



CITY OF OAKLAND



Community and Economic Development Agency

OFFICE OF PLANNING & BUILDING • 1330 BROADWAY • OAKLAND, CALIFORNIA 94612

Administration	238-7200	Building Services	238-3587	Planning	238-3941
Engineering Services	238-2110	Operations	238-3443	Zoning	238-7206

December 4, 1996

Neal Smither
California Cheese Steak
436 14th Street
Oakland, CA 94512

RE: CASE FILE NO.: CD96-226; 1416-18 Broadway

Dear Mr. Smither:

Your application for a Minor Conditional Use Permit to reactivate a nonconforming fast food restaurant and Design Review to reface an existing sign located in the Central Building at 1416-18 Broadway in the C-55 Central Core Commercial and S-8 Urban Street Combining Zones (Environmental Determination: Exempt, Section 15301, State CEQA Guidelines; minor alterations to existing facilities) has been found to comply with the Minor Conditional Use Permit and Design Review criteria as set forth in Sections 9204 and 9304 (b) of the Oakland Zoning Regulations.

The proposal is hereby approved subject to the following conditions of approval:

1. The proposal shall be constructed substantially in accordance with the plans dated September 29, 1996, submitted on October 3, 1996; and resubmitted on November 1, 1996; provided further, that the project incorporate the revisions listed below as conditions of approval.
2. The existing rooftop exhaust outlet is in violation of the Oakland Mechanical Code and shall be corrected under proper building permits so as to conform with the Mechanical Code concurrently with the issuance of any other building permits and prior to issuance of a business license and commencement of the proposed use. Applicable Mechanical Code requirements include but are not limited to location of the exhaust outlet at least ten feet from neighboring buildings and installation of a scrubber. For further information on Mechanical Code requirements, please call Pennie Feehan of CEDA Building Services at 238-4789.

3. The projecting sign labeled "Option 2" on Page 2 of the above-referenced plans shall be deleted from the proposal and is not included in this approval. Should this or any other sign later be proposed for installation, a Design Review application will need to be submitted to and approved by the Director of City Planning.
4. The final design, including all exterior design details, and exterior building materials, colors, and textures shall be submitted to and approved by the Director of City Planning prior to the issuance of any building permits or business licenses or commencement of the proposed use.
5. Changes to approved plans shall be submitted to and approved by the Director of City Planning prior to the issuance of any applicable building permits or business licenses and/or prior to the construction of the changes.
6. These conditions of approval shall be reproduced on one page of the plans submitted for a building permit for this project.
7. This approval shall terminate one year from the effective date of its granting unless a building permit for the project has been applied for within such period or an extension has been applied for from the Community and Economic Development Agency prior to the expiration of the planning permit. In the event the building permit lapses, then the planning approval will also terminate unless an extension of the planning permit has been applied for prior to expiration of the building permit. This approval may be extended for one (1) year upon written request to the Director of City Planning (maximum of three extensions allowed) prior to the expiration date.

This decision becomes effective in ten (10) days from the date of this letter unless appealed to the City Planning Commission. An appeal is made by completing an application and paying the required \$401.00 fee.

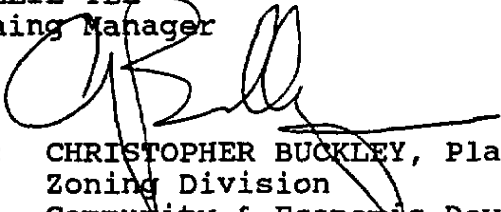
In order to file a building permit, please submit construction drawings consistent with the present approval and pay fees at the CEDA Permit Counter, 1330 Broadway, 2nd Floor, Oakland.

Neal Smither
Case File No.: CD96-226
Page 3

If you have any questions, please contact Lisanne C. Turnbull of the Zoning Division at (510) 238-6661 or (510) 238-3912.

Sincerely,

WILLIE YEE
Zoning Manager



BY: CHRISTOPHER BUCKLEY, Planner III
Zoning Division
Community & Economic Development Agency

cc: Phil Grubstick, CEDA Building Services
Pennie Feehan, CEDA Building Services
Thomas Casey, CEDA Operations
Nestor I. Quiambo, 3600 Clayton Road, Suite D,
Concord, CA 94521
Myron Zimmerman Investments, 1330 Broadway, Suite 1426,
Oakland, CA 94612 Attn: Tom Hearne

FMC4 5CD96226.LT

CITY OF OAKLAND



250 FRANK H. OGAWA PLAZA, SUITE 2114 • OAKLAND, CALIFORNIA 94612-2031

City Planning Commission

(510) 238-3912
FAX (510) 238-4730
TDD (510) 839-6451

October 2, 2002

Sameer Parkekh
2018 Shattuck Ave. #141
Berkeley, CA 94704-1117

RE: **CASE FILE NO. CM02-321 - 1438 BROADWAY**

Dear Sameer Parkekh:

Your application as noted above was **approved** at the City Planning Commission meeting on: **October 2, 2002.**

Commission action is indicated below. This action becomes final ten (10) days from the date of the Commission action unless an appeal to the City Council is filed by: **October 14, 2002.**

An Appeal to the **City Council** of this decision may be submitted within ten (10) days (4:00 p.m.) of the date of this letter. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of the **case planner**. The appeal shall state the specific basis of the appeal and include payment of \$585.00 in accordance with the City of Oakland Master Fee Schedule. The Planning and Zoning Division shall forward a copy of appeals submitted to the City Council to the City Clerk for scheduling. If you challenge this application in court, you may be limited to raising only those issues you or someone else raised at the public hearing, or in written correspondence delivered to the Community and Economic Development Agency/Zoning at, or prior to, the public hearing.

A signed Notice of Exemption (NOE) is enclosed certifying that the project has been found to be exempt from CEQA review. You may record the NOE, the Environmental Declaration, and the De Minimis Impact Findings at the Alameda County clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of \$25.00 made payable to the Alameda County Clerk. Please bring the original NOE related documents and three copies to the Alameda County Clerk, and return one date stamped copy to the Zoning Division, to the attention of the **case planner**. Although recordation of the Notice of Exemption (NOE) is optional pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE reduces the statute of limitations on challenges to your project, based on environmental issues, to 35 days after the NOE is recorded with the County. In the absence of a recorded NOE, the statute of limitations for challenges extends to 180 days.

If you have any questions please contact the case planner **Jacob Graef** at (510) 238-6415 or by email at jgraef@oaklandnet.com.

(X) Granted with required conditions. - (Vote: 6 ayes, 0 noes - to approve)

Very truly yours,

SCOTT HARRIMAN, Secretary
City Planning Commission

cc: Calvin Wong, Building Services Division
Bill Quesada, Inspection Services
Bill Singman, Building Services Division

Jon Ewigleben, Engineer Services/Permit Processing
Harry Edwards, Parks and Recreation
Mitch Thomson, OPRCA/Tree Section

City of Oakland
Community and Economic Development Agency
Zoning Division
250 Frank H. Ogawa Plaza, Suite 2114
Oakland, CA 94612

NOTICE OF EXEMPTION

TO: Alameda County Clerk
1106 Madison Street
Oakland, CA 94612

Project Title: Proposal to establish a bar and restaurant with cabaret activity. Case file No. CM02-321.

Project Applicant: Sameer Parkekh

Project Location: 1438 Broadway

Project Description: Establish a bar and restaurant in an existing structure

Exempt Status: CHECK ALL THAT APPLY

Statutory Exemptions

{Article 18:Section 21080;15260}

- ☐ Ministerial {Sec.15268}
- ☐ Feasibility/Planning Study {Sec.15262}
- ☐ Emergency Project {Sec.15269}
- ☐ General Rule {Sec.15061(b)(3)}
- ☐ Other: {Sec._____}

Categorical Exemptions

{Article 19:Section 21084;15300}

- ☒ Existing Facilities {Sec.15301}
- ☐ Replacement or Reconstruction {Sec.15302}
- ☐ Small Structures {Sec.15303}
- ☐ Minor Alterations {Sec.15304}
- ☐ Other {Sec._____}
- ☐ In-fill Development {Sec. 15332}

Reasons why project is exempt: Minor interior improvements to an existing facility is not considered to have a significant impact on the environment and is exempt from Environmental Review.

Lead Agency: City of Oakland, Community and Economic Development Agency, Zoning Division, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person: Mr. Jacob Graef

Phone: (510) 238-6415

Scott Harrison for
Signature (Gary Patton, Deputy Director of Planning and Zoning)

11/19/02
Date:

Pursuant to Section 711.4(d)(1) of the Fish and Game Code, statutory and categorical exemptions are also exempt from Department of Fish and Game filing fees.

Location: 1438 Broadway (See map on reverse)
Assessors Parcel Numbers: 008-0621-008-06
Proposal: To establish a bar and restaurant with cabaret activity.
Applicant: Sameer Parkekh
Owner: Lynch Property Management, Inc.
Planning Permits Required: Major Conditional Use Permit for Alcoholic Beverage Sales Commercial Activity
General Plan: Central Business District
Zoning: C-55/S-8
Environmental Determination: Exempt, Section 15301, State CEQA Guidelines; minor alteration to existing structures
Historic Status: N/a
Service Delivery District: 1
City Council District: 3
Date Filed: July 18, 2002
Last Date for Consideration: September 20, 2002
Support/Opposition: Support
Staff recommendation: Approve the Application
For further information: Contact case planner J. Graef at 510-238-6415.

