

EMERYVILLE PLANNING COMMISSION

STAFF REPORT

Agenda Date: April 25, 2024

Report Date: April 18, 2024

TO: Planning Commission

FROM: Alyssa Chung, Assistant Planner
Community Development Department

SUBJECT: **Total Wine & More Retail Store (UP24-001)**

LOCATION: 3938 Horton Street (APNs 007-0617-020 and -022)

APPLICANT : Steve Rawlings, Rawlings Consulting
26023 Jefferson Avenue, Suite D
Murrieta, CA 92562

OWNERS: HSE Associates, LLC
7978 Cooper Creek Boulevard, Suite 100
University Park, FL 34201

PROJECT DESCRIPTION: Consideration of a Major Conditional Use Permit to allow retail sale of beer, wine, and spirits (“Liquor Sales”) in a 25,000-square-foot space within an existing building at 3938 Horton Street.

GENERAL PLAN DESIGNATION: Mixed Use with Residential, Regional Retail Overlay

ZONING DISTRICT: Mixed Use with Residential (MUR), Regional Retail Overlay (RR), Pedestrian Priority (PP)

ENVIRONMENTAL STATUS: This project is exempt from environmental review under State CEQA Guidelines Section 15301, which applies to minor alterations to existing facilities and structures, and the “common sense exemption” at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment.

APPLICABLE ZONING CODE PROVISIONS	Section 9-2.353 Section 9-2.701(i)(2) Section 9-7.505	Commercial and Institutional Use Types: Retail – Liquor Sales Uses of Special Concern Conditional Use Permits: Findings
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RECOMMENDED COMMISSION ACTION: 1. Open public hearing and take testimony regarding the proposed project.
2. Close public hearing and consider Staff Report and Resolution.
3. Adopt Resolution CPC No. UP24-001 approving the project.

BACKGROUND:

The project site is located at 3938 Horton Street, on two parcels totaling 2.7 acres; the northern parcel is in Emeryville and the southern parcel is in Oakland. The site is currently developed with a 44,281-square-foot building and approximately 244 surface parking spaces serving the larger East Bay Bridge Center. It is generally bounded by 40th Street to the north; Hollis Street to the east; Horton Street to the west; and Mandela Parkway to the south.

Uses within East Bay Bridge Center are predominantly large, region-serving retail uses such as Target, Best Buy, Office Depot, Home Depot, and Safeway. The existing building on the project site has historically been occupied by businesses of a similar scale and character, including Decathlon sporting goods and Toys “R” Us. East Bay Bridge Center also includes the Bridgecourt apartment complex located east of Hollis Street, which contains 220 units. Other nearby residences include Watermark assisted living and Icon at Park apartments (both north of 40th Street) and the Besler condominiums (east of Hollis Street).

East Bay Bridge Center was originally approved by a special Joint Planning Authority consisting of Planning Commissioners and City Council members from Emeryville and Oakland. As established by a Memorandum of Understanding between both Cities and dated July 6, 1992, the City of Emeryville is responsible for conducting Planning and Building permit review for any buildings that are located entirely or partially in Emeryville.

PROJECT PROPOSAL:

The project would use a 25,000-square-foot space within the existing building at 3938 Horton Street to establish a new retail business, Total Wine & More, for the sale of beer, wine, and spirits (“Liquor Sales”). This principal use would be accompanied by accessory tasting and educational facilities, as well as online order and delivery services.

Approximately 19,706 square feet will be used for retail purposes; 888 square feet will be used as a separate classroom space; and the remaining 4,405 square feet will be used for storage and distribution. Total Wine & More will maintain and make improvements to the existing bollards and bicycle parking racks and will not make changes to the existing surface parking or landscaping onsite. Any significant exterior modifications to the building, including new signage, will be subject to separate design review.

Total Wine & More will operate from 8:00 a.m. to 10:00 p.m. on Monday through Saturday, and 8:00 a.m. to 9:00 p.m. on Sunday. The proposed use anticipates five major deliveries and four smaller deliveries to the site each week, with the highest frequency on Thursdays and Fridays. All loading will occur off-street within the two existing loading spaces on the east side of the building.

Total Wine & More would offer wine education classes for up to 35 attendees held in a separate classroom space. Classes would typically occur once or twice per month, on weekday evenings or weekend afternoons and require prior reservation to attend. In addition, Total Wine & More would establish one designated beer-tasting area and one wine-tasting area on the sales floor. The tasting areas would be demarcated by a stanchioned barrier and accommodate up to five (5) customers at one time. Both the classes and tastings are subject to the requirements of State law as well as additional licensing requirements from the State Department of Alcoholic Beverage Control (ABC), as described below.

The proposed use will require Type 21, 42, and 86 Licenses from ABC. The Type 21 License will permit the retail sale of beer, wine and distilled spirits. The Type 42 and 86 Licenses will permit on-site consumption of beer and wine (for tastings) and instructional tastings on the site, respectively.

Under State Business and Professions Code Section 23958, ABC must deny the licenses if their issuance would create a “law enforcement problem” or “undue concentration of licenses”. Business and Professions Code Section 23958.4(b) provides that, notwithstanding the “undue concentration of licenses” in Emeryville, ABC will issue the Type 21 and Type 42 License if the governing body (i.e. the City Council) determines that the public convenience or necessity would be served by the issuance of the license (“Finding of Public Convenience or Necessity”). The applicant has requested a Finding of Public Convenience or Necessity for the Type 21 and 42 licenses by Total Wine & More. This request will be considered by the City Council on May 21, 2024, contingent upon the Planning Commission’s approval of the conditional use permit for the “Liquor Sales” use.

