Oakland City Planning Commission STAFF REPORT

Case File Number PLN17097 **October 4, 2017**

Location:	**6041 San Pablo Avenue** **(see reverse for map)**
Assessor's Parcel Numbers:	016 1460-028-00
Proposal:	To re-establish a bar with a 2:00 A.M. closing time under a new operator.
Applicant/ Phone Number:	Ms. Janet Ezell (510) 205-0342
Owner:	Mr. Otis McGee, Jr.
Planning Permits Required:	Major Conditional Use Permit with additional findings for Alcoholic Beverage Sales Commercial Activity; Variances for: alcohol sales within 1,000 feet of an existing alcohol outlet & in an over-concentrated area within 1,000-ft. of civic uses
General Plan:	Community Commercial
Zoning:	CC-2 Community Commercial Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities (operation); Section 15183 of the State CEQA Guidelines: Projects Consistent with a Community Plan, General Plan or Zoning
Historic Status:	D3
City Council District:	1
Date Filed:	April 11, 2017
Action to be Taken:	Approve with conditions
Finality of Decision:	*Appealable to City Council within 10 days*
For Further Information:	Contact case planner **Aubrey Rose, AICP** at **(510) 238-2071** or arose@oaklandnet.com

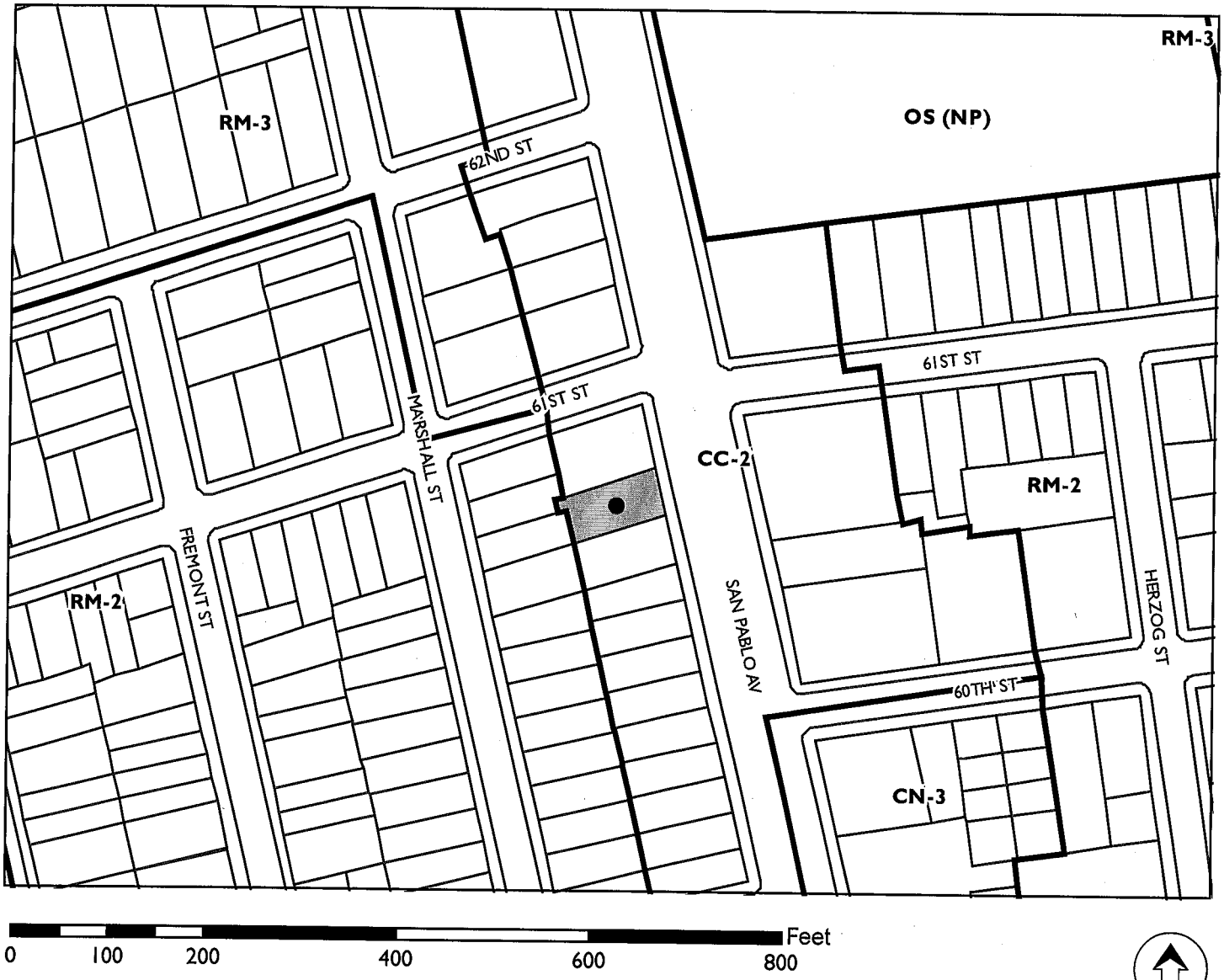
SUMMARY

The applicant requests Planning Commission approval of a Major Conditional Use Permit and Variances to re-establish a closed bar under a new operator. Staff recommends approval of the requested permits, subject to the Conditions of Approval included in this report.

PROPERTY DESCRIPTION

The property is a level 5,000 square-foot lot (approx. 50-feet wide x 100-feet deep plus a small "flag" at right-rear corner). The lot contains two one-story commercial buildings with white stucco facades. The structures are abutting and built up to the sidewalk. The lot also contains a rear yard with a patio, attached accessory building, and a fence at the rear property line to buffer the adjacent residence along Marshall Street. The site lacks on-site parking. The original building to the south (left) contains two spaces with separate entrances and windows including transoms. It measures approximately 36-feet in width by 50-feet in depth. The newer building to the north (right) contains a lower roofline and less fenestration. It measures 14-feet in width by 108-feet in depth by occupying the lot's "flag," measures 1,700 square-feet in floor area, and was constructed in the mid-1920s as an auto repair garage. This building was converted into a restaurant/bar in the late-1920s and run under various names and operators over the years. The bar business made use of the accessory building which contains a kitchen, as well as the rear patio. A blade sign attached to the origin building identifies the business. In 2014, the bar, then known as "Southern Knights" (a Deemed Approved establishment) closed for repairs beyond 90 days and thus lost its nonconforming status pursuant to the Planning Code; no zoning determination on the "lapsed" status was requested, issued or appealed.

CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN17097
Applicant: Ms. Janet Ezell
Address: 6041 San Pablo Avenue
Zone: CC-2

PROPERTY DESCRIPTION, Continued

The project site is on San Pablo Avenue, a major corridor pre-dating Interstate 80. Fronting the site, the corridor contains four lanes, a landscaped median, undergrounded utilities, and various street lights including cobra-head and semi-ornamental types. To the north (right) of the project site is an auto repair shop with a surface parking lot and monument sign at the corner; to the south (left) is a commercial/industrial building set back behind a mid-block surface parking lot; to the east (across San Pablo Avenue) is another auto repair shop with a surface parking lot and monument sign at the corner; to the west (rear) is a residential neighborhood. In addition to auto-related uses, the corridor consists of some residences and multi-story buildings. Residential neighborhoods flank the commercial corridor; these are zoned mixed-type although consist primarily of single-family homes. Five blocks to the south is The Wolfhound Bar at 5516 San Pablo Avenue, another bar approved for re-opening in 2014. Three blocks to the west is the City Limits at Emeryville. The area is not over-concentrated for reported crime in the police beat (10X) in comparison to citywide medians; it is however over-concentrated for ABC licenses in the Census Tract (4008) in comparison to countywide medians. The site is within 1,000 feet of alcohol outlets (a convenience market selling liquor, beer & wine) and civic uses (a park and a school), as described in this report.

PROJECT DESCRIPTION

The applicant seeks to re-establish the bar ("Paradise Café & Lounge"). The bar would serve liquor, beer and wine; would not admit minors; and would offer food service (breakfast, lunch, dinner) throughout the same premises as the prior bar business. This would include use of the front bar, rear lounge, accessory structure kitchen, restrooms, and rear patio. As a bar business, food service is optional and not required. Entertainment would be provided indoors by a juke box. Bar capacity would be 56 persons including the rear yard which might accommodate smoking. The applicant does not seek to operate a "cabaret" as defined in Chapter 5.12 of the Oakland Municipal Code; therefore, a cabaret permit is not required. Maximum hours of operation would be as follows:

Monday-Thursday, 7:00 A.M.-12:00 A.M.
Friday-Saturday, 7:00 A.M.-2:00 A.M.
Sunday, 7:00 A.M.-10:00 P.M.

Meal service would be as follows:

Breakfast, 7:00-11:00 A.M.
Lunch, 11:00 A.M.-2:00 P.M.
Dinner, 2:00-8:00 P.M

The applicant would act as operator of the bar and has prior experience running bar businesses in Oakland such as "Tea Cakes" formerly located at 4318 Martin Luther King Jr. Way. The applicant presented the proposal to the Golden Gate Neighborhood Crime Prevention Council (NCPC) for Police Beat 10X which has provided a letter of support (Attachment E). Staff has advised the City Council District 1 office and OPD's Alcoholic Beverage Action Team of the request. The proposal requires a type 48 license from the Department of Alcoholic Beverage Control ("ABC"). The following is the ABC's description of a type 48 license:

48	**ON SALE GENERAL – PUBLIC PREMISES** - (Bar, Night Club) Authorizes the sale of beer, wine and distilled spirits for consumption on the premises where sold. Authorizes the sale of beer and wine for consumption off the premises where sold. Minors are not allowed to enter and remain (see Section 25663.5 for exception, musicians). Food service is not required.

GENERAL PLAN ANALYSIS

The property is located in the Community Commercial area of the General Plan's Land Use and Transportation Element (LUTE). The intent of the area is: "To identify, create, maintain, and enhance areas suitable for a wide variety of commercial and institutional operations along the City's major corridors and in shopping districts or centers." The proposal to re-open a bar in a commercial area that does not have a high number of bars or high rate of crime conforms to this intent and to the following LUTE Policies:

Policy I/C1.1 Attracting New Business.
The City will strive to attract new businesses to Oakland which have potential economic benefits in terms of jobs and / or revenue generation. This effort will be coordinated through a citywide economic development strategy / marketing plan which identifies the City's existing economic base, the assets and constraints for future growth, target industries or activities of future attraction, and geographic areas appropriate for future use and development.

Policy I/C3.2 Enhancing Business Districts.
Retain and enhance clusters of similar types of commercial enterprises as the nucleus of distinctive business districts, such as the existing new and used automobile sales and related uses through urban design and business retention efforts.

Policy I/C3.4 Strengthening Vitality.
The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

Staff finds the proposal, subject to Conditions of Approval, to conform to the General Plan.

ZONING ANALYSIS

The property is in the CC-2 Community Commercial Zone. The intent of the CC-2 Zone is: "to create, maintain, and enhance areas with a wide range of commercial businesses with direct frontage and access along the City's corridors and commercial areas." The following are permits required for the proposal and the reason each permit is required. These items are further discussed in the Key Issues and Impacts section of this report.

Major Conditional Use Permit
A Major Conditional Use Permit (CUP) is required for an Alcoholic Beverage Sales Commercial Activity (bar). Additional CUP findings further ensure review of alcoholic beverage sales above and beyond general findings. The Planning Code requires a review of these activities to ensure that they do not contribute to nuisances in the community, including both alcohol-related issues and discouragement of further business attraction.

Variances
Variances are required because the requirement for a 1,000-foot distance separation between the proposed activity and certain uses is not met. One existing alcohol outlet ("Gateway Liquors") is located approximately 280 feet away. Additionally, the area is over-concentrated for ABC licenses in the Census Tract (4008) in comparison to countywide medians and is not located downtown; so, the distance separation is therefore also required to civic uses. As the site is also within 1,000 feet of civic uses (a park and a school), an additional Variance is therefore required. Approval of the Variance requires justification for relief from the distance separation requirement. The intent of the distance separation is to ensure that alcohol outlets, which historically can sometimes be problematic, do not proliferate adjacent to residences and civic uses.

Design Review
The applicant will apply for Design Review for minor façade improvements and business signage later.

The proposal to re-open a bar in a commercial area that does not have a high rate of reported crime conforms to the intent of the CC-2 Zone. Staff finds the proposal, subject to Conditions of Approval, to conform to the Planning Code.

ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines categorically exempts specific types of projects from environmental review. Section 15301 of the State CEQA Guidelines exempts projects involving *operation and licensing of existing private facilities*. The proposal for on-sale of alcoholic beverages from a new bar located in an existing space formerly used as a bar meets this description: the project would constitute operation of an existing private facility. Section 15183 of the State CEQA Guidelines relates to Projects Consistent with a Community Plan, General Plan or Zoning. The project adheres to this section, as described above. The project is, therefore, not subject to further Environmental Review.

KEY ISSUES AND IMPACTS

Conditional Use Permit

The project site is located along a major corridor with several automobile uses and is reasonably separated from most residences and civic uses. The prior bar was not known to be problematic; it shut down for repairs. The new bar would include food experience, would be operated by an experienced operator, and would not include a cabaret. Conditions of Approval would attach several requirements, such as controls on litter and noise, to maintain the compatibility of a bar with the surrounding mixed use area. The City's "No Net Increase Goal" (City Council Reso. 75490 adopted 2000) discourages new licenses, to cap the quantity in the City; the bar would utilize an existing ABC license from another prior premises located within the City.

