

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

1797 Shattuck Avenue

Administrative Use Permit #ZP2014-0079

Project Description: To establish incidental beer and wine service at an existing quick-service restaurant, pursuant to:

- Section 23E.68.030 to establish incidental beer and wine service.

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 12, 2015.

Attest: Greg Powell
Greg Powell, Principal Planner

February 12, 2015
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS

JANUARY 21, 2015

1797 Shattuck Avenue

Administrative Use Permit #AUP2014-0079

To establish incidental beer and wine service at an existing quick-service restaurant.

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 establishment of incidental beer and wine service at a quick service restaurant will allow the proprietors to offer additional beverage options to their clients and help the restaurant remain competitive with other restaurants in the Downtown Area.
 - The beer and wine service would be incidental to food service. Due to the incidental nature of the service, and the small size and location of the restaurant in the C-DMU District and along a major thoroughfare, alcohol sales will not have significant detrimental impact on public health, safety, or peace.
 - Conditions #10-20 pertaining to alcohol service will be implemented to limit detriment.

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:

At All Times (Operation):

10. The project shall conform to the plans and statements in the Administrative Use Permit application, dated December 11, 2014.
11. Use Permit approval has been granted for the service of beer and wine incidental to the approved food service. No service of distilled spirits is permitted without prior application and Use Permit approval.
12. Alcohol shall be served in tableware, not to be taken off-site.
13. At no time may alcohol be served or consumed outside the building.
14. All employees selling and/or serving alcohol, or directly supervising such sales and/or service, shall complete a course in Responsible Beverage Sales and Service (RBSS) through 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. The applicant shall request that the California Department of Alcoholic Beverage Control (ABC) place the following conditions on the applicant's alcohol license:
 - A. The sale of alcohol beverages for consumption off the premises is strictly prohibited;

- B. 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 that are clearly visible to the exterior shall constitute a violation of this condition.
16. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and thefts.
17. Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.
18. The owner and/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.
19. A copy of these conditions shall be maintained on the premises and made available upon the demand of any peace officer or authorized code enforcement officer.
20. 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.



Prepared by: Claudine Asbagh
For Shannon Allen, AICP, Principal Planner

GENERAL INFORMATION

Business Entity Address:
 Caravaggio Gelateria Italiana LLC
 1797 Shattuck Avenue, suite C
 Berkeley, CA 94709

Applicant Information
 Emiliano Cecchetti
 3279 Mt Diablo #2
 Lafayette CA, 94549
 Phone (925) 457-9303

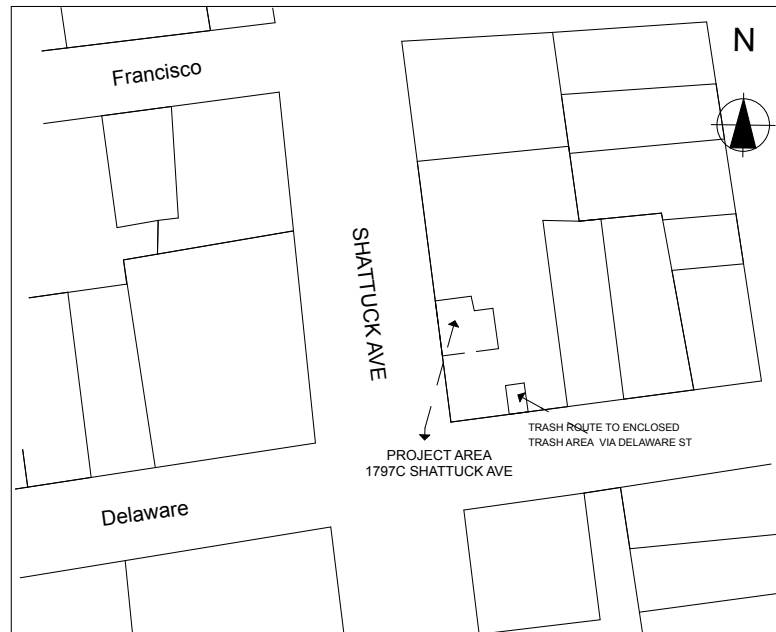
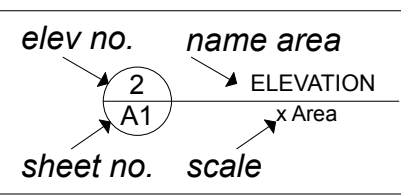
PROJECT DESCRIPTION

Application for Administrative Use Permit for Alcoholic Beverage Service of Wine and Beer incidental to food service at 1797 Shattuck Avenue, suite C

LIST OF DRAWINGS

- n 1.0 **Vicinity Map** General Information
- n 2.0 **Site Plan** Plan Submittal
- n 3.0 **Proposed Plan**

