Oakland City Planning Commission STAFF REPORT

Case File Number CMD10-292 **February 2, 2011**

Location:	**1741 Telegraph Avenue (APN 008-0641-001-00)**
Proposal:	Establish Alcoholic Beverage Sales Activity
Contact Person/Phone Number:	Charles Blank, Updog Bar (415) 271-4860
Owner:	Bay Area Legal Aid
Case File Number:	**CMD10-292**
Planning Permits Required:	Major Conditional Use Permit to establish a one-story combined 2,907 square foot Alcoholic Beverage Sales Activity (bar) into a 25,991 square foot building with Findings of Public Convenience and Necessity for proximity of Alcoholic Beverage Sales Activities pursuant to Section 17.102.210 of Oakland Planning Code)
General Plan:	Central Business District
Zoning:	CBD-P Central Business District-Pedestrian Retail Commercial Zoning District
Environmental Determination:	Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15301 and 15183
Historic Status:	Potential Designated Historic Property, *c3, post-1945 or modernized, potentially secondary importance
Service Delivery District:	Metro
City Council District:	3
For Further Information:	Contact **David Valeska** at **(510) 238-2075** or dvaleska@oaklandnet.com

SUMMARY

This is an application to allow sales of beer, wine and distilled spirits in a 2,907 square foot bar, in two-thirds of the first floor of an existing 3 story office building. The building is located at Telegraph Avenue and 18th Street, in Uptown Oakland in the Fox Theater and Arts districts. If an Activity is not a "Full-Service" restaurant, a Major Conditional Use Permit (CUP) is required to sell alcoholic beverages. Since the applicant plans a bar not a Full Service restaurant, a Major CUP is required, with a Regular Design Review for building modifications.

PROJECT DESCRIPTION

The proposed project includes on-site beer and wine consumption in a new venue in the Fox Theater entertainment district. Approximately one-third of the first floor would remain as small offices, leased to tenants (currently Legal Aid) not associated with the applicant. In the applicant's bar, cooked meals would not be offered at this time, however snack foods would be available. The applicant proposes 60 to 100 bar seats, to be served by 10 employees. The rear half of the building would include men's and women's restrooms, office, and storage. The business will be open seven days a week, initially 3 pm until 1:45 am.

The applicants went to high school in Rockridge but developed their bar management skills in New York City and London, operating dozens of bars. Therefore, the interior will be modeled on the applicant's New York City bars like Iceworks in the TriBeCa neighborhood. Other properties on which the bar will be modeled are Weather Up in Brooklyn and Hecho, also in New York. (See Attachment E, plans and photographs). The retro New York-style interior of Updog in Oakland is one of the marketing features which would distinguish this bar from other bars which have opened in the past decade in Uptown. The

CITY OF OAKLAND PLANNING COMMISSION

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Zone: CBD-P

interior features decorative art lighting, specialty construction of the bar, long displays of beverage options and quality materials on the walls, in a retro-nostalgia style. The applicant hopes to have the decoration of interiors for Updog exceeding that of most other bars in Uptown.

PROPERTY DESCRIPTION

This building is occupied by Bay Area Legal Aid on one-third of the first floor and on upper floors. In the 1990's the spaces were occupied by a large church. The 47-foot-tall building exterior would include minimal changes for the current applicant, mostly insetting the existing first floor glass walls by the sidewalk to allow space for sidewalk seating and a more welcoming entrance. Otherwise the 1947 façade generally would be retained. Existing boarded-up ground floor picture windows would be uncovered and enhanced, with doors added. Upper level brown brick walls and cast specialty windows, in a International style, would be refurbished as part of a larger building-wide renovation. On the top floor a recessed office block is under the shade of a horizontal awning on all sides. A recessed first floor is also planned to create more of a customer-oriented entry at the corner and allow for sidewalk seating.

The building is one of the most simple yet imposing facades in this block of Uptown. This Uptown area has experienced substantial rehabilitation through the City façade program and Fox Theater restoration in the past decade. Nearby, Flora Restaurant has occupied the Art Deco former flower market. Jacobs Engineering in the 1700 block of Telegraph Avenue has been restored to Art Deco style. Marquee Lofts, a 5 story early 20th Century commercial building, has also been restored. Cafes, medical cannabis centers, offices, Youth Radio headquarters and retail stores complete the neighboring uses.

GENERAL PLAN ANALYSIS

This project is located in the 'Central Business District' General Plan Land Use Classification, under the General Plan Land Use and Transportation Element (LUTE). One intent of this classification is to identify, create, maintain and enhance commercial and residential structures in this area with good access to transportation and other services. Excerpts from LUTE include:

Policy D1.1: *The characteristics that make Downtown Oakland unique, including its strong core area, proximity to destinations such as the Jack London waterfront, Lake Merritt, historic areas, cultural, arts and entertainment activities, should be enhanced and used to strengthen the downtown as a local regional asset.*

Policy D5.1: *Activities and amenities that encourage pedestrian traffic during the work week, as well as evenings and weekends should be promoted.*

Policy D12.1: *Build on and promote Oakland's educational resources, historic importance as an entertainment venue, existing cultural diversity and strong arts community.*

Staff review of these policies confirms that there is community support for a specialty alcohol service uses in the Uptown Oakland area. Existing business districts should be supported, and neighborhood dining/entertainment experiences should be enhanced through business retention and attraction efforts.

ZONING ANALYSIS

A Major Conditional Use Permit is required for an Alcoholic Beverage Sales Commercial Activity in the Central Business District-Pedestrian (CBD-P) Zone. Regular Conditional Use Permit findings per Section 17.134.050 and special findings for Alcoholic Beverage Sales Commercial Activities per Section 17.102.210 must be made.

On February 1, 2000, the Oakland City Council passed Resolution #75490 establishing a no net increase policy in the number of alcoholic beverage sales commercial activities in Oakland neighborhoods to protect the health, safety and welfare of residents. This resolution states that new off-sale and on-sale retail alcoholic beverage sales licenses should only be permitted if one or more criteria are met. One exception to these criteria is for sites in the Central Business District, such as Old Oakland and the Uptown entertainment district. The applicant intends to obtain an existing Oakland license if possible.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines list projects which are categorically exempt from environmental review. Section 15301 exempts facilities, which consist of minor alterations to existing structures, involving negligible or no expansion of use beyond that previously existing, including interior or exterior alteration. This project involves minimal external changes to the building, which has a *c-3 rating (post-1945 or modernized, potentially secondary importance) rating. Consultation with historic planning staff has confirmed that the changes to the building are minimal and would not diminish the building's historical contribution. Therefore, this project is considered categorically exempt from the provisions of CEQA pursuant to Sections 15303 of the State CEQA guidelines. In addition, Section 15183 applies as this activity, subject to Conditional Use Permit and Design Review approval, is consistent with a Community Plan, General Plan, and Zoning.

KEY ISSUES AND IMPACTS

The proposed facility will establish a bar for typically 100 patrons in a one-level space in a former office suite. The proposed use would provide a greater variety of beverages while generating minimum nuisance due to the implementation of alcohol license restrictions **(See Conditions 13 to 19 inclusive).**

Issues reviewed include: Crime Control; Parking; and Concentration of Alcoholic Beverage Services.

Crime Control

Staff consulted Police statistics for the 90 day period ending December 13, 2010 within a quarter-mile radius of 1741 Telegraph Avenue in Uptown Oakland, and found similar or somewhat higher crime statistics to those of Old Oakland as shown below.

