

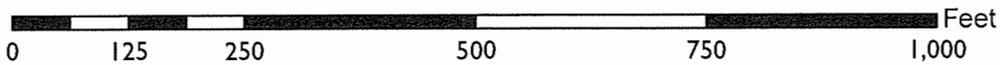
| | |
|-------------------------------------|---|
| Location: | 5516 San Pablo Ave (legal property address #5518) (see reverse for map) |
| Assessor's Parcel Numbers: | 015 -1308-016-00 |
| Proposal: | Amendment to previously approved project (PLN14018) to allow "Wolfhound Bar" to expand into a portion of the adjacent commercial space (a 393 square foot expansion of a 968 square foot space; resulting in a total of 1,361 square feet). |
| Applicant: | Mr. Peader Kelleher |
| Phone Number: | (415) 706-3550 |
| Owner: | Mr. Wally Whittier |
| Planning Permits Required: | Amendment to existing Major Conditional Use Permit to allow the expansion of an Alcoholic Beverage Sales Activity; Findings of Public Convenience or Necessity in an over concentrated area and major variance for separation on a restricted street. |
| General Plan: | Community Commercial |
| Zoning: | CC-2 Community Commercial Zone |
| Environmental Determination: | Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities (operation); Section 15183 of the State CEQA Guidelines: Projects Consistent with a Community Plan, General Plan or Zoning |
| Historic Status: | Potential Designated Historic Property; Survey rating: C3 |
| Service Delivery District: | 2 |
| City Council District: | 1 |
| Date Filed: | January 19, 2016 |
| Action to be Taken: | Approve with conditions |
| Finality of Decision: | <i>Appealable to City Council within 10 days</i> |
| For Further Information: | Contact case planner Jose M. Herrera-Preza at (510) 238-3808 or jherrera@oaklandnet.com |

SUMMARY

The applicant requests Planning Commission approval to amend their existing Major Conditional Use Permit and Major Variance to allow for the activity "Wolfhound Bar" to expand into a portion of the adjacent commercial space. The applicant first visited the Planning Commission on April 16, 2014 with an application (PLN14018) to re-establish a closed bar with a 2:00 a.m. closing time under a new operator. The applicant was granted (4 - 0) a Major Conditional Use Permit to re-establish an Alcohol Beverage Sales Activity, a Major Variance for alcohol sales within 1,000 feet of an existing alcohol outlet (one outlet approximately 500 feet from proposal). Since the initial application, the "Wolfhound Bar" has been in operation since March of 2015.

Staff recommends approval of the requested permits, subject to the Conditions of Approval included in this report.

CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN14018-R01

Applicant: Peadar Kelleher, Keith Mulligan, Christopher Southgate

Address: 5516 San Pablo Avenue

Zone: CC-2

PROPERTY DESCRIPTION

The property is a flat lot located in a commercial district along San Pablo Avenue, close to the Emeryville border. The forty-five foot wide lot contains a one-story building that is situated at zero lot line to the sidewalk. The building contains two side-by-side commercial spaces; the left (north) side space is occupied by the applicant and the other storefront space (south side) is currently vacant (previous tenant was "Create in Clay"). The property shares a gated driveway along its left side and also contains a rear apartment building, with a small open yard between the buildings.

The street frontage contains a crosswalk, street trees, light standards (both decorative and cobra head variety), and non-metered street parking. The area consists of a combination of retail, food, and auto services, the Golden Gate branch library, a church, a flooring shop, several vacant lots, and upper-story residential uses. To the north (left) is a one-story auto garage/warehouse with a shared gated driveway; to the south (right) is a three-story building (apartments over retail); to the east (rear) is a mixed housing type neighborhood; to the west (across the street) is 55th Street, which terminates at San Pablo. There is a commercial building on the north corner and a vacant lot on the south corner. The area is not an alcoholic beverage over-concentrated area; that is, the area is not higher than average in terms of number of alcoholic beverage sales licenses in the census tract or rates of reported crimes in the police beat. There is one alcoholic beverage sales outlet within one thousand feet i.e., a market specializing in meat sales that includes beer and wine sales, which is located over five hundred feet to the north ("Choice Meat Market").

PROJECT DESCRIPTION

The applicant seeks to expand the bar "The Wolfhound" from its current 968 square-foot interior size, which contains a 723 square-foot main room with a bar along the left side, and restrooms, storage, and an exit at the rear, into a portion of the adjacent commercial space. The expansion will total 393 square feet of main room space and result in a total of 1,361 square feet for the activity. The expansion will affect the rear of the adjacent space, which will leave the existing storefront undisturbed and result in an approximately 500 square-feet of leasable commercial space. Hours of operation would remain the same; daily from 1:00pm to 2:00am. Staffing would consist of two persons Thursdays through Sundays and one person Mondays through Wednesdays. Bar capacity increase from the current capacity of 49 persons. The applicant does not seek to operate a "cabaret" as defined in Chapter 5.12 of the Oakland Municipal Code; therefore a cabaret permit is not required. The applicant intends to display art inside the bar. The business would utilize a recycling program. It is anticipated by the applicant that many customers would be pedestrians. The applicant has been in operation for more than one calendar year. The applicant is scheduled to present the proposal to the City Council District 1 office and to the Neighborhood Crime Prevention Council (NCPC) for Police Beat 10X.

GENERAL PLAN ANALYSIS

The property is located in the Community Commercial area of the General Plan Land Use and Transportation Element (LUTE). The intent of the area is: "To identify, create, maintain, and enhance areas suitable for a wide variety of commercial and institutional operations along the City's major corridors and in shopping districts or centers." The proposal to expand a bar in a commercial area that does not have a high number of ABC licenses or reported crime conforms to this intent and to the following LUTE Policies and Objective:

Policy I/C1.1 Attracting New Business.

The City will strive to attract new businesses to Oakland which have potential economic benefits in terms of jobs and / or revenue generation. This effort will be coordinated through a citywide economic development strategy / marketing plan which identifies the City's existing economic base, the assets and constraints for future growth, target industries or activities of future attraction, and geographic areas appropriate for future use and development.

Policy I/C3.2 Enhancing Business Districts.

Retain and enhance clusters of similar types of commercial enterprises as the nucleus of distinctive business districts, such as the existing new and used automobile sales and related uses through urban design and business retention efforts.

Policy I/C3.4 Strengthening Vitality.

The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

Neighborhood Activity Centers

Objective N10

Support and create social, informational, cultural, and active economic centers in the neighborhoods.

Staff finds the proposal, subject to Conditions of Approval, to conform to the General Plan.

ZONING ANALYSIS

The property is located in the CC-2 Community Commercial Zone. The intent of the CC-2 Zone is: “to create, maintain, and enhance areas with a wide range of commercial businesses with direct frontage and access along the City’s corridors and commercial areas.” The following are permits required for the proposal, the reason each permit is required, and a discussion of each permit requested. These items are further discussed in the Key Issues and Impacts section of this report.

Major Conditional Use Permit

An amendment to the existing Major Conditional Use Permit (CUP) is required for an expansion of a Alcoholic Beverage Sales Commercial Activities (bar) exceeding 20%. Additional findings further ensure review of alcoholic beverage sales above and beyond general CUP findings. The Planning Code requires a review of these activities to ensure that they do not contribute to nuisances in the community, including both alcohol-related issues and discouragement of further business attraction.

Major Variance

An amendment to the existing Major Variance to allow the expansion of the bar, which is an intensification of the Alcohol Beverage Sales (bar) related activities within a 1,000 feet of an existing outlet. Outside of the downtown area the City requires a separation requirement between Alcohol activities to try to limit an over-concentration near residential areas.

The proposal to expand the bar into an adjacent commercial in an area space that does not have a high number of ABC licenses or reported crime conforms to the intent of the CC-2 Zone. Staff finds the proposal, subject to Conditions of Approval, conforms to the Planning Code.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines categorically exempts specific types of projects from environmental review. Section 15301 of the State CEQA Guidelines exempts projects involving *operation and licensing of existing private facilities*. The proposal for on-sale of alcoholic beverages from a new bar located in an existing space formerly used as a bar meets this description: the project would constitute operation of an existing private facility. Section 15183 of the State CEQA Guidelines relates to Projects Consistent with a Community Plan, General Plan or Zoning. The project adheres to this section, as described above. The project is, therefore, not subject to further Environmental Review.

KEY ISSUES AND IMPACTS

Variance

A Variance is required due to the site’s proximity to the following alcoholic beverage sales outlet:

| | Address | Separation | ABC license type |
|-----------|---|-------------------|-------------------------|
| 1. | 5696 San Pablo Avenue (Choice Meat Market) | 515 feet | 20 |

Key: 20 – Off Sale Beer & Wine (Package Store)

Amendment to the previously granted Variance, requires justification for relief from the distance separation requirement. The intent of the distance separation is to ensure that alcohol outlets, which historically can sometimes be problematic, do not proliferate adjacent to residences and civic uses. In this particular case, the only outlet with 1,000 feet is a market that closes at 6:30pm and is non-problematic as opposed to a bar, liquor store, or convenience store, which has later hours of operation and, in some cases, is prone to the generation of nuisances. The Planning Code intends to space out bars that are not located Downtown; in this case, the proposal is to expand an approved bar into a portion of an adjacent commercial space.

The project does not require Findings for Public Convenience or Necessity because the area is not over-concentrated for ABC licenses in Census Tract 4009 or reported crime in Police Beat 10X. Although several areas of the City are over-concentrated, this area of the City is not. The proposal does not involve a cabaret; therefore, a cabaret permit is not required.

Conditional Use Permit

A Conditional Use Permit is required for Alcoholic Beverage Sales activities within the CC-2 Community Commercial Zone. The purpose of the CUP is to consider the compatibility of the proposed use with its surroundings and to attach operating conditions to ensure the business would cause a nuisance. There is a library located at 5606 San Pablo Avenue located in between the project site and Choice Meat Market, however there are no ground floor residential or other civic uses in the neighborhood. The library closes at 8:30pm on Mondays, 5:30pm Tuesday through Friday, and is closed on weekends. The project does not require Findings for Public Convenience or Necessity because the area is not over-concentrated for ABC licenses in Census Tract 4009 or reported crime in Police Beat 10X. Although several areas of the City are over-concentrated, this area of the City is not. The proposal does not involve a cabaret; therefore, a cabaret permit is not required.

Conditions of Approval would attach several requirements, such as controls on litter, noise, and no rear smoking due to proximity to apartments, to maintain the compatibility of a bar with the surrounding mixed use area.

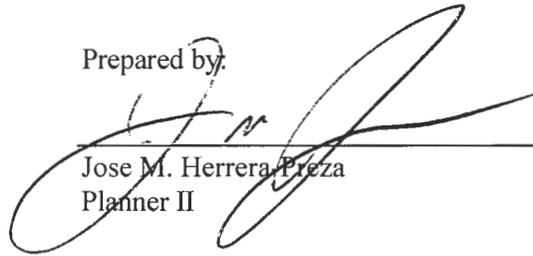
Since the activity is in operation and has obtained a Type 48 ABC License, it conforms with The City’s “No Net Increase Goal” (City Council Reso. 75490 adopted 2000) discourages new licenses in an attempt to cap the quantity in the City.

