

Case File Number PLN21205

March 2, 2022

Location:	1542 Broadway (as known as 1544 Broadway) (See map on the reverse)
Assessor's Parcel Number:	008 062200700
Proposal	To establish a bar (Alcoholic Beverage Sales Commercial Activity) requiring a Type 48 license in a 1,500 square-foot vacant ground floor store front commercial space. The proposed operating hours are 11:00 AM to 1:00 AM
Applicant:	Lanenna Joiner
Phone Number:	(510) 214-3335
Owner:	High Bridge Oakland III LLC.
Case File Number:	PLN21205
Planning Permits Required	Major Conditional Use Permit to allow the establishment of an Alcoholic Beverage Sales Activity with additional Findings of Public Convenience or Necessity in an over concentrated area.
General Plan	Central Business District
Zoning	CBD-P Zone Central Business District Pedestrian (CBD-P) Commercial Zone.
Environmental Determination	Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities (operation); and Section 15183: Projects Consistent with a Community Plan, General Plan or Zoning.
Historic Status:	PDHP; OCHS Survey Rating: EC3
City Council District:	3
Status:	Pending
Staff Recommendation:	Approval subject to the attached Conditions
Finality of Decision:	Appealable to the City Council within 10 days.
For Further Information:	Contact project planner Jason Madani at (510) 238-4790 or jmadani@oaklandca.gov

SUMMARY

The applicant has submitted a request to establish a bar in a 1,500-square foot vacant, ground floor commercial space located at 1542 Broadway (as known as 1544 Broadway). The proposal would require a Type 48 liquor license from the State Department of Alcoholic Beverage Control (ABC) which would allow all types of liquor without food service and prohibiting minors. The proposed bar will have operating hours from 11:00 AM to 1:00 AM. The project requires a Major Conditional Use Permit (CUP) for an Alcoholic Beverage Sales Commercial Activity with additional Findings as well as Findings of Public Convenience or Necessity (PCN).

While the project site is located within an area of overconcentration related to crime and ABC licenses, the proposal will establish a new small business and provide services in the Uptown Retail and Entertainment Area. The proposal will enhance the vibrancy of Downtown and provide evening and weekend activity. Based on the Findings and Conditions of Approval, the business is not anticipated to lead to nuisances.

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

PROPERTY AND SURROUNDING AREA DESCRIPTION

The property is a one-story building in the Uptown neighborhood. The proposal will establish a neighborhood bar within the building at 1542 Broadway as known as 1544 Broadway. The building is a Potentially Designated Historic and Local Register Property with a rating of EC3 per the Oakland Cultural Heritage Survey.

There are three ground floor commercial spaces in the building. One, the project site, is currently vacant but was the location of Viscera café (closed 2018). The other two spaces are used as community arts & performance space and political fundraiser office.

The surrounding uses include offices, bars, limited service restaurants, small-scale retail and a residential high-rise building at corner of Broadway and 17th Street as well as the Paramount and Fox Theaters.

PROJECT DESCRIPTION

The proposal is to establish a neighborhood bar within a 1,500-square foot, vacant ground floor space of the building (**Attachment C**). The proposed bar would have a Type 48 liquor license from the ABC for on-site consumption of liquor, beer and wine and with no minors admitted. Hours of operation would be from 11:00 AM - 1:00 AM Monday-Sunday. The layout would consist of the bar, open area, tables and chairs, a storage room, with a maximum occupancy of 49 people. The business would include limited food service such as hors d'ouvres. The business would have ten full-time employees including bartenders, security and bussers.

No exterior changes are proposed as part of this application. Any request for signage will be handled separately from this application. There is no on-site parking for the commercial /uses.

The applicant is in the process of applying for the ABC license. The applicant voluntarily agrees to all ABC and City regulations regarding this activity. The applicant has conducted community outreach by contacting neighborhood groups including the Neighborhood Crime Prevention Association (NCPC).

GENERAL PLAN ANALYSIS

The property is in the Central Business District land use classification of the General Plan's Land Use and Transportation Element (LUTE). The intent of the area is: "to encourage, support, and enhance a mix of large-scale offices, commercial, urban high-rise residential, institutional, open space, cultural, educational, arts, entertainment, services, community facilities, and visitor uses."

The proposal conforms to the LUTE goal of creating an Uptown Retail and Entertainment Area in and around the Fox and Paramount Theaters by establishing a new small business and providing services in this specific area. The proposal will enhance the vibrancy of Downtown, provide evening and weekend activity and is consistent with the following LUTE Policies and Objectives:

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.

Policy I/C1.8 Providing Support Amenities near Employment Centers

Adequate cultural, social, and support amenities designed to serve Oakland should be provided within close proximity of employment centers.

Objective I/C3

Ensure that Oakland is adequately served by a wide variety of commercial uses, appropriately sited to provide for competitive retail merchandising and diversified office uses, as well as personal and professional services.

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.

Policy I/C3.5 Promoting Culture, Recreation and Entertainment

Cultural, recreational and entertainment uses should be promoted within Downtown and particularly in the vicinity of the Fox and Paramount Theaters and Jack London Square.

Policy D5.1 Encouraging Twenty-Four Hour Activity

Activities and amenities that encourage pedestrian traffic during the work week as well as evenings and weekends should be promoted.

