

Location:	6309 College Avenue (APN048A-7069-003-00)
Proposal:	Allow Alcoholic Beverage Sales (bar/tasting room and retail sales of bottled wine and beer) with a Variance for less than 1000 feet separation from other Alcoholic Beverage Sales and other specified land uses
Contact Person/Phone Number:	Aaron Porter (510) 409-3427
Owner:	John Chalik Trust
Case File Number:	CMVM12-047
Planning Permits Required:	Major Conditional Use Permit for Alcohol Beverage Sales Activity (bar and retail sales of bottled wine and beer); Variance to allow the Activity with less than 1,000 foot separation from other Alcoholic Beverage and other land uses in Oakland Planning Code Section 17.102.210
General Plan:	Neighborhood Center Mixed Use
Zoning:	CN-1 Neighborhood Commercial Zoning District
Environmental Determination:	Categorically Exempt, Section 15301 of the California Environmental Quality Act (CEQA) Guidelines; Existing Facilities
Historic Status:	Potential Designated Historic Property, C3 rating, secondary importance
Service Delivery District:	2
City Council District:	1
Staff Recommendation:	Approve
Finality of Decision:	Appealable to the City Council
For Further Information:	Contact David Valeska at (510) 238-2075 or dvaleska@oaklandnet.com

SUMMARY

This application involves a request to establish a specialty wine and beer sales shop with on-sale tasting in an existing commercial building on College Avenue in Rockridge. A Major Conditional Use Permit (CUP) is required in order to establish an Alcoholic Beverage Service. A Major Variance is also required due to proximity of the proposed new business within 1,000 feet of existing off-sale alcohol outlets and other activities specified in Oakland Planning Code Section 17.102.210.

PROJECT DESCRIPTION

The applicant proposes to utilize approximately 1,000 square feet of the existing 4,710 square foot one-story building for Alcoholic Beverage sales, including bottled wine and beer and tasting or by-the-glass sales of these products. At a later date, up to 10% of the floor area may also provide specialty gourmet distilled spirits but nearly all sales will be for wine and beer. No cabaret or outdoor seating is planned.

The applicant is modeling the proposed business on stores like Jack London Square's Beer Revolution, which have bottle sales, tasting and sales by the glass. Common features between such specialty operations include small showrooms, displays of beverage varieties on walls and racks, a customer service bar with or without snacks, and sales of memorabilia and momentos on display. In this business model, the facility will sell wine and beer to both on-site customers and to off-site sales.

CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: CMV12-047
Applicant: Aaron Porter
Address: 6309 College Avenue /Rockridge Bottle Shop
Zone: CN-1

ENVIRONMENTAL REVIEW

Staff has evaluated the project according to the California Environmental Quality Act (CEQA) and determined it is exempt from environmental review for the following reasons:

Sections 15301 of the CEQA Guidelines exempt from environmental review small existing facilities, respectively, where the building is less than 2,500 square feet in area. The alcoholic beverage use and sales area is in a 1,000 square foot existing building, and does not change the floor area since the prior market-hall use, and is not likely to produce measurable physical or other environmental effects; therefore, the project is determined to be exempt from further CEQA review. This project is consistent with plans and zoning subject to CUP and Variance approval.

ANALYSIS

The applicant chose this location due to its proximity to the established gourmet specialty retail and restaurant area within the College Avenue/Rockridge locale. One type of business which is missing from the spectrum of existing and gourmet food and beverage uses in the area is a specialty wine and beer retail and tasting shop.

The applicant's proposal requires a Major Conditional Use Permit (CUP) for Alcohol Beverage Service, and a Major Variance to be located within 1,000 feet of other existing alcoholic beverage activities (Safeway across College Avenue and Claremont Avenue). This separation provision in the Oakland Planning Code was intended to restrict the proliferation of traditional liquor stores, rather than the proposed specialty wine and beer shop. The applicant's proposal is actually more comparable to a winery with tasting room than to a traditional liquor store. In addition, the proposed specialty gourmet wine and beer business would offer customer service for a particular mix of wine and beers which may not be available at the larger chain alcoholic beverage sales activities nearby.

It is reasonable to expect that the small size and limited customer base of the proposed specialty shop will result in limited impacts similar to the market hall shop which formerly occupied this building. Further, the immediate neighbors are mainly commercial uses on a busy street; the nearest residential units are on backstreets which do not front toward this activity.

Overall crime statistics for the subject College Avenue area (90 days prior to May 31, 2012, quarter mile radius) showed only about one-third of crime reports for Downtown areas. The subject area had only 11 thefts, 4 burglaries, one each for alcohol, robbery and vehicle theft and no other reported crimes. While some crime does occur in the area, staff and the applicant believe the proposed bottle store and tasting room will not significantly contribute to crime levels.

The applicant plans to sell only limited-production "boutique" and "high-end craft micro-brewed" beverages, but the Conditional Use Permit and Variance would run with the property. However, if this specialty vendor moves out, a replacement business would be required to comply with the project description and conditions of this CUP and Variance. One condition memorializes the applicant's intent and asks for a restriction be filed with California Alcoholic Beverage Control (ABC) agreeing to this limit. Otherwise, a future vendor might sell only mass-marketed spirited liquors, which is not the applicant's intent. The ABC license can be limited to the applicant's intent.

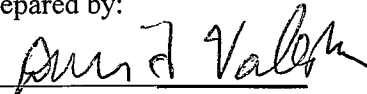
In the Rockridge commercial area, the proposed specialty beer and wine sales and tasting activity would reinforce the gourmet market-hall concept and help to bring customers to neighboring commercial uses. The Rockridge Association has been consulted and as of June 5, 2012 did not express opposition to the project prior to preparation of this staff report. Therefore, staff concludes that the Findings for the Major

CUP and Variance, including findings of Public Convenience or Necessity, are fulfilled, as further explained in the Findings Section and through proposed Conditions of Approval.

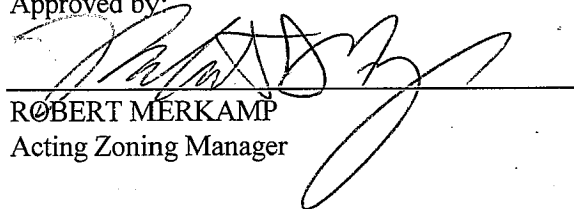
RECOMMENDATION:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit and Variance for Alcoholic Beverage Sales, at 6309 College Avenue, based on findings and subject to the attached conditions.

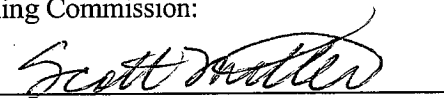
Prepared by:


David Valeska, Planner II

Approved by:


ROBERT MERKAMP
Acting Zoning Manager

Approved for forwarding to the
City Planning Commission:


SCOTT MILLER, Interim Director
Department of Planning, Zoning and
Neighborhood Preservation

Attachments:

- A. Findings for Approval
- B. Conditions of Approval
- C. Plans and Photographs
- D. Applicant and Neighbor Correspondence

ATTACHMENT A: FINDINGS**FINDINGS FOR APPROVAL (ALCOHOLIC BEVERAGE SERVICE)**

This proposal meets the required findings under the Oakland Planning Code. 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 specialty bottle shop and tasting room would satisfy a community need which does not affect livability of the surrounding neighborhood, and will be operated in a scale which is compatible with neighborhood character. The proposed store will offer gourmet wine and beer selection in a neighborhood which derives part of its identity from other nearby gourmet food and drink facilities. The draft approval contains conditions limiting noise, light, trash/litter, loitering, late hours and similar factors to offset any potential for negative effects of alcohol sales related activities.

- 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 proposed specialty bottle shop and tasting room will promote availability of specialty gourmet beverages and enhance the convenience and functional living environment of its customers. The small size, reusing a market hall space, will create an attractive facility as warranted by location and setting. This is a gourmet food/beverage related business district where such uses are appropriate.

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

The proposed small specialty bottle shop and tasting room will function to meet the community's specialty beverage needs, including home use, hospitality or celebrations. This facility would have less traffic, noise and light than a similar business might have offered in a larger format. This facility complements the offerings of nearby existing restaurants and other Alcoholic Beverage Services which sell liquors and wines.

