

Oakland City Planning Commission

Case File Number CM12-174

STAFF REPORT

November 7, 2012

Project Name:	Lost and Found Beer Garden
Location:	2040 Telegraph Avenue (APN008-0649-001-01)
Proposal:	Allow Alcoholic Beverage Sales Activity
Contact Person/Phone Number:	Christi Vaughn (510) 421-7116
Owner:	Trilateral LLC
Case File Number:	CM12-174
Planning Permits Required:	Major Conditional Use Permit to allow an Alcoholic Beverage Sales Activity, in a 3,520 square foot building and adjacent 7,000 square foot open area as sidewalk café, in Uptown 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:	Not a Potential Designated Historic Property
Service Delivery District:	Metro
City Council District:	3
Commission Action to Be Taken:	Approve Staff Recommendation
Appeal:	To City Council
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 in an existing commercial building and a new open garden in the Uptown Oakland area, adjacent to the Paramount Theater.

PROJECT DESCRIPTION

The applicant proposes to utilize 3,520 square feet of a former office building for a bar with Alcoholic Beverage sales within a 10,000 square foot commercial parcel, as shown on the attached floor plan. The applicant plans to operate with typically 35 persons seated indoors and a similar number in the on-site café outdoor area. Proposed coffee shop hours would be 10 am to 1:45 am. Up to 20 employees will operate the facility. The building was built in the mid-20th Century in the Uptown commercial district and is not historic. The applicant has opened other Central Business District businesses, Papa Buzz and the Layover. Attachment D describes the applicant's business plan and concept. Portable and other fixtures would be placed in the paved area behind the building to serve outdoor diners: tables and chairs, trellises to support strings of bulb lights, outdoor gas heaters, planter boxes. Decorative fencing would enclose the space.

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 15303 and 15183 of CEQA Guidelines exempt from environmental review for activities in existing commercial facilities.

CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: CM12-065
Applicant: Christi Vaughn (Lost & Found Beer Garden)
Address: 2040 Telegraph Avenue
Zone: CBD-P

The alcoholic beverage use is planned for an existing commercial building and paved 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 the activity is consistent with the LUTE at this location.

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.

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 can only be permitted for sites in the Central Business District. Therefore, the no net increase rule does not apply to this project.

KEY ISSUES AND IMPACTS

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

Crime Control

The proposed facility, a daytime coffee shop and night time bar, will provide service to approximately 35 patrons inside and 35 additional patrons in a sidewalk cafe area. Businesses of this type in this location are likely to produce police calls on a low to moderate basis. The proposed use would provide a variety of beverages while generating minimum nuisance due to the implementation of alcohol license restrictions (**See Conditions**).

Staff consulted Police statistics for the 90 day period ending October 3, 2012, within a quarter-mile radius in Uptown Oakland. The current crime statistics were: Alcohol, 1; Aggravated Assault, 7; Simple Assault, 13; Burglary, 6; Disturbing the Peace, 1; Narcotics, 1; Murder, 0; Robbery, 12; Theft, 52; Vandalism, 6; Vehicle Theft, 5. This is not exceptionally high for a downtown nightlife area and is comparable to other similar Oakland areas. Adding this activity to Uptown 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 Alcoholic Beverage Action Team (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

A new alcoholic beverage activity or facility in the CBD-P 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 such as the YMCA parking structure are open to the public and the area is well served by local and regional mass transit options.

Noise and Light

The outdoor beer garden would produce noise and light toward Telegraph Avenue and Grand Avenue until closing time (1:45 am). Neighboring facilities and activities generally would not be sensitive to three dozen patrons in the beer garden. Commercial facilities nearby include the Paramount Theater, Sears and various restaurants. The site is one block from the Uptown (Forest City) housing development with hundreds of new dwellings. No one is likely to be kept awake or directly effected by the applicant's proposal due to its limited size and to the various buildings in the vicinity which serve to intercept some of the sound and light. These activities are appropriate to a Downtown location.

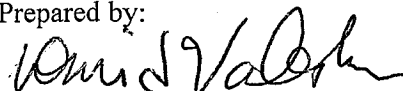
SUMMARY

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 impacts, will not increase crime or affect nearby historical resources. The facility will bring more visitors to Uptown Oakland, reinforcing the commercial success which provides revenue to preserve the Uptown's momentum as a night life district. Staff concludes that the application merits support.

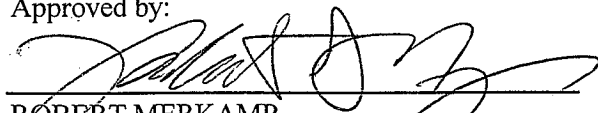
RECOMMENDATION:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit for Alcoholic Beverage Sales at 2040 Telegraph Avenue, based on findings and subject to the attached conditions.


Prepared by:


David Valeska, Planner II

Approved by:


ROBERT MERKAMP
Acting Zoning Manager

Approved for forwarding to the
City Planning Commission:


SCOTT MILLER, Interim Director, Planning
and Building

Attachments:

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

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

This proposal meets the required findings under the Oakland Planning Code. Required findings are shown in **bold** type; explanations as to why these findings can be made are in normal type.

Section 17.134.050 (General Use Permit Criteria):

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

The proposed 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, boxed in within 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 mid-20th 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 few public schools nearby other than the School for the Arts and private charter schools. Being located in Uptown's nightlife district has not adversely affected these schools and one more bar will not affect them. While Uptown 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 because of the positions of structures. 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 100 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 mid-20th 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.

Any 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, such as Uptown multifamily dwellings a block away, are sufficiently distant and/or buffered by building mass to limit noise effects. Existing roadway noise creates an ambient level which may mask some of the business'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 garden 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, garden 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 Uptown 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 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 **September 12, 2012** and submitted **September 12, 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. Outdoor dining areas, signs and minor changes will be subject to a subsequent Small Project Design Review pursuant to Section 17.136.050 of the Oakland Planning Code.

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 10am to 1:45 am. Alcohol may only be served after 11:30 am. 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 Café***Prior to submittal for building permits***

The applicant shall provide plans for the sidewalk café and outdoor dining improvements to the Director of Planning 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 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.

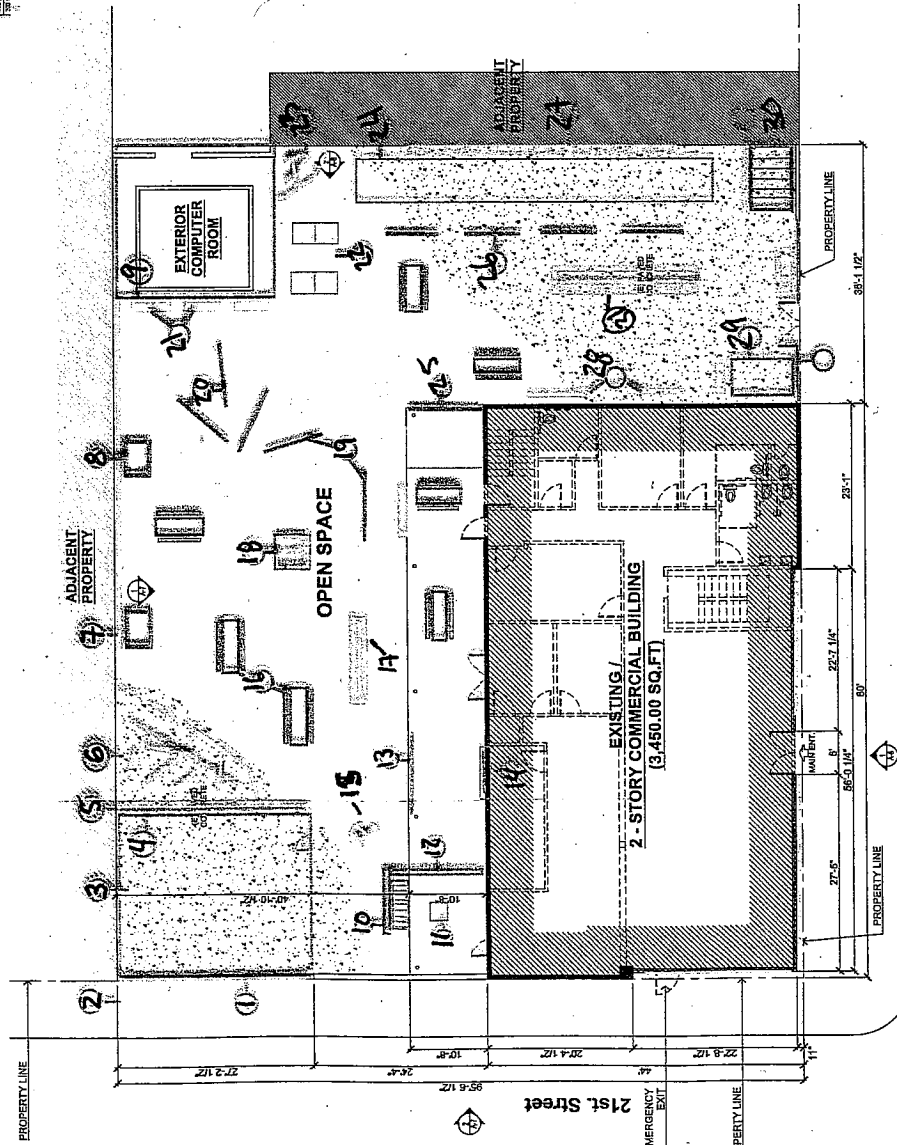
22. Inclusion of conditions in State Department of Alcoholic Beverage Control license.***Prior to signing of State Department of Alcoholic Beverage Control zoning affidavit.***

