



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-A Shattuck Avenue

Administrative Use Permit #ZP2015-0070

Project Description: To establish incidental beer and wine service for on-site consumption at a new 364-square-foot quick service restaurant with hours of 7:00 a.m. to 12:00 a.m., pursuant to:

- Section 23E.16.040.A to establish incidental beer and wine service for on-site consumption;

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 September 22, 2015.

Attest: Carol Johnson
Carol Johnson, Land Use Planning Manger

September 22, 2015
Effective Date

ATTACHMENT 1

FINDINGS AND CONDITIONS (REVISED) AUGUST 31, 2015

1797-A Shattuck Avenue

Administrative Use Permit #ZP2015-0070

To establish incidental beer and wine service for on-site consumption at a new 364-square-foot quick service restaurant with hours of 7:00 a.m. to 12:00 a.m. and to extend hours of operation from 7:00 a.m. – 11:00 p.m. to 7:00 a.m. – 12:00 a.m. Sunday through Thursday and 7:00 a.m. – 1:00 a.m. Friday and Saturday.

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 would 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, would 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 incidental service of beer and wine will promote the economic viability of the locally owned, independent restaurant, and will therefore support the local economy and the neighborhood in general.
 - The beer and wine service would be incidental to food service. Due to the incidental nature of the service, and the size and location of the restaurant, alcohol sales will not have significant detrimental impact on public health, safety, or peace.
 - Conditions of Approval #11-23 pertaining to alcohol service will be implemented to limit detriment. The operators of the Café shall insure that adjacent residents are not disturbed by patrons.

- ~~The modification to hours of operation is minimal, extending the hours of operation by one hour Sunday through Thursday (from 11:00 p.m. to 12:00 a.m.) and two hours on Saturday and Sunday (from 11:00 p.m. to 1:00 a.m.). The increased hours will have minimal impact on the scale and intensity of the existing use. The business is located within a building with two other ground floor commercial units below residential apartments. The impact on the adjacent neighborhood on Delaware Street will be minimal because the doors are located on Shattuck Avenue, not the more residential Delaware Street.~~

STANDARD CONDITIONS

The following conditions, as well as all other applicable provisions of the Zoning Ordinance, apply to this Permit:

1. Prior Conditions of Approval Remain in Effect

Except as Modified by the Conditions below, all conditions of approval for Use Permits #04-70000050 and #01-1000027 shall remain in full force and effect.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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.

At all Times (Operation):

- 11. Hours of operation shall conform to the C-1 district standard hours of 7:00 a.m. to 12:00 a.m.
- 12. The project shall conform to the plans and statements in the Administrative Use Permit application, dated December 8, 2011. Except as modified here within, all conditions of approval UP #09-10000106 shall remain in full force an effect.
- 13. Use Permit approval has been granted for the sale of beer and wine incidental to the approved food service. No service of distilled spirits is permitted without prior application and Use Permit approval.
- 14. At no time may alcohol be served or consumed on the public right-of-way.
- 15. Alcoholic beverage service shall be "incidental" to the primary food service use. As defined in the Zoning Ordinance Section 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 to 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."

16. 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.
17. 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.
18. The applicant shall establish cash handling procedures to reduce the likelihood of robberies and thefts.
19. Employees shall not serve alcohol to patrons who appear to be inebriated or otherwise unable to behave in an orderly manner upon consuming alcohol.
20. No sign(s) visible from the public right-of-way advertising alcoholic beverages shall be allowed. No alcoholic dispensing facilities shall be visible from the public right-of-way.
21. 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.
22. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
23. 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.
24. 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.

Prior to Submittal of Any Building Permit:

25. 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: _____

26. 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.

During Construction:

27. 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.
28. 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.
29. 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.
30. 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.

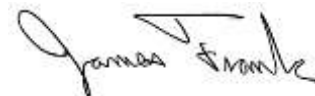
31. All active construction areas shall be watered at least twice daily, and all piles of debris, soil, sand or other loose materials shall be watered or covered.
32. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
33. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
34. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
35. 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.
36. 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:

37. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
38. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated March 25, 2015.

At All Times (Operation):

39. All exterior lighting shall be shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
40. 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.



Prepared by: Jim Frank, Assistant Planner
For Shannon Allen, Principal Planner, AICP

VICTORY POINT CAFE

1797 SHATTUCK AVENUE, A
BERKELEY, CA

PLANS APPROVED by

James Frank

August 31, 2015

SIGNATURE

DATE

***AUP Findings and Conditions Attached**

ALEXANDRA
ODABACHIAN
architect

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ALAMEDA, CA 94501
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PROJECT DESCRIPTION, SITE & BLDG. INFORMATION

EXISTING 1254 SF RETAIL SPACE TO BE CONFIGURED FOR USE AS A BOARD GAME CAFE, SERVING COFFEE, REFRESHMENTS, BEER, WINE, AND READY MADE SANDWICHES.

INDOOR SEATING IS PROPOSED.