- 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 to be utilized by the specialty bottle shop and tasting room at 6309 College Avenue is existing. No major changes in the building are proposed from the existing façade which has been compatible with designs of neighboring facilities for many years.

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

The General Plan allows for review and approval of Alcoholic Beverage Sales uses by Conditional Use Permit, and in this case, Variance. The General Plan also allows for businesses that will not cause undue nuisance activity. The Neighborhood Center Mixed Use land use category envisions a wide range of retail, restaurant and specialty stores along with promoting mixed-use developments. An attractive and well-managed gourmet specialty bottle shop and tasting room at this location will conform to adopted plans.

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 proposed specialty bottle shop and tasting room is not envisioned to contribute to the same types of loitering and other problems as do some other Alcoholic Beverage Sales stores. City crime statistics for recent months show that overall crime rates near the applicant's site are similar to commercial areas elsewhere in the City which are not major crime locations, such as Montclair Village. The neighborhood streets have sufficient capacity to support this small facility without causing undue traffic or other problems. Much of the traffic is foot traffic due to its location in a residential neighborhood commercial area.

- 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**

The proposed specialty bottle shop facility will be over 1,000 square feet from a community-recreational park and from school sites and is unlikely to adversely affect them or small uses such as daycare centers. Likewise, houses of worship are mainly too distant to experience effects. This facility design has built-in sound attenuation characteristics within the structure. Staff believes that the gourmet specialty bottle and tasting room use will protect nearby uses from adverse effects.

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

The facility entrance will include ADA disabled access. The 50 to 75 projected daily customers would be arriving throughout the day and evening, which minimizes the crowd management issues of the building tenant. The building entry does not impede pedestrian corridors.

- 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's façade shares a theme with nearby market hall facilities and has details similar to some of its neighbors, including color and shape. The facility is of an architectural character that harmonizes with and enhances the area.

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

Proposed signage would be similar to past signage for this commercial building, and would not be overly large or obtrusive. No parking is provided on-site, which is consistent with the Oakland Planning Code standard for reuse of existing commercial buildings. The site is walking distance to parking lots and the BART garage, which supplements on-street parking in the area.

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

As conditioned, there will be non-flammable trash containers installed proximate to the entrance of the facility and litter will be removed from the sidewalk and gutter in front of and to twenty feet beyond the premises.

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 nearest dwellings are behind the College Avenue commercial district and are sufficiently distant to limit noise effects. Existing roadway noise creates an ambient level which may mask some of the store's noise effects. Attached conditions are provided to ameliorate some of the potential noise effects, including reduced hours of evening operations and lighting controls.

Section 17.102.210(B) - Special Use Permit Criteria

Finding C.1.below is satisfied with the proposal only by granting a Variance:

C. 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.**

A Variance has been requested to allow this Alcoholic Beverage Sales Commercial Activity closer than one thousand (1,000) feet to other Alcoholic Beverage Sales Activities. This is not an adverse precedent for other such uses, due to the role defined in the General Plan Land Use and Transportation Element for College Avenue in Rockridge as a retail and gourmet district, where a cluster of alcoholic beverage service and other gourmet facilities is beneficial to the area's vitality.

This store will provide for an otherwise unmet Alcoholic Beverage Sales need for a population in the immediate Rockridge Community. While beer and wine can be purchased at Safeway and other nearby businesses, this particular mix of gourmet bottled selection with tasting room will most likely not be available anywhere within convenient distance unless this application is approved at this location.

17.102.210-B-3: Public Necessity and Convenience Findings

- a. 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 community 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 proposed alcoholic beverage service is not generally available to the public on this block, as demonstrated by the applicant's documents in the public record files. Where nearby larger businesses offer food and/or alcoholic beverage service, they do not provide the specialized customer beverage service which the applicant proposes.

- b. 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**

This alcoholic beverage service is of a type which has in the past been compatible with and complimentary to other businesses in comparable gourmet restaurant and shopping areas, providing economic benefits to the area. This type of use is reported to usually not cause significant increases in calls for police service. Staff believes the venue will attract clientele with a low probability of negative impacts or police calls for service.

- c. 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 sales by the glass are a common accessory of similar uses such as wineries and specialized alcohol retailers. The applicant's activity proposes alcoholic beverage service primarily to facilitate gourmet tastings rather than to serve binge drinking groups or other types of "bar" customers.

- 4. In addition to the above criteria, projects outside the Central District and Hegenberger Corridor shall meet all of the following criteria to make a finding of Public Convenience and Necessity, with the exception of those projects that will result in twenty-five (25) or more full time equivalent (FTE) employees and will result in a total floor area of twenty thousand (20,000) square feet or more:**

- a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (except full service restaurants), school, licensed day care center, public park or playground, churches, senior citizen facilities and licensed alcohol or drug treatment facilities; and**

This application is subject to a Variance to allow this Code section to be suspended for purposes of this application. While there are other alcohol outlets nearby, e.g. Safeway, none of them alone or in combination with the applicant's proposal is likely to cause crime or other problems. There are few if any of the other listed activities and no need exists to separate such uses from a small bottle and tasting shop which is comparable to a small winery. Therefore this finding would not be apply if the Variance is granted for the reasons stated in these findings.

b. Police department calls for service within the "beat" where the project is located do not exceed by twenty percent (20%), the average of calls for police service in police beats citywide during the preceding twelve (12) months.

The City's GIS computer system (ArcExplorer) shows that this site is not within a police beat which exceeds City average calls for service by twenty percent. Rockridge crime is lower than many areas of the City.

SECTION 17.148.050(a)—VARIANCE FINDINGS:

All the following findings below are satisfied with the proposal:

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

A specialty bottle shop and tasting room needs an upscale central retail location with foot traffic and tourism such as College Avenue in Rockridge. As a separate example, concentration of Alcoholic Beverage Service uses in an outer residential neighborhood such as Foothill Boulevard or International Boulevard can disrupt a neighborhood. However, in central Rockridge, with its concentration of restaurants and retail, clustering gourmet food and beverage activities promotes community vitality. Denial of a Variance for 1000 foot separation of Alcoholic Beverage Service on-sale activities results in an unnecessary hardship inconsistent with the purposes of zoning regulations. Rather than protecting the neighborhood, denying the variance could adversely affect the City's ongoing gourmet food and beverage establishments in this neighborhood, which have a proven success record with minimal or no adverse impacts.

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

Due to the existing concentration of Alcoholic Beverage Service uses (many in conjunction with food) in the College Avenue/Rockridge District, it is more difficult for an applicant to find a site over 1000 feet distant from another such use than would be the case in another neighborhood. Requiring relocation of this facility and activity would deprive the owner of a privilege enjoyed by other similar uses, to relate to the neighborhood and customer base established precisely to support businesses such as the applicant's gourmet use and specialty alcohol sales.

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

Unlike some other Alcoholic Beverage Service facilities and activities in Oakland, this use at 6309 College Avenue would provide gourmet specialty bottle sales and tasting, in a format similar to a tourism-oriented winery. Such uses tend to have fewer detrimental or adverse effects because they appeal to a clientele that the General Plan seeks to attract to central Rockridge.

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

This facility proposes to add to the gourmet/tourism character of central Rockridge/College Avenue in a manner which would not grant a special privilege inconsistent with the purpose of zoning regulations, because one purpose of zoning regulations is to promote community vitality while preserving equity and protecting neighborhood continuity.

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

With changes as described in the conditions of approval, the applicant's facility and activity would conform to Regular Design Review criteria and would retain the modest-scale area.

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

The General Plan allows for review and approval of Alcoholic Business Sales uses by Conditional Use Permit and in this case, Variance. The General Plan also allows for businesses that will not cause undue nuisance activity. The Neighborhood Center Mixed Use land use category envisions a wide range of retail, restaurant and specialty stores along with promoting mixed-use developments. An attractive and well-managed gourmet specialty bottle shop and tasting room at this location will conform to adopted plans.