The applicant shall submit a letter to staff signed by the applicant addressed to the State Department of Alcoholic Beverage Control 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 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.

23. Small Project Design Review for Outdoor Dining, Signs and Minor Exterior Changes***Prior to issuance of building permits***

The applicant shall submit for Zoning Manager approval plans for outdoor dining (including any landscaping and boundary railings), signs and minor exterior changes such as door and window replacements pursuant to Oakland Planning Code Section 17.136.050.

2040 Telegraph Ave. OAKLAND, CALIFORNIA 94612



Telegraph Avenue

1
SCALE: 1/8" = 1'-0"
SITE PLAN

Map of:
2040 TELEGRAPH AVE.
OAKLAND, CA 94612-2308

1
VOLUME MAP

SITE PLAN

PROJECT TITLE
2040 TELEGRAPH AVE
SHEET TITLE
SHEET NO.
DATE
DRAWN BY
SCALE
PROJECT NO.

A-1

Lost And Found Beer Garden

Garden Layout

- 1) New wooden rolling gate.
- 2) Existing driveway.
- 3) Loading/delivery area 20' x 27'
- 4) New wooden fence/screen. To screen off loading area from garden.
- 5) Planter box with Star Jasmine.
- 6) Large planting area with Princes bush, Lambs ear ground cover, Meyer lemon tree.
- 7) Seating platform. 4 persons.
- 8) Seating platform. 4 persons.
- 9) Wooden fence around commuter room.
- 10) Counter top surrounding BBQ area.
- 11) Work table.
- 12) Planter box with native grasses.
- 13) Standing height countertop.
- 14) Public service window.
- 15) Planter with Rosemary herb bush.
- 16) Picknick tables 10' x 4'.
- 17) Planter box with Native grass.
- 18) Large planter box with attached bench seating 6 persons. Purple leaf flowering plumb tree.

- 19) Large reclaimed beams as benches. 4 persons each.
- 20) Large reclaimed beams as benches. 4 persons each.
- 21) Planter boxes with fuchsia Bougainvillea.
- 22) Ping Pong tables.
- 23) Large planting area Giant birds of paradise, Ferns, Elephant ear.
- 24) Shuffleboard court.
- 25) Standing height counter around darts area.
- 26) Reclaimed beams as benches. 2 persons each.
- 27) Planter boxes with shade plants.
- 28) Planter boxes with Canna Lillies.
- 29) Bike racks.
- 30) Garbage shed. 12' x 8'
- 31) Palm trees.

Note: All remaining green areas will also be planted with a variety of native plants.

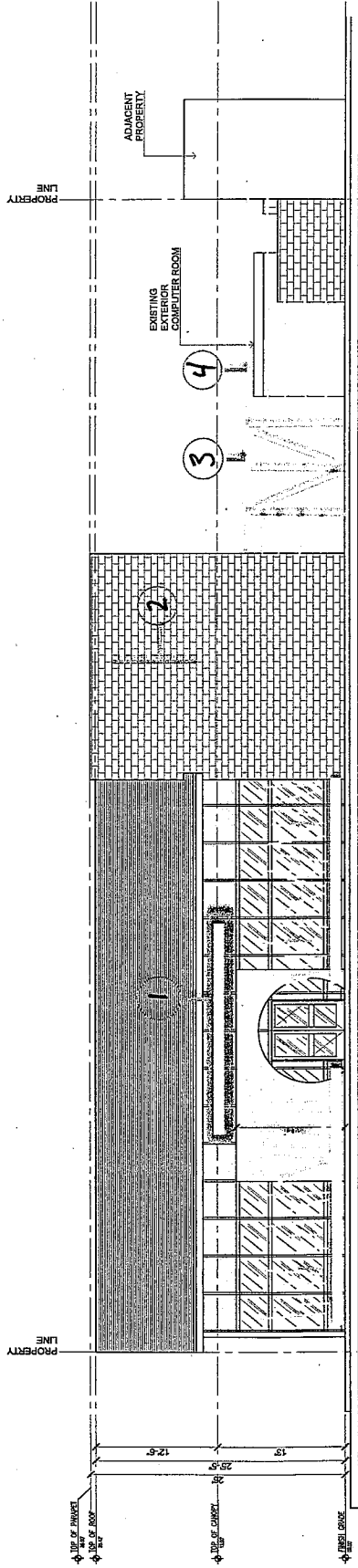
Lost And Found Beer Garden

Rear And North View

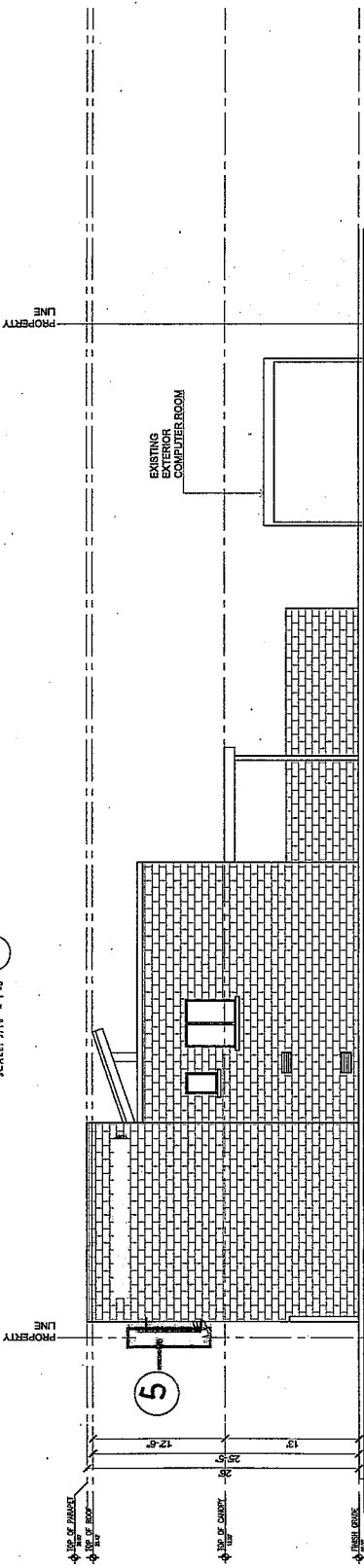
- 1) Rear View of front wooden fence.
- 2) Rear View of front gate.
- 3) New double doors to the garden.
- 4) New door from kitchen to barbecue area.
- 5) New wooden rolling gate to replace existing. 12'h x 27'w
- 6) New wooden fence on top of existing CMU wall. 12'h
- 7) Side view of proposed blade sign.