SYMBOLS



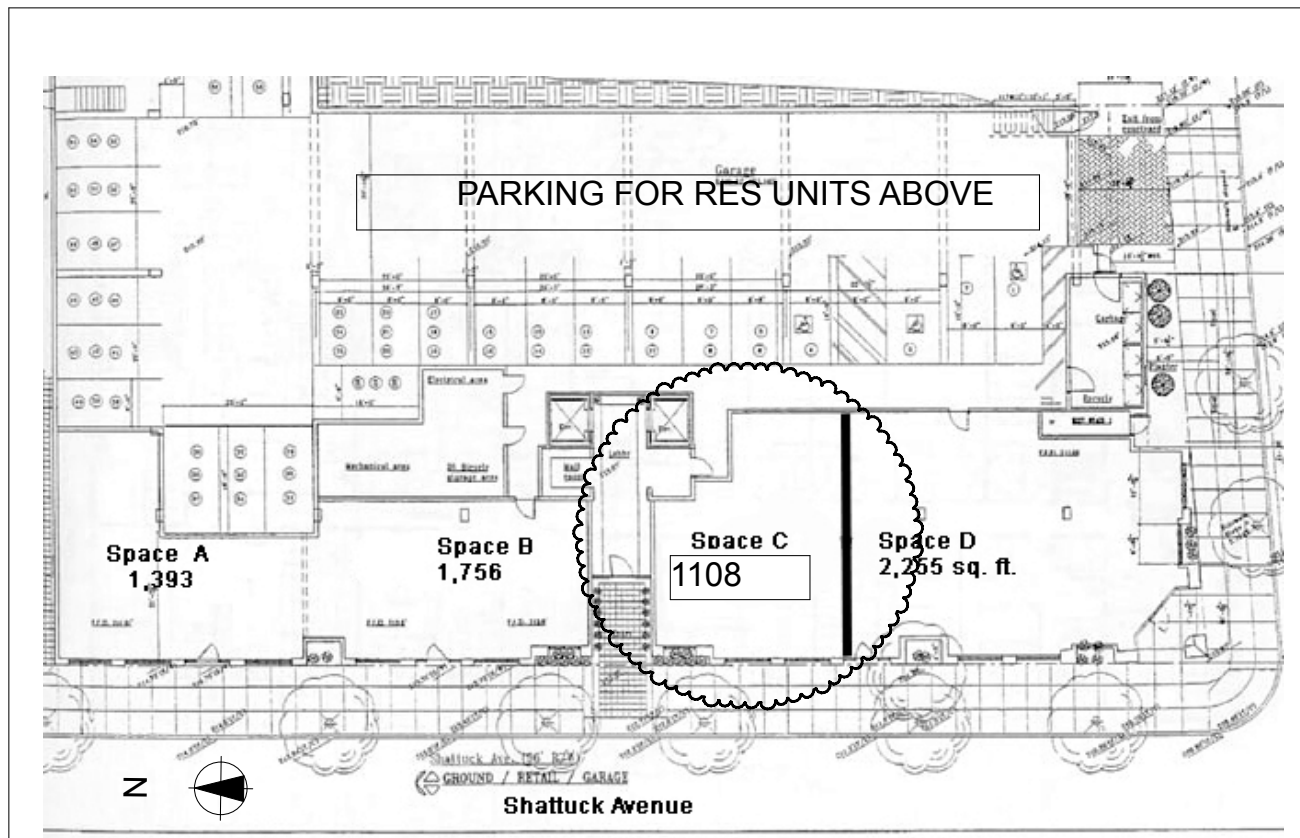
1.0 VICINITY MAP
 A 1.0

PLANS APPROVED by

Ad Asano January 21, 2015

SIGNATURE DATE

***AUP Findings and Conditions Attached**



2.0 VICINITY MAP
 A 1.0 SCALE 1/32" = 1'-0"

Project:
 COMMERCIAL TENANT IMPROVEMENTS

FOR:

Caravaggio
Gelateria Italiana llc.

1797 SHATTUCK AVENUE (SPACE C)
 BERKELEY

Drawing Title:
 PLANS

Application for AUP
 Alcoholic beverage service of wine and beer

1.0 Vicinity Map
 General Information

Date
 12/08/2014

Scale : as NOTED

A1.0

Project:
COMMERCIAL TENANT
IMPROVEMENTS

FOR:

Caravaggio
Gelateria Italiana llc.

