

Oakland City Planning Commission

Case File Number CM11-175

STAFF REPORT

October 19, 2011

Location:	311 Broadway (APN 001-0137-005-00)
Proposal:	Allow sales of alcoholic beverages and group assembly
Contact Person/Phone Number:	Douglas Kinsey, Elderwood & Belgrave LLC, (510)282-1413
Owner:	Leon & Jessica Zekster Trs.
Case File Number:	CM11-175
Planning Permits Required:	Major Conditional Use Permit to allow Alcoholic Beverage Service, pursuant to OPC Section 17.102.210; and Group Assembly for entertainment events
General Plan:	Estuary Plan—Retail, Dining—ES7
Zoning:	C-45/S-4 Community Shopping Commercial District/Design Review Combining Zoning District
Environmental Determination:	Categorically Exempt under California Environmental Quality Act (CEQA) Guidelines, Section 15303
Historic Status:	Designated Historic Property, B*2+, ASI contributor, major importance (1861-62), Lower Broadway Historic District
Service Delivery District:	Metro
City Council District:	3
Staff Recommendation:	Approve Subject to Conditions
Action to Be Taken:	Decision on Application Based on Staff Report
Finality of Decision:	Appealable to the 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 as a bar with cabaret in an existing commercial building at 311 Broadway in the Jack London Square area.

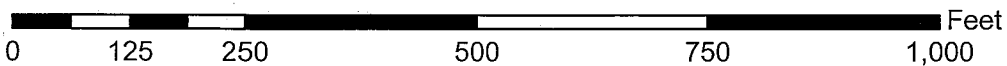
PROJECT DESCRIPTION

The applicant proposes to utilize approximately 2,000 square feet of the building for a bar with Alcoholic Beverage sales within an existing commercial property. The applicant plans to operate a traditional bar with a maximum capacity of 70 persons. Proposed hours would be 4 pm to 2 am and is intentionally not open during school hours. The applicants plan for the interior of their bar to have a unique Gold Rush/Victorian history style. The applicant plans to serve snacks but would not be a Restaurant. The facility would be a cabaret and dancing is planned. Up to 12 employees will operate the facility. The building, built in the middle of the 19th Century, is one of the older historic buildings in the Jack London Theaters night-life district. There is no parking on-site.

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 small existing or new commercial facilities,

CITY OF OAKLAND PLANNING COMMISSION



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Address: 311 Broadway
Zone: C-45/S-4

Respectively, where the building is less than 2,500 square feet in area. The alcoholic beverage use and food service area is in a 2,000 square foot area of an existing commercial 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. Section 15183 provides a separate CEQA exemption for projects consistent with a community plan, general plan or zoning. This project is consistent with the General plan and zoning subject to CUP approval.

ANALYSIS

The applicant chose this 311 Broadway location for the business due to its proximity to the Jack London Square and Old Oakland areas. The planned business would be a nostalgia-oriented traditional bar with Gold Rush/Victorian historical interior wall art mixed with exposed brick and vintage-style papered walls, lounge chairs and barstools. The applicant states that this design would appeal to a market segment which would be drawn to the nearby night-life district.

The applicant's proposal requires a Major Conditional Use Permit (CUP) for Alcohol Beverage Service in the C-45 Community Shopping Commercial District/S-4 Design Review Combining District. The proprietors intend to secure a Type 48 Alcohol License from the State Alcoholic Beverage Commission (ABC), which is for bars as distinguished from restaurants. A CUP is also required for cabaret activities (Group Assembly).

It is envisioned that the small size and localized customer base of the proposed facility will result in limited impacts. Further, immediate neighbors are commercial uses on a busy street. The nearest new large residential units development is the Ellington tower, but there are few other residential buildings nearby.

The business is not expected to increase crime in this vicinity. Overall City of Oakland Police Department crime statistics for the area were similar to statistics for Downtown/Civic Center commercial areas, as shown on Attachment E. There have been crime incidents at prior bars and clubs at this address. A Police Officer with the City's Alcoholic Beverage Action Team (ABAT) has issued a letter finding this future business at less risk of crime generation than past businesses (Attachment F). While some crime does occur in the area, staff and the applicant believe the proposed business will not significantly contribute to crime levels, with appropriate business oversight and adherence to Conditions of Approval.