CONFORMITY TO PLANNING REGULATIONS:

Pursuant to Planning Regulations Section 9-2.353(b), the proposed Total Wine & More use is classified as “Retail: Liquor Sales”, which is considered a “Use of Special Concern” under Section 9-2.701(i)(2). The project site falls within the Mixed Use with Residential (MUR) zoning district where Liquor Sales are allowed with a Conditional Use Permit. Because it is considered a Use of Special Concern, it requires a Major Conditional Use Permit from the Planning Commission.

In order to approve this application, the Conditional Use Permit Findings at Section 9-7.505 must be made. Staff believes that these findings can be made as described below:

1. The proposed use is consistent with the General Plan.

The General Plan Land Use Classification for the property is Mixed Use with Residential with a Regional Retail Overlay. The proposed “Liquor Sales” use is consistent with these classifications as well as the following General Plan Land Use goals and policies:

- LU-G-1** *An overall balance of uses—Employment, residential, cultural, destination and local retail—as well as a full range of amenities and services necessary to support a vibrant community.*
- LU-G-11** *A wide range of economic activity—An economy that capitalizes on Emeryville’s central location, strengthens the City’s tax base, and ensures that Emeryville has adequate fiscal resources to fund high quality public services for its residents and businesses.*
- LU-G-13** *Local employment opportunities -- encourage establishment of businesses that will employ and serve Emeryville residents.*
- LU-P-5** *Retail uses will be concentrated in areas with Neighborhood or Regional Retail overlays, near neighborhood centers, and in the Emeryville Marketplace.*
- LU-P-26** *A mix of retail that draws local customers as well as patrons from the greater Bay Area shall be encouraged.*
- LU-P-27** *A diversity of commercial uses to insulate the City’s fiscal base from downturns in particular markets shall be maintained.*

Total Wine & More will establish a new retail store of compatible scale and character as existing uses in East Bay Bridge Center, within the Regional Retail Overlay. The proposed use would occupy a vacant building; create new employment opportunities; and support economic activity within a key commercial area of the city.

2. The location, size, coverage, density, design and operating characteristics of the proposed use will be compatible with, and will not adversely affect, the surrounding area, including neighborhood character, street design and capacity, safety, noise, and lighting.

The location, size, coverage, density, design, and operating characteristics of the proposed use are compatible with the surrounding area, including neighborhood character, street design and capacity, safety, noise, and lighting. The proposed use will not alter the existing building footprint or increase square footage and will use the existing surface parking and off-street loading areas.

Total Wine & More would operate from 8:00 am to 10:00 pm, Monday through Saturday, and 8:00 am to 9:00 pm on Sunday. The existing building is located within the East Bay Bridge Shopping Center and surrounded by regional retail uses

of similar intensity and scale, including Target, Best Buy, Office Depot, Michaels, and Home Depot.

3. The proposed use is consistent with the capability of the water supply, wastewater disposal, fire, and police systems to operate adequately and cost effectively.

The proposed use is consistent with the capability of the water supply, wastewater disposal, fire, and police systems to operate adequately because it will make use of an existing building and will not create an increased burden on existing utilities and resources.

4. The proposed use at its proposed location will provide a service or facility that will contribute to the general well-being of the surrounding neighborhood or community.

The proposed use contributes to the general well-being of the surrounding community because it will create new employment and retail opportunities on a local and regional scale. In addition, Total Wine & More will occupy a building that is currently vacant, supporting increased activity in an underutilized area of the East Bay Bridge Center.

5. The proposed use complies with all applicable standards and requirements of these planning regulations.

The proposed Liquor Sales use is in the Mixed Use with Residential zone with Regional Retail (RR) and Pedestrian Priority (PP) Overlays. The proposed use complies with the Planning Regulations and all applicable codes.

Per Table 9-4.404 of the Planning Regulations, the estimated parking demand is three spaces per 1,000 square feet of Liquor Sales use. There are no parking minimums and the maximum parking allowed is 10 percent more than the estimated demand. Therefore, the required parking range for the project is 0 to 83. Approximately 244 parking spaces exist on the site, which are shared between 3938 Horton Street and other businesses in the East Bay Bridge Shopping Center. The proposed use would not provide any additional parking spaces.

Per Section 9-4.408(e) and (f), a minimum of eight long-term and eight short-term bicycle parking spaces are required. The project will maintain 10 existing, circle-shaped bicycles racks (20 spaces) located along the southern building face and replace an additional 4 bicycle racks with rectangular racks that meet City design standards (8 spaces). The project will also provide 8 long-term bicycle parking spaces within the building. Per Condition of Approval B.1, all bicycle parking will be required to meet the specifications outlined in Section 9-4.408.

In addition, Section 9-4.409 of the Planning Regulations requires two medium, off-street loading spaces. The proposed use would retain the existing, off-street loading bay with two spaces and therefore meet this requirement.

DEVELOPMENT COORDINATION COMMITTEE (DCC) (STAFF) COMMENTS:

The project was reviewed at the March 13, 2024 DCC meeting where Building, Fire, Public Works, and Police staff were present. Fire review staff asked for clarification on whether alcohol would be racked on shelves taller than 12 feet or stored in barrels, which could pose additional fire considerations. The Police Department asked for clarification regarding onsite security measures.