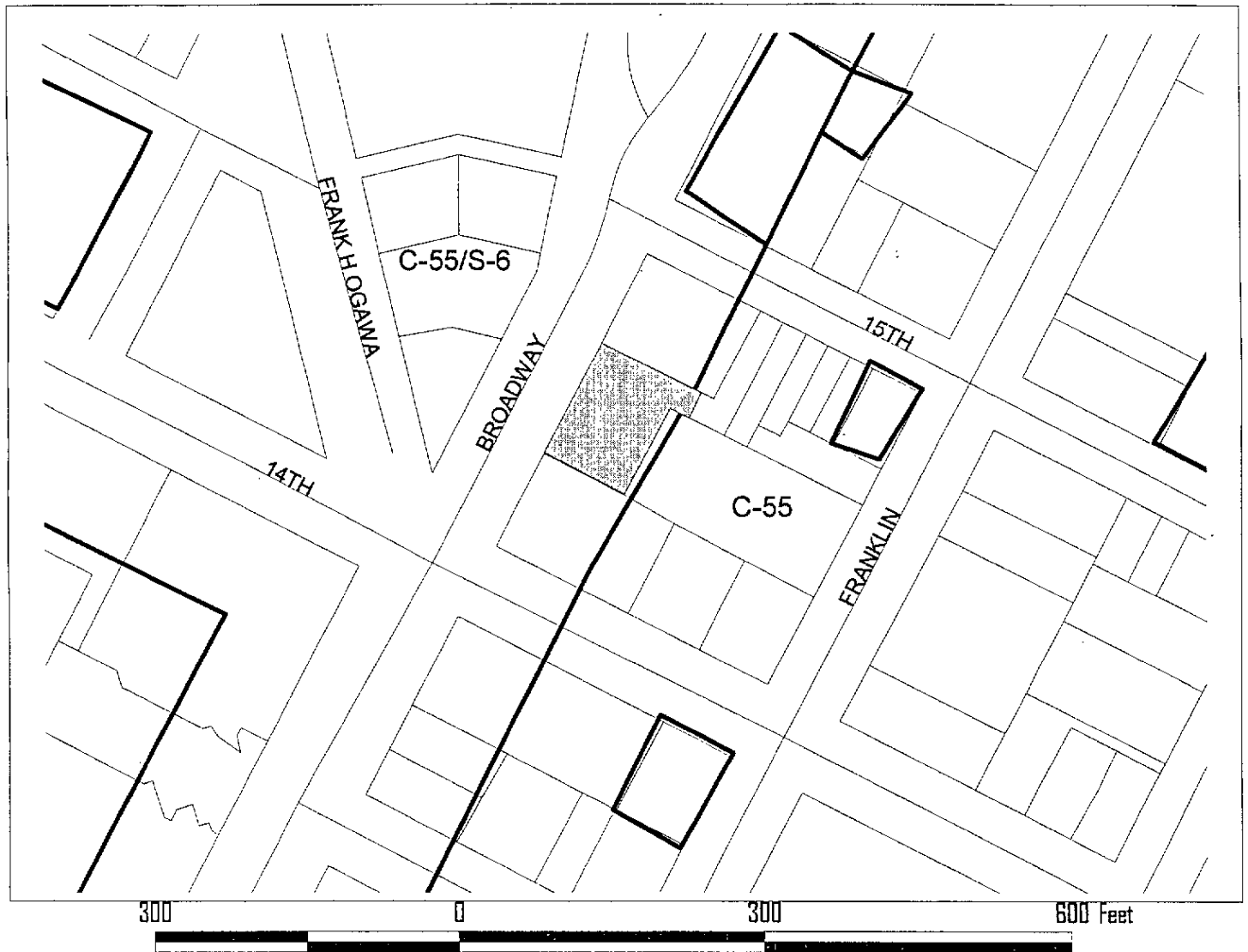
SUMMARY

The applicant wishes to reestablish a restaurant and bar (Alcoholic Beverage Sales Commercial Activity) with cabaret activity (Group Assembly Commercial Activity) in a vacant restaurant. Based upon the application submitted, staff has determined that the intended use does not meet the requirements of a Full Service Restaurant (Section 17.156.070) and therefore a Major Conditional Use Permit for Alcoholic Beverage Sales Commercial Activity is required.

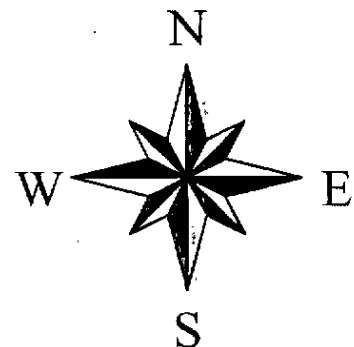
PROJECT DESCRIPTION

The applicant proposes to operate a music café in a 1521 square foot commercial space at 1438 Broadway. The operation will provide limited meal service (breakfast and lunch) with background/accessory music. During evening hours meal service will stop and then the cabaret activity will become the primary use.

CITY OF OAKLAND PLANNING COMMISSION



Case File: CM02-321
Applicant: Sameer Parkekh
Address: 1438 Broadway
APN: 008-0621-008-06
Zone: C-55 / S-8



The applicant has proposed to operate on Monday through Thursday 6 AM to 6 PM, on Friday 6 AM to 2 AM. The owner has indicated that they may expand hours to Saturday and Sunday from 8 AM to 2 AM and on Monday through Fridays from 6 AM to 2 AM.

The cafe will serve morning breakfast items such as doughnuts, pastries, bagels, etc...as well as hot lunch meals during the afternoon. The café will also sell a variety of drinks including coffee/espresso, soda, fruit smoothies, and alcoholic beverages (Beer and Wine).

The applicant proposes that the café will employ a total of 15 people and that no less than 4 employees will be on site at all times. The applicant also indicates that security will be hired during evening hours.

The proposed activity is prerecorded music played as background entertainment to the bar. The applicant proposes to install of sound mitigation to minimize the ambient noise. Group Assembly activities are permitted in the C-55 district.

PROPERTY DESCRIPTION

1420-1444 Broadway is a Beaux Arts derivative office building in the downtown district. It is ten stories on an irregular lot. The exterior walls are dark red brick. The Foundation is composition. The structure is steel frame with URM infill. Sanborn maps describe the building as fireproof construction and steel frame. The present use is an office building. Surroundings are densely built up, commercial area. There are several similar operations in the area.

There are four other restaurants/cabarets activities in the vicinity. They are located at 410 and 412 14th St., 1408 Webster St., and 817 Washington St., and are considered more bars than restaurants under the definition of a Full Service Restaurant. These locations have at sometime generated nuisance activity, but with the implementation of restrictions on their cabaret permits and liquor license the majority of the problems have ceased.

GENERAL PLAN ANALYSIS

This project is located in the Central Business District General Plan Land Use Classification. The Central Business District is intended to encourage development in the downtown area as a high density, mixed-use urban center of regional importance and a primary hub for business, communications and related uses including entertainment uses.

1. Uses must "Enhance the safety and perception of safety downtown at all hours" (Objective D5). The existing windows facing the street are effective in promoting natural surveillance. The use will promote minimal activity on the street and would not affect public safety.
2. Activities and Amenities that encourage pedestrian traffic during the work week, as well as evenings and weekends should be promoted. (Objective D5.1)
3. Concentrate region serving or "destination" commercial development in the corridor around Broadway between 12th and 21st Streets, in Chinatown, and the Jack London Waterfront. Ground floor commercial uses that encourage a pedestrian-friendly environment should be encouraged. (Objective D9.1)

ZONING ANALYSIS

The sale of alcoholic beverages is defined as an Alcoholic Beverage Sales Commercial Activity in Section 17.10.300. A Major Conditional Use Permit is required for an Alcoholic Beverage Sales Commercial Activity in the C-55, Central Core Commercial per Section 17.62.060. The operation as proposed does not qualify for the Full Service Restaurant exemption in the Zoning Code.

Findings for a Conditional Use Permit at Section 17.134.050 and special use permit criteria for alcohol is beverage sales commercial activities of Section 17.102.210, must be made. In addition, the use is located in an, "Alcoholic License Over concentrated Area," as defined by section 17.09.040. Therefore a finding of Public Convenience or Necessity must be made to permit this use, per Section 17.102.210.

On February 1, 2000, the Oakland City Council passed Resolution #75490 establishing a no net increase policy in the number of alcoholic beverage sales commercial activities in Oakland neighborhoods to protect the health, safety and welfare of residents. This resolution states that new off-sale and on-sale retail alcoholic beverage sales licenses should only be permitted if one or more of the following criteria are met. One of these criteria is that the project is located in the Central Business District. This project is located in the Central Business District and therefore, this prohibition does not apply.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines list projects that are categorically exempt from environmental review. Section 15301 exempts minor changes that do not create any adverse environmental impacts.

KEY ISSUES AND IMPACTS

The applicant proposes a small restaurant, retail and entertainment venue that is unlike the large venues currently along the Broadway corridor. Historically, some venues containing live music and dance have caused a nuisance and crime problems in this area. The proposed activity is on a small scale (1521 sqft) and security will be provided on event nights. If operated properly, the proposed activity would provide entertainment while generating a minimum nuisance due to the limited size, the lack of a dance floor, lack of a stage and bonded security provided on nights with an event.

