

Oakland City Planning Commission

Case File Number CM12-128

STAFF REPORT

October 17, 2012

Project Name:	Parliament Bar
Location:	811 Washington Street (APN001-0203-027-00)
Proposal:	Allow Alcoholic Beverage Sales Activity
Contact Person/Phone Number:	Christopher Newell (415) 374-6356
Owner:	Eng & Pamela Kai
Case File Number:	CM12-128
Planning Permits Required:	Major Conditional Use Permit to allow an Alcoholic Beverage Sales Activity, in a 2,200 square foot existing building area, with sidewalk café, in Old Oakland
General Plan:	Central Business District
Zoning:	CBD-P Central Business District-Pedestrian Retail Commercial Zoning District/S-7 Historical Combining District
Environmental Determination:	Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines Section 15301
Historic Status:	Designated Historic Property, API contributor, C rating, Old Oakland Historical District
Service Delivery District:	Metro
City Council District:	3
Commission Action to Be Taken:	Approve Staff Recommendation
Appeal:	To City Council within 10 days
For Further Information:	Contact David Valeska at (510) 238-2075 or dvaleska@oaklandnet.com

SUMMARY

This application involves the request to serve alcoholic beverages after 3pm as a bar with dancing in an existing commercial building in the Old Oakland area. Before 3 pm the business would be a coffee shop.

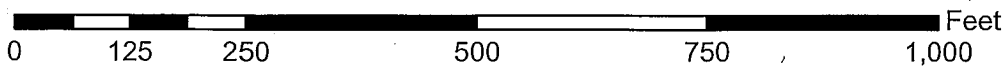
PROJECT DESCRIPTION

The applicant proposes to utilize an approximately 2,200 square feet of the building for a bar with Alcoholic Beverage sales within an existing commercial property, as shown on the attached floor plan. The applicant plans to operate with typically 50 to 90 persons indoors and 15 persons (5 tables) for sidewalk café outdoor area. Proposed coffee shop hours would be 6am to 3pm and bar use 3pm (happy hour) to midnight weekdays, 1:45 am weekends. Dancing would be in evening hours with a disc jockey, playing music appealing primarily to customers in their 20's and 30's. Two or three employees will operate the facility. The building, built late in the 19th Century, is one of the most visible historic buildings in the Old Oakland commercial district. There is no parking on-site, and the addition of this activity does not trigger a requirement for parking. Because this site will not serve both lunch and dinner with alcohol incidental to dining, a Major Conditional Use Permit is required.

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 for activities in small existing commercial facilities.

CITY OF OAKLAND PLANNING COMMISSION



Case File: CM12-128
Applicant: Christopher Newell
Address: 811 Washington Street
Zone: CBD-P/S-7

The alcoholic beverage use is in a 2200 square foot area of an existing commercial market building area, 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 exempt because Section 15183 of the CEQA Guidelines exempts projects that are consistent with a community plan, general plan or zoning. This project is consistent with the General plan and zoning subject to CUP approval.

GENERAL PLAN ANALYSIS

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

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

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

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

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

ZONING ANALYSIS

The project is located in the Central Business District-Pedestrian (CBD-P) Zone, which requires a Major Conditional Use Permit for an Alcoholic Beverage Sales Commercial Activity. In addition, the regular Conditional Use Permit findings per Section 17.134.050 and special findings for Alcoholic Beverage Sales Commercial Activities per Section 17.102.210 must be made, as well as Design Review findings of Sections 17.136.050 and 17.136.055. The S-7 (historical preservation) findings do not apply because there are no exterior alterations proposed except the patio and a sign permit which will be submitted later.

On February 1, 2000, the Oakland City Council passed Resolution #75490 establishing a "No Net Increase" policy in the number of alcoholic beverage sales commercial activities in Oakland neighborhoods to protect the health, safety and welfare of residents. This Resolution states that new off-sale and on-sale retail alcoholic beverage sales licenses should only be permitted for sites in the Central Business District or for other criteria not related to this case. The applicant will make a substantial and demonstrable effort to obtain an Oakland license.

KEY ISSUES AND IMPACTS

The proposed facility, a daytime coffee shop and night time bar, will provide service to approximately 50 to 90 patrons inside and 15 additional patrons in a sidewalk cafe area. A business of this type is likely to produce police calls on a low to moderate basis, which is typical of such businesses in this area. The proposed use would provide a variety of beverages while generating minimum nuisance due to the implementation of alcohol license restrictions (See Conditions).

Issues reviewed include: Crime Control; Parking; and Historic Preservation.**Crime Control**

Staff consulted Police statistics for the 90 day period ending July 17, 2012 (the application filing date) within a quarter-mile radius in Old Oakland, and found similar or lower crime statistics to those of Uptown (18th Street at Telegraph Avenue) near this site. The current crime statistics were: Aggravated Assault (2), Burglary (6), Narcotics (7), Robbery (6), Simple Assault (11), Theft (37), Vandalism (10), Disturbing the Peace (2), Murder (1) and Vehicle Theft (5). None of the activity has been associated with this specific location; this is the general Old Oakland area. In comparison, in the same time period and radius, crimes occurred in Uptown including but not limited to: Aggravated Assault (4), Burglary (4), Narcotics (0), Robbery (7), Simple Assault (22), Theft (30), Vandalism (11), and Arson (1). Uptown had no Alcohol, Murder or Disturbing the Peace calls. Prior year crime statistics for both compared areas are in Attachment E. This is not exceptionally high for a downtown nightlife area and is comparable to other similar Oakland areas. Adding this activity to Old Oakland is not likely to increase statistical crime.

