



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

1625 Shattuck Avenue, Suite 102

Administrative Use Permit #ZP2017-0008

Project Description: To establish a quick-service restaurant within an existing 1,167-square-foot tenant space in an existing 26,044-square-foot commercial building and to waive parking.

- Section 23E.48.030 to establish a quick-service restaurant that is over 1,000 square feet in area in the C-NS district; and
- Section 23E.28.130.C.2 to reduce the parking requirement to the district minimum.

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 July 13, 2017.

Attest: Greg Powell
Greg Powell, Zoning Officer

July 13, 2017
Effective Date

You may choose to file with the State and County either the enclosed Notice of Exemption or Notice of Determination (which ever applies). Pursuant to the California Environmental Quality Act (CEQA), Public Resources Code section 21167, the time in which a legal challenge will be accepted is shortened if this form is filed within 5 days of the effective date of the City's action.

ATTACHMENT 1

FINDINGS AND CONDITIONS JUNE 22, 2017

1625 Shattuck Avenue, Suite 102

Administrative Use Permit #ZP2017-0008

To establish a quick-service restaurant within an existing 1,167-square-foot tenant space in an existing 26,044-square-foot commercial building and to waive parking.

PERMITS REQUIRED

- Administrative Use Permit under BMC §23E.48.030 to establish a quick-service restaurant that is over 1,000 square feet in area in the C-NS district; and
- Administrative Use Permit under BMC §23E.28.130.C.2 to reduce the parking requirement to the district minimum.

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 (“Existing Facilities”) of the CEQA Guidelines. 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 quick-service restaurant is a desirable use in this zoning district, that furthers the purposes of the C-NS district: 1) to establish retail and service activities that provide goods and services to serve the residents of the adjacent and outlying neighborhoods, but do not generate high traffic volume; 2) to promote compatibility between commercial areas and adjacent residential neighborhoods; and 3) to support the retention of types of businesses serving the adjacent neighborhood, by adding to the number of existing restaurants in this neighborhood along Shattuck Avenue, which have proven to be successful in drawing patrons from the immediate residential area and beyond
 - Aside from replacing the signage on the existing exterior blade sign mount, no changes to the exterior of the building will occur.

- The proposed hours of operation for the quick-service restaurant are 8 a.m. to 8 p.m., Monday through Sunday, which fall within the hours limitations set forth for commercial uses in the district (7:00 a.m. to 11:00 p.m.), per BMC §23E.52.060.A.
3. With the approval of use permit #UP05-10000018, 18 parking spaces were permitted on site to serve 26,044 square feet of commercial space. The parking standard that applies to the commercial use that exists in this space requires parking at a ratio of 1 space per 500 square feet, yielding a requirement of 2 spaces for the 1,167-square-foot tenant space, while the standard for a quick-service restaurant is 1 space per 300 square feet, yielding a requirement of 4 spaces for the proposed use. Pursuant to Berkeley Municipal Code Section BMC §23E.28.130.C, “for a change of use of existing floor area where the new use has a higher numerical parking standard than the existing use”, the “new use must provide the incremental difference between the two numerical parking standards”, which is 2 spaces (in addition to the existing 18 spaces). The applicant requests a waiver of the parking requirement of 2 spaces for the project.

Pursuant to BMC §23E.28.140.B, the Zoning Officer finds that the proposed parking reduction of 2 spaces is permissible for the following reasons:

- The reduction will not substantially reduce the availability of on-street parking in the vicinity because the waiver of 2 spaces is not a substantial reduction, and has been reviewed and approved by the Transportation Division.
- The proposed Food Service Establishment is a neighborhood-serving use that will add a desirable amenity to the area for the use of adjacent residential neighborhoods.
- The proposal includes an alternative transportation demand strategy that will reduce the parking demand generated by the use, by providing transit passes to employees of the restaurant.

