



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 # 12-10000037

Property Address: **2360 TELEGRAPH AVENUE**

Permittee Name: **MARK THIEME**

Use and/or Construction Permitted:

to establish a Quick Service Restaurant exceeding the C-T District's limitations on the number and size of such restaurants, with incidental beer and wine service and hours of operation until 2 a.m.

- Use Permit to establish a Quick Service Restaurant of 4,647 square feet (plus storage) exceeding the limits on the number and size of such uses (30 restaurants allowed, 47 existing; 1,500 sq. ft. size limit), under BMC Section 23E.56.040.B
- Administrative Use Permit to allow service of beer and wine incidental to food service, under BMC Section 23E.56.030.A
- Use Permit to allow service of beer and wine until 2 a.m., seven days per week (code otherwise allows 10 p.m., Sunday-Thursday, and 12 midnight, Friday-Saturday), under BMC Section 23E.56.050

RESOLUTION, FINDINGS, CONDITIONS AND APPROVED PLANS ATTACHED

The Use Permit herein described has been duly granted by the City Council and is in effect on June 26, 2013.

RESOLUTION NO. 66,236-N.S.

AFFIRMING THE ZONING ADJUSTMENTS BOARD'S APPROVAL OF USE PERMIT 12-10000037 TO ESTABLISH A QUICK SERVICE RESTAURANT IN THE TELEGRAPH AVENUE COMMERCIAL (C-T) ZONING DISTRICT AND DISMISSING THE APPEAL

WHEREAS, on September 13, 2012, Mark Thieme ("applicant") filed an application for a Use Permit to establish a Quick Service Restaurant (QSR) with incidental beer and wine service and hours of operation until 2 a.m. at 2360 Telegraph Avenue ("project"); and

WHEREAS, on December 21, 2012, staff deemed this application complete; and

WHEREAS, on December 24, 2012, staff mailed and posted a Notice of Public Hearing for the project in accordance with BMC Section 23B.32.020; and

WHEREAS, on January 10, 2013, the ZAB held a public hearing in accordance with BMC Section 23B.32.030, and approved the project; and

WHEREAS, on January 15, 2013, staff issued the notice of the ZAB decision; and

WHEREAS, on January 29, 2013, the appeal period ended without any appeal being filed, and on January 30, 2013, staff issued the Use Permit; and

WHEREAS, on March 24, 2013, staff received a letter from Alex Popov, representing the Telegraph Restaurant Association, which raised several issues about public noticing for the project; and

WHEREAS, staff investigated the complaint and determined it would be in the best interests of the City to cure and correct any possible noticing issues by re-issuing the notice of the ZAB decision; and

WHEREAS, on April 11, 2013, staff re-issued the notice of the ZAB decision to all persons and organizations required under BMC Section 23B.32.020; and

WHEREAS, on April 25, 2013, Mr. Popov, Jahanshah Jowharchi, Linda Gilman, Jimmy Shamieh, and 23 others filed an appeal of the ZAB decision with the City Clerk; and

WHEREAS, on June 25, 2013, the Council considered the record of the proceedings before the ZAB, and the staff report and correspondence presented to the Council, and, in the opinion of this Council, the facts stated in, or ascertainable from this information, do not warrant further hearing.

NOW THEREFORE, BE IT RESOLVED that the Council of the City of Berkeley hereby adopts the findings made by the ZAB in Exhibit A, affirms the decision of the ZAB to approve Use Permit No. 12-10000037, adopts the conditions in Exhibit A and the project plans in Exhibit B, and dismisses the appeals.

The foregoing Resolution was adopted by the Berkeley City Council on June 25, 2013 by the following vote:

Ayes: Anderson, Capitelli, Maio, Moore, Wengraf, Wozniak and Bates.

Noes: Arreguin and Worthington.

Absent: None.



Tom Bates, Mayor

Attest: 

Mark Numainville, CMC, City Clerk

ATTACHMENT I

FINDINGS AND CONDITIONS

JANUARY 10, 2013

2360 Telegraph Avenue

Use Permit #12-10000037 to establish a Quick Service Restaurant of 4,647 sq. ft. (plus storage), exceeding the C-T District's limitations on the number and size of such restaurants, with incidental beer and wine service and hours of operation until 2 a.m.