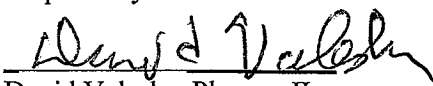
A Conditional Use Permit would run with the property and the quality establishment which the applicant proposes could be modified with a different theme or management. However, if this business moves out, a replacement business would be required to comply with the project description and conditions of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

In the Jack London Square area, 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.

RECOMMENDATION:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit for Alcoholic Beverage Sales and for Group Assembly, at 311 Broadway, based on findings and subject to the attached conditions.

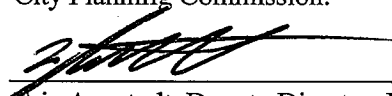
Prepared by:


David Valeska, Planner II

Approved by:


SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:


Eric Angstadt, Deputy Director, Planning
Community & Economic Development Agency

Attachments:

- A. Findings for Approval
- B. Conditions of Approval
- C. Plans and Photographs
- D. Applicant and Neighbor Correspondence
- E. Crime Statistics, October 2011
- F. ABAT Letter, Officer Jen Sena, September 2, 2011

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 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. The draft approval contains conditions 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 with snack food service and enhance the convenience and functional living environment of its customers. The small size of the retained existing facility is attractive as warranted by the location and setting, a background building in an area of larger buildings. This is near 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 including daily use as well as small celebrations. This facility would have less traffic, noise and light than a similar business might have offered in a larger format. This facility complements the offerings of nearby existing 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 mid-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 allows for review and approval of alcoholic beverage sales uses by Conditional Use Permit. The General Plan also allows for businesses that will not cause undue nuisance activity. The Estuary Plan Retail and Dining land use category envisions a wide range of retail, restaurant and specialty stores along with promoting mixed-use developments. An attractive and well-managed alcoholic beverage service at this location will conform to adopted plans.

Section 17.102.210 (A) - Special Use Permit Criteria:

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

The proposed 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 liquor stores. City crime statistics for recent months show that overall crime rates near the applicant's site are similar to 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, churches and temples and is unlikely to adversely affect them. There no public schools nearby. While Jack London Square is visited by minors and their families, the proposal's restricted hours (not open before 4 pm) ameliorate 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.

- 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 arriving late in the day, into the 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 19th Century architectural theme with several 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, ferry service 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 new major dwellings are in the new Ellington apartment complex and are sufficiently distant to limit noise effects. Existing rail, ship 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, including refraining from open hours before 4 pm and lighting controls.

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/historical 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 provide the full customer service which the applicant proposes, with fast service, dignified but informal setting and affordable alcoholic beverage service.

- 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 Jack London Square/Old Oakland gourmet business concentration, providing economic benefits to the area. This type of use is reported 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 social dining and 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 **September, 2011** and submitted **September 7, 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: On-site sales area of alcoholic beverage products and Group Assembly (cabaret), 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 4 pm to 1:45 am daily, and thus closed for business during regular school hours. 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 before 4 pm on Friday and Saturday only, subject to written approval of the Zoning Manager.

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.

f. *Ongoing*

The operator shall have working surveillance cameras with coverage of the interior and exterior of the building. The exterior cameras shall cover at a minimum of 25 feet beyond the premises. The footage of the cameras shall be recorded to a device and kept for a minimum of 20 days. The operator shall provide a copy of any surveillance footage at the request of any police officer or ABC investigator.

17.Trash and litter***Prior to commencement of use and ongoing.***

The applicant/property owner shall install and maintain at least one (1), non-flammable trash can located near the entrance of the store. Said trash receptacle shall be emptied as needed to avoid overflow and/or adverse odors.

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

A crowd control/anti-loitering plan shall be reviewed and approved by the Zoning Manager prior to occupancy. The applicant shall provide staff on duty from opening until closing on days when the business is open to the public, including security officers as deemed necessary by the Zoning Manager, particularly during late night and weekend hours of operation. Staff shall patrol the interior and exterior as necessary to achieve crowd control and to deter nuisance, loitering and crime.

19. 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.