PROJECT SITE, 1741 TELEGRAPH AVENUE. Aggravated Assault 3; Burglary (2); Narcotics (0); Robbery (8); Simple Assault (9); Theft (42); Vandalism (6); Vehicle Theft (3).

OLD OAKLAND (Comparison). Staff consulted Police statistics for the 90 day period ending November 1, 2010 within a quarter-mile radius in Old Oakland. The current crime statistics were: Aggravated Assault (4), Burglary (3), Narcotics (4), Robbery (4), Simple Assault (7), Theft (25), Vandalism (3) and Vehicle Theft (7).

This is not exceptionally high for a downtown nightlife area and is comparable to Jack London Square and other similar areas. Adding area to this activity is not likely to increase statistical crime.

With appropriate conditions regarding hours and alcohol sales limitations, this project will meet all of the Use Permit Criteria pursuant to Section 17.134.050 and other Sections listed, which are attached herein and are hereby incorporated into this report.

The Oakland Police Departments ABAT unit has not determined that this use will create nuisance activity if managed properly. As a part of the program ABAT will be responsible for monitoring this location. Through active enforcement and police assistance this use will remain safe and successful.

Parking

The project proposes no additional parking spaces. There are parking lots and garages within a 3 block walking area, and the site is between the 12th Street and 19th Street BART stations. Frequent bus service is along Broadway and Telegraph Avenue.

A new building in the CBD-P (formerly C-52) Central Business District Pedestrian zoning would not require parking for these uses. There are no new buildings proposed; this building has existed for decades in its current configuration.

Section 17.116 of the Zoning Code does not require that parking in excess of requirements be preserved. In fact, a new fee parking lot outside of a structure in this area would require a Conditional Use Permit.

Staff concludes that approval of this use does not require parking spaces due the building pre-dating parking requirements.

Concentration of Alcoholic Beverage Services

The Uptown area near this site includes new bars and alcohol-serving restaurants which have located within the past 5 years: Somar; Flora; Bar Dogwood (approved recently), the Den bar at the Fox Theater; Mua; Pican and Ozuma at Broadway/Grand etc. In addition, older bars have remained such as Van Cleefs. These establishments cater to an upscale clientele like the planned Updog.

There are youth-related facilities nearby such as the Ice Rink, Youth Radio and the School for the Arts. However, an upscale facility such as Updog is not likely to attract clientele who would put youth at risk or cause embarrassment.

Staff finds, upon review of the General Plan and Redevelopment plans, that this concentration is beneficial rather than adverse, by drawing tourism and resident night life to an area of Downtown which formerly was mostly closed after daytime business hours and on weekends. This increases security for the area and helps to establish Oakland as a reasonable alternative to San Francisco for opening new entertainment and dining facilities. The bar will also add 10 jobs to Downtown.

SUMMARY

The Updog bar will bring more visitors to the Uptown area, reinforcing commercial benefits which provides revenue to preserve the building. Copied from the applicant's successful New York City bars, Updog would be a one-of-a-kind facility in central Oakland. The facility will be an enhancement as seen

from the street, replacing boarded-up space with night-life. Staff concludes that the application merits support, subject to appropriate Conditions of Approval.

RECOMMENDATION:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit and Regular Design Review, based on the ability to make the findings and subject to the attached conditions.

Prepared by:

David Valeska, Planner II

Approved by:

SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:

Scott Miller, for
ERIC ANGSTADT, Deputy Director
Community & Economic Development Agency

Attachments:

A. Findings
B. Conditions
C. Site Plan/Aero Photo
D. Applicant Letter
E. Applicant Plans and Photographs

A. FINDINGS FOR APPROVAL

This proposal meets the required findings under Sections 17.134.050, General Use Permit Criteria, 17.102.210(A)&(B) Special Use Permit Criteria, as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type.

Section 17.134.050 (General Use Permit Criteria):

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

The proposed expansion of alcohol sales in this section of Uptown Oakland will be compatible with adjacent and surrounding businesses. There are few nearby residences. As approved the activity with limited operating hours and other operating characteristics will not adversely affect livability or appropriate development. The building is existing and Uptown Oakland can support the anticipated traffic.

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

The existing development will provide a convenient and functional living, working and shopping environment by providing a convenient location for specialty alcoholic beverages.

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 additional alcohol sales will enhance the area by providing a supplementary space for this service within the busy Uptown Oakland entertainment/nightlife district. The project, a gourmet bar, will provide an essential meeting area and service within reasonable proximity to the convention center, hotel and office community.

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

The building is existing and minimal exterior changes are planned only to restore the 1947 façade and make minor indentations to the first level, which can be reversed if needed in the future.

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 General Plan is silent regarding sales of alcohol. The General Plan allows for businesses that will not cause undue nuisance activity. The proposed activity is within an established entertainment/nightlife district and as conditioned will cause a minimum of nuisance activity. The Central Business District land use category envisions a wide range of retail, restaurant and specialty stores along with promoting mixed-use developments. This use of an existing commercial storefront will enhance the Uptown Oakland visitors' experience.

Section 17.102.210 (A) - Special Use Permit Criteria:

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

   The proposal will not result in a net increase in such effects and the activity is in conjunction with other desired activities. While the urban concentration at night may cause concentration of both legal and illegal behavior, performance by other venues in Oakland and San Francisco has shown minimal contribution by this type of bar to crime, loitering or traffic problems. As conditioned, expanding Updog's activity will not contribute significantly to such problems. Uptown and the Central Business District together have capacity for the projected traffic without affecting the level of service.

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

   Sensitive uses as listed above within 1,000 feet have not been adversely affected by new Alcoholic Beverage Sales Activities developed in the area in recent years. Staff believes that CUP conditions will ensure the addition of Updog will not adversely effect surrounding uses.

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

   There will be no direct effect on people along Telegraph Avenue or nearby pedestrian streets. This expanded use should enhance the pedestrian corridor.

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

   The building is existing and the façade is proposed for modification primarily to restore to its 1947 style and make minor first floor indentations of glass curtain walls. A high-quality interior and operation are proposed by the applicant to enhance the area.

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

   There is no proposed added signage at this time. Any signage proposed will be modest and will go through a separate design review process. No additional parking areas would be built.

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

As conditioned, there will be one non-flammable trash container installed proximate to the entrance of the restaurant and litter will be removed from the sidewalk and gutter in front of and to twenty feet beyond the premises along Telegraph Avenue in Uptown Oakland.

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 PM and seven AM.**

The business is not in close proximity to residential uses or bedroom windows; new condominium and apartment projects are over a block away.

Section 17.102.210(B) - Special Use Permit Criteria

B. Special Restrictions on Establishments Selling Alcoholic Beverages.

1. **No Alcoholic Beverage Sales Commercial Activity shall be located closer than one thousand (1,000) feet to any other Alcoholic Beverage Sales Commercial Activity except;**
   a. **On-sale retail licenses located in the Central District (defined as within the boundaries of I-980 and Brush Street to the west; 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south); or**
   b. **Activity is in conjunction with a Full-Service Restaurant; or**
   c. **Establishments with twenty-five (25) or more full time equivalent (FTE) employees and a total floor area of twenty thousand (20,000) square feet or more.**

The proposal is within the Uptown Oakland district of the Central District; other findings need not apply.

3. **In addition to the criteria prescribed elsewhere in the zoning regulations, a land use permit for an Alcoholic Beverage Sales Activity located within an Alcoholic Beverage Sales license overconcentrated area shall be granted and a finding of Public Convenience or Necessity made only if the proposal conforms to all of the following three criteria:**
   a. **That a community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing, specifically how the project would serve an unmet or underserved need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to, alcohol:**

This Census Tract includes the nightlife districts of Uptown Oakland and nearby areas, and is considered overconcentrated with alcoholic beverage service according to General Plan policies. Documents filed by the applicant and other information on record shows that the project would serve the Uptown Oakland and convention center/hotel district nearby, and the overall Oakland community, with alcoholic beverage service so as to increase physical accessibility and variety of choice for patrons to this nightlife district of the City, in a manner complimentary to nearby restaurants and retail uses.