Neighborhood Activity Centers Objective N10

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

ZONING ANALYSIS

The property is in the Central Business District Pedestrian Retail Commercial (CBD-P) Zone. “The intent of the CBD-P Zone is to create, maintain, and enhance areas of the Central Business District for ground-level, pedestrian-oriented, active storefront uses. Upper story spaces are intended to be available for a wide range of office and residential activities.”

The proposal will establish an Alcoholic Beverage Sales Activity within a ground floor commercial space. The following permit and Findings are required for the proposal. These items are further discussed in the *Key Issues and Impacts* section of this report.

Major Conditional Use Permit with Additional Findings

Pursuant to Section 17.58.40 of the City of Oakland Planning Code, a CUP is required for Alcoholic Beverage Sales Commercial Activities. A Major CUP and consideration by the Planning Commission, is required per Planning Code Section 17.134.020(A)(2).

The additional Findings further ensure a thorough review of Alcoholic Beverage Sales Activities, above and beyond general CUP findings. The Planning Code requires additional review of these types of activities to ensure that they do not contribute to alcohol-related nuisances or discourage business attraction.

On February 1, 2000, the Oakland City Council passed Resolution 75490 C.M.S. establishing a “No Net Increase” policy in the number of alcoholic beverage sales commercial activities in Oakland neighborhoods to protect the health, safety and welfare of residents. This resolution states that new off-sale and on-sale retail alcoholic beverage sales licenses should only be permitted for sites in the Central Business District or for other circumstances not related to the current proposal. This proposal is consistent with the Resolution because it is located in the Central Business District, and the applicant will apply for a new Type 48 liquor license.

Findings of Public Convenience or Necessity

This proposal also requires Findings of Public Convenience or Necessity. These Findings, modeled on State Findings, are required for Alcoholic Beverage Sales to be established in an over-concentrated area. The subject site is in Census Tract 4028 where seven ABC licenses exist (down from 28 in 2020) and where more than four is considered over-concentrated in comparison to tracts Countywide (ABC data). This Census Tract contains one #47 (restaurant with liquor, beer and wine), two #48's (bar), two #23's (beer manufacturer, one #9 (beer and wine importer), and one #17 (beer and wine wholesaler)¹.

"Alcoholic beverage license over-concentrated areas" also mean a police beat with crime rates that exceed the City median by twenty (20) percent or more in comparison to Citywide rates (Oakland Police Department data). The site is within Police Beat 4X: an area where 5,540 reported crimes were reported, (*Attachment D*) which is more than the 898 which is considered an over-concentrated.

In an over-concentrated area, Findings of Public Convenience or Necessity (PCN) are required to be met for Alcoholic Beverage Sales to be established. A more detailed discussion of the over-concentration issues is in the *Key Issues and Impacts* section of this report.

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 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

Analysis of Overconcentration

Crime rates may be a function of areas within the Beat that are dispersed from and not clustered around the project site; statistics for a 500-foot radius over four weeks show crimes dispersed from the site, and none involving alcohol (*Attachment D*).

Furthermore, when operated as a bar, alcohol sales are typically not problematic for establishments with late closing times when located Downtown. PCN Findings consider variety, economic benefits, and whether alcoholic beverage sales are typical for the establishment type. As conditioned, this use is not anticipated to lead to nuisances, especially since the location is not near residential uses.

ABC-licensed premises are encouraged in the Uptown District given the entertainment focus. Furthermore, the Planning Code's 1,000-foot distance separation and the City Council's goal of capping the number of non-restaurant ABC licenses in Oakland does not apply to Downtown. The addition of late-night premises has brought more people to the area which is generally considered to be an improvement to evening safety in an urban area. The Uptown District is an appropriate location for a bar, subject to appropriate Conditions of Approval as described below.

Proposed Conditions of Approval

¹ <https://www.abc.ca.gov/licensing/licensing-reports/census-tract-authorizations/> and <https://www.abc.ca.gov/licensing/licensing-reports/licenses-by-census-tract/>

Staff has required Conditions of Approval for controls on impacts such as litter, noise and loitering. Bar staff would be trained regarding safe practices for selling liquor including how to recognize a customer that should not be served. Staff would also be trained regarding the products offered. Security personnel would be at the door Thursdays through Saturdays and/ more if necessary. A Compliance Hearing after six months of operation is also required if complaints arise.

Letters of Support and Community Outreach

The NCPC Beat 4X has provided a letter of support. In addition, the applicant held a community meeting on February 24, 2022 (*Attachment E*).

SUMMARY

The proposal is consistent with the arts and entertainment character of the Uptown District and complements the entertainment activities nearby Fox and Paramount Theatres. The attached Conditions of Approval impose various requirements, such as controls on litter and noise, to maintain the compatibility of a neighborhood bar with the surrounding area. Given these conditions, staff recommends the Planning Commission grant the request, subject to the attached Conditions of Approval.

RECOMMENDATIONS:

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

Prepared by:



Jason Madani
Planner III

Reviewed by:



ROBERT MERKAMP
Zoning Manager

Approved for forwarding to the
City Planning Commission:



ED MANASSE , Deputy Director
Bureau of Planning

ATTACHMENTS:

- A. Findings
- B. Conditions of Approval
- C. Project Plans
- D. Area Crime Statistics (Map & Table)
- E. Letters of recommendation

FINDINGS FOR APPROVAL

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 Findings for Public Convenience or Necessity (OMC Sec. 17.103.030.B.3)** 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 for a new bar in an existing building is compatible with the site, the Downtown and the Uptown entertainment district surroundings. The site is in an area of the City that encourages nightlife and entertainment and is near landmark destinations such as the New Parish, the Fox and Paramount Theaters. The business will enhance the diversity of beverage options in the area and later hours will add to evening activity along the corridor. The site is not directly adjacent to a civic or residential use but is surrounded by office buildings. The business is not expected to generate more traffic than is appropriate for a well-served transit-oriented area, as the site is located near 19th Street BART and along several bus lines. Operating characteristics will be memorialized by Conditions of Approval to ensure no nuisances are generated. These Conditions will apply to any future operator of the business.