SPECIFIC CONDITIONS RELATED TO ALCOHOL SALES

20. Conformance with State Department of Alcoholic Beverage Control regulations

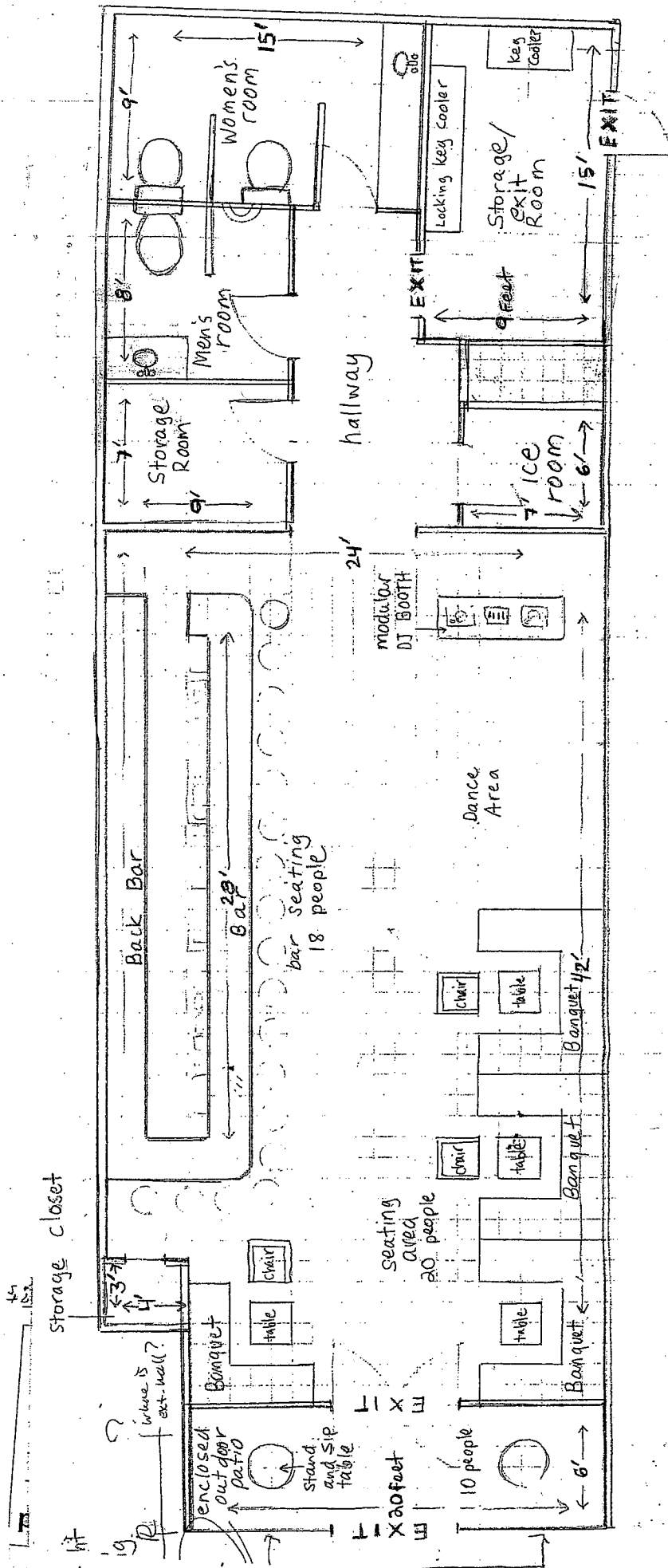
Ongoing.

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 Operating Standards of the Business and Professions Code and local Performance Standards, 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.

21. Inclusion of conditions in State Department of Alcoholic Beverage Control license.

Prior to signing of State Department of Alcoholic Beverage Control zoning affidavit.