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

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

Parking

The project has no on-site parking and proposes no increase in parking. A parking lot is not required for the buildings, which were built long before the City's parking regulations were added to the Zoning Code. A new building in the CBD-P (formerly C-52) Central Business District Pedestrian zoning would not require parking for these uses. There are no new buildings proposed and a sidewalk café does not require parking spaces. Nearby parking lots are open to the public, such as the lot across the street with dozens of spaces managed by a private company. Staff has observed vacant spaces in the lot on numerous occasions, with anecdotal evidence that the parking supply exceeds demand, except during Farmers' Markets and special events.

Historic Preservation

The building housing this activity is over 120 years old and is a Historical Property in Old Oakland. No substantial exterior alterations are proposed for the activity except signs and adding a sidewalk café.

ANALYSIS

The applicant chose this Location due to its Old Oakland mixed-use market site. The applicant states that this design would appeal to a market segment which would be drawn to the nearby office buildings, convention center, hotels and other night-life district activities.

The applicant's proposal requires a Major Conditional Use Permit (CUP) for Alcohol Beverage Service in the CBD-P Pedestrian Retail Zoning District. The proprietors intend to secure a Type 48 or similar Alcohol License from the State Alcoholic Beverage Commission (ABC), which allows for selling drinks

by the glass. In March and July, 2012, the Planning Commission approved CUPs for bar in the existing nearby buildings.

It is envisioned that the small size and customer base of the proposed facility will result in limited impacts. Further, immediate neighbors are commercial uses and upstairs live-work units on busy streets. There are other residential buildings nearby, ranging from new condominiums to older single room occupancy hotels. None of these uses are likely to see or hear this activity due to its location at the center of a commercial district between shops and a large hotel.

A Conditional Use Permit would run with the property and the establishment which the applicant proposes could be modified with a different theme or management. However, if this business moves out, a replacement business would be required to comply with the project description and conditions of this CUP, as well as any stipulations on a transferred or new license from the State ABC.

The proposed alcoholic sales activity would reinforce the historical and gourmet tourism concept and help to bring customers to neighboring commercial uses. Therefore, staff concludes that the Findings for the Major CUP, including findings of Public Convenience or Necessity, are fulfilled, as further explained in the Findings Section and through proposed Conditions of Approval.

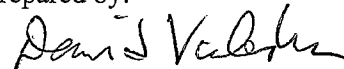
SUMMARY

Staff finds the project meets the intent of the Zoning and General Plan requirements for approval of the Conditional Use Permit, including criteria discussed above. The facility will have no substantial visual or parking impacts, will not increase crime or irrevocably alter historical resources. The facility will bring more visitors to Old Oakland, reinforcing the commercial success which provides revenue to preserve the landmark buildings. Staff concludes that the application merits support.

RECOMMENDATION:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit for Alcoholic Beverage Sales at 811 Washington Street, 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, Planning
and Building

Attachments:

- A. Findings for Approval
- B. Conditions of Approval
- C. Plans and Photographs

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 alcoholic beverage service would satisfy a community need which does not affect livability of the surrounding neighborhood, and will be operated in a small scale which is compatible with neighborhood character. The proposed use would offer beverage service in a neighborhood which derives part of its identity from other nearby gourmet food and drink facilities. Conditions are drafted for this action limiting noise, light, trash/litter, loitering, hours and similar factors to offset any potential for negative effects of alcohol sales.

- 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 alcoholic beverage service will promote availability of quality beverages and enhance the convenience and functional living environment of its customers. The small size of the facility is attractive as warranted by the location and setting, in the recesses of a market building in an area of larger buildings. This is in 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 alcoholic beverage service will function to meet the community's needs for a bar with a gourmet/tourism theme. The operation of the surrounding area is for entertainment, food etc. and this proposal will fit into the area. 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 offices and businesses.

- 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 alcoholic beverage service has existed in this neighborhood since the late 19th Century. 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 is silent on approval of alcoholic beverage sales uses, which Zoning regulations allow by Conditional Use Permit in specified Zones. The General Plan also allows for businesses that will not cause undue nuisance activity. An attractive and well-managed alcoholic beverage service supporting the Central Business District classification 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 alcoholic beverage service is not envisioned to contribute to the same types of loitering and other problems as some other Alcoholic Beverage Sales facilities such as strip-commercial liquor stores or bars serving a greater variety of alcoholic beverages. City crime statistics for recent months show that overall crime rates near the applicant's site are similar to other Downtown commercial areas which are not major crime locations. The neighborhood streets have sufficient capacity to support this small facility without causing undue traffic or other problems.

- 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 facility will be over 300 feet from community-recreational parks, with few nearby churches and temples and is unlikely to adversely affect them. There are no public schools nearby. While Old Oakland is visited by minors and their families, the proposal's restricted business plan ameliorates the issue. This facility design has built-in sound attenuation characteristics within the structure. Staff believes that the alcoholic beverage service will protect nearby uses from adverse effects by conditions of approval and by the nature of the project itself.

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

The facility entrance provides disabled access. The 50 to 150 projected daily customers would be mostly spaced 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 late 19th Century architectural theme compatible with nearby facilities and is similar to some of its neighbors, including size and shape of building volumes. The facility is of an architectural character that harmonizes with and enhances the area. The building will be preserved.

- 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 a short walking distance to BART, AC Transit, and to parking garages, which supplement 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, including live-work units upstairs in the adjacent building and multifamily dwellings on nearby blocks, are sufficiently distant and/or buffered by building mass to limit noise effects. Existing roadway and freeway noise creates an ambient level which may mask some of the store's noise effects. Rows of commercial buildings block sound transmittal past these blocks. Attached conditions are provided to ameliorate some of the potential noise effects.

Section 17.102.210(B) - Special Use Permit Criteria

Finding C.1.below is not required for facilities in the Central Business District:

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.**

The property is within the Central District, therefore this separation is not a requirement.