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 15303 of the CEQA Guidelines ("New Construction or Conversion of Small Structures"). 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 as defined in CEQA Guidelines Section 15064.5.

GENERAL NON-DETRIMENT FINDING

2. Pursuant to Berkeley Municipal Code Section 23B.32.040, the Zoning Adjustments Board finds that the proposed project, 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 project would be consistent with the purposes of the C-T District, as described in Finding 3 below.
 - B. The project would enhance the well-being of users of the District, and the economic vitality of the District, by occupying a vacant commercial space, establishing a locally owned business, and helping satisfy the high demand for Quick Service Restaurants in this District.
 - C. The project does not alter the exterior of the existing structure, other than new signage and windows, and therefore will help preserve the existing physical character of the commercial district.

- D. Potential adverse impacts from the proposed alcohol sales and hours of operation will be addressed by requiring alcohol sales to be terminated one hour before closing time, requiring training for employees serving alcohol, requiring the establishment to monitor customer activity on the adjacent sidewalk, and other requirements included in the following conditions.

OTHER REQUIRED FINDINGS

3. Pursuant to Berkeley Municipal Code Section 23E.56.090.B.1, the Zoning Adjustments Board finds that the project is compatible with the purposes of the C-T District, as follows:

- A. Implement the General Plan's designation of Avenue Commercial for this area.

Analysis: This purpose is broad and does not have specific applicability to the proposed project.

- B. Implement the Southside Plan's designation for the Telegraph Avenue Commercial Subarea.

Analysis: This purpose is broad and does not have specific applicability to the proposed project.

- C. Regulate development in the Telegraph Area Commercial District in order to satisfy the needs of the population groups using the District, especially the University population and the surrounding resident population.

Analysis: The project would help satisfy demand for relatively fast, affordable food by University students and staff, and residents of the surrounding neighborhoods.

- D. Encourage the availability of a variety of goods and services which serve residents in the District and the University population but do not generate a high volume of vehicular traffic.

Analysis: The project would serve District residents and the University population but would not generate a high volume of vehicular traffic given that the vast majority of customers would arrive on foot due to the proximity of the University and other institutions, and high density residential neighborhoods located in the vicinity. Due to the nature of the neighborhood and its proximity to the University, it is unlikely that the project would generate a substantial number of vehicle trips specifically to this site.

- E. Allow for uses which maintain the cultural quality of the District giving it its regional appeal without generating substantial vehicular traffic.

Analysis: See previous response regarding traffic. The existing adjacent tenants would remain, thereby maintaining the existing cultural quality of the District.

- F. Discourage uses which because of size, the type of the products sold, vehicular traffic generated or other considerations, are more appropriately located elsewhere in the City.

Analysis: See analysis for Purpose D regarding traffic. Although the proposed types of food are already available at other restaurants in the area, it appears based on the application that there is unmet demand for these products. In any event, the ZAB's decision should not be based on the type of food sold, because this could be changed in the future without any further discretionary review by the City required.

- G. Encourage a mix of goods and services which will preclude the dominance of any one type of use and which will produce variations within the same category of uses.

Analysis: Quick Service Restaurants do not currently "dominate" this District. Less than 25 percent (47) of the approximately 200 ground-floor commercial spaces in the District are devoted to this use, and the addition of one more Quick Service Restaurant would not cause this use to dominate. In addition, Quick Service Restaurants comprise approximately 58 percent of the total food service uses (47 out of 81). Therefore, there would continue to be adequate variation within the food service category after approval of the proposed restaurant. In addition, total food service uses would constitute less than half of the total ground-floor spaces in the District.

- H. To encourage the establishment and maintenance of uses which will satisfy the needs of all age groups and attract a range of users and interests.

Analysis: See analysis for Purposes C and E. Providing an additional Quick Service Restaurant would help ensure that the food needs of all age groups and users are satisfied.

- I. Encourage the creation of additional housing in the District which is affordable, including housing for those who work or study nearby.

Analysis: Not applicable to this project.

