

Location:	3211-3219 Lakeshore Avenue (APN 011-0838-024-00)
Proposal:	Allow an Adult Entertainment Activity
Contact Person/Phone Number:	Barnaby Ltd. (415)974-8985
Owner:	Terry Gardner
Case File Number:	CMV10-142
Planning Permits Required:	Major Conditional Use Permit for Adult Entertainment Activity (merchandise and educational/health workshops) and Major Variance for Location within 1000 Feet of a Residential Zone
General Plan:	Neighborhood Center Mixed Use
Zoning:	CN-1 Neighborhood Commercial Zoning District
Environmental Determination:	Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Sections 15301 and 15183
Historic Status:	D2+ Potential Designated Historic Property, Area of Secondary Interest Contributor, Minor Importance; LS2 Lakeshore Avenue Commercial District
Service Delivery District:	3
City Council District:	2
Staff Recommendation:	Approve Application with Conditions
Finality of Action:	Appealable to City Council within 10 days
For Further Information:	David Valeska at (510) 238-2075; dvaleska@oaklandnet.com

SUMMARY

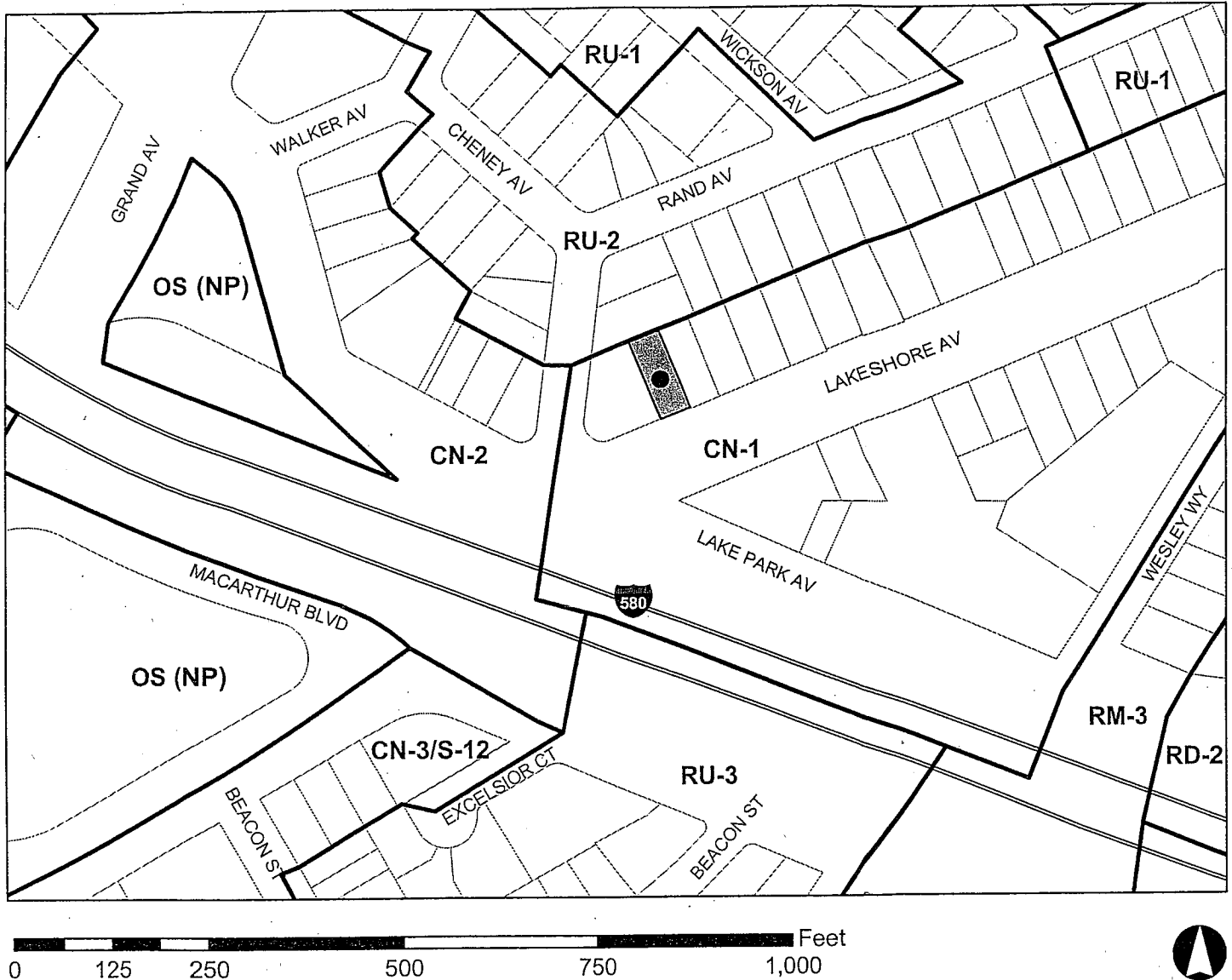
This application involves the request to establish an Adult Entertainment Activity, a retail shop with health education activities in an existing commercial building in the Lakeshore/Grand Lake District. An Adult Entertainment Activity is defined in Zoning Code Section 17.09 (Definitions) as "any commercial activity, whether conducted intermittently or full-time, which primarily involves the sale, display, exhibition, or viewing of books, magazines, films, photographs or other materials, distinguished or characterized by an emphasis on matter depicting, describing, or relating to human sex acts, or by emphasis on male or female genitals, buttocks, or female breasts."

A Major Conditional Use Permit (CUP) is required in order to establish an Adult Entertainment Activity. A Variance is also required due to proximity to residential zone within a 1,000 feet radius of the proposed new business. (The required 300 foot minimum separation between Adult Entertainment Activities would be fulfilled in this case).

PROJECT DESCRIPTION

The applicant proposes to utilize approximately 2,960 square feet on the first floor within an existing two story commercial building. Formerly a retail and restaurant site for several decades, the space has display windows above opaque bulkhead walls, in an extended foyer entrance. The name of the business, "Good Vibrations," is intended to represent both retail merchandise and the business's educational philosophy. Provision of educational and health care resources in coordination with established social service groups is proposed.

CITY OF OAKLAND PLANNING COMMISSION



Case File: CMV10-142
Applicant: Barnaby Ltd.
Address: 3211-3219 Lakeshore Avenue
Zone: CN-1

The applicant is modeling this site after existing "Good Vibrations" in San Francisco and Berkeley, and other similar Adult retail stores. The business would sell adult themed items such as sex toys, books, videos etc., and provide room for small seminars on sexual health education. Larger educational and social groups coordinated by the business would meet at off-site locations in a convention format.

The primary market is women aged 25 to 44, although other adults would not be prevented from visiting. There is an adults-only entry policy. There are no massage, clothing-optional or direct sexual activities proposed. The business proposes to operate 7 days a week from 10 am to 10 pm, and to 11 pm Friday and Saturday. An option to extend to midnight is in Condition 11. Two employees would provide routine operations, with resource persons for educational activities.

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:

Section 15301 of the CEQA Guidelines exempts from environmental review small existing or new commercial facilities, respectively. The Adult Entertainment Activity is in an existing space, and is not likely to produce measurable physical or other environmental effects. Therefore, the project is determined to be exempt from further CEQA review. Section 15183 provides CEQA exemption for projects consistent with a community plan, general plan or zoning. 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 emerging "nightlife area" and specialized adult uses within the Lakeshore and Grand Lake Theater districts, and various restaurants, bars and nightclubs approved by the Planning Commission. The nearest Adult store is in Downtown approximately 1 mile distant.