   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.

Information supplied by Oakland Police Department and review of police service calls confirm that this small expansion of use will be a positive influence on community life and would not likely result in a significant increase in police calls for service, due to clientele behavior demonstrated by this applicant's other nearby existing restaurant.

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

Alcohol beverage service is typically a part of nightlife district restaurants and the applicant's proposal is consistent with this pattern in Uptown Oakland.

Section 17.136.050.B: Regular Design Review Criteria for Nonresidential Facilities

1. **That the proposal will help achieve or maintain a group of facilities which are well related to one another and which, when taken together, will result in a well-composed design, with consideration given to site, landscape, bulk, height, arrangement, texture, materials, colors and appurtenances; the relation of these factors to other facilities in the vicinity; and the relation of the proposal to the total setting as seen from key points in the surrounding area. Only elements of design which have some significant relationship to outside appearance shall be considered, except as otherwise provided in Section 17.136.060.**

The first floor glass wall and shape changes on the upstairs windows are the only new design element and it will not cause an adverse effect as viewed from streets or adjoining property.

2. **That the proposed design will be of a quality and character which harmonizes with, and serves to protect the value of, private and public investments in the area.**

The design of changes harmonizes with the existing facility and does not reduce the value of investments in the area; rather this application is reinvestment in a property to enhance the area.

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

The design changes are minimal and do not conflict with any adopted plan.

B. CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. **Approved Use.**
   a. Ongoing.
   The project shall be constructed and operated in accordance with the authorized use as described in this staff report and the plans submitted on September, 2010, amended January 24, 2011 and as amended by the following conditions. Any additional uses other than those approved with this permit, as described in the project description, will require a separate application and approval. The approved activity is the sales for on-premise consumption of beer, wine, and distilled alcohol in a 2,907 square foot interior space in an existing building, and adjacent sidewalk café area, during the hours and with the conditions stated below.

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

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

4. **Conformance with Other Requirements.**
   Prior to issuance of a demolition, grading, P-job or other construction related permit.
   a. The project applicant shall comply with all other applicable federal, state, regional and/or local codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshall, and the City's Public Works Agency.
   b. The applicant shall submit approved plans for project-specific needs related to fire protection including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access and vegetation management for preventing fires and soil erosion.

5. **Conformance to Approved Plans; Modification of Conditions or Revocation**
   Ongoing.
   a. Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.

b. The City Planning Department reserves the right at any time during construction, to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification or other corrective action.

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

6. **Signed Copy of the Conditions**
With submittal of a demolition, grading and building permit.
A copy of the approval letter and Conditions shall be signed by the property owner and submitted with each set of permit plans submitted for this project.

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

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

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

9. **Severability**
Ongoing

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

10. **Job Site Plans**
Ongoing throughout demolition, grading, and/or construction and when operating
At least one (1) copy of the approved plans, along with the Approval Letter and Conditions of Approval shall be available for review at the job site at all times.

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

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

STANDARD CONDITIONS FOR ALCOHOLIC BEVERAGE SALES COMMERCIAL ACTIVITY:

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

14. **Hours.**
a. Ongoing.
The business may be open from 3:00 PM to 2:00 AM. Alcohol Sale shall conclude at or prior to 1:45 AM. Any work outside these hours shall solely be staff preparation or cleaning the site.

15. **Conformance with State Department of Alcoholic Beverage Control regulations**
a. Ongoing.
This use shall conform to all provisions of the State ABC license. The state license and state conditions shall be posted along with these Conditional Use Permit conditions in a place visible to

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

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

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

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

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

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

d. Ongoing.
No pay phones are permitted outside the building.

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

17. **Trash and litter**
a. Prior commencement of use and ongoing.
The applicant/property owner shall install and maintain at least one (1), non-flammable trash can located near the entrance of the store.

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

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

APPROVED BY: City Planning Commission: _____(date)_____(vote)
City Council

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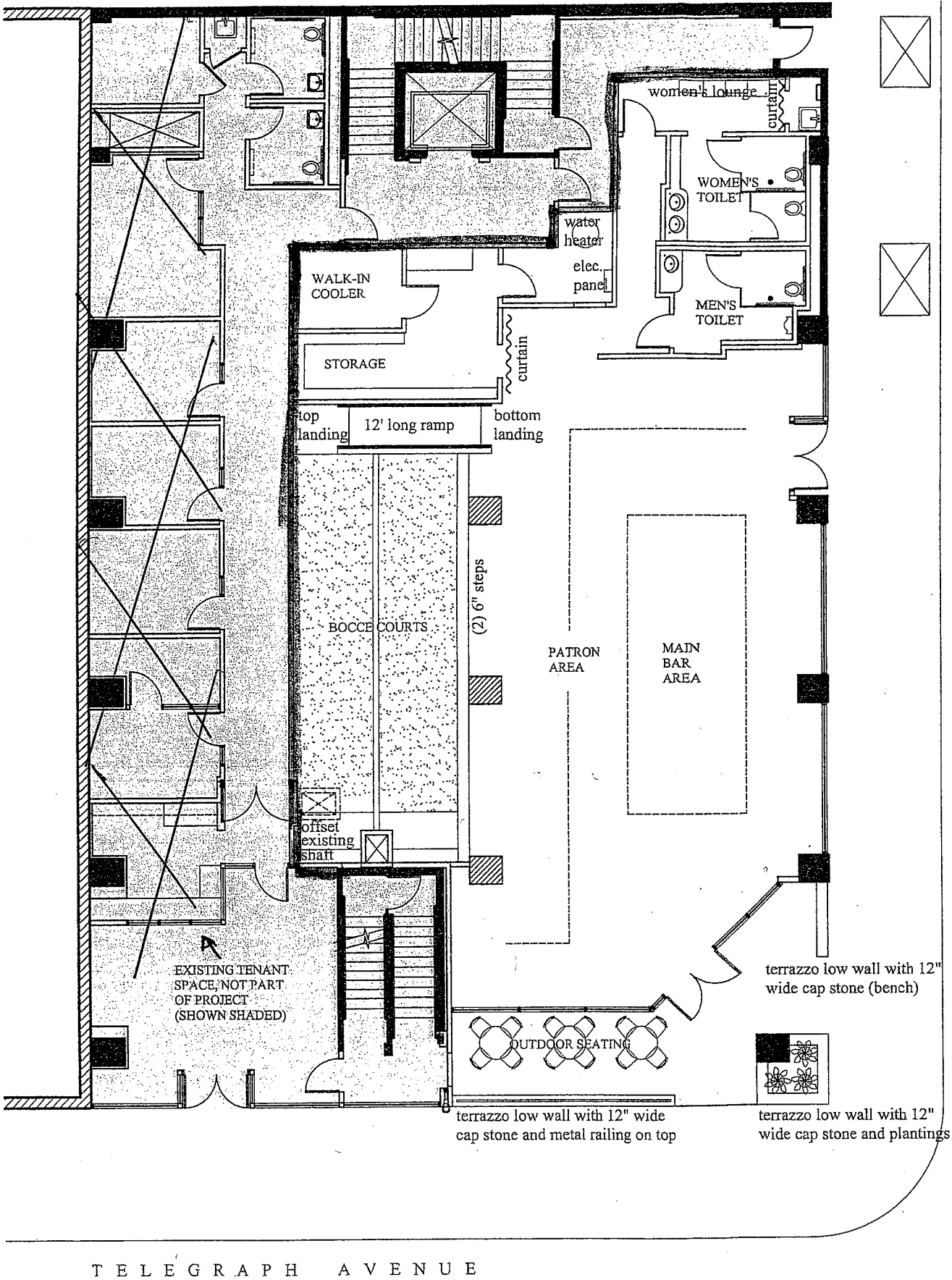