ATTACHMENT B: CONDITIONS OF APPROVAL**STANDARD CONDITIONS:****1. Approved Use.*****Ongoing.***

a. The project shall be constructed and operated in accordance with the authorized use as described in this letter and the plans dated **April, 2012** and submitted **April 19, 2012** and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.

b. This action by the City Planning Commission ("this Approval") includes the approval set forth as follows: Off-site and on-site sales area of gourmet specialty alcoholic beverage products (primarily limited production bottled or tap wines and beers and up to 10% spirit liquors), with on-site tasting, service of condiments, other food and memorabilia, and for office/storage areas; no cabaret or outdoor seating. Spirit liquors in excess of 10% of floor area may not be sold.

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

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. Recycling Space Allocation Requirements

Prior to issuance of a 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. Pursuant to Section 17.118.020 of the Oakland Planning Code, this condition shall apply to new commercial and industrial development that requires a building permit. 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.

Ongoing.

No deviation shall be made from the approved drawings or conditions of approval that alters the project's siting, height, exterior appearance, and/or required new landscaping without prior written approval from the Oakland Planning & Zoning Department.

12. Construction Practices.

During construction.

All work shall apply the "Best Management Practices" (BMPs) for the construction industry, including BMPs for dust, erosion and sedimentation abatement per Section 15.04 of the Oakland Municipal Code, as well as all specific construction-related conditions of approval attached to this project.

13. Days/Hours of Construction Operation

Ongoing throughout demolition, grading and/or construction.

The project applicant shall require construction contractors to limit standard construction activities as follows:

- a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 AM and 4:00 PM Monday through Friday.
- b) Any construction activity proposed to occur outside of the standard hours of 7:00 AM to 7:00 PM Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of residents' preferences for whether the activity is acceptable if the overall duration of

construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.

- c) Construction activity shall not occur on Saturdays, with the following possible exceptions:
 - i) Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of residents' preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.
 - ii) After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.
- d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.
- e) No construction shall take place on Sundays or Federal holidays.
- f) 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.

SPECIFIC PROJECT CONDITIONS

14. Hours.

Ongoing.

The business may be open to the public for business from 10 am to 2 am daily; alcohol sales must cease by 1:45 am. Any work outside these hours shall solely be staff preparation and not open to the public.

15. Security.

Ongoing

The applicant/property owner shall continue to 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.

16. Facility Management

a. *Ongoing*

Lighting shall be maintained 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.

b. 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 (sweep or mechanically clean weekly). The licensee shall clean the sidewalk with steam or equivalent measures once per month.

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 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.

17.Trash and litter***Prior to 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. Said trash receptacle shall be emptied as needed to avoid overflow and/or adverse odors.

18. Crowd Control/Anti-Loitering Plan***Prior to commencement of use and ongoing***

A crowd control/anti-loitering plan shall be reviewed and approved by the Zoning Manager prior to occupancy. The applicant shall provide staff on duty from noon until closing on days when the business is open to the public. Staff shall patrol the interior and exterior as necessary to achieve crowd control and to deter nuisance, loitering and crime.

19.Limitations on Merchandise and Sales***Prior to commencement of use and ongoing***

The applicant will not sell spirit liquors over 10% of the floor area of the business, or over 10% of the bottle count, whichever is less, without subsequent approval by the Planning Commission of a Revision to the Major Conditional Use Permit. The applicant will arrange that the State Alcoholic Beverage Control License shall be restricted for the type specified. The owner will record a restriction with the Alameda County Recorder to this effect, for the property now and in the future, in a form satisfactory to the City Attorney and Zoning Manager. The applicant may sell freshly prepared food (except fast food) and packaged food, clothing (e.g. shirts with beer logos) and other similar tourism-related activities as allowed in the zoning district.

20. Sign Modifications***Within 90 Days of Approval, with Zoning Manager Option to Extend 90 Further Days***

Signs if modified shall receive all required Planning and Building permits and may be required to provide additional landscaping added at its base to the satisfaction of the Zoning Manager.

SPECIFIC CONDITIONS RELATED TO ALCOHOL SALES**21. Conformance with State Department of Alcoholic Beverage Control regulations*****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.

22. Compliance with City of Oakland Special Regulations for Alcoholic Beverage Sales Commercial Activities.***a. Prior to the Commencement of Operations and Ongoing***

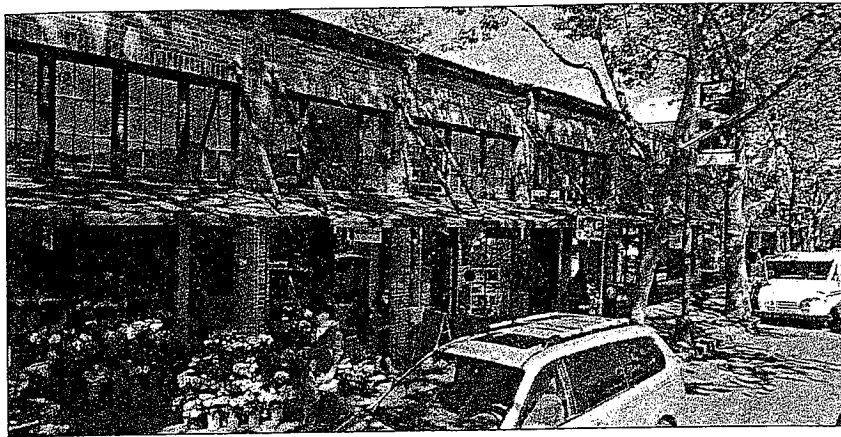
At least one sign (one square foot maximum) shall be posted and maintained in a legible condition at each public entrance to the building prohibiting littering and loitering. Required signage prohibiting open containers and drinking in public shall also be maintained in legible condition near each public entrance to 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.

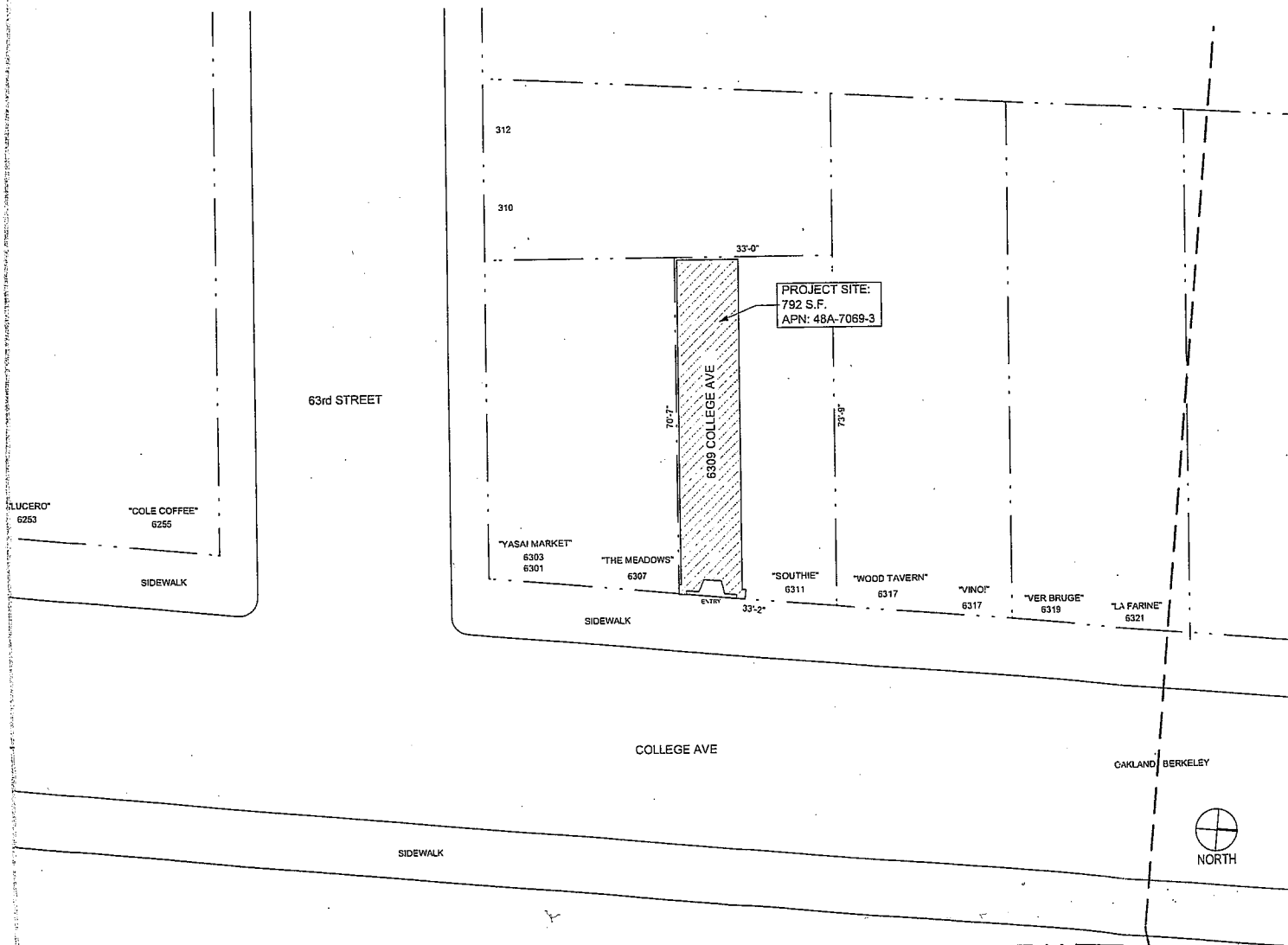
The applicant/property owners shall clear the sidewalks adjacent to their property of all "Street Furniture" including mattresses, crates, pads, and other items for sitting or laying on by loiterers on a daily basis.