With appropriate conditions regarding security, hours and inclusion in the Deemed Approved Program (Sec. 17.156) this project will meet all of the Use Permit Criteria pursuant Section 17.134.050, which are attached herein and are hereby incorporated into this report.

The area of 14th and Broadway is considered the Metro area by the Police Department. This area is constantly saturated with patrol and walking officers. By design an overconcentration of police resources has improved the level of safety and security as well as increased the frequency in generation of police incident reports. The Area Commander Lt. Ed Poulson has indicated that the limited size of the venue and the overconcentration of police resources should deter most nuisance activity from this premise.

Staff has verified that the implementation of land use restrictions to curtail nuisance activity has been extraordinarily effective at other similar locations. It has been proven that restrictions on the hours of operation will significantly reduce the opportunity for nuisance activity to occur. Staff further recommends

that the hours of operation be limited to 6:00 AM to 12:00AM daily. Alcohol should only be served during these hours unless limited further by the department of Alcoholic Beverage Control.

The applicant has proposed a new exterior sign, which will not affect the character of the structure and the surrounding area. (See Attachment B) Further the sign meets the Design Review Criteria (Section 17.86 S-8). The design and style conform to the surrounding building and features of the Downtown area.

The applicant does not propose any off street parking. Due to the limited capacity of the venue and the access and availability of street parking, garage space, and public transit; parking does not appear to raise a significant problem.

RECOMMENDATIONS:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit subject to the attached findings and conditions.

Prepared by:

Jacob E. Graef, MPA
Admin. Analyst II/Planner II

Approved by:

GARY PATTON
Deputy Director of Planning and Zoning

Approved for forwarding to the
City Planning Commission:

LESLIE GOULD
Director of Planning and Zoning

ATTACHMENTS:

- A. Plans and Elevations
- B. Design of Sign

FINDINGS FOR APPROVAL :

Section 17.134.050 (General Use Permit Criteria):

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.

The proposed activity will be compatible with the adjacent and surrounding land uses. As approved, the activity with limited operating hours, exclusion of dancing, security, inclusion in the Deemed Approved Program (Section 17.156) and the necessary cabaret permit issued by the Office of the City Manager this operation will not adversely affect livability or appropriate development.

- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.

The existing development will provide a convenient and functional living, working and shopping environment by providing restaurant services, alcoholic beverages and retail services to visitors and to workers in the downtown area.

- C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.

The proposed development will enhance the successful operation of the surrounding area in its basic community functions, and will provide an essential service to the community by providing food service and entertainment close to public transit and the major thoroughfares of downtown.

- D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.

The proposal conforms to all design criteria. The building exists and there have been no proposed changes to the existing structure. The design of the sign will combine Oakland's traditional art deco with a more modern industrial style.

- E. That the proposal conforms in all significant respects with the Oakland Comprehensive Plan and with any other applicable plan or development control map which has been adopted by the City Council.

The proposal conforms to the Oakland General Plan. It will promote entertainment in the downtown area. This project is located in the Central Business District General Plan Land Use Classification. The Central Business District is intended to encourage development in the downtown area as a high density,

FINDINGS

mixed-use urban center of regional importance and a primary hub for business, communications and related uses including entertainment uses.

1. Uses must "Enhance the safety and perception of safety downtown at all hours" (Objective D5). The existing windows facing the street are effective in promoting natural surveillance. The use will promote minimal activity on the street and would not affect public safety.
2. Activities and Amenities that encourage pedestrian traffic during the work week, as well as evenings and weekends should be promoted. (Objective D5.1)
3. Concentrate region serving or "destination" commercial development in the corridor around Broadway between 12th and 21st Streets, in Chinatown, and the Jack London Waterfront. Ground floor commercial uses that encourage a pedestrian-friendly environment should be encouraged. (Objective D9.1)

Section 17.102.210 (A) Special Use Permit Criteria:

1. That the proposal will not contribute to undue proliferation of such uses in a area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity.

The proposal will not result in a net increase in such uses and the activity is in conjunction with other desired activities. As conditioned, the activity will not contribute significantly to problems of crime and loitering. Broadway is capable of supporting the projected traffic without affecting the level of service.

2. That the proposal will not adversely affect adjacent or nearby churches, temples or synagogues; public or parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds

There are none of the listed sites close to the site such that the proposal will have a negative affect on them.

3. That the proposal will not interfere with the movement of people along an important pedestrian street.

The storefront is between 1300 and 1400 block of Broadway that allows for pedestrian traffic. This area is usually congested with pedestrian traffic during the week. As conditioned the applicant will hire security on nights with events. The applicant will be responsible for maintaining the premise and through this maintains he will control loitering and ensure pedestrian movement.

4. That the proposed development will be of an architectural and visual quality and character, which harmonizes with, or where appropriate enhances the surrounding area.

The building exists and there have been no proposed changes to the existing structure.

5. That the design will avoid unduly large or obtrusive Signs, bleak unlandscaped paring areas, and an overall garish impression.

FINDINGS

The applicant has proposed a new exterior sign, which will not affect the character of the structure and the surrounding area. (See attachment B) Further the sign meets the design review criteria (Section 17.86 S-8) for Nonresidential Facilities and Signs.

6. That adequate litter receptacles will be provided where appropriate

As conditioned, there will be one non-flammable trash container installed outside the entrance of the store and litter will be removed from the sidewalk and gutter in front of and to twenty feet beyond the premises along Broadway.

7. That where the proposes use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of ten PM and seven AM.

As conditioned, the business will open at 6:00 AM and close at 12:00 AM Sunday thru Friday.

17.102.210 (B) Special Restrictions on Establishments Selling Alcoholic Beverages:

1. No Alcoholic Beverage Sales Commercial Activity shall be located closer than one thousand (1,000) feet to any other Alcoholic Beverage Sales Commercial Activity, except:

- a. On-sale retail licenses located in the central district (defined as within the boundaries of I-980 and Brush street to the west; 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south); or
- b. If the activity is in conjunction with a Full-Service Restaurant; or
- c. Establishments with twenty-five (25) or more full time equivalent (FTE) employees and a total floor area of twenty thousand (20,000) square feet or more.

3. In addition to the criteria prescribed elsewhere in the zoning regulations, a land use permit for an Alcoholic Beverage Sales Activity located within an Alcoholic Beverage Sales license overconcentrated area shall be granted and a finding of Public Convenience or Necessity made only if the proposal conforms to all of the following three criteria:

- a. That a community need for the project is clearly demonstrated. To demonstrate community \ need, the applicant shall document in writing, specifically how the project would serve an unmet or underserved need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to alcohol; and

It has been determined that a community need for this project has beendemonstrated and that this project will further enhance the physical accessibility to the needed goods and services that the project would provide, including, but not limited to alcoholic beverages.

- b. That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service; and

FINDINGS

The overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh any anticipated negative impacts., and that will not result in a significant increase number in calls for service.

c. That alcohol sales are typically a part of this type of business in the City of Oakland (for example and not by way of limitation, alcohol sales in a laundromat would not meet this criteria).

Alcohol sales are typically a part of this type of operation in the City of Oakland.

FINDINGS

CONDITIONS OF APPROVAL

Modifications to the Conditions of Approval as directed by the City Planning Commission at the **October 2, 2002** meeting are indicated in underlined type for additions and ~~cross-out type~~ for deletions.

STANDARD CONDITIONS:

1. Approved Use.

a. *Ongoing.*

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans submitted on July 18, 2002 and as amended by the following conditions. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval

2. Effective Date, Expiration, and Extensions

a. *Ongoing.*

This permit shall become effective upon satisfactory compliance with these conditions. This permit shall expire on October 2, 2003 unless actual construction or alteration, or actual commencement of the authorized activities in the case of a permit not involving construction or alteration, has begun under necessary permits by this date. Upon written request and payment of appropriate fees, the Zoning Administrator may grant a one-year extension of this date, with additional extensions subject to approval by the City Planning Commission.

3. Scope of This Approval; Major and Minor Changes

a. *Ongoing.*

The project is approved pursuant to the Planning Code only and shall comply with all other applicable codes and requirements imposed by other affected departments, including but not limited to the Building Services Division and the Fire Marshal. Minor changes to approved plans may be approved administratively by the Zoning Administrator; major changes shall be subject to review and approval by the City Planning Commission.

4. Modification of Conditions or Revocation

a. *Ongoing.*

The City Planning Commission reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved facility is violating any of the Conditions of Approval or the provisions of the Zoning Regulations.

5. Recording of Conditions of Approval

a. *Prior to issuance of building permit or commencement of activity.*

The applicant shall execute and record with the Alameda County Recorder's Office a copy of these conditions of approval on a form approved by the Zoning Administrator. Proof of recordation shall be provided to the Zoning Administrator.

6. Reproduction of Conditions on Building Plans

a. *Prior to issuance of building permit.*

CONDITIONS OF APPROVAL

These conditions of approval shall be reproduced on page one of any plans submitted for a building permit for this project.

7. Indemnification

a. Ongoing.

The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Building, Planning Commission, or City Council. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

STANDARD CONDITIONS FOR ALCOHOLIC BEVERAGE SALES COMMERCIAL ACTIVITY:

8. Security.

a. Ongoing.

~~Two~~ One bonded, licensed security guard shall be on nights that events are held.

9. Hours.

a. Ongoing.

The business may be open from 6:00 AM to ~~12:00~~ 2:00 AM daily. These hours may be changed after review by the City Planning Commission at a noticed public hearing, after six months of operation. Alcohol shall only be sold during these hours unless limited further by the Department of Alcoholic Beverage Control.