Due to the proposal’s ability to make required findings, staff recommends approval of the project, subject to Conditions of Approval including a compliance review within 6 months.

RECOMMENDATIONS:

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

Prepared by:



Jose M. Herrera Preza
Planner II

Reviewed by:



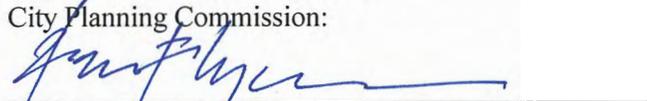
Scott Miller
Acting Zoning Manager

Reviewed by:



Darin Ranelletti, Deputy Director
Bureau of Planning

Approved for forwarding to the
City Planning Commission:



RACHEL FLYNN, Director
Department of Planning and Building

ATTACHMENTS:

- A. Findings
- B. Conditions of Approval
- C. April 18, 2014 Staff Report
- D. Plans with photographs
- E. OPD Area Crime Statistics (Map & Table)
- F. Correspondence

Attachment A: Findings

This proposal meets the required findings under General Use Permit Criteria (OMC Sec. 17.134.050), Use Permit Criteria for Establishments Selling Alcoholic Beverages (OMC Sec. 17.103.030(A)) and Variance Findings (OMC Sec. 17.148.050) under the Oakland Planning Code (Title 17).

General Use Permit Criteria (OMC Sec. 17.134.050):

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 area consists of a combination of retail, food, and auto services, the Golden Gate branch library, a church, a flooring shop, some vacant lots, and upper-story residential uses. The proposal to expand an existing bar is compatible with the site and surroundings. The property is located in the CC-2 Community Commercial Zone. The intent of the CC-2 Zone is: "to create, maintain, and enhance areas with a wide range of commercial businesses with direct frontage and access along the City's corridors and commercial areas." The proposal will increase the diversity of retail options and serve pedestrian use in the area. The proposal to expand the bar in a commercial area that does not have a high number of ABC licenses or reported crime conforms to the intent of the CC-2 Zone. Conditions of Approval will control litter, noise, smoking, and potential for operation as a cabaret to ensure nuisances are avoided.

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 proposal to expand a bar in a commercial area that does not have a high number of ABC licenses or reported crime conforms to the intent of the CC-2 Zone. The bar is located in an existing building and will expand into the rear of the adjacent commercial space, leaving the street fronting portion of the space leasable to a future tenant. The proposal will offer a convenient and attractive establishment.

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 proposal to expand the bar in a commercial area that does not have a high number of ABC licenses or reported crime conforms to the intent of the CC-2 Zoning and will contribute to the variety of businesses in this commercial area. The proposal will bring more pedestrians and additional foot traffic to the commercial area.

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

No exterior changes or signs are proposed at this time; therefore design review is not applicable. Should the applicant desire exterior changes and/or signage in the future, they will need to obtain a design review permit from the Planning and Zoning Division as required by the Conditions of Approval.

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 property is located in the Community Commercial area of the General Plan Land Use and Transportation Element (LUTE). The intent of the area is: "To identify, create, maintain, and enhance areas suitable for a wide variety of commercial and institutional operations along the City's major corridors and in shopping districts or centers." The proposal to re-open a bar in a commercial area that does not have a high number of ABC licenses or reported crime conforms to this intent and to the following LUTE Policies and Objective:

Policy I/C1.1 Attracting New Business.

The City will strive to attract new businesses to Oakland which have potential economic benefits in terms of jobs and / or revenue generation. This effort will be coordinated through a citywide economic development strategy / marketing plan which identifies the City's existing economic base, the assets and constraints for future growth, target industries or activities of future attraction, and geographic areas appropriate for future use and development.

Policy I/C3.2 Enhancing Business Districts.

Retain and enhance clusters of similar types of commercial enterprises as the nucleus of distinctive business districts, such as the existing new and used automobile sales and related uses through urban design and business retention efforts.

Policy I/C3.4 Strengthening Vitality.

The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

Neighborhood Activity Centers

Objective N10

Support and create social, informational, cultural, and active economic centers in the neighborhoods.

Use Permit Criteria for Establishments Selling Alcoholic Beverages (OMC Sec. 17.102.210(A)):

1. That the proposal will not contribute to 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 of crime and loitering, and traffic problems and capacity;

The Planning Code intends to avoid a concentration of bars that are not located Downtown; in this case, the project is to expand an existing bar in a space that is still set up to accommodate a commercial use. Only one alcohol outlet exists within one thousand feet of the site and it is not a bar, but a grocery store specializing in meat. The area is not over-concentrated for ABC licenses or reported crime. The proposal was previously presented to the Neighborhood Crime Prevention Council (NCPC) for Police Beat 10X and the Golden Gate NCPC provided a letter of support in 2014.

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

There is a library located at 5606 San Pablo Avenue, between the project site and Choice Meat Market, however there are no nearby ground floor residences or other civic uses. The library closes at 8:30pm on Mondays, 5:30pm Tuesday through Friday, and is closed on weekends. The library hours are outside of the

bar's most active hours on the weekends and nights, and it is not anticipated that the proposal will adversely affect this use.

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

The commercial space lacks a parking lot and does not block any sidewalks. This finding is, therefore, met.

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 existing commercial façade is attractive and no changes to it are proposed at this time.

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

The site does not contain a parking lot, and the proposal does not involve signage at this time. Should signage be desired in the future, that project would require review and approval by the Planning and Zoning Division.

6. That adequate litter receptacles will be provided where appropriate;

Litter will be collected inside the business. The business will utilize a recycling program. Conditions of Approval will ensure the operator maintains cleanliness in the public right-of-way (sidewalk and gutter) adjacent to the site.

7. That where the proposed 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 p.m. and seven a.m. The same criteria shall apply to all conditional use permits required by subsection B of this section for sale of alcoholic beverages at full-service restaurants.

The bar will operate adjacent to residences along the south (right) side and east (rear) side; Conditions of Approval will prohibit smoking or any other patron use at the rear yard.

8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant--Guidelines for Development and Evaluation" (OCPD 100-18).

This finding is not applicable; the proposal does not involve a Fast Food Restaurant.

SECTION 17.148.050 – VARIANCE FINDINGS:

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.

A Variance was previously granted to allow, the “Wolfhound” to establish with 1,000 feet of an existing alcohol outlet as indicated in the following table:

| | Address | Separation | ABC license type |
|-----------|---|-------------------|-------------------------|
| 1. | 5696 San Pablo Avenue (Choice Meat Market) | 515 feet | 20 |

Key: 20 – Off Sale Beer & Wine (Package Store)

Approval of the Bar expansion requires a Variance to intensify an Alcohol related activity and requires justification for relief from the distance separation requirement. The intent of the distance separation is that alcohol outlets, which historically can be problematic, do not proliferate adjacent to residences and civic uses. In this case, the nearest outlet is a Meat Market that closes at 6:30pm. Meat Markets tend to be less problematic than a bar, liquor store, or convenience store. The Planning Code intends to space out bars that are not located Downtown; in this case, the project is to expand a bar in a adjacent commercial space.

2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation;

A Variance was approved at this location for a Bar in April of 2014; the business is still in operation.

3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy;

As part of the revitalization of this section of San Pablo Ave, which was de-listed as a restricted street requiring a Major CUP for restaurants to serve alcoholic beverages under the Planning Code to enhance commerce and due to decreased crime and alcohol-related nuisances, the activity has increase the night time activity to the area and re-energized this section of San Pablo Avenue. The character, livability, or appropriate development of the surrounding area will not be adversely and will not be detrimental to the public welfare or contrary to development policy. The project does not require Findings for Public Convenience or Necessity because the area is not over-concentrated for ABC licenses in Census Tract 4009 or reported crime in Police Beat 10X.

4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations;

A Variance was approved for this location on April 18, 2014. As stated above, the granting of the variance maintains consistency with the purposes of the zoning regulations.

5. That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050.

The Variance is for unmet distance separation between alcohol outlets and design review is, therefore, not applicable.

6. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

The proposal to expand an existing a bar into an adjacent commercial space located in a commercial zone conforms to the General Plan.

7. For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

- a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or**
- b. Over sixty (60) percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.**

This finding is not applicable; the project does not involve a house or duplex.

Attachment B: Conditions of Approval

STANDARD CONDITIONS:

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **PLN14018-R01** and the approved plans **dated January 15, 2016**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. Effective Date, Expiration, Extensions and Extinguishment

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** from the Approval date, or from the date of the final decision in the event of an appeal, unless within such period all necessary permits for construction or alteration have been issued, or the 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 Approval, 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 necessary building permit or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. Compliance with Other Requirements

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, and Public Works Department. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition #4.

4. Minor and Major Changes

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. Compliance with Conditions of Approval

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.
- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant’s expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval 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 Approval 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 Approval or Conditions.

6. Signed Copy of the Approval/Conditions

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. Blight/Nuisances

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

8. Indemnification

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (hereafter collectively called “City”) from any liability, damages, claim, judgment, loss (direct or indirect), action, causes of action, or proceeding (including legal costs, attorneys’ 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 this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project applicant shall reimburse the City for its reasonable legal costs and attorneys’ fees.

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

9. Severability

The Approval would not have been granted but for the applicability and validity of each and every one of the specified Conditions, and if 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.

SPECIFIC CONDITIONS

10. Alcoholic Beverage Sales

a. Additional Permits Required

Prior to commencement of activity

A type 48 license shall be obtained from the ABC. The license must be obtained from existing stock within the City limits to the extent practicable pursuant to City Council Resolution No. 75490 (2000). 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. Location and manner of alcohol consumption

Alcohol sale is on-sale, for on-site consumption only.

c. Hours of Alcohol Sale

Hours of alcohol sales are limited to the following: Monday through Sunday 1:00pm to 1:45am. No alcoholic beverages shall be sold within fifteen minutes prior to closing time.

d. Admittance

No minors shall be admitted at any time.

11. Operation

Ongoing

a. Staffing

The establishment shall have at least two staff persons on-site Thursdays through Sundays.

b. Staff training program

The operator shall require new employees to complete a staff training program that includes training in the conditions of approval and ABC statutes and regulations.

c. Staff to monitor site

Staff of the business shall regularly monitor the bar and public right-of-way to discourage all nuisances including but not limited to discouraging loitering, littering, noise, graffiti, public drinking / intoxication / urination / violence, and noise.

d. Future operators

Any future operators of any restaurant at these premises are subject to the requirements of this approval.

e. Entry

Admission shall never be charged for events or otherwise.

f. Cabarets

No live music or DJ's are allowed without a Cabaret Permit from the City Administrator's Office.

g. Taxi call program

Ongoing

The establishment shall maintain a program of calling taxi cabs or rideshare for patrons on request for the purpose of preventing driving while intoxicated and shall maintain this service. Signage offering this service shall be displayed behind the bar.