- 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 is in a vacant, commercial space in an existing building located at 1542 Broadway. The proposed establishment will not result in any new exterior construction other than perhaps signage which is not part of this permit. The proposal will offer a convenient and attractive business that adds vibrancy and activity to the area. The floor plan will be a functional environment for bar activities. The bar area will be long enough to conveniently serve customers, and seating will be accessibly located. Bathroom, and storage facilities will be located towards the rear of the bar to create an active and prominent presence on Broadway.

- 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 region.**

The project will enhance the synergy of food and beverage services in the Uptown arts and entertainment district and will complement the activities in the nearby theatres. The proposal will bring more pedestrians, customers, and foot traffic to the area.

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

This Finding is not applicable at this time. Should signage and/or exterior improvements be desired in the future, such projects would require review and approval by the Bureau of Planning.

- E. 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 has been adopted by the Planning Commission or City Council.

The property is located in the LUTE's Central Business District land use classification. The intent of the area is: "to encourage, support, and enhance the downtown areas as a high density mixed use urban center of regional importance and a primary hub for business, communications, office, government, high technology, retail, entertainment, and transportation in Northern California." The proposal conforms to this intent and to the following Policies of the LUTE:

- *Objective I/C3*
- *Policy I/C8 Providing Support Amenities near Employment Centers*
- *Objective I/C3*
- *Policy I/C3.5 Promoting Culture, Recreation and Entertainment*
- *Policy D5.1 Encouraging Twenty-Four Hour Activity*

The proposal also conforms to the LUTE goal of creating an Uptown Retail and Entertainment Area in and around the Fox and Paramount Theaters by establishing a new small business and providing services and entertainment in this specific area. Furthermore, the proposal will enhance the vibrancy of Downtown and provide evening and weekend activity.

Use Permit Criteria for Establishments Selling Alcoholic Beverages (OMC Sec. 17.103.030(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;**

Unlike commercial districts that do not cater to nightlife and entertainment, this area is intended to draw patrons to Downtown. Specifically, the LUTE envisions this parcel as part of an Uptown Retail and Entertainment Area. There is a growing variety of food and beverage establishments in the immediate vicinity of the project site, and the addition of a new bar will only serve to further invigorate the success of the entertainment district. As discussed above, the City's "No Net Increase Goal" (Resolution 75490 C.M.S.) which discourages new licenses, exempts the Downtown area in order to realize a lively entertainment district.

Furthermore, there have been no police calls related to these businesses. Based on operations of this type of use elsewhere in Oakland and in other nearby cities, there is no evidence that the bar will contribute to an undue proliferation of undesirable activities. Conditions of Approval will ensure positive operational characteristics.

- 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 are approximately four civic uses within a three-block radius including the Oakland School for the Arts, Henry J. Kaiser Memorial Park and the Fox and Paramount Theaters. However, the proposal is not anticipated to generate negative impacts to the school. Given the operational characteristics of other successful liquor and entertainment venues in the area, the proposal will enhance and support the theaters.

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

The project involves an existing commercial space and will not obstruct pedestrian movement on the adjacent sidewalk.

- 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;**

Any minor exterior alterations, including signage, will be reviewed under a separate permit if necessary.

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

The business will be in a historic building built in 1911 and lacks on-site parking for the commercial uses. Any proposed signage will be part of a separate application, conform to the style and character of the building and will not be large or obtrusive.

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

The business will contain litter receptacles at the interior and exterior and Condition of Approval #12 and 25 require that staff clean the fronting public right-of-way daily.

- 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 10 p.m. and 7 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 site is not adjacent to residences.

- 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 because the proposal does not involve a Fast Food Restaurant.

Findings of Public Convenience or Necessity (OMC Sec. 17.103.030.B.3)

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

The LUTE envisions this area as part of an Uptown Retail and Entertainment Area which is intended to draw patrons to Downtown and enhance the success of the entertainment district which includes the Paramount and Fox theaters. The City Council specifically exempted Downtown from a restriction on further alcoholic beverage licenses for these reasons. As such, the City Council and LUTE identified a community need for this type of supportive activity.

The project will enhance the synergy of food, retail, and beverage services in the Uptown entertainment district, will complement the activities in the nearby Fox and Paramount Theaters, and will generate employment and revenues. With appropriate Conditions of Approval, this business is not anticipated to lead to nuisances.

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

The proposal will enhance the variety of social and beverage offerings in the Downtown area serving residents, visitors and workers. It will further the vitality of the area by providing entertainment options near the City's theaters and generating evening activity, complimenting the existing day-time office activities. The project will enhance the Uptown District as a regional nightlife and entertainment district, which will have a positive effect on the adjacent businesses. The proposal will generate employment for ten people as well as additional revenue.

Based on operations of this type of use elsewhere in Oakland and in other nearby cities, there is no evidence that the bar/lounge will contribute to an undue proliferation of undesirable activities. The proposal will increase nighttime pedestrian activity and result in additional "eyes on the street." Conditions of Approval, including one related to a Compliance Hearing, will ensure positive operational characteristics.