A LIBRARY OF OVER 500 BOARD GAMES WILL BE AVAILABLE FOR CUSTOMER USE FOR A SMALL FEE (\$5).

PROJECT TYPE: COMMERCIAL INTERIOR TENANT IMPROVEMENT

ZONING: C1

OCCUPANCY: B - OCCUPANCY LOAD <50.

CONSTRUCTION TYPE: TYPE 1-A, SPRINKLERED

EXTERIOR WALLS: NON-RATED COMPLYING W/ 2001 CBC TABLE 5A

INTERIOR WALLS: CONCRETE DEMISING WALLS, W/ 1 HR WALLS BETWEEN RETAIL AND GARAGE.

THE EXISTING BUILDING WAS CONSTRUCTED UNDER 2001 CBC AS A MIXED OCCUPANCY BLDG W/ GROUND FLOOR S-3 (PARKING GARAGE) & B&M (RETAIL) OCCUPANCIES AT GROUND FLOOR, W/ R-1 ABOVE.

THE EXISTING 3 HR. OCCUPANCY SEPARATION BETWEEN THE GROUND FLR. FROM FLOORS ABOVE PER 2001 CBC 311. 2. 2. 1 WILL BE MAINTAINED AND NO WORK WILL BE PERFORMED TO THE EXISTING CONCRETE SLAB FLOOR/CEILING ASSEMBLY.

LIST OF DRAWINGS

A1 PROJECT INFORMATION, OCC. LOAD CALCS. & MAPS

A2 SITE / FLOOR PLAN

OCCUPANCY LOAD CALCULATIONS

CUSTOMER AREA INTERIOR: 63+132+169 = 364 SF/15	= 24.26
RESTROOM: 43 SF/100	= 4.3
KITCHEN PREP: 318 SF/200	= 1.58
STORAGE: 41.5 SF/300	= .16
54.2/300	= .18
HALLWAY: 427/100	= 4.27
	34.78

OCCUPANCY LOAD = 34.8 < 50

PROJECT:
COMMERCIAL TENANT
IMPROVEMENTS

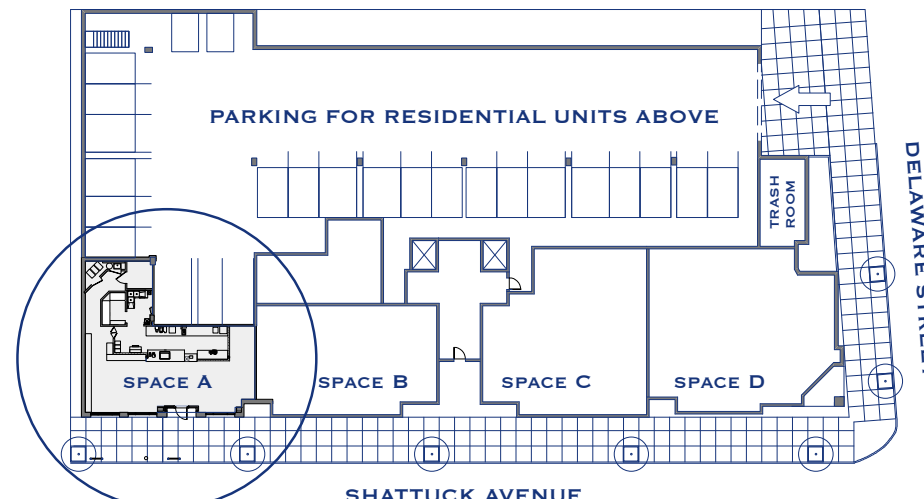
1797 SHATTUCK AVENUE, A
BERKELEY, CA

FOR:
VICTORY POINT CAFE



SITE

FACE OF BUILDING - NTS



SITE

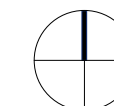
BUILDING PLAN - 1" = 50'