The applicant responded with the following information:

- The maximum height of shelving will be 10 feet;
- No barrel storage will be provided onsite; and
- Security measures will include onsite cameras, secure storage of more expensive products, and employee training.

ENVIRONMENTAL DETERMINATION:

This project is exempt from environmental review under State CEQA Guidelines Section 15301, which applies to minor alterations to existing facilities and structures. The project will be located within an existing structure and only involves minor alterations to existing bollards and bicycle parking racks. Any exterior modifications to the building, including new signage, will be subject to separate design review and separate CEQA approval. Further, this project is exempt from environmental review pursuant to the “common sense exemption” at State CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment. No new construction is authorized by approval of this project.

RECOMMENDATION:

Staff recommends approval of the Major Conditional Use Permit subject to the attached conditions of approval.

Attachments:

[Draft Resolution](#)
[Conditions of Approval](#)
[Proposed Plans](#)

RESOLUTION CPC NO. UP24-001

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF EMERYVILLE APPROVING A MAJOR CONDITIONAL USE PERMIT FOR ESTABLISHMENT OF TOTAL WINE & MORE RETAIL STORE THAT WILL INVOLVE SALE OF LIQUOR FOR OFF-SITE CONSUMPTION LOCATED AT 3938 HORTON STREET (APNs: 007-0617-020 AND 007-0617-022)

WHEREAS, on February 8, 2024, California Fine Wines, LLC submitted an application for a Major Conditional Use Permit to allow the sale of liquor for off-site consumption (“**Project**”) in a 25,000-square-foot space within an existing building at 3938 Horton Street (“**Property**”); and

WHEREAS, the Project includes retail sale of beer, wine and spirits (“Liquor Sales”) as well as accessory tasting and educational facilities; and

WHEREAS, the Emeryville Planning Commission held a duly and properly noticed public hearing on the project on April 25, 2024 to solicit public comments and review and consider the application; and

WHEREAS, the Emeryville Planning Commission has reviewed and considered the staff report and attachments thereto, the plans, all public comments, and the proposed Project at the Property subject to the conditions and requirements set forth in Exhibit A attached to this Resolution and the applicable standards of the Emeryville Planning Regulations (“the Record”); now, therefore, be it

RESOLVED, that the Planning Commission of the City of Emeryville hereby finds that the Project is exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15301, which applies to minor alterations to existing facilities involving negligible expansion of use, because the project will be located within an existing structure and only involves minor alterations to existing bollards and bicycle parking racks; further, the project is also exempt from environmental review pursuant to the “common sense exemption” at Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the proposal may have a significant effect on the environment because no new construction is authorized by its approval; and be it further

RESOLVED, that in approving **UP24-001** the Planning Commission makes the following findings as required by Emeryville Planning Regulations:

Conditional Use Permit Findings Pursuant to Section 9-7.505:

1. The proposed use is consistent with the General Plan.

The General Plan Land Use Classification for the property is Mixed Use with Residential with a Regional Retail Overlay. The proposed “Liquor Sales” use is consistent with these classifications as well as the following General Plan Land Use goals and policies:

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LU-G-1 An overall balance of uses—Employment, residential, cultural, destination and local retail—as well as a full range of amenities and services necessary to support a vibrant community.

LU-G-11 A wide range of economic activity—An economy that capitalizes on Emeryville’s central location, strengthens the City’s tax base, and ensures that Emeryville has adequate fiscal resources to fund high quality public services for its residents and businesses.

LU-G-13 Local employment opportunities -- encourage establishment of businesses that will employ and serve Emeryville residents.

LU-P-5 Retail uses will be concentrated in areas with Neighborhood or Regional Retail overlays, near neighborhood centers, and in the Emeryville Marketplace.

LU-P-26 A mix of retail that draws local customers as well as patrons from the greater Bay Area shall be encouraged.

LU-P-27 A diversity of commercial uses to insulate the City’s fiscal base from downturns in particular markets shall be maintained.

Total Wine & More will establish a new retail store of compatible scale and character as existing uses in East Bay Bridge Center, within the Regional Retail Overlay. The proposed use would occupy a vacant building; create new employment opportunities; and support economic activity within a key commercial area of the city.

2. The location, size, coverage, density, design and operating characteristics of the proposed use will be compatible with, and will not adversely affect, the surrounding area, including neighborhood character, street design and capacity, safety, noise and lighting.

**The location, size, coverage, density, design, and operating characteristics of the proposed use are compatible with the surrounding area, including neighborhood character, street design and capacity, safety, noise, and lighting. The proposed use will not alter the existing building footprint or increase square footage and will use the existing surface parking and off-street loading areas.
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Total Wine & More would operate from 8:00 am to 10:00 pm, Monday through Saturday, and 8:00 am to 9:00 pm on Sunday. The existing building is located within the East Bay Bridge Shopping Center and surrounded by regional retail uses of similar intensity and scale, including Target, Best Buy, Office Depot, Michaels, and Home Depot.

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Total Wine & More Retail Store, 3938 Horton Street
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3. The proposed use is consistent with the capability of the water supply, wastewater disposal, fire, and police systems to operate adequately and cost effectively.

The proposed use is consistent with the capability of the water supply, wastewater disposal, fire, and police systems to operate adequately because it will make use of an existing building and will not create an increased burden on existing utilities and resources.

4. The proposed use at its proposed location will provide a service or facility that will contribute to the general well-being of the surrounding neighborhood or community.

The proposed use contributes to the general well-being of the surrounding community because it will create new employment and retail opportunities on a local and regional scale. In addition, Total Wine & More will occupy a building that is currently vacant, supporting increased activity in an underutilized area of the East Bay Bridge Center.