1797 SHATTUCK AVENUE (SPACE C)
BERKELEY

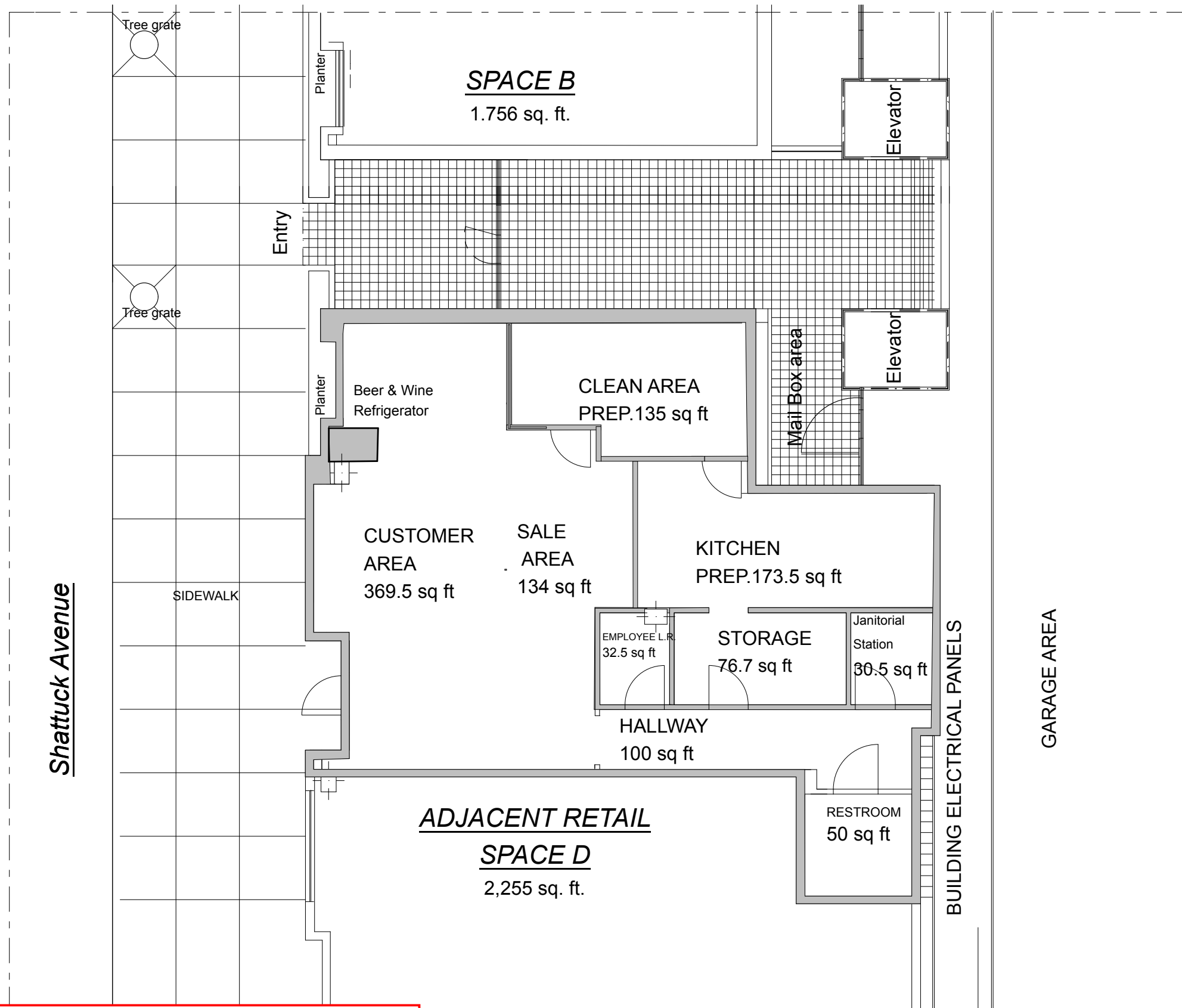
Drawing Title:
PLANS
Application for AUP
Alcoholic beverage service of wine
and beer

2.0 Site Plan

Date
12/08/2014

Scale : as NOTED

A 2.0

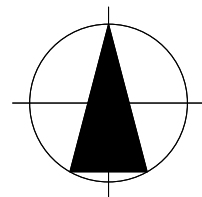


Shattuck Avenue

GARAGE AREA

PLANS APPROVED by
Ad Asbury January 21, 2015
SIGNATURE DATE
***AUP Findings and Conditions Attached**

N



SCALE 1/8" = 1'-0"

A2

PLAN SUBMITTAL

A	Customer Area	369.5 sq ft
B	Sale Area	134.0 sq ft
C	Clean Area	135.0 sq ft
D	Kichen Preparation	173.5 sq ft
C	Employee Locker room	32.5 sq ft
E	Storage	76.7 sq ft
F	Janitorial Station & Trash	30.5 sq ft
G	Hallway	100.0 sq ft
H	Restroom	50.0 sq ft

Project:
COMMERCIAL TENANT
IMPROVEMENTS

FOR:

Caravaggio
Gelateria Italiana llc.