23. Inclusion of Conditions in State Department of Alcoholic Beverage Control license.***Prior to signing of State Department of Alcoholic Beverage Control zoning affidavit.***

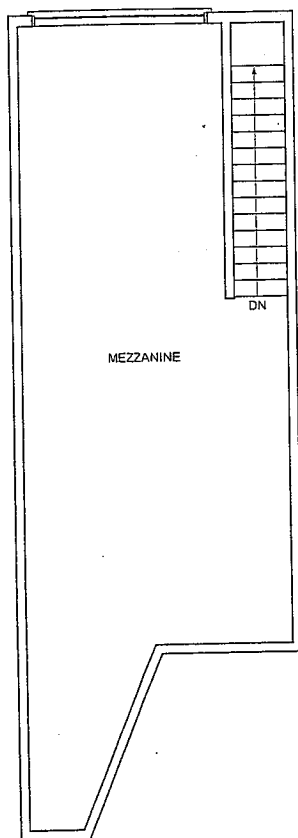
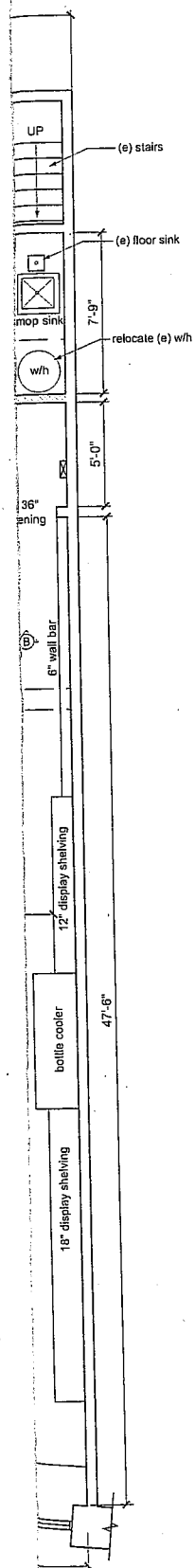
The applicant shall submit a letter to staff signed by the applicant addressed to the State Department of Alcoholic Beverage Control stipulating that they wish to include conditions number 14, 15, 16, 17, 18, 19, 20 21, and 22 in the conditions of their ABC license. The Oakland Planning Commission may, after notice and hearing, revoke this Conditional Use Permit if the applicant fails to include the above conditions in the ABC license or fails to maintain an ABC license.



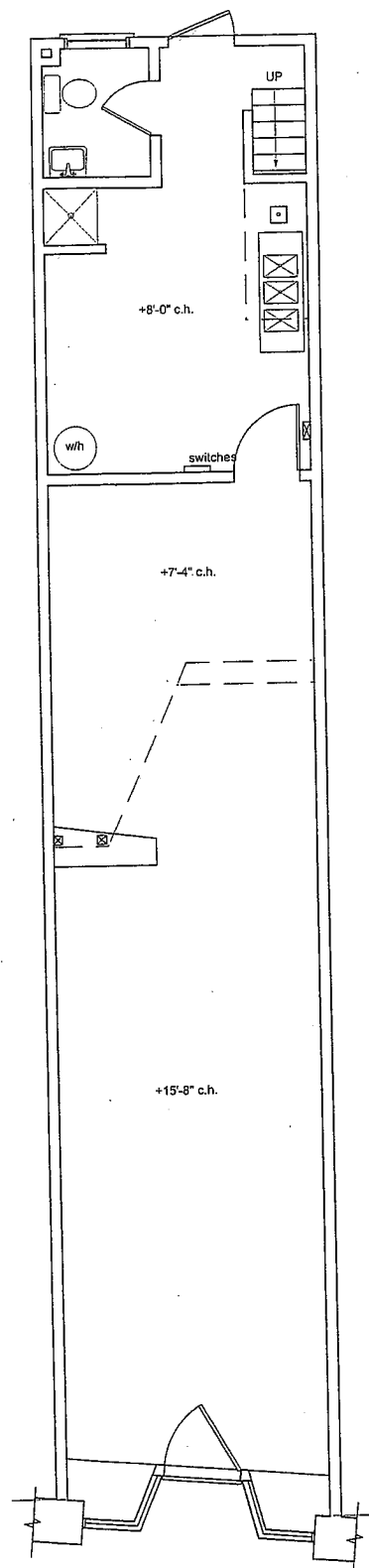
PROJECT LOCATION
6309 COLLEGE AVE



ATTACHMENT C: PLANS AND PHOTOGRAPHS



MEZZANINE



GROUND FLOOR

Scale: 1/4" = 1'-0"

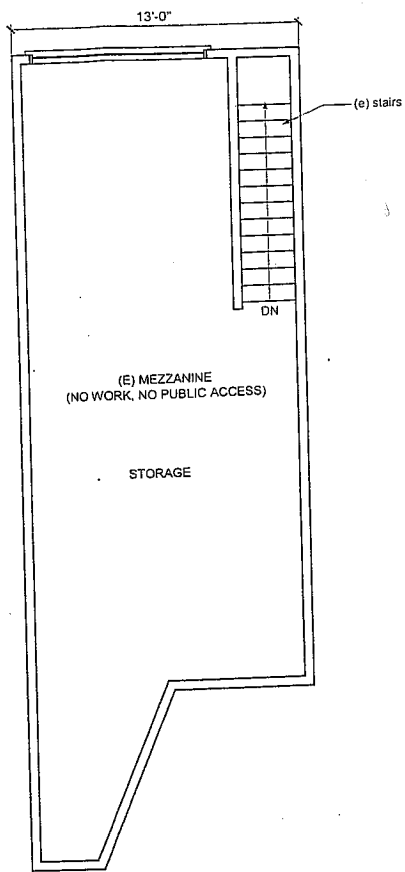
EXISTING FLOOR PLANS

Scale: 1/4" = 1'-0"