5. The proposed use complies with all applicable standards and requirements of these Planning Regulations.

The proposed Liquor Sales use is in the Mixed Use with Residential zone with Regional Retail (RR) and Pedestrian Priority (PP) Overlays. The proposed use complies with the Planning Regulations and all applicable codes.

Per Table 9-4.404 of the Planning Regulations, the estimated parking demand is three spaces per 1,000 square feet of Liquor Sales use. There are no parking minimums and the maximum parking allowed is 10 percent more than the estimated demand. Therefore, the required parking range for the project is 0 to 83. Approximately 244 parking spaces exist on the site, which are shared between 3938 Horton Street and other businesses in the East Bay Bridge Shopping Center. The proposed use would not provide any additional parking spaces.

Per Section 9-4.408(e) and (f), a minimum of eight long-term and eight short-term bicycle parking spaces are required. The project will maintain 10 existing, circle-shaped bicycles racks (20 spaces) located along the southern building face and replace an additional 4 bicycle racks with rectangular racks that meet City design standards (8 spaces). The project will also provide 8 long-term bicycle parking spaces within the building. Per Condition of Approval B.1, all bicycle parking will be required to meet the specifications outlined in Section 9-4.408.

In addition, Section 9-4.409 of the Planning Regulations requires two medium, off-street loading spaces. The proposed use would retain the existing, off-street loading bay with two spaces and therefore meet this requirement.

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Total Wine & More Retail Store, 3938 Horton Street
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and be it further

RESOLVED, that the Planning Commission hereby approves **UP24-001** to establish retail liquor sales at 3938 Horton Street, as submitted on February 8, 2024 and revised on April 1, 2024, subject to the Conditions of Approval attached hereto and the applicable standards of the City of Emeryville Municipal Code.

APPROVED by the Planning Commission of the City of Emeryville at a regular meeting held on Thursday, April 25, 2024, by the following votes:

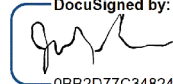
AYES: (4) Chafe, Henmi, Martinez, Wax

NOES: 0

ABSTAINED: 0

RECUSED: (1) Ghizzoni

ABSENT: (1) Dram

DocuSigned by:

0BB2D77C34824BC...

CHAIRPERSON

APPROVED AS TO FORM:



SPECIAL COUNSEL


RECORDING SECRETARY

	APPROVED	
	CITY OF EMERYVILLE PLANNING DIVISION	
	<i>Chadrick Smalley</i>	4/26/24
	(Signature)	(Date)
	Director Community Development	
	(Title)	
	UP24-001	
	File No. (if applicable)	

CONDITIONS OF APPROVAL

Total Wine & More Retail Store
3938 Horton Street (APNs 007-0617-020 and 007-0617-022)
File Number UP24-001: Exhibit A. Conditions of Approval
April 25, 2024

A. General Conditions

1. Project. A Conditional Use Permit (“CUP”) for a new retail business that will sell wine, beer and spirits (“Liquor Sales”) for off-site consumption (“**Project**”) located at 3938 Horton Street, Emeryville, CA (APNs 007-0617-020 and 007-0617-022) (“Property”) in accordance with the revised application received on April 1, 2024, and as modified by these Conditions of Approval.

Any additional uses or design modifications, including signs, will require a separate application and approval.

2. Approval Effectiveness and Duration. Pursuant to Section 9-7.213 of the Emeryville Municipal Code, this permit shall automatically expire if an application for a building permit has not been filed and fees have not been paid within one year from the date of this approval, or, if a building permit is not required, a good faith effort to commence work upon the use has not been made, as determined by the Community Development Director in his/her sole discretion. Time extensions not exceeding one year may be requested by applying to the Planning Commission for such extension period prior to the expiration date of the permit. In no case shall the expiration period extend more than three years from the date of this approval. After that time, a new application shall be required.
3. Compliance with State Law and State Regulations. Applicant’s operations must comply with all applicable state laws and state regulations. Failure to comply with state laws or state regulations, which includes, but is not limited to, failure to

maintain relevant and applicable state licenses, shall constitute a violation of this CUP, and constitute grounds for revocation of the CUP.

4. Performance Standards. The Project is subject to all applicable provisions of the Emeryville Municipal Code including, but not limited to, the Planning Regulations in Title 9. Specifically, the Project shall comply with applicable performance standards outlined in Article 11, Chapter 5 of the Planning Regulations (Performance Standards).
5. Maintenance and Graffiti Removal. The site and improvements shall be well maintained and kept free of litter, debris, weeds and graffiti. Any graffiti shall be removed within 72 hours of discovery in a manner which retains the existing color and texture of the original wall or fence as most practically feasible.
6. Loading. All loading must take place on-site. No loading may take place in the street or block any sidewalk.
7. Damage to Public Facilities. Applicant shall be deemed responsible for any damage to public improvements that occurs during construction and shall repair such damage, including but not limited to sidewalk repair, street slurry seal or street reconstruction, at its sole expense and to the satisfaction of the Public Works Director.
8. Maintenance of Street Trees and other vegetation in the Public Right of Way. Applicant, its successors and assigns, shall maintain all landscaping improvements in the public right of way abutting the Property, in a healthy, growing condition at all times consistent with the Bay Friendly Landscaping Practices as described by StopWaste.org's Bay Friendly Landscaping program. Applicant shall replace all landscaping that dies with the same living species, or substitutes approved by the Public Works Director after obtaining an encroachment permit from the City. Landscaping work shall comply with the provisions of Chapter 10 of Title 7 of the Emeryville Municipal Code.
9. Indemnification. Applicant, its assignees, and successors-in-interest shall defend, hold harmless, and indemnify the City of Emeryville, the Bay Cities Joint Powers Insurance Authority and their respective officials, officers, agents and employees (the Indemnified Parties) against all claims, demands, and judgments or other forms of legal and or equitable relief, which may or shall result from: 1) any legal challenge or referendum filed and prosecuted to overturn, set-aside, stay or otherwise rescind any or all final project or zoning approvals, analysis under the California Environmental Quality Act or granting of any permit issued in accordance with the Project; or 2) Applicant's design, construction and/or