12. Coordination/Outreach

a. ABAT Registration

The operator shall register with the Police Department's Alcoholic Beverage Action Team and adhere to their regulations.

b. Deemed Approved Alcoholic Beverage Sale Regulations

The applicant and proprietor voluntarily agree to conform to the Oakland Planning Code Deemed Approved Alcoholic Beverage Sale Regulations (OMC Sec. 17.156).

c. Crime Prevention Through Environmental Review (CPTED)

The applicant shall request a CPTED review from the Oakland Police Department's Alcoholic Beverage Action Team (ABAT) and shall implement all recommendations to the extent practicable.

d. Neighborhood outreach

The business operator shall be accessible to neighbors wishing to register complaints against the business and shall work to eliminate any nuisances related to the business as reported by neighbors.

13. Environmental Effects

a. Nuisances

Crime, litter, or disorderliness conduct associated with alcohol sales at the establishment will result in a revocation of the Major Conditional Use Permit or a review to revoke.

b. Performance standards

Ongoing

The establishment shall adhere to performance standards for noise, odor, and all environmental effects of the restaurant activity as regulated under OMC Chapter 17.120.

c. Loitering

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.

d. Odor

Staff shall eliminate outdoor odors by refraining from purposefully breaking defective bottles outside and by immediately washing spillage from bottles broken accidentally.

e. Graffiti

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

f. Trash and litter

The licensees/property owners shall clear the gutter and sidewalks along San Pablo Avenue plus twenty feet beyond the property lines along this street of litter twice daily or as needed to control litter. In addition to the requirements of B&P Code Section 25612.5 (sweep or mechanically clean weekly), the licensee shall clean the sidewalk with steam or equivalent measures once per month. The business shall utilize a recycling program.

g. Noise

The City Noise Ordinance (OMC Sec. 8.18.010) and Performance Standards (OMC Sec. 17.20.050) shall be observed for noise emanating from within the establishment from any source of recorded music and from patrons as well as from outdoor noise from patrons.

h. Smoking

The City Smoking Ordinance shall apply (OMC Sec. 8.30). Smoking shall only be located in the front of the building on the public sidewalk 25-feet to the north (left) of the doorway only due to the proximity of neighbors on-site to the rear and right of the building and State law. Ashtrays shall be provided adjacent to the entrance to prevent littering of cigarette butts. The establishment shall provide signage inside the building and next to the exit to direct patrons to the proper location for smoking. No smoking shall be permitted in the rear yard area.

14. Design

a. Signage

Within 30 days of the date of decision and ongoing

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.

b. Signage to discourage other nuisances

Ongoing

The establishment shall display signage inside the building and next to the exit discouraging the patrons from generating nuisances outdoors both fronting the building and within the neighborhood.

c. Contact phone numbers

Ongoing

The establishment shall display signage behind the bar offering contact numbers for both the establishment and the City (CEDA Code Compliance at (510)238-3381 and OPD non-emergency at (510)777-3333) for

the purpose of reporting nuisances.

d. Advertising signage

No product advertising signage (such as neon beer signs) or banners (such as happy hour advertisements) may be displayed.

e. Pay Phones

No pay phones are permitted outside the building.

f. Building Code Upgrades

Prior to commencing approved activities

The applicant shall obtain Building Permits and construct any building upgrades required to comply with the Building Code for occupancy requirements; it may be the case that no upgrades are required.

g. Modifications

Prior to submitting for a building permit & ongoing

All business signage and/or exterior alterations shall require Planning and Zoning Division approval.

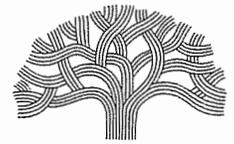
15. Compliance hearings

After 6 months of commencement of sale of alcoholic beverages

The applicant shall return to the Planning and Zoning Division to report their progress. Should any complaints regarding on-sale provision or other issues regarding sale of alcohol be identified, staff may refer the item back to the Planning Commission under a Director's Report. In that case, the applicant shall submit for a Compliance Review, and pay all appropriate fees consistent with the current Master Fee Schedule at that time (currently \$1,310.00). The Compliance Review will be agendaized for an upcoming Planning Commission meeting. The Compliance Review shall provide an opportunity for the Commission and the public to provide comment on the operation and determine whether there is a violation of any term, **Conditions** or project description relating to the Approvals or if there is violation of any provision of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance or there exists adverse impacts caused. As a result of the hearing, the Commission may direct staff to initiate enforcement proceedings pursuant to Condition of Approval 5C and/or 13a, and/or may impose additional conditions related to the operation.

APPROVED BY:

City Planning Commission: _____ (date) _____ (vote)

**ATTACHMENT C**

DALZIEL BUILDING • 250 FRANK H. OGAWA PLAZA, SUITE 2114 • OAKLAND, CALIFORNIA 94612-2032

Department of Planning and Building
Zoning Division(510) 238-3911
FAX (510) 238-4730
TDD (510) 238-3254

Sent via U.S. Mail and Electronic Mail

April 18, 2014Mr. Peader Kelleher/Benbulben LLC
163 Fairmount Street
San Francisco, CA 94131**RE: Case File No. PLN14018 / 5516-5518 San Pablo Avenue (APN: 015 -1308-016-00) – north/left side space only**

Dear Mr. Kelleher:

The above application was **APPROVED** at the City Planning Commission meeting (by a **4-0** vote) on **April 16, 2014**. The Commission's action is indicated below. This action becomes final ten (10) days after the date of the announcement of the decision unless an appeal to the City Council is filed by **4:00 pm on April 28, 2014**.

- 1. Adoption/approval of the CEQA Findings.**
- 2. Approval of the Major Conditional Use Permit and Variance subject to the attached findings and conditions of approval, including the Standard Conditions of Approval.**

If you, or any interested party, seeks to challenge this decision, an appeal **must** be filed by no later than ten calendar (10) days from the announcement of the decision by **4:00 pm on April 28, 2014**. An appeal shall be on a form provided by the Planning and Zoning Division of the Department of Planning and Building, and submitted to the same at 250 Frank H. Ogawa Plaza, Suite 2114, to the attention of **Aubrey Rose AICP, 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, or any interested party, from raising such issues during the appeal and/or in court. However, the appeal will be limited to issues and/or evidence presented to the City Planning Commission prior to the close of the City Planning Commission's public hearing on the matter.

April 16, 2014

A signed Notice of Exemption (NOE) is enclosed certifying that the project has been found to be exempt from CEQA review. It is your responsibility to record the NOE and the Environmental Declaration 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 **Aubrey Rose AICP, Planner II**. Pursuant to Section 15062(d) of the California Environmental Quality Act (CEQA) Guidelines, recordation of the NOE starts a 35-day statute of limitations on court challenges to the approval under CEQA.

If you have any questions, please contact the case planner, **Aubrey Rose AICP, Planner II** at (510) 238-2071 or arose@oaklandnet.com, however, this does not substitute for filing of an appeal as described above.

Very Truly Yours,



SCOTT MILLER
Zoning Manager

Attachments: A. Findings
B. Conditions of Approval, including Standard Conditions of Approvals

Attachment A: Findings

This proposal meets the required findings under General Use Permit Criteria (OMC Sec. 17.134.050), Use Permit Criteria for Establishments Selling Alcoholic Beverages (OMC Sec. 17.103.030(A)) and Variance Findings (OMC Sec. 17.148.050) under the Oakland Planning Code (Title 17).

General Use Permit Criteria (OMC Sec. 17.134.050):

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 proposal to re-establish an existing bar is compatible with the site and surroundings. The property is located in the CC-2 Community Commercial Zone. The intent of the CC-2 Zone is: "to create, maintain, and enhance areas with a wide range of commercial businesses with direct frontage and access along the City's corridors and commercial areas." The area consists of a combination of retail, food, and auto services, the Golden Gate branch library, a church, a flooring shop, some vacant lots, and upper-story residential uses, and the proposal will increase the diversity of retail options and serve pedestrian use in the area. The proposal to re-open a bar in a commercial area that does not have a high number of ABC licenses or reported crime conforms to the intent of the CC-2 Zone. Conditions of Approval will control litter, noise, smoking, and potential for operation as a cabaret to ensure nuisances are avoided.

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 proposal to re-open a bar in a commercial area that does not have a high number of ABC licenses or reported crime conforms to the intent of the CC-2 Zoning. The proposal is located in an existing building that contained a bar for several decades, and the floor plan is conducive to the operation of a bar. The proposal will offer a convenient and attractive establishment.

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 proposal to re-open a bar in a commercial area that does not have a high number of ABC licenses or reported crime conforms to the intent of the CC-2 Zoning and will contribute to the variety of businesses in this commercial area. The proposal will bring more pedestrians and additional foot traffic to the commercial area.

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

No exterior changes or signage are proposed at this time and design review is, therefore, not applicable. Should the applicant desire exterior changes and/or signage in the future, they will need to obtain a design review permit from the Planning and Zoning Division as required by the Conditions of Approval.

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 property is located in the Community Commercial area of the General Plan's Land Use and Transportation Element (LUTE). The intent of the area is: "To identify, create, maintain, and enhance areas suitable for a wide variety of commercial and institutional operations along the City's major corridors and in shopping districts or centers." The

proposal to re-open a bar in a commercial area that does not have a high number of ABC licenses or reported crime conforms to this intent and to the following LUTE Policies and Objective:

Policy I/C1.1 Attracting New Business.

The City will strive to attract new businesses to Oakland which have potential economic benefits in terms of jobs and / or revenue generation. This effort will be coordinated through a citywide economic development strategy / marketing plan which identifies the City's existing economic base, the assets and constraints for future growth, target industries or activities of future attraction, and geographic areas appropriate for future use and development.

Policy I/C3.2 Enhancing Business Districts.

Retain and enhance clusters of similar types of commercial enterprises as the nucleus of distinctive business districts, such as the existing new and used automobile sales and related uses through urban design and business retention efforts.

Policy I/C3.4 Strengthening Vitality.

The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

Neighborhood Activity Centers

Objective N10

Support and create social, informational, cultural, and active economic centers in the neighborhoods.

Use Permit Criteria for Establishments Selling Alcoholic Beverages (OMC Sec. 17.102.210(A)):

1. That the proposal will not contribute to 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 of crime and loitering, and traffic problems and capacity;

The Planning Code intends to space out bars that are not located Downtown; in this case, the project is to re-open a former bar in a space that is still set up to accommodate such a use. Only one alcohol outlet exists within one thousand feet of the site and it is not a bar, but a grocery store specializing in meat. The area is not over-concentrated for ABC licenses or reported crime. The proposal was presented to the Neighborhood Crime Prevention Council (NCPC) for Police Beat 10X and the Golden Gate NCPC has provided a letter of support. Additionally, one letter of support has been received from one residence in the area. Conditions of Approval will attach several requirements, such as controls on litter and noise, to maintain the compatibility of a bar with the surrounding area.

