



Z O N I N G A D J U S T M E N T S B O A R D S T A F F R E P O R T

FOR BOARD ACTION
JUNE 11, 2009

1854-78 Euclid Avenue

Use Permit #09-1000012 to renovate a building façade, partially demolish and reconfigure existing mezzanine areas, combine two storefronts into one, establish a 2,308-sq. ft. Quick Service Restaurant, and reduce the number of required parking spaces for the change-of-use from one to zero. (C-N, FC)

I. Application Basics

A. Zoning Permits Required:

- Administrative Use Permit, under BMC Section 23E.12.130 to reduce the number of required parking spaces for a change-of-use;
- Administrative Use Permit, under BMC Section 23E.40.050.B, to convert existing commercial floor area;
- Use Permit, under BMC Section 23E.40.030, to establish a Quick Service restaurant.

B. CEQA Determination: Categorically exempt from environmental review pursuant to Section 15301 of the CEQA Guidelines (“Existing Facilities”).

C. Parties Involved:

- Applicant The Bay Architects, 1840b Alcatraz Avenue, Berkeley, CA 94703
- Property Owner John Gordon, 2091 Rose Street, Berkeley, CA 94709

Figure 1: Vicinity Map

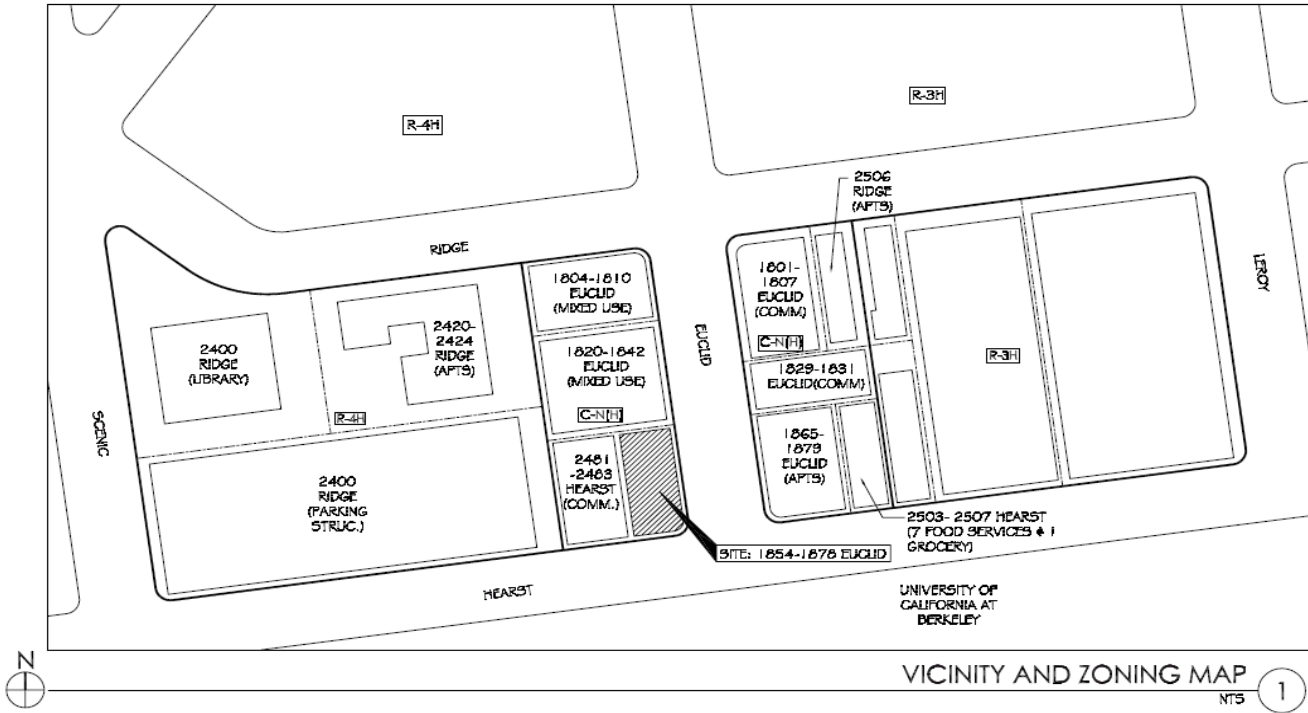


Figure 2: Site Plan

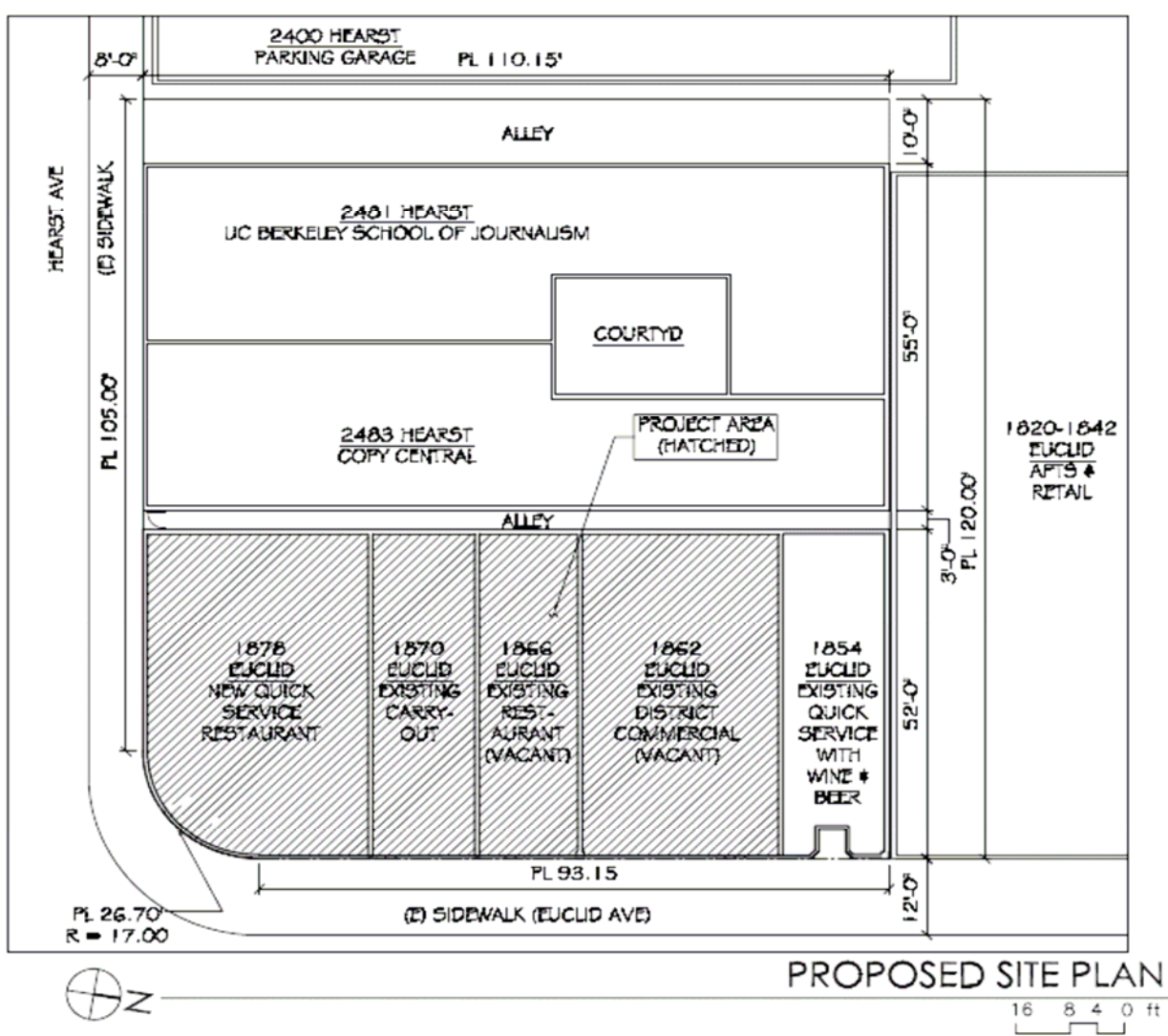


Table 1: Land Use Information

Location		Existing Use	Zoning District	General Plan Designation
Subject Property		Commercial: retail and food service	C-N (H)	Neighborhood Commercial
Surrounding Properties	North	Commercial: retail and food service	C-N (H)	Neighborhood Commercial
	South	UC Berkeley Campus	R-5	Open Space, Institutional
	East	Commercial: copy shop and office	R-4 (H)	Neighborhood Commercial
	West	Mixed Use: retail and residential	C-N (H)	High Density Residential

Table 2: Special Characteristics

Characteristic	Applies to Project?	Explanation
Alcohol Sales/Service	Yes/No.	The existing retail bakery has an inactive off-sale beer and wine entitlement, however there are no alcoholic beverage sales or service proposed for the new Quick Service restaurant.