The applicant's proposal requires a Major Conditional Use Permit (CUP) for Adult Entertainment Activity, and a Variance to be located within 1,000 feet of residential zoning. The activity is also within 500 feet of a park. While not prohibited within 500 feet of a park, an Adult Business must not "engender sounds, activities, visual depictions or advertisements that create an exterior atmosphere which unreasonably interferes with the operations of such surrounding uses." The site is approximately 900 feet from a school, which is beyond the 500 foot distance discussed in Oakland Planning Code Section 17.102.160, but still in the general area of the school.

It is staff's opinion that the separation provision in the Oakland Planning Code was primarily aimed at restricting the proliferation and concentration of traditional Adult Entertainment Activities, rather than the proposed specialty womens' and couples' educational and merchandise shop. While the proposed business would offer customer service and supportive atmosphere for a particular mix of customers which may not be available elsewhere nearby, a Conditional Use Permit remains with the building rather than the business. A later business relying on the same Use Permit and Variance would be subject to the same limitations and conditions as stipulated for this proposal.

In addition, the Lakeshore/Grand Lake Theater district has transformed into a specialty shopping and lifestyle area for educated singles and families. Thus it is not unreasonable to introduce a low-key retail establishment catering to adult items and sensuality, although restrained in presentation since more families use these sidewalks. The business model, along with conditions of approval as accepted by the applicant, this Adult retail activity should not have adverse impacts at this location.

Staff raises the following issues for the project to address:

Proximity to Schools/Youth Oriented Facilities.

The site the applicant has chosen is near a park with some youth-oriented facilities which would normally be shielded from Adult Entertainment Activities. Bus stops are located in this vicinity. The nearest school is approximately 900 feet distant and the street pattern does not encourage much walking between the school and the store site. However, there are family oriented businesses in the vicinity (yogurt shop etc.) and the area is less adult-oriented than the area around the 1703 Telegraph Avenue FeelMore store approved by the Planning Commission.

Of the e-mails and calls to staff on this matter, over half have expressed concerns about presentation in windows being shown to children of Lakeshore Avenue pedestrian shopping families. Condition 12 of the CUP would restrict displays in the same manner as the recently reviewed FeelMore store at 1703 Telegraph Avenue, which has a similar business model; staff contends that the conditions address this matter sufficiently. Windows can be screened with decorations, art, non-adult merchandise etc. as was done at FeelMore.

The Commission should weigh the close proximity of youth activities in the overall character of the district, and whether the facility would meet the Section 17.102.160 findings to not "adversely affect...by engendering sounds, activities, visual depictions or advertisements that create an exterior atmosphere which unreasonably interferes with the operations of such surrounding uses."

Staff suggests that the self-regulation of this business, based on a Good Vibrations business model, would have fewer effects than the more typical store and would be compatible. In addition, City conditions developed for the "FeelMore" store establish an "Oakland standard" for adult businesses which is more restrictive in appearance and street display than is required in some other cities. This issue is minimized compared to other potential locations which might need this Variance for separation.

Potential for Replacement by a More Impacting Business Later.

Good Vibrations is a well-known and well-established business, with an educational agenda, anticipated to have few impacts on its neighbors. The presentation from the street and inside the store is more like a bed and bath shop (since products tend to relate to those rooms), rather than the traditional covered-window printed-matter advertising of more familiar and generally "seedy" Adult stores.

However, a Conditional Use Permit and Variance runs with the land, not with any particular business. If Good Vibrations' Oakland store is successful and grows out of this space to relocate (or closes), this space could accept an Adult Entertainment Activity so long as they were able to meet the same conditions of approval. The applicant reports a lease which is renewable to additional years. Under the First Amendment, the City could not censor content, only "time, place and manner" of business. Thus a store for a niche market of women and couples customers could be replaced by the type of general Adult store familiar from other cities. Such stores have been reported to have blighting effects. However, conditions could limit secondary effects of even such a business, for instance, prohibiting obstructed windows, prohibiting video or personal booths. Good Vibrations agrees to all of these restrictions and they would carry over to a successor tenant.

The Commission should weigh this potential for a change of business in its deliberations.

Neighbors

Neighbors have expressed concerns about the business, particularly visibility of adult items as children walk by the front windows. The business façade/presentation should not impact neighbors more than the prior restaurants or retail sales on this site. Loitering, noise, advertising and other factors can be controlled, pursuant to conditions 11 through 19 attached. Staff concludes that the applicant's small business is making efforts to be a good neighbor. Further, immediate neighbors are commercial uses on a busy street. The nearest residential units are on Rand Street, which for several blocks is inaccessible from the adjacent commercial streets and are separated by land elevation and subdivision design.

Crime Control

Overall crime statistics for the Lakeshore/Grand Lake area, (Attachment F) were similar to those for commercial areas of Temescal and College Avenue/Claremont Avenue (Rockridge) which are not perceived as high crime areas. While some crime does occur in the area, staff and the applicant believe the proposed store will not significantly contribute to crime levels. Good Vibrations has not been reported as a crime source in Berkeley, and on Valencia and Mission Streets in San Francisco and staff believes a Lakeshore/Grand Lake site likewise would not cause crime.

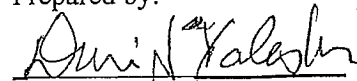
Any successor businesses using the CUP would be subject to CUP conditions. Conditions of approval would precisely describe the business as presented by Good Vibrations. Conditions would help to prevent transition into a different kind of business with potentially more impacts.

In the Lakeshore/Grand Lake District, this business would reinforce the general-interest adult tourism and may help to bring general retail customers to neighboring commercial uses. Business associations have been consulted and expressed concerns and/or opposition to the project; comments are attached. Other neighbors are more neutral. While respecting their views, staff concludes that the Findings for the Major CUP and Variance 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 Adult Entertainment Activity, at 3211-3219 Lakeshore Avenue, based on findings and conditions
3. Alternatively, if the Planning Commission wishes to deny the request, continue the hearing to an upcoming meeting in order that staff may prepare findings for denial.

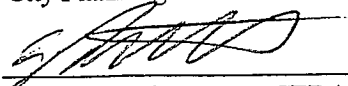
Prepared by:


David Valeska, Planner II

Approved by:


SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:



Eric Angstadt, Deputy CEDA Director
Community & Economic Development Agency

Attachments:

- A. Findings for Approval
- B. Conditions of Approval
- C. Plans and Photographs
- D. Applicant and Neighbor Correspondence
- E. Applicant Project Explanation
- F. Crime Statistics

ATTACHMENT A: FINDINGS FOR APPROVAL

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 17.102.160: FINDINGS FOR ADULT ENTERTAINMENT ACTIVITIES

A. A conditional use permit for an adult entertainment activity shall be granted upon a determination that all of the following conditions are present, notwithstanding any conflicting requirements contained elsewhere in the zoning regulations:

- 1. The requested use at the proposed location will not adversely affect the use of churches, temples or synagogues; public, parochial or private elementary, junior high or high schools; public parks and recreation centers; public or parochial playgrounds; residences; child care facilities; elderly residential care facilities; hospitals; medical clinics; colleges; or libraries, all within a five hundred (500) foot radius by engendering sounds, activities, visual depictions or advertisements that create an exterior atmosphere which unreasonably interferes with the operations of such surrounding uses.**

The small floor area, retail-oriented nature and health/education-supporting business plan tend to make this activity very similar in impact to any other retail activity. Conditions of the proposed approval restrict entry by minors. While there are medical clinics and religious facilities in the larger area, few of them are within one block and/or line-of-sight. The facility would cause no sounds, activities, explicit visual depictions or advertisements which could be perceived from off-site and it would blend into the commercial and entertainment-oriented vicinity. A Condition of Approval (#12) addresses a balance of ensuring a level of transparency consistent with retail shopping while providing a high level of privacy and discretion in visibility and product displays.