- c. That alcohol sales are customarily associated with, and are appropriate, incidental, and subordinate to, a principal activity on the lot.**

On-site sale of liquor, beer and wine are typical for a Downtown bar and are typically found near theater options such as the Fox and Paramount.

CONDITIONS OF APPROVAL

The proposal is hereby approved subject to the following Conditions of Approval:

1. Approved Use

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, and the approved plans submitted on **October 13, 2021**, 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 (10) calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two years** the Approval date, or from the date of the final decision in the event of an appeal, unless within such period a complete building permit application has been filed with the Bureau of Building and diligently pursued towards completion, 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, Department of Transportation, 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 sixty (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.

10. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with Engineering Services and/or the Bureau of Building, if directed by the Director of Public Works, Building Official, Director of City Planning, Director of Transportation, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. Public Improvements

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement (“p-job”) permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, Engineering Services, Department of Transportation, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

12. Trash and Blight Removal

Requirement: The project applicant and his/her successors shall maintain the property free of blight, as defined in chapter 8.24 of the Oakland Municipal Code. For nonresidential and multi-family residential projects, the project applicant shall install and maintain trash receptacles near public entryways as needed to provide sufficient capacity for building users.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

13. Graffiti Control

Requirement:

- a. During construction and operation of the project, the project applicant shall incorporate best management practices reasonably related to the control of graffiti and/or the mitigation of the impacts of graffiti. Such best management practices may include, without limitation:
 - i. Installation and maintenance of landscaping to discourage defacement of and/or protect likely graffiti-attracting surfaces.
 - ii. Installation and maintenance of lighting to protect likely graffiti-attracting surfaces.
 - iii. Use of paint with anti-graffiti coating.
 - iv. Incorporation of architectural or design elements or features to discourage graffiti defacement in accordance with the principles of Crime Prevention Through Environmental Design (CPTED).
 - v. Other practices approved by the City to deter, protect, or reduce the potential for graffiti defacement.

- b. The project applicant shall remove graffiti by appropriate means within seventy-two (72) hours. Appropriate means include the following:
 - i. Removal through scrubbing, washing, sanding, and/or scraping (or similar method) without damaging the surface and without discharging wash water or cleaning detergents into the City storm drain system.
 - ii. Covering with new paint to match the color of the surrounding surface.
 - iii. Replacing with new surfacing (with City permits if required).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

14. Dust Controls – Construction Related

Requirement: The project applicant shall implement all of the following applicable dust control measures during construction of the project:

- a. Water all exposed surfaces of active construction areas at least twice daily. Watering should be sufficient to prevent airborne dust from leaving the site. Increased watering frequency may be necessary whenever wind speeds exceed 15 miles per hour. Reclaimed water should be used whenever feasible.
- b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard (i.e., the minimum required space between the top of the load and the top of the trailer).
- c. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- d. Limit vehicle speeds on unpaved roads to 15 miles per hour.
- e. All demolition activities (if any) shall be suspended when average wind speeds exceed 20 mph.
- f. All trucks and equipment, including tires, shall be washed off prior to leaving the site.
- g. Site accesses to a distance of 100 feet from the paved road shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

15. Asbestos in Structures

Requirement: The project applicant shall comply with all applicable laws and regulations regarding demolition and renovation of Asbestos Containing Materials (ACM), including but not limited to California Code of Regulations, Title 8; California Business and Professions Code, Division 3; California Health and Safety Code sections 25915-25919.7; and Bay Area Air Quality Management District, Regulation 11, Rule 2, as may be amended. Evidence of compliance shall be submitted to the City upon request.

When Required: Prior to approval of construction-related permit

Initial Approval: Applicable regulatory agency with jurisdiction

Monitoring/Inspection: Applicable regulatory agency with jurisdiction

16. Construction-Related Permit(s)

Requirement: The project applicant shall obtain all required construction-related permits/approvals from the City. The project shall comply with all standards, requirements and conditions contained in construction-related codes, including but not limited to the Oakland Building Code and the Oakland Grading Regulations, to ensure structural integrity and safe construction.

When Required: Prior to approval of construction-related permit

Initial Approval: Bureau of Building

Monitoring/Inspection: Bureau of Building

17. Hazardous Materials Related to Construction

Requirement: The project applicant shall ensure that Best Management Practices (BMPs) are implemented by the contractor during construction to minimize potential negative effects on groundwater, soils, and human health. These shall include, at a minimum, the following:

- a. Follow manufacture’s recommendations for use, storage, and disposal of chemical products used in construction;
- b. Avoid overtopping construction equipment fuel gas tanks;
- c. During routine maintenance of construction equipment, properly contain and remove grease and oils;
- d. Properly dispose of discarded containers of fuels and other chemicals;
- e. Implement lead-safe work practices and comply with all local, regional, state, and federal requirements concerning lead (for more information refer to the Alameda County Lead Poisoning Prevention Program); and
- f. If soil, groundwater, or other environmental medium with suspected contamination is encountered unexpectedly during construction activities (e.g., identified by odor or visual staining, or if any underground storage tanks, abandoned drums or other hazardous materials or wastes are encountered), the project applicant shall cease work in the vicinity of the suspect material, the area shall be secured as necessary, and the applicant shall take all appropriate measures to protect human health and the environment. Appropriate measures shall include notifying the City and applicable regulatory agency(ies) and implementation of the actions described in the City’s Standard Conditions of Approval, as necessary, to identify the nature and extent of contamination. Work shall not resume in the area(s) affected until the measures have been implemented under the oversight of the City or regulatory agency, as appropriate.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

18. Construction Days/Hours

Requirement: The project applicant shall comply with the following restrictions concerning construction days and hours:

- a. Construction activities are limited to between 7:00 a.m. and 7:00 p.m. Monday through Friday, except that pier drilling and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 a.m. and 4:00 p.m.
- b. Construction activities are limited to between 9:00 a.m. and 5:00 p.m. on Saturday. In residential zones and within 300 feet of a residential zone, construction activities are allowed from 9:00 a.m. to 5:00 p.m. only within the interior of the building with the doors and

windows closed. No pier drilling or other extreme noise generating activities greater than 90 dBA are allowed on Saturday.