17.102.210-B-3: Public Necessity and Convenience Findings (Central Business District Sites)

- 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 of a nostalgic theme different from that generally available to the public on this street, 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 all provide the particular customer service which the applicant proposes, with fast service, dignified but informal setting and affordable alcoholic beverage service combined with a coffee shop.

- 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**

An alcoholic beverage service would be compatible with and complimentary to other businesses in the Old Oakland gourmet business concentration, providing economic benefits to the area. Such businesses serving alcoholic beverages in the Central Business District are not reported by consulted Police officers to not cause significant increases in calls for police 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 are a common use in downtown areas. The applicant's activity proposes alcoholic beverage service primarily to facilitate gathering for downtown workers nearby and for other customers including tourists.

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 **July 14, 2012** and submitted **July 16, 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: On-site sales area of alcoholic beverage products with hours limited 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 of Oakland reserves the right at any time during construction, to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c. Violation of any term, Conditions or project description relating to the Approvals is unlawful, prohibited and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and /or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these Conditions if it is found that there is violation of any of the Conditions, or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement Actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. Signed Copy of the Conditions

With submittal of a demolition, grading and building permit.

A copy of the approval letter and Conditions shall be signed by the property owner 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 City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b. Within ten (10) calendar days of the filing 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 and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the 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.
- g) Applicant shall use temporary power poles instead of generators where feasible.

SPECIFIC PROJECT CONDITIONS

14. Hours.

Ongoing.

The business may be open to the public for business from 6am to midnight daily, with alcoholic beverage service only after 3 (three) pm, until midnight weekdays and 1:45 am Friday and Saturday nights. Any work outside these hours shall solely be staff preparation and not open to the public.

15. Signage.

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-five 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 if required by the Zoning Manager.

c. Ongoing.

Graffiti shall be removed from the premises within 48 hours (2 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. 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 to the satisfaction of the Zoning Manager.

19. Security

Ongoing

The applicant shall provide one qualified security guard for the first fifty patrons, and one additional security guard for each additional increment of patrons (one to fifty patrons per increment) during hours when alcoholic beverages are served.

20. Sidewalk Cafe

Prior to submittal for building permits

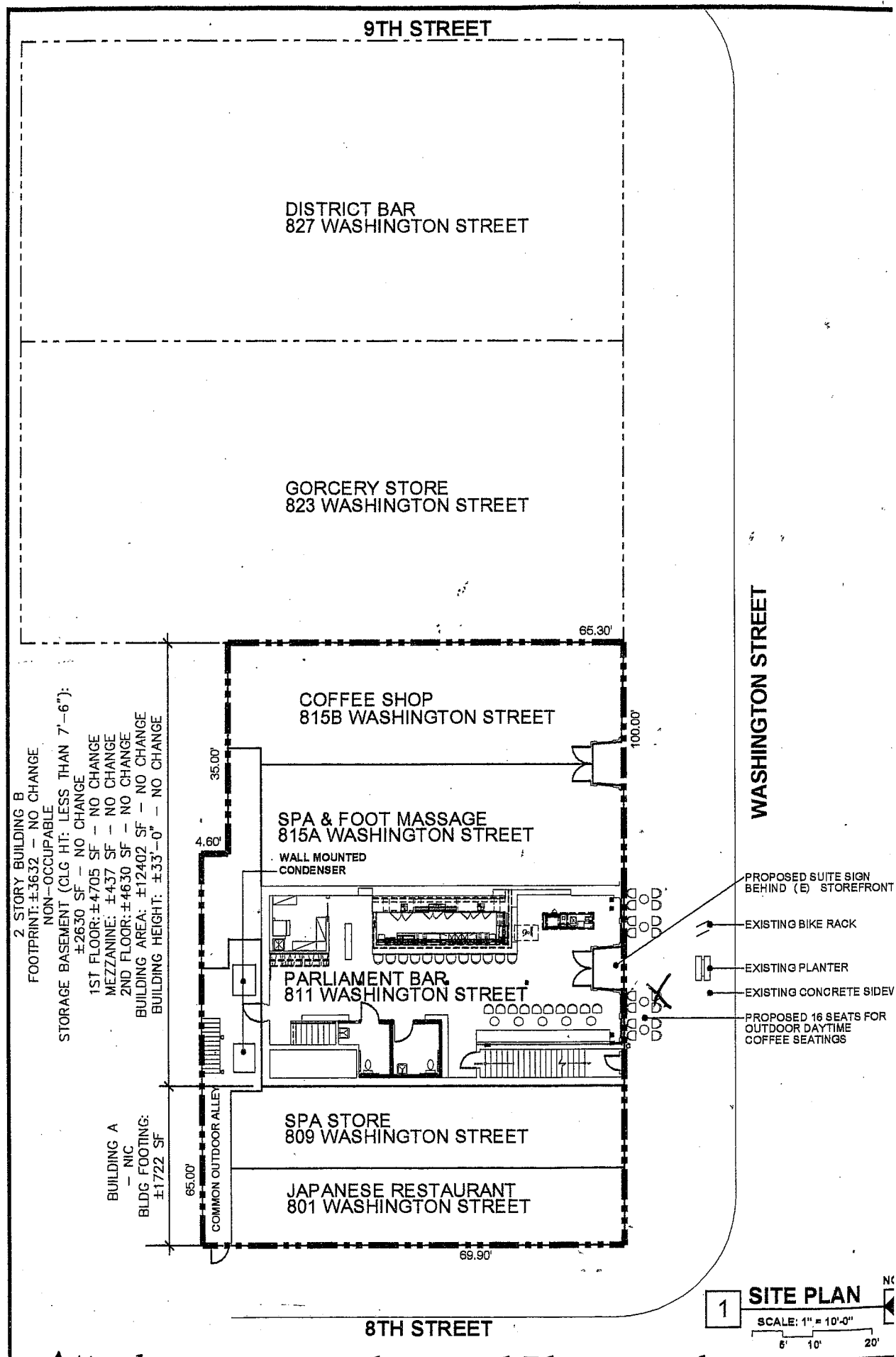
The applicant shall provide plans for the sidewalk café railing and improvements to the Director of Planning for approval prior to construction