(DRAWING NOT TO SCALE)

GROUND LEVEL PLAN
1741 TELEGRAPH AVENUE
OAKLAND, CA

Attachment C: Site Plan/Aero Photo

William St
19th St
Ave
1741 Telegraph Ave, Oakland, CA 94612
Martin Luther King Jr Way
Clay St
16th St
Franklin St
Harrison St
© 2010 Google
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Conditional Use Narrative
1741 Telegraph Ave
Oakland, CA

Uptown

The rejuvenation of the Uptown entertainment district over the past five years has been an inspiring story of steady, continual success. What was recently a dilapidated and seldom-visited inner city district has quickly developed into one of the most exciting nighttime destinations in the Bay Area. A number of fantastic restaurants, clubs, and bars have established themselves around the neighborhood anchor, the refurbished Fox Theater, venue of choice for top headliners visiting the Bay.

1741 Telegraph Ave

Located in the heart of this dynamic neighborhood, next door to the Fox and steps from the high-end restaurants that increasingly define the area, 1741 Telegraph Ave offers the perfect opportunity to give the neighborhood a fantastic flagship bar to accompany the beauty and style of the Fox.

Previous permit research by CEDA officials indicates that the building's last permitted use was Mixed-Use, with the primary use being Office and accessory use being Retail. The last tenant was the Christian International Church which, beginning in 1991, occupied all of the second and third floors and portions of the ground floor and basement. There is no history for entities occupying the ground floor spaces.

The building was purchased and renovated in 2008 by its current occupants, Bay Area Legal Aid. BALA is a non-profit community-based organization offering free civil legal services to low-income families. The corner ground floor unit has been earmarked, according to their CUP, for use as a cocktail lounge.

1741 is conspicuously located next to the Fox Theater, across the street from 19th St BART, in the heart of the booming entertainment district. It is the perfect location for a flagship beautiful and stylish bar to anchor the neighborhood.

Updog LLC

Updog LLC is the result of a long history of friendship. The principals are Glenn Kaplan and Chris Foott, in association with Matthew Maddy and John Kole.

Glenn and Chris both grew up in the Bay Area and went to high school in Rockridge. Glenn has spent the last 10 years living in New York, where he completed a Masters in Education at Columbia University, worked in bars and restaurants, and later with Hecho (see below), before starting and running a successful internet marketing business.

Chris has spent the past 7 years in Oxford, UK, where he worked in real estate at the same time as learning how to run bars and clubs throughout the dynamic University city.

John Kole owns and operates a bar/restaurant design/build company called Hecho Inc. Hecho has built over 50 visually stunning high end bars/restaurants/ clubs in New York City, and is currently working on projects in Las Vegas and London.

Matthew Maddy spent years as a Hecho project manager before branching out and creating his own extremely successful bars and restaurants. Both Matt and Hecho projects create a lot of excitement in New York, as evidenced by front page coverage in the New York Times of Matt's latest bar, due to open in November in the Manhattan neighborhood of Tribeca (see below).

Chris and Glenn are investors and have been involved in the development/operation of Matt's first project, Weather Up & Co, a successful small bar in the up and coming Brooklyn neighborhood of Prospect Heights. In 2009, the principals met at Weather Up and decided to replicate this success in Chris and Glenn's native Oakland, an city that they both felt had long been underserved by the local venues.

Upon moving back to the Bay Area, Chris and Glenn were struck by the new developments at Uptown, and by the many parallels between the booming city across the Bay and booming Brooklyn, across the River from Manhattan. We decided this was the perfect location in which to transplant some of Brooklyn's style and beauty.

We're enjoying working closely with Brian Kendall, the Oakland Redevelopment Agency and BALA to come up with designs that will augment the work already accomplished in Uptown. John Kole and Matt Maddy have worked on the concept and design, and we have assembled a great local team to build (under Matt's guidance and supervision) the bar.

We are beyond excited about this project, and about the chance to participate in Uptown's rejuvenation by creating a beautiful bar for visitors to enjoy before or after a show/dinner, or as a destination for a night on the town!

The Concept

The theme for the bar (name to be determined) is simply to put some of the style and elegance of Brooklyn/New York on top of the honesty of Oakland. We will create a space that balances the hip, contemporary elegance of New York with the inclusive spirit of Oakland. Matt and Hecho's work (see attached photos) speaks for itself in terms of their ability to realize this concept.

The offering will be eight beers on tap, numerous bottled beers and wines, and Presbyterian cocktails in keeping with the mixology renaissance that's occurring throughout the Bay Area. But we will offer mainstream beverages at reasonable prices (ie it will be possible to purchase a Jack Daniels and Coke as well as a Manhattan) so as to be as inclusive as possible (in contrast to some high end cocktail bars whose exclusive and condescending nature leave many customers high and dry).

Open from 4 PM onwards, we aim to be the de facto elegant afterwork meeting place, and as the sun goes down, we will transition in to a great, warm spot for pre and post dinner or concert drinks, or for a rollicking night on the town,

We will not offer cooked food, and will instead focus on keeping our processes simple and our offering of well crafted beverages consistently quality and good value. Our nature and style, however, will lend themselves to our being the ideal location to have a drink before a dinner at Flora or Hibiscus, for example.

Proposed Exterior Improvements

Given 1741's prominent corner frontage, we will pay special attention to our interior and exterior lighting plan, illuminating our space in a convivial, seductive, inviting light. Floor to ceiling windows will allow passersby to glimpse the enticing action inside the bar, and when the sun goes down and the lights go up, 1741 will literally glow with the kind of intimate bustle that makes a proper New York City establishment beckon the passing traffic.

We are working closely with BALA and with Brian Kendall to come up with final plans in this regard. Signage and frontage will be key to our ambience, and we want to make sure that they are in keeping with the environment already present in Uptown, typified by the classic and historically respectful frontages of the Fox Theater and Flora. For a rough idea, think of Edward Hopper's *Nighthawks* painting (see attached). To the passerby, our bar will be reminiscent of this iconic work combined with the stylistic beauty exemplified in the attached Hecho and Weather Up photos.

Proposed Interior Improvements

Currently, the unit is a concrete shell. We are working closely with BALA to establish mutually acceptable interior improvements. The building is currently up to code, as it was renovated and retrofitted by BALA upon acquisition.

The interior will be minimalist in most respects-we won't overly dress the concrete walls or drop the ceiling. Instead, we will keep it simple, but with beautiful and arresting detail-work. Our space will have a slightly rock and roll theme, in keeping with the Fox and the other clubs in the neighborhood, but will also be very accessible and inclusive.

The build will take place in two phases:

BALA will install all the improvements necessary to turn the unit into a warm shell (HVAC, plumbing, electricity panels, water meters, etc).

When they have completed their work, we will install the bar, toilets (with disabled access), etc.

Our architect (Charles Blank-also BALA's architect, who has intimate knowledge of the building) and our local contractors are well versed in local regulations, and will help guide us through a build that is in accordance with all pertinent guidelines.