- 2. The requested use at the proposed location is sufficiently buffered in relation to residentially zoned areas within the immediate vicinity such that any obtrusive or distracting environmental factors which may emanate from the use do not adversely affect said areas.**

A row of commercial buildings and a hill separate this facility from residentially zoned and occupied areas, and the activity will not be obtrusive or distracting. The activity will essentially function similar to any retail activity. A Condition of Approval (#12) addresses a balance of ensuring a level of transparency consistent with retail shopping while providing a high level of privacy and discretion in visibility and product displays.

- 3. The exterior appearance of the structure will not be conspicuously of a lesser quality (i.e. with respect to such elements as building façade, lighting and signage materials) than the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood or cause a substantial diminution or impairment of property values within the neighborhood.**

No change in the facility exterior is planned except for modest signs. The windows will remain transparent. A Condition of Approval (#12) addresses a balance of ensuring a level of transparency consistent with retail shopping while providing a high level of privacy and discretion in visibility and product displays.

4. The proposed use will not be inconsistent with the adopted general plan for the area.

The General Plan LUTE calls for retail and other services in retail locations location and the applicant proposes to blend into that category pursuant to CUP conditions and their business model.

5. The proposed site is adequate in size and shape to accommodate the parking and loading facilities, landscaping and other development features prescribed in the planning code or other city regulations or as is otherwise required in order to integrate said use with the uses in surrounding areas.

The site is in the CN-1 Neighborhood Commercial zoning district, which does not require additional parking, loading, landscaping or similar changes in order for an activity to occupy existing space.

6. The proposed site is served:

- a. By highways or streets of sufficient width and capacity to carry the kind and quantity of traffic and to accommodate the parking demand such use would generate; and
- b. By other public or private service facilities such as fire protection or trash collection services as are required.

The site has all public services, and the change from past retail uses to the applicant's requested activity will not generate significant parking or traffic demand.

SECTION 17.148.050(B)—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.

The applicant's business model to provide an Adult-oriented retail shop without the familiar elements of a "seedy" pornography establishment (such as covered windows, indoor booths, and a secretive atmosphere), provides a unique condition of design. Many of the neighbor's objections may be a reaction to the type of adult stores common in the 1970's through early 21st Century, where secrecy and obscured windows created a sense of mystery for the products inside. However, the applicant's activity is more restrained and practical in presentation, emphasizing more mainstream lifestyles. Good Vibrations uses a limited-scale business plan modeled in other cities, requires proximity to a certain client base and a location in which there would be minimal secondary effects on neighbors. The store, which functions as a retail store offering adult-themed items, would be located in a retail district.

2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property.

Strict compliance with limitations near schools and residential uses would prevent an otherwise viable retail business offering adult-themed items from enjoying the same privileges of commerce, First Amendment expression and social gathering as some non-adult uses. The Lakeshore/Grand Lake district, while generally oriented to families, is also one of the more cosmopolitan gathering areas of the City. Nightlife makes it a more natural choice for this type of business than mainly-residential areas

around the City. While there are currently no Adult-oriented activities within the CN-1 zone in this immediate area, the applicant's business model of providing a low-key retail shop without elements that typically found in the more familiar "seedy" pornography shops (covered windows, interior booths, etc.) essentially causes the establishment to have the same visual appearance and impacts of any standard retail activity.

3. **The variance will not adversely affect the use of churches, temples or synagogues; public, parochial or private elementary, junior high or high schools; public parks and recreation centers; public or parochial playgrounds; residences; child care facilities; elderly residential care facilities; hospitals; medical clinics; colleges; or libraries, all within a five hundred (500) foot radius by engendering sounds, activities, visual depictions or advertisements that create an exterior atmosphere which unreasonably interferes with the operations of such surrounding uses.**

As noted above, facilities for students are more than 500 feet distant from this site. Housing, churches and medical clinics in the district likewise are generally screened by commercial buildings from the applicant's site. The applicant's business plan minimizes secondary effects such as sounds, advertisements etc. as experienced off-site in buildings or on sidewalks. Through the applicant's business model and accepted conditions of approval, the activity will not create sounds, activities, visual depictions or advertisements which unreasonably interfere with surrounding uses. The activity will appear and function as if it were a standard retail activity.

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.**

The approval of a Variance for proximity to a residential zone in this location for this Adult-oriented use will not grant a special privilege inconsistent with the purposes of zoning regulations for the following reasons: The applicant's business model of creating a low-key retail establishment providing adult-themed products and sensuality information coupled with accepted conditions of approval will result in an exterior appearance and impacts very similar to any retail establishment. In other words, the business model that differs greatly from the more familiar "seedy" pornography activity and the conditions of approval more than compensate for the reduced distance from a residential zone.

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 the application materials and staff report and the plans dated **July, 2011** and submitted **July 25, 2011** 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: Major Conditional Use Permit for Adult Entertainment Activity (retail merchandise and educational/health workshops) and Variance for Location Within 1000 Feet of a Residential Zone; in particular sale of adult toys and clothing, videos and recordings, magazines and books and other items approved by the Planning Commission; and educational and health care activities including seminars, counseling, demonstrations conducted by health professionals or other similar activities. No live personal exposure of specified anatomical areas listed in the Zoning Code definition of Adult Entertainment Activity (Section 17.09.040 et al.) is allowed, although this requirement does not restrict product packaging on shelves perpendicular to the street within the main store building. No massage or other such activities may be permitted.

Any subsequent or replacement business at this address, reliant upon this Conditional Use Permit and Variance, must also abide by conditions herein.

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.

SPECIFIC PROJECT CONDITIONS

11. Hours.

Ongoing.

The business, as proposed, may be open to the public for business between the hours of 10 am daily to 10 pm, and 11 pm Friday and Saturday. Any work outside these hours shall solely be staff preparation and not open to the public. After ninety (90) days of operation, the applicant may request of the Zoning Manager, in writing, the ability to open until 12 am on Friday and Saturday only, subject to written approval of the Zoning Manager.

12. Window/Front of Store Transparency/Display.

Ongoing

Windows and bulkhead areas up to a height of 48 inches shall be opaque (solid or frosted glass). The applicant/property owner shall keep display windows above 48 inches height generally clear of visual obstructions including, but not limited to, window coverage materials. Window area above 48 inches height may include up to 25% (twenty-five percent) opacity such as frosting or other decorative window covering. The applicant shall not include any Adult oriented products within the front 10 feet of the store, and is encouraged to include non-Adult retail items in this area.

13. 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.

14. 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.

15. Limitations on Merchandise and Sales/Activities

Prior to commencement of use and ongoing

As proposed by the applicant, the store may offer for sale Adult items such as adult toys, clothing, videos or recordings, books or magazines as well other items of standard non-Adult oriented products. Samples and/or product storage may be kept in the rear 50% of the store, with display toward the interior long axis of the store, perpendicular to the street, so as to limit visibility of such products from public areas. Additional product sales must fit the Zoning Code definition of "General Retail Sales" or "General Food Sales." Activities inside the store, particularly those visible from the street, must not include exposure of designated anatomical areas as described in the City's definition of "Adult Entertainment Activity," nor sexual acts, or other adult activities which would not normally be associated with "General Retail Sales." The applicant voluntarily agrees that the facility shall be open to Adults only, age 18 or older.

16. Other Activities

Ongoing

The applicant is not restricted in exercise of First Amendment rights including free speech, distribution of educational or advocacy literature, holding small meetings (within the capacity of the room as determined by the Fire Marshall and Building Codes) and similar activities which might be conducted by any cultural or political group in the same manner. No amplified music, voice or video shall be noticeable on the public street or on neighboring properties. There shall be no massage, clothing-optional activities and no interpersonal or direct sexual activities allowed on-site.

17. Sign Modifications

Within 90 Days of Approval

Signs if modified shall receive all required Planning and Building permits.