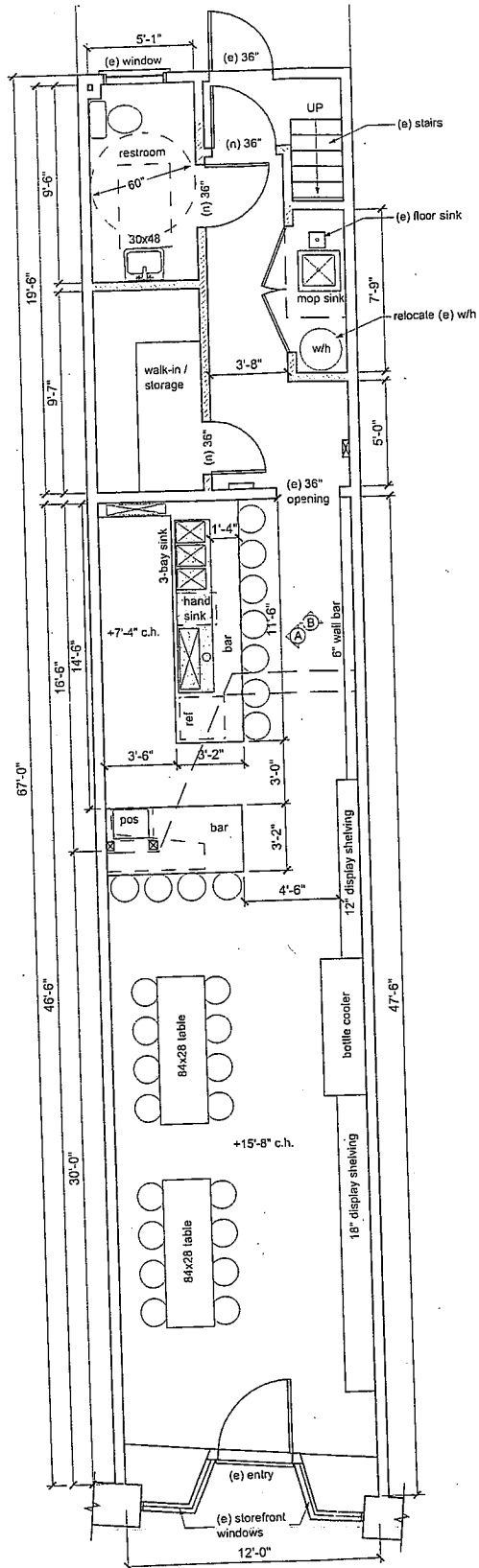
REVISION
NO.

SHEET
EXIST
FLOOR
PROJ
FLOOR

SCALE
DRAW
DATE
JOB
SHEET

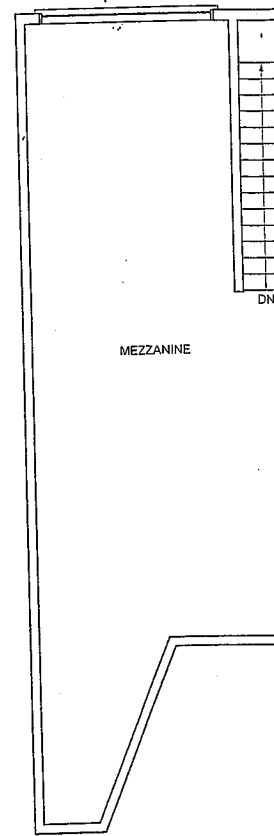


MEZZANINE
(NO WORK, NO PUBLIC ACCESS)



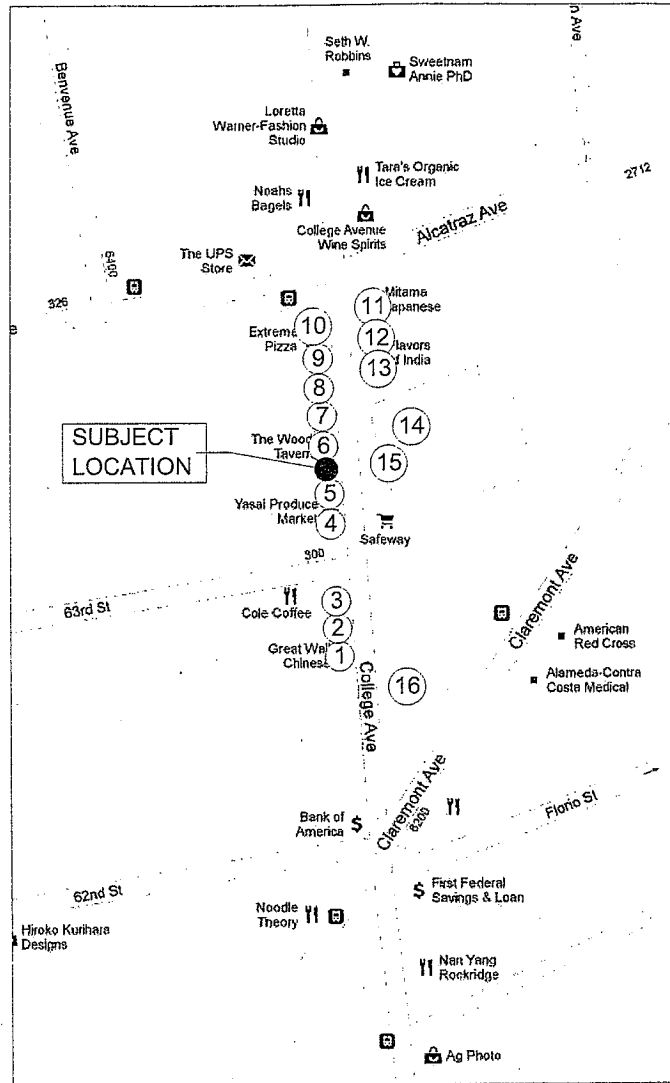
GROUND FLOOR

Scale: 1/4" = 1'-0"