10. Conformance with State Department of Alcoholic Beverage Control regulations

a. Ongoing.

This use shall conform to all provisions of the State ABC license. The state license and state conditions shall be posted along with these Conditional Use Permit conditions in a place visible to the public. This use shall also conform to all State Retail Operating Standards, Section 25612.5 of the Business and Professions Code and local Performance Standards, Section 15210, where applicable including any future changes in the above regulations. The intent of these standards is to reduce nuisance, litter, loitering, and crime associated with alcohol outlets. The City Conditions of Approval shall be forwarded to the Department of Alcoholic Beverage Control.

11. Compliance with City of Oakland special regulations for Alcoholic Beverage Sales Commercial Activities.

a. Ongoing.

Within 30 days of the date of decision, at least one sign (one square foot maximum) shall be posted and maintained in a legible condition at each public entrance to the building prohibiting littering and loitering. Required signage prohibiting open containers and drinking in public shall also be maintained in legible condition near each public entrance to bar. The "No Open Container" signs are available from the cashier located on the second floor of 250 Frank H. Ogawa Plaza.

CONDITIONS OF APPROVAL

b. Ongoing.

Graffiti shall be removed from the premises within 72 hours (3 days) of application.

c. Ongoing.

No pay phones are permitted outside the building.

d. Ongoing.

The owner, manager, and employees of this establishment shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they remove loiters who refuse to leave. Persons hanging around the exterior of the establishment with no apparent business for more than ten minutes shall be asked to leave. Techniques discussed in the manual entitled "Loitering: Business and Community Based Solutions" may be used and are recommended by the Alcoholic Beverage Action Team.

e. Ongoing

Applicant shall conform to Ordinance 12390 related to securing sites after hours to discourage loitering and crime in parking lots.

f. Ongoing

The applicant shall conform to the Oakland Zoning Code Chapter 17.156 Deemed Approved Alcoholic Beverage Sale Regulations.

12. Trash and litter

a. Prior commencement of use and ongoing.

The applicant/property owner shall install and maintain at least one, non-flammable trash can, located near the entrance of the store.

b. Ongoing

The licensees/property owners shall clear the parking lot and gutter and sidewalks along Broadway plus twenty feet beyond the property lines along these streets of litter twice daily or as needed to control litter. In addition to the requirements of B&P Section 25612.5, (sweep or mechanically clean weekly) the licensee shall clean the sidewalk with steam or equivalent measures once per month.

13. Inclusion of conditions in State Department of Alcoholic Beverage Control license.

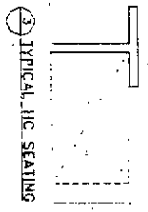
a. Prior to signing of State Department of Alcoholic Beverage Control zoning affidavit.

The applicant shall submit a letter to staff signed by the applicant addressed to the State Department of Alcoholic Beverage Control stipulating that they wish to include conditions of their ABC license. The Oakland Planning Commission may, after notice and hearing, revoke this Conditional Use Permit if the applicant fails to include the above conditions in the ABC license.

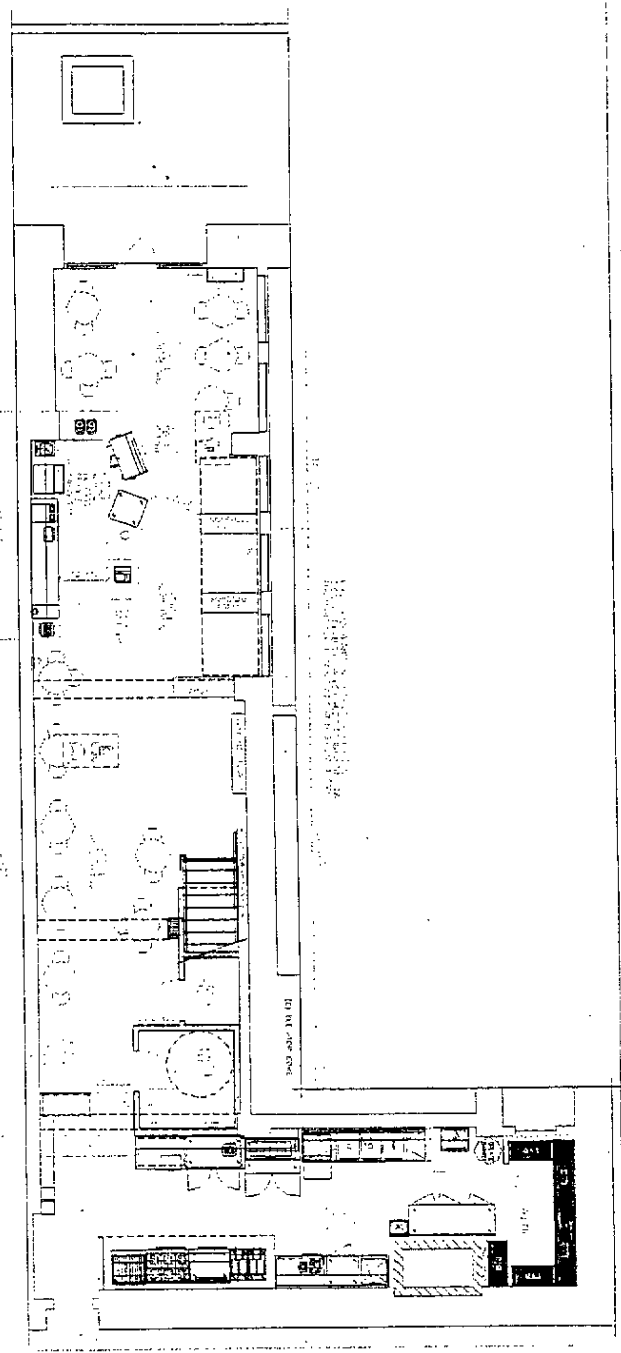
6 ayes, 0 noes

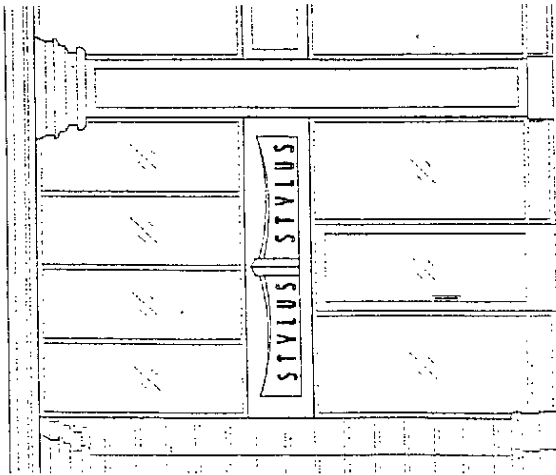
APPROVED BY: City Planning Commission: October 2, 2002 (date) - to approve (vote)
City Council: _____ (date) _____ (vote)

CONDITIONS OF APPROVAL

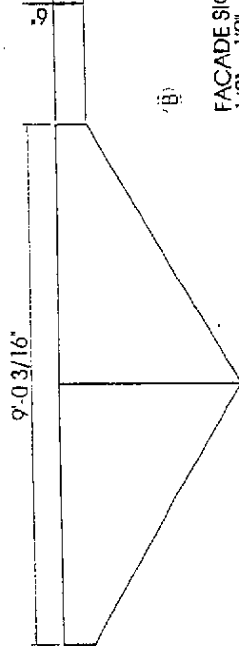
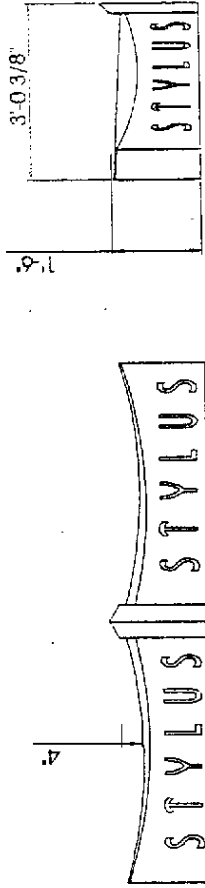


① FIRST FLOOR SCHEMATIC EQUIPMENT PLAN



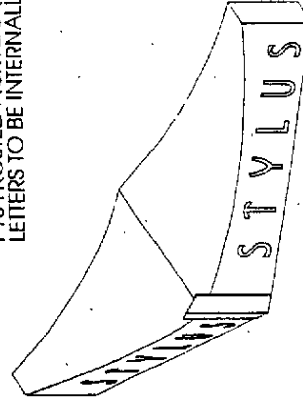


(A) ELEVATION @ FACADE SIGN LOCATION
1/4" = 1'0"



(B)
FACADE SIGN DETAILS
1/2" = 1'0"

MATERIALS: 10 GAUGE ALUMINUM SHEET
(SATIN FINISH WITH CLEARCOAT).
P05 FROSTED ACRYLIC (BEHIND LETTER CUTOUTS).
LETTERS TO BE INTERNALLY BACKLIT.