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

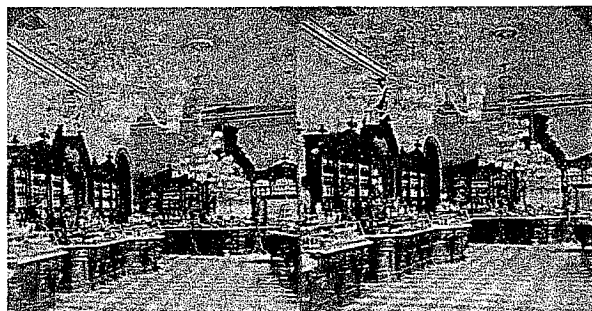


Attachment C: Plans and Photographs

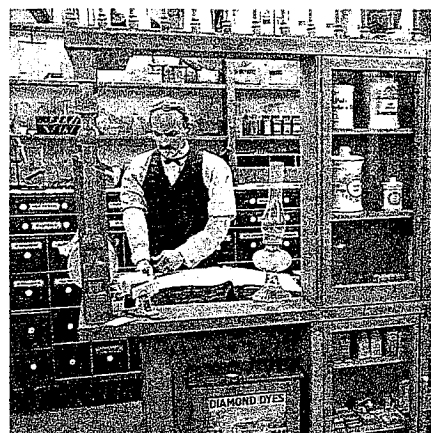




**"REMEDIES FOR THE
PRESSURES AND AILMENTS
OF 20TH CENTURY LIFE"**



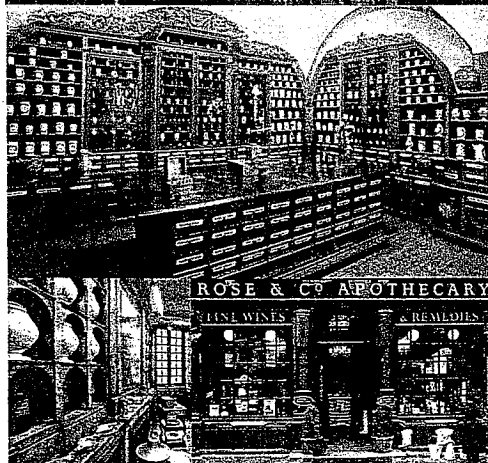
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CHEMIST AT WORK



**"HEALING TONICS
AND EXOTIC ELIXIRS
FOR ALL MANNERS
OF MALIGNANT
HUMOUR"**

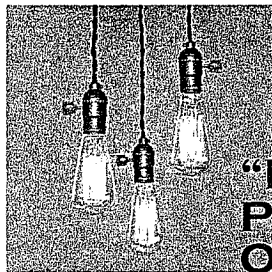
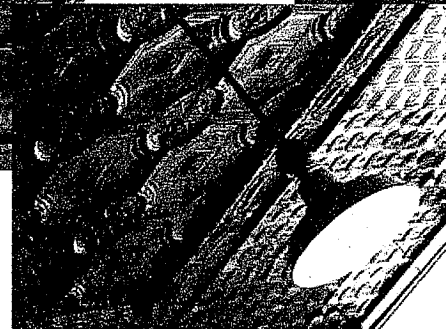
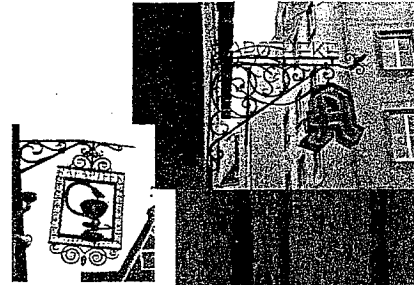
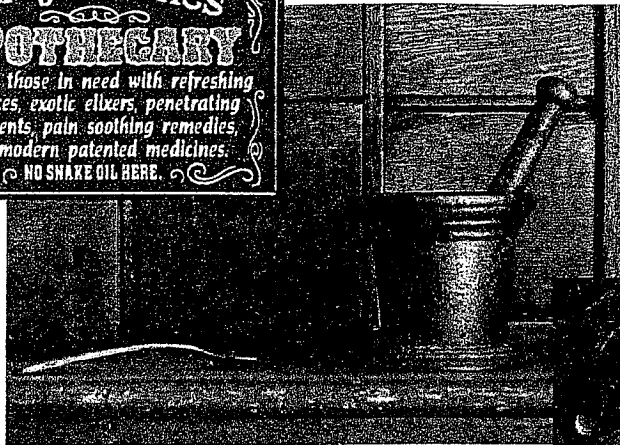