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

There is a library located at 5606 San Pablo Avenue, between the project site and Choice Meat Market, but there are no nearby ground floor residences or other civic uses. The library closes at 8:30pm on Mondays, 5:30pm Tuesday through Friday, and is closed on weekends. The library hours are outside of the bar's most active hours on the weekends and nights, and it is not anticipated that the proposal will adversely affect this use.

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

The commercial space lacks a parking lot and does not block any sidewalks. This Finding is, therefore, met.

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 commercial façade is attractive and no changes to it are proposed at this time.

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

The site does not contain a parking lot, and the proposal does not involve signage at this time. Should signage be desired in the future, that project would require review and approval by the Planning and Zoning Division.

6. That adequate litter receptacles will be provided where appropriate;

Litter will be collected inside the business. The business will utilize a recycling program. Conditions of Approval will ensure the operator maintains cleanliness in the public right-of-way (sidewalk and gutter) adjacent to the site.

7. That where the proposed 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 p.m. and seven a.m. The same criteria shall apply to all conditional use permits required by subsection B of this section for sale of alcoholic beverages at full-service restaurants.

The bar will operate adjacent to residences along the south (right) side and east (rear) side; Conditions of Approval will prohibit smoking or any other patron use at the rear yard.

8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant--Guidelines for Development and Evaluation" (OCPD 100-18).

This finding is not applicable; the proposal does not involve a Fast Food Restaurant.

SECTION 17.148.050 – VARIANCE FINDINGS:

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.

A Variance is required due to the site's proximity to an alcohol outlet as indicated in the following table:

| | <u>Address</u> | <u>Separation</u> | <u>ABC license type</u> |
|----|---|-------------------|-------------------------|
| 1. | 5696 San Pablo Avenue (Choice Meat Market) | 515 feet | 20 |

Key: 20 – Off Sale Beer & Wine (Package Store)

Approval of the Variance, therefore, requires justification for relief from the distance separation requirement. The intent of the distance separation is that alcohol outlets, which historically can be problematic, do not proliferate adjacent to residences and civic uses. In this case, the only other outlet is a butcher that closes at 6:30pm. Butchers tend to be less problematic than a bar, liquor store, or convenience store. The Planning Code intends to space out bars that are not located Downtown; in this case, the project is to re-open a former bar in a space that is still set up to accommodate such a use.

2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation;

April 16, 2014

A similar Variance was approved for a café to serve beer and wine at 6334 San Pablo Avenue ; that business is still in operation with no known adverse impacts.

3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy;

The project is not anticipated to generate off-site impacts, and will not adversely affect the character, livability, or appropriate development of the surrounding area, and will not be detrimental to the public welfare or contrary to development policy. This section of San Pablo Avenue was de-listed as a restricted street requiring a Major CUP for restaurants to serve alcoholic beverages under the Planning Code to enhance commerce and due to decreased crime and alcohol-related nuisances. The project does not require Findings for Public Convenience or Necessity because the area is not over-concentrated for ABC licenses in Census Tract 4009 or reported crime in Police Beat 10X.

4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations;

A Variance was approved for a café to serve beer and wine at 6334 San Pablo Avenue. As stated above, the granting of the variance maintains consistency with the purposes of the zoning regulations.

5. That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050.

The Variance is for unmet distance separation between alcohol outlets and design review is, therefore, not applicable.

6. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.

The proposal to open a bar in a former bar space located in a commercial zone conforms to the General Plan.

7. For proposals involving one or two residential dwelling units on a lot: That, if the variance would relax a regulation governing maximum height, minimum yards, maximum lot coverage or building length along side lot lines, the proposal also conforms with at least one of the following criteria:

a. The proposal when viewed in its entirety will not adversely impact abutting residences to the side, rear, or directly across the street with respect to solar access, view blockage and privacy to a degree greater than that which would be possible if the residence were built according to the applicable regulation and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height; or

b. Over sixty (60) percent of the lots in the immediate vicinity are already developed and the proposal does not exceed the corresponding as-built condition on these lots and, for height variances, the proposal provides detailing, articulation or other design treatments that mitigate any bulk created by the additional height. The immediate context shall consist of the five closest lots on each side of the project site plus the ten closest lots on the opposite side of the street (see illustration I-4b); however, the Director of City Planning may make an alternative determination of immediate context based on specific site conditions. Such determination shall be in writing and included as part of any decision on any variance.

This finding is not applicable; the project does not involve a house or duplex.

Attachment B: Conditions of Approval

Modifications to the Conditions of Approval as directed by the City Planning Commission at the April 16, 2014 meeting are indicated in underlined type for additions and ~~cross-out~~ type for deletions. See pages 9 and 10 for revisions.

1. Approved Use

Ongoing

- a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, staff report, and the plans dated and submitted on **February 17, 2014** and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall require prior written approval from the Director of City Planning or designee.
- b) This action by the **City Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes:
 - i) Major Conditional Use Permit and Variance for an Alcoholic Beverage Sales Commercial Activity (bar) at 5516 San Pablo Avenue.*

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 for construction or alteration have been issued, or the 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 necessary 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 laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.
- b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, 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 of Oakland 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, stop work, permit suspension 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, notarized, and submitted with each set of permit plans to the appropriate City agency 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 its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' 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 City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or 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 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 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.

SPECIFIC CONDITIONS

10. Alcoholic Beverage Sales

a. Additional Permits Required

Prior to commencement of activity

A type 48 license shall be obtained from the ABC. The license must be obtained from existing stock within the City limits to the extent practicable pursuant to City Council Resolution No. 75490 (2000). 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. Location and manner of alcohol consumption

Alcohol sale is on-sale, for on-site consumption only.

c. Hours of Alcohol Sale

Hours of alcohol sales are limited to the following: Monday through Sunday 1:00pm to 2:00am. No alcoholic beverages shall be sold within fifteen minutes prior to closing time.

d. Admittance

No minors shall be admitted at any time.

11. Operation

Ongoing

a. Staffing

The establishment shall have at least two staff persons on-site ~~Thursdays through Sundays~~ at all times including at least one security guard 9:00pm until thirty (30) minutes after closing.

b. Staff training program

The operator shall require new employees to complete a staff training program that includes training in the conditions of approval and ABC statutes and regulations.

c. Staff to monitor site

Staff of the business shall regularly monitor the bar and public right-of-way to discourage all nuisances including but not limited to discouraging loitering, littering, noise, graffiti, public drinking / intoxication / urination / violence, and noise.

d. Future operators

Any future operators of any bar at these premises are subject to the requirements of this approval.

e. Entry

Admission shall never be charged for events or otherwise.

f. Cabarets

No live music or DJ's are allowed without a Cabaret Permit from the City Administrator's Office.

g. Taxi call program

f. Trash and litter

The licensees/property owners shall clear the gutter and sidewalks along San Pablo Avenue plus twenty feet beyond the property lines along this street of litter twice daily or as needed to control litter. In addition to the requirements of B&P Code Section 25612.5 (sweep or mechanically clean weekly), the licensee shall clean the sidewalk with steam or equivalent measures once per month. The business shall utilize a recycling program.

g. Noise

The City Noise Ordinance (OMC Sec. 8.18.010) and Performance Standards (OMC Sec. 17.20.050) shall be observed for noise emanating from within the establishment from any source of recorded music and from patrons as well as from outdoor noise from patrons.

h. Smoking

The City Smoking Ordinance shall apply (OMC Sec. 8.30). Smoking shall only be located in the front of the building on the public sidewalk 25-feet to the north (left) of the doorway only due to the proximity of neighbors on-site to the rear and right of the building and State law. Ashtrays shall be provided adjacent to the entrance to prevent littering of cigarette butts. The establishment shall provide signage inside the building and next to the exit to direct patrons to the proper location for smoking.

14. Design

a. Signage

Within 30 days of the date of decision and ongoing

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.

b. Signage to discourage other nuisances

Ongoing

The establishment shall display signage inside the building and next to the exit discouraging the patrons from generating nuisances outdoors both fronting the building and within the neighborhood.

c. Contact phone numbers

Ongoing

The establishment shall display signage behind the bar offering contact numbers for both the establishment and the City (CEDA Code Compliance at (510)238-3381 and OPD non-emergency at (510)777-3333) for the purpose of reporting nuisances.

d. Advertising signage

No product advertising signage (such as neon beer signs) or banners (such as happy hour advertisements) may be displayed.

e. Pay Phones

No pay phones are permitted outside the building.

f. Building Code Upgrades

Prior to commencing approved activities

The applicant shall obtain Building Permits and construct any building upgrades required to comply with the Building Code for occupancy requirements; it may be the case that no upgrades are required.

g. Modifications

Ongoing

The establishment shall maintain a program of calling taxi cabs for patrons on request for the purpose of preventing driving while intoxicated and shall maintain this service. Signage offering this service shall be displayed behind the bar.

h. Closed Circuit Television (CCTV)/Surveillance Cameras

Ongoing

The bar shall install and utilize CCTV surveillance cameras, with guidance from ABAT during CPTED review (Condition of Approval #12c) including but not limited to location(s) of installation and duration of information storage.

12. Coordination/Outreach

a. ABAT Registration

The operator shall register with the Police Department's Alcoholic Beverage Action Team and adhere to their regulations.

b. Deemed Approved Alcoholic Beverage Sale Regulations

The applicant and proprietor voluntarily agree to conform to the Oakland Planning Code Deemed Approved Alcoholic Beverage Sale Regulations (OMC Sec. 17.156).

c. Crime Prevention Through Environmental Review (CPTED)

The applicant shall request a CPTED review from the Oakland Police Department's Alcoholic Beverage Action Team (ABAT) and shall implement all recommendations to the extent practicable.

d. Neighborhood outreach

The business operator shall be accessible to neighbors wishing to register complaints against the business and shall work to eliminate any nuisances related to the business as reported by neighbors.

13. Environmental Effects

a. Nuisances

Crime, litter, or disorderliness conduct associated with alcohol sales at the establishment will result in a revocation of the Major Conditional Use Permit or a review to revoke.

b. Performance standards

Ongoing

The establishment shall adhere to performance standards for noise, odor, and all environmental effects of the restaurant activity as regulated under OMC Chapter 17.120.

c. Loitering

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.

d. Odor

Staff shall eliminate outdoor odors by refraining from purposefully breaking defective bottles outside and by immediately washing spillage from bottles broken accidentally.

e. Graffiti

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

April 16, 2014

Prior to submitting for a building permit & ongoing

All business signage and/or exterior alterations shall require Zoning Division approval.