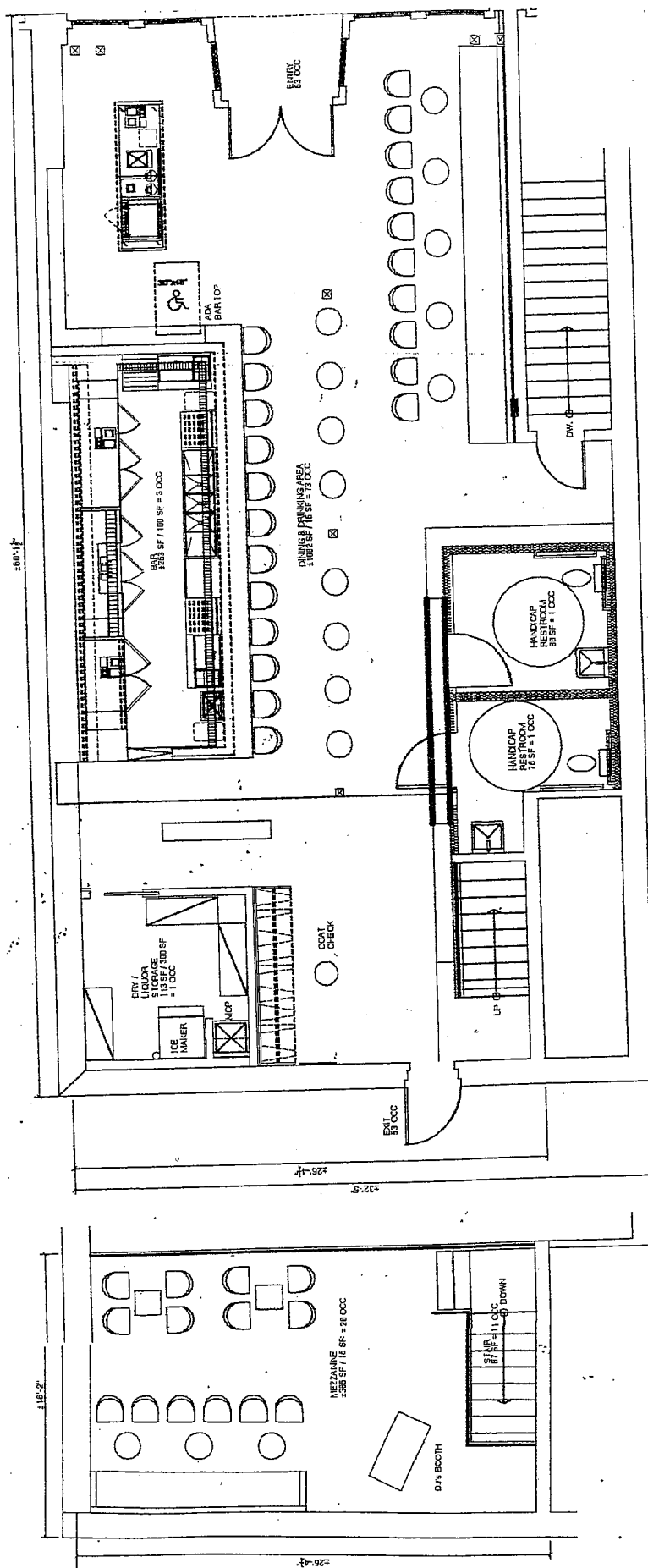
SPECIFIC CONDITIONS RELATED TO ALCOHOL SALES**21. Conformance with State Department of Alcoholic Beverage Control regulations*****Ongoing.***

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

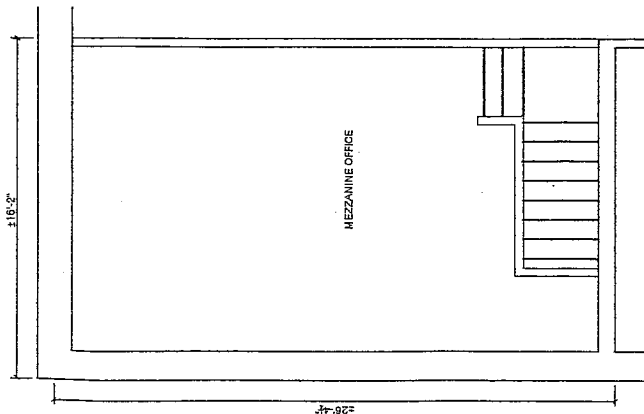
The applicant shall submit a letter to staff signed by the applicant addressed to the State Department of Alcoholic Beverage Control ("ABC") agreeing to execute a Petition to Condition License in accordance with Section 23800 et seq. of the ABC Act stipulating that they wish to include conditions number 14, 15, 16, 17, 18, 19, 20 and 21 in the conditions of their ABC license. The letter shall request the ABC to condition its license to those uses allowed under City Permits which are also under the jurisdiction of the ABC. If the applicant fails to make such request to the ABC to include the above conditions in its Petition to Condition license, staff may initiate enforcement proceedings pursuant to Condition of Approval 5C including revocation.