maintenance of the public improvements set forth in the final building plans. Applicant shall pay for all direct and indirect costs associated with any action herein. Direct and indirect costs as used herein shall mean but not be limited to attorney's fees, expert witness fees, and court costs including, without limitation, City Attorney time and overhead costs and other City Staff overhead costs and normal day-to-day business expenses incurred by the City including, but not limited to, any and all costs which may be incurred by the City in conducting an election as a result of a referendum filed to challenge the project approvals. The Indemnified Parties shall promptly notify the Applicant, its assignees, and successors-in-interest of any claim, demand, or legal actions that may create a claim for indemnification under this section and shall fully cooperate with Applicant, its assignees and successors-in-interest.

10. Trash, Recycling and Composting Facilities. Prior to the commencement of operations of the retail establishment, the Community Development Director and Public Works Director shall review and approve a Trash, Recycling and Composting Plan from the applicant.
 - a. Maintenance and Service: Trash, recycling and composting storage areas shall include adequate space for the maintenance and servicing of containers for all materials that are provided by local hauling companies. Sewer drains, fire sprinklers, enclosures, and roofing (if outdoors) shall be provided as per City standards.
 - b. Adequate Space for Trash, Recyclables and Compostables: The amount of space provided for the collection and storage of recyclable materials shall be at least as large as the amount of space provided for the collection and storage of trash materials and shall reflect the estimated volumes of trash and recyclable and compostable materials to be generated providing for the separate and dedicated containers for those materials with the goal of 25% or less of the total materials generated going to a landfill. An appropriately sized and designed area for wastes banned from regular trash containers such as electronics, fluorescent lamps and batteries shall be designated. Residential properties will also provide area for bulky item collection such as mattresses, furniture, tires and white goods.
 - c. Convenience and Accessibility: The recycling area shall be at least as accessible and convenient for tenants and collection vehicles as the trash collection and storage area. If chutes are planned then separate, properly labeled (as per City Standards) and dedicated chutes must be provided for each and every collected stream of materials - not just for trash (non-recyclable and non-compostable materials.) The trash and recycling

room(s) or areas shall be located on an exterior wall of the building (if indoors) with adequately sized door or gate access to the street through the wall so as to minimize distance for the collection vehicle personnel and eliminate temporary outdoor storage of containers on collection days. If the storage area is located outside, then it must be easily accessible by the collection vehicles. If the day-to-day-use trash and recycling area(s) cannot be located adjacent to the street, then service-day locations easily accessible by the collection vehicle staff must be provided in an area on-site as per city standards in enclosures completely screened and covered from off-site view by a solid fence or masonry wall at least six feet high and in harmony with the architecture of the building(s).

11. Construction Hours. Unless the City Council grants a waiver allowing different construction hours pursuant to Section 5-13.06 of the Emeryville Municipal Code, construction hours are 7:00 am to 6:00 pm, Monday – Friday, except that pile driving and similarly loud equipment, including but not limited to jack hammering, grading, compacting, dump trucks, generators, and chain saws shall be limited to 8:00 a.m. to 5:00 p.m., Monday through Friday.

B. Project-Specific Conditions

1. Bicycle Parking. The applicant shall provide a minimum of eight (8) short term bicycle parking spaces and eight (8) long term bicycle spaces in accordance with the specifications outlined in Section 9-4.408 of the Planning Regulations.
2. Building Permit. Building permits may be required. Contact Courtney Barrett of the Building Division at 510-506-4310 or cbarrett@emeryville.org for more information.



RECEIVED

4/1/2024

City of Emeryville
Planning Division

Total Wine & More
3938 Horton St., Ste. 100 Emeryville, CA
Project Description
2/7/24

Proposed Use: Permit to sell beer, wine, and distilled spirits for off-site consumption (ABC Type 21 License) and operate 3 separate tasting/education areas (ABC Type 42 and Type 86 Licenses) within one of the nation's largest specialty retailers, as well as a Finding of Public Convenience or Necessity for the ABC Type 21 and 42 Licenses.

Total Wine & More will be moving into an existing retail space in the shopping center, totaling 26,171 sq ft. The total parcel size is 5,938 sq. ft. 3.4 acres. No new construction is proposed except interior tenant improvements and exterior signage under separate permits.

Total Wine & More offers one of the largest assortments of wine and specialty spirits in the world. With over 8,000 different wines in the corporate inventory, customers come to Total Wine to find wines that are virtually impossible to find at groceries or drug store chains. Product can be ordered online and delivered to direct customers.

Store Hours of Operation:

Monday – Saturday: 8 am – 10 pm

Sunday: 8 am – 9 pm

Deliveries: Monday – Saturday: 7am to 6pm

Deliveries to Customers: 2x daily (times vary)

Security Measures:

Surveillance cameras are located throughout the sales area as well as storage area at the store. Video is stored for at last 30 days and Total Wine will cooperate with local law enforcement to make video available to assist with a criminal investigation.