Note: Green area denotes planter box with bamboo/native grass.

Front View & South View



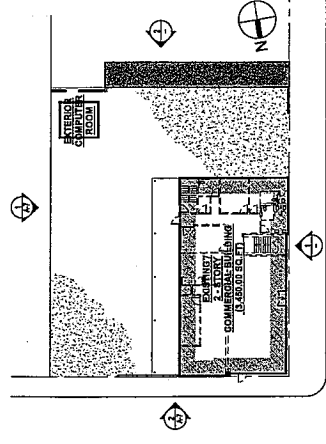
WEST ELEVATION
SCALE: 3/16" = 1'-0"



SOUTH ELEVATION

SCALE: 3/16" = 1'-0"

2



KEY PLAN
SCALE: NONE

Lost And Found Beer Garden

Front And South View

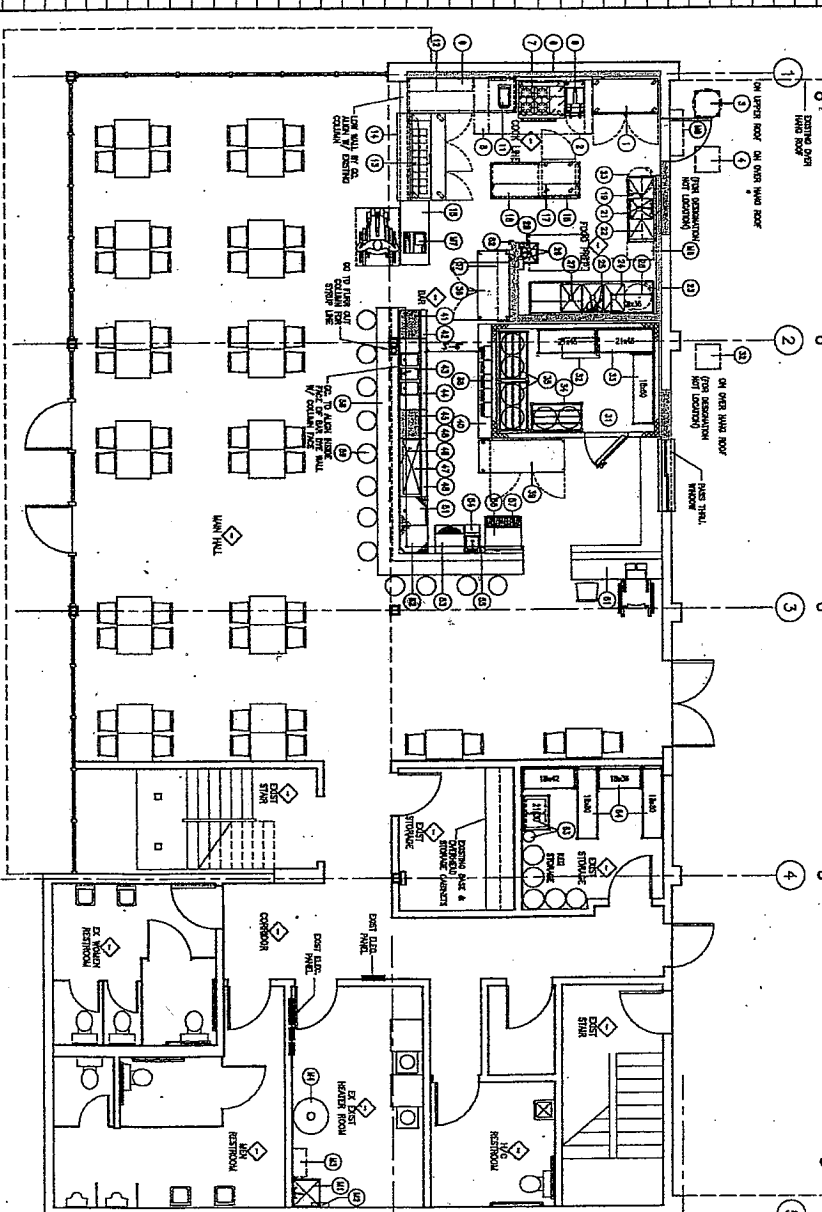
- 1) Proposed wooden painted sign 12'x3'
- 2) Proposed blade sign material yet to be determined 8'h x 3'w
- 3) New wooden gate 12'h x 6'w to replace existing.
- 4) New wooden fence 12'h to replace existing.
- 5) Side view of proposed blade sign.

Note: Existing driveway to remain.

Green areas denote planter boxes/plantings of
Bamboo/native grasses.

Exterior AS of 10/23/12

EQUIPMENT SCHEDULE

[illegible][illegible]

PREFE IMINARV PI AN-NOT ENR CONSTRICION

NOT FOR
CONSTRUCTION

EQUIPMENT FLOOR PLAN
EQUIPMENT SCHEDULE
LOST AND FOUND
BEER GARDEN
2040 TELEGRAPH AVE
OAKLAND, CA 94612

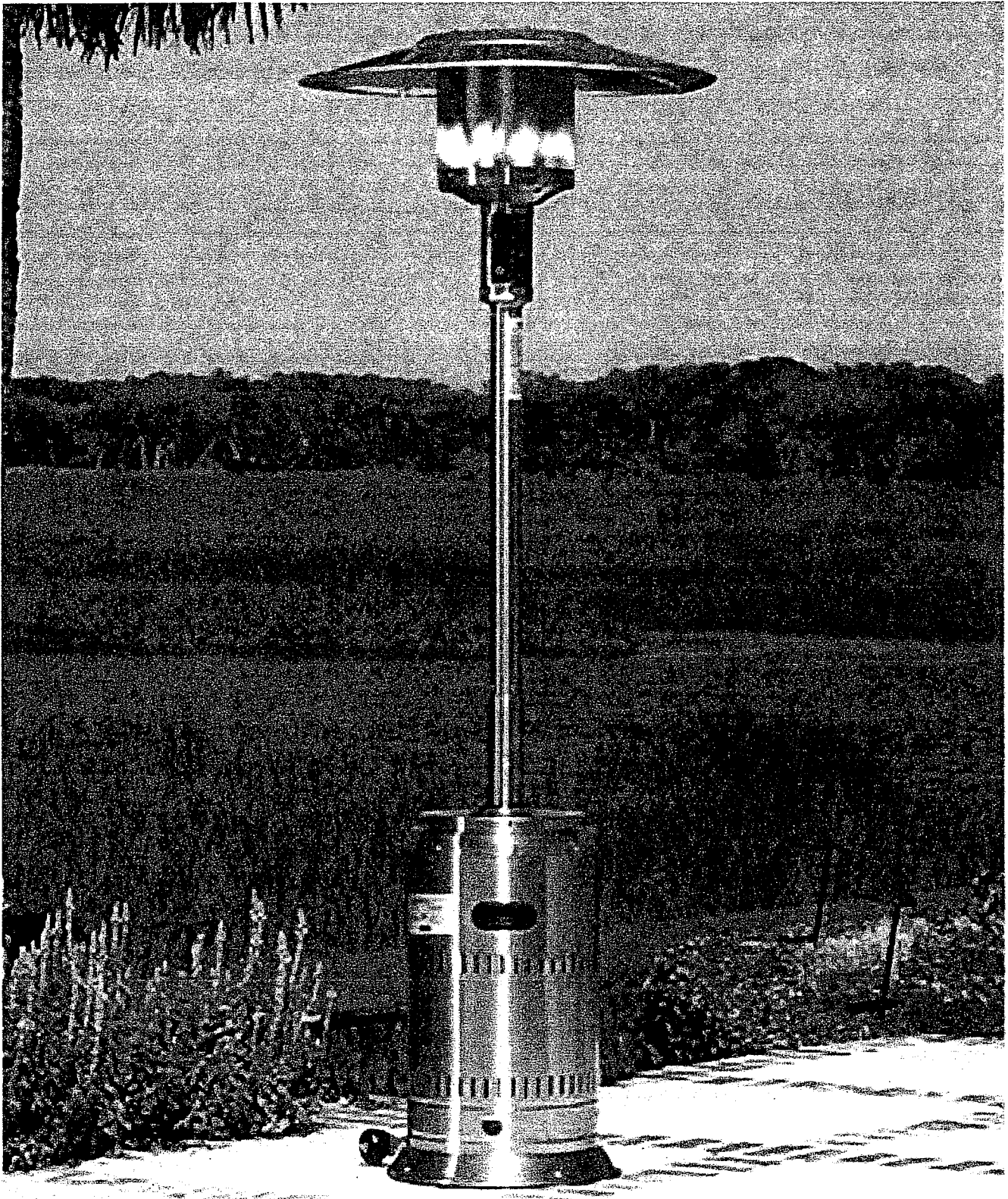
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EQUIPMENT AND INTERIORS FOR
HOTELS, RESTAURANTS AND
INSTITUTIONS**