18. Restrictions on Booths

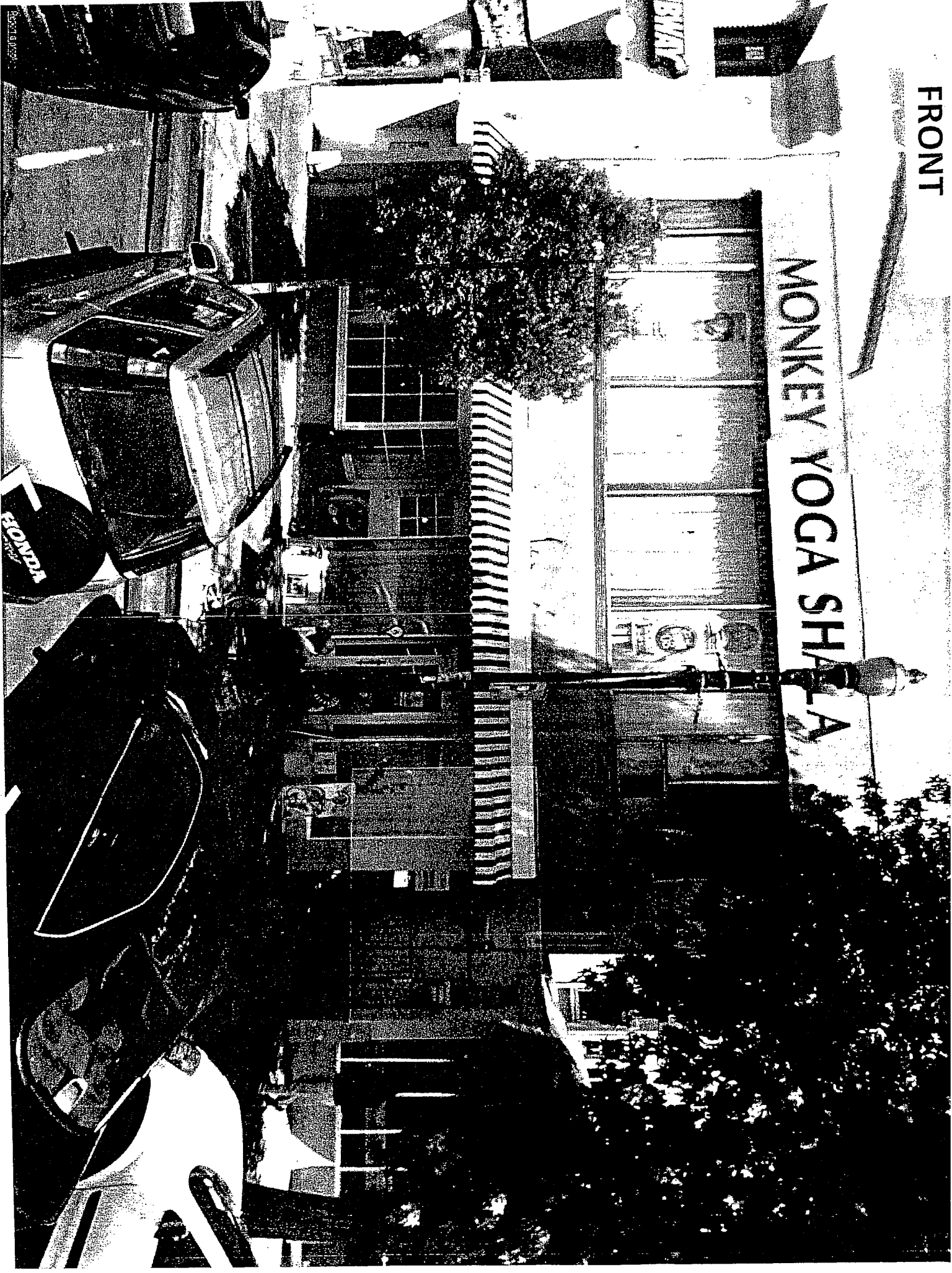
Ongoing

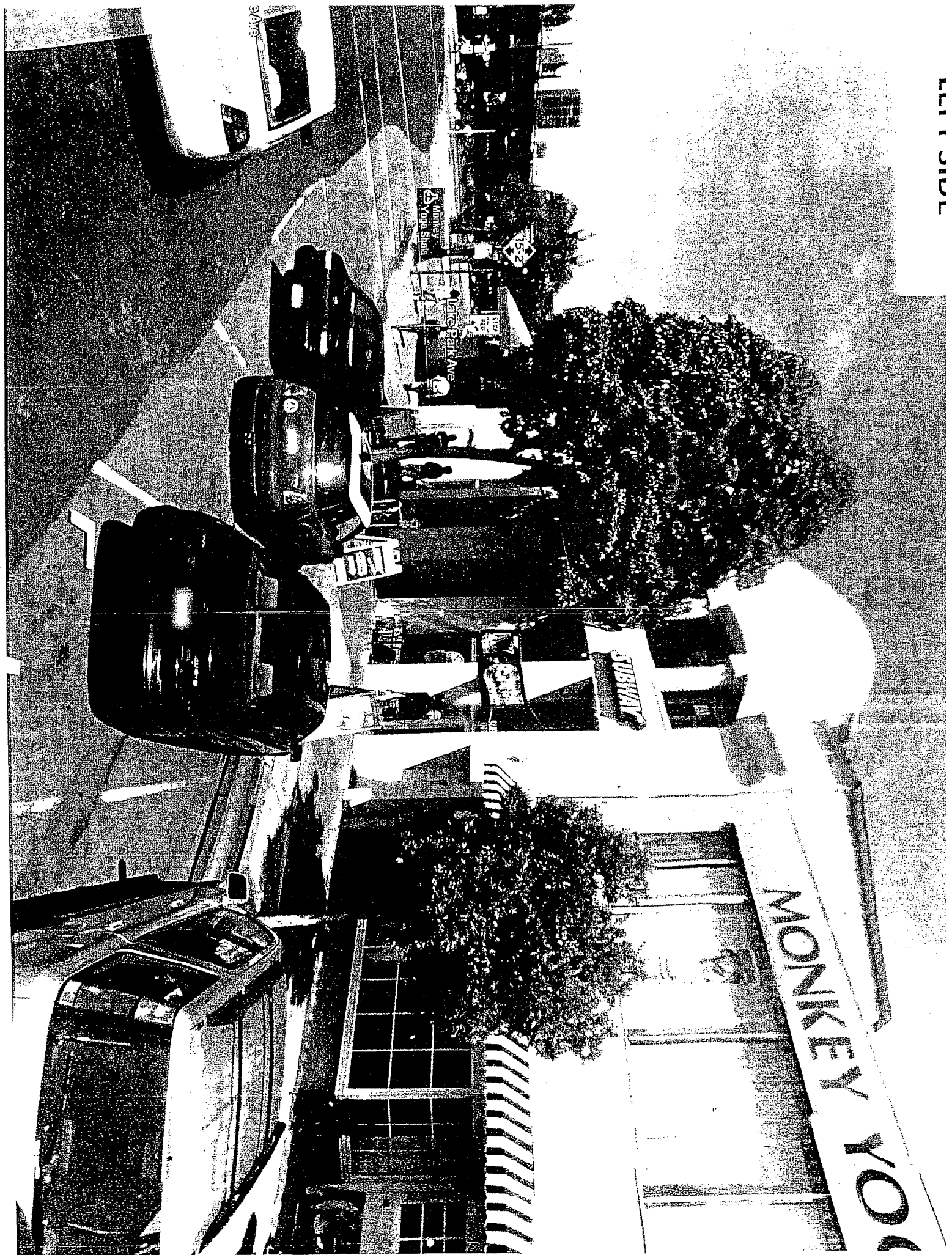
The business shall have no enclosed or partly enclosed booths for the purpose of viewing adult videos or other activity. This condition does not restrict showing of films in the entire main room, not visible from the street, as well as the provision of no more than 1 small fitting room.