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 attorney's 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. Project Liaison. The applicant shall include in all building permit plans and post onsite the name and telephone number of an individual empowered to manage construction-related complaints generated from the project. The individual's name, telephone number, and responsibility for the project shall be posted at the project site for the duration of the project in a location easily visible to the public. The individual shall record all complaints received and actions taken in response, and submit written reports of such complaints and actions to the project planner on a weekly basis. **Please designate the name of this individual below:**

Project Liaison

_____ Name

_____ Phone #

Standard Construction-related Conditions Applicable to all Projects:

11. Transportation Construction Plan. The applicant and all persons associated with the project are hereby notified that a Transportation Construction Plan (TCP) is required for all phases of construction, particularly for the following activities:

- Alterations, closures, or blockages to sidewalks, pedestrian paths or vehicle travel lanes (including bicycle lanes);
- Storage of building materials, dumpsters, debris anywhere In the public ROW;
- Provision of exclusive contractor parking on-street; or
- Significant truck activity.

The applicant shall secure the City Traffic Engineer's approval of a TCP. Please contact the Office of Transportation at 981-7010, or 1947 Center Street, and ask to speak to a traffic engineer. In addition to other requirements of the Traffic Engineer, this plan shall include the locations of material and equipment storage, trailers, worker parking, a schedule of site operations that may block traffic, and provisions for traffic control. The TCP shall be consistent with any other requirements of the construction phase.

Contact the Permit Service Center (PSC) at 1947 Center Street or 981-7500 for details on obtaining Construction/No Parking Permits (and associated signs and accompanying dashboard permits). Please note that the Zoning Officer and/or Traffic Engineer may limit off-site parking of construction-related vehicles if necessary to protect the health, safety or convenience of the surrounding neighborhood. A current copy of this Plan shall be available at all times at the construction site for review by City Staff.

12. 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.

13. 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.
14. 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.
15. 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.
16. 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.
17. Trucks hauling debris, soil, sand, or other loose materials shall be covered or required to maintain at least two feet of board.
18. Public streets shall be swept (preferably with water sweepers) of all visible soil material carried from the site.
19. The applicant shall establish and maintain drainage patterns that do not adversely affect adjacent properties and rights-of-way.
20. 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.

Prior to Issuance of Occupancy Permit or Final Inspection:

21. All construction at the subject property shall substantially conform to the approved Use Permit drawings or to modifications approved by the Zoning Officer.
22. All landscape, site and architectural improvements shall be completed per the attached approved drawings dated **March 20, 2017**.

At All Times (Operation):

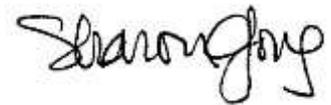
23. All exterior lighting shall be energy efficient where feasible; and shielded and directed downward and away from property lines to prevent excessive glare beyond the subject property.
24. This permit is subject to review, imposition of additional conditions, or revocation if factual complaint is 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.
25. 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.
26. Transit Subsidy. The applicant shall reimburse employees the maximum non-taxable cost of commuting to and from work on public transportation (e.g., monthly passes) if they so commute, and a notice informing employees of the availability of such subsidy shall be permanently displayed in the employee area.