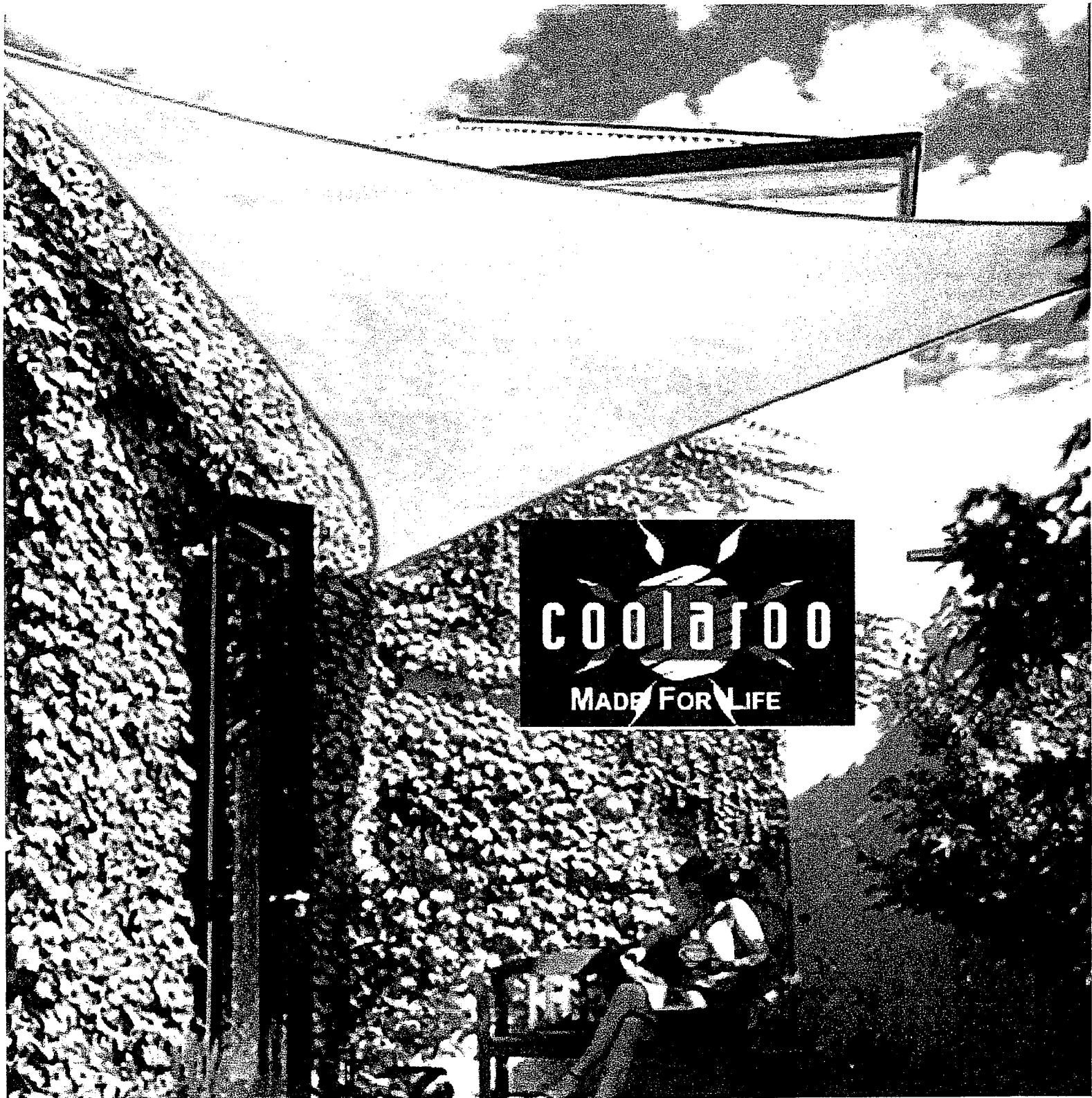
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FS2

⑤ Commercial Heaters



Sun Shades



Patio Lights



Commercial Grade Light String

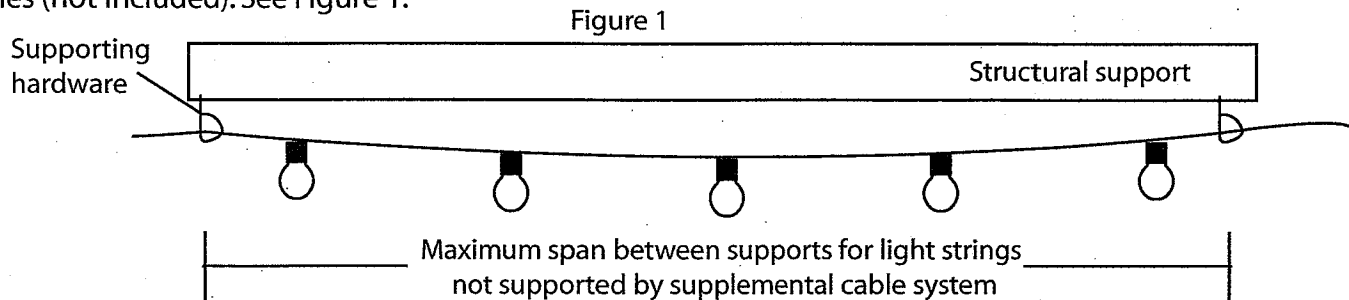
Installation instructions for LS15, M and MS light string product for permanent installation

SUSPENDING LIGHT STRINGS

1. Light string must be securely attached to a support structure at each end of each span. See chart below for maximum span distances:

MODEL #	Max. span between supports
M and MS 24" spacing between sockets	10 sockets or 20'
LS15 with 15" spacing between sockets	15 sockets or 19'

2. Secure light string to supporting hardware (eyebolts, brackets, etc., not provided) using cable ties (not included). See Figure 1.



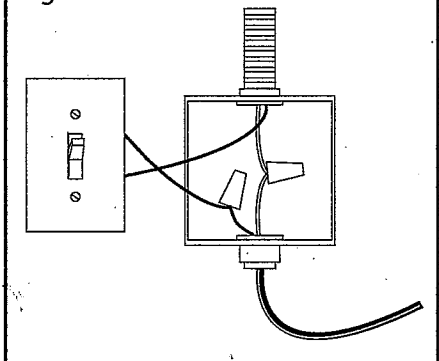
3. For spans exceeding the above, use properly rated cable support system and cable ties (both not provided) and follow local codes for suspended structures and loads.

CONNECTING LIGHT STRINGS TO POWER SOURCE

WARNING – RISK OF ELECTRIC SHOCK!! Disconnect power at source prior to wiring and follow any required lock-out/tag-out procedures. Wiring instructions intended for use by qualified and licensed electrical contractors.