Table 3: Project Chronology

Date	Action
February 3, 2009	Application submitted
March 3, 2009	Application deemed complete
March 26, 2009	Public hearing notices mailed/posted
April 9, 2009	ZAB hearing - Continued
May, 28, 2009	Public hearing courtesy reminders mailed/posted
June 3, 2009	PSA deadline ¹
June 11, 2009	ZAB hearing

1. Project must be approved or denied within 60 days after being deemed complete if exempt from CEQA, or 60 days after adoption of a negative declaration, or 180 days after adoption of an EIR (Govt. Code Section 65950).

Table 4: Demolition and Conversion Data

Standard BMC Sections 23E.40.070	Existing	Reduction (Partial mezzanine demolition)	Proposed
Gross Floor Area (sq. ft.)	3,943.5	-529	3414.5
1854, 1862, 1866 Euclid	No Changes.		
1870 Euclid	Ground Floor: 819 Mezzanine: 0 Total: 819	Ground Floor: 0 Mezzanine: +288	Ground Floor: 819 Mezzanine: 288 Total: 1,107
1876 Euclid	Ground Floor: 793 Mezzanine: 0 Total: 793	Ground Floor: +39 Mezzanine: -856	Ground Floor: 1,656 Mezzanine: 652 Total: 2,308
1878 Euclid	Ground Floor: 824 Mezzanine: 1,508 Total: 2,332		

Table 5: Change of Use Parking Requirement

Existing				Proposed				
Use	Parking Rate (Space:Floor Area)	Gross Floor Area (sq. ft.)	Parking Existing/Required	Use	Parking Rate (Space:Floor Area)	Gross Floor Area (sq. ft.)	Parking Existing/Required	Incremental Parking Required for a Change of Use
1870 Euclid Carry-out Food Service	1:500	819	0 / 2	1870 Euclid Carry-out Food Service	1:500	1,107	0 / 2	0
1876 Euclid Vacant (former retailer)	1:500	793	0 / 2	1876/78 Euclid Quick Service Restaurant	1:300	2,308	0 / 8	1*
1878 Euclid Retail Bakery	1:500	2,332	0 / 5					

* The applicant has requested an Administrative Use Permit under Section 23E.28.130-140 to reduce the parking requirement from 1 space to 0.

II. Project Setting

A. Neighborhood/Area Description:

The Northside commercial district is a small, Hillside shopping area north of the UC Berkeley campus. There are mature street trees on the 1800-block of Euclid, and many attractive historical buildings with large storefront windows and recessed entries at the ground level. The Hearst spaces include a few single-story commercial buildings, basement-level shops in a mixed-use building, and an open court-style commercial development.

The surrounding area includes the UC Berkeley campus to the south and west, large parking structures, and a high-density residential neighborhood to the north.

The area is well traveled by pedestrians and served by several AC Transit bus lines and UC shuttle service.

B. Background:

Potential Food Service Quotas for Northside Commercial District

The Planning Commission and City Council have considered Use Limitations for the food services in this district (see Attachment 5). In February 2004, the Planning Commission concluded that limitations were not necessary to address concerns about the over-concentration of food service uses because the Use Permit requirement for all food services would address the matter as a general non-detriment issue supported by General Plan policies to encourage commercial diversity. At that time, a Variance for a parking waiver was required with any Use Permit application for a Quick- or Full-service restaurant.

In March 2004 the Council chose to continue its study of potential food use quotas and directed the Commission to recommend regulatory text amendments that would implement a quota system for food uses in the area. Commission has not prepared this information and the referral item remains on their work plan.

Meanwhile, the Council adopted a Change of Use Parking Reduction ordinance in 2006 that allows the reduction or elimination required parking for a new food service in the Northside commercial district.

Most recent food service application at 1842 Euclid (2006)

The Board approved a Use Permit application for a new Carry Out food service at 1842 Euclid on November 9, 2006 with a vote of 8-1-0. At that meeting, staff recommended denial of this request because it appeared to be inconsistent with the Council's request to consider food service quotas for this area and would have intensified the concentration of food service uses in this district and reduced the diversity of uses in the district.

The Board's decision was appealed to City Council where it was upheld in a vote of 6-2-0.

C. Site Conditions:

The subject parcel is on the northwest corner of Hearst and Euclid. It is 13,000 sq. ft. in area and contains two single-story commercial buildings. The Hearst building is a former auto repair garage building that now contains an office for the UC School of Journalism and a copy shop.