CM02-321

RECEIVED

JUL 18 2022

CITY PLANNING COMMISSION
ZONING DIVISION



STYLUS

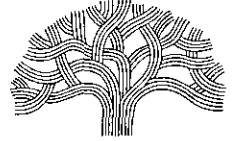
rawthought

1877 Turk Street, San Francisco, CA 94115
415.336.7253 f: 415.929.0101 www.rawthought.com

1438 BROADWAY, OAKLAND, CA

DRAWING

CITY OF OAKLAND



DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 2114 • OAKLAND, CALIFORNIA 94612-2031

Community and Economic Development Agency
Planning & Zoning Services Division

(510) 238-3911
FAX (510) 238-4730
TDD (510) 238-3254

Cortt Dunlap
Awaken Cafe
1421 Broadway
Oakland, CA 94612

August 11, 2011

RE: APPROVAL LETTER: Case File No. CM11-103: 1421 Broadway (APN-008-0619-008-01)

Dear Mr. Dunlap:

Your application as noted above was **APPROVED** at the Oakland City Planning Commission meeting of August 3, 2011 by a vote of 4 to 0. This action becomes final ten (10) days after the date of this letter, unless an appeal to the City Council is filed by **Tuesday, August 16, 2011**. Attached are the Conditions of Approval, as amended by the Planning Commission.

If any interested party seeks to challenge the decision of the Oakland City Planning Commission, such appeal must be filed by no later than 4:00 p.m. on August 16, 2011. An appeal shall be on a form provided by the Planning and Zoning Division of the Community and Economic Development Agency, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, California, 94612, and to the attention of **David Valeska, Planner II**. The appeal shall state specifically wherein it is claimed there was error or abuse of discretion by the Planning Commission or wherein their decision is not supported by substantial evidence and must include payment of \$1,352.91 in accordance with the City of Oakland Master Fee Schedule. Failure to timely appeal will preclude you, or any interested party, from challenging the City's decision in court. The appeal itself must raise each and every issue that is contested, along with all the arguments and evidence in the record which supports the basis of the appeal; failure to do so may preclude you from raising such issues during your appeal and/or in court. Moreover, the City Council is only required to consider issues previously raised before the Planning Commission.

A signed Notice of Exemption (NOE) is enclosed certifying that the project has been found to be exempt from CEQA review. You may record the NOE, the Environmental Declaration, and the De Minimis Impact Findings at the Alameda County Clerk's office at 1106 Madison Street, Oakland, CA 94612, at a cost of \$50.00 made payable to the Alameda County Clerk. Please bring the original NOE related documents and five copies to the Alameda County Clerk, and return one date stamped copy to the Zoning Division, to the attention of **David Valeska, Planner II**. Although recordation of the Notice of Exemption (NOE) is optional pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE reduces the statute of limitations on challenges to your project, based on environmental issues, to 35 days after the NOE is recorded with the County. In the absence of a recorded NOE, the statute of limitations for challenges extends to 180 days.

If you have any questions, please contact the case planner, **David Valeska, Planner II** at (510) 238-2075 or dvalueska@oaklandnet.com.

Very Truly Yours,

A handwritten signature in cursive script that reads "Scott Miller". The signature is written in dark ink and is positioned to the right of the typed name.

SCOTT MILLER
Zoning Manager

cc: Ray Derania, Building Services Division
Bill Quesada, Inspection Services
Steve Snyder, Downtown CBD

I certify that on August 11, 2011 this decision letter was placed in the U.S. mail system, postage prepaid for first class mail, and sent to: Cortt Dunlap, 1421 Broadway, Oakland, CA 94612, and to the list above.

Veronica M. Chatman (Veronica M. Chatman) August 11, 2011
(NAME AND SIGNATURE OF PERSON PLACING IN MAIL) (DATE)

ATTACHMENT B: CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. **Approved Use.**

a. Ongoing.

The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans submitted April 6, 2011, and as amended by the following conditions. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval. The approved activity is: Major Conditional Use Permit to allow Alcoholic Beverage Service pursuant to OPC Section 17.102.210 for an existing Limited Service Restaurant.

2. **Effective Date, Expiration, Extensions and Extinguishment**

Ongoing.

Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, unless within such period all necessary permits have been issued, or authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any valid building permit for this project may invalidate this approval if the said extension period has also expired.

3. **Scope of This Approval; Major and Minor Changes**

Ongoing.

The project is approved pursuant to the Planning Code only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. **Conformance with Other Requirements.**

Prior to issuance of a demolition, grading, P-job or other construction related permit.

a. The project applicant shall comply with all other applicable federal, state, regional and/or local codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshall, and the City's Public Works Agency.

b. The applicant shall submit approved plans for project-specific needs related to fire protection including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access and vegetation management for preventing fires and soil erosion.

5. **Conformance to Approved Plans; Modification of Conditions or Revocation**

Ongoing.

a. Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.

b. The City Planning Department reserves the right at any time during construction, to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks.

Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification or other corrective action.

c. Violation of any term, Conditions or project description relating to the Approvals is unlawful, prohibited and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and /or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these Conditions if it is found that there is violation of any of the Conditions, or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement Actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. Signed Copy of the Conditions

With submittal of a demolition, grading and building permit.

A copy of the approval letter and Conditions shall be signed by the property owner and submitted with each set of permit plans submitted for this project.

7. Indemnification

Ongoing

a. To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees (hereafter collectively called the City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action or proceeding (including legal costs, attorney's fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The project applicant shall reimburse the City for its reasonable legal costs and attorneys fees.

b. Within ten (10) calendar days of the filing any Action as specified in subsection A above, the project applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the project applicant of any of the obligations contained in this condition or other requirements, or other conditions of approval that may be imposed by the City.

8. Compliance with Conditions of Approval

Ongoing

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval and all applicable adopted mitigation measures set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. Severability

Ongoing

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions and if any one or more of such conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions consistent with achieving the same purpose and intent of such Approval.

10. Job Site Plans***Ongoing throughout demolition, grading, and/or construction and when operating***

At least one (1) copy of the approved plans, along with the Approval Letter and Conditions of Approval shall be available for review at the job site at all times.

11. Waste Reduction and Recycling***a. Prior to issuance of a building or demolition permit***

The applicant may be required to complete and submit a "Waste Reduction and Recycling Plan," and a plan to divert 50 percent of the solid waste generated by the operation of the project, to the Public Works Agency for review and approval, pursuant to City of Oakland Ordinance No. 12253. Contact the City of Oakland Environmental Services Division of Public Works at (510) 238-7073 for information.

12. Recycling Space Allocation Requirements***a. Prior to issuance of building permit***

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28. A minimum of two cubic feet of storage and collection area shall be provided for each dwelling unit and for each 1,000 square feet of commercial space.

STANDARD CONDITIONS FOR ALCOHOLIC BEVERAGE SALES COMMERCIAL ACTIVITY:

13. Security.***a. Ongoing***

The applicant/property owner shall keep windows clear of visual obstructions including, but not limited to signage beyond 20% window coverage, any advertising displays, product racks, refrigerated equipment, cardboard, trash, wire mesh/security bars, reflective coatings, or other materials. Note that this is more restrictive than the state regulations related to signage. The purpose of this condition is to maintain good sight lines in and out of the store to allow police to monitor activity inside and to allow business staff to monitor and discourage inappropriate activity in front of the business.

14. Hours.***a. Ongoing.***

Business hours of operation shall be between the hours of 6:00 AM and 11:00 PM Sunday through Thursday, and until Midnight Friday and Saturday. Food service (full menu) must be available at all hours that alcohol will be served (except for special events). Any work outside these hours shall solely be staff preparation or cleaning the site. After ninety (90) days of operation, the applicant may request of the Zoning Manager, in writing, the ability to open until 1:00 am on Friday and Saturday only, plus weeknights that the Fox Theater holds events to 12:30 am or later only, subject to written approval of the Zoning Manager. If such extension of hours is granted, after ninety (90) additional days of operation, the applicant shall apply for a compliance review and pay the Revision/Reconsideration fee as set forth in the Master Fee Schedule (currently \$1,352.91) to assess compliance with Conditions of Approval and to determine whether a) amended hours of operation have created adverse impacts, and b) whether changes to hours of operation are warranted (either lesser or greater hours). Said Compliance Review shall be agendaized for an upcoming Planning Commission meeting for review and determination on appropriateness of hours of operation and whether any changes should be made.

15. Conformance with State Department of Alcoholic Beverage Control regulations

a. Ongoing.

This use shall conform to all provisions of the State ABC license. The state license and state conditions shall be posted along with these Conditional Use Permit conditions in a place visible to the public. This use shall also conform to all State Retail Operating Standards, Section 25612.5 of the Business and Professions Code and local Performance Standards, Section 15210, where applicable including any future changes in the above regulations. The intent of these standards is to reduce nuisance, litter, loitering, and crime associated with alcohol outlets. The City Conditions of Approval shall be forwarded to the Department of Alcoholic Beverage Control.

b. Ongoing

Lighting shall be maintained to meet the B&P code section providing enough illumination to identify loiterers standing in front of the store and in the parking lot. Such illumination shall remain lit during all hours of darkness when the business is open.

c. Ongoing

The licensees/property owners shall clear the gutter and sidewalks twenty feet beyond the property lines along these streets of litter twice daily or as needed to control litter. In addition to the requirements of B&P Section 25612.5, (sweep or mechanically clean weekly) the licensee shall clean the sidewalk with steam or equivalent measures once per month.

16. Compliance with City of Oakland Special Regulations for Alcoholic Beverage Sales Commercial Activities.

a. Ongoing.

Unless waived by the Zoning Manager, within 30 days of the date of decision, at least one sign (one square foot maximum) shall be posted and maintained in a legible condition at each public entrance to the building prohibiting littering and loitering. Required signage prohibiting open containers and drinking in public shall also be maintained in legible condition near each public entrance to the store. The "No Open Container" signs are available from the cashier located on the second floor of 250 Frank H. Ogawa Plaza.

b. Ongoing.