15. Compliance hearings

After 6 months of commencement of sale of alcoholic beverages

The applicant shall return to the Planning and Zoning Division to report their progress. Should any complaints regarding on-sale provision or other issues regarding sale of alcohol be identified, staff may refer the item back to the Planning Commission under a Director's Report. In that case, the applicant shall submit for a Compliance Review, and pay all appropriate fees consistent with the current Master Fee Schedule at that time (currently \$1,310.00). The Compliance Review will be agendaized for an upcoming Planning Commission meeting. The Compliance Review shall provide an opportunity for the Commission and the public to provide comment on the operation and determine whether there is a violation of any term, **Conditions** or project description relating to the Approvals or if there is violation of any provision of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance or there exists adverse impacts caused. As a result of the hearing, the Commission may direct staff to initiate enforcement proceedings pursuant to Condition of Approval 5C and/or 13a, and/or may impose additional conditions related to the operation.

APPROVED BY:

City Planning Commission: April 16, 2014 (date) 4-0 (vote)

City of Oakland
Department of Planning and Building
Planning and 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: Case No. PLN14018
Project Applicant: Mr. Peader Kelleher
Project Location: 5516-5518 San Pablo Avenue (APN: 015 -1308-016-00)
Project Description: To open a bar.
Exempt Status:

Statutory Exemptions

- Ministerial {Sec.15268}
- Feasibility/Planning Study {Sec.15262}
- Emergency Project {Sec.15269}
- Other: {Sec. _____}

Categorical Exemptions

- Existing Facilities {Sec.15301}**
- Replacement or Reconstruction {Sec.15302}
- Small Structures {Sec.15303}
- Minor Alterations {Sec.15304}
- In-fill Development {Sec. 15332}
- General Rule {Sec.15061(b)(3)}

Other

- Projects consistent with a community plan, general plan or zoning {Sec. 15183(f)}
- _____ (Sec. _____)

Reason why project is exempt:

To open a bar in an existing commercial building along a commercial corridor will not have a significant effect on the environment.

Lead Agency: City of Oakland, Department of Planning and Building, 250 Frank H. Ogawa Plaza, Suite 2114, Oakland, CA 94612

Division/Contact Person: Planning and Zoning / Aubrey Rose AICP, Planner II **Phone:** 510-238-2071

Scott Muller

4-18-14

Signature (Darin Ranelletti, Environmental Review Officer)

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)**

: FOR COURT USE ONLY

NAME AND ADDRESS OF APPLICANT OR LEAD AGENCY

LEAD AGENCY: CITY OF OAKLAND
 Department of Planning and Building
 Planning and Zoning Division
 250 Frank H. Ogawa Plaza, 2nd Floor
 Oakland CA 94612

APPLICANT: Mr. Peader Kelleher
 163 Fairmount Street
 San Francisco, CA 94131

: FILING NO.

CLASSIFICATION OF ENVIRONMENTAL DOCUMENT: Check the box(es) that applies. CLERKS
USE ONLY

1. **NOTICE OF EXEMPTION** PLU 117
[X] A – STATUTORILY OR CATEGORICALLY EXEMPT
 \$50.00 (Fifty Dollars) – CLERK’S FEE
- [] B – FEE EXEMPTION –NO IMPACT DETERMINATION ISSUED BY F&G PLU 117
 \$50.00 (Fifty Dollars) – CLERK’S FEE
2. **NOTICE OF DETERMINATION**
- [] A – NEGATIVE DECLARATION PLU 116
 \$2,044.00 (Two Thousand Forty Four Dollars)-STATE FILING FEE
 \$50.00 (Fifty Dollars) – CLERK’S FEE
- [] B – MITIGATED NEGATIVE DECLARATION PLU 116
 \$2,044.00 (Two Thousand Forty Four Dollars)-STATE FILING FEE
 \$50.00 (Fifty Dollars) – CLERK’S FEE
- [] C – ENVIRONMENTAL IMPACT REPORT PLU 115
 \$2,839.25 (Two Thousand Eight Hundred Thirty Nine Dollars and Twenty Five Cents) – STATE FILING FEE
 \$50.00 (Fifty Dollars) – CLERK’S FEE
3. [] **OTHER** (Specify) Notice of Finding of No Significant Impact PLU 117
 \$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.**

FOUR 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

CERTIFICATION OF MAILING

I certify that on April 18, 2014 this decision letter, relating to Approval of a Major Conditional Use Permit and Variance for 5516-5518 San Pablo Avenue was placed in the U.S. mail system, postage prepaid for first class mail, and sent to

Mr. Peadar Kelleher
163 Fairmount Street
San Francisco, CA 94131

Servio M. Chalmers
(NAME & SIGNATURE OF PERSON PLACING IN MAIL)

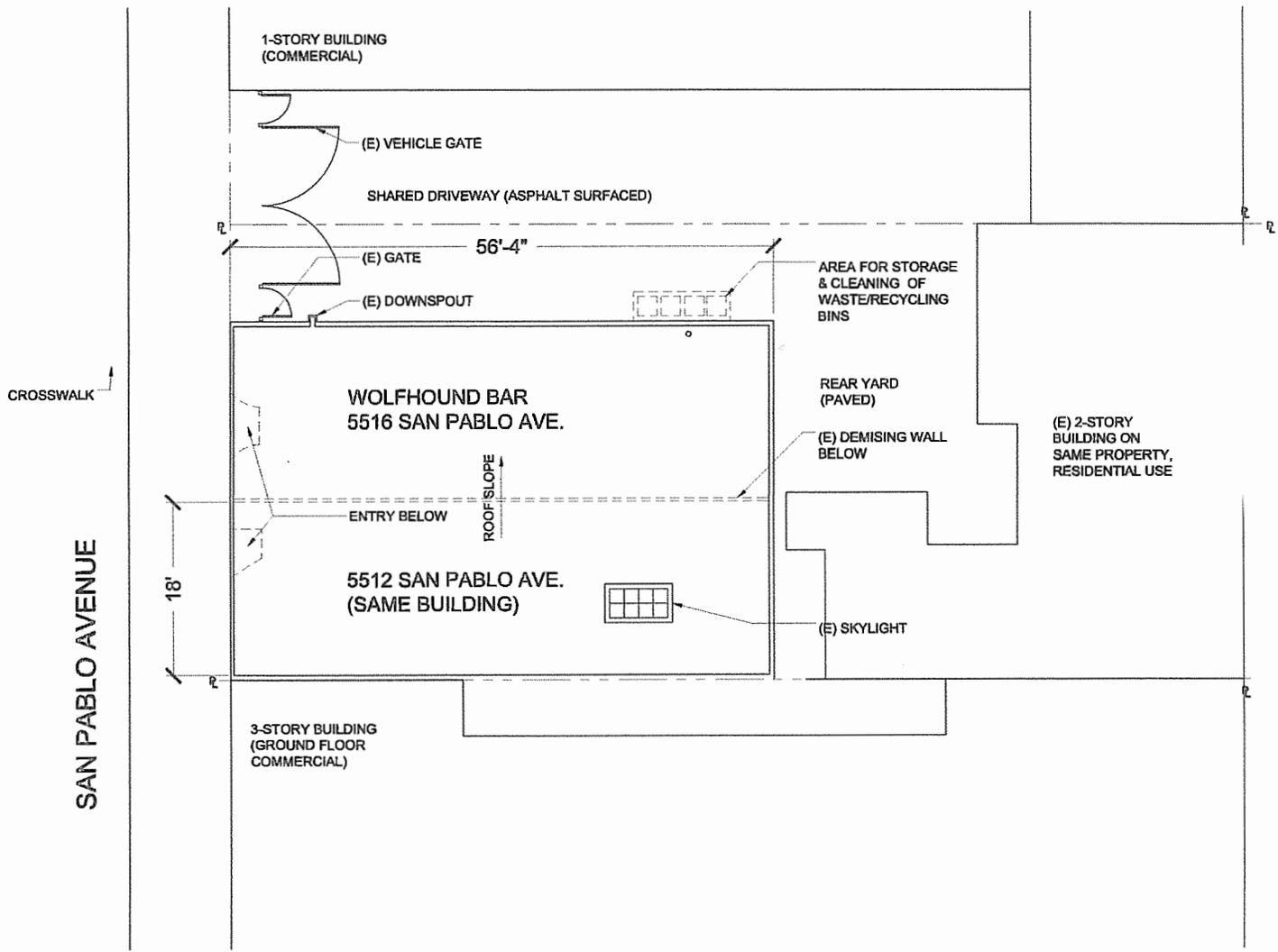
April 18, 2014
(DATE)

Y B C C
 1725 TURK ST #3
 SF CA 94115
 415.948.0316

LESSEE/APPLICANT:
 PEADAR KELLEHER
 163 FAIRMOUNT ST
 SF CA 94131
 415.706.3550

ATTACHMENT D

WOLFHOUND BAR - 5516 SAN PABLO AVE.
 OAKLAND CA
 APN 015-130801600



EXISTING LOT/ROOF PLAN



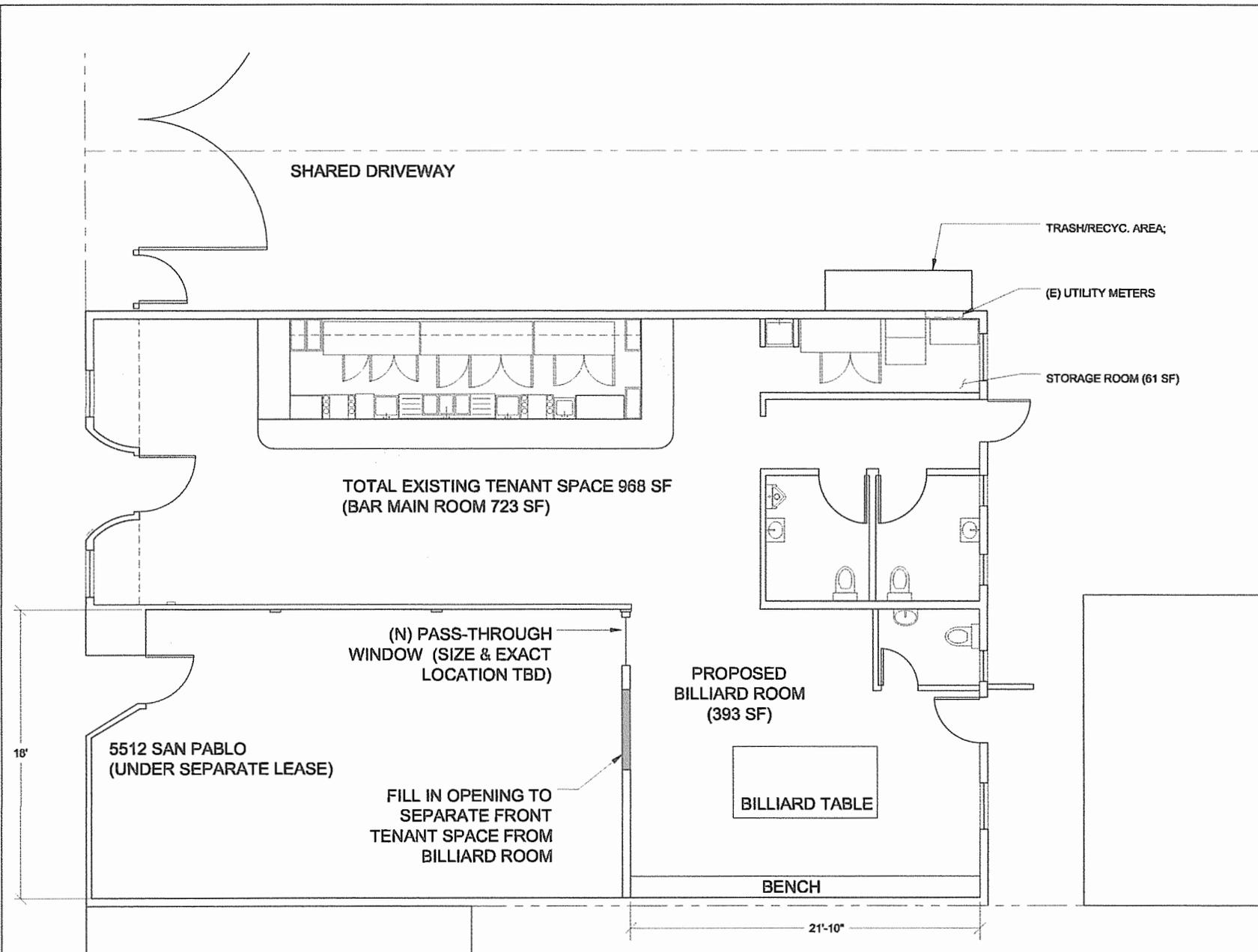
| | |
|----------------|--------------|
| SITE/ROOF PLAN | |
| DATE | 01.15.16 |
| SCALE | 1/8" = 1'-0" |
| JOB NO. | 1410 |
| DRAWN BY | CC |
| SHEET | |

