



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

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## 1637 Solano Avenue

### Administrative Use Permit #ZP2014-0064

**Project Description:** To convert a 500 square-foot ground floor retail use to a professional office use (architecture firm), pursuant to:

- Section 23E.60.030 to convert a retail use into an office use.

### 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 March 27, 2015.

Attest: Greg Powell  
Greg Powell, Principal Planner

March 27, 2015  
Effective Date

# ATTACHMENT 1

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## FINDINGS AND CONDITIONS

MARCH 5, 2015

### 1637 Solano Avenue

#### Administrative Use Permit #ZP2014-0064

**To convert a 500 square-foot ground floor retail use to a professional office use (architecture firm).**

#### CEQA FINDINGS

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1. The project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA, Public Resources Code §21000, et seq.) pursuant to Section 15303 of the CEQA Guidelines (“Conversions of Small Structures”). As provided under CEQA Guidelines Section 15303(c), the new use will not involve the use of significant amounts of hazardous substances and does not exceed 2,500 square feet. The project does not qualify as an exception to this Section for the following reasons:
  - There would be no cumulative impact of successive projects of the same type, in the same place over time that could create a significant environmental impact because the project is located in a fully developed commercial area where new development is limited.
  - There are no unusual circumstances that could lead to a significant impact because the project involves the conversion of an existing retail space and does not involve other changes to the property.
  - The project is not located near a scenic highway, on a listed hazardous waste site, or near any historical resources.

#### FINDINGS FOR APPROVAL

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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:
  - Professional office use is consistent with the purposes of the pedestrian-oriented, neighborhood-serving development of the Solano Avenue Commercial District;
    - The proposed office use is compatible with the surrounding retail, office and residential uses.

- The small architecture office will fill an existing, vacant storefront which will improve the appearance of Solano Avenue and benefits the surrounding neighborhood. The change in use will not result in a change to light, air or shadows cast on surrounding buildings; and
- Per BMC Section 23E.28.130 the change of use will not require additional off-street parking, because the proposed office use has the same parking requirement as the previous retail use as shown in Section 23E.60.080.B as two spaces per every 1,000 square feet of gross floor area.
- Condition #10 has been added by the Zoning Officer to insure compatibility with pedestrian oriented development and continuity of the existing retail and service establishments located at ground level within the vicinity.

## **STANDARD CONDITIONS**

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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:

- 10.** When located on the ground floor adjacent to a street frontage, storefront windows required to include a window display or to be transparent and provide pedestrian viewing a minimum of 10 feet into the storefront area.

**Prior to Submittal of Any Building Permit:**

11. 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 written reports of such complaints and actions to the project planner on a weekly basis. **Individual Responsible for Noise Management:**

□ Name: \_\_\_\_\_ Phone: \_\_\_\_\_

12. 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.

**Prior to Issuance of Any Building Permit:**

13. Drainage plans shall be submitted for approval of the Building & Safety Division and Public Works Department, if required.

**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. 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.
16. 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.
17. 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 in thickness and secured to the ground.
18. 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.
19. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
20. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
21. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
22. 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.
23. Any construction during the wet season shall require submittal of a soils report with appropriate measures to minimize erosion and landslides, and the developer shall be responsible for following these and any other measures required by the Building and Safety Division and the Public Works Department.

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

24. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
25. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated November 7, 2014.

**At All Times (Operation):**

26. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
27. 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.
28. 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.
29. No Commercial use shall operate except between the hours of 7:00 a.m. and 11:00 p.m.



Prepared by: Nicholas McIlroy, Assistant Planner  
For Shannon Allen, AICP, Principal Planner