- c. No construction is allowed on Sunday or federal holidays.

Construction activities include, but are not limited to, truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries, and construction meetings held on-site in a non-enclosed area.

Any construction activity proposed outside of the above days and hours for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case-by-case basis by the City, with criteria including the urgency/emergency nature of the work, the proximity of residential or other sensitive uses, and a consideration of nearby residents'/occupants' preferences. The project applicant shall notify property owners and occupants located within 300 feet at least 14 calendar days prior to construction activity proposed outside of the above days/hours. When submitting a request to the City to allow construction activity outside of the above days/hours, the project applicant shall submit information concerning the type and duration of proposed construction activity and the draft public notice for City review and approval prior to distribution of the public notice.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

19. Construction Noise

Requirement: The project applicant shall implement noise reduction measures to reduce noise impacts due to construction. Noise reduction measures include, but are not limited to, the following:

- a. Equipment and trucks used for project construction shall utilize the best available noise control techniques (e.g., improved mufflers, equipment redesign, use of intake silencers, ducts, engine enclosures and acoustically-attenuating shields or shrouds) wherever feasible.
- b. Except as provided herein, impact tools (e.g., jack hammers, pavement breakers, and rock drills) used for project construction shall be hydraulically or electrically powered to avoid noise associated with compressed air exhaust from pneumatically powered tools. However, where use of pneumatic tools is unavoidable, an exhaust muffler on the compressed air exhaust shall be used; this muffler can lower noise levels from the exhaust by up to about 10 dBA. External jackets on the tools themselves shall be used, if such jackets are commercially available, and this could achieve a reduction of 5 dBA. Quieter procedures shall be used, such as drills rather than impact equipment, whenever such procedures are available and consistent with construction procedures.
- c. Applicant shall use temporary power poles instead of generators where feasible.
- d. Stationary noise sources shall be located as far from adjacent properties as possible, and they shall be muffled and enclosed within temporary sheds, incorporate insulation barriers, or use other measures as determined by the City to provide equivalent noise reduction.
- e. The noisiest phases of construction shall be limited to less than 10 days at a time. Exceptions may be allowed if the City determines an extension is necessary and all available noise reduction controls are implemented.

When Required: During construction

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

20. Operational Noise

Requirement: Noise levels from the project site after completion of the project (i.e., during project operation) shall comply with the performance standards of chapter 17.120 of the Oakland Planning Code and chapter 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the City.

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: Bureau of Building

21. Construction and Demolition Waste Reduction and Recycling

Requirement: The project applicant shall comply with the City of Oakland Construction and Demolition Waste Reduction and Recycling Ordinance (chapter 15.34 of the Oakland Municipal Code) by submitting a Construction and Demolition Waste Reduction and Recycling Plan (WRRP) for City review and approval, and shall implement the approved WRRP. Projects subject to these requirements include all new construction, renovations/alterations/modifications with construction values of \$50,000 or more (except R-3 type construction), and all demolition (including soft demolition) except demolition of type R-3 construction. The WRRP must specify the methods by which the project will divert construction and demolition debris waste from landfill disposal in accordance with current City requirements. The WRRP may be submitted electronically at www.greenhalosystems.com or manually at the City's Green Building Resource Center. Current standards, FAQs, and forms are available on the City's website and in the Green Building Resource Center.

When Required: Prior to approval of construction-related permit

Initial Approval: Public Works Department, Environmental Services Division

Monitoring/Inspection: Public Works Department, Environmental Services Division

22. Employee Rights

Requirement: The project applicant and business owners in the project shall comply with all state and federal laws regarding employees' right to organize and bargain collectively with employers and shall comply with the City of Oakland Minimum Wage Ordinance (chapter 5.92 of the Oakland Municipal Code).

When Required: Ongoing

Initial Approval: N/A

Monitoring/Inspection: N/A

23. Compliance Hearings

Required: The applicant shall return to the Planning Commission and staff shall report on the progress under a Director's Report, and specifically whether any complaints have been filed with City Code Enforcement specifically related to the adverse operation of the proposed bar and if the Commission, upon hearing the Director's Report, determines that evidence may be present warranting further review, it shall direct staff and the applicant to return for a formal Compliance Review. In that case, the applicant shall submit for a compliance review and pay all appropriate fees consistent with the Current Master Fee Schedule. The Compliance Review shall provide the opportunity for the Commission and the public to provide comment on the operation and determine whether there is any violation of any term, Condition or project description relating to the Approval or if there is any violation of any provision of the Oakland Planning or Municipal Code, or the

project operates or causes to operate as public nuisance or there exists adverse impacts. As a result of this hearing, the Commission may direct staff to initiate enforcement proceedings pursuant to the Conditions of Approval or impose any additional Conditions of Approval related to the operation.