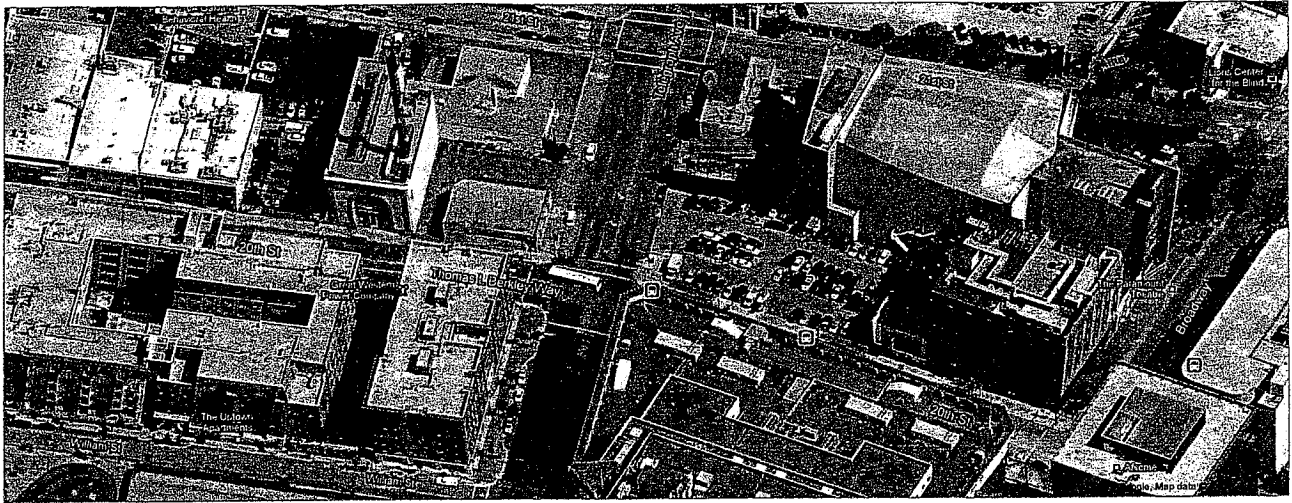
1. Located power source in properly rated junction box (not supplied) for indoor or outdoor application. See Figure 2.
2. Thread light string end through strain relief fitting (indoor installations) or water tight strain relief fitting (outdoor installations) and into junction box.
3. Connect light string to power source: smooth wire to black (hot) wire; ribbed wire to white (neutral) wire.
4. Ensure that no bare wires are exposed outside the electrical connections.
5. Power source may be switched with properly rated switch or dimmer control (not provided). For maximum run distances, see Table 1 on following page.

Figure 2



Note: Use 16AWG for connection to power source. Check local electrical codes for variations before installation or lamping light string.