- J. Encourage those uses and structural architecture that reinforce, and discourage those uses and architecture that interrupt, the pedestrian orientation of the District.

Analysis: The project would reinforce the pedestrian orientation of the District because it would draw the vast majority of its customers from surrounding residential and institutional uses.

K. Encourage mixed Commercial and Residential Uses.

Analysis: The project is located in an existing mixed-use building.

L. Encourage the construction of new housing in mixed use development on vacant properties and surface parking lots.

Analysis: Not applicable to this project.

M. Encourage the redevelopment of single-story structures that are not historically significant resources with housing and mixed use development.

Analysis: Not applicable to this project.

N. Protect and enhance historically and architecturally significant buildings by ensuring that new development and alterations complement their existing architectural character.

Analysis: Not applicable to this project.

O. Encourage the establishment and survival of small, locally-owned businesses, thereby contributing to the vitality and diversity of the District.

Analysis: As noted earlier, according to the applicant, the restaurant will be owned and operated by Ken Sarachan, who is locally based and also owns other businesses on Telegraph. By contrast, the former tenant was a national chain based in Orange County, California. While the size of the subject space is relatively large, there are several commercial spaces on Telegraph that are comparable in size or larger, including the three-story retail building to the north.

P. Discourage the type of Commercial Use whose establishment will contribute to the displacement of businesses that supply neighboring residents with essential goods and services.

Analysis: The subject tenant space is currently vacant (except for storage by the owner), and therefore the project does not displace any existing business. The type of retail conducted by the former tenant, Wet Seal, could not be characterized as an "essential" good or service. While there appears to be a general trend in the District toward conversion of retail spaces to food service, there are retail uses nearby that do supply more basic neighborhood goods, such as Sam's Market and Walgreen's, and these uses do not appear to have been adversely impacted by the increasing number of food service uses.

Q. Ensure that new buildings, additions and renovations harmonize with and enhance the unique character of the District.

Analysis: Not applicable to this project.

- R. Provide environmental protection for the residents of mixed residential commercial structures and surrounding residents from such detriments as noise, fumes and litter.

Analysis: The permit, if approved, would include a condition of approval requiring adequate controls for smoke and odors from cooking, as well as monitoring of the sidewalk to prevent litter and excessive noise. See under "Alcohol Service" for further discussion of noise impacts.

- S. Preserve the ethnic diversity of the resident population and users of the District and of the types of businesses providing ethnically diverse goods and services in the District.

Analysis: See analysis for Purposes F and P. The project would not displace any existing businesses, and the former business could not be characterized as contributing to the District's ethnic diversity.

- T. Protect and encourage the development of properties accessible to the disabled for both residential and Commercial Use.

Analysis: All tenant improvements within the subject tenant space would have to comply with the accessibility requirements of the California Building Code.

- U. Discourage uses which are widely available in other shopping Districts throughout the Bay Area and detract from the unique type and mix of goods and services available in the District.

Analysis: See analysis for Purposes F, G, P and S. Although Quick Service Restaurants are widely available in other shopping Districts and throughout the Bay Area, the proposed business would be locally owned and operated, and would serve the specific needs of the C-T District. As noted in the analysis for Purpose G, there would continue to be an appropriate mix of goods and services in the District after approval of this project.

4. Pursuant to Berkeley Municipal Code Section 23E.56.090.B.2, the Zoning Adjustments Board finds that the project will encourage and maintain the present street frontage of the District, will not interfere with the continuity of retail or compatible service facilities at the ground level and will not interrupt a continuous wall of building facades, because the project does not include any substantial exterior alterations.
5. Pursuant to Berkeley Municipal Code Section 23E.56.090.B.3, the Zoning Adjustments Board finds that the project is compatible in design and character with the District and the adjacent residential neighborhoods, because it does not include any substantial

exterior alterations, is compatible with the purposes of the District as discussed in Finding 3 above, and the use is similar to existing commercial uses in the District.