When Required: Within six (6) months after commencement of the operation

Initial Approval: N/A

Monitoring/Inspection: N/A

24. Additional Permits Required

Requirement:

- i. Necessary ABC permits (license Type 48) must be obtained prior to commencement of activity. 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.
- ii. The applicant shall submit a letter to staff signed by the applicant addressed to the State Department of Alcoholic Beverage Control stipulating that they wish to include conditions of their ABC license. The Oakland Planning Commission may, after notice and hearing, revoke this Conditional Use Permit if the applicant fails to include the above conditions in the ABC license.

25. Operation and Facility Requirements

Requirement: The project applicant and business owners in the project shall comply with all the following:

a) Hours of Operation

Hours of operation (including but not limited to alcoholic beverage sales) shall be limited to the following unless further restricted by ABC: Monday through Sunday 3:00 PM to 2:00 AM

b) Location and Manner

Alcoholic beverages may be purchased for on-sale, on-site consumption only.

c) Other products

No other products are required to be offered for sale. Sale of packed snack or other retail items requires additional approvals through the Planning and Zoning Division. No sale of tobacco-oriented products, lottery tickets, or adult magazines shall be allowed.

d) Minors

No minors shall be admitted at any time.

e) Alcoholic beverage sales display area

Sales display area of alcoholic beverages shall be set back from doorways.

f) Business signage

Any new or modified business signage requires review and approval by the Planning and Zoning Division.

g) Advertising signage

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

h) Nuisances

Crime, litter, noise, or disorderliness conduct associated with alcoholic beverage sales at the establishment may result in a hearing to consider revocation of the Major Conditional Use Permit or attachment of additional Conditions of Approval.

i) Loitering

The owner, manager, and employees of this establishment shall make appropriate efforts to discourage loitering from the parking lot and the public right-of-way fronting the premises including calling the police to ask that they remove loiterers 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.

j) Trash and litter

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

k) Performance standards

In addition, to the Operational Noise Condition above, the establishment shall adhere to performance standards for odor, and all environmental effects of the bar/lounge as regulated under OMC Chapter 17.120.

l) Noise

- i. No live music or DJ's are allowed without a Cabaret Permit from the City Administrator's Office. Hours of Operation for music and admission shall be based on a Cabaret Permit.
- ii. 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 music and from patrons as well as from outdoor noise from patrons.

m) Neighborhood Outreach and contact phone numbers

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

n) Signage

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

from the cashier located on the second floor of 250 Frank H. Ogawa Plaza.

o) Security

The establishment shall retain at least one security guard on site per every fifty patrons on Thursdays through Saturdays until closing.

p) ABAT Registration

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

q) 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).

r) Taxi call program

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 displaying behind the bar.

s) Staff training and monitoring program

The operator shall require new employees to comply with a staff training program that includes training on the Conditions of Approval and ABC statutes and regulations. Staff of the business shall regularly monitor the premises and public right-of-way to discourage all nuisances including but not limited to loitering, littering, noise, graffiti, public drinking / intoxication / urination / violence, and noise.

t) Ashtrays

The City Smoking Ordinance shall apply (OMC Sec. 8.30). 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.

u) Neighborhood Outreach and NCPC Meeting

Upon, commencement of operation of the business, the operator shall apply to the NCPC for inclusion on the next available agenda to introduce the establishment.

v) Future Operators

Any future operators of the business are subject to these conditions and shall register with the Bureau of Planning and with ABAT.

26. Signage

Requirement: If new signage is proposed, the applicant shall submit a Small Project Design Review application for the signage to the Bureau of Planning for review and approval.