SITE

VICINITY MAP - NTS

NORTH



SCALE: AS NOTED

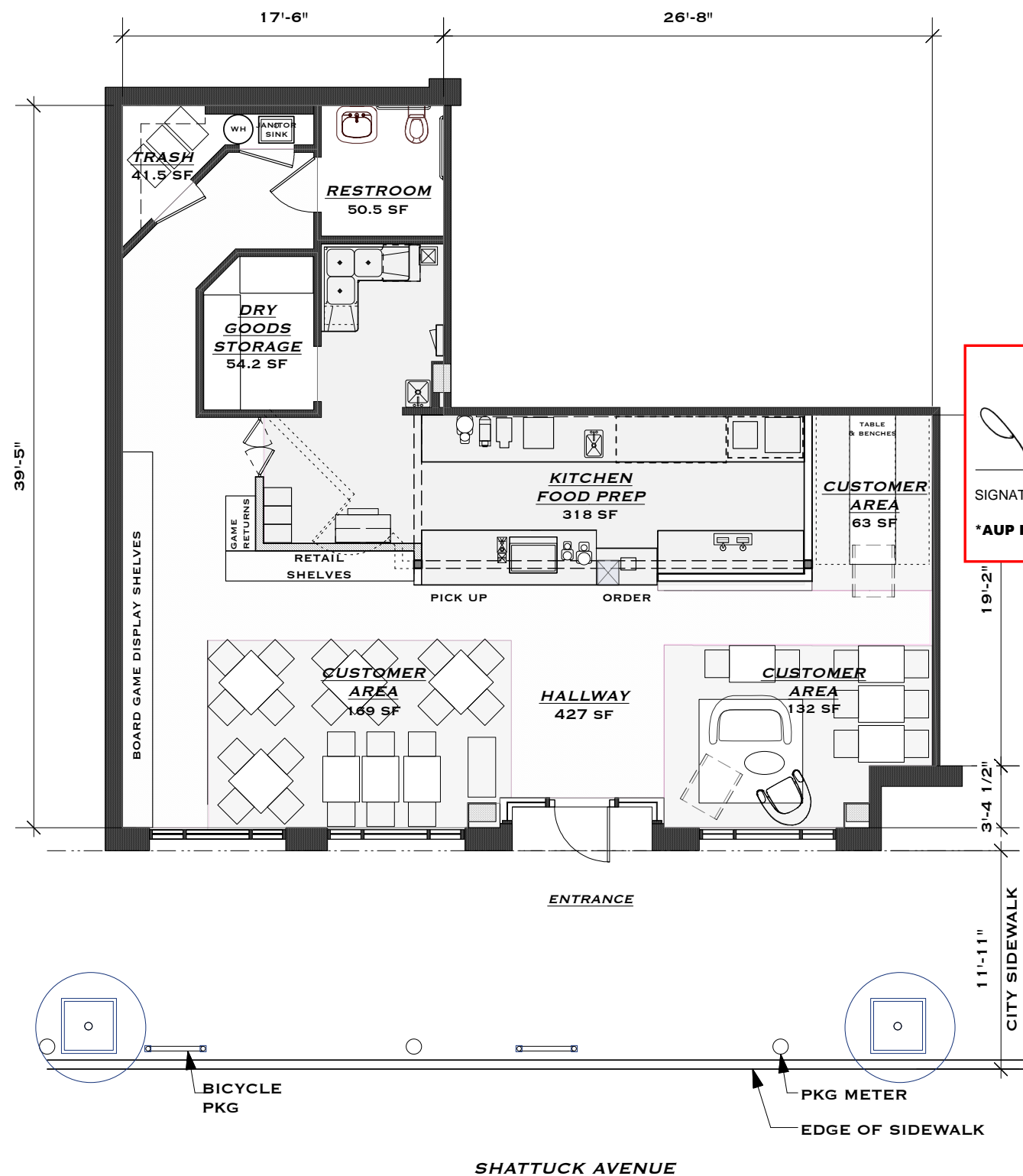
DATE: 3.10.2015

REV.

PHOTOGRAPH OF BUILDING
BUILDING PLAN
VICINITY MAP
LIST OF DRAWINGS
PROJECT DESCRIPTION
SITE INFORMATION
OCCUPANCY LOAD CALCULATIONS

A1

PLANS & SPECIFICATIONS ARE PREPARED AS INSTRUMENTS OF SERVICE FOR THE CLIENT SHOWN HEREON AND ARE THE PROPERTY OF THE ARCHITECT AND SHALL NOT BE USED FOR OTHER WORK WITHOUT WRITTEN CONSENT OF THE ARCHITECT.



LEGEND

- EXISTING WALL/OBJECT TO REMAIN
- - - - EXISTING WALL/OBJECT TO BE REMOVED
- ▬ PROPOSED 7' HIGH WALL BRACED TO CEILING/STRUCTURE
- ▭ PROPOSED PONY WALL

PLANS APPROVED by

James Frank August 31, 2015

SIGNATURE DATE

***AUP Findings and Conditions Attached**

PROJECT:
COMMERCIAL TENANT
IMPROVEMENTS

1797 SHATTUCK AVENUE, A
BERKELEY, CA

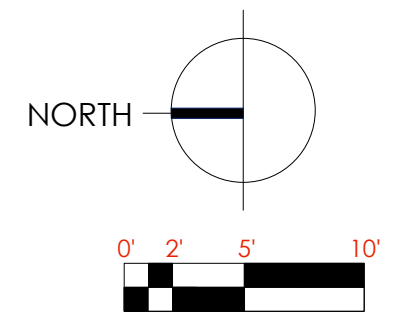
FOR:
VICTORY POINT CAFE

SCALE: AS NOTED
DATE: 3.10.2015
REV.

SITE PLAN / FLOOR PLAN

1
A2

SITE PLAN / FLOOR PLAN
SCALE: 1/8" = 1'-0"



A2

PLANS & SPECIFICATIONS ARE PREPARED AS INSTRUMENTS OF SERVICE FOR THE CLIENT SHOWN HEREON AND ARE THE PROPERTY OF THE ARCHITECT AND SHALL NOT BE USED FOR OTHER WORK WITHOUT WRITTEN CONSENT OF THE ARCHITECT.