6. Pursuant to Berkeley Municipal Code Section 23E.56.090.B.4, the Zoning Adjustments Board finds that the project will not generate traffic or parking demand significantly beyond the capacity of the Commercial District or significantly increase impacts on adjacent residential neighborhoods, as discussed in Finding 3, Purpose D.
7. Pursuant to Berkeley Municipal Code Section 23E.56.090.C, the Zoning Adjustments Board finds that the extended hours will not generate excessive noise, traffic or parking problems affecting the well-being of the residents of the District, because the establishment will not offer live entertainment and will not create a "bar atmosphere" leading to excessive noise and other problems. The applicant has worked with the Police Department and Planning staff to identify appropriate restrictions to ensure that proposed alcohol service and hours of operation do not create adverse impacts on the neighborhood. These include requirements for ABC training for servers, participation in the Police Department's Crime Prevention Through Environmental Design (CPTED) survey, and use of non-disposable glassware for alcoholic beverages.
8. Pursuant to Berkeley Municipal Code Section 23E.56.090.E, the Zoning Adjustments Board grants a Use Permit to exceed the numerical and floor area limitations of the C-T District, based on the following findings:
 1. Granting an exception will result in enhancement of the purposes of the District, as discussed in Finding 3 above; and
 2. Adverse parking and transportation impacts of the proposed use are negligible or have been mitigated so as not to adversely affect circulation or parking capacity on adjacent streets or in the immediate neighborhood, as discussed in Finding 3, Purpose D.
9. Pursuant to Berkeley Municipal Code Section 23E.56.090.F, the Zoning Adjustments Board finds that the project complies with the Southside Plan's adopted Mitigation Monitoring Program (MMP). There are no mitigations in the MMP that apply to this project.

STANDARD CONDITIONS OF APPROVAL FOR ALL PROJECTS

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 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 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.56.020.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 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 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. 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.

CONDITIONS BY PROJECT TYPE

ALCOHOLIC BEVERAGE SERVICE CONDITIONS (on-site)

- 10. 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 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. The establishment shall comply with all applicable regulations of the California Department of Alcoholic Beverage Control.
- 12. The applicant shall comply with ABC regulations for License Type 41 ("On Sale Beer & Wine – Eating Place"), which requires that the food establishment operate as a bona

vide 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. The sale of alcoholic beverages for consumption off the premises is strictly prohibited;
 - b. There shall be no bar or lounge area upon the licensed premises 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;
 - d. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
- 13.** A Berkeley Police Department Crime Prevention Through Environmental Design (CPTED) survey shall be completed prior to obtaining a certificate of occupancy or final inspection.
- 14.** 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.
- 15.** Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.
- 16.** The service of alcohol shall be limited to beer and wine and limited to the hours of 9:00 a.m. – 2:00 a.m. seven days per week. 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.
- 17.** Neither alcohol-dispensing facilities nor sign(s) advertising alcoholic beverages shall be visible from the public right-of-way.
- 18.** All alcohol served to patrons must be served in durable restaurant tableware – i.e. either cups or glasses. No alcohol may be distributed in its original bottle or can, or in any other potentially disposable container.

19. There shall be no service or consumption of alcohol in the public right-of-way.
20. No alcohol may be transported off-site from the establishment to any other establishment or to the public right-of-way.
21. 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.
22. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and theft.
23. This Use Permit, including these and all other required conditions, shall be posted in conspicuous location, available for viewing by any interested party.
24. The premises shall not be rented out to third-party "promoters" for any special events or parties.

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).