HISTORIC APOTHECARY & MUSEUM

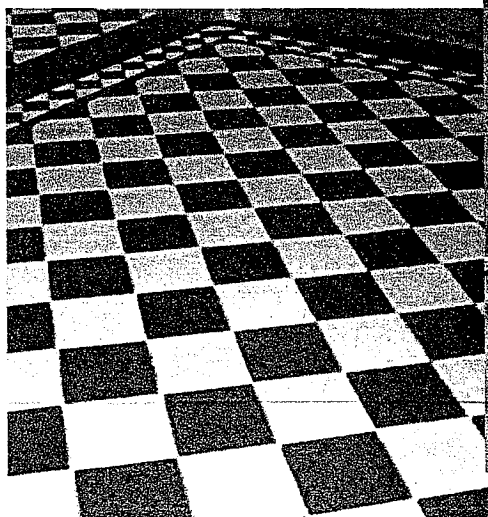


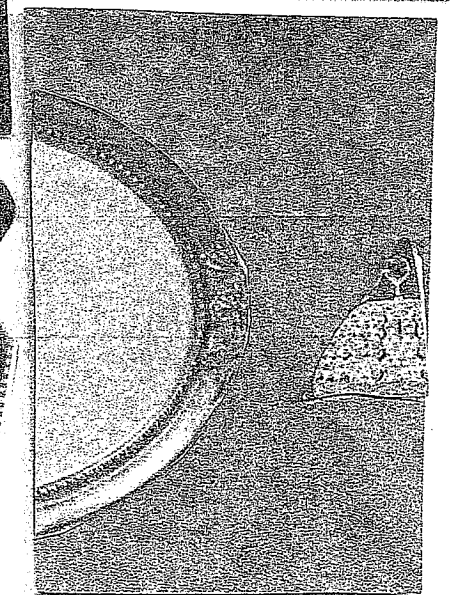
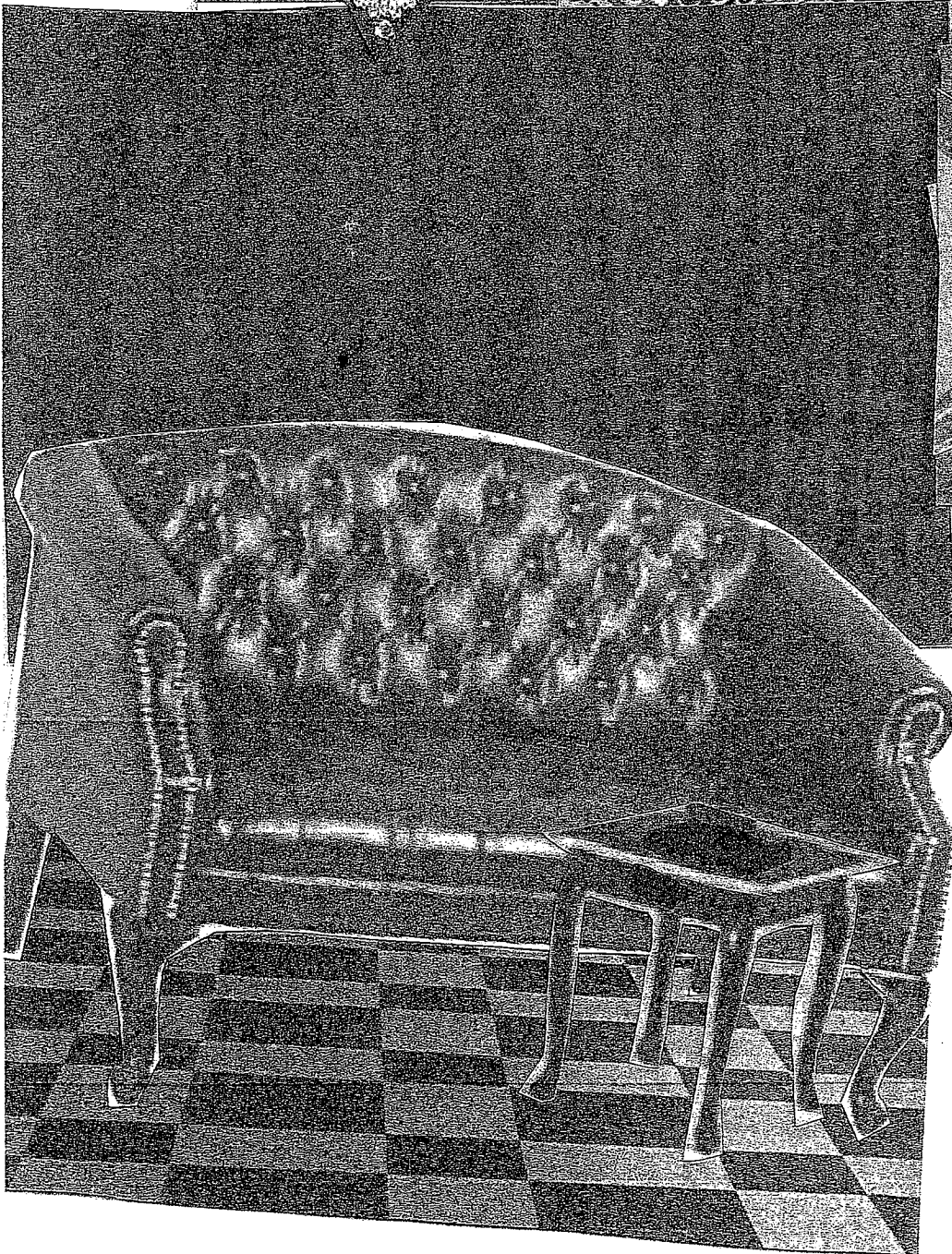
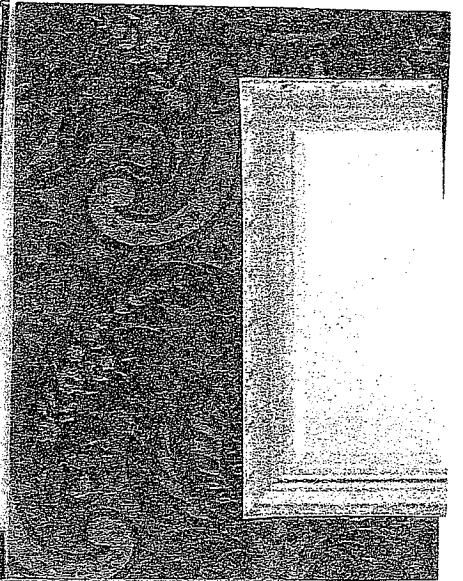
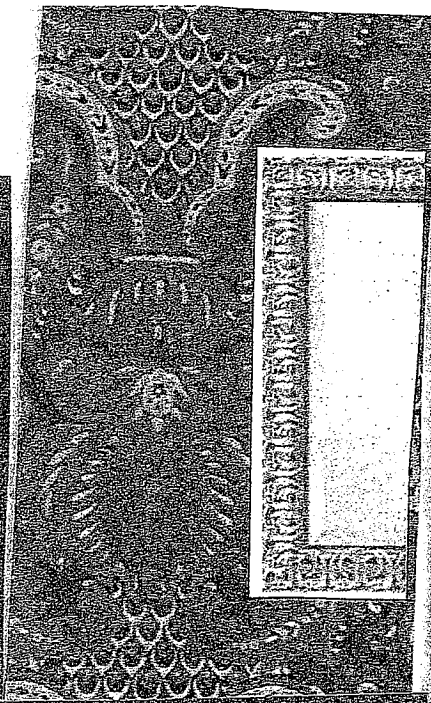
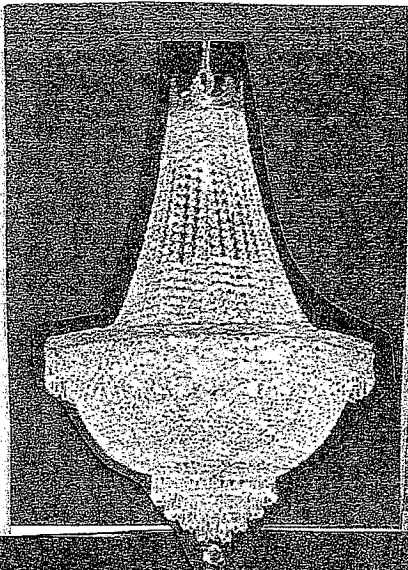
VICTORIAN ERA BAR

Terry L. Jones
APOTHECARY
Serving those in need with refreshing
poultices, exotic elixirs, penetrating
emollients, pain soothing remedies,
and modern patented medicines.
NO SNAKE OIL HERE.



**"REMEDIES FOR THE
PRESSURES AND AILMENTS
OF 21ST CENTURY LIFE"**





Elderwood & Belgrave LLC

AUGUST 25TH, 2011

RACE DRIVE
O, CA 94530.