Variance

A Variance is required due to the site's proximity to the following alcoholic beverage sales outlet:

	Address	Business type	Distance to Site
1.	5944 San Pablo Ave.	Market with liquor, beer & wine (ABC license type 21) "Gateway Liquors"	280-feet

The market closes Mondays-Thursday at 1:00 A.M., Fridays-Saturdays at 2:00 A.M., and is closed Sundays. It is not on the same side of the four-lane corridor. The other re-opened bar in the area is situated five blocks to the south is also located on the opposite side of San Pablo Avenue from the project site. The area is not over-concentrated for reported crime in the police beat; it is however over-concentrated for ABC licenses in the Census Tract, and Findings of Public Convenience or Necessity (PCN) are therefore required. Because the site is not located downtown, additional PCN findings also apply which require distance separation to civic uses and no excessive calls for police service. Again, the area is not high in crime; however, an additional Variance is required due to the site's proximity to the following civic uses:

	Address	Civic Use	Distance to Site
1.	1075 62nd St. (along San Pablo Ave.)	City park "Golden Gate Playground"	235-feet
2.	6235 Herzog St. (along San Pablo Ave. at 63rd St.)	Public K-8 charter School "Aspire"	450-feet

Census Tract 4008 is roughly bound by Vallejo Street to the west; 67th and Alcatraz Streets to the north; Lowell Street to the east; and Stanford Avenue to the south. The Census Tract contains no bars; it does contain one full service liquor store, two markets with beer and wine only, and some restaurants serving alcoholic beverages. The park does not contain a young children's play area but consists of athletic fields joined to the school beyond. The sites are primarily accessed by Herzog as well as 63rd Streets, with additional pedestrian access available from San Pablo Avenue between the sites. Path of pedestrian travel between the project site and main entrance to the school measures greater than the required 1,000-foot distance separation and furthermore the uses are separated by the major corridor. Hours of operation between the civic uses and proposed bar would of course vary from each other as well. The Planning Code intends to space out bars that are not located Downtown; in this case, the project is to re-open a former bar in a space that is still set up to accommodate such a use. This section of San Pablo Avenue was de-listed as a restricted street requiring a Major CUP for restaurants to serve alcoholic beverages under the Planning Code to enhance commerce and due to decreased crime and alcohol-related nuisances, and similar Variances have been granted in recent years in the area with no known adverse effects.

The applicant has proposed food service consisting of three meals per day. Since the Major CUP would permit the bar, and as the ABC does not require food with a type 48 license, staff has not included maintenance of food service in draft Conditions of Approval attached to this report; alternately, should the Planning Commission choose, maintenance of food service could be stipulated at some or all of the times the bar is open, given the required Variances. Lastly, staff suggests an earlier closing time for the rear patio given the proximity to a residential zone abutting to the rear, as included in draft Conditions. Staff was advised by OPD that complaints regarding noise and smoke emanating from the rear patio had been submitted by adjacent residents in the past. Due to the proposal's ability to make required findings, staff recommends approval of the project, subject to Conditions of Approval including a compliance review.

RECOMMENDATIONS:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit and Variances subject to the attached findings and conditions.

Prepared by:

Aubrey Rose

AUBREY ROSE, AICP
Planner III

Reviewed by:

Scott Miller

SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:

DARIN RANELLETTI
Deputy Director
Planning Bureau

ATTACHMENTS:

A. Findings
B. Conditions
C. Plans / Photographs
D. Area Crime Statistics (Map & Table)
E. Letter of support dated December 21, 2016 by Golden Gate Corridor NCPC

Attachment A: Findings

This proposal meets the required findings under **General Conditional Use Permit Criteria (OMC Sec. 17.134.050)** and **Use Permit Criteria for Establishments Selling Alcoholic Beverages (OMC Sec. 17.103.030.A)**, as set forth below. Required findings are shown in **bold** type; explanations as to why these findings can be made are shown in normal type. This proposal does *not* meet all the required findings under **Findings for Public Convenience or Necessity (OMC Sec. 17.103.030.B.3 & 4)**, and findings under **Variance Procedure/Findings Required (OMC Sec. 17.148.050)** are therefore required. Required findings are shown in **bold** type; explanations as to findings that can be made are shown in normal type and that cannot be made are shown in normal type and underlined.

General Use Permit Criteria (OMC Sec. 17.134.050):

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 proposal to re-establish an existing bar is compatible with the site and surroundings. The property is located in the CC-2 Community Commercial Zone. The intent of the CC-2 Zone is: "to create, maintain, and enhance areas with a wide range of commercial businesses with direct frontage and access along the City's corridors and commercial areas." This review is to ensure that the activity does not create or contribute to nuisances in the community, including both alcohol-related issues and discouragement of further business attraction. The project site is located along a major corridor with several auto uses and reasonably separated from most residences and civic uses. The prior bar was not known to be problematic; it shut down voluntarily for repairs, not due to nuisances. The new bar would include food experience, would be operated by an experienced operator, and would not include a cabaret. Conditions of Approval attach several requirements, such as controls on litter and noise, to maintain the compatibility of a bar with the surrounding mixed use area. The bar would utilize an existing ABC license from another prior premise located within the City.

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 proposal to re-open a bar in a commercial area that does not have a high number of bar or a high crime rate conforms to the intent of the CC-2 Zoning. The proposal is located in an existing building that contained a bar for several decades, and the floor plan is conducive to the operation of a bar. The proposal will offer a convenient and attractive establishment.

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 proposal to re-open a bar in a commercial area that does not have a high number of bar or a high crime rate conforms to the intent of the CC-2 Zoning and will contribute to the variety of businesses in this commercial area. The proposal will bring more pedestrians and additional foot traffic to the commercial area.

D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.070.

No exterior changes or signage are proposed at this time and design review is, therefore, not applicable. Should the applicant desire exterior changes and/or signage in the future, they will need to obtain a design review permit from the Planning Bureau as required by the Conditions of Approval.

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

The property is located in the Community Commercial area of the General Plan's Land Use and Transportation Element (LUTE). The intent of the area is: "To identify, create, maintain, and enhance areas suitable for a wide variety of commercial and institutional operations along the City's major corridors and in shopping districts or centers." The proposal to re-open a bar in a commercial area that does not have a high number of bar or a high crime rate conforms to this intent and to the following LUTE Policies:

Policy I/C1.1 Attracting New Business.
The City will strive to attract new businesses to Oakland which have potential economic benefits in terms of jobs and / or revenue generation. This effort will be coordinated through a citywide economic development strategy / marketing plan which identifies the City's existing economic base, the assets and constraints for future growth, target industries or activities of future attraction, and geographic areas appropriate for future use and development.