19. Compliance Review

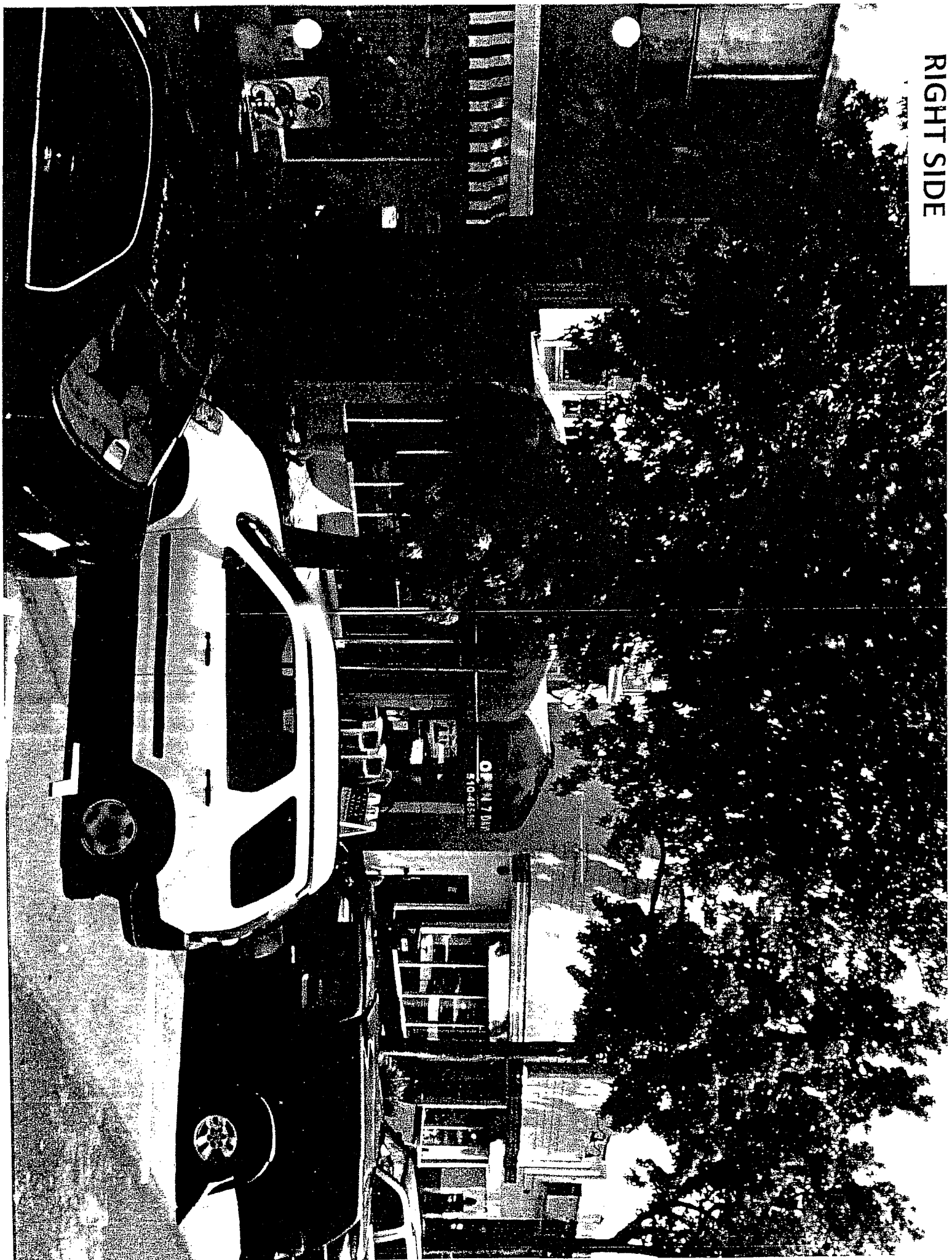
After Six (6) months of business operation, the applicant shall, (within 21 days of the 6-month anniversary date) submit for a compliance review, and pay all appropriate fees consistent with the then current Master Fee Schedule (currently \$1,352.91), to assess compliance with all applicable Conditions of Approval. The Compliance Review will be agendaized for an upcoming Planning Commission meeting. The Compliance review shall provide an opportunity for the Commission and the public to provide comment on the operation and determine whether there is compliance with conditions of approval or whether any changes to conditions are warranted.

FRONT





RIGHT SIDE



Valeska, David

From: Karchmer, Joanne
Sent: Tuesday, September 13, 2011 12:01 PM
To: Valeska, David
Subject: FW: Opposition to the Major Conditional Use Permit for the proposed Good Vibrations Store on Lakeshore Avenue

Hi Dave:

Pat asked me to forward this email to you. I also wanted to point, which I think you already know, there is a running commentary on the Grand Lake Neighbors website regarding this application.

Thanks,
 Joanne

Joanne Karchmer
 Council Aide to
 Councilmember Pat Kernighan
 City Hall, Second Floor
 Oakland, CA 94612
 510-238-7021
 510-238-2296 (fax)

From: Ela Bialek [mailto:ezb@sbcglobal.net]
Sent: Monday, September 12, 2011 10:36 PM
To: Kernighan, Pat
Subject: Opposition to the Major Conditional Use Permit for the proposed Good Vibrations Store on Lakeshore Avenue

Dear Council Member Kernighan:

We are writing to express strong opposition to having the City grant a Major Conditional Use permit to allow Good Vibrations to open a store on Lakeshore Avenue. We are writing to ask for your intervention to stop approval of the **"Major Conditional User Permit for Adult Entertainment Activity (merchandise and educational/health workshops) and Major Variance for Location within 1000 feet of a residential zone"** which will be heard by the Oakland Planning Commission on Wednesday, September 21st at 6PM.

Oakland should embrace new businesses, but we are concerned about having Good Vibrations on Lakeshore Avenue. They are apparently a "tasteful" business and supposedly a "good-neighbor", but I don't think it's an appropriate fit for this area. Our community has a lot of families, and the location that's proposed for the store is near a children's toy store, two yogurt shops and a children's clothing store. As parents, we are even more concerned, because if I'm reading the proposal correctly, the store will not have frosted glass like their Berkeley and SF locations but will have a display window. That is just wrong. Families walk by on their way to the Farmer's market or to the other family-oriented businesses in the area. The sidewalk in front of the proposed location is very narrow and it's impractical and wrong to expect parents to avoid this area or distract their children each time they walk by.

Furthermore, the addition of an adult bookstore changes the character of the neighborhood and I'm concerned about its effect on our community, property values and the image of Oakland.

Sincerely,
 Janusz and Elizabeth Bialek
 3614 Balfour Avenue

D. Applicant and Neighbor Correspondence

9/13/2011

Valeska, David

From: Valeska, David
Sent: Tuesday, September 13, 2011 8:28 AM
To: 'PAMELA A DRAKE'
Subject: RE: GV

Ms. Drake, Good Vibrations by itself does not set a precedent for other businesses. The Proposed conditions in the Planning Commission report are similar to those applied to the FeelGood store at 1703 Telegraph Avenue, in case you want to see that facility's façade Presentation. There is an emerging "Oakland standard" of retail operations for the (rare) adult businesses of This type. I am not aware of other types of adult businesses applying at this time.

RE: Lakeshore BID, they can express their views formally by letter or informally.

We were closed Friday and Monday so I am replying today Tuesday 9-13-11.

From: PAMELA A DRAKE [mailto:pamelad205@sbcglobal.net]
Sent: Friday, September 09, 2011 12:00 PM
To: Valeska, David
Subject: GV

Hi David,

I had a call from a resident of the Lakeshore Homes Association who wanted to know if the zoning for GV goes through, would that allow other "adult entertainment" type businesses to get in.? I thought it was a good question.