THIS WEEK

TUE 1/25
BOARD GAME OLYMPICS / BROUGHT TO YOU BY METRO METRO

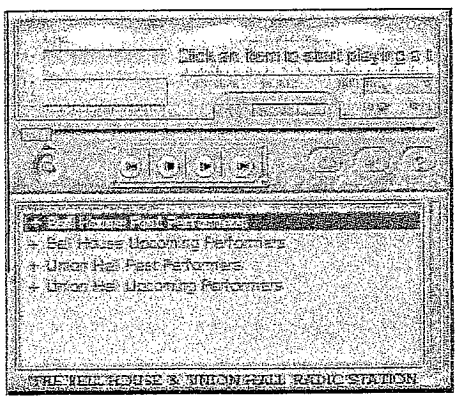
THU 1/27
COMPUTER MAGIC / EL SPORTIVO & THE BLOOZ / BIG SEARCH

FRI 1/28
KARAOKE KILLED THE CAT

FRI 1/28
RAGE AGAINST THE DYING OF THE LIGHT / DJ RUSS / GUILTY GHOSTS / PORTRAITS OF AMERICAN FIRING SQUADS

SAT 1/29
REAL ESTATE / DJ ANDY ROURKE / ART CON

Check out the complete schedule
All shows are 21+ unless noted



ONLINE TICKETS ARE AVAILABLE THROUGH TICKETWEB.

DOOR GIRL ART

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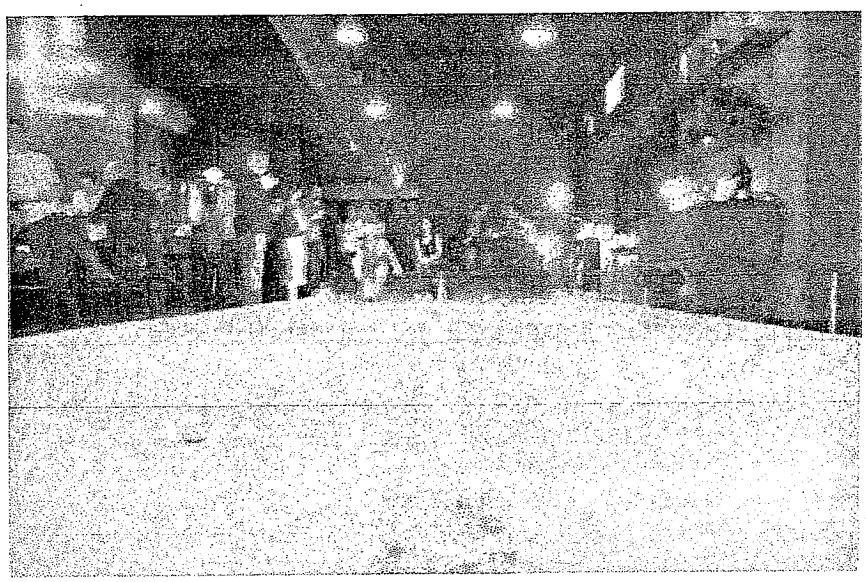
HOME

Union Hall is a 5,000 square foot bar, restaurant and live music venue in the heart of Park Slope, Brooklyn.

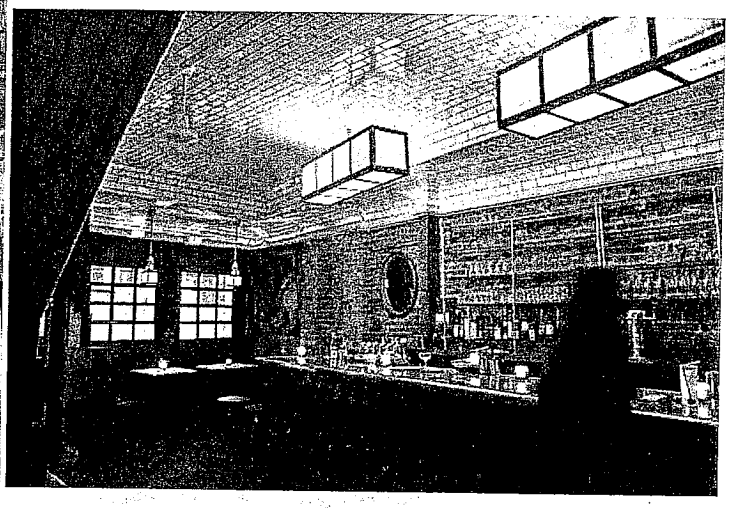
Painstakingly converted from a warehouse, it offers cozy fireside, a stately library, two indoor bocce courts, outdoor garden seating, and a downstairs bar and music venue. New York Press says Union Hall *"offers downtown style mixed with Brooklyn's trademark down-to-earth friendliness."*

Check out our music schedule, our menu, and our beer and wine offerings. If you would like to host an event, click here for details on availability, catering, and pricing. You must be 21 or older with a valid ID to enter Union Hall, no exceptions. Advance tickets are non-transferable and Ticketweb customers must bring a form of ID to claim their will call tickets. All shows are listed in order of last ("headliner") performer first and support acts following.