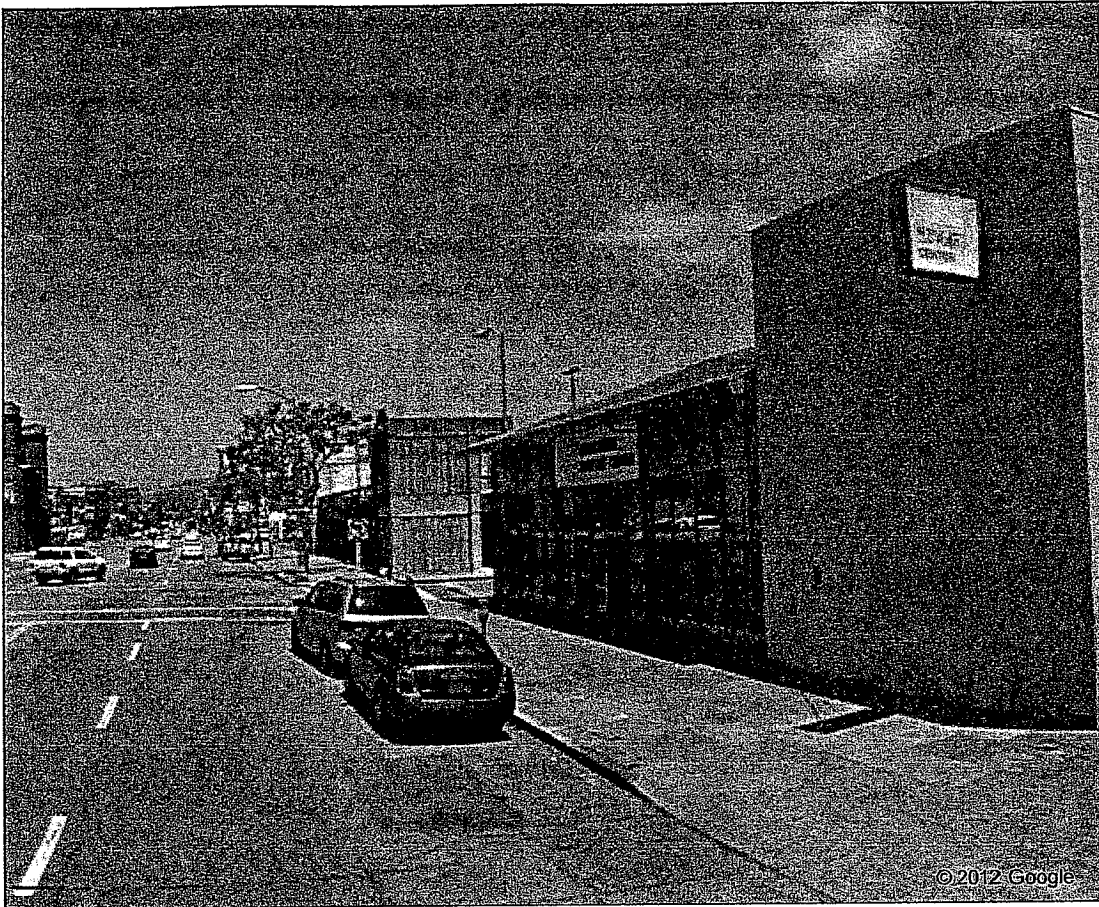
PartyLights.com



Google

Address 2022 Telegraph Avenue

Address is approximate



©2012 Google



Google

Address 2056 Telegraph Avenue

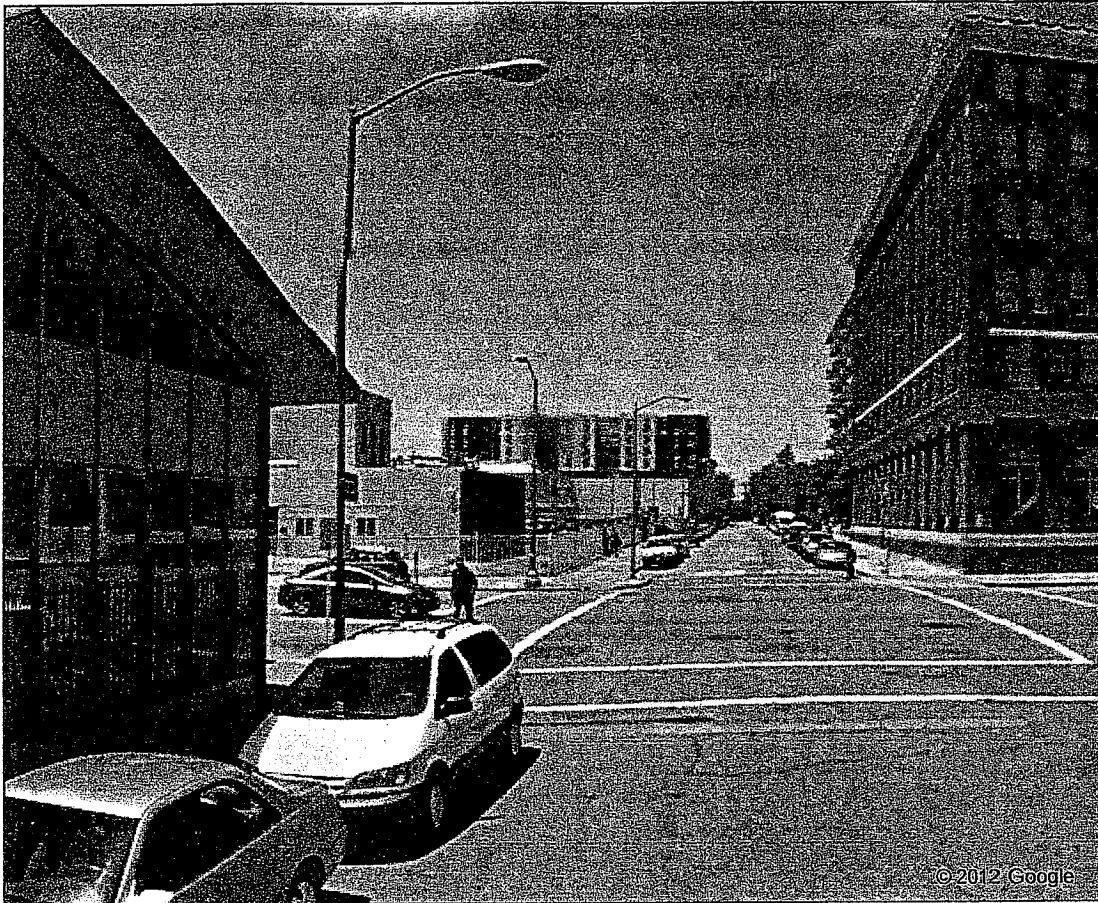
Address is approximate

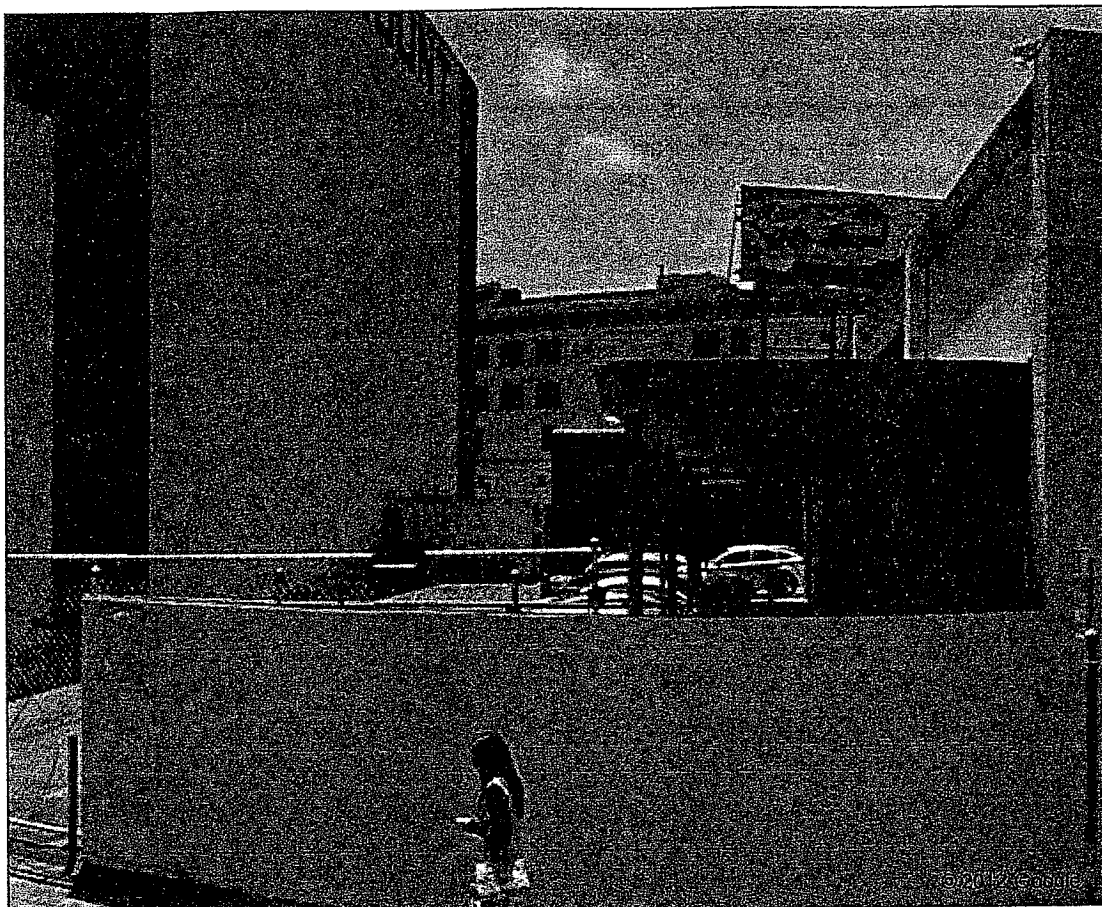


Google

Address 490 21st Street

Address is approximate

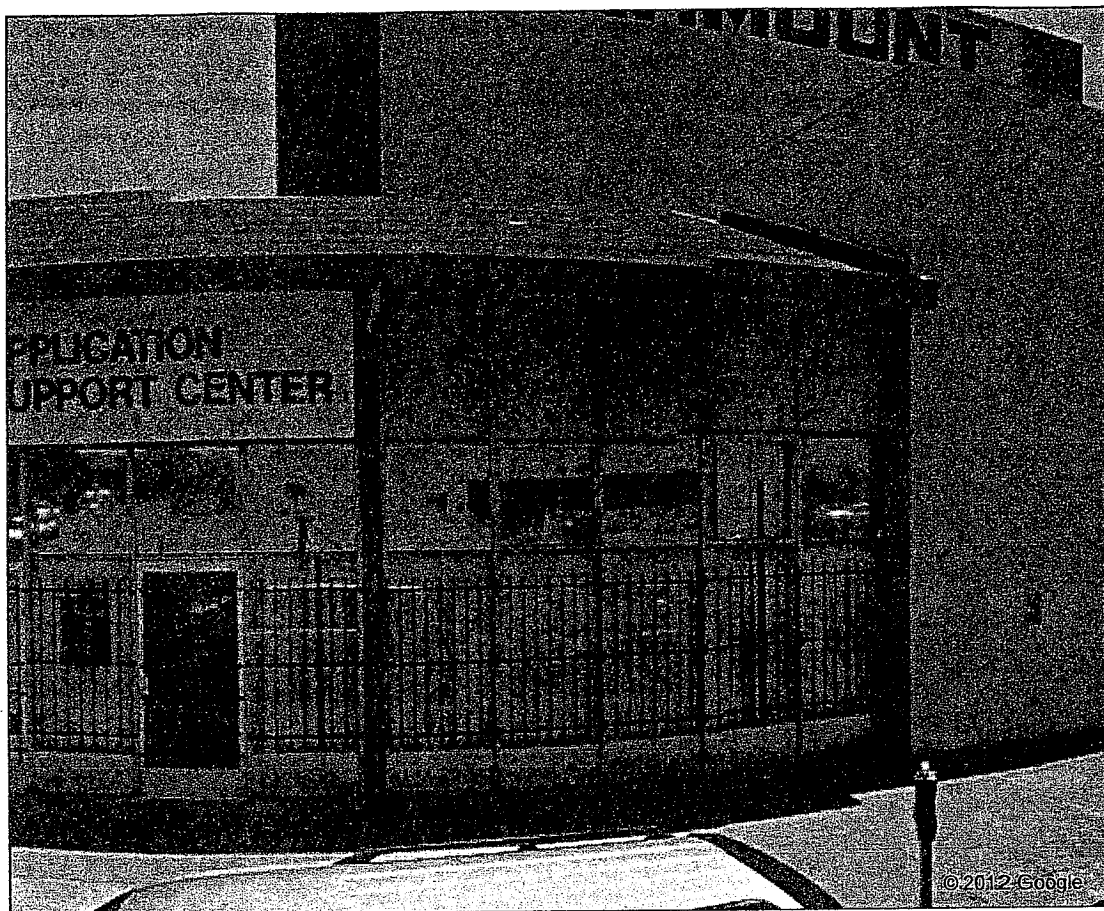




Google

Address 2036 Telegraph Avenue

Address is approximate



© 2012 Google



Executive Summary

The Lost and Found beer garden and family eatery is the perfect place to meet up with colleagues for a weekday lunch, entertain friends or family before or after a show at one of our neighbors The Fox or Paramount Theaters; or spend a leisurely Saturday or Sunday afternoon surrounded by the smell of BBQ and sweet flowers from the garden, allowing the sun to warm your face while enjoying one of our great brews on tap.