Also the Lakeshore BID took a vote to support the GV going in. Do you need a formal letter to state that?

I know you're closed today so let me know if you receive this,
thanks,
Pamela

Pamela A Drake
510-834-9198
DrakeTalkOakland.wordpress.com
LakeshoreOakland.com

9/13/2011

Valeska, David

From: pamelad205@sbcglobal.net
Sent: Thursday, August 25, 2011 11:27 AM
To: Valeska, David
Subject: Re: Neighborhood organization contacts re Good Vibrations' Major CUP application, 3211 Lakeshore Avenue

Yes, I just spoke to the applicant who reiterated that. We are also concerned with the impression it makes on the street, retail frontage while being unobtrusive. It may be a difficult dance.

From: Valeska, David
Sent: Thursday, August 25, 2011 10:33 AM
To: pamela
Subject: RE: Neighborhood organization contacts re Good Vibrations' Major CUP application, 3211 Lakeshore Avenue

Pamela, we expect the design soon. We are asking GV to basically leave the store the way it is.

From: pamelad205@sbcglobal.net
Sent: Wednesday, August 24, 2011 4:25 PM
To: Valeska, David
Subject: Re: Neighborhood organization contacts re Good Vibrations' Major CUP application, 3211 Lakeshore Avenue

Thank you. That is our major concern, the presentation and outside design. When can we see those plans?
Pamela Drake

From: Valeska, David
Sent: Wednesday, August 24, 2011 2:32 PM
To: pamela@lakeshoreoakland.com
Subject: FW: Neighborhood organization contacts re Good Vibrations' Major CUP application, 3211 Lakeshore Avenue

This application, Use Permit CMV11-142, for the adult business Good Vibrations, has been filed for 3211 Lakeshore Avenue and is tentatively scheduled before the Planning Commission for 6 pm, Oct. 5, 2011. You and Your members may attend and speak if you have comments. Please let me know if there are any issues To discuss as I am the Oakland city planner on the case (510 238 2075, dvaleska@oaklandnet.com).

Recently the Planning Commission approved FeelMore, an adult store modeled after the Good Vibrations Chain but not affiliated with them. A recent Good Vibrations opening is across Mission Street from Bloomingdales/San Francisco Center if your members want to inspect. One anticipated change for Oakland would be to eliminate the window coverings and make it more like a regular retail store, though Without adult merchandise in the most forward windows.

8/25/2011

Valeska, David

From: David Smith [netwanderercio@gmail.com] on behalf of David Smith [ds@netwanderer.com]
Sent: Wednesday, August 31, 2011 12:04 PM
To: Valeska, David
Subject: Re: Good Vibrations - Use Permit CMV11-142

Importance: High

Mr. Valeska,

I appreciate your prompt response and willingness to listen to my concerns. My concerns still stand with regard to a children's toy store being a couple doors down from such a business on Lakeshore and a much more family-oriented pedestrian-friendly location than the 1703 Telegraph location.

I actually work down the street from the 1703 Telegraph location and can provide some more information regarding its impact or business practices. While I agree it is a bit more discreet in its window displays and the like - it does put out a folding sign out front quite frequently with phrases such as "Sex sells" or other such phrasing. This location is also one block from a 6-12 grade school so this was of concern to me. I expressed my concerns then as well.

Thank you for your work for the betterment of Oakland.

David Smith

On Aug 31, 2011, at 11:41 AM, Valeska, David wrote:

> Mr. Smith: your e-mail will be considered by staff and on September
> 21,
> 2011
> At 6 pm at City Hall, at the Planning Commission; you are welcome to
> attend And speak.
>
> You expressed a point of view which is worthy of respect but with
> which staff respectfully disagrees. Perhaps one difference is that
> via the
> 1703
> Telegraph Avenue store approved 12-15-11 by the Planning Commission
> there is Now an "Oakland standard" of conditions for operation of such
> adult stores, Which is different in presentation than many of the more
> traditional adult Stores in other cities. At 1703 Telegraph there are
> no covered windows, no Displays of adult merchandise in the front
> windows, no video screens facing The street, no adult participation
> activities allowed; it looks and operates Like any other retail store.
> There have been few if any complaints since December. There is a new
> Good Vibrations across from Bloomingdale's department store in San
> Francisco and half a dozen others in the Bay Area And Boston; we have
> no reports of problems with those stores.
>
> If the Planning Commission approves the Good Vibrations permit, as we
> Recommend, like all Conditional Use Permits it is subject to appeal
> within 10 days. If you have further questions, please e-mail and/or
> call me at
> (510) 238-2075.
>
> -----Original Message-----
> From: David Smith [mailto:netwanderercio@gmail.com] On Behalf Of David
> Smith
> Sent: Wednesday, August 31, 2011 10:49 AM
> To: Valeska, David
> Subject: Good Vibrations - Use Permit CMV11-142

> Importance: High
>
> To Mr. Valeska,
>
> I just read on the Grand Lake Neighbors website of Good Vibrations
> intention to move into the 3217-3219 Lakeshore location. I have some
> strong concerns around the potential impact this will have on the
> neighborhood and local businesses and recommend the application not be
> approved.
>
> You may or may not be aware but in 2011 a children's clothing and toy
> store, Silver Moon, moved just a couple doors down into the long
> vacant Baby Gap location at 3233 Lakeshore along with Namaste yoga.
> Two doors further up Lakeshore is a yogurt shop very popular by local families.
> In addition, many families walk down Lakeshore to get to the kids
> playground just up the block on Lakeshore. Many families walk this
> street to get to the now VERY popular Farmer's Market every Saturday.
> Finally and possibly more importantly there are also several
> pre-schools on Lakeshore who I would imagine would find it problematic
> when they take the kids to the park.
>
> In other words a good portion, if not majority, of the foot traffic at
> this location is families walking with their children. I, as a local
> home owner and the Father of two young children, will be more hesitant
> to walk this street knowing that an adult-only sexual accessories shop
> is at this location. Can you and any others who are in a position to
> decline or approve this permit application please take this under
> consideration when evaluating the local impact of this business?
> Thank you for your time on this matter.
>
> David Smith, homeowner and Father
> 542 Weldon Avenue
>
>

Valeska, David

From: Jennifer Reil [jenreil@earthlink.net]
Sent: Wednesday, August 31, 2011 10:40 PM
To: Valeska, David
Subject: Concern about Good Vibrations on Lakeshore Avenue

Dear Mr. Valeska,

As a resident and home-owner of the Grand-Lake neighborhood and as a parent of a seven-year-old daughter, I was dismayed to find out that Good Vibrations may be opening shop soon on Lakeshore Avenue.

I am a former resident of the Valencia Street area of San Francisco Mission District, where Good Vibrations has another shop. That area is primarily frequented by young, single hipsters, and Good Vibrations is a good fit for that neighborhood. When I became a parent, however, we decided to move to the Grand-Lake area of Oakland as it is a more family-friendly environment.

Just this afternoon, I walked up and down Lakeshore Avenue with my daughter, window shopping, people watching, stopping for ice cream, etc. There are lots of children, both toddlers heading to the Gymboree play space and school-age kids heading to get a frozen yogurt or slice of pizza after school. In short, our neighborhood is not a good fit for Good Vibrations. They should consider Telegraph Avenue in Berkeley, near the piercing and tattoo shops abuzz with college students. But a family-centric neighborhood is not a good idea... I am already cringing at the questions I will get from my daughter about what they sell at the store.

Please do the right thing and do not approve their lease.

Sincerely,
Jennifer Reil
377 Palm Avenue #105
Oakland, CA 94610

9/1/2011

Valeska, David

From: Brett [marsengill@yahoo.com]
Sent: Wednesday, August 31, 2011 4:20 PM
To: Valeska, David
Subject: Objection to Permit CMV11-142

As a resident of the area I am writing you to object to the proposed Good Vibrations at 3217 Lakeshore. I cannot make the October hearing, please consider this note my comment for the record. This type of use is not coherent with the family/neighborhood oriented district, the reason I moved here.