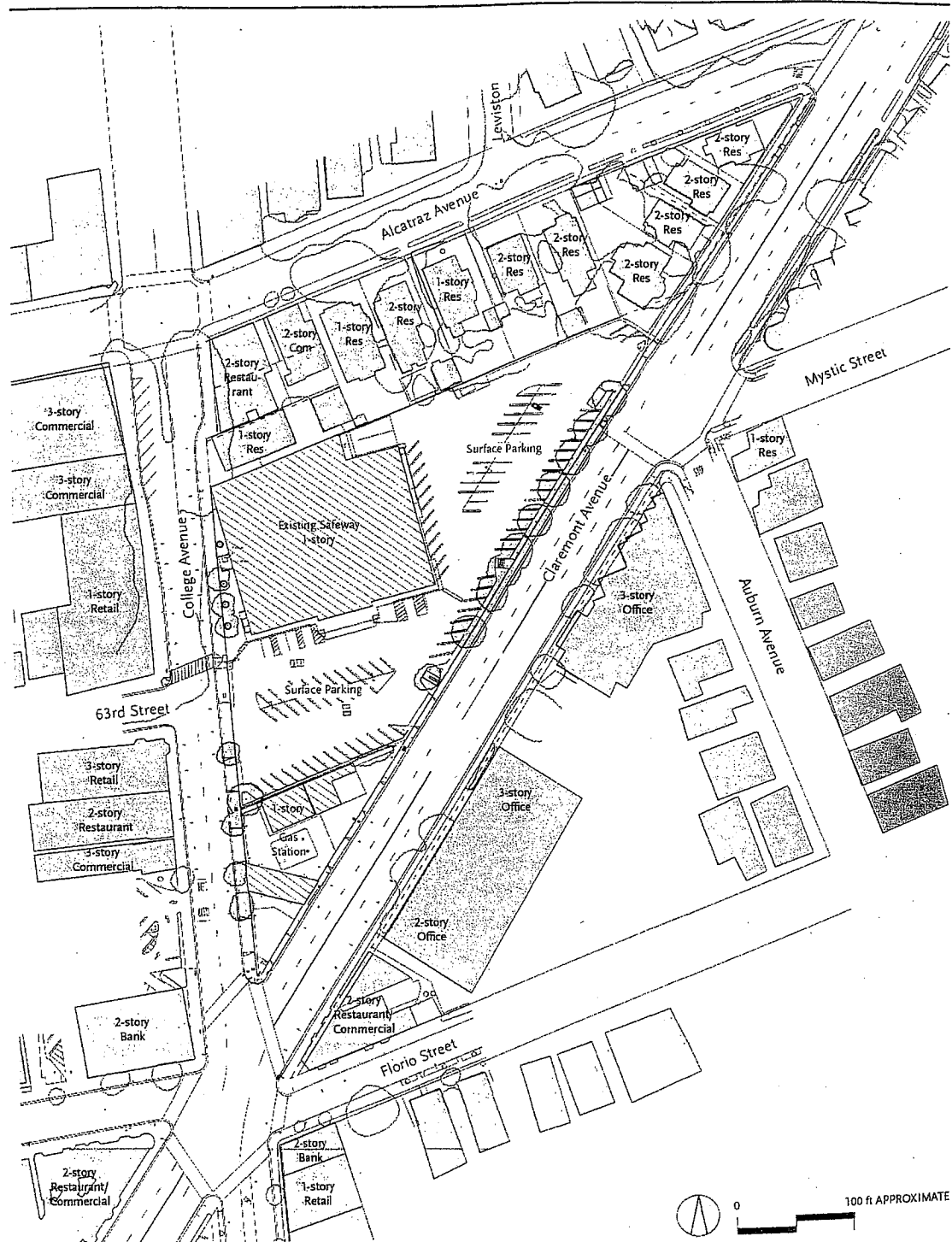
MEZZANINE

EXISTING FLOOR PLANS



AREA MAP

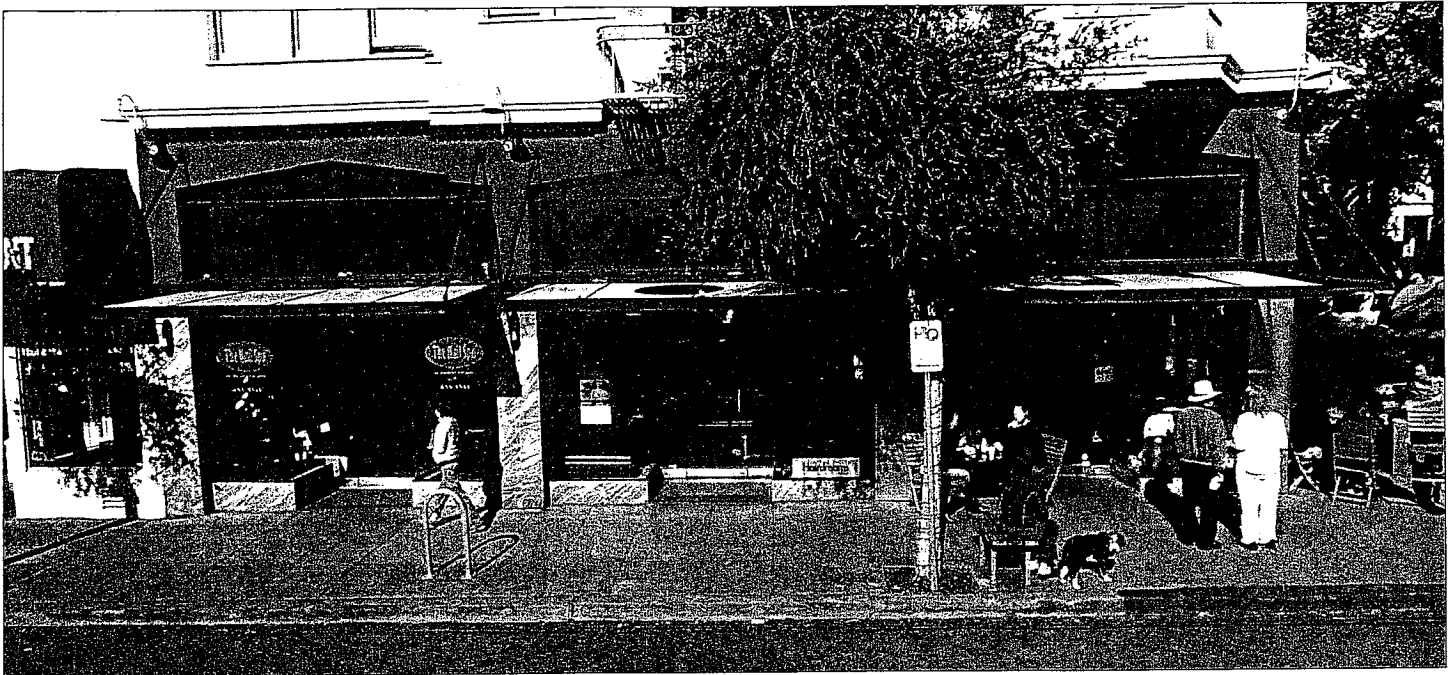
3. Project Description



Source: Lowney Architecture

11-12 to

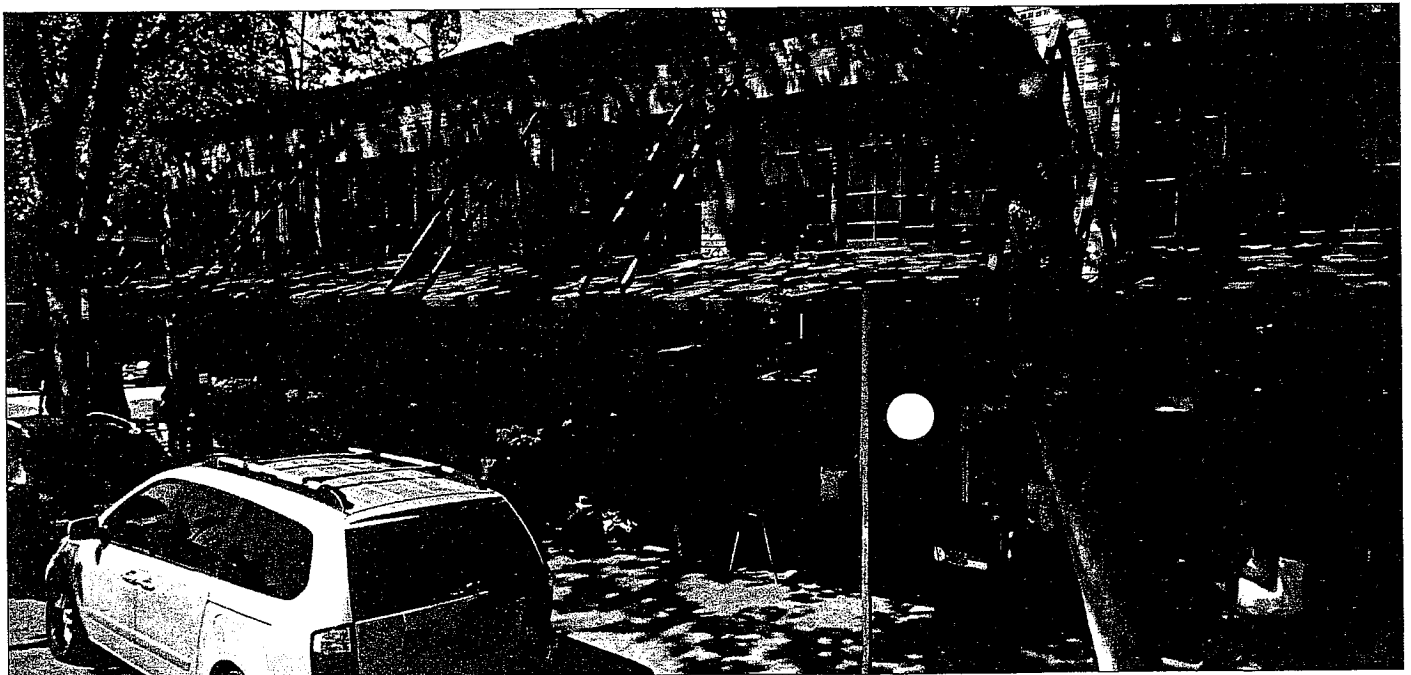
Existing Site Plan Figure 3-4



#1 - THE NAIL SPA
6251 COLLEGE

#2 - HAIR DREAMS
6253 COLLEGE

#3 - COLE COFFEE
6255 COLLEGE



#4 - YASAI MARKET
6301 & 6303 COLLEGE

#5 - THE MEADOWS
6307 COLLEGE

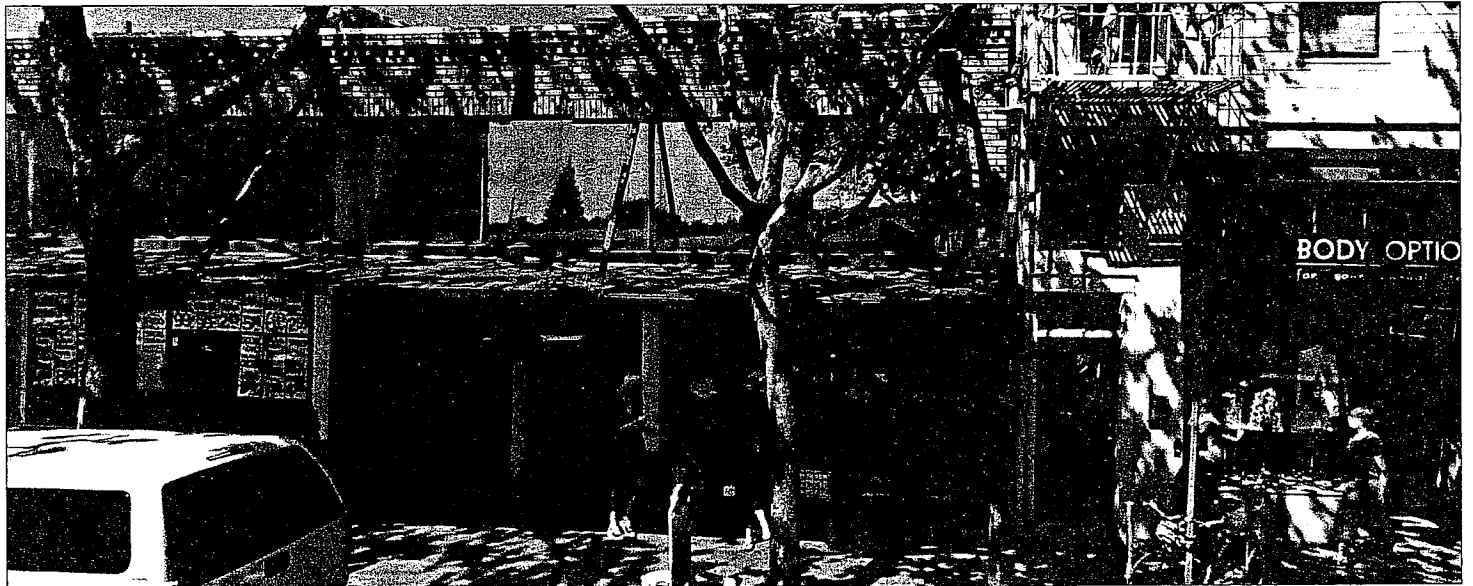
SUBJECT LOCATION
6309 COLLEGE



#6 - SOUTHIE
6311 COLLEGE

#7 - WOOD TAVERN
6315 COLLEGE

#8 - VINO!
6317 COLLEGE



#9 - VER BRUGE
6319 COLLEGE

#10 - LA FARINE
6321 COLLEGE

BODY OPTIONS
3214 COLLEGE



#6 - SOUTHIE
6311 COLLEGE

#7 - WOOD TAVERN
6315 COLLEGE

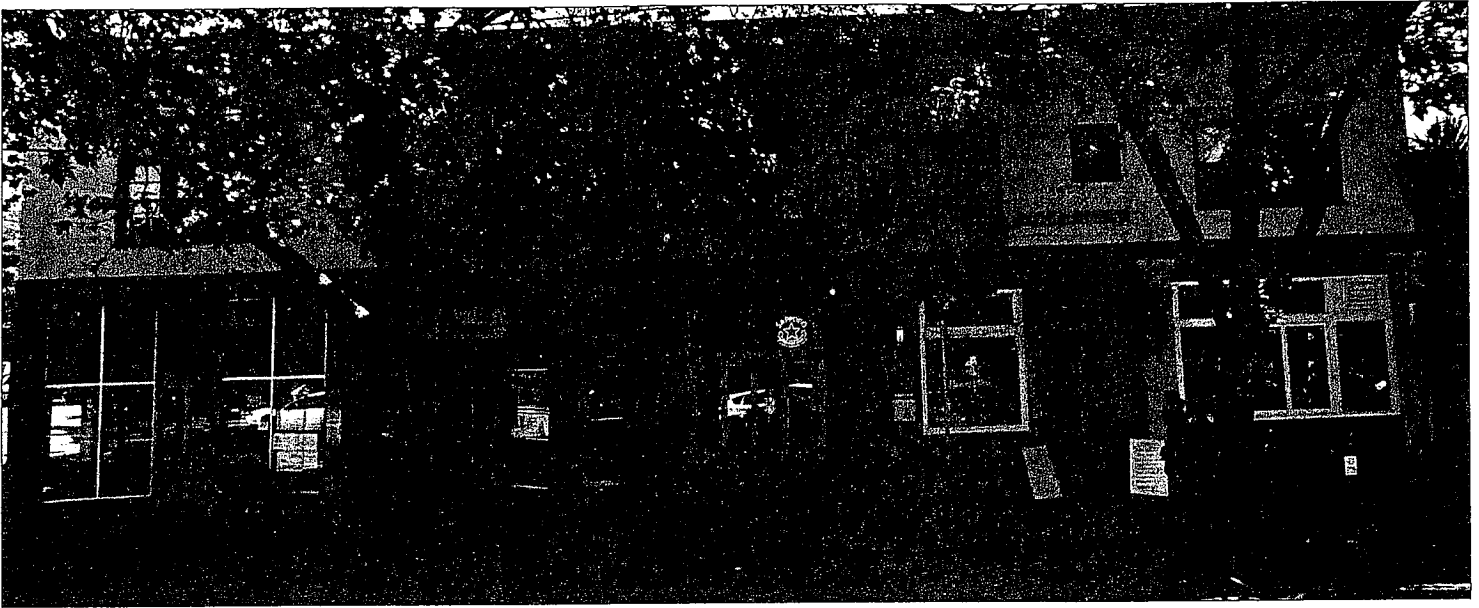
#8 - VINO!
6317 COLLEGE



#9 - VER BRUGE
6319 COLLEGE

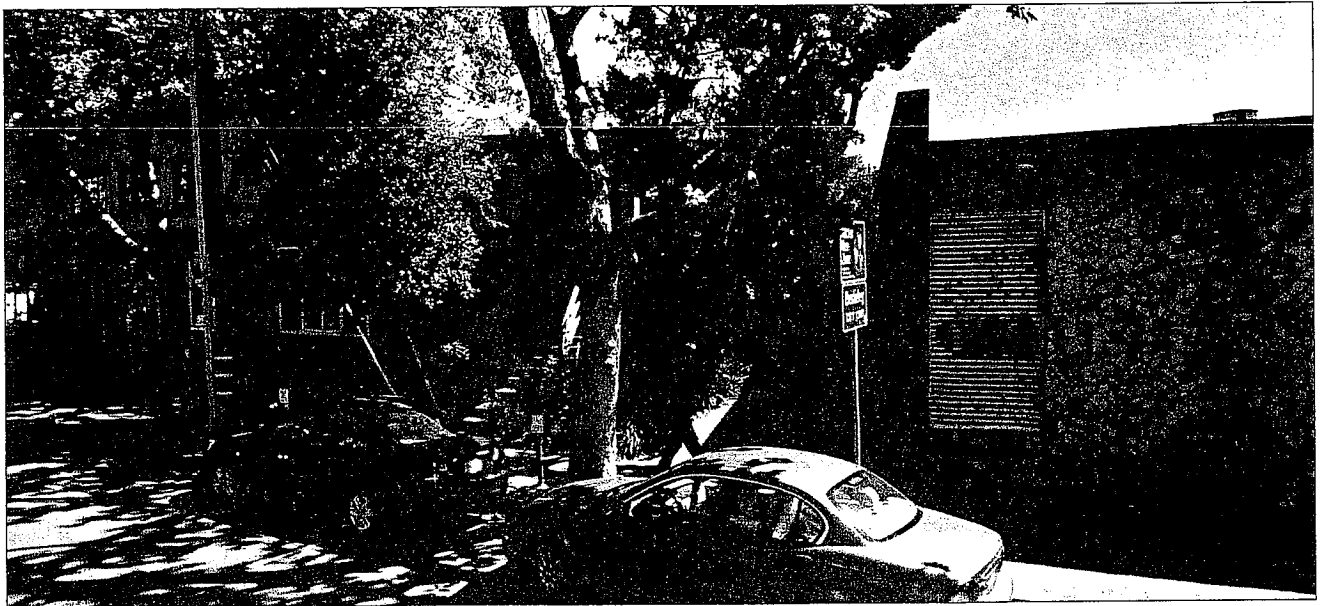
#10 - LA FARINE
6321 COLLEGE

BODY OPTIONS
3214 COLLEGE



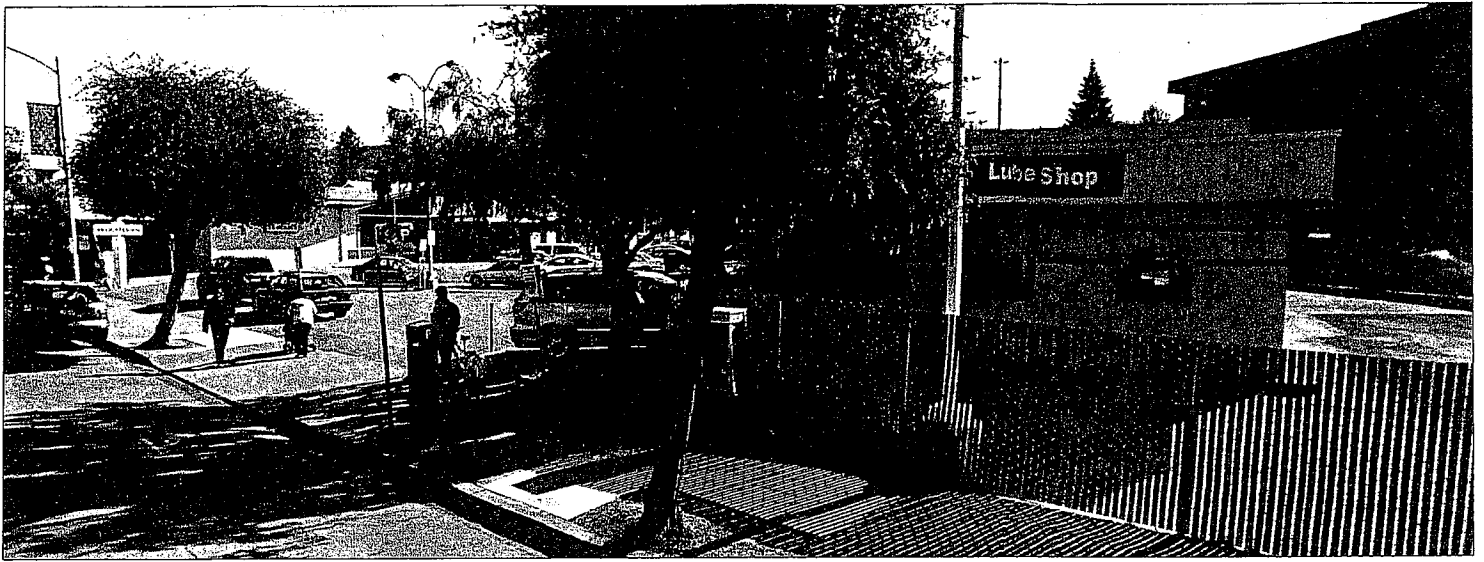
#11 - MITAMA
3201, 3203, 3205, 3207 COLLEGE

#12 - FLAVORS OF INDIA
3209 & 3211 COLLEGE



#13 - 3217 & 3219 COLLEGE

#14 - SAFEWAY
6310 COLLEGE



#14 - SAFEWAY
6310 COLLEGE

#15 - GAS STATION (OUT OF SERVICE)
6201 CLAREMONT

Valeska, David

From: rteal@speakeasy.net
Sent: Monday, June 11, 2012 1:18 PM
To: Valeska, David
Subject: Rockridge Bottle Shop comments

Thank you for taking my comments, Dan. These comments should also be included for the second permit request I heard talked about for a wine bar/beer emporium on College Ave.

Hello,

I see 2 new beer emporiums that will be located on College Ave. are being discussed. I saw one is requesting to be open until 2AM 7 days a week and I believe both should have shortened hours and be seen as tasting rooms, not bars. First, I like the idea of a tasting room but I don't want College Ave. full of bars and to become a drinking destination, especially given the nearby college students. On most days of the week walking to BART I usually have to sidestep vomit on the sidewalk.