The applicant/property owners shall clear the sidewalks adjacent to their property of all "Street Furniture" including mattresses, crates, pads, and other items for sitting or laying on by loiterers on a daily basis.

c. Ongoing.

Graffiti shall be removed from the premises within 72 hours (3 days) of application.

d. Ongoing.

No pay phones are permitted outside the building.

e. Ongoing.

The owner, manager, and employees of this establishment shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they remove loiters who refuse to leave. Persons hanging around the exterior of the establishment with no apparent business for more than ten minutes shall be asked to leave. Techniques discussed in the manual entitled "Loitering: Business and Community Based Solutions" may be used and are recommended by the Alcoholic Beverage Action Team.

17. Trash and litter***a. Prior commencement of use and ongoing.***

The applicant/property owner shall install and maintain at least one (1), non-flammable trash can located near the entrance of the store and additional trash cans as directed by Planning staff for events of over 50 persons.

18. Outdoor Tables/No Smoking***Ongoing***

Due to close proximity to the front door, there shall be no smoking allowed at the outdoor seating and appropriate signage shall be installed stating "No Smoking Area."

19. Encroachment Permit for Sidewalk Seating***Prior to outdoor seating commencement***

The applicant shall secure any necessary encroachment permits for sidewalk seating from the Building Services Division.

20. Cabaret Activities***Ongoing***

Pursuant to Municipal Code Section 5.12, any activities qualifying as a Cabaret will also require a separate Cabaret permit from the City Administrator's office.

21. Sidewalk Seating Landscaping***Prior to commencement of sidewalk seating***

At least two (2) 15-gallon size trees in planters shall be provided, one at each end of the seating. The planters may be of suitable wood, stone or concrete and shall be compatible with other nearby planters. In addition, at least two (2) additional planters with flowering plants shall be provided within the sidewalk seating area to help define the edge with the public sidewalk. A clear path of travel of at least 6 feet and an average of at least 10 feet in width shall be provided for pedestrians and wheelchairs past the seating area, exclusive of posts, signs, bollards, trash containers, tables and chairs and other objects either moveable or fixed in position. The applicant shall maintain, and where damaged, replace the landscaping over time.

21. Inclusion of conditions in State Department of Alcoholic Beverage Control license.***a. Prior to signing of State Department of Alcoholic Beverage Control zoning affidavit.***

The applicant shall submit a letter to staff signed by the applicant addressed to the State Department of Alcoholic Beverage Control stipulating that they wish to include conditions number 13 through 18 in the conditions of their ABC license. The Oakland Planning Commission may, after notice and hearing, revoke this Conditional Use Permit if the applicant fails to include the above conditions in the ABC license.

APPROVED BY: City Planning Commission: 8-3-11 (date) 4-0 (vote)
City Council

NOTICE OF EXEMPTION

TO: Alameda County Clerk
1106 Madison Street
Oakland, CA 94612

Project Title: CM11-103

Project Applicant: Cortt Dunlap, Awaken Café (510) 847-1857

Project Location: 1421 Broadway (APN 008-0619-008-01)

Project Description: Major Conditional Use Permit to Allow Alcoholic Beverage Service for an Existing Limited Service Restaurant

Exempt Status: CHECK ALL THAT APPLY

Statutory Exemptions

{Article 18:Section 21080;15260}

- ☐ Ministerial {Sec.15268}
- ☐ Feasibility/Planning Study {Sec.15262}
- ☐ Emergency Project {Sec.15269}
- ☐ General Rule {Sec.15061(b)(3)}
- ☐ Other: {Sec._____}

Categorical Exemptions

{Article 19:Section 21084;15300}

- ☐ Existing Facilities {Sec.15301}
- ☐ Replacement/Reconstruction{Sec.15302}
- ☒ Small Structures {Sec.15303}
- ☐ Minor Alterations {Sec.15304}
- ☒ Other {Sec.15183}
- ☐ In-fill Development {Sec. 15332}

Reasons why project is exempt: *The Limited Service restaurant exists, and Alcoholic Beverage Service is proposed to enhance customer enjoyment of meals. A Major Conditional Use Permit by the Planning Commission allows Alcoholic Beverage Service.*

Lead Agency: City of Oakland, Community and Economic Development Agency, Zoning Division, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Department/Contact Person: David Valeska, Planner II **Phone:** (415) 238-2075

Signature (Scott Miller, Zoning Manager)

Date

Pursuant to Section 711.4(d)(1) of the Fish and Game Code, statutory and categorical exemptions are also exempt from Department of Fish and Game filing fees.

*ENVIRONMENTAL DECLARATION
(CALIF. FISH AND GAME CODE SEC. 711.4)

NAME, ADDRESS OF APPLICANT OR LEAD AGENCY	:	FOR COURT USE ONLY
COMMUNITY & ECONOMIC	:	
DEVELOPMENT AGENCY	:	
PLANNING: 250 Frank H. Ogawa	:	
Plaza, Room 2114	:	
Oakland, CA 94612	:	
	:	
APPLICANT: C.Dunlap, Awaken Cafe:	:	
Contact: Cortt Dunlap	:	
510 847-1857	:	

CLERK'S USE ONLY

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT:

- | | | |
|-----|--|---------|
| 1. | NOTICE OF EXEMPTION/STATEMENT OF EXEMPTION | PLU 117 |
| [X] | A - STATUTORILY OR CATEGORICALLY EXEMPT | |
| | \$50.00 (Fifty Dollars) - CLERK'S FEE | |
| [] | B - DE MINIMUS IMPACT - CERTIFICATE OF FEE | |
| | EXEMPTION REQUIRED | PLU 117 |
| | \$50.00 (Fifty Dollars) - CLERK'S FEE | |
| 2. | NOTICE OF DETERMINATION - FEE REQUIRED | |
| [] | A - NEGATIVE DECLARATION | PLU 116 |
| | \$1,993.00 (Nineteen Hundred Ninety-three Dollars)-STATE | |
| | FILING FEE \$50.00 (Fifty Dollars) - CLERK'S FEE | |
| [] | B - ENVIRONMENTAL IMPACT REPORT | PLU 115 |
| | \$2,768.25 --(Twenty Seven Hundred Sixty-eight and | |
| | 00/100 Dollars) - STATE FILING FEE | |
| | \$50.00 (Fifty Dollars) - CLERK'S FEE | |
| [] | C -- Certificate of Fee Exemption | PLU 117 |
| | & De Minimis Impact Fee | |
| | \$50.00 (Fifty Dollars) - CLERK'S FEE | |

*THIS FORM MUST BE COMPLETED AND SUBMITTED WITH ALL ENVIRONMENTAL DOCUMENTS FILED WITH THE ALAMEDA COUNTY CLERK'S OFFICE.
FIVE COPIES OF ALL NECESSARY DOCUMENTATION ARE REQUIRED FOR FILING PURPOSES.

APPLICABLE FEES MUST BE PAID AT THE TIME OF FILING AN ENVIRONMENTAL DOCUMENT WITH THE ALAMEDA COUNTY CLERK'S OFFICE.
MAKE CHECK PAYABLE TO: **ALAMEDA COUNTY CLERK**

CITY OF OAKLAND

Memorandum

TO: City Manager Office
ATTN: Aloida Corpus
FROM: Lois Loving, Zoning Division
DATE: December 1, 1999
RE: ITEM FOR THE COUNCIL AGENDA

ACTION:

(X) Forward to: one copy to Maxine Maryland, City Clerk's Office

Date Due: ASAP

REMARKS:

Case File: CM99-258 - 1400 Broadway - the Council has set the hearing date for January 25, 2000.

If there are any questions please contact Lois Loving at 238-6228.

CC: FILE COPY
ZONING CORRESPONDENCE FILE
CHRIS CANDELL, CASE PLANNER
SHARON JACKS
WILLIAM CLAGGETT
WILLIE YEE
CHARLES S. BRYANT
CARMELITA RICKMAN/CORRESPONDENCE FILE
LESLIE GOULD
JENNIFER SPEARMAN
STEPHANIE GARRABRANT-SIERRA
SHIRLEY WALKER
RALPH WHEELER
MARK WALD
LES A. HAUSRATH

TO: CITY MANAGER
FROM: CITY PLANNING COMMISSION
RE: CITY COUNCIL AGENDA

DATE: November 24, 1999

PLEASE PLACE THIS ITEM ON THE COUNCIL AGENDA OF:

JANUARY 25, 2000

UNDER:

- | | |
|---|--|
| <input checked="" type="checkbox"/> PUBLIC HEARINGS | <input checked="" type="checkbox"/> REGULAR CALENDAR |
| <input type="checkbox"/> RESOLUTIONS | <input type="checkbox"/> CONSENT CALENDAR |
| <input type="checkbox"/> REPORTS FROM STAFF | |

WITH THE FOLLOWING SUGGESTED WORDING:

Public hearing on the appeal of **King R. Woods**, against the decision of the City Planning Commission in denying Major Conditional Use Permit (**CMD99-258**) to add sale of beer, wine and distilled spirits in an existing Rite Aid Store at **1400 Broadway**. General Plan Land Use Classification Central Business District; C-55 Central Core Commercial S-8 Urban Street Combining Zone. (Environmental Determination: Exempt; Section 15301, State CEQA Guidelines; minor alterations to existing facility.) (Historic Status: Designated historic property (DHP); survey rating: A1+) (**Service Delivery District: I - Downtown/West Oakland/Harbor**) (**City County District: 3**) (**Case Planner: Chris Candell at 510-238-6986**) (**COMMISSION VOTE: 4 ayes; 0 noes; 2 recusals - to deny**)

A resolution denying the appeal and sustaining the decision of the City Planning Commission in denying the application for the **King R. Woods Project**.