A2.1

Y B C C
1725 TURK ST #3
SF CA 94115
415.948.0316

LESSEE/APPLICANT:
PEADAR KELLEHER
163 FAIRMOUNT ST
SF CA 94131
415.706.3550

WOLFHOUND BAR - 5516 SAN PABLO AVE.
OAKLAND CA
APN 015-130801600



| | |
|---------------|--------------|
| PROPOSED PLAN | |
| DATE | 01.15.16 |
| SCALE | 1/4" = 1'-0" |
| JOB NO. | 1510 |
| DRAWN BY | CC |
| SHEET | |

PROPOSED PLAN

1

A2.3



5516 SAN PABLO AVE.
VIEWED FROM ACROSS THE STI



5516 SAN PABLO AVE.
SIDE VIEW

Google

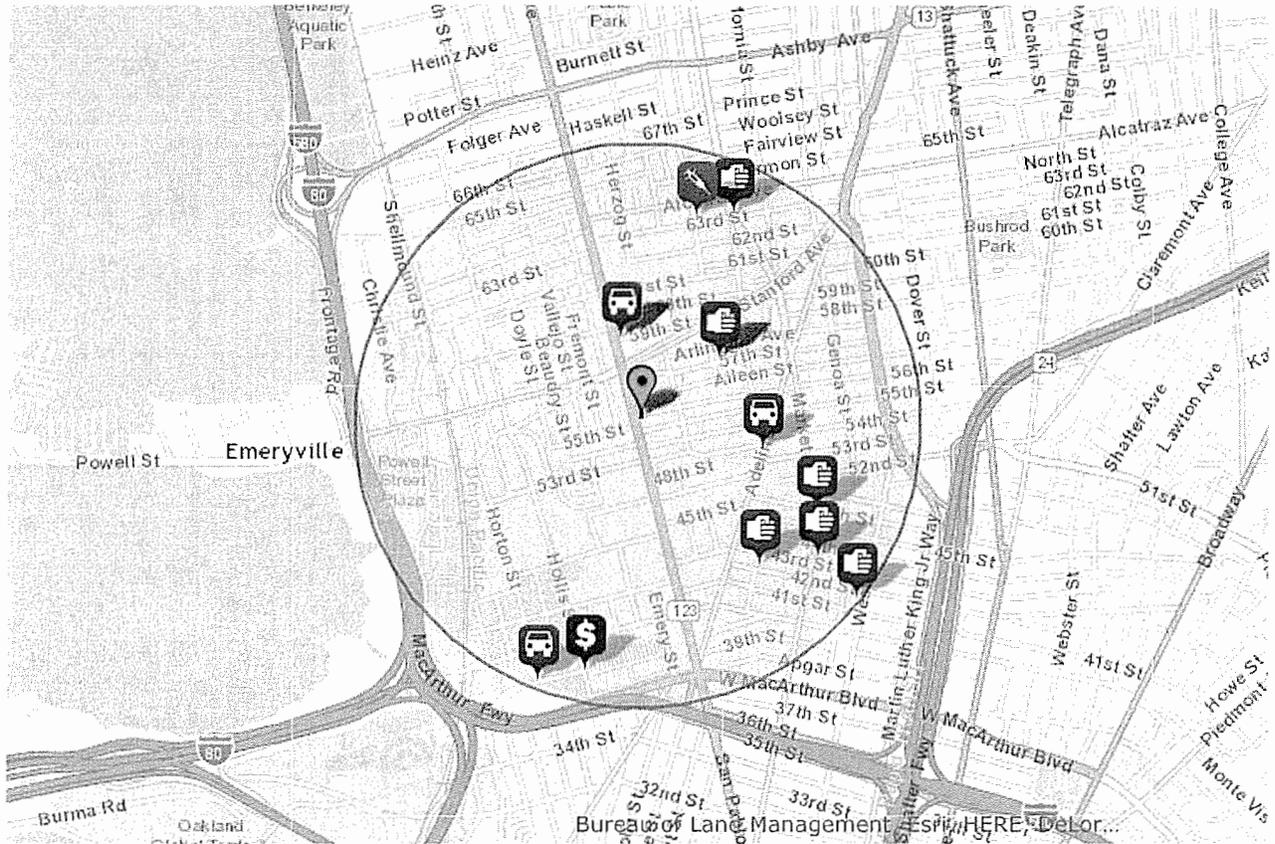
Print Send Link

CrimeMapping.com - Map

Thursday, April 28, 2016 through Wednesday, May 4, 2016

Showing crime types: Arson, Assault, Burglary, Disturbing the Peace, Drugs / Alcohol Violations, D.U.I, Fraud, Homicide, Motor Vehicle Theft, Robbery, Sex Crimes, Theft / Larceny, Vandalism, Vehicle Break In / Theft, Weapons

... within a 1 mile radius of 5518 San Pablo Ave, Oakland, California, 94608



Grab the bottom/right borders to resize the map or the handle in the bottom right corner.

Notes:

All representations on this map are distributed and transmitted "AS IS" without warranties of any kind, either express or implied including without limitation, warranties of title or implied warranties of merchantability or fitness for a particular purpose. In no event shall CrimeMapping.COM become liable to users of these data for any loss or damages, consequential or otherwise, including but not limited to time, money, goodwill, arising from the use, operation or modification of the data. The visual presentation of data is being provided strictly as a courtesy, not as an obligation to its users.

CrimeMapping.com

Set Bookmark

Send

Link

Print

Trend Report

Crime report for 4/28/2016 - 5/4/2016

9 crimes found.

Within a 1 mile radius of 5518 San Pablo Ave, Oakland, California, 94608

 Click a crime to "Map It."

| <u>Type:</u> | <u>Description:</u> | <u>Case #:</u> | <u>Location:</u> | <u>Agency:</u> | <u>Date:</u> |
|---|---|----------------|------------------|----------------|--------------------|
|  | ASSAULT - OTHER ASSAULTS - SIMPLE, NOT AGGRAVATED | 16-023691 | - | Oakland Police | 5/4/2016 09:30 AM |
|  | ASSAULT - FIREARM | 16-023573 | - | Oakland Police | 5/3/2016 04:58 PM |
|  | DRUG ABUSE VIOLATION - POSSESSION OF OTHER | 16-023368 | - | Oakland Police | 5/2/2016 08:30 PM |
|  | ASSAULT - OTHER ASSAULTS - SIMPLE, NOT AGGRAVATED | 16-023356 | - | Oakland Police | 5/2/2016 06:36 PM |
|  | MOTOR VEHICLE THEFT - AUTOS | 16-023213 | - | Oakland Police | 5/2/2016 12:12 AM |
|  | ASSAULT - OTHER ASSAULTS - SIMPLE, NOT AGGRAVATED | 16-023098 | - | Oakland Police | 5/1/2016 04:52 PM |
|  | ASSAULT - OTHER ASSAULTS - SIMPLE, NOT AGGRAVATED | 16-018068 | - | Oakland Police | 4/30/2016 03:00 PM |
|  | MOTOR VEHICLE THEFT - AUTOS | 16-022895 | - | Oakland Police | 4/30/2016 07:00 AM |
|  | ASSAULT - OTHER ASSAULTS - SIMPLE, NOT AGGRAVATED | 16-022682 | - | Oakland Police | 4/28/2016 06:55 PM |

ATTACHMENT F

Herrera, Jose

From: Simon Dean <simondean84@gmail.com>
Sent: Wednesday, May 04, 2016 5:09 PM
To: Herrera, Jose
Subject: Wolfhound

To who it may concern,

My name is Simon Dean, my family has been apart of the Oakland community for over three generations. My family business, started by my father, Sound Communication Systems has been servicing Oakland and the bay area for over 25 years. It is a small family business that has provided service and quality community support for Oakland as a small business for a long time.

The Wolfhound bar is a small business that provides quality service for the community and brings the neighborhood together. There are multiple buildings and lots all along San Pablo Blvd and the surrounding neighborhood that are abandon and used as trash dumps, bathrooms and other negative things.

I know that the community/economy is growing around the Wolfhound. There is nothing better than growth and progress for the City of Oakland and in a community.

If Wolfhound is restricted to grow and provide for the neighborhood as a small business it is a contradiction to the beliefs of the city of Oakland and its history.

I think that all issues can be resolved and growth for the community can be continued.

There is a empty lot across the street from the Wolfhound that has been empty for easily over five plus years that is used as a trash dump. Why not bargain with the owner to allow a park, dog park, community garden or put a few lunch tables. If smoke is the issue then that is one solution.

If sound or music is a issue, than that can be resolved too. Music feeds the soul joy and the city of Oakland and the surrounding neighborhood of the Wolfhound needs more joy. Music and socializing is the sound of a growing community and economy. This is a growing young city with a lot more potential.

I hope that this message is helpful and considered. I support the Wolfhound and its continued growth in this community.