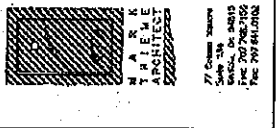
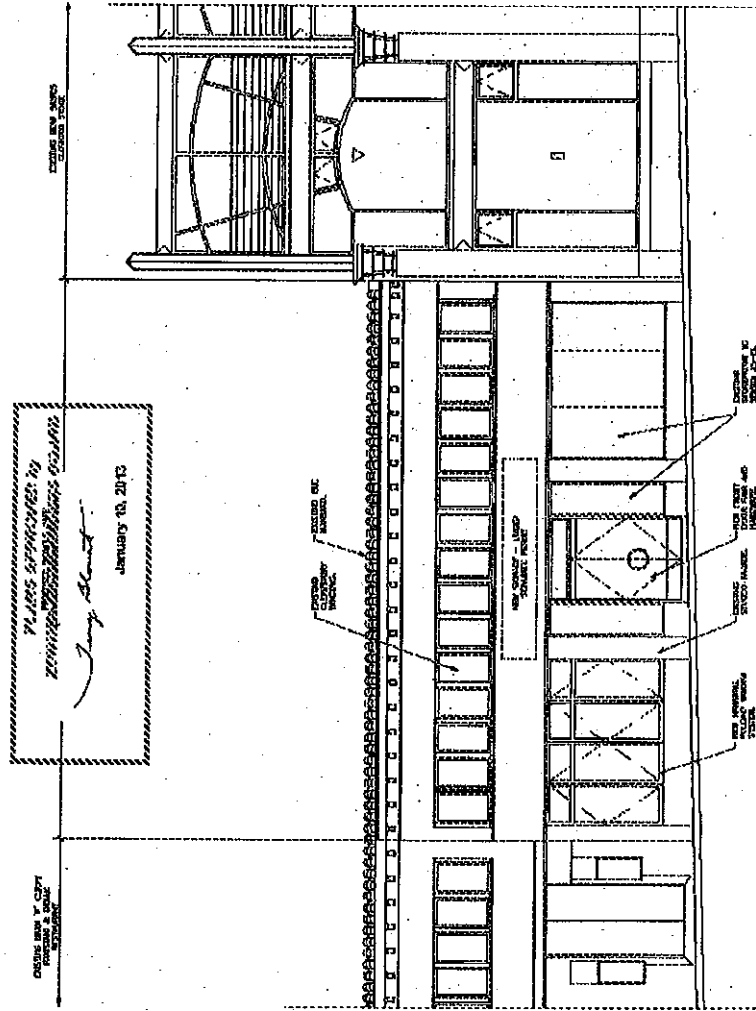
25. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is received by the Zoning Officer that the maintenance or operation of this establishment is violating any of these or other required conditions or is detrimental to the health, safety, peace, 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.
26. Changes in the nature of the operation including, but not limited to, the addition of seating beyond the capacity indicated in the application, expansion of hours beyond 2 a.m., and the addition of live entertainment, shall require modification of this permit (or a new Use Permit, if required by the Zoning Ordinance) subject to approval by the Zoning Adjustments Board.

27. The approved floor plan, including the number of seats, shall be followed and the operation shall be conducted as presented to the Board. The maximum occupancy shall be as specified in the application unless otherwise required by applicable regulations.
28. 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.
29. The hours of operation of the restaurant portion of the business shall be limited to: 7 a.m. to 2 a.m. (see Condition 16 above for further restrictions on alcohol service). 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 by the Zoning Adjustments Board as necessary to avoid detriment to the neighborhood or to achieve conformance with revised City standards or policies.
30. 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.
31. Smoke and odor control equipment approved by the City Environmental Health Division and providing adequate protection to residential uses in the vicinity shall be installed prior to issuance of an Occupancy Permit.
32. 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.
33. 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.
34. Any establishment selling beverages in cans or bottles that are subject to the State of California Container Deposit Law shall recycle such containers.
35. The operator of the restaurant 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.

36. 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.
37. The applicant shall comply with Berkeley Municipal Code Chapter 9.88, which requires businesses with 10 or more employees to provide either (1) a program for excluding employee transit expenses from taxable earnings, (2) a transit subsidy equal to the value of a monthly AC Transit bus pass, or (3) a shuttle service.

Exhibit B - Approved Plans
Page 2 of 2

ATTACHMENT 2
TAB 06-13-13
Page 2 of 2



**BONDS CAFE
RESTAURANT**
2800 TELEGRAPH AVE. ROSELLY

PROJECT NO.	PROPOSED RESTAURANT ELEVATION REVISIONS
DATE	1/10/13
BY	J. H. H.
CHECKED BY	J. H. H.
APPROVED BY	J. H. H.
SCALE	1/4" = 1'-0"
TITLE	PROPOSED FACADE CHANGES

A2.0p

PROPOSED FACADE CHANGES