Employees:

Overall Store Employees: 50 -60

Employees per Shift: 10 - 15

Employee Training:

All employees go through a comprehensive corporate training program for alcohol sales. Training includes looking for signs of intoxication, proper identification checking, procedures for dealing with various situations as well as general behavior observance training.

Wine Education Classes:

Total Wine & More is unique in that it offers consumer's education held in classroom with seating for 36. These classes are intended to be promotional events to enhance sales by giving consumers more insight into the products. Classes are taught by leading industry experts as well as the well- trained staff. Wine education classes require

customers make reservations to attend. The wine classes have themes such as “A Tour of Italy” that will include tastings as well as deep discussions into flavor and the history of the region and the varietal. The classes typically occur 1 to 2 per month and have set times in the evenings during the weekdays and afternoons on the weekends. Classes typically start at 7pm during the week and run 1 to 1.5 hours. Individual samples/tastings are served in approximately 1 oz sizes. The Wine Education Classroom would be licensed with a Type 42 license to allow Total Wine employees to serve the wine.

Product Tastings on Sales Floor

Each week, Total Wine will feature a limited number of tastings for certain wines, spirits, and beers, including local products from California. Total Wine will have designated areas on the sales floor that are exclusively for tasting and sampling products. These tasting areas are demarcated by a stanchioned barrier with a posted sign stating that only persons over the age of 21 may be inside the barrier whenever tastings occur. The areas can only accommodate 4 to 5 customers at a time. On-site tastings are conducted within specific locations shown on the floor plan submitted to Staff and can't be expanded or relocated without modification of the use permit and ABC license. Tastings are only available a few hours each week and on weekends. The ABC Type 42 license gives Total Wine and More employees the ability to conduct the tastings while the Type 86 allows only an employee of the manufacturer to conduct the tastings. Thus, Total Wine and More is requesting both a Type 42 and Type 86 license.

In order to participate in a tasting, Total Wine policy requires that all customers who appear to be 30 and under provide proper identification prior to sampling any product. Team members are also trained to detect customers in our store who may be under the influence of alcohol prior to participating in any samplings. Depending on the type of tasting (whether offered by Total Wine or a supplier) customers may also be charged a small fee for the sample in accordance with California alcohol tasting laws. This ensures that no minors consume alcohol because a) the customer's identification is verified prior to sampling; b) a customer must transact with a store associate in order to sample any product; and c) the sampling is supervised by a trained Total Wine employee at all times.

In addition, tasting cups are miniature in size, the pour sizes are measured to be no more than the permitted amount as set forth by California alcohol tasting laws, and a customer may not have more three samples per day, or as otherwise restricted by State Law

Special Training and Incentives to Prevent Sales to Minors

The business is deeply committed to preventing the consumption or sale of alcohol to minors and has strict age verification policies and procedures in place to prohibit such sales. See In order to ensure that its age verification policies are followed, Total Wine stores have established procedures and incentives that exceed the requirements of the law. For example, Total Wine requires all cashiers and those who serve samples at tasting tables and in the classroom to participate in its own “Minor Enforcement” training and pass a quiz on its minor policy. Team members are warned that any sale to a minor result in immediate termination. In order to enforce that policy employees are required to

request identification from anyone who appears to be under the age of 30. Cash registers include signs which read, “We Arrest Minors – We ID Under 30,” and employees wear buttons which alert customers to the fact that identification is requested from everyone who appears to be under the age of 30. Total Wine also utilizes a point-of-sale age-verification system. Additionally, store associates receive a financial reward every time he or she scans an ID or enters the age of a customer at the point-of-sale before scanning products: cents on the dollar if the customer is age 21 or older, and \$5.00 if the customer’s age is below 21.

Total Wine stores in California and elsewhere have had impressive success with these robust policies, which are considered to be unique in the industry and proprietary.