Our environment will encourage patrons to make new friends, or meet up with a familiar group over a pint or stein of ice cold beer (domestic and international) from one of our 15 taps. There will be outdoor games and 'play' stations (for both children and adults) that will attract patrons looking to have a good time outside while being able to eat and drink in a communal park-like setting.

Lost and Found is at 'grand central' of the Art Murr (a First Friday monthly art event that draws thousands of art enthusiasts regularly). Lost and Found is located at 2040 Telegraph Ave., Oakland CA 94612, between the newly developed downtown area and the soon to be developed Broadway-Valdez project (the newest district the City of Oakland is focusing on developing *full description of project included in Business Plan).

Thousands swarm the surrounding blocks of our beer garden every 1st Friday of the month, providing our business wonderful foot traffic and visibility. Throughout the month we will be accessible to business professionals, families, college students and those seeking early-evening night life and/or a casual weekend meet up place with friends, only moments from their home.

Our business is unique to those surrounding the location due to the extensive outdoor seating and lush garden (also ample indoor seating for winter months).

Nowhere in Oakland is there anything similar to what we are proposing, therefore nearly guaranteeing absolute success.

Objectives

- Provide our Oakland community with an outdoor park-like lush garden setting that encourages 'getting to know your neighbor' (supported by providing an excellent choice of beers, delicious, locally sourced food items, numerous games and communal seating)
- Maintaining an industry standard of 25% or less for our cost of goods sold
- **Meeting our Sales Revenue Projection of \$75,000 in our first month of business, and exceeding our 2nd Sales Projection of \$128,000 within 6 months of operations (our existing business The Layover met its lowest projection the 1st month of opening (opened 10 days into the month) and exceeded our 2nd projection by month 5) ** the location of our beer garden will make all the difference (very likely that we'll far exceed our very conservative projections within the first 3 months)**

Mission Statement

Lost and Found's mission is to help our city grow and develop, both in commerce and in community. Locals and visitors alike will be made to feel at home in our lush indoor and outdoor garden environment. We will be an 'anchor' in downtown Oakland by supporting our neighborhood the Arts and Entertainment District by funding and spearheading communal events and festivities, while continually finding new ways to give back to our community.

Keys to Success

- Locally and independently owned and operated
- Exceptional staff and service that leave a lasting impression
- Managing business cash flow and finances to enable upward capital growth
- Strict control of all costs at all times



**not actual location (picture provides reader with our aesthetic, use of roll-up doors, concrete floors, simple and minimalist interior design)

Company Summary

The key elements of Lost and Found's concept are as follows:

- Providing Oakland with its first large scale beer garden
- Bringing much needed commerce to our developing downtown Arts and Entertainment District
- Supporting our community by purchasing local goods whenever possible
- Catering to all ages (from hipsters to families to business colleagues)
- Children's play area for young families to enjoy
- Diverse selection of beer on taps and in bottles
- Outdoor gourmet BBQ

Company Ownership

Tim Martinez is the visionary of multiple business ventures. He has a knack for identifying what kind of business his community is lacking, and works tirelessly to provide his community with that type of business; whether it be a coffee shop, cocktail lounge or beer garden.

In 1999, visual artist Tim Martinez opened the Papa Buzz Café on Telegraph Ave. The café became an immediate touchstone for Oakland's up and coming art scene. As a result of Tim's successful art and culture business plan, Papa Buzz Café was not only financially profitable, but was also a key figure in creating what

is now the Telegraph arts corridor. Almost 15 years later, this 'corridor' now holds thousands of artists and art enthusiasts every First Friday of each month, attending Oakland's biggest art event~ Art Murmur (see attached SF Gate article).

Having sold Papa Buzz Café (then named Mama Buzz, and currently Telegraph) so that he could travel the world and continue making art, Tim missed being so tightly connected to his immediate community. Having worked a 9-5 job for a Green Builder for several years, he missed being surrounded by his artist colleagues, which made him begin considering another business venture~ an art and music cocktail lounge.

He and his wife Christi have now owned The Layover for 3 extremely successful (and profitable) years, winning multiple awards from their community for Best New Bar (EBX), Best Dance Floor (EBX) and Best of the East Bay (San Francisco Magazine). Press links including the Wall Street Journal, Oakland Tribune, Sunset Magazine, East Bay Express and Oakland Local can be found at www.oaklandlayover.com.

Additional reviews and social media can be found at the following addresses:

<http://www.yelp.com/biz/the-layover-music-bar-and-lounge-oakland>

http://www.facebook.com/pages/The-Layover-Music-Bar-Lounge/101744378709?ref=tn_tnmn

With these successes, Tim confidently looks forward to this next business venture.

Christi Vaughn, both Tim's wife and business partner, has more than 15 years of experience in bookkeeping and financial analysis, along with HR management and a focus on small business management and development. She was employed at Green Builders of Marin for 12 years, her last position held being Vice President of Operations. When she and her husband Tim decided to open a business (The Layover) within their community, she successfully raised nearly \$200,000 for working capital through close long-time friends and a local micro-loan. Christi and Tim are proud to have paid nearly 90% of those loans off, within the first 3 years of business.

Not only does Christi manage all financial and administration aspects of The Layover, she also bartends Friday and Saturday nights, placing herself in the center of one of Oakland's busiest bars.

Christi is a passionate and hard-working individual, as well as an advocate for social and environmental justice. For the last 5+ years Christi has been

volunteering with the Insight Garden Program at San Quentin. Her work with this rehabilitation program provides class participants (inmates) the opportunity to learn vocational and life skills by working in nature (a 1200 sq ft organic garden within the prison walls), as well as a classroom setting.

Christi not only gardens at San Quentin Prison, but also in her West Oakland home garden (see picture below).



Her respectful and outgoing personality has been instrumental with her success in these extreme social settings.

Company Ownership Summary

Christi Vaughn will manage all aspects of bookkeeping, administration and staffing, while also having a hands-on approach with the daily operations as she will be working in the on-site office roughly 30 hours a week. Tim will also be managing the beer garden business roughly 30 hours per week dealing with staff, customers, inventory, ordering, and the overall maintenance of the building. The owners will be assisted with management by the head chef Dennis Yadroff, a year-long (and current) employee at The Layover, who will be bringing his decade long corporate background in Audio Visual management of large scale events (The Fairmont hotel, SF amongst other large hotels). He will also bring his kitchen skills learned through his internships and past work experience at such places as Chez Panisse (Berkeley), Haven (Jack London, Oakland), Fusebox (Oakland) and Sweet Woodruff (San Francisco).

THE LAYOVER

(existing business October 2009-current)

www.oaklandlayover.com

Some of our accomplishments as local business owners include:

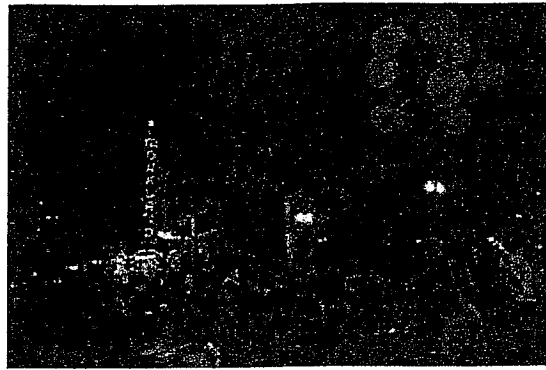
- Employing nearly 40 individuals directly (p/t) and multiple others indirectly (delivery vendors, janitors, security personnel, etc.) *2011 Payroll Expenses \$60,000 & (Oakland) DJ's \$57,000
- Buying locally and supporting Oakland small businesses
- Providing an intimate (and free) venue to local non-profits for fundraising events and donating no less than 20% of the event sales to the organization
- Beautifying our neighborhood with colorful murals and plants
- Bringing a diverse community together to enjoy one another's company in an unpretentious, respectful, artistic setting
- Providing ALL FREE entertainment every night we're open (6/week) including:
 - o Salsa instruction and dancing with live music every Monday
 - o Comedy every Tuesday, followed by DJ
 - o Community 'jam session' for local musicians and vocalists every Wednesday
 - o Thursday, Friday and Saturday we offer the best of the best local DJ's serving up dance music to the respectful dancing/nightlife crowd
- Supporting local artists by providing a space to exhibit their work (rotating artists monthly)
- October 2011 – Franklin St Block Party (held between 15th and 17th Sts.) *over 500 attendees, outdoor stage (live music and DJ's from noon-9pm), food and beverage vendors, local artists and businesses, 40' bocce ball court, free valet bike parking for attendees, arts and crafts area, games and dancing and absolutely no incidents ☺
- Receiving the East Bay Express award in 2010 for "Best New Bar", and in 2011 for "Best Dance Floor"
- Having projected financials accurately and having been profitable since inception
- Raised nearly \$140,000 for startup capital through friends and family and earned the honor to be the first 'bar' to ever receive a loan (\$35,000) from the OBDC (Oakland Business Development Corporation)
- Having less than \$25,000 remaining business loans to be repaid as we approach our 3rd year anniversary
- Creating and maintaining a respectful, safe and inviting venue for those 21 years and over

LOST & FOUND (beer garden and family eatery)

www.lostandfound510.com

GOALS:

- Providing a place for friends, families, the after-work-crowd, theater attendees, locals and visitors to gather, eat and drink, like no other in Oakland—a lush outdoor garden that welcomes all ages and has something for everyone (providing permanent seating both indoors and out year round)
 - o With a focus on Oakland's 'young' parent population (28-45 years)—a place where parents can meet up with friends as well as bring their children along to have some fun in the "kid's corner"
 - o Offering outdoor games like ping-pong, bean bag and hoop tosses, alongside 8' redwood picnic tables where strangers sit next to one another, making new friends and stimulating one another with insightful conversation that leads to positive community development and growth
 - o Spit fire rotisserie and barbeque to supplement our full kitchen including oven, deep fryer, grill, 8' hood, refrigeration, Panini machine
- To employ no less than 50 individuals (p/t) within the 2nd year of business (beginning with 20 in 2013)
- To provide work and opportunity for the men that have graduated from The Insight Garden Program's (www.insightgardenprogram.org) re-entry program from San Quentin and are being released back to our community. Having worked closely with these men for nearly 6 years on the 'inside', I am very excited (as are they) about the opportunity which I will be creating for them on the 'outside'. Our pilot program includes nearly a dozen graduates with a recidivism rate of less than 10%, working closely with both Rubicon Services in Berkeley, and Planting Justice in Oakland, upon immediate release.
- Buying local and organic ingredients for kitchen whenever possible
- Supporting local artists by showcasing their works on First Fridays and throughout the month
- To beautify and bring life and energy to an intersection (21st St/Telegraph) that is currently abandoned and nearly lifeless.
- **Helping to bridge the gap between the Uptown District and Art Murrur**
- Becoming an institution in Oakland like our current business The Layover has become for so many in our community



Start Up Summary

Lost and Found is seeking funding for the development and build out of a Beer Garden and eating establishment in the heart of Oakland's Uptown Arts and Entertainment District.

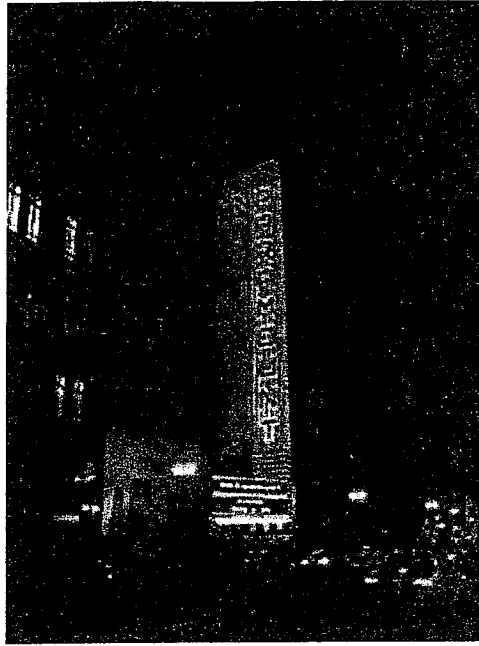
We will be leasing a 5,000 sq. ft. building along with its 6,000 sq. ft. parking lot, and will be converting the existing building into an eating and beer establishment by adding a kitchen and extensive beer tap system, ambient lighting, art, communal seating, and an overall welcoming environment.

In addition, we will be converting the parking lot into a lush garden, which will not only include plenty of beautiful plants, but also BBQ and games for family, friends and strangers to play (think ping pong, horse-shoes and bocce ball).



Our Beer Garden is going to be located at 2040 Telegraph Ave., directly behind the Historic Paramount Theater.

****All funding has been secured as of August, 2012***



Company Location

Lost and Found is located in the newly redeveloped Uptown Arts and Entertainment District of downtown Oakland, right behind the Paramount Theater, and only a few steps from the recently renovated Fox Theater. Bart is only a block away, as are well over a thousand new live/work residences. In addition to the ample street parking, there is also a city owned parking garage a mere 100' away.

There are thousands of working professionals in this area on a daily basis that would support our beer garden and eatery. It will be an ideal, centrally located meeting place for friends during their lunch break or after work.

The daytime foot traffic is made up of commuters, office workers and local residents. Evening foot traffic is made up of thousands of people going to one of the neighborhood's many venues for live music shows, meeting friends for a drink, or getting a meal at one of the dozens of bars, restaurants or clubs in the neighborhood.

Products and Service Summary

Lost and Found beer garden and family eatery will provide the community with a clean, positive, safe environment to enjoy an after work cocktail and bites with colleagues, enjoy a casual date night, or have a family night out in a beautiful and unique downtown setting. Customers will receive excellent service in an atmosphere where one feels welcome the first time they visit. Our kitchen will keep our customers coming back with fresh, local, seasonal ingredients cooked on the grill or outdoor barbeque, while our 'beer' tenders educate our customers on our extensive and revolving selection of drafts, all with exceptional and memorable service.

In our self-service European café setting, customers will be encouraged to interact with one another, as well as with our friendly and eager to assist smiling staff members. This will be supported by our design and layout, as well as our communal seating tables. Our hours of operation are Tuesday, Wednesday and Thursday 4:00-11:00pm, Friday 4:00-midnight, Saturday noon-midnight and Sunday noon-10pm.

Sample menu items:

Small

Marrow , smoked salt, toast, pickled mustard 9
Dungeness crab, sourdough. (seasonal) 12
Arugula, roasted beets, blood orange, banyuls 8
Pig terrine, apple mostarda, toast 8

Buns

Roast chicken, arugula 8
Fire pig, pickle, fresno chili aioli 9
Avocado mousse, mushrooms, corn, grapes, 8
Sausage, onion jam 8

Large

¼ chicken, potato, squashes 10
pork and polenta, brussel sprouts 12
congee, chicken, braised greens 8
Sausage(2), napa cabbage, potato. 10

**Children's menu to include simple items such as grilled cheese, peanut butter and jelly, hot dog, nachos, etc.*

Sample beers on draft:

Hipster swill	PBR
IPA	Ale industries East Bay IPA
Saison	Chouffe Bierre Du Soleil
Belgian sour brown	Lifemans Oud Bruin
Porter	Speakeasy Payback
Stout	Lagu Cappucino Stout
Summer Ale	AVBC Summer Solstice
Amber Ale	AVBC Boont
Belgian White	Ale Industries Orange Kush
Rye / Scotch	Ale Industries Ryed Piper
Hefeweisen	Drakes Hefe
IIPA	Drakes Denoginizer
Double Barrel Ale	Firestone Walker DBA
Black Lager	Linden Street

**Bottled beer, French-pressed local coffees, juices and a variety of non-alcoholic beverages will also be available.*