Policy I/C3.2 Enhancing Business Districts.
Retain and enhance clusters of similar types of commercial enterprises as the nucleus of distinctive business districts, such as the existing new and used automobile sales and related uses through urban design and business retention efforts.

Policy I/C3.4 Strengthening Vitality.
The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

Use Permit Criteria for Establishments Selling Alcoholic Beverages (OMC Sec. 17.102.210(A)):

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

The Planning Code intends to space out bars that are not located Downtown; in this case, the project is to re-open a former bar in a space that is still set up to accommodate such a use. Only one alcohol outlet exists within one thousand feet of the site and it is not a bar. The area is not over-concentrated for reported crime. The proposal was presented to the Neighborhood Crime Prevention Council (NCPC) for Police Beat 10X and the Golden Gate NCPC has provided a letter of support. Conditions of Approval will attach several requirements, such as controls on litter and noise, to maintain the compatibility of a bar with the surrounding area.

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;

There is a City park (athletic fields) and school (K-8) within 1,000 feet. The park does not contain a young children's play area but consists of athletic fields joined to the school beyond. The sites are primarily accessed by Herzog as well as 63rd Streets, with additional pedestrian access available from San Pablo Avenue between the

sites. Path of pedestrian travel between the project site and main entrance to the school measures greater than the required 1,000-foot distance separation and furthermore the uses are separated by the major corridor.

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

The commercial space lacks a parking lot and does not block any sidewalks. This Finding is, therefore, met.

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 commercial façade is attractive and no changes to it are proposed at this time.

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

The site does not contain a parking lot, and the proposal does not involve signage at this time. Should signage be desired in the future, that project would require review and approval by the Planning Bureau

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

Litter will be collected inside the business. Conditions of Approval will ensure the operator maintains cleanliness in the public right-of-way (sidewalk and gutter) adjacent to the site.

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 p.m. and seven a.m. The same criteria shall apply to all conditional use permits required by subsection B of this section for sale of alcoholic beverages at full-service restaurants.

The bar will operate adjacent to residences along the south (right) side and east (rear) side; Conditions of Approval will prohibit smoking or any other patron use at the rear yard.

8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant--Guidelines for Development and Evaluation" (OCPD 100-18).

This finding is not applicable; the proposal does not involve a Fast Food Restaurant.

Findings of Public Convenience or Necessity (OMC 17.103.030(B)(3))

a. That 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 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 community contains no bars within 1,000 feet of the former bar.

b. **That 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**

The prior bar and another bar located in the area over 1,000 feet away with no known adverse effects.

c. That alcohol sales are customarily associated with, and are appropriate, incidental, and subordinate to, a principal activity on the lot.

Alcoholic beverage sales are entirely typical for a bar business.

Additional Findings of Public Convenience or Necessity (OMC 17.103.030(B)(4))
a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (not including Full Service Restaurant Commercial Activities), school, licensed day care center, public park or playground, churches, senior citizen facilities, and licensed alcohol or drug treatment facilities; and

This finding is not met; the proposed project site is within 1,000 feet of another alcohol outlet, school, and public park; a Variance is therefore required. Findings can be made to approve the Variance as described in the following section of this attachment.

b. Police department calls for service within the "beat" where the project is located do not exceed by twenty percent (20%), the average of calls for police service in police beats Citywide during the preceding one (1) calendar year.

This finding is met; the area is not high in crime per OPD statistics.

SECTION 17.148.050 – VARIANCE FINDINGS:
1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.

Variances are required because the requirement for a 1,000-foot distance separation between the proposed activity and certain uses is not met. One existing alcohol outlet ("Gateway Liquors") is located approximately 280 feet away. Additionally, the area is over-concentrated for ABC licenses in the Census Tract (4008) in comparison to countywide medians and is not located downtown; so, the distance separation is therefore also required to civic uses. As the site is also within 1,000 feet of civic uses (a park and a school), an additional Variance is therefore required. Approval of the Variance requires justification for relief from the distance separation requirement. The intent of the distance separation is to ensure that alcohol outlets, which historically can sometimes be problematic, do not proliferate adjacent to residences and civic uses.

Census Tract 4008 is roughly bound by Vallejo Street to the west; 67th and Alcatraz Streets to the north; Lowell Street to the east; and Stanford Avenue to the south. The Census Tract contains no bars; it does contain one full service liquor store, two markets with beer and wine only, and some restaurants serving alcoholic beverages. The park does not contain a young children's play area but consists of athletic fields joined to the school beyond. The sites are primarily accessed by Herzog as well as 63rd Streets, with additional pedestrian access from San Pablo Avenue situated between the sites. Path of pedestrian travel between the project site and main entrance to the school measures greater than the required 1,000-foot distance separation and furthermore the uses are separated by the major corridor. Hours of operation between the civic uses and proposed bar would of course vary from each other as well. The Planning Code intends to space out bars that are not located Downtown; in this case, the project is to re-open a former bar in a space that is still set up to accommodate such a use. This section of San Pablo Avenue was de-listed as a restricted street requiring a Major CUP for restaurants to serve alcoholic beverages under the Planning Code to enhance commerce and due to decreased crime and alcohol-related nuisances, and similar Variances have been granted in recent years in the area with no known adverse effects.

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

A similar Variance was approved for a former bar to re-open five blocks south at 5516 San Pablo Avenue ; that business is still in operation with no known adverse impacts.

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

The project is not anticipated to generate off-site impacts, and will not adversely affect the character, livability, or appropriate development of the surrounding area, and will not be detrimental to the public welfare or contrary to development policy. This section of San Pablo Avenue was de-listed as a restricted street requiring a Major CUP for restaurants to serve alcoholic beverages under the Planning Code to enhance commerce and due to decreased crime and alcohol-related nuisances.

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

A Variance was approved for another former bar to re-open at 5516 San Pablo Avenue. As stated above, the granting of the variance maintains consistency with the purposes of the zoning regulations.

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

The Variance is for unmet distance separation between alcohol outlets and design review is, therefore, not applicable.

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

The proposal to open a bar in a former bar space located in a commercial zone conforms to the General Plan.

Attachment B: Conditions

1. **Approved Use**
   Ongoing
   a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, staff report, and the plans dated and submitted on **April 11, 2017** 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 require prior written approval from the Director of City Planning or designee.

   b) This action by the **City Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes:
   i) Major Conditional Use Permit, Variance and Public Convenience or Necessity for an Alcoholic Beverage Sales Commercial Activity (bar) at 6041 San Pablo Avenue.