ATTACHED:

- ☒ 3 COPIES OF REPORT OR LETTER: REPORTS TO FOLLOW FROM CASE PLANNER
- ☐ 3 COPIES OF ORIGINAL REPORT DATED: _____
- ☐ 3 COPIES OF MAP
- ☐ 17 COPIES OF RESOLUTION OR ORDINANCE (Original, 2 w/voting; 6 w/City Clerk's)
- ☐ 17 COPIES OF NEGATIVE DECLARATION

THANK YOU,



CHARLES S. BRYANT, SECRETARY
OF CITY PLANNING COMMISSION

An appeal is hereby taken from the decision of the City Planning Commission

OFFICE OF THE CLERK OF THE CITY OF OAKLAND
99 NOV 12 AM 10:15

☐ granting

in

☒ denying

the application of King R. Woods (Rite Aid)

in order to sell Beer and Wine

Located at 1400 Broadway (Case File: CM 99-258)

in the C-55 Central Core Commercial Zone.

☒ Major Conditional Use Permit (SEC.17.134.050) ☐ Major Variance (SEC.17.148.060)

☐ Design Review (SEC.17.136.050) ☐ Tentative Map (SEC.16.32.090)

☐ Planned Unit Development (SEC.17.140.070) ☐ EIR Certification

An appeal in accordance with the above sections of the Zoning Regulations "shall state specifically wherein it is claimed there was an error or abuse of discretion by the Commission (Advisory Agency) or wherein its decision is of supported by the evidence in the record".

☐ Rezoning, Landmark Designation, Development Control Map, or Law Change
- (SEC.17.144.060)

An appeal in accordance with the above section of the Zoning Regulations "shall state specifically wherein it is claimed the Commission erred in its decision".

The appeal is based upon the following The commission failed to adequately consider the modified request to sell beer and wine only or the substantial volunteer conditions submitted by the applicant, which were designed to mitigate any potential negative impact to the neighborhood.

Respectfully submitted.

King R. Woods

(Name)

911 Wilshire Blvd., #2180

(Address)

Los Angeles, CA 90017

(Please include Zip Code)

(213) 489-4224

(Telephone Number)

CASE FILE NO.: _____

DATE APPEAL RECEIVED: _____

FILING FEE: \$156.00

NOTIFICATION FEE: \$257.00

RECEIPT NO.: \$413.00

RECEIVED

NOV 15 1999

CITY PLANNING COMMISSION

ZONING REPORT

 City Planning Department
 X City Planning Commission

CASE FILE: CM99-258
REPORT DATE: November 3, 1999

APPLICANT: WOODS, R. King

 Owner Buyer Lessee X Agent FILING DATE: 9/17/99

LOCATION: 1400 Broadway LAST DATE FOR
 CONSIDERATION: 12/16/99

SERVICE DELIVERY DISTRICT: I-Downtown/West Oakland Oakland/Harbor

APPLICATION: Major Conditional Use
 Permit

PROPOSAL: To add sales of beer,
 wine and distilled
 spirits to an existing
 large drug store APPLICABLE ZONING
 REGULATIONS:
 17.10.270, 7.10.380, 17.102.210,
 and 17.134.050.

SUPPORT:

OPPOSITION:

STAFF RECOMMENDATION: Deny	COMMISSION ACTION:
<u> </u> Conditions Attached	Vote: 4 ayes; 0 noes; 2 recusals
	Date: November 3, 1999

GENERAL PLAN LAND USE CLASSIFICATION: Central Business District

ZONING: C-55 Central Core Commercial, S-8 Urban Street Combining
Zones

ENVIRONMENTAL DETERMINATION:

 EIR Negative Declaration X Exempt; Section 15301, State
CEQA Guidelines; minor alterations to existing facilities

PROJECT DESCRIPTION: The applicant wishes to add the sales of alcohol including beer, wine, and distilled spirits, to an existing Rite Aid pharmacy/convenience store. All other operating characteristics of the store including hours will remain the same. Currently the store remains open 24 hours per day. The applicant proposes special in-house training for employees to instruct them how to sell alcoholic beverages. In addition to this training, the applicant proposes the following to prevent sales to minors, reduce theft of alcohol, and reduce littering, loitering, and

(SEE REVERSE SIDE)

#9

November 3, 1999

other nuisance activities:

- No external advertising of alcohol sales
- Limiting the sales of alcohol from 7 AM to 8 PM Mon-Fri, 8 AM to 6 PM Saturday, and 10 AM to 3 PM Sunday
- No sales of fortified wines
- Beer to be sold by the six pack only, no sales of singles.
- Wine coolers may be sold by the four pack
- Except for wine coolers and bottles over 750 ml, all wine sold would be sold in corked bottles not screw top.
- No more than 5% of the retail display area (approximately 675 square feet) will be used for retail display of alcohol.
- One licensed, bonded, and uniformed security guard will be on duty while the business is open to the public
- Internal video surveillance

No external changes are proposed.

PROPERTY DESCRIPTION: The property is located on the northeast corner of Broadway and 14th Street in a densely developed urban area with a variety of ground floor activities and administrative offices above. This area is a major transportation hub served by BART and several AC transit bus lines which converge at this intersection from both major streets.

To the north, adjacent to the pharmacy is a multistory office building with ground floor retail uses. To the south, across 14th street is a multistory office building with a ground floor pharmacy (Walgreen's) which does not sell alcohol. Adjacent to the store to the east on the same side of 14th Street is a 4 story office building containing a bar/nightclub. To the east of this nightclub is another nightclub. Across Broadway to the west of the pharmacy are multistory office buildings and Frank H. Ogawa Plaza containing City Hall and other civic administrative buildings.

The site is developed with a 15 story, steel framed building. Built in 1925-26, 1400 Broadway, also known as, the "Central Building" is an outstanding example of Beaux Arts derivative office building which was originally built to house the Central Bank. The ground floor was extensively remodeled in 1959 and again by Rite Aid in 1998.

GENERAL PLAN ANALYSIS: The location is designated as Central Business District. The General Plan is silent regarding Alcoholic Beverage Sales in this area. However, the goals referenced in the Central/Chinatown section of the General Plan provide guidance. Relevant policies for the Central Business District include:

N1.6 The City should closely review any proposed new commercial activities that have the potential to create public nuisance or crime problems and monitor those that are existing. These may include isolated commercial establishments located within residential areas, Alcoholic Beverage Sales Commercial Activities

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(excluding restaurants), adult entertainment, or other entertainment activities.

The site is within Police beat 4X. This beat has one of the highest crime rates of any beat in the City of Oakland. Even with the nearest liquor store three blocks away, it is not unusual to see people drinking in public at this corner or along 14th Street. One of the two main bus stops at this intersection is in front of this store. Most of these people are waiting for the bus. Some use the presence of the bus stop as a prop to loiter and cause nuisance problems including drug dealing.

The city has taken great efforts to reduce crime and the appearance of crime at this location. There are officers on duty during times of the day with the highest number of pedestrians especially in the afternoon when there are a large number of students using the bus lines. Adding alcohol sales is likely to increase the burden on police and may increase nuisance and crime in the area. Therefore, the proposed activity has the potential to create public nuisance or crime problems.

In addition, the availability of alcohol at this location may increase the loitering, drinking, and nuisance problems in this area and would cause an enforcement problem as it would be difficult for either the management of Rite Aid or police to distinguish between loiters and transit passengers.

N10.6 The city should strive to maintain a positive and safe public image.

The reduction of loitering and nuisance behavior is critical to create and enhance a positive and safe public image. The bus lines at this location are used by a large number of grade school through high school students. Adding alcohol sales at this location may degrade a positive and safe public image and lead to adults buying for minors, shoplifting by minors and sales to minors.

ZONING ANALYSIS: Sales of alcohol is considered an Alcoholic Beverage Sales Commercial Activity per Section 17.10.300. A major Variance is required for any Alcoholic Beverage Sales Commercial Activity located within 1000 feet of another such use. The proposed activity is located within 1000 feet of 5 liquor stores, 3 bars, and 2 nightclubs. However, an exemption is made for Alcoholic Beverage Sales Commercial Activities located in the Central Business District per Section 17.102.210. Therefore, a Major Conditional Use Permit, and not a Major Variance, is required.

Findings for a Conditional Use Permit per Section 17.134.050 and the use permit criteria of Section 17.120.210, Special Restrictions on Establishments Selling Alcoholic Beverages, must be made to permit this use. In addition, the site is located in an "Alcoholic License Overconcentrated Area" as defined by Section 17.09.040. Therefore, findings of "public convenience or

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necessity" must also be made pursuant to Section 17.102.210.

ENVIRONMENTAL DETERMINATION: The California Environmental Quality Act (CEQA) Guidelines list projects which are categorically exempt from environmental review. Section 15301 exempts facilities which consist of minor alterations to existing structures, involving negligible or no expansion of use beyond that previously existing, including interior or exterior alteration. This project involves no external changes to the building and no significant expansion of use. Therefore, this project is considered categorically exempt from the provisions of CEQA pursuant to Sections 15301 of the State CEQA guidelines.