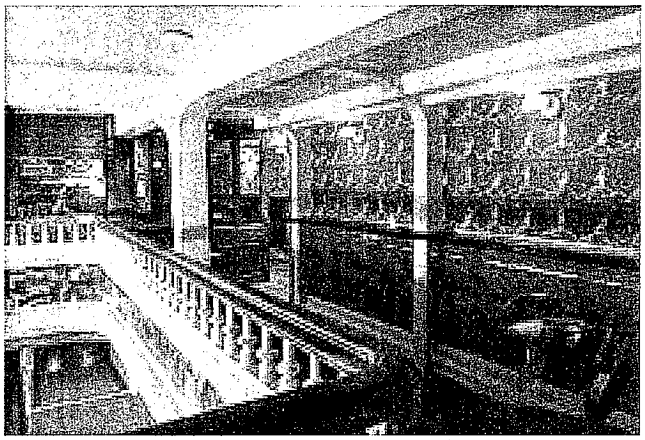


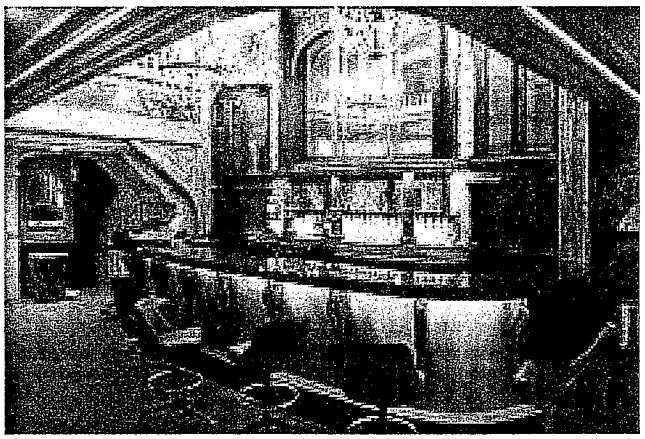
SITE DESIGN BY SHADOWLESS KICK

Weather Up Brooklyn

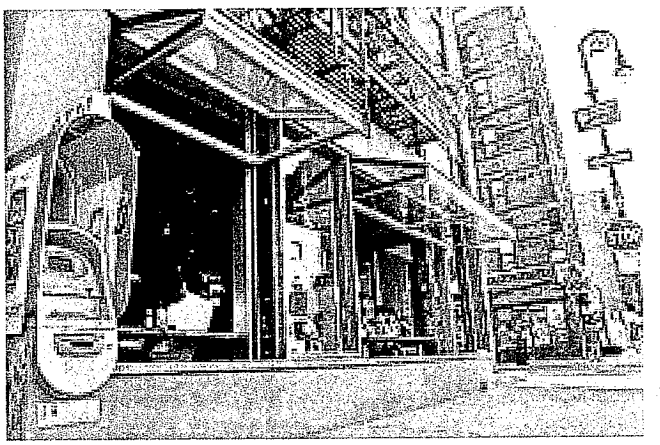


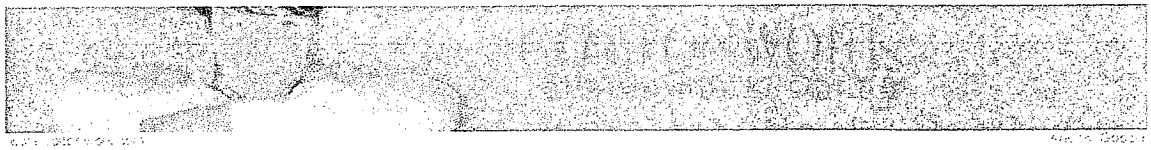
Hecho: The Box





Hecho: Various

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UP CLOSE

The Anti-Banter Bartender

Casey Kelbaugh for The New York Times

By JOSHUA DAVID STEIN
Published: January 11, 2011

WITH its pyrotechnics, suspenders and tattoos, the cocktail scene in New York appears, at times, to revolve around a troupe of Barnum & Bailey escapees. But those who frequent Weather Up, a Prohibition-style cocktail lounge, need not worry. Its 34-year-old namesake and owner, Kathryn Weatherup, is tall and blond, an unbearded lady. She is what, in some circles, is called a tall drink of water. Although here, a sloe gin fizz might be more appropriate.

Her first venture — the original Weather Up, a tiny bar with subway tiles and a bronze bar — opened in 2008 in Prospect Heights, Brooklyn, and was regarded by connoisseurs as the borough's first true craft cocktail bar. Her latest, Weather Up TriBeCa, opened on Duane Street in December and has brought a high dose of cocktail culture to the stroller-beset neighborhood.

Despite her unassuming presence, Ms. Weatherup has emerged as an effervescent but unlikely force in the city's tight-knit mixology scene. Not only is she the rare woman in a male-dominated field, but she is also the rare bartender who doesn't brook banter.

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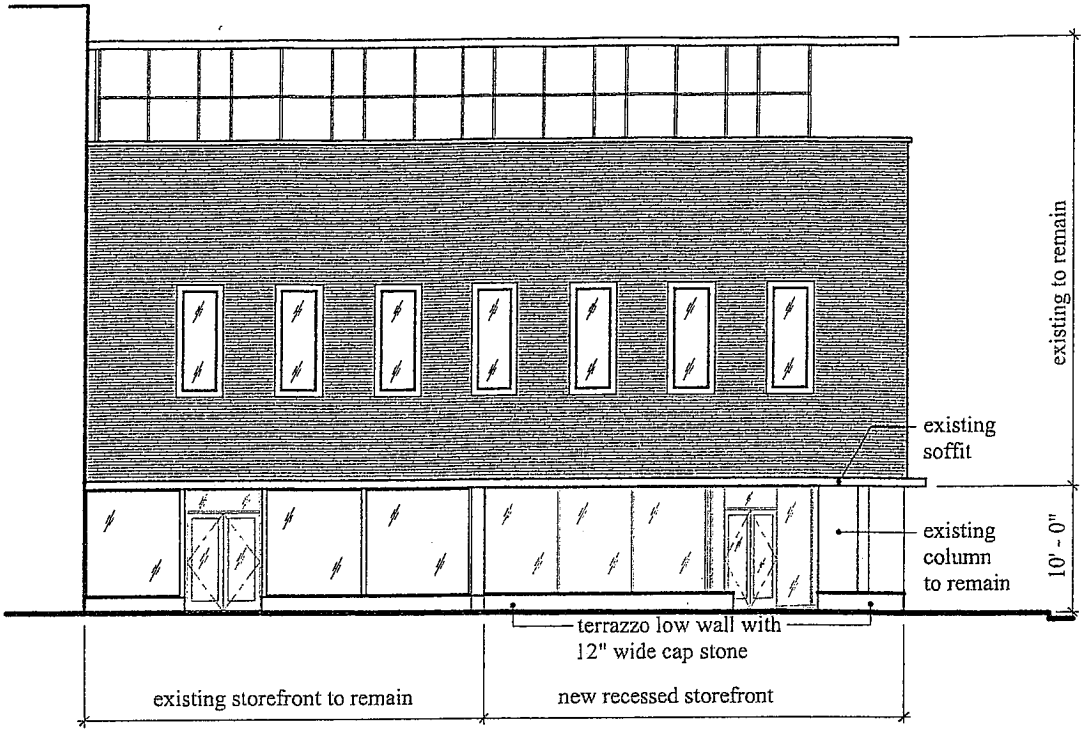
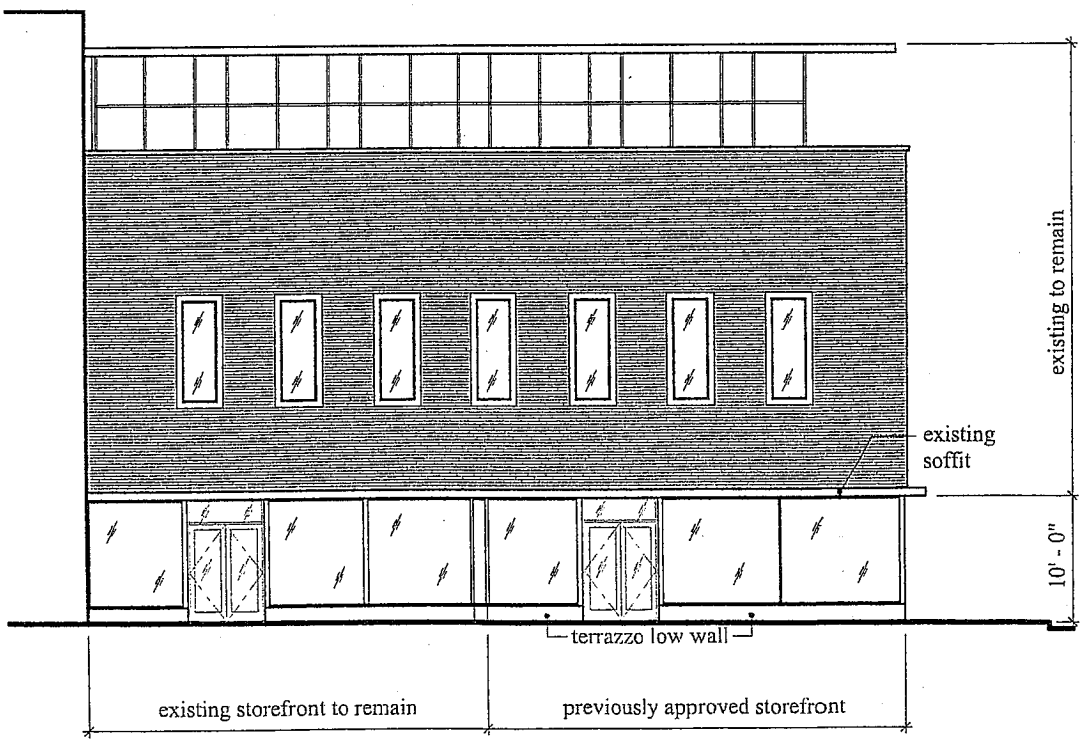
MOST POPULAR
E-MAILED BLOGGED SEARCHED VIEWED