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 for construction or alteration have been issued, or the 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 necessary 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 laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.

   b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, 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 R**

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, notarized, and submitted with each set of permit plans to the appropriate City agency 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 its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect)action, causes of action, or proceeding (including legal costs, attorneys' 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 of any Action as specified in subsection A above, the 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 applicant of any of the obligations contained in this condition or other requirements or 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 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 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.

SPECIFIC CONDITIONS

10. **Alcoholic Beverage Sales**
    a. Additional Permits Required
    Prior to commencement of activity
    A type 48 license shall be obtained from the ABC. The license should be obtained from existing stock within the City limits to the extent practicable pursuant to City Council Resolution No. 75490 (2000). This use shall conform to all provisions of the State ABC license. The state license and state conditions shall be posted along with these Conditional Use Permit conditions in a place visible to the public. This use shall also conform to all State Retail Operating Standards, Section 25612.5 of the Business and Professions Code and local Performance Standards, Section 15210, where applicable including any future changes in the above regulations. The intent of these standards is to reduce nuisance, litter, loitering, and crime associated with alcohol outlets. The City Conditions of Approval shall be forwarded to the Department of Alcoholic Beverage Control.

    b. Location and manner of alcohol consumption
    Alcohol sale is on-sale, for on-site consumption only.

    c. Hours of Alcohol Sale
    Hours of alcohol sales are limited to the following:
    Monday-Thursday, 7:00 A.M.-12:00 A.M.
    Friday-Saturday, 7:00 A.M.-2:00 A.M.
    Sunday, 7:00 A.M.-10:00 P.M.
    No alcoholic beverages shall be sold within fifteen minutes prior to closing time.

    d. Admittance
    No minors shall be admitted at any time.

11. **Operation**
    Ongoing
    a. Staffing
    The establishment shall have at least two staff persons on-site Thursdays through Sundays.

    b. Staff training program
    The operator shall require new employees to complete a staff training program that includes training in the conditions of approval and ABC statutes and regulations.

    c. Staff to monitor site
    Staff of the business shall regularly monitor the bar and public right-of-way to discourage all nuisances including but not limited to discouraging loitering, littering, noise, graffiti, public drinking / intoxication / urination / violence, and noise.

    d. Future operators

Any future operators of any restaurant at these premises are subject to the requirements of this approval.

e. Entry
Admission shall never be charged for events or otherwise.

f. Cabarets
No live music or DJ's are allowed without a Cabaret Permit from the City Administrator's Office.

g. Taxi or ride share call program
Ongoing
The establishment shall maintain a program of calling taxi cabs or ride shares for patrons on request for the purpose of preventing driving while intoxicated and shall maintain this service. Signage offering this service shall be displayed behind the bar.

12. Coordination/Outreach

a. ABAT Registration
The operator shall register with the Police Department's Alcoholic Beverage Action Team and adhere to their regulations.

b. Deemed Approved Alcoholic Beverage Sale Regulations
The applicant and proprietor voluntarily agree to conform to the Oakland Planning Code Deemed Approved Alcoholic Beverage Sale Regulations (OMC Sec. 17.156).

c. Crime Prevention Through Environmental Review (CPTED)
The applicant shall request a CPTED review from the Oakland Police Department's Alcoholic Beverage Action Team (ABAT) and shall implement all recommendations to the extent practicable.

d. Neighborhood outreach
The business operator shall be accessible to neighbors wishing to register complaints against the business and shall work to eliminate any nuisances related to the business as reported by neighbors.

13. Environmental Effects

a. Nuisances
Crime, litter, or disorderliness conduct associated with alcohol sales at the establishment will result in a revocation of the Major Conditional Use Permit or a review to revoke.

b. Performance standards
Ongoing
The establishment shall adhere to performance standards for noise, odor, and all environmental effects of the restaurant activity as regulated under OMC Chapter 17.120.

c. Loitering
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 loiters 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.

d. Odor

Staff shall eliminate outdoor odors by refraining from purposefully breaking defective bottles outside and by immediately washing spillage from bottles broken accidentally.

e. Graffiti
Graffiti shall be removed from the premises within 72 hours (3 days) of application.

f. Trash and litter
The licensees/property owners shall clear the gutter and sidewalks along San Pablo Avenue plus twenty feet beyond the property lines along this street of litter twice daily or as needed to control litter. In addition to the requirements of B&P Code Section 25612.5 (sweep or mechanically clean weekly), the licensee shall clean the sidewalk with steam or equivalent measures once per month. The business shall utilize a recycling program.

g. Noise
The City Noise Ordinance (OMC Sec. 8.18.010) and Performance Standards (OMC Sec. 17.20.050) shall be observed for noise emanating from within the establishment from any source of recorded music and from patrons as well as from outdoor noise from patrons.

h. Smoking
The City Smoking Ordinance shall apply (OMC Sec. 8.30). Smoking shall only be located at the rear patio and only until 12:00 A.M. or earlier. Ashtrays shall be provided. The establishment shall provide signage inside the building and next to the exit to direct patrons to the proper location for smoking.

14. Design

a. Signage
Within 30 days of the date of decision and ongoing
At least one sign (one square foot maximum) shall be posted and maintained in a legible condition at each public entrance to the building prohibiting littering and loitering. Required signage prohibiting open containers and drinking in public shall also be maintained in legible condition near each public entrance to bar. The "No Open Container" signs are available from the cashier located on the second floor of 250 Frank H. Ogawa Plaza.

b. Signage to discourage other nuisances
Ongoing
The establishment shall display signage inside the building and next to the exit discouraging the patrons from generating nuisances outdoors both fronting the building and within the neighborhood.

c. Contact phone numbers
Ongoing
The establishment shall display signage behind the bar offering contact numbers for both the establishment and the City (CEDA Code Compliance at (510)238-3381 and OPD non-emergency at (510)777-3333 for the purpose of reporting nuisances.

d. Advertising signage
No product advertising signage (such as neon beer signs) or banners (such as happy hour advertisements) may be displayed.

e. Building Code Upgrades
Prior to commencing approved activities

The applicant shall obtain Building Permits and construct any building upgrades required to comply with the Building Code for occupancy requirements; it may be the case that no upgrades are required.

f. Modifications
Prior to submitting for a building permit & ongoing
All business signage and/or exterior alterations shall require Planning Bureau approval.

15. Compliance hearings
After 6 months of commencement of sale of alcoholic beverages
The applicant shall return to the Planning Bureau to report their progress. Should any complaints regarding on-sale provision or other issues regarding sale of alcohol be identified, staff may refer the item back to the Planning Commission under a Director's Report. In that case, the applicant shall submit for a Compliance Review, and pay all appropriate fees consistent with the current Master Fee Schedule at that time (currently $1,310.00). The Compliance Review will be agendized for an upcoming Planning Commission meeting. The Compliance Review shall provide an opportunity for the Commission and the public to provide comment on the operation and determine whether there is a violation of any term, **Conditions** or project description relating to the Approvals or if there is violation of any provision of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance or there exists adverse impacts caused. As a result of the hearing, the Commission may direct staff to initiate enforcement proceedings pursuant to Condition of Approval 5C and/or 13a, and/or may impose additional conditions related to the operation.