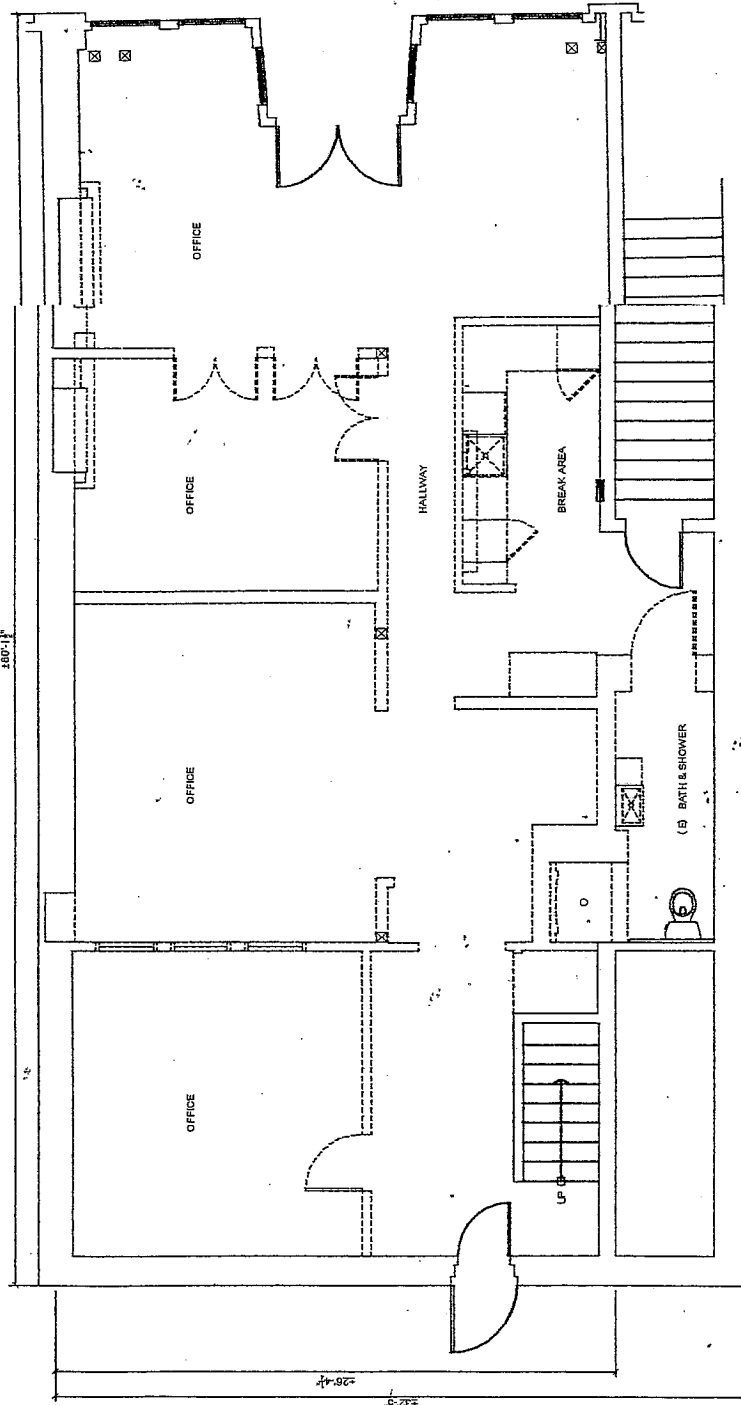


A MEZZANINE

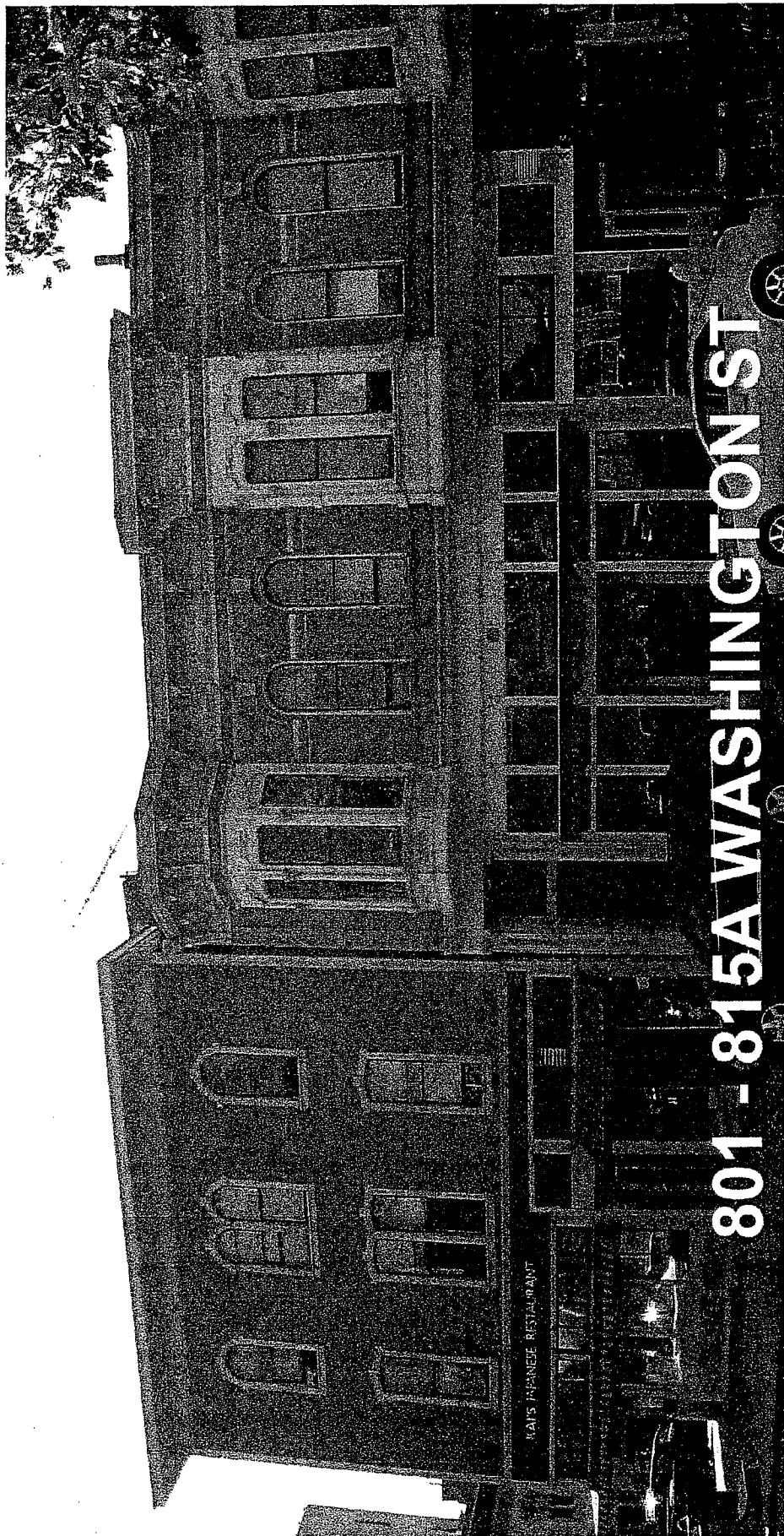
B 1ST FLOOR