**PLANS APPROVED by**

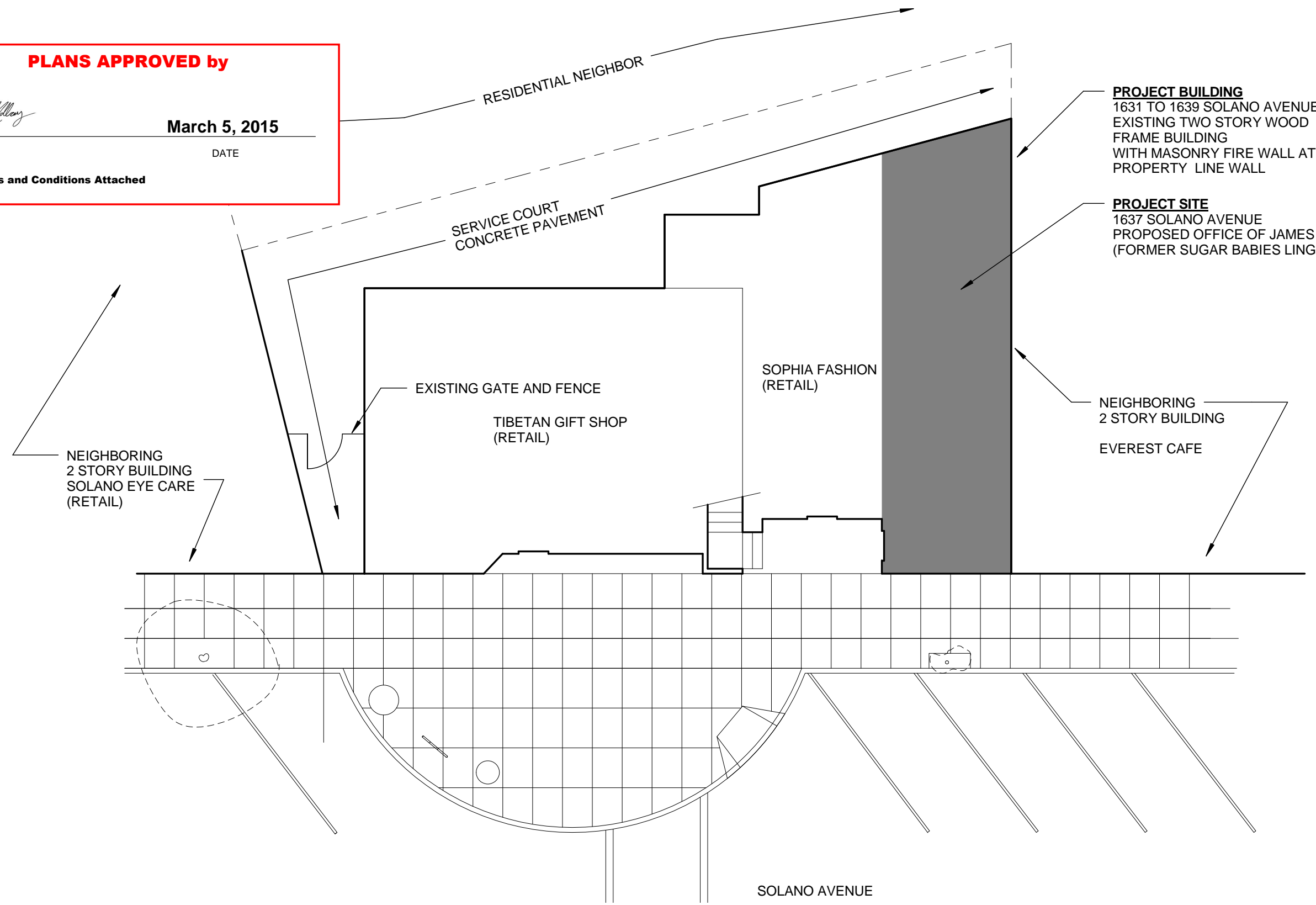
*Nicholas Molloy*

**March 5, 2015**

SIGNATURE

DATE

\*AUP Findings and Conditions Attached



**PROJECT BUILDING**  
1631 TO 1639 SOLANO AVENUE  
EXISTING TWO STORY WOOD  
FRAME BUILDING  
WITH MASONRY FIRE WALL AT  
PROPERTY LINE WALL

**PROJECT SITE**  
1637 SOLANO AVENUE  
PROPOSED OFFICE OF JAMES GWISE ARCHITECT, p.c.  
(FORMER SUGAR BABIES LINGERIE SHOP)

NEIGHBORING  
2 STORY BUILDING  
EVEREST CAFE

NEIGHBORING  
2 STORY BUILDING  
SOLANO EYE CARE  
(RETAIL)