Simon Dean

1208 62nd Blvd. Oakland

Herrera, Jose

From: Sheri Janowski <sjjanowski@gmail.com>
Sent: Wednesday, May 04, 2016 6:10 PM
To: Herrera, Jose
Subject: Wolfhound Bar

I am so happy to have this establishment in my neighborhood! I live 1 block away and have NEVER had any problems with noise, or unruly patrons. It is a great bar and I am so excited to hear that they are trying to expand to serve food.

They have actually helped the neighborhood, rather than hurting it. I like having them in the neighborhood, and hope they stay and expand.

Sheri Janowski, homeowner
5626 Gaskill St.
Oakland, CA 94608

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"Any good poet, in our age at least, must begin with the scientific view of the world; and any scientist worth listening to must be something of a poet, must possess the ability to communicate to the rest of us his sense of love and wonder at what his work discovers." - Edward Abbey

Herrera, Jose

From: Play With Clay Studios <playwithclaystudios@gmail.com>
Sent: Wednesday, May 04, 2016 12:40 PM
To: Herrera, Jose
Subject: Letter of Support for the Wolfhound

Greetings to whom it may concern,

We have been made aware of complaints coming from neighbors of the Wolfhound bar about the plan to expand and what that means for the area.

This letter of recommendation comes from a previous neighbor who supports the Wolfhounds mission to bring life to the Golden Gate district. As I'm sure you're aware, the bar has reinvigorated a dark and dead part of San Pablo. Although I'm sure many people were used to a quieter block before they moved in, it seems the neighborhood has had some life breathed into it's lungs ever since.

When the Wolfhound started demolition, we were in the space directly adjacent running a pottery studio called Play with Clay (previously Create in Clay). Paeder, Keith and Chris made it their priority to check with our schedule before doing major work and even assisted with some small electrical and plumbing needs of our own. They have always had the neighbors best interest at heart.

Where the bar brings in more noise, residual smoke, and late night activity it makes up for in vibrancy, building community (dog friendly spots really bring people together) and brings business to the small surrounding businesses. Now that we've lost the burger place across the street, a pizza joint would be perfect and who doesn't love the smell of pizza?

In conclusion, the building our pottery studio shared with the Wolfhound was pretty run down and our rent was going up. We decided to move the workshop to El Cerrito last July, but I still frequent the bar weekly. (I live by Ashby Bart). The structure would benefit greatly from a retrofit and seeing the amount of work the boys put into their spot is encouraging. Overall it seems this expansion would increase the market value of the surrounding area, if only greatly improve 1 dilapidated building.

Thank you for attention and please consider allowing The Wolfhound to continue their goals of expanding. I know I'm not alone in my opinion.
Please reach out if you have any questions

Kindly
An old neighbor and friend of the Wolfhound,
Lauren

Manager/ Instructor
Play With Clay
510.356.4900
7523 Fairmount Ave
El Cerrito CA 94530

playwithclaystudios.com

1215 54th st

Emeryville, CA 94608

May 3, 2016

To Whom It May Concern:

The Wolfhound bar represents a thing that is a rarity around the Bay Area these days: a warm hub where neighbors of this diverse community can share common ground.

I have met and befriended so many great people that I would've otherwise never of met if Wolfhound didn't exist. A real community revealed itself to my wife and I when the bar opened and it is beautiful and diverse. For the first time in many years I know my neighbors. I'm aware of my neighborhood. My wife, who is from Paris, France, finally found a place that makes her feel at home again after so many years of alienation.

The Wolfhound bar is our extended home. It's a necessary establishment for the Golden Gate district to thrive.

The brightly lit sign of Wolfhound bathes San Pablo Avenue in its warm, golden light and it calls on us to come together.


Charlie Koliha

Alix Koliha



Herrera, Jose

From: mr m <yoisunone@gmail.com>
Sent: Tuesday, May 03, 2016 6:00 PM
To: Herrera, Jose
Subject: wolf hound bar expansion

Dear Jose Herrera,

My name is Marcus Murray. I am a renter who lives next door to the Wolf Hound bar. I'm writing in regards to the planned expansion of the wolf hound bar. I fully support the decision. I recently found out that a person has filed a complaint and made a false statement that i do not support the project. For the record I would like to say I support this idea 100%. I enjoy having a place in the neighborhood to socialize with other residence close by. I understand the noise can be upsetting to some people but we live on san pablo ave. one of the most busy streets the bay area. I have also witnessed alot of things in this area around the bar that are more of nuisance than what the bar causes.

thank you for reading my opinion on this issue.
sincerely,

Marcus Murray.

Herrera, Jose

From: Greg Fraser <gregfraserpaint@gmail.com>
Sent: Tuesday, May 03, 2016 7:23 PM
To: Herrera, Jose
Subject: Wolfhound Bar

Dear Jose Herrera, I am writing to you in support of the Wolfhound Bar and its proposed extension.

The Wolfhound has become a vital component of our community over this last year, adding a much needed meeting point for the community and in doing so it has become a proper "local".

As a neighbor of the bar I have witnessed the positive impact it has had on our community; it has always been a safe, inclusive environment. Since the opening of the bar, I have met and got to know my neighbors - many of whom are now friends - and feel more secure in my neighborhood and community because of this.

Yours, Greg Fraser

5518 San Pablo,
Oakland
CA 94608

Herrera, Jose

From: Mark Albrecht <malbrehtcpa@gmail.com>
Sent: Tuesday, May 03, 2016 8:23 PM
To: Herrera, Jose
Subject: Wolfhound - 5516 San Pablo Avenue, Oakland, CA

Dear Mr. Herrera-Preza,

I trust this e-mail finds you well.

I am a patron of the Wolfhound on San Pablo Avenue in Oakland, California. One of the other patrons there mentioned that the neighbors of the establishment were unhappy with the business there. I was informed of your e-mail address and asked to share a comment or two with you to convey what I think of the place. I usually stop by after work to small talk, have a drink, unwind the day and maybe watch a bit of a game. The folks I've met here are locals that who close by and are not of the unsavory sort.

I hope the comments above are of use. Should there be any questions, please feel free to call.

Respectfully,

Mark

--

Mark Albrecht, CPA
Libitzky Property Companies
malbrehtcpa@gmail.com
1475 Powell Street, Suite 201
Emeryville, CA 94608

Phone: 510-995-5188
Fax: 510-652-0588
Cell: 925-519-3499
www.libitzky.com

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Herrera, Jose

From: Nikki Couppee <ncouppee@gmail.com>
Sent: Tuesday, May 03, 2016 11:49 PM
To: Herrera, Jose
Subject: Wolfhound Bar

Hello,
I wanted to commemorate the Wolfhound bar on being such a fun social environment. I live in the neighborhood and work in SF and look forward to trivia Tuesday's with my friends. I actually had a studio in the space before it was a bar and have been really excited about the renovation. This building was waiting to be restored and they did a beautiful job. I can't wait for the old clay studio to become a pizza parlor and create a viable area for the neighborhood.
Sincerely,
Nikki

Sent from my iPhone

Herrera, Jose

From: Amy T Chen <chalbers@comcast.net>
Sent: Tuesday, May 03, 2016 1:57 PM
To: Herrera, Jose
Subject: RE: Bar noise PLN14018-R01

Hello Jose,

Thank you for updating me on Case File PLN14018-R01. I will schedule a time to pick up the documents at the "will call" station next week. I wish to add some additional comments regarding the problems with Wolfhound Bar.

1. I did not realize that Wolfhound Bar's original permit did not allow its customers to smoke south of their property line. This restriction has been continuously violated from Day 1.
2. Wolfhound Bar's original permit also required its operators to have security personnel present during its hours of operation. The bar's owners have also consistently violated this requirement. **They hired someone for just 2 weeks in the first month of operation and then have not done so since.**
3. The ground floor of our building consists of 5 legally permitted live/work lofts, which are used for residential purposes only. The tenants of the corner live/work loft, Sarah Moran and Anders Vidstrand, had to call OPD last year when one of Wolfhound Bar's patrons tried to kick down their door because he wanted to use their toilet. To the best of my recollection, this event happened at around 1:00 am last summer. No security personnel from Wolfhound Bar were present to assist. I do not know if Wolfhound Bar provides working toilets for its customers.
4. Earlier this year, one of Wolfhound Bar's customers smashed the store front window of the adjacent space which its operators are now seeking to expand into. AGAIN, no security personnel were present to prevent this incident. Wolfhound Bar's owner did not replace the window glass for several months, and finally did so after I threatened to file a blight complaint. They had simply boarded up the window opening with plywood, which was promptly marred with graffiti.
5. My tenants and I have rarely seen Wolfhound Bar's operator clean up the public sidewalk in front of their property even though it is often covered with cigarette butts and broken beer bottles used by their customers. We have often cleaned up their sidewalk for them.

These issues plus the constant rowdiness and unruly behavior by Wolfhound Bar's customer have made life very difficult for me and my tenants. We have already lost some very good tenants who moved because of these problems, and some excellent potential tenants have decided not to apply for residency because of the litter and blight caused by Wolfhound Bar.

It is not just the people who live on the ground floor of our building who have suffered. Amalia Marino, who lives on the 3rd floor of our building is desperate for relieve from the bar's disruptions. Bruce Gordon, who lives on the 2nd floor and who has lived in our building since 1992, is miserable due to the problems caused by Wolfhound Bar. I have never heard Bruce complain about anything until Wolfhound Bar opened for business, and I have managed our property for 8 years!

I will definitely be at the hearing on May 18th, 2016.

Sincerely,
Amy T. Chen
Managing Partner
Golden Gate Studios, LLC
(510) 316-9947

From: Herrera, Jose [<mailto:JHerrera@oaklandnet.com>]
Sent: Monday, May 02, 2016 12:17 PM
To: Amy T Chen
Subject: RE: Bar noise PLN14018-R01

Hello Amy,

All contents of the case file are public record and may if you request I may leave the file at the zoning counter at the "will call" station for your review. Furthermore, the case has been postponed to the May 18th, 2016 Planning Commission Hearing due to longer than anticipated review time from management.

Jose M. Herrera-Preza, Planner II | City of Oakland | Bureau of Planning | 250 Frank H. Ogawa, Suite 2114
|Oakland, CA 94612 | Phone: (510)238-3808 | Fax: (510) 238-4730 | Email: jherrera@oaklandnet.com |
Website: www.oaklandnet.com/planning

From: Amy T Chen [<mailto:chalbers@comcast.net>]
Sent: Monday, May 02, 2016 12:13 PM
To: Herrera, Jose
Subject: RE: Bar noise PLN14018-R01

Hello Jose,

My partners and I would like to see all the documents submitted to the Planning Commission regarding this case. Since the problems associated with Wolfhound Bar have directly and negatively impacted our business, we feel we should have the right to see the comments before attending the hearing on Wednesday, May 8th.