APPROVED BY:
City Planning Commission:_____(date)_____(vote)

Attachment C

PARADISE CAFE

JANET EZELL

6041 SAN PABLO AVE.

OAKLAND, CA

©HUNT HALE JONES ARCHITECTS

HUNT HALE JONES

Architecture | Planning | Interiors

444 Spear Street, Suite 200
San Francisco, CA 94105
www.hunthalejones.com

t. 415-512-1300
f. 415-288-0288

COVER SHEET

CS

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

DATE: 09-16-2016

PROJECT: 00000

PROJECT SUMMARY

PARCEL :	APN 16-1460-28
ZONE:	CC2 COMMUNITY COMMERCIAL
TYPE OF CONSTRUCTION:	VB
OCCUPANCY:	A2 BUSINESS
OCCUPANCY LOAD:	15 SF/PERSON
LOT SIZE :	5,012 SF.
BLDG. SIZE:	3,518 SF.

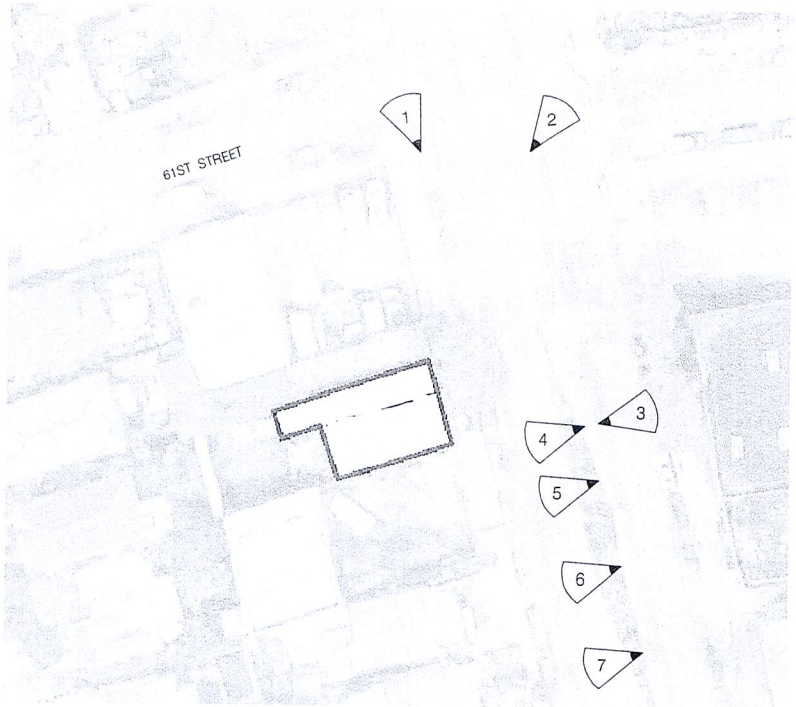
CAFE SUMMARY

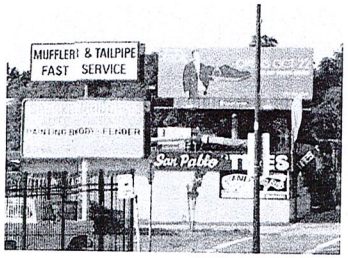
MAIN FLOOR	
CAFE	1,150 SF.
OTHER	593 SF.
TOTAL	1,743 SF.

PARKING NONE

SPRINKLER NONE

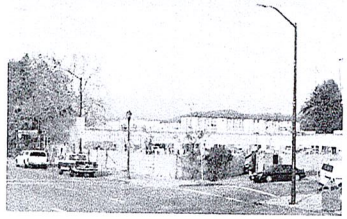
N





1

6101 SAN PABLO AV.



2

6100 SAN PABLO AV.

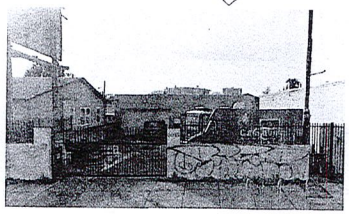
7

6015 SAN PABLO AV.

6

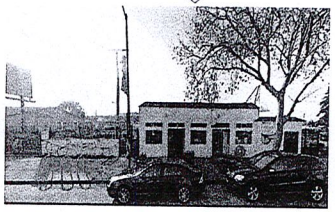
6021 SAN PABLO AV.

5



6027 SAN PABLO AV.

4



SITE - SAN PABLO AV.

3

ACCROSS THE ST. SAN PABLO AV.