Thanks,
Brett Marsengill
738 Mandana BLVD
Oakland CA 95610

This month, we're reporting on two new, Grand Lake businesses that are in the pipeline and both have raised at least some concerns amongst adjacent businesses and/or members of the neighboring community. A few insiders have been hearing for months that Good Vibrations was looking at the long vacant space at 3217-3219 Lakeshore. It's now official that they've signed a lease contingent on getting city approval of a Conditional Use Permit. Here's the abbreviated text of a message from David Valeska, the City Planner handling their application:

"This application, Use Permit CMV11-142, for the adult business Good Vibrations, is tentatively scheduled before the Planning Commission for 6 pm, Oct. 5, 2011. You may attend and speak if you have comments. Please let me know if there are any issues to discuss at: dvalueska@oaklandnet.com". Mr Valeska goes on to note that Good Vibrations has recently opened a shop in San Francisco across from Bloomingdales/San Francisco Center and that in Oakland, "they would eliminate the window coverings and make it more like a regular retail store, though without adult merchandise in the most forward windows."

Valeska, David

From: Kernighan, Pat
Sent: Friday, September 02, 2011 9:51 AM
To: Michael Pearce; Kernighan, Pat
Cc: Valeska, David
Subject: Re: Good Vibrations

Valerie,

I am forwarding your message to the Planner in charge of the permit application, David Valeska. Because this store sells "adult" products, it must get a conditional use permit. Your comments will be considered in that process.

I am told that the plan is for windows and front entry area to be very discreet, so that no explicitly sexual products are on view.

Pat Kernighan

----- Reply message -----

From: "Michael Pearce" <PEARCEOFMIND@EARTHLINK.NET>
To: "Kernighan, Pat" <pkernighan@oaklandnet.com>
Subject: Good Vibrations
Date: Thu, Sep 1, 2011 7:23 pm

Hi, it's Valerie on Balfour. This is to register total OPPOSITION to Good Vibrations on Lakeshore - are you kidding me??

Yes, I have a young kid. Would object as out of place here anyway.

I have a class the night of the planning meeting - can you count this as an emphatic vote no. Is this really a done deal, or can it be stopped?

Valeska, David

From: Maria Alderete [maria_aldo@yahoo.com]
Sent: Friday, September 02, 2011 1:15 PM
To: Valeska, David
Subject: Re: Lakeshore - Adult Entertainment proposal

Thanks David. I think they would be a fine contribution to the Lakeshore area. I used to live in North Oakland and did not like the adult video stores that were open late night. But Good Vibrations is a good established chain.

From: "Valeska, David" <DValeska@oaklandnet.com>
To: Maria Alderete <maria_aldo@yahoo.com>
Sent: Thursday, September 1, 2011 7:27 AM
Subject: RE: Lakeshore - Adult Entertainment proposal

Maria, Good Vibrations is a chain of adult stores in the Bay Area and Boston, the most recent of which opened across from Bloomingdale's department store in SF. Any approval (if Planning Commission approves) is likely to have conditions placed which make the store look like other retail stores, like the recently approved FeelMore store at 1703 Telegraph Avenue. Please call me at (510) 238 2075 or return e-mail for questions, thanks.

From: Maria Alderete [mailto:maria_aldo@yahoo.com]
Sent: Wednesday, August 31, 2011 6:03 PM
To: Valeska, David ; Kernighan, Pat
Subject: Lakeshore - Adult Entertainment proposal

I noticed on the planning commission 9/21 agenda there is case file CMV10-142, a use permit for adult entertainment retail sales at 3211 Lakeshore Ave. Do you have any details of the proposed business to share with the community? Thanks. Maria

Valeska, David

From: Brandon smith [gati_chati@hotmail.com]

Sent: Saturday, September 03, 2011 1:49 PM

To: Valeska, David

Subject: Support Good Vibrations

Mr Valska,

I support Good Vibrations moving into the Lakeshore neighborhood. Just thought I'd let you know, as I'm afraid you may receive may concerns.

Thanks,

Brandon Smith

Homeowner and Parent.

9/6/2011

Valeska, David

From: stephen duffy [stephen@splendidsound.com]
Sent: Thursday, September 01, 2011 9:24 AM
To: Valeska, David
Subject: good vibrations store on lakeshore

Dear Mr. Valeska, I am surprised at the decision to allow Good Vibrations to open up on a family friendly shopping area like Lakeshore. Before you might assume that I'm a prude of some sort I have to say that I think Good Vibrations is a great store and have shopped at the locations in SF and in Berkeley but I do not think it is a good fit for our street.

If you examine the locations of the other stores they all have one thing in common, fairly anonymous locations on busy streets that would be difficult to spot unless you know it is there. I know we're all supposed to be as sexually liberated as those good people at GV but the fact is who wants to bump into their neighbor inside a sex shop let alone be seen by hundreds of other locals. The majority of their business is online and they stress discreet packaging so they are fully aware of the public's needs.

Also keep in mind this location is between an Ice cream store and a yogurt shop with a toy store just a few doors further down.. I know my kids will be wondering what on earth is going on in the store with the funny window display. Off on a side street maybe but in full view.. I think it's poor business on behalf of Lakeshore, Good Vibrations and the City of Oakland.

Please re-think this.

~ s d

Stephen Duffy | Splendid Sound Productions
510.329.7020 | Oakland CA 94620
stephen@splendidsound.com | www.splendidsound.com

www.myspace.com/thatmanfantastic

9/1/2011

Conditional Use Proposed Findings:

Introduction

Good Vibrations ["GV"] started business in 1977 and is owned and operated by Barnaby Ltd, LLC. For three decades, GV has been the premier retailer of sexual health and wellness products with a focus on providing educational and health information. GV operates four stores in Bay Area and one in Massachusetts with an appealing demographic of women and couples. The GV retail locations focus on creating an inviting and embracing environment that is boutique-oriented, which is the antithesis of what is commonly thought of or referred to as a "seedy" environment often associated with a store focusing solely on men. The only activities to be conducted on the premises are retail sales and Health/Education activities/workshops. There are no booths, covered windows and it is not designed as a secretive atmosphere. GV invented the concept of the clean, well-lighted boutique; professionally designed and managed offering an inviting shopping experience. GV is a socially-conscious company, partnering with various community and non-profit organizations to support and bring awareness to various charitable causes. For example G/V partners with SF Aids Foundation, The Pacific Center, The Kinsey Institute, SF Dept of Public Health, Housing Rights Committee, Boxcar Theater (Cambridge, Mass) to name a few.

E. Applicant Project Explanation

Oakland's Planning Department Staff are able to investigate and evaluate the proposed business model, operations and community impact through inspection, study and observations of other GV Bay Area locations and a review of any historical information pertaining to its operations. The determination of the potential impact and effects on the Lakeshore retail section and the adjacent residential neighborhood are factually confirmed through this research.

GV is recognized as a world leader in the area of sexual education and health information. It has two Ph.D.'s on staff that create, develop and manage their educational programs. It now has 3 retail/educational locations in San Francisco, all in mixed use neighborhoods very similar to the Lakeshore area. GV also operates one location in Berkeley and one in Brookline Massachusetts. There is no evidence of any type of negative impact to the retail/commercial environment or to the adjacent residential neighborhoods. Its clientele are well mannered, polite and representative of the clientele of other retail/commercial establishments located in this area. GV's staff is required to undergo a rigorous training program developed by Dr. Charles Glickman to ensure they are sensitive, well informed and able to assist clientele in a very objective and professional manner.