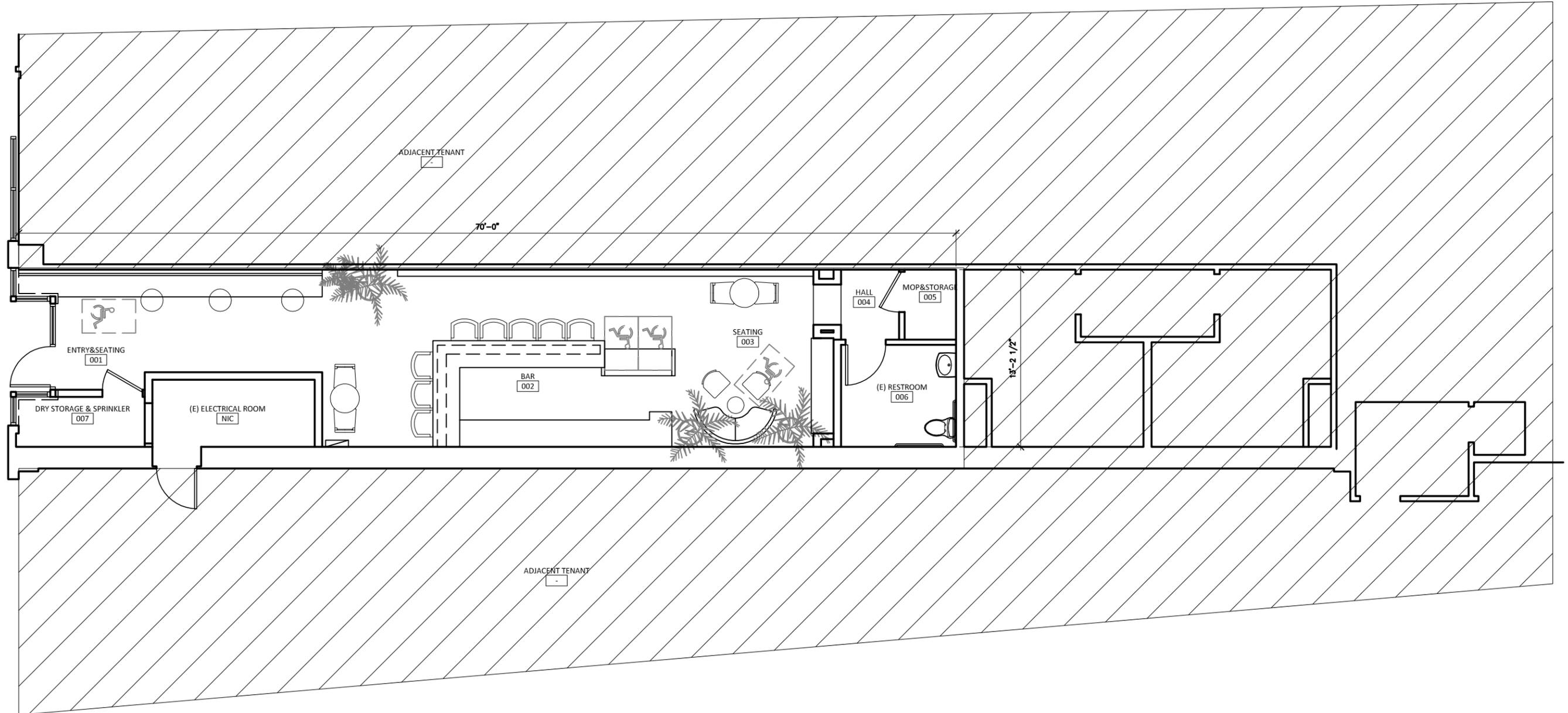
When Required: Prior to building permit final

Initial Approval: N/A

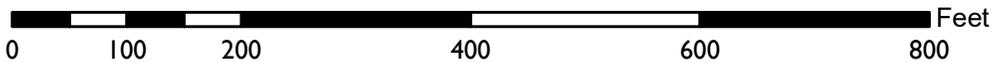
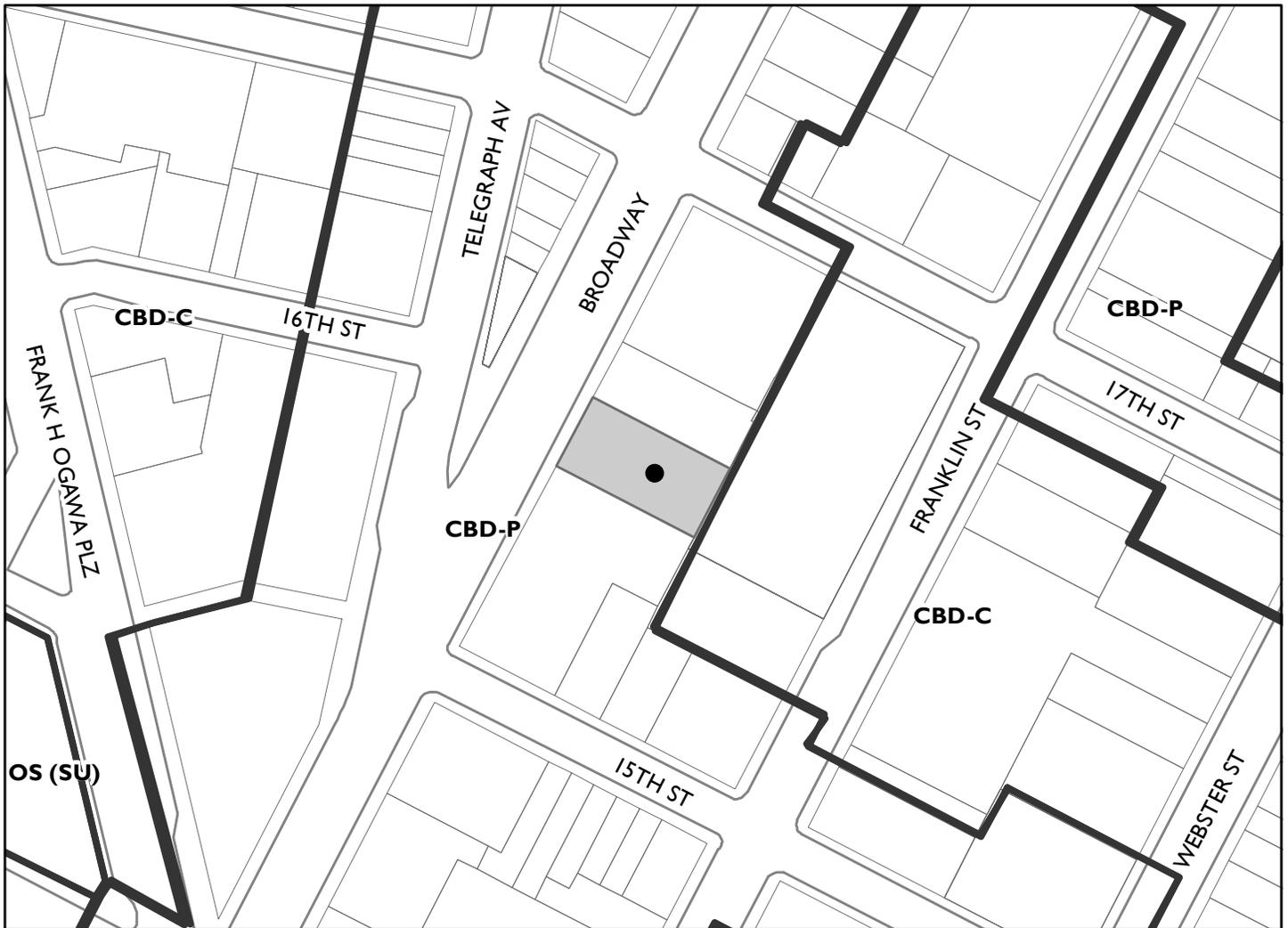
Monitoring/Inspection: Bureau of Planning