FOOD SERVICE CONDITIONS

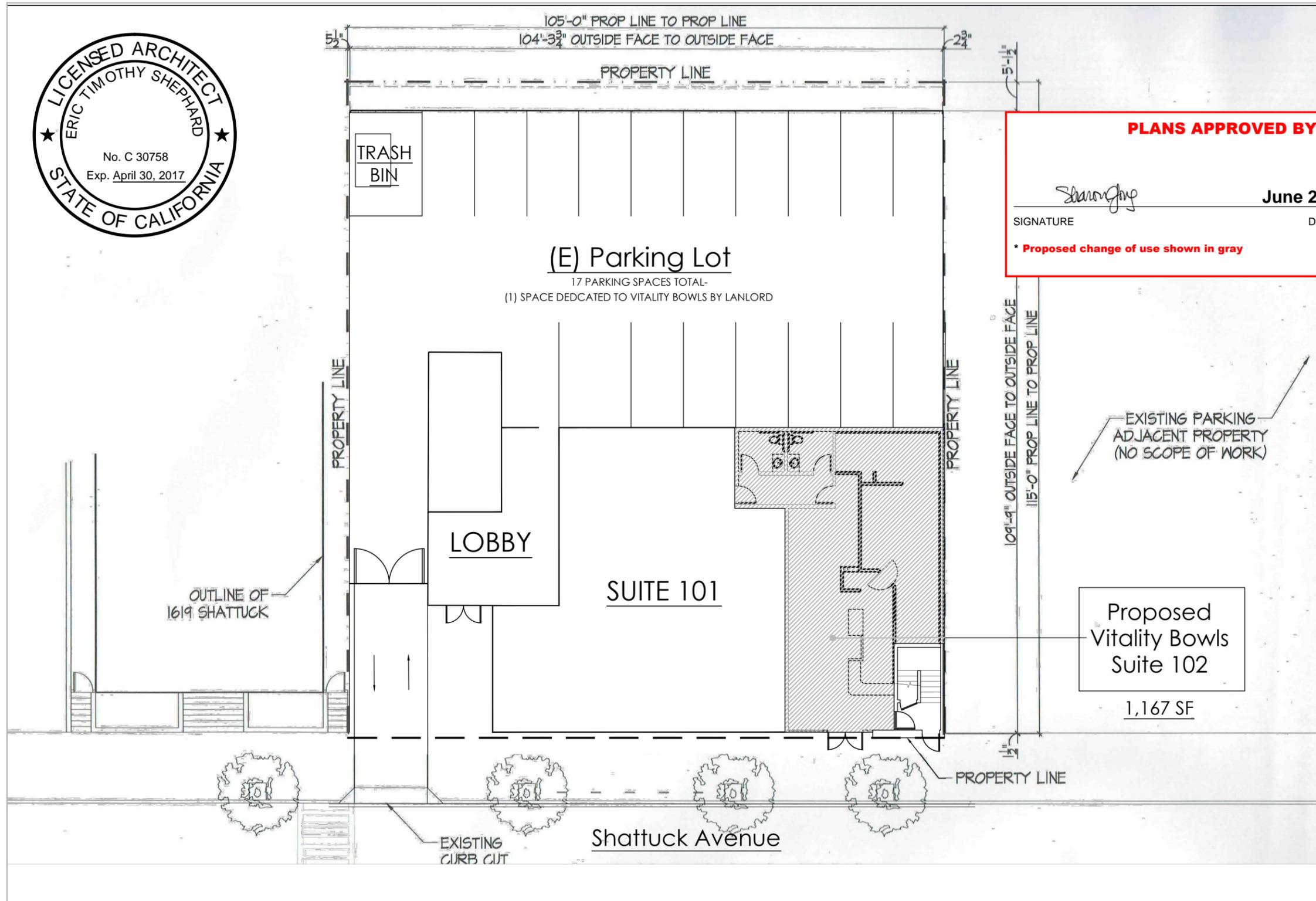
(These requirements are in addition to any other requirements under the City's Building, Health or Fire Codes or by agencies such as the Alcoholic Beverage Control Department of the State of California. The applicant is responsible for contacting these and other departments and agencies to identify and secure all applicable permits and licenses).

27. The approved floor plan, including the number of seats, shall be followed and the operation shall be conducted as presented to the Zoning Officer. 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 **8:00 a.m. to 8:00 p.m., daily**. Hours of operation refer to arrival of the first patron and departure of the last patron.
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 above and to the east of the restaurant shall be installed prior to issuance of an Occupancy Permit.

32. 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.
33. 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.
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 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.
37. 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.