The second building, 1854-78 Euclid, wraps the corner at Hearst. It has six tenant spaces and many are currently vacant, awaiting the renovation proposed with this application. Café Nefali, the existing café serving incidental beer and wine at 1854 Euclid, was established in 1992 under Use Permit (UP) #A1959. The space at 1862 is vacant and was last used as a retail art gallery. A restaurant at 1866 was established in 1989 with records that do not specify quick or full service. The unit at 1870 was established as a donut shop as early as 1989 and, therefore, is designated as a Carry Out Food Service. The last use of the vacant space at 1876 was a retail candy shop. The corner space, 1878, was established in 1982 as a retail bakery with a permit for off-sale beer and wine (UP #10195), though the alcoholic beverage sales have been inactive for more than ten years.

There is no on-site parking at this site.

III. Project Description

The Bay Architects propose to refurbish the subject building and reconfigure the existing storefronts to make them appealing for new tenants. Their program includes a façade renovation and combining two of the six commercial spaces into a single space, for a proposed total of 5 spaces. The new, larger space at the corner, approximately 2,308 sq. ft., is designed and intended for a Quick Service restaurant that would seat 44 patrons.

These interior changes would also eliminate approximately 529 sq. ft. of mezzanine area, redistribute the mezzanine level between two tenant spaces proportionally, and allow existing skylights to illuminate customer service areas.

Because there is no on-site parking available, the applicants also propose to reduce the number of required parking space for the new food service from one to zero by implementing transportation demand management measures to ensure that the new restaurant will not encourage increased vehicles trips to this area, and will draw its customers from the high-level of pedestrian activity in the area instead. The proposed measures are a discounted pedestrian and cyclist menu, and transit subsidies for employees (see Attachment 3).

IV. Community Discussion

A. Neighbor/Community Concerns:

Staff received no written comments of support or concern about this proposal while it was under review. Correspondence received after completion of this report is compiled in Attachment 6.

B. Committee Review:

The Design Review Committee Chairperson has recommended that the proposed façade changes be completed by staff-level review. Condition #14 requires DRSL approval prior to issuance of any building permit for this project (See Attachment 1).

This location does not require Landmarks Preservation Commission review.

V. Issues and Analysis

A. Key Issues:

1. Conversion of floor area: The proposal to convert two tenant spaces into one, and to reduce the associated mezzanine area, is found to be non-detrimental. The resulting tenant space of 2,307 sq. ft. would be prominently located on a well-traveled corner and would create an efficiently organized and attractive tenancy that would be reminiscent of the original configuration of the building.

This conversion could improve the economic vitality of the area while having little impact on the adjacent properties because these changes would occur within the building. Staff recommends that the Board consider approving the proposed conversion.

If the Board approves this request, then the applicant would be required to apply for, and obtain, a Use Permit under Section 23E.16.020 (Special Uses) to expand the area of alcoholic beverage sales prior to issuance of any building permit for the conversion; otherwise the Zoning Officer will officially lapse the inactive off-sale beer and wine permit in accordance with Section 23E.56.100.D (Exercise and Lapse of Permits). See Attachment 1, Conditions of Approval #9 and 13.

2. New Quick-service Restaurant: The proposal to establish a new Quick Service food use is inconsistent with the General Plan policies for neighborhood-serving shopping districts and, therefore, is inconsistent with the Purposes of this district (Section 23E.40.020.A – General Plan implementation).

General Plan Policy ED-4.B for *Neighborhood and Avenue Commercial Districts* prescribes the maintenance of “a diverse mix of commercial goods and services in the shopping districts” and goes on to recommends tools for achieving this directive. While the City has not implemented all of the actions recommended in

this policy, the discretionary review process represents the most direct and available means of achieving this goal.

At this time, food services occupy 53% of the storefronts in the Northside district; retailers occupy 15%, while offices and other services combined represent 14%. Six of the 33 storefronts are vacant (see Table 6, below). In addition to this application, there is another food service proposal pending at 1842 Euclid.

Table 6. Summary of Uses in the Northside commercial district.

Use	Number of storefronts	Percentage of total storefronts
Food service	18	53%
Retail/grocery	5	15
Personal service	3	9
Office	2	5
Vacancies	6	18

The predominance of a single use in this district does not reflect the General Plan policy directive to provide diverse goods and services that support basic needs of residents in the immediate area. Therefore, staff does not recommend the establishment of another food service use in this area because this action would worsen the imbalance of uses and will not lend to the creation of a diverse commercial district. Under these circumstances, staff believes this proposal would be detrimental to the general welfare of the surrounding area and the City as a whole.