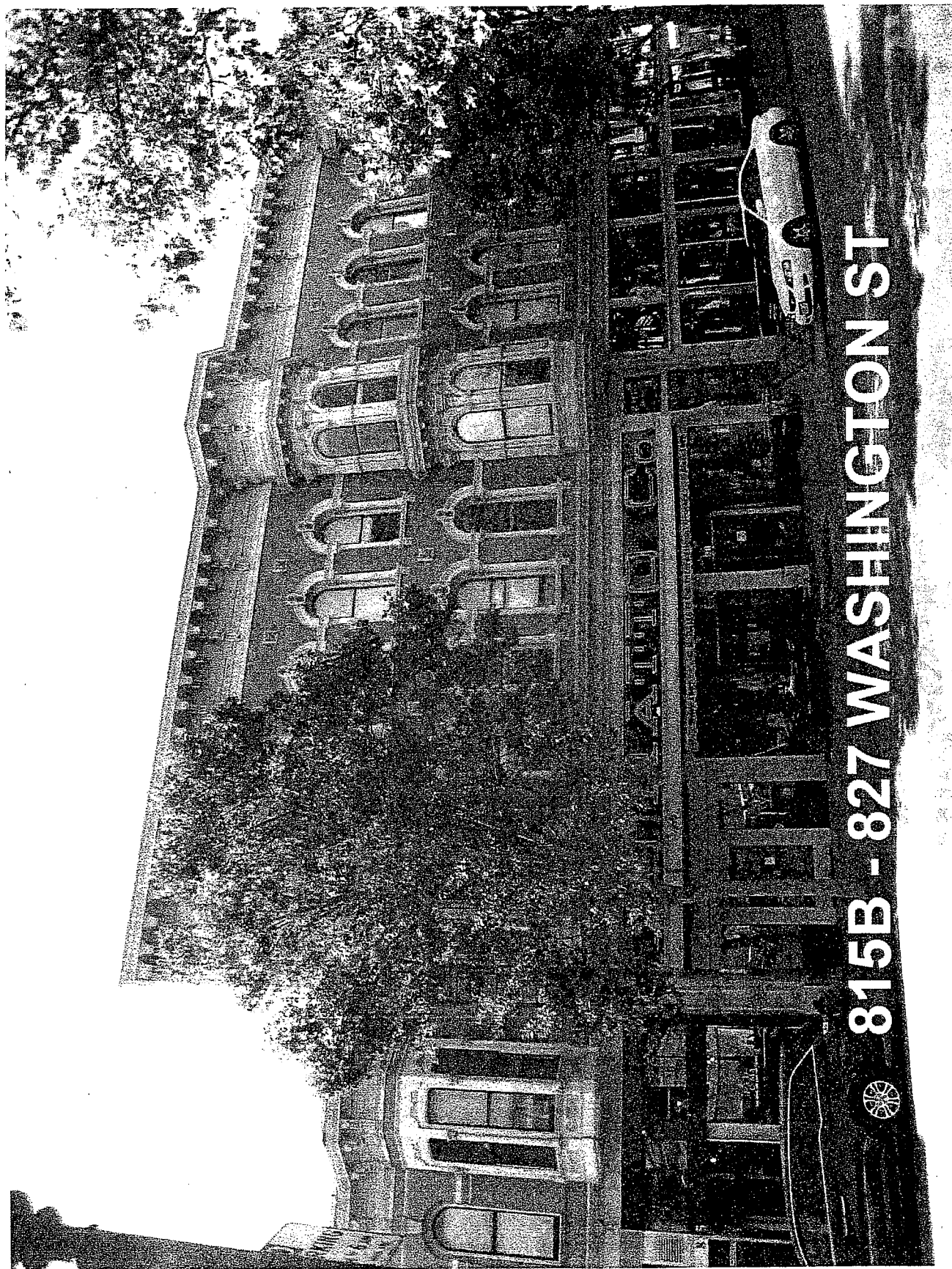


A MEZZANINE



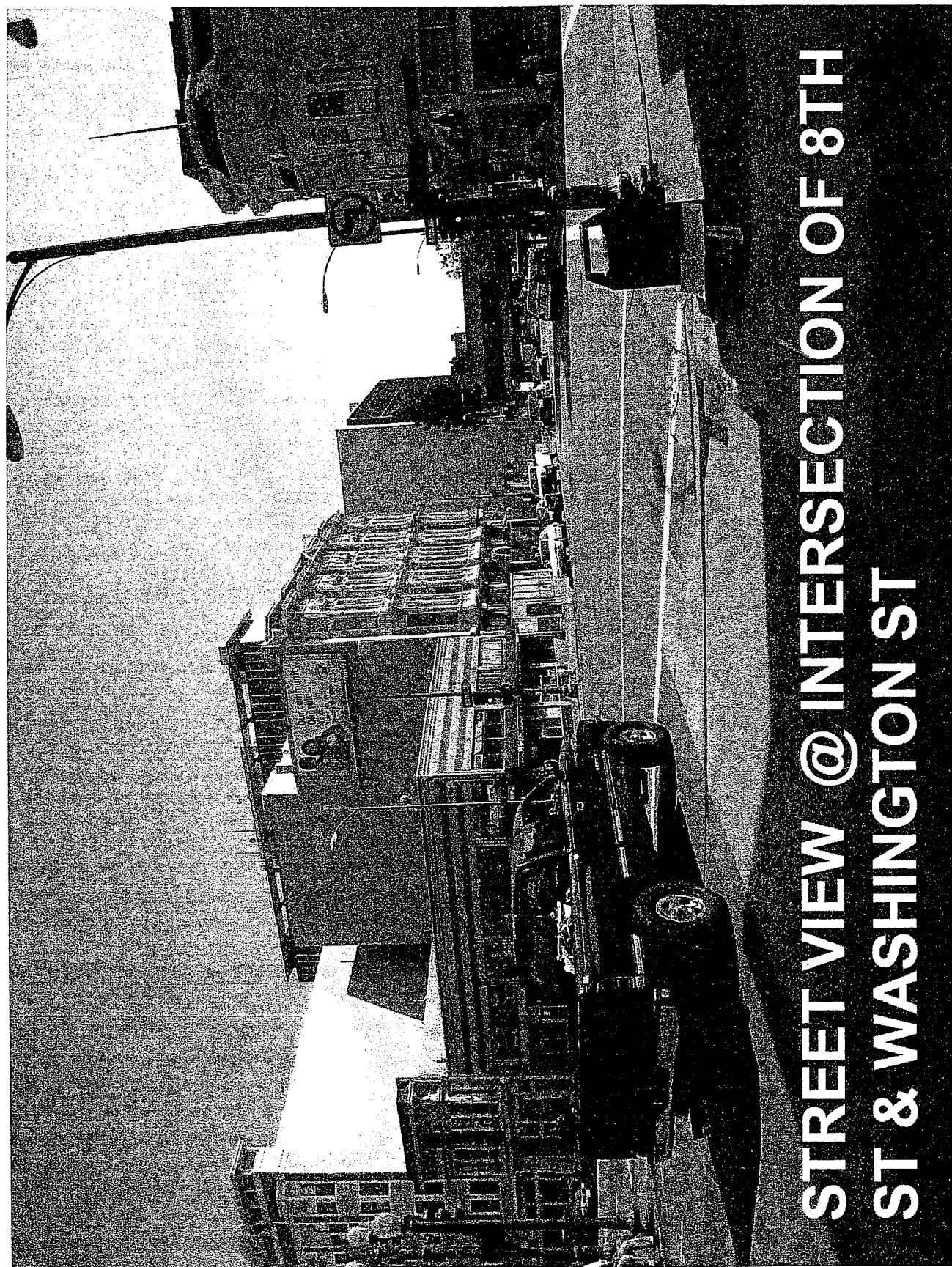
B 1ST FLOOR