1. Can a City This Self-Serious Take a Joke?
2. Stretch: Relief Yoga
3. Cold Jumps Arctic Fence," Stalking Winter's Fury
4. To Really Learn, Quit Studying and Take a Test
5. Our Towns: Against All Odds, a Beautiful Life
6. A Miami Beach Event Space. Parking Space, Too.
7. Is Pink Necessary?
8. Paul Krugman: The Competition Myth
9. Does College Make You Smarter?
10. As Doctors Age, Worries About Their Ability Grow



PROPOSED TELEGRAPH AVENUE ELEVATION



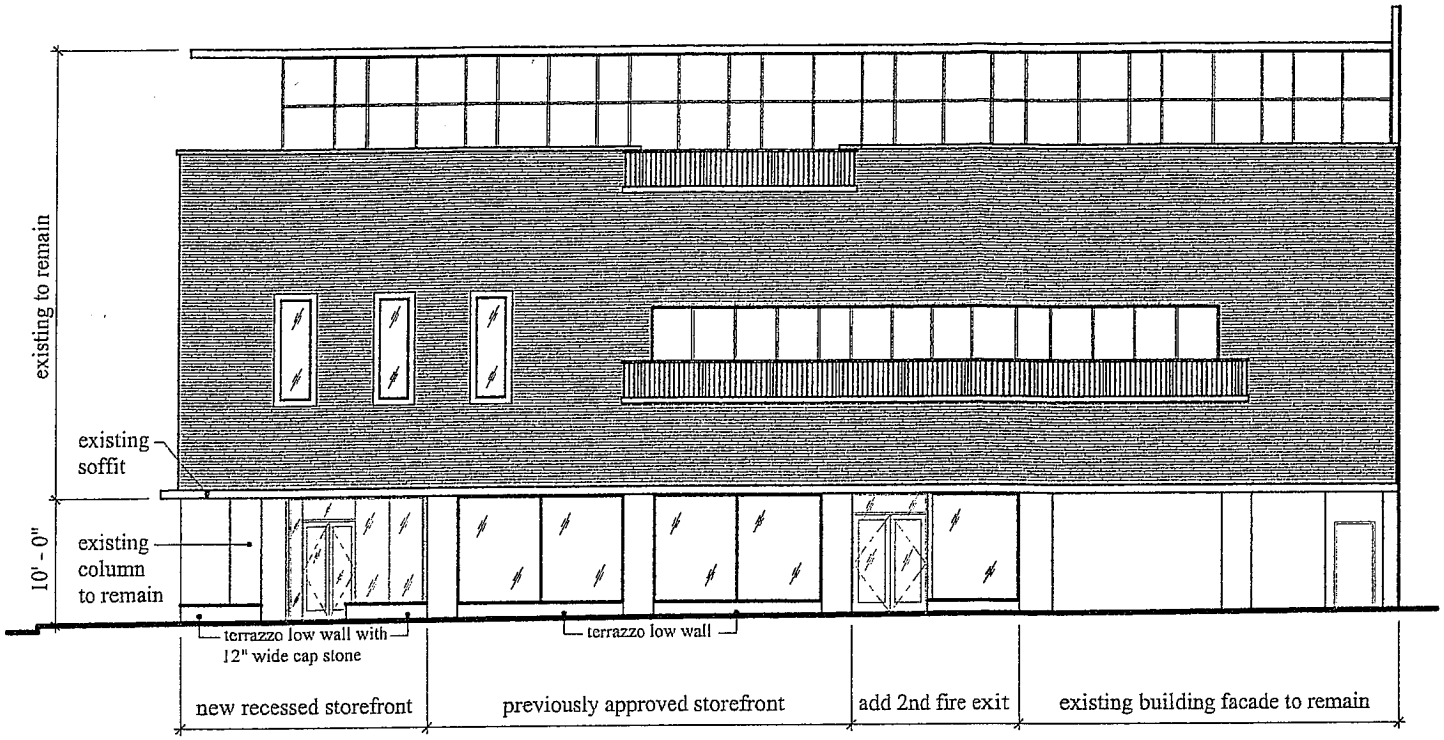
PREVIOUSLY APPROVED TELEGRAPH AVENUE ELEVATION

Attachment E: Applicant Plans and Photographs

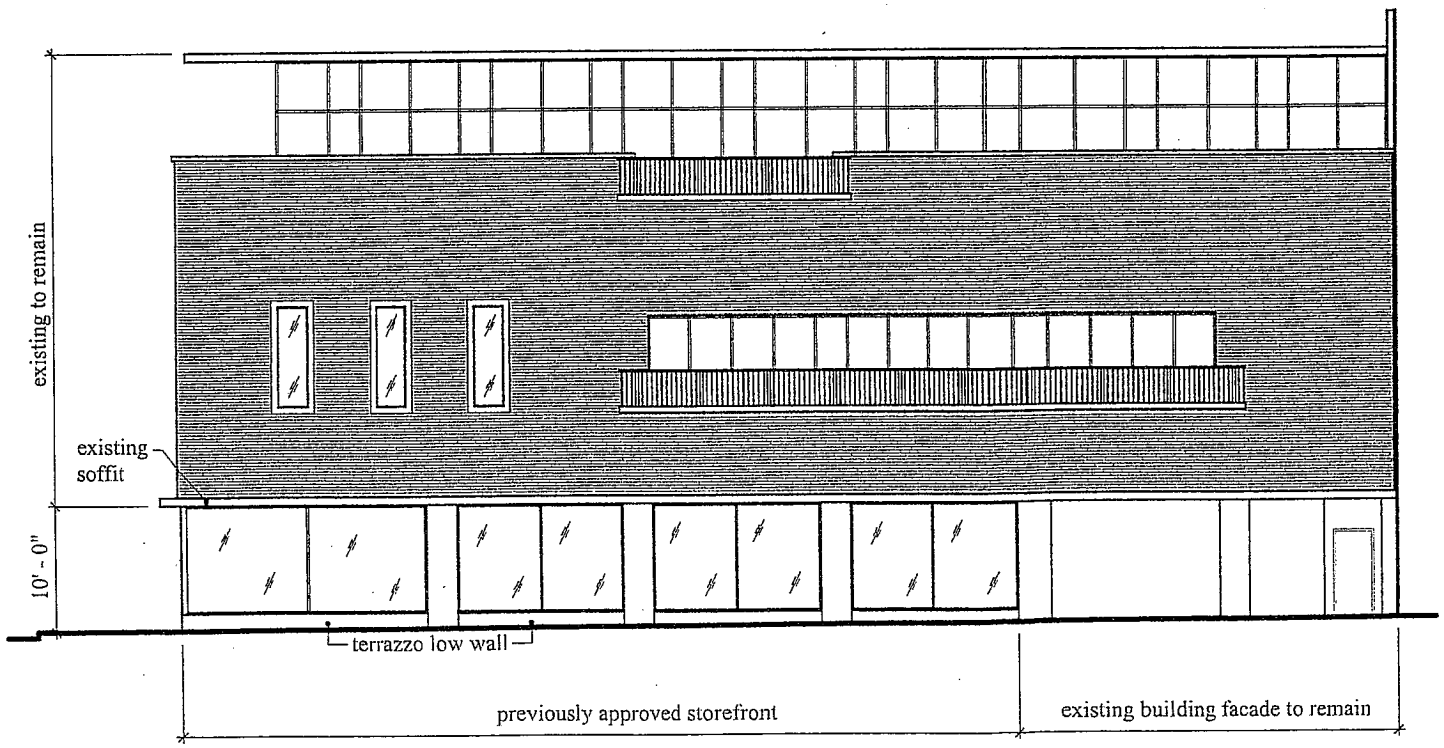
(DRAWING NOT TO SCALE)