SOLANO AVENUE

**JAMES GWISE ARCHITECT, p.c.**

837 - A Stannage Ave. Albany CA 94706

510 526 1996

**JGA pc Office**

1637 Solano Ave, Berkeley 94707

No.	Description	Date

**Site Plan**

Project number	1405
Date	8 14 14
Drawn by	Author
Checked by	Checker

**A0.1**

Scale 3/32" = 1'-0"



**PLANS APPROVED by**

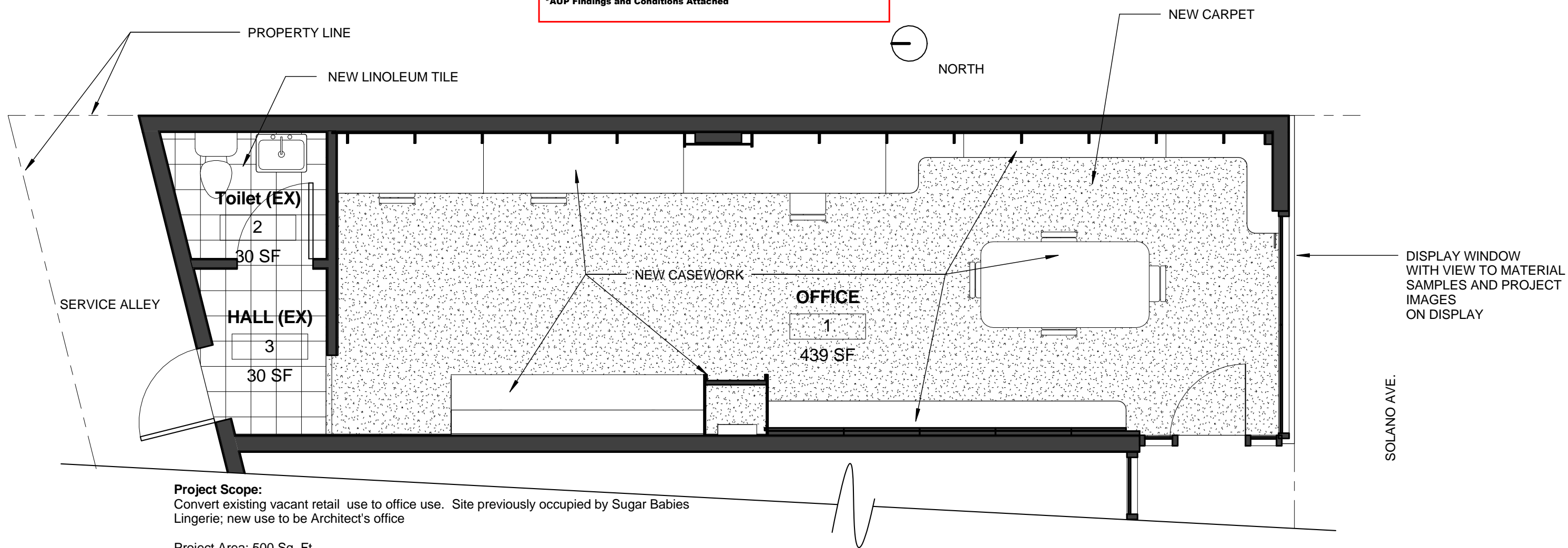
*Nicholas McElroy*

March 5, 2015

SIGNATURE

DATE

\*AUP Findings and Conditions Attached



**Project Scope:**  
 Convert existing vacant retail use to office use. Site previously occupied by Sugar Babies Lingerie; new use to be Architect's office

Project Area: 500 Sq. Ft.

**Work Required:**  
 Replace existing vinyl floor tile with new carpet at former retail space  
 Replace existing vinyl floor tile with new linoleum tile  
 Install new casework and furniture  
 Install new Light fixtures  
 Install wall decoration(s)

There will be no modifications to building systems (plumbing, electrical, mechanical) and exterior envelope

1 Floor Plan  
 1/4" = 1'-0"

**JAMES GWISE ARCHITECT, p.c.**

837 - A Stannage Ave. Albany CA 94706

510 526 1996

**JGA pc Office**

1637 Solano Ave, Berkeley 94707

No.	Description	Date

**Floor Plan**

Project number 1405

Date 8 14 14

Drawn by Author

Checked by Checker

**A1.00**

Scale 1/4" = 1'-0"