Both these emporiums are modeled after San Francisco's city beer store which smaller pours (6-10 oz.), serves only cheese and bread type snacks, and closes at 9PM, despite being located in SOMA, one of the noisiest sections of the city. The idea is you get to try a unique beer then buy a bottle to go. Even Barclays closes at midnight because they don't want to deal with drunks. Toast closes at 11PM. I would suggest these two new locations close at 9PM or 10 at the latest.

Relations between some residents and George and Walt's are already strained and I think adding 2 more bars or stops on a Saturday bar crawl will just create more problems and an imbalance of bars and commerce on College.

Thanks for your time,
Robert Teal

5499 Kales Ave
rteal@speakeasy.net

ATTACHMENT D: APPLICANT AND NEIGHBOR CORRESPONDENCE



CITY OF OAKLAND

CONVENIENCE MARKETS, FAST-FOOD RESTAURANTS, & ALCOHOLIC BEVERAGE SALES – CUP FINDINGS

The Zoning Ordinance describes two different types of uses in each zoning district: 1) permitted uses; and 2) conditional uses. Conditional uses are those which require special consideration from the City. The Conditional Use Permit (CUP) process provides the City with the flexibility to determine if a specific use at a certain location will be compatible with the neighborhood. Conditional Use Permits can only be granted if all of the following findings can be made.

Convenience Markets, Fast-Food Restaurants, and Alcoholic Beverage Sales are all uses which have been determined to have specific additional potential impacts warranting additional review criteria.

Please indicate the way in which the proposal meets the following required criteria. Attach additional sheets if necessary.

1. 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:

WE ARE PROPOSING A UNIQUE USE THAT APPEALS TO A SPECIFIC "HIGH-END" MARKET BASE. THERE IS NO OTHER USE OF SIMILAR PRODUCT WITHIN THE IMMEDIATE NEIGHBORHOOD. WE WILL PROVIDE AN ATMOSPHERE THAT WILL ATTRACT A "HIGH-END", "BOUTIQUE" CLIENT BASE. WE EXPECT TO APPEAL TO NEIGHBORHOOD FOOT TRAFFIC.