Prepared by: Sharon Gong
For Greg Powell, Principal Planner



PLANS APPROVED BY

Sharon G... **June 22, 2017**
SIGNATURE DATE

* Proposed change of use shown in gray

ERIC SHEPARD ARCHITECTS
320 SYCAMORE VALLEY RD. WEST
DANVILLE, CA 94526
(925) 803 - 1000

Existing Site Plan

Scale = 1/16" = 1'-0"
Feb 22, 2017

VITALITY BOWLS
1625 SHATTUCK AVE.
SUITE 102
BERKELEY, CA

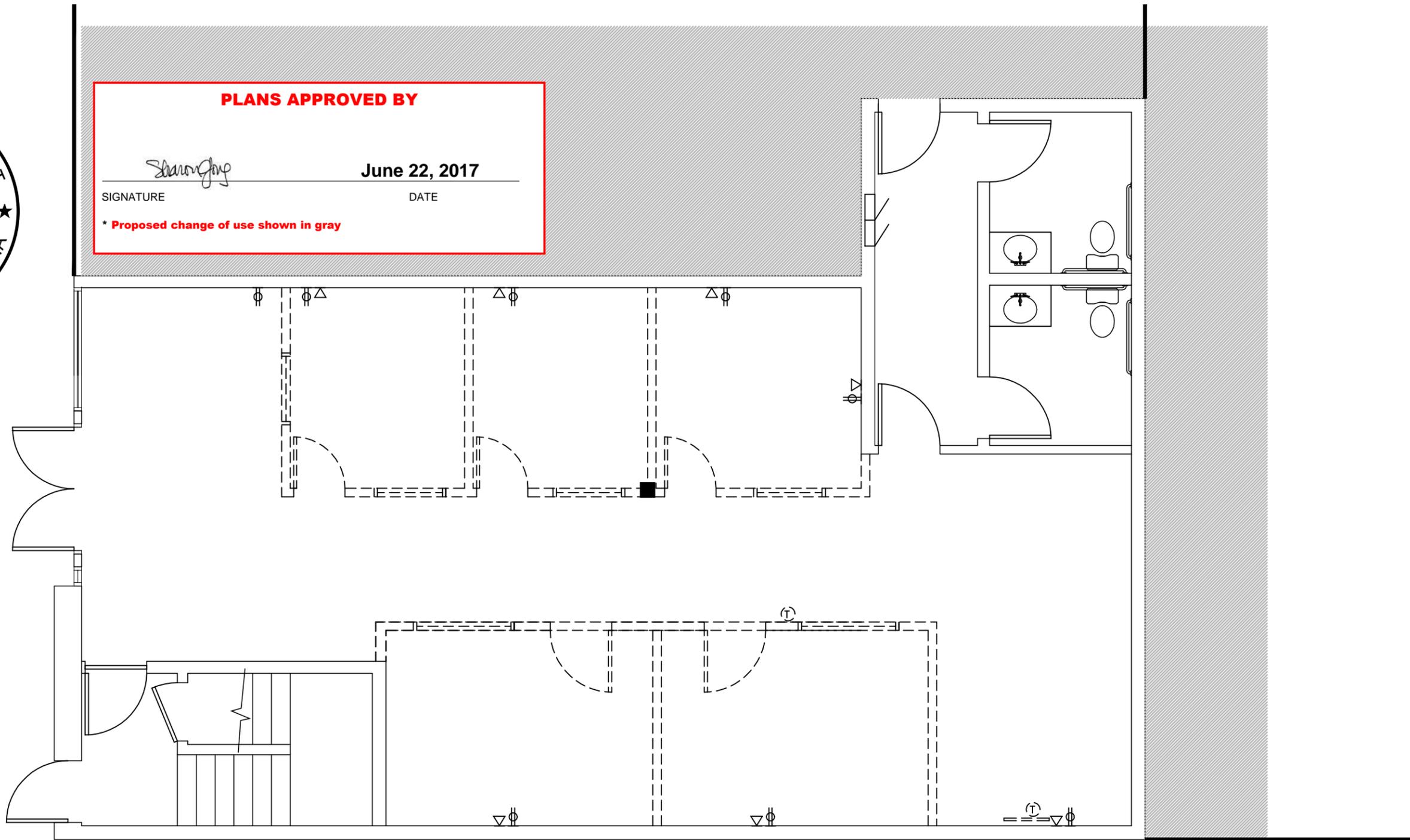


PLANS APPROVED BY

Eric Shephard **June 22, 2017**

SIGNATURE DATE