Sincerely,
Amy T. Chen
Managing Partner
Golden Gate Studios, LLC
(510) 316-9947



This email has been checked for viruses by Avast antivirus software.
www.avast.com

Herrera, Jose

From: C. De La Jolla <cdelajolla@hotmail.com>
Sent: Monday, May 02, 2016 6:07 PM
To: Herrera, Jose
Subject: Letter in support of The Wolfhound bar expansion

Hello Mr. Herrera,

My name is Che De La Jolla, I live at 922 56th street in Oakland, just up 56th street from The Wolfhound bar. I am 42 and a professional Engineer at a sensor manufacturer in Concord, CA. I have lived in Oakland/Berkeley area most of my life. My first place outside my parent's home was in 1992 on Lowell and Grace streets, around the corner from where I currently live. In 2008, we bought our current home on 56th, it is our first home, and one of our main complaints about the area was the scarcity of good bars and restaurants within easy walking distance. Having witnessed, over the years, various businesses start and fail in the area, some of which I thoroughly enjoyed, others not so much, I would definitely put The Wolfhound in the category of enjoyable. I have met more of my neighbors at The Wolfhound in the last year than in the previous 6 years combined. The owner and staff (several of which live in the neighborhood as well) engender a very welcoming and inclusive atmosphere, attracting a fairly equal mix of long time residents and newcomers. I see no reason why the minor expansion proposed by The wolfhound should not be allowed to proceed. I have watched the area steadily improve over the last 20+ years, and I think business such as The Wolfhound play a major part in that and, as such, should be allowed to grow.

Thank you for your time,

Che De La Jolla
922 56th Street, Oakland.

Herrera, Jose

From: Amalia Marino <amalia.marino@gmail.com>
Sent: Wednesday, April 20, 2016 1:08 AM
To: Herrera, Jose
Subject: Wolfhound is ruining my neighborhood.

Dear Mr. Herrera-Preza,

I am writing to you concerning the expansion of Wolfhound bar, the Case File Number is PLN14018-R01 and I understand that you are the Case Planner for this project. I will be unable to attend the Planning Commission's hearing tomorrow so I hope that this letter will be a strong enough representation of my feelings and that you take my voice into consideration.

I live in an apartment on the third floor of 5508 San Pablo. I am on the side of the building, back from the front a bit, and my windows face north, so I am looking out directly on top of Wolfhound's rooftop. I have lived here for 5 and a half years and I have always found my neighborhood pleasant and safe. It is even quiet at night despite living so close to a main road. That is not so now. I work as a cook and often my hours are irregular—very late or very early—and I was initially excited that there would be a bar so close to home. However, it seems that the owners of Wolfhound are completely ill-equipped to run a bar, and their presence here is ruining my neighborhood and has even driven off some of my neighbors. I don't want to make this letter too long-winded so maybe bullet points from here would be good to list my reasons for complaint against this bar:

--constant noise from music, the Tuesday night trivia that can be clearly heard and understood over a block away, and--best of all—from drunk and loud clientele. It's extra fun when said clientele is arguing for a sustained period of time. For whatever reason of physics or nature, all the sound from the front of the bar bounces right up the side of my building. Into my windows and likely into my neighbors windows. I have made noise complaints to OPD at least six times in the last few months. No one ever tries to control the noise, they don't even have those "please respect our neighbors" signs. They aren't even pretending to try or care.

--smoking. EVERYWHERE. I have read Wolfhound's original permit and it states that smoking is only permitted to the north of their front door, yet there are constantly smokers in front of my door (to the south) so that the halls of my building often smell of cigarettes, which they never have before. Nothing is done to enforce this condition of their original permit.

--cigarette butts now litter the sidewalk and seem to never be cleaned up at all, nor is there a location for smokers to dispose of their butts.

—about that permit, it falsely states that there are no ground floor residences near the bar—this is completely untrue. There are ground floor residences on both sides of the bar. I once had to force a door person to ask two customers to move who were having a loud conversation directly in front of one of those doors. On a weeknight. At one AM. I know the people living in that apartment, they work early in the morning.

—more noise at 2 or 2:30 am when all the glass bottles are taken out (I don't know when you last heard an entire trash bin of glass bottles being emptied but it has got to be in the Top 10 worst sounds in the world) and then *again* when the recycling is collected at 5am.

--the inconsistent/ineffectual presence of a door person. Even when there is a person on the door they do absolutely nothing to control noise, smoking, litter, or the creepiness of their clients. I am a woman coming home late at night—often the clearly over-served male clientele mistake me for someone who might like to talk to them. No door person—if one is present—has ever tried to control any of these situations which are at best uncomfortable, and at worst a bit scary.

—bar patrons are graffitiing the planter/bench in front of my building and the walls of buildings adjacent to the bar. I know there is graffiti all over Oakland, but I have actually seen bar patrons doing this. It's

more the carving or marker kind, less the spray paint kind, again, no
anything about this.

one from the bar is doing

Well, this letter is still maybe a bit long-winded, and I apologize for that. I hope that you are hearing me (and hopefully my neighbors too) when I/we say that this bar has disrupted all of our lives. The owners do not seem to care about running a business that is respectful of their neighbors, the conditions of their permit, the law, nor the requirements of the ABC (they over-serve their clients often and my neighbors have seen bar patrons outside with pint glasses). The last thing this bar needs is the space for *more* drunks who they will do nothing to control. *Please* do not give this space to them. If it is in your power to make the space they have now smaller, maybe do that instead. I have lost dear neighbors and even dearer sleep, and I feel less safe in my neighborhood. I know there is a better way to run a bar—I see people doing so all over Oakland everyday. Thank you for your time and consideration.

Sincerely,
Amalia Mariño

Herrera, Jose

From: Amy T Chen <chalbers@comcast.net>
Sent: Tuesday, April 19, 2016 12:09 PM
To: Herrera, Jose
Subject: FW: Wolfhound Bar PLN14018-R01

Importance: High

Jose,

Below is a series of complaints from form tenants of mine who moved out because they could no longer stand the problems caused by Wolfhound Bar.

Sincerely,
Amy T. Chen
Managing Partner
Golden Gate Studios, LLC
(510) 316-9947

-----Original Message-----

From: moran.sarah [<mailto:moran.sarah@ymail.com>]
Sent: Wednesday, April 08, 2015 12:38 PM
To: Amy Chen
Subject: Re: Wolfhound Bar

Thank you Amy.

We will keep a log.

The issue of groups of people smoking should be their greatest concern. They did put out a plastic bucket with sand for cigarettes but that is not a fire safe option. Simply keeping bar goes indoors and installing no smoking sign with corresponding policy would be a good start for them.

Best,
Sarah

Sent from my iPhone

On Apr 8, 2015, at 8:42 AM, "Amy Chen" <chalbers@comcast.net> wrote:

> Hi Sarah,
>
> I spoke to the owners of Wolfhound yesterday and told them to be
> vigilant about noise, litter, public drunkenness, and any loitering
> which may result from their operations. They told me that Thursday
> was their opening night so it was more boisterous than they would
> expect most nights to be in the future. If there continues to be
> problems, I will call a neighborhood meeting to address this issue.
> In the meantime, the best thing to do is keep a written log of all

> incidences; this documentation should be clear and detailed, such that
> it can be used in any formal complaints to the city or be used as
> evidence in a class action lawsuit. Please encourage Amalia and
> anyone else who is concerned to do the same thing. If we do decide to
> file a formal complaint or lawsuit, written documentation becomes
> crucial. A formal complaint/hearing is a big deal since it may result
> in
Wolfhound losing its license to operate or fines.

>
> Warmest regards,
> Amy T. Chen
> Managing Partner
> Golden Gate Studios, LLC.
> (510) 316-9947

>
>
>
> -----Original Message-----
> From: Sarah Moran [<mailto:moran.sarah@ymail.com>]
> Sent: Tuesday, April 07, 2015 11:11 PM
> To: Amy Chen
> Subject: Re: Upstairs Neighbor Official Complaint

>
>
> Hi Amy,

>
> How are you? I hope you are well.

>
> I wanted to reach out to you regarding the bar that has gone in next door.
> We had tried to keep an open mind but, every evening after 11pm the
> noise starts. They are using the side walk as a smoking area.

>
> I tried talking to the owners/ employees but they are actually a big
> part of the problem. Last Thursday at 1:45am, I went outside and asked
> them to keep it down. I was told quote " while your concern is valid,
> this is a bar and there will be random shit heads that we can not
> control".

>
> I also warned them about smoking, they are violating the CA smoking
> ordinance - not only are they littering but the noise is derived
> from drunk people smoke on their street after 10pm. The later it
> gets, the drunker and louder they get.

>
> Is there anything we can do? Please help.

>
> Best,
> Sarah & Anders (and Amalia) =

>
>
> ---
> This email has been checked for viruses by Avast antivirus software.
> <http://www.avast.com>

>

This email has been checked for viruses by Avast antivirus software.
<https://www.avast.com/antivirus>

Herrera, Jose

From: Amy T Chen <chalbers@comcast.net>
Sent: Thursday, April 07, 2016 1:21 PM
To: Herrera, Jose
Cc: 'Amy T Chen'
Subject: FILE CASE NUMBER PLN1408-R01
Attachments: Wolfhound.pdf

Importance: High

Dear Mr. Herrera-Preza:

The Partners of Golden Gate Studios, LLC, recently received a Notice of Hearing from the Oakland City Planning Commission regarding Wolfhound Bar's application to expand its operations into its adjacent space next door. The Case File Number is PLN14018-R0. I have attached a copy of the Notice for your reference. I am writing to you as the Owner/Manager of Golden Gate Studios, LLC, which owns the 3-story, 19-unit apartment building, next door to the Wolfhound Bar.

Since the Owners of Wolfhound Bar, Peadar Kelleher, Keith Mulligan and Christopher Southgate, opened for business next door, I have received several complaints from our tenants regarding the loud noises coming from the bar, the broken store-front window, which was only fixed this week, and the smoking, vomiting, and unruly behavior by its customers, which have greatly reduced our residents' right to live in peace. Tenants have had to call OPD on several occasions.

We demand that the owners of Wolfhound Bar and the owner of the property, Mr. Wally Whittier, sound proof the entire space before they are allowed to expand into the adjacent space. We also demand that they monitor the behavior of their drunken customers more vigorously. If the situation gets worse, we may have to file a lawsuit against the owners of Wolfhound as well as against the owner of the property, Mr. Wally Whittier. If the Planning Commission fails to adequately address our legitimate concerns, we may have to include the City of Oakland in any future lawsuits. We hope we will not have to resort to such drastic measures. We care deeply about our building and the community who resides within. If you have any questions or suggestions, please do not hesitate to email me at chalbers@comcast.net or to call me at (510) 316-9947. I will respond within 24 hours.

Warmest regards,



Amy Chen
Managing Partner
Golden Gate Studios, LLC
(510) 316-9947



This email has been checked for viruses by Avast antivirus software.
www.avast.com

Herrera, Jose

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Warmest regards,



Amy Chen
Managing Partner
Golden Gate Studios, LLC
(510) 316-9947