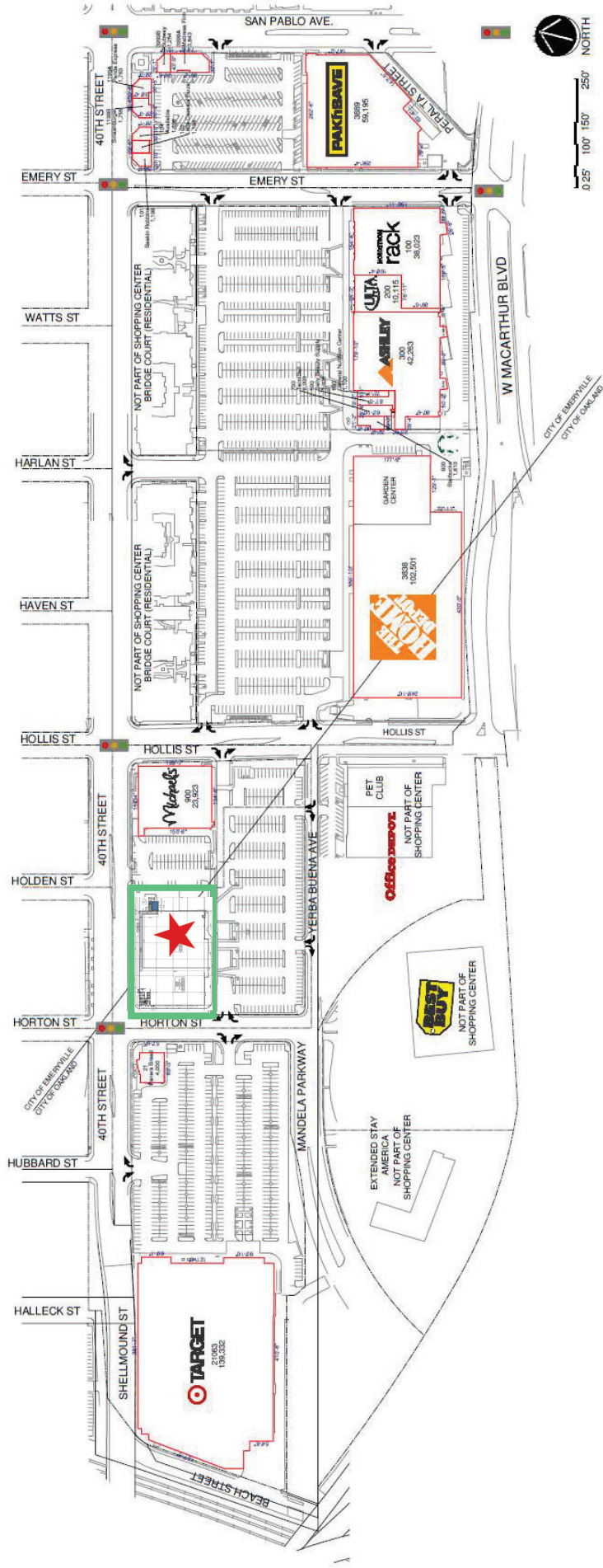


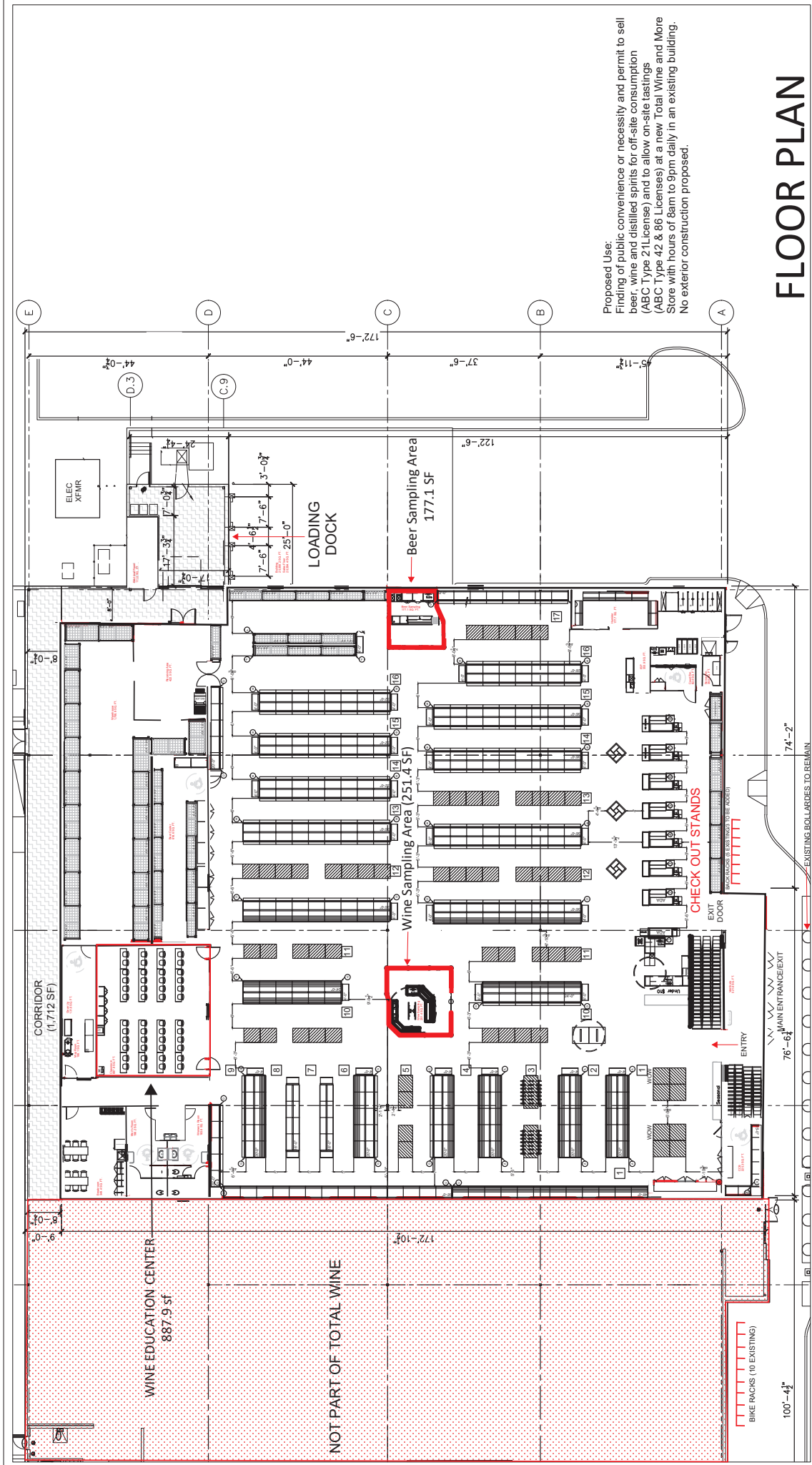
RECEIVED

4/1/2024

City of Emeryville
Planning Division

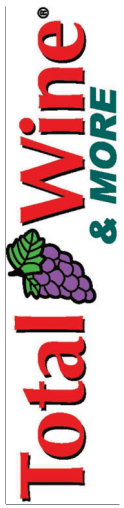
Site Plan





Proposed Use:
Finding of public convenience or necessity and permit to sell
beer, wine and distilled spirits for off-site consumption
(ABC Type 21 License) and to allow on-site tastings
(ABC Type 42 & 86 Licenses) at a new Total Wine and More
Store with hours of 8am to 9pm daily in an existing building.
No exterior construction proposed.