The business philosophy of GV centers on actively promoting open, frank and informative discussions regarding sexuality and sexual health. Its demographic are women and couples. GV's staff is highly educated, dedicated and

professional. There are 2 staff PHD's, one member with a law degree, several staff with master's degrees, a published author and a diverse management staff with considerable accreditation in a variety of disciplines. Not only is every staff member who engages with the public required to undergo a rigorous training program but they are also required to attend Continuing Education Seminars. Customers of GV rate their store experience as exceptional, describing staff as friendly, helpful and above all knowledgeable and well informed.

GV strives to take sexual health education and awareness to new levels by creating and offering some of the most innovative sex education available. These initiatives are created and directed by Dr. Carol Queen, a sex educator and co-founder and director of the Center of Sex and Culture. She has written countless books and articles and has provided commentary on a variety of TV programs and documentaries nationally and internationally. She is called upon to provide educational information at workshops and professional conferences worldwide. She has lectured at a number of colleges and Universities across the globe, including Harvard, Smith, Bryn Mawr, University of California Medical Center, Columbia University, Oxford, and Stanford as just being representative samples.

Dr. Glickman has been with GV since 1996 and serves as the GV's Educational Program Manager, overseeing all aspects of it staff educational training as well as conducting training sessions for the staff of San Francisco's Sex

Information program and Bay Area Women Against Rape. He also offers classes, training and workshops for: The Society for the Scientific Study of Sexuality; American Association of Sexuality Educators, Counselors and Therapists; Brown University; Mills College; UC Berkeley; Oregon State; California Institute of Integral Studies; Starr King School for the Ministry and the National Sexuality Resource Center.

GV provides regular workshops for Women, Couples, Singles and Parents to assist with their knowledge and understanding of health and other issues pertaining to sexuality. GV has also developed an Off-Site Sex Educator (OSSE) program to provide Sex Educators with the training needed to carry out their mission and to ensure that they have the most accurate and current information regarding sexual health and well being. These training programs also provide the methodology to provide information in a clear, accessible and non-judgmental manner. OSSE provides support and education to Colleges and Universities, Health Organizations, Municipal Agencies and Community Service Organizations.

3217-3219 LAKESHORE AVENUE

The location for which the applicant seeks the use permit and major variance is a commercial location that is currently vacant. There is a yoga studio on the 2nd floor of this 2 story building. The topography of this area contributes to a natural

barrier between the commercial area of Lakeshore and the primary residential area of Rand Avenue. There is no access to Rand Avenue from Lakeshore for at least 3 to 4 city blocks. The access from Lake Park Avenue is again a little remote for pedestrian or vehicle traffic because it is around the corner from Lakeshore up a small hill. Rand Avenue and the surrounding residential area is not a thorough fare either for pedestrians or vehicles. It is a very quiet and serene neighborhood that is cloistered from the commercial activities of Lakeshore, Lake Park Avenue and also the nearby freeway.

Lakeshore is a wide commercial street with two lanes of traffic in each direction and with parallel parking on each side. On the corner of Lake Park Avenue and Lakeshore across from the proposed location is a large gas station and next to it is a smaller shopping center with a Trader Joe's and Walgreens. This small center has a parking lot which provides a further buffer between any residential area that is located on or around Wesley Way and Lakeshore. An investigation of other GV's locations indicate that the opening of the very low-key retail establishment on Lakeshore Avenue catering to women and couples should have no adverse impact on the retail elements of Lakeshore or immediate residential area.

PROPOSED FINDINGS

1. The requested use at the proposed location will not adversely affect the use of churches, temples or synagogues; public, parochial or private elementary, junior high or high schools; public parks and recreation centers; public or parochial playgrounds; residences; child care facilities; elderly residential care facilities; hospitals; medical clinics; colleges; or libraries, all within a five hundred (500) foot radius by endangering sounds, activities, visual depictions or advertisements that create an exterior atmosphere which unreasonably interferes with the operations of such surrounding uses:

This application seeks to open low-key retail/educational store in an existing commercial building in the business district of Lakeshore Avenue that is close to Lake Park Avenue and highway 580. The applicant will use approximately 2959 square feet within an existing commercial building to be occupied by a Good Vibrations retail store. The applicant chose this location due to its sophisticated retail character, its safe and secure environment, the parking access and the quality of the surrounding neighborhoods. Applicant's appealing demographic are women and couples and that necessitates a retail site in a safe and secure area. This retail location will be a boutique designed women and couples shop focusing on health, education and women-centric merchandising. G/V's retail business model and operations are markedly distinguishable from what is commonly referred to as a

traditional adult store just for men. With the established and proven business model and a review and inspection of the Bay Area locations, this low-key retail activity should not introduce any negative elements or have an adverse impact at this location or the surrounding neighborhood.

The low-key nature of the operations combined with the professional staff and a boutique ambiance that is embracing, inviting and very professionally managed should promote the retail quality of Lakeshore. The character of GV's operation is such that this establishment will have the same visual appearance and impacts of a more standard retail activity.

The character of Lakeshore in the immediate vicinity of the proposed store is retail that is not readily accessible to the nearby residential areas. The topography and layouts of Lakeshore creates a natural barrier such that Rand Avenue is a quiet neighborhood that is not influenced by the commercial character of Lakeshore. GV's appealing demographic of women and couples do not represent people that are viewed as a potential neighborhood distraction or that would introduce an adverse business or residential impact. There are no public, parochial or private elementary, junior high or high schools within 500 feet of the commercial location. There are no elderly residential care facilities, hospitals, medical clinics, colleges or libraries within 500 feet of the commercial location. There may be the tip of a park that is located west of MacArthur Blvd that is within 500 feet, but if it is, it

across Lake Park Avenue, under the 580 Freeway and then across MacArthur Boulevard. This establishes many buffers to the park area from the location of the store. There are residences within 1000 feet of the location but the natural barriers are sufficient to cloister them from the business section of Lakeshore and applicants store. Rand Avenue is a quiet, serene street with no indication that a business district is nearby.

There are two important elements that confirm that applicant's store represents a more standard retail environment as is found on Lakeshore and will not impact the surrounding area. First, GV has been in business since 1977 and all its retail operations are located in similar mixed use neighborhoods and those inspected do not show any adverse affects to the retail/commercial character of the areas or the quality of life to the surrounding residential areas. Secondly the topography of the area provides natural boundaries such that the residential area of Rand Avenue is very quiet and secluded from the commercial/retail traffic of Lakeshore. The residential of Wesley is always buffered by the other side of Lakeshore and a shopping center with a parking lot.

GV currently has a location directly across from the new Bloomingdales center in San Francisco on Mission Street; a location on Valencia Street in the Mission/Noe Valley section of San Francisco and a location on upper Polk Street in the Nob Hill/Russian Hill section of San Francisco. All 3 locations are located

in mixed use neighborhoods very similar to Lakeshore area that combine commercial/retail and residential. The Nob Hill/Russian Hill location being primarily in a residential area consisting of single-family homes, condominiums, and apartment buildings that are just around the corner and without the natural boundaries found in the Lakeshore area. The commercial components of the store are designed to comply with local community standards creating an attractive, discrete and embracing boutique shopping environment. There are no exterior store sounds, improper visual depictions or advertisements that would introduce or create an interference with the quality of neighborhood operations or activities. A review of the other location establishes that the Good Vibrations stores tend to be a retail asset to the surrounding neighborhood having a professional and embracing atmosphere and a clientele that are respectful and well-mannered. The opening of this store has been endorsed by Lakeshore merchants association and will offer a community benefit and service in addition to a discrete women and couples store.

2. The requested use at the proposed location is sufficiently buffered in relation to residentially zoned areas within the immediate vicinity such that any obstructive or distracting environmental factors which may emanate from the use do not adversely affect said areas:

The applicant maintains and the staff concur that there do not seem to be any negative or adverse business or residential effects from GV's retail/educational