APPROVED BY:

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



CITY OF OAKLAND PLANNING COMMISSION



Case File: **PLN21205**
Applicant: **Lanenna Joiner**
Address: **1542 Broadway (as known as 1544 Broadway)**
Zone: **CBD-P**



Weekly Crime Report — Area 1

01 Nov. – 07 Nov., 2021

Part 1 Crimes <i>All totals include attempts except homicides.</i>	Weekly Total	YTD 2019	YTD 2020	YTD 2021	YTD % Change 2020 vs. 2021	3-Year YTD Average	YTD 2021 vs. 3-Year YTD Average
Violent Crime Index (homicide, aggravated assault, rape, robbery)	16	1,045	877	878	0%	933	-6%
Homicide – 187(a)PC	-	12	8	13	63%	11	18%
Homicide – All Other *	-	-	1	-	-100%	0	PNC
Aggravated Assault	7	479	471	527	12%	492	7%
Assault with a firearm – 245(a)(2)PC	-	46	51	77	51%	58	33%
Subtotal - Homicides + Firearm Assault	-	58	60	90	50%	69	30%
Shooting occupied home or vehicle – 246PC	-	45	44	71	61%	53	33%
Shooting unoccupied home or vehicle – 247(b)PC	-	13	25	35	40%	24	44%
Non-firearm aggravated assaults	7	375	351	344	-2%	357	-4%
Rape	-	39	49	31	-37%	40	-22%
Robbery	9	515	349	307	-12%	390	-21%
Firearm	3	171	79	109	38%	120	-9%
Knife	2	33	24	14	-42%	24	-41%
Strong-arm	1	265	185	116	-37%	189	-39%
Other dangerous weapon	1	13	13	9	-31%	12	-23%
Residential robbery – 212.5(a)PC	1	12	8	10	25%	10	0%
Carjacking – 215(a) PC	1	21	40	49	23%	37	34%
Burglary	10	3,480	1,779	2,707	52%	2,655	2%
Auto	5	3,157	1,339	2,381	78%	2,292	4%
Residential	-	153	179	136	-24%	156	-13%
Commercial	4	129	207	119	-43%	152	-22%
Other (Includes boats, aircraft, and so on)	-	38	42	43	2%	41	5%
Unknown	1	3	12	28	133%	14	95%
Motor Vehicle Theft	13	734	946	977	3%	886	10%
Larceny	6	1,569	1,006	954	-5%	1,176	-19%
Arson	-	32	33	24	-27%	30	-19%
Total	45	6,860	4,642	5,540	19%	5,681	-2%

THIS REPORT IS HIERARCHY BASED. CRIME TOTALS REFLECT ONE OFFENSE (THE MOST SEVERE) PER INCIDENT.

These statistics are drawn from the Oakland Police Dept. database. They are unaudited and not used to figure the crime numbers reported to the FBI's Uniform Crime Reporting (UCR) program. This report is run by the date the crimes occurred. Statistics can be affected by late reporting, the geocoding process, or the reclassification or unbounding of crimes. Because crime reporting and data entry can run behind, all crimes may not be recorded.

* Justified, accidental, foetal, or manslaughter by negligence. Traffic collision fatalities are not included in this report.
PNC = Percentage not calculated — [Percentage cannot be calculated.](#)
All data extracted via Coplink Analytics.

February 10, 2022
Oakland Planning Commission
1 Frank Ogawa Plaza
Council Chambers 3rd Floor
Oakland, Ca 94612

Dear Planning Commission,

My name is Porsche Washington, and I am the current Chairwoman for Beat 4x of the Neighborhood Crime Prevention Council. I had the pleasure of speaking with business owner and operator Nenna Joiner in regards to her proposed Feelmores Social Club. Nenna has a long standing history in the Downtown, and has successfully run her business Feelmores at 1703 Telegraph for the past 13 years. She is familiar with the challenges a Downtown can present. I was impressed to hear of this, especially being faced with demographics similar to San Francisco, and the struggle with rotating crime spurts. Nenna shared some of the challenges they've had to face operating in what is considered a high crime area, and how she and her team will work to create an atmosphere in which they can improve that, without negatively affecting the neighborhoods culture. We are thrilled to see a new business come into the Downtown area with plans of embracing our city's culture, its people, and also arrive with the intent to protect these things the promise of having the proper staffing, and hours in place to help provide an extra layer of eyes and ears in the downtown. Telegraph has long been the epicenter of Oakland's nightlife, and most are looking forward to reviving that spirit. This conversation convinced me that her proposed concept and experience will be a great experience for our local patrons.

I have full faith that the Feelmores Social Club will ultimately be a positive addition to the area.

Sincerely,

Porsche Washington
Chairwoman for NCPC Beat 4X