - The subject parcel is not located within a Designated Node per 23E.64.040.C. and is therefore not subject to the Special Provisions.
  - As required per Section 23E.64.070.D (Development Standards), the project includes 40 sq. ft. of usable open space for each Live/Work Unit.
  - As required per Section 23E.64.080.B (Off-Street Parking Requirements), adequate parking is provided to meet the one off-street parking space requirement for the person residing at the live-work unit.
  - Section 23E.20.040 (Employment, Client, and Customer Visits), the permit is conditioned to require a Use Permit with Public hearing for employees that do not reside in the Live/Work Unit, to authorize client and customer visits, and to change the use of any Live/Work unit to medical or group instruction.
  - As defined in Section 23F.04 (Definitions), the proposed Live/Work Units:
    - a) Are designed to be used as a workplace and as a residence by one (1) or more persons;

- b) Include cooking space and sanitary facilities; and
  - c) Are clearly designed to define working space constituting no less than 60% of the Gross Floor Area of the Live/Work Unit.
- 
- The project has received Staff-Level Design Review and is subject to conditions of approval #13A-#13F.

---

## **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 Submittal of Any Building Permit:**

**10.** 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 #

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.

12. The applicant shall file an "Address Assignment Request Application" (if required for a business license) with the Permit Service Center (2120 Milvia Street) for any address change or new address associated with this Use Permit. The new address(es) shall be assigned prior to issuance of a building permit.

13. Project requires approval of a Design Review Staff before building permit sign-off. Final plans shall address the following conditions:

- A. **COLORS** Prior to Design Review sign-off of the Building Permit set of drawings, the applicant shall submit color and material information for review and approval by Design Review Staff or note on drawings where color matches existing. All materials will be matte unless otherwise noted.
- B. **CLEAR GLASS** All glass is assumed to be clear glass. Any proposed glass that is not clear glass, or includes signage, shall be indicated on all drawings, and shall be reviewed for approval by Design Review Staff.
- C. **DETAILS** Prior to Design Review sign-off of the Building Permit set of drawings, the applicant shall submit window, door, and base details for review and approval by the Design Review Staff.
- D. **FUTURE AWNING** Applicant may elect to have an awning in the center bay (tenant space 1808C) in a similar location, design, and color and existing awnings.
- E. **SIGNAGE** Applicant shall submit a separate application for design review of the signage. It is not included in this permit.

Future sign locations as called out on drawings may be modified in sign applications to achieve better relationship with other tenants in building and better protect existing building detail.

- F. **LIGHTING** Prior to Design Review sign-off of the building permit set of drawings, the applicant shall submit lighting details showing all existing and proposed site and building lighting. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.

**During Construction:**

14. Construction activity shall be limited to between the hours of 8:00 a.m. and 6:00 p.m. on Monday through Friday, and between 9:00 a.m. and noon on Saturday. No construction-related activity shall occur on Sunday or on any Federal Holiday.
15. 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.
16. 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.
17. 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.
18. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
19. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.

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

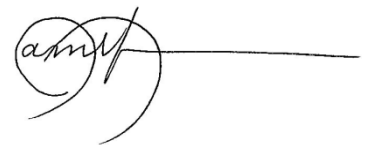
20. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
21. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **MAY 11 AND MAY 31, 2013.**

**At All Times (Operation):**

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



23. 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.
24. 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.
25. Signage and any other exterior modifications, including but not limited to landscaping and lighting, shall be subject to Design Review approval.
26. No portion of a live-work unit may be separately rented or sold as a commercial space for a person or persons not living on the premises, or as a residential space for a person or persons not working on the premises.
27. At least one resident of each live-work unit shall maintain at all times a valid City Business License and Zoning Certificate or Use Permit (if required) for a business on the premises.
28. A Use Permit with Public Hearing is required to establish or change the work use of a Live/Work Unit to medical office or group instruction.



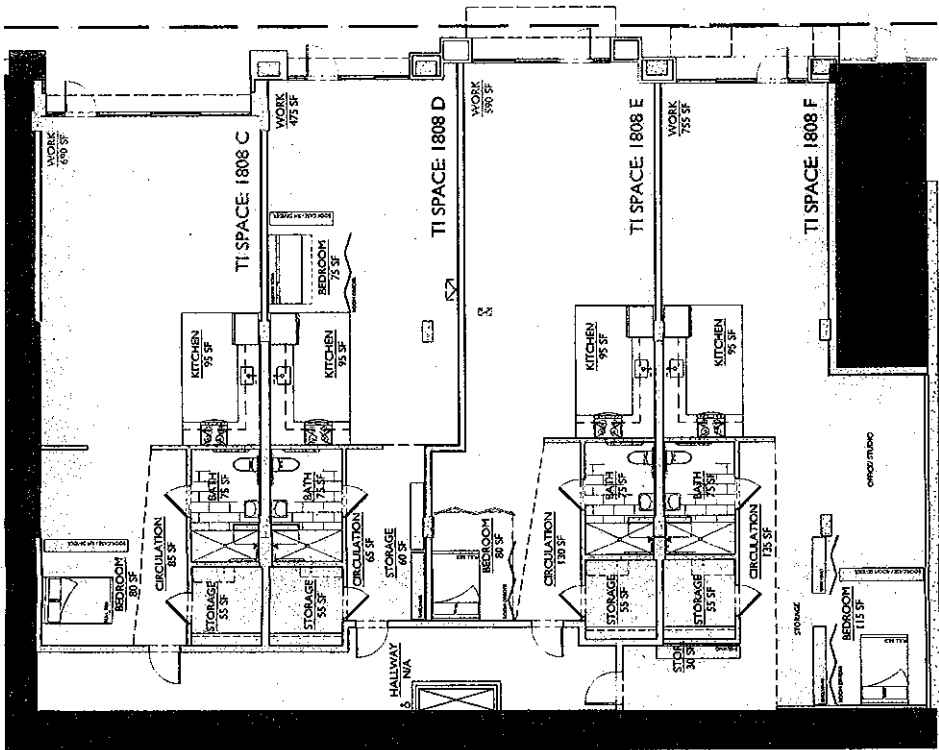
Prepared by: Pamela Johnson Assistant Planner for  
Debra Sanderson, Zoning Officer



EXHIBIT

APPROVED PLAN  
 6-3-13  
 PLANNING DATE  
 D.R. Conditions Attached  
 A.U.P. Conditions Attached  
 U.P. Conditions Attached

RECEIVED  
 MAY 31 2013  
 LAND USE PLANNING



**BERKELEY LIVENWORK CALCULATIONS**

NET GROSS AREA: 1,000 SF

NET GROSS AREA: 1,000 SF

NET GROSS AREA: 1,000 SF

NET GROSS AREA: 1,000 SF

NET GROSS AREA: 1,000 SF

**LEGEND**

LIFE AREA

WORK AREA

NOT IN SCOPE

CITY OF BERKELEY ZONING LIVENWORK CALCULATIONS