For these reasons, staff recommends that the Board deny the request for a new food service use. This recommendation is consistent with previous staff recommendations for food service uses in this district. If the Board denies this request, the property owner will still retain the right to the existing retail bakery but could not offer seating in accordance with the definition of “bakery.”¹

3. Change-of-use parking reduction: As permitted under Section 23E.28.130 (Parking Requirements for Change of Use and Expansions of Building in C-Districts) the proposed change of use would be eligible for a reduction in the number of additional parking spaces required for the new Quick Service

¹ **Bakery**: An establishment which engages primarily in the sale of breads or other baked goods, whether baked on-site or at another location. A bakery as defined herein shall not be considered a food service establishment if: (1) no customer seating or other physical accommodations for on-site dining are provided; and (2) the breads and baked goods are not packaged for immediate consumption. Any establishment whose breads and baked goods are predominantly sold at retail from a different location or locations shall be deemed a wholesale and/or manufacturing use, subject to the regulations of the district in which it is located (Berkeley Municipal Code 23F.04.010).

restaurant. The subject property has no existing parking and the change of use would result in a requirement for one additional parking space.

This application would satisfy the two criteria for the proposed reduction as described in Section 23E.28.140 (Required Findings for Parking Reduction). As required in Paragraph B.4, the application proposes a food service establishment. As required in Paragraph 6, the applicants propose the following transportation demand management strategies: 1) reduced price menu for pedestrians and cyclist; and 2) transit subsidies for employees.

Staff finds that the proposed transportation demand management strategies would be appropriate for this use at this location where it is likely to serve pedestrians and cyclists and less likely to attract motorist. This finding is consistent with the Board and Council's findings for previous projects in the area.

While staff recognizes that the request for a parking reduction for the proposed Quick-serve restaurant would be permissible, staff does not recommend approval of the reduction because the restaurant would be detrimental to the City's goal of creating a diverse commercial district as discussed previously.

B. General and Area Plan Consistency:

General Plan Policy Analysis: The 2002 General Plan contains several policies applicable to the project, including the following:

1. Policy LU-7.B – Neighborhood Quality of Life: Carefully evaluate and monitor new and existing uses to minimize or eliminate negative impacts to adjacent residential uses.
2. Policy LU-26.E – Neighborhood Commercial Areas: Maintain and encourage a wide range of community and commercial services, including basic goods and services.

Staff Analysis for Items 1 and 2, above: Neighborhood commercial districts are designed for the purpose of providing a supply of convenience goods and services for residents of the immediate area. A district with an over-concentration of a single use lacks the variety of goods and services needed to effectively serve its residences.

In this case, the establishment of an additional food service use in a Neighborhood commercial district with a majority of these uses would be contrary to the purposes of the district and the City's policy goals. The persistence/exacerbation of this monotonous condition represents a negative impact to the local residents and a failure to achieve the City's policy directives.

3. Policy ED-4.B – Neighborhood and Avenue Commercial Districts:

Staff Analysis: See previous discussion in Item V-A.2 (Key Issues), above.

4. Policy UD-16–Context: The design and scale of new or remodeled buildings should respect the built environment in the area, particularly where the character of the built environment is largely defined by an aggregation of historically and architecturally significant buildings.

Staff Analysis: The proposed renovation of the subject building responds to this policy direction by maintaining the older building stock in the district and restoring this resource with consideration of its historic character and increasing the building's viable for the long term.

VI. Recommendation

- A. Because of the proposed conversion's consistency with the Zoning Ordinance and General Plan, and minimal impact on surrounding area, Staff recommends that the Zoning Adjustments Board:

APPROVE Administrative Use Permit #09-10000012 for a floor area conversion within the subject building pursuant to Section 23B.32.040; and

- B. Because of the proposed quick service restaurant's inconsistency with the Zoning Ordinance and General Plan, and potential impact on surrounding area, Staff recommends that the Zoning Adjustments Board:

DENY the Use Permit application to establish a new food service use in this district and the associated request for a parking reduction for the change of use pursuant to Section 23B.32.040.

Attachments:

1. Finding and Conditions
2. Project Plans and Photographs, received February 3, 2009
3. Applicant Statement, received February 3, 2009.
4. Notice of Public Hearing, May 28, 2009.
5. City Council Report, "Food Service Quotas for Northside Commercial District." March 23, 2004.
6. Correspondence received.

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