* Proposed change of use shown in gray



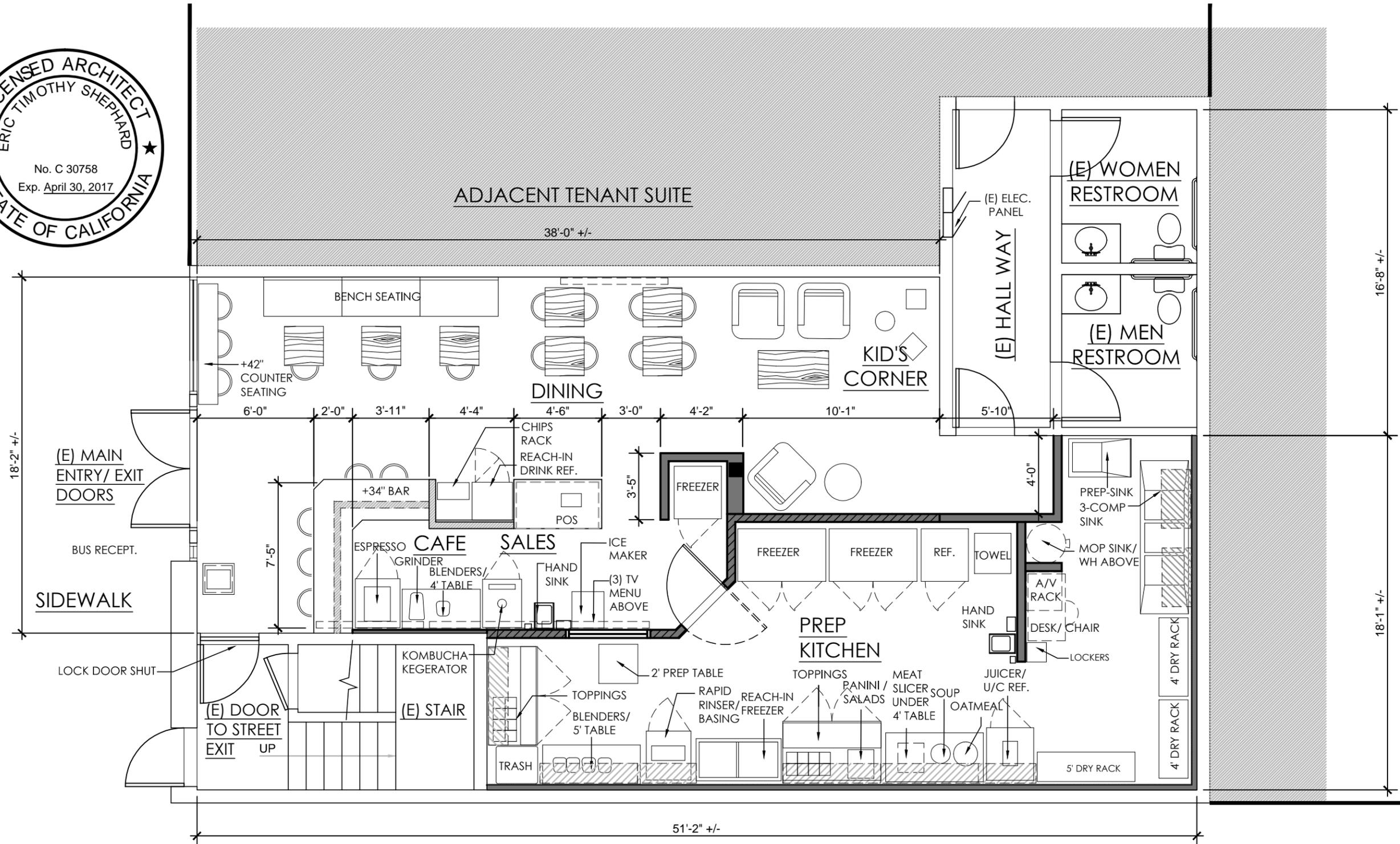
==== (E) TO BE DEMOLISHED
===== (E) TO REMAIN

Demolition Plan

Scale = 3/16"=1'-0"
Feb 22, 2017

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DANVILLE, CA 94526
(925) 803 - 1000

VITALITY BOWLS
1625 SHATTUCK AVE.
SUITE 102
BERKELEY, CA



(E) PARKING LOT

FLOOR PLAN

Scale = 3/16" = 1'-0"
Feb 22, 2017

PLANS APPROVED BY

Sharon Gao June 22, 2017

SIGNATURE DATE

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