FLOOR PLAN



Plan Type:	Legal
Store #:	11XX
City:	EMERYVILLE
State:	CA

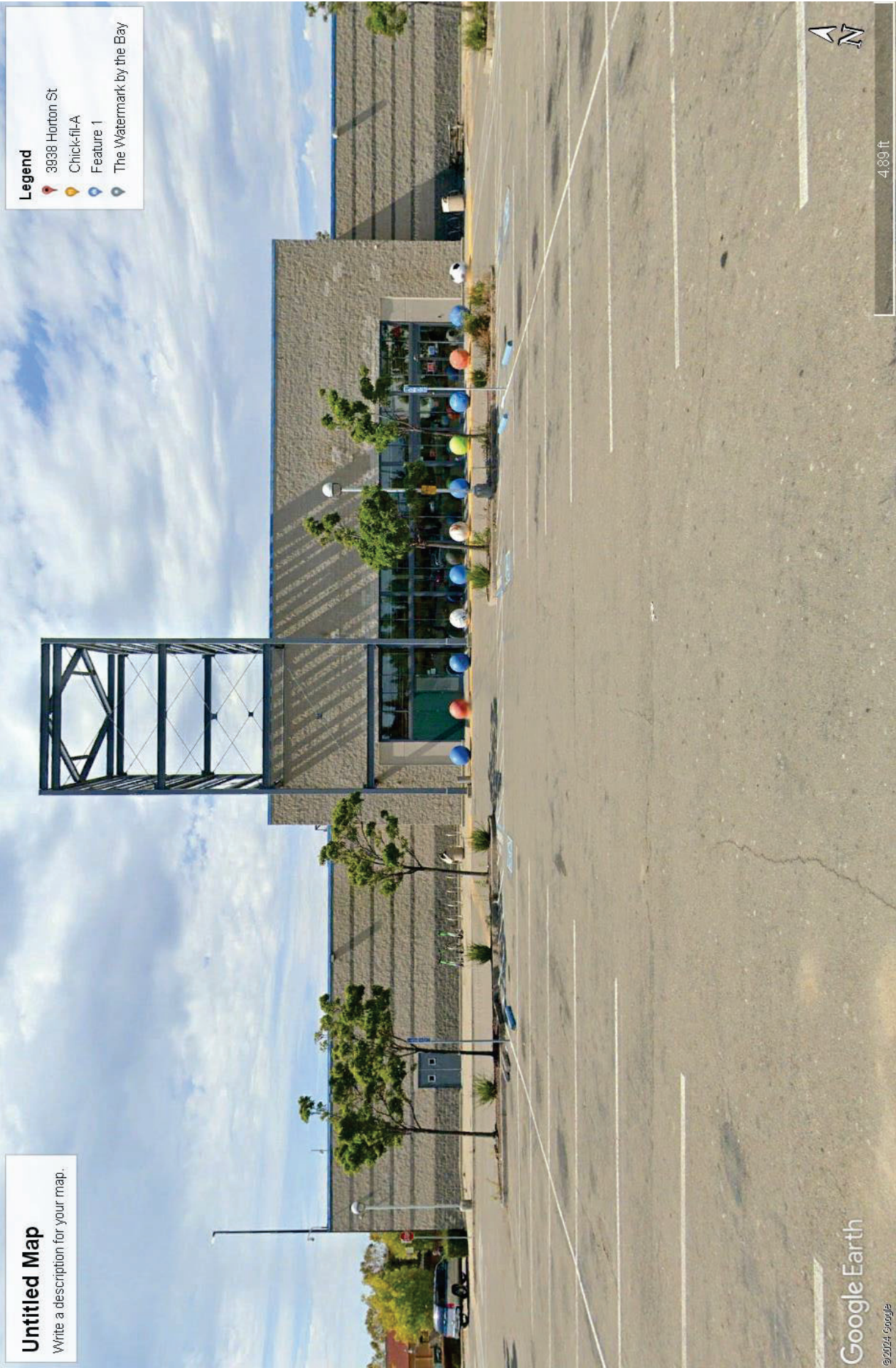
Address:	3938 Horton St., Ste. 100
Modified By:	KBerkheiser
Modified On:	12/5/23

Site Address	3938 Horton St., Ste. 100
	Emeryville, CA

General Building Information & Sampling Areas			
Building	25,000.2 SQ. FT.	Clearroom	887.91 SQ. FT.
Samplebar	20,594.4 SQ. FT.	Wine Sample	251.36 SQ. FT.
Warehouse	1,708.9 SQ. FT.	Beer Sample	177.16 SQ. FT.
Mezzanine	217.7 SQ. FT.	Total Sample	1,316.41 SQ. FT.

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Front of Building



Back of Building



Untitled Map

Write a description for your map.

Legend

- 3038 Horton St
- Chick-fil-A
- Feature 1
- The Watermark by the Bay