1741 TELEGRAPH AVENUE
OAKLAND, CA

1-24-11



PROPOSED 18TH STREET ELEVATION

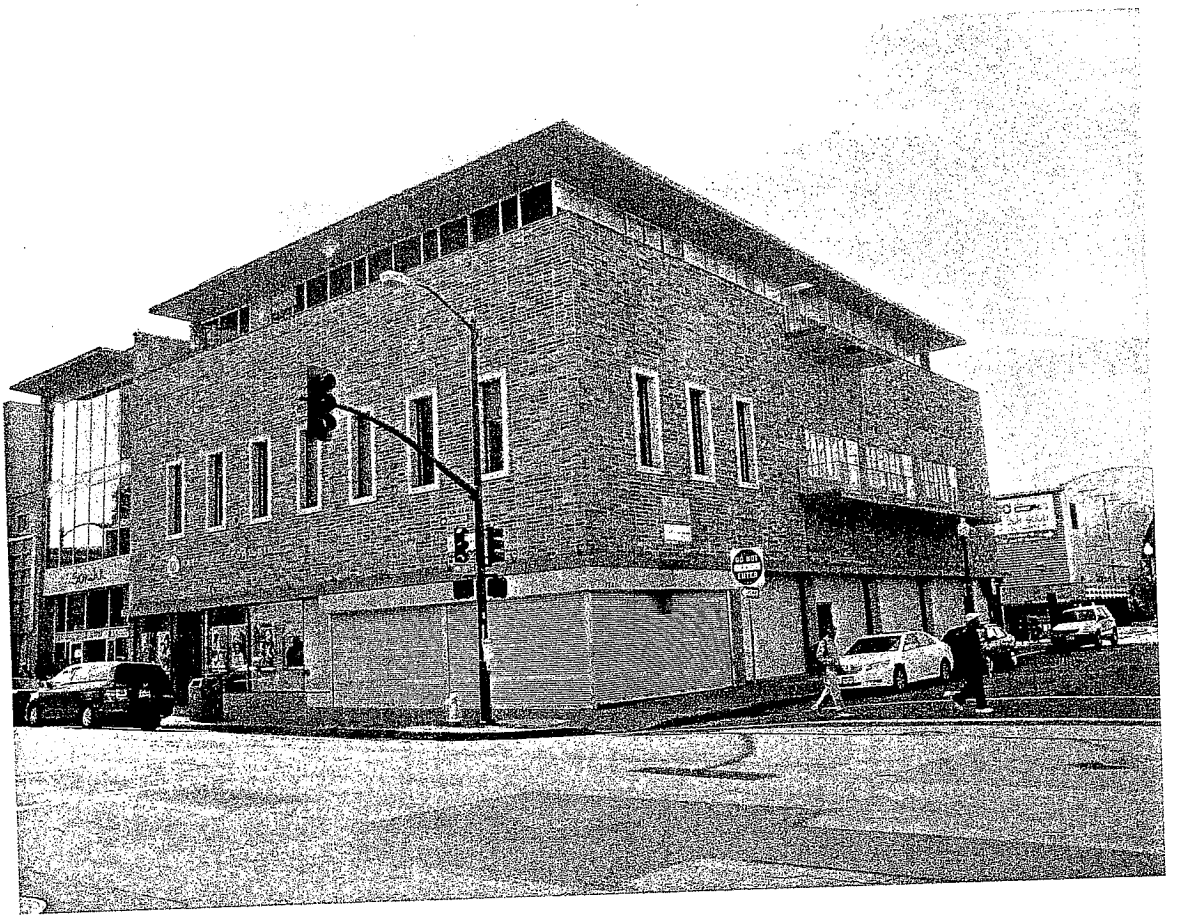


PREVIOUSLY APPROVED 18TH STREET ELEVATION

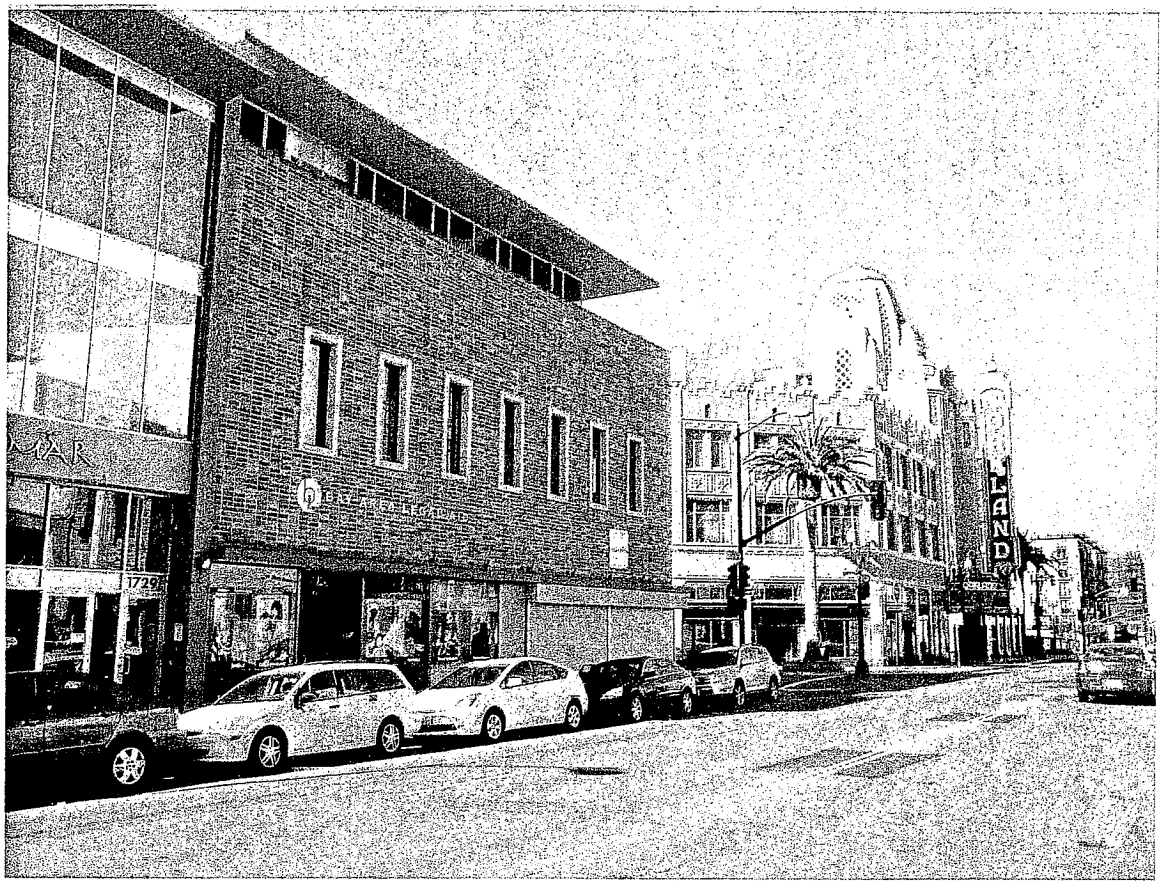
(DRAWING NOT TO SCALE)

1741 TELEGRAPH AVENUE
OAKLAND, CA

1-24-11



Subject Property
1741 Telegraph Ave



Subject Property
1741 Telegraph Ave

Flora
1900 Telegraph Ave

Somar & Equilibrio Wellness
1727/1729 Telegraph Ave