Telephone
510.282-1413

Description of proposal:

To acquire the restaurant/bar, Clancy's, at 311 Broadway and convert it to a high end neighborhood bar/intimate 49 capacity venue, featuring dancing and occasional select live musical entertainment of the Folk, Americana, Rock and Indy music genres.

We are seeking to transfer the existing type 47 liquor license to a type 48 license while having some of the conditions removed. ABC conditions attached.

A cabaret permit will be acquired for the purpose of the aforementioned dancing and live entertainment.

Our business plan calls for hours of operation between 4PM and 2AM with service no later than 1:45AM, per the recommendation of Officer Jennifer Sena O.P.D., Alcoholic Beverage Activities Team.

We plan on making lease holder improvements such as wall treatments, interior lighting, new interior & exterior paint, a new exterior sign, new flooring, and countertops.

// We anticipate a staff of twelve employees, including ourselves, Douglas Kinsey Sangalang and John Nackley as full time operating managers.

ATTACHMENT E**CRIME STATISTICS, 311 BROADWAY**

90 days prior to October 3, 2011, ¼ mile radius

Compared Downtown 90 days prior to June, 2011, ¼ mile radius

	311 Broadway	17 th & Telegraph
Alcohol	1	2
Aggravated Assault	2	5
Simple Assault	2	13
Burglary	4	4
Disturbing the Peace	2	0
Narcotics	1	3
Robbery	5	5
Theft	28	42
Vandalism	5	4
Vehicle Theft	14	2

CITY OF OAKLAND

Memorandum

To: Community & Economics Development Agency
Attn: Dave Valeska
From: Off. Jennifer Sena
Date: 02 SEP 11

Re: Elderwood & Belgrave LLC
CUP for alcohol sales, 311 Broadway

This memo is to provide a brief overview of my contact and recommendations for prospective proprietors of a public premise bar located at 311 Broadway.

The Alcoholic Beverage Action Team (ABAT) unit met with Mr. J. Edward Nackley II, and Mr. Douglas Kinsey who are the founding partners of Elderwood & Belgrave LLC. During the meeting Mr. Nackley and Mr. Kinsey advised of their intention to purchase the property at 311 Broadway, *formerly known as Clancy's aka Sweet Jimmys*, and to operate the business as a public premise bar, with a type "48" ABC license, which is a 21 and older establishment.

During the meeting Mr. Nackley and Mr. Kinsey were aware of the violent past activity associated with the location from the previous tenant, and were willing to incorporate crime prevention measures to reduce the likelihood of violence occurring within or near the property.

It is advised that the following recommendations listed in this memo be implemented on the business prior to issuance of a Conditional Use Permit.

1. Hours of operation and sales of alcoholic beverages only occur daily 3 pm-1:45 am.
2. The sidewalk in front of the premise shall be swept daily, including the areas adjacent to the premise within 25 feet.
3. Graffiti applied to the building shall be removed within 48 hours of application
4. Loitering is prohibited on or around the premise.
5. The operator shall equip the front of the premise with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the front of the premise.

Elderwood & Belgrave LLC
CUP for alcohol sales, 311 Broadway

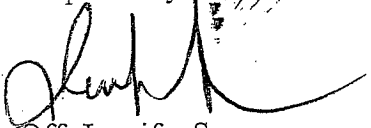
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6. The operator shall have working surveillance cameras with coverage of the interior and exterior of the building. The exterior cameras shall cover at a minimum of 25 feet beyond the premise. The footage of the cameras shall be recorded to a device and keep for a minimum of 20 days. The operator shall provide a copy of any surveillance footage at the request of any police officer or ABC investigator.

It should also be noted that Mr. Nackley and Mr. Kinsey are in no way associated with the previous tenants or business operator of *Clancy's aka Sweet Jimmys*. It is therefore unlikely that the violence previously associated with the former business operators will resurface. Additionally, the operating conditions listed above utilize CPTED principles that will provide added security in and around the premise.

Please feel free to contact me with any additional questions.

Respectfully submitted,



Off. Jennifer Sena
Police Officer
Oakland Police Department
ABAT
510-777-8673

CC. Elias Ferran, Attorney, City of Oakland
Elderwood & Belgrave LLC: Mr. Douglas Kinsey; Mr. J. Edward Nackley II