2. 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:

NONE OF THE ABOVE USES ARE IN THE IMMEDIATE SURROUNDING AREA.

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

NO. WE WILL PROVIDE INDOOR SEATING FOR ON-SITE CONSUMPTION AND WILL ALSO BE CONDUCTING "TO-GO" BOTTLE SALES. WE EXPECT TO BENEFIT FROM THE BUSY NATURE OF PEDESTRIAN FOOT TRAFFIC AT THIS LOCATION.

CITY OF OAKLAND

CONDITIONAL USE PERMIT FINDINGS

The Zoning Ordinance describes two different types of uses in each zoning district: 1) permitted uses; and 2) conditional uses. Conditional uses are those which require special consideration from the City.

The Conditional Use Permit (CUP) process provides the City with the flexibility to determine if a specific use at a certain location will be compatible with the neighborhood. Conditional Use Permits can only be granted if all of the following general Use Permit findings from Section 17.134.050 can be made:

Please indicate the way in which the proposal meets the following required criteria. Attach additional sheets if necessary.

- A. 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:

TENANT IMPROVEMENT. NO EXTERIOR WORK.

EASILY ACCESSIBLE BY FOOT AND IN CLOSE PROXIMITY TO BART.

WE PLAN TO APPEAL TO THE IMMEDIATE NEEDS OF THE NEIGHBORHOOD
BY PROVIDING A DIVERSITY OF AVAILABLE GOODS AS A LOCAL BUSINESS.

- B. 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:

COLLEGE AVE, ESPECIALLY AT THIS LOCATION IS PRIMARILY NEIGHBORHOOD

CENTRAL, CONDUCIVE TO PEDESTRIAN TRAFFIC AND NEIGHBORHOOD SHOPPING/

DINING. OUR PROPOSED USE IS CONSISTENT WITH THE NEIGHBORHOOD "BOUTIQUE"

FEEL AND COMPLIMENTARY TO THE IMMEDIATE NEIGHBORS AS A

"BOUTIQUE FOOD" AND RETAIL USE.

- C. 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:

WE WILL PROVIDE A UNIQUE PRODUCT AND FILL A DEMAND WHICH

IS NOT BEING MET IN THIS AREA. AT THE SAME TIME OUR PROPOSED

USE WILL COMPLIMENT THE SURROUNDING BUSINESSES BY SHARING

A CUSTOMER BASE AND BY ALSO PROVIDING MORE OPPORTUNITY FOR

CUSTOMERS TO FREQUENT THE NEIGHBORHOOD.