1797 SHATTUCK AVENUE (SPACE C)
BERKELEY

Date

12/05/2014

Drawing Title:
PLANS

Application for AUP
Alcoholic beverage service of wine
and beer

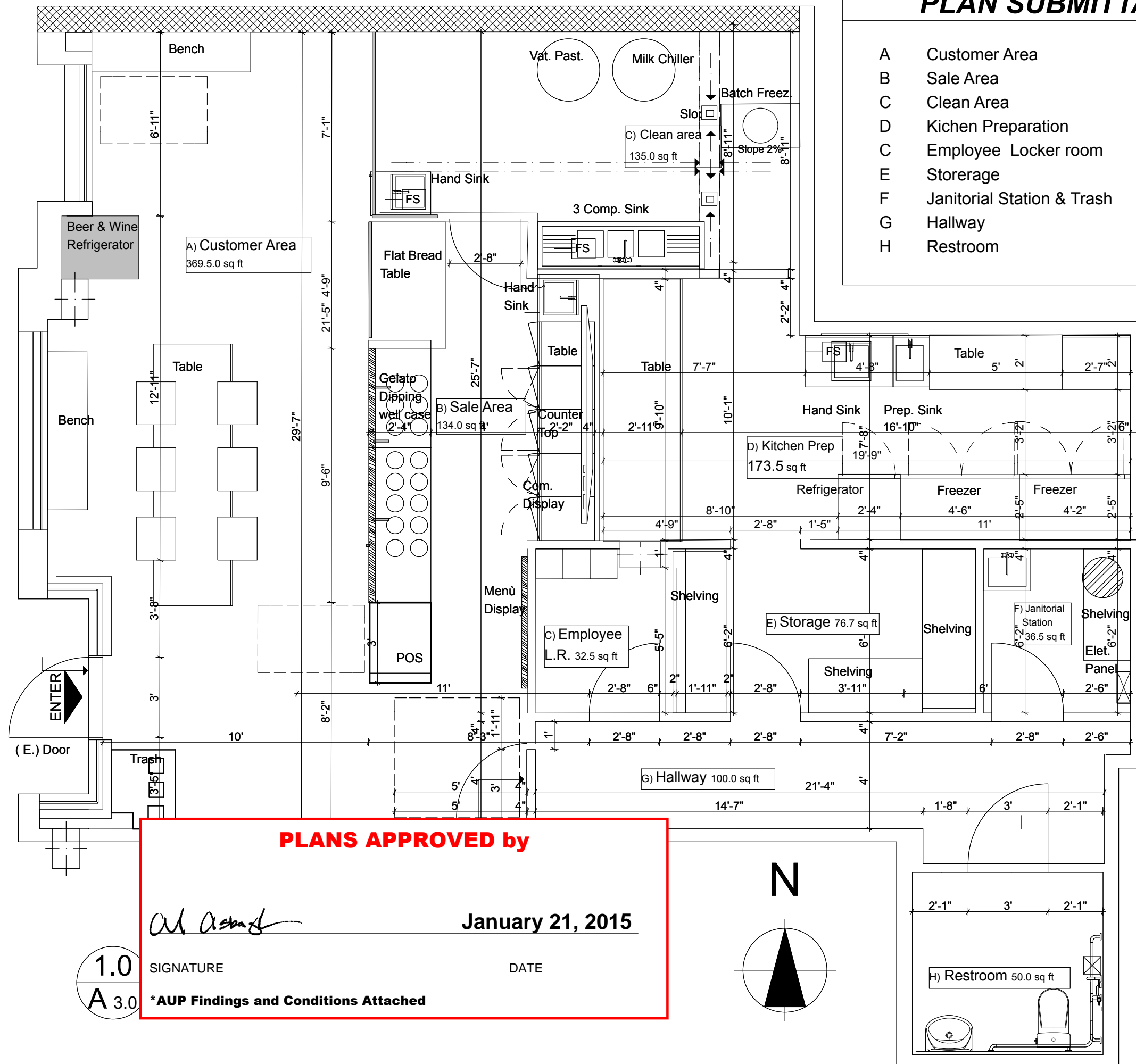
3.0 FLOOR Plan

Date

12/08/2014

Scale : as NOTED

A3.0



PLANS APPROVED by

Al Aswad

January 21, 2015

SIGNATURE

DATE

***AUP Findings and Conditions Attached**

1.0
A 3.0