DISCUSSION: The applicant has proposed a number of steps to reduce crime and nuisance related to the sales of alcohol from this location. The measures include: early closing hours, limitations on the size of bottles of distilled spirits and wine, and the establishment of a minimum number of cans/bottles for beer and wine. These measures are useful and easy to enforce by staff inspection. Other measures will not be easy to enforce.

State and local law require licensees to reduce nuisance, loitering, and crime in front of the licensed premises and for 20 feet beyond the property. Because of the presence of the bus stop this will pose an enforcement problem for the licensee and staff. As discussed above the activity may increase nuisance and crime by increasing the availability of alcohol in an area where the city is working to reduce crime and the perception of crime. The reduction of crime and the perception of crime is critical to attracting and maintaining business in the Central Business District. Therefore the findings including the findings of public convenience or necessity can not be made and the application should be denied.

RECOMMENDATIONS:

1. Affirm staff's environmental determination.
2. Deny the Major Conditional Use Permit based on the inability to make the findings.

Prepared by:

for Charles S. Bryant
CHRIS CANDELL
Planner II

Approved:

Willie Yee
WILLIE YEE
Zoning Administrator

November 3, 1999

Approved for forwarding to the
City Planning Commission:

Leslie W. Gould

LESLIE GOULD
Chief of Planning

ATTACHMENTS: A. Location Map
 B. Plans and photos

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FINDINGS ATTACHED TO AND MADE A PART OF ZONING CASE NO. CM99-258:

This proposal does not meet the required findings and criteria under Section 17.134.050 and 17.102.210 set forth below:

Section 17.134.050, (formerly Section 9204), General Use Permit Criteria:

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development. The proposed activity will cause conflicts with adjacent land uses. The Alcoholic Beverage Sales Commercial Activity will adversely effect the development of abutting properties through the generation of loitering, littering, and other nuisance behavior which will serve to increase crime and the perception of crime.
- E. That the proposal will conform in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council. The proposal does not further the Oakland General Plan because the activity has the potential to create public nuisance or crime problems and will not maintain a positive and safe public image.

17.102.210, Use Permit Criteria (formerly Section 7023):

- A.
 - 1. That the proposal will not contribute to the undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems and capacity. The proposal will contribute to undue proliferation in an area that is over concentrated where there are nuisance and crime problems associated with similar existing uses.
 - 2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private schools; public parks or recreation centers; or public or parochial playgrounds. No such uses are located nearby, however, students wait at the site for

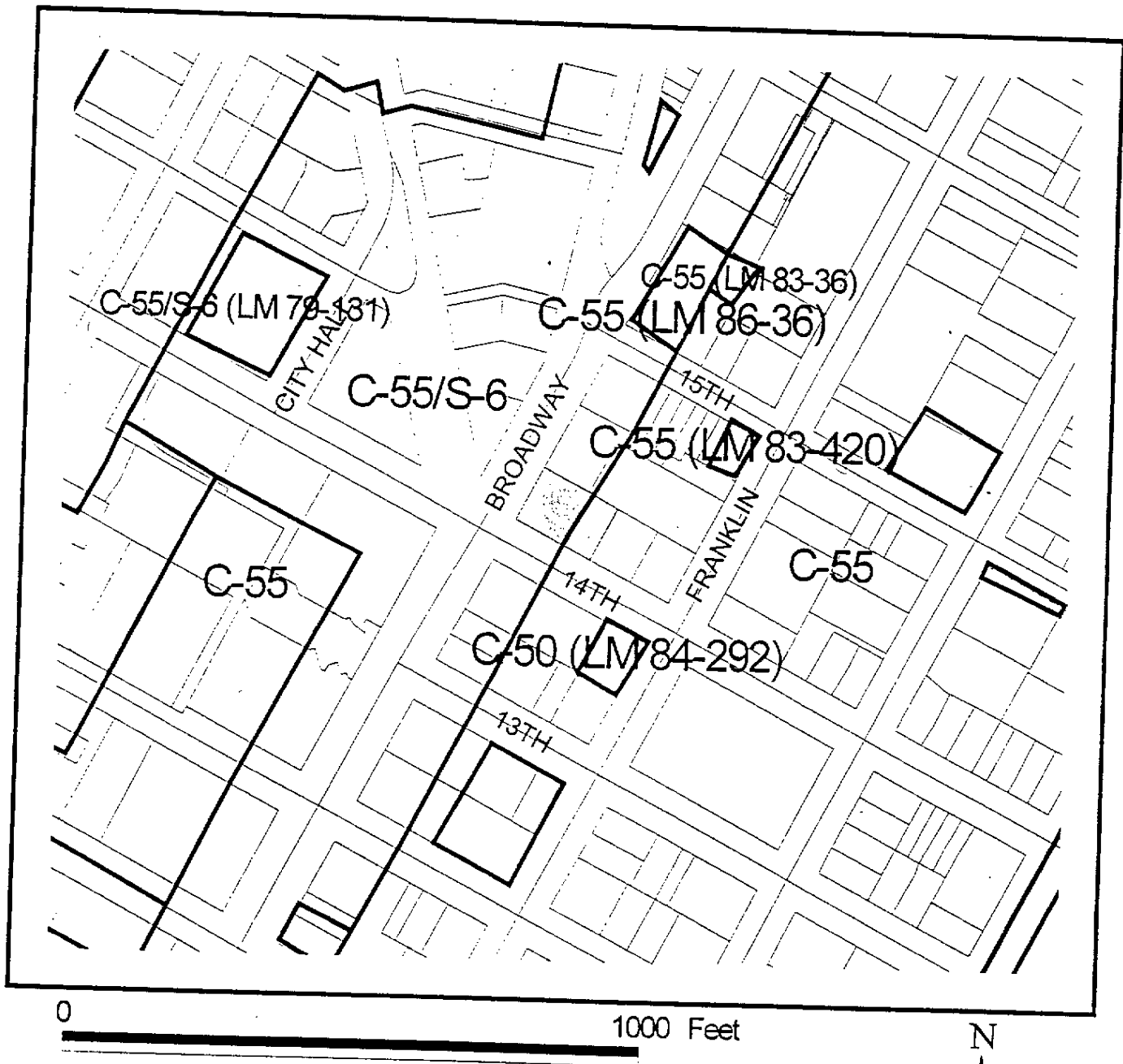
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B. 3. a

That the proposed project will serve and unmet or underserved need or population within the Oakland community. There are 5 off sale and 30 on sale establishments within 1000 feet of the site where alcohol can be purchased. Therefore, the proposed project will not serve an unmet or underserved need or population.

APPROVED BY: City Planning Commission: 11/3/99(date) 2 recusals (vote) 4 ayes; 0 noes;
City Council: _____(date) _____(vote)

CITY OF OAKLAND PLANNING COMMISSION



Case File: CM99-258
Applicant: King R. Woods/ Andrew Woods

Address: 1400 Broadway
Zone: C-55/S-6; C-55

ATTACHMENT A

CITY OF OAKLAND



CITY HALL • ONE CITY HALL PLAZA • OAKLAND, CALIFORNIA 94612

City Planning Commission

TDD 839-6451

September 23, 1997

Lester Meu
George Meu Assoc. for Rite Aid
555 Howard Street
San Francisco, CA. 94105

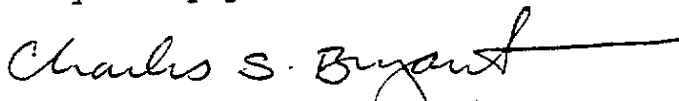
RE: Case File No. CMD97-178 - 1400 Broadway

Dear Mr. Meu:

The City Planning Commission will schedule a public hearing on your application for the above location. You will be notified of the scheduled hearing date. The neighborhood groups on the attached list will be notified of your application. In order for the public hearing to be most productive, the City Planning Commission and staff strongly suggest that you contact the interested neighborhood groups to discuss your application in greater detail.

Thank you in advance for your cooperation.

Very truly yours,


CHARLES S. BRYANT, Secretary
City Planning Commission

WY/slj

Attachment.

Lester Meu
George Meu Assoc. for Rite Aid
555 Howard Street
San Francisco, Ca. 94105
CMD97-178

NEIGHBORHOOD GROUPS

CENSUS TRACT 4029:

F-10, O-3-2, O-3-7, O-15,
W-4,

F-10
FLATLANDS ACTION COALITION

Jeannette Sherwin
4814 Lawton Ave.
Oakland, CA. 94609
(510) 655-5119

W-4
WEST OAKLAND COMMERCE
ASSOC.

George Burit
2221 Poplar St.
Oakland, CA. 94607
(510) 839-6999
FAX (510) 283-9924

O-3
OAKLAND COMMUNITY
DEVELOPMENT DISTRICTS -
OCD

(O-3-2)
OCD-Chinatown/Central
Robert Cox
141 Montecito #201
Oakland, CA. 94610
(510) 238-3716/613-2609

(O-3-7)
OCD-West Oakland
Janet Patterson
1120 8th St., D
Oakland, CA. 94607
(510) 238-3716/832-4040

O-15
OAK CENTER NEIGHBORHOOD
ASSOC. (OCNA)

Ellen Wyrick-Parkinson
1420 Magnolia St.
Oakland, CA. 94607
(510) 835-2290