PARADISE CAFE

JANET EZELL

6041 SAN PABLO AVE.

OAKLAND, CA

HUNT HALE JONES

Architecture | Planning | Interiors

444 Spear Street, Suite 200
San Francisco, CA 94105
www.hunthalejones.com

t. 415-512-1300
f. 415-288-0288

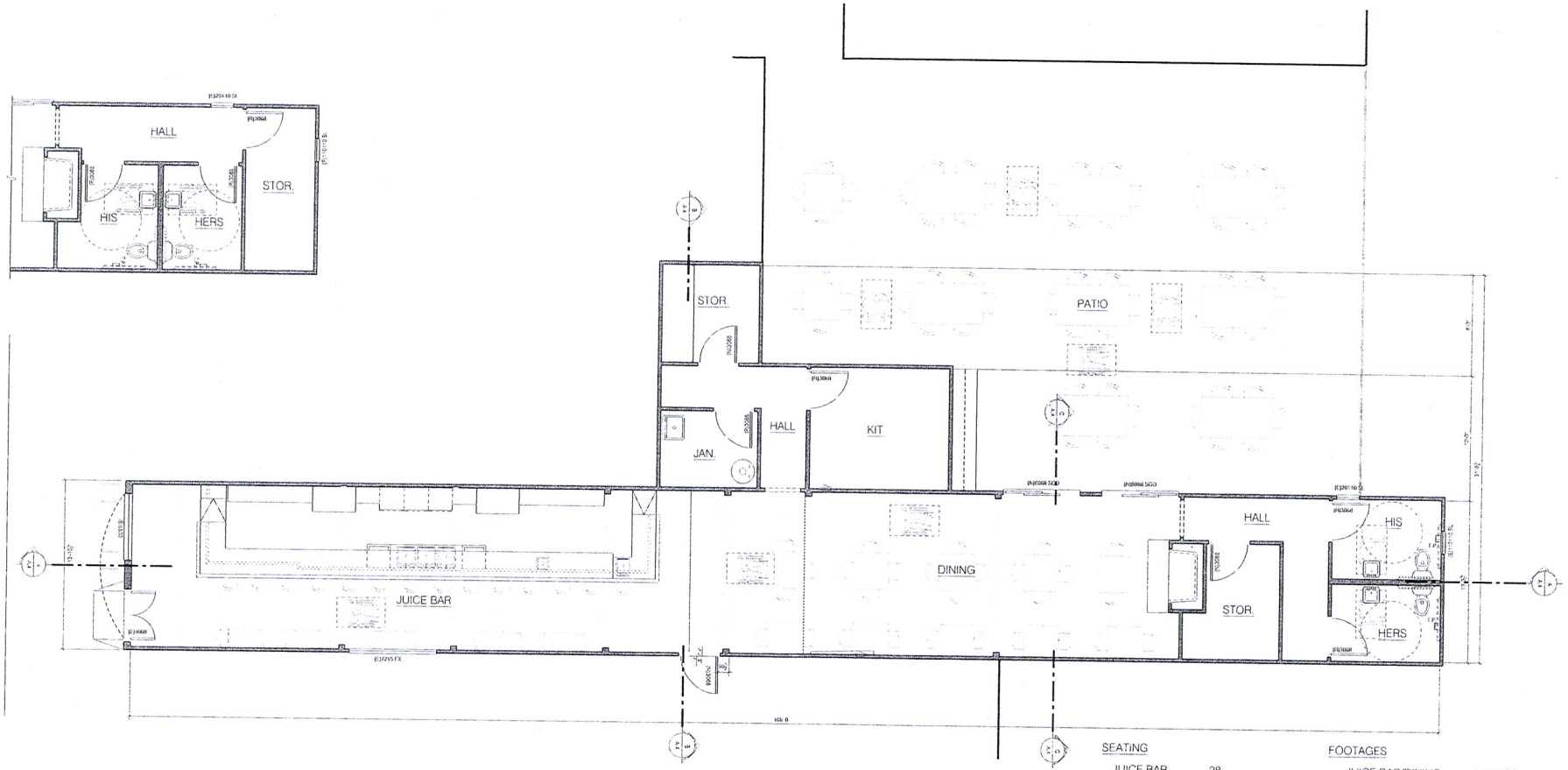
SITE PLAN

SP

SCALE: 1/4" = 1'-0"
DATE: 09-16-2016
PROJECT: 00000

©HUNT HALE JONES ARCHITECTS

Z:\010167_6041_San_Pablo_Remodel\From 999999\6041 San Pablo Ave - Ron\Dwgs\DWGS\Dwgs\SP\PARADISE_SP.dwg, 4/10/2017 2:28:08 PM, rjones



SEATING

JUICE BAR	28
DINING	24
SUB TOTAL	52
PATIO	56
TOTAL	108 PEOPLE

FOOTAGES

JUICE BAR/DINING	1,150 SF
OTHER	593 SF
TOTAL	1,743 SF

PARADISE CAFE

JANET EZELL

6041 SAN PABLO AVE.

OAKLAND, CA

© HUNT HALE JONES ARCHITECTS

HUNT HALE JONES

Architecture | Planning | Interiors

444 Spear Street, Suite 200
San Francisco, CA 94105
www.hunthalejones.com

t. 415-512-1300
f. 415-288-0288

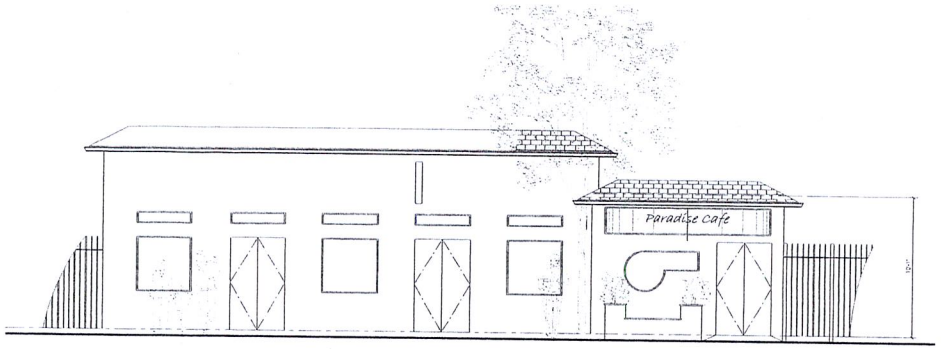
FLOOR PLAN

A2

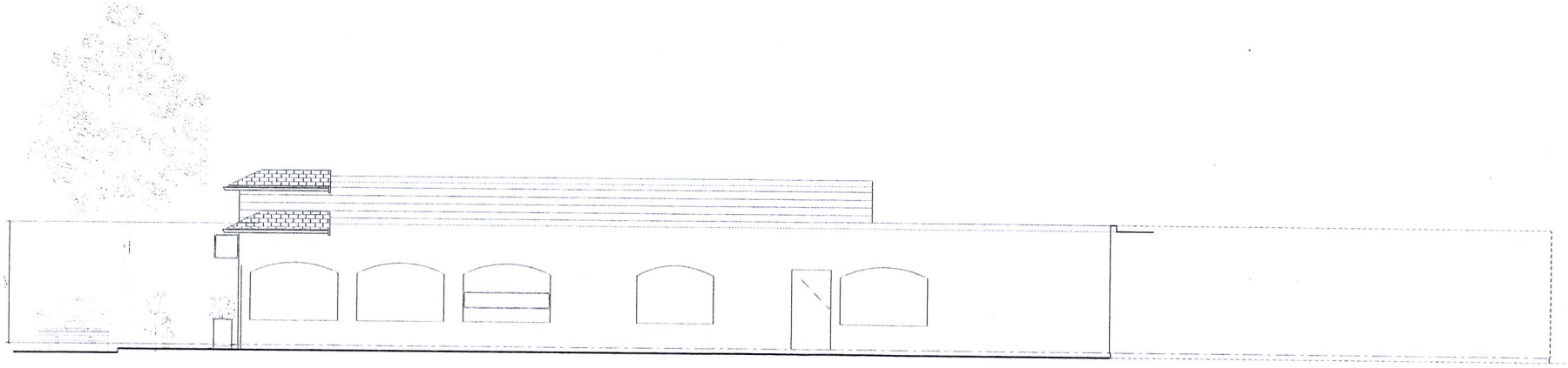
SCALE: 1/4" = 1'-0"