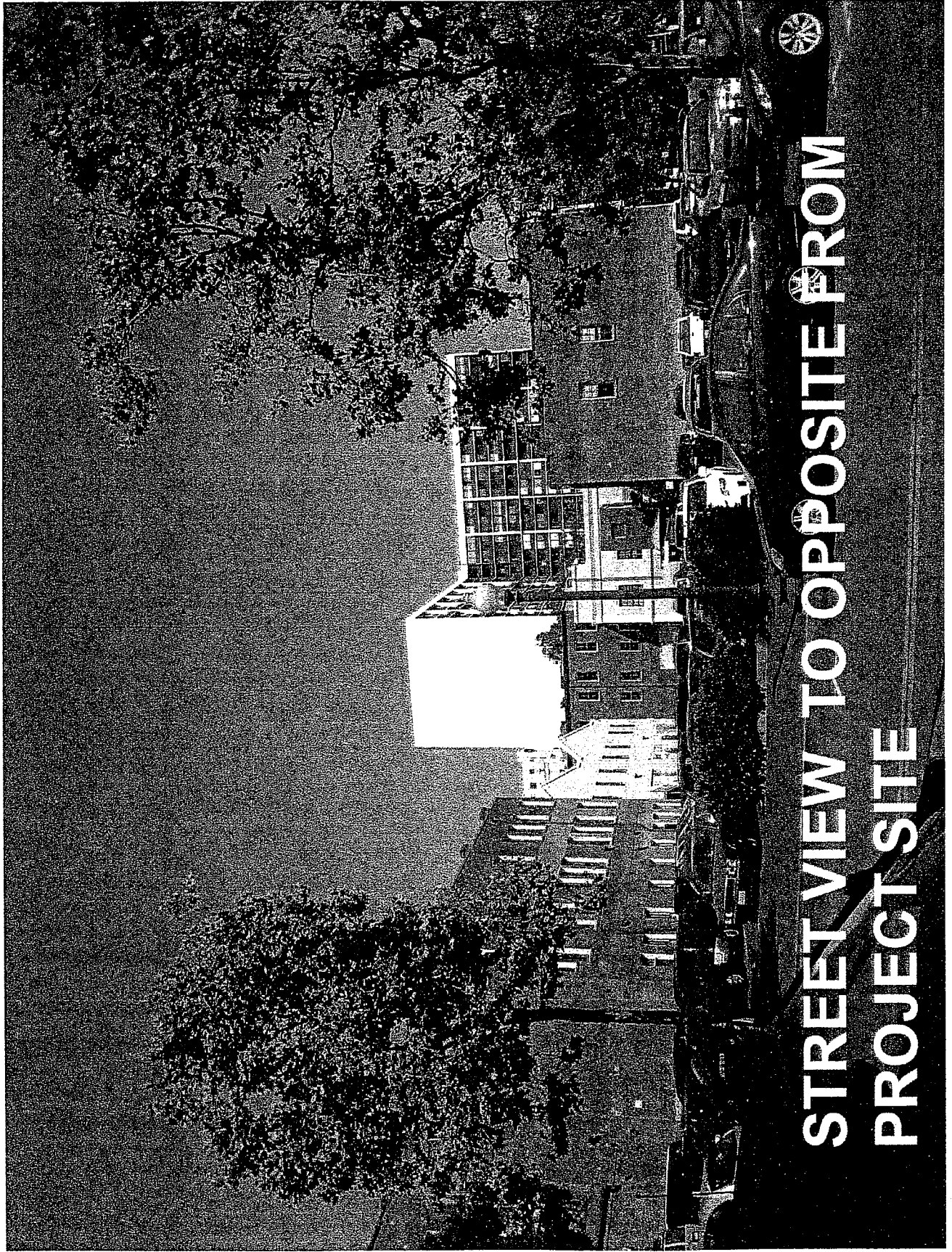


815B - 827 WASHINGTON ST

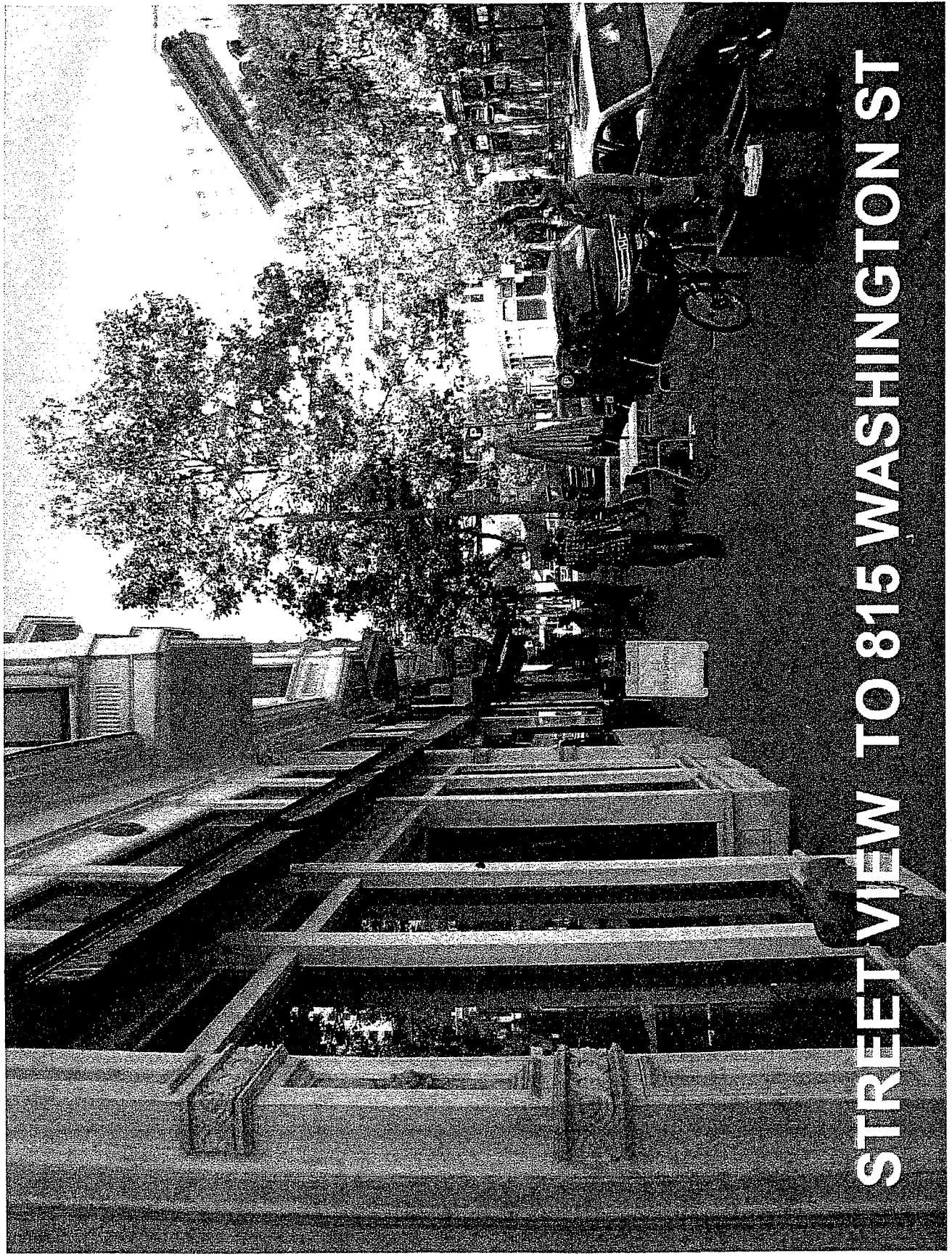




**STREET VIEW @ INTERSECTION OF 8TH
ST & WASHINGTON ST**



**STREET VIEW TO OPPOSITE FROM
PROJECT SITE**



STREET VIEW TO 815 WASHINGTON ST