DATE: 09-16-2016

PROJECT: 00000



FRONT (SAN PABLO) ELEVATION



RIGHT ELEVATION

PARADISE CAFE

JANET EZELL

6041 SAN PABLO AVE.

OAKLAND, CA

©HUNT HALE JONES ARCHITECTS

HUNT HALE JONES

Architecture | Planning | Interiors

444 Spear Street, Suite 200
San Francisco, CA 94105
www.hunthalejones.com

t. 415-512-1300
f. 415-288-0288

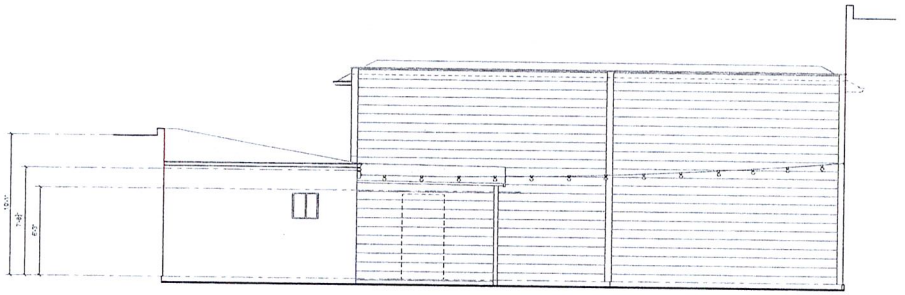
EXT ELEV - FRONT & RIGHT

EE1

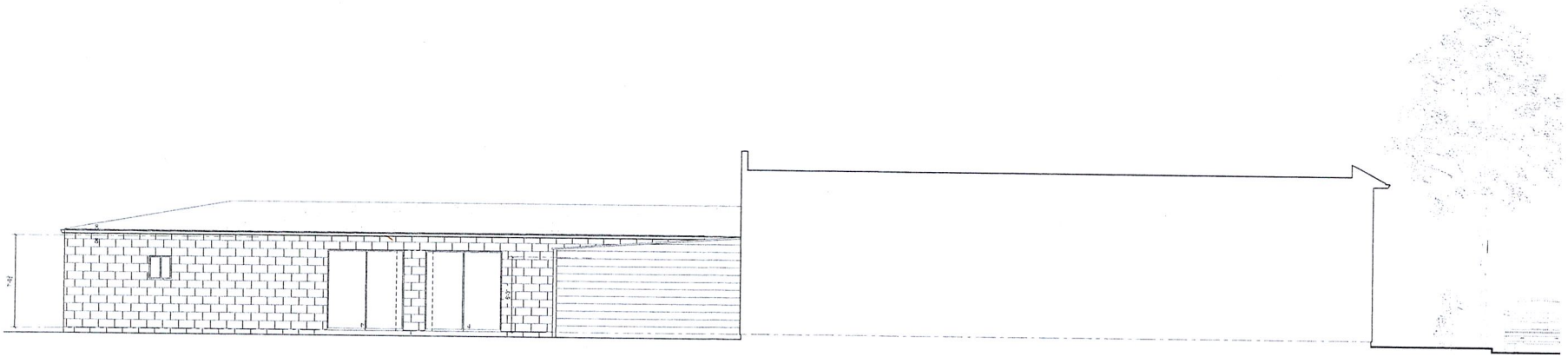
SCALE: 1/4" = 1'-0"

DATE: 09-16-2016

PROJECT: 00000



REAR ELEVATION



LEFT ELEVATION

PARADISE CAFE

JANET EZELL

6041 SAN PABLO AVE.

OAKLAND, CA

©HUNT HALE JONES ARCHITECTS

HUNT HALE JONES

Architecture | Planning | Interiors

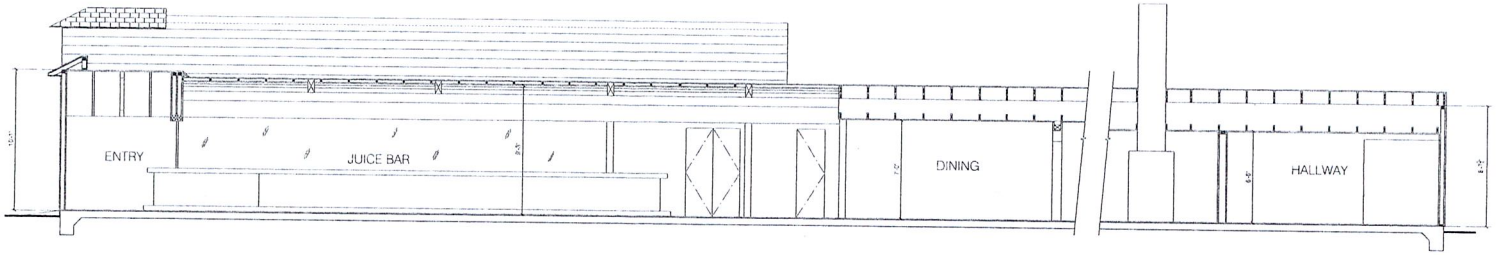
444 Spear Street, Suite 200
San Francisco, CA 94105
www.hunthalejones.com

t. 415-512-1300
f. 415-288-0288

EXT ELEV - REAR & LEFT

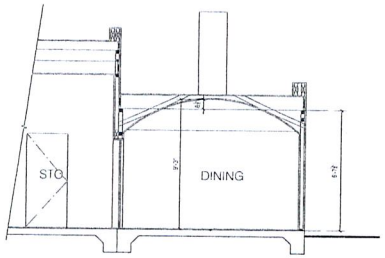
EE2

SCALE: 1/4" = 1'-0"
DATE: 09-16-2016
PROJECT: 00000



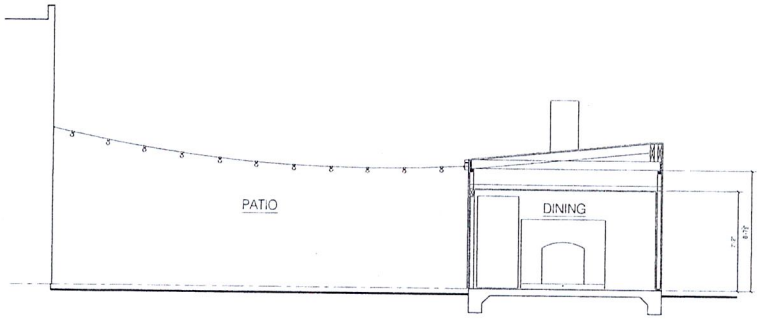
SECTION AA

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



SECTION BB

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



SECTION CC

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

PARADISE CAFE

JANET EZELL

6041 SAN PABLO AVE.

OAKLAND, CA

©HUNT HALE JONES ARCHITECTS

HUNT HALE JONES

Architecture | Planning | Interiors

444 Spear Street, Suite 200
San Francisco, CA 94105
www.hunthalejones.com

t. 415-512-1300
f. 415-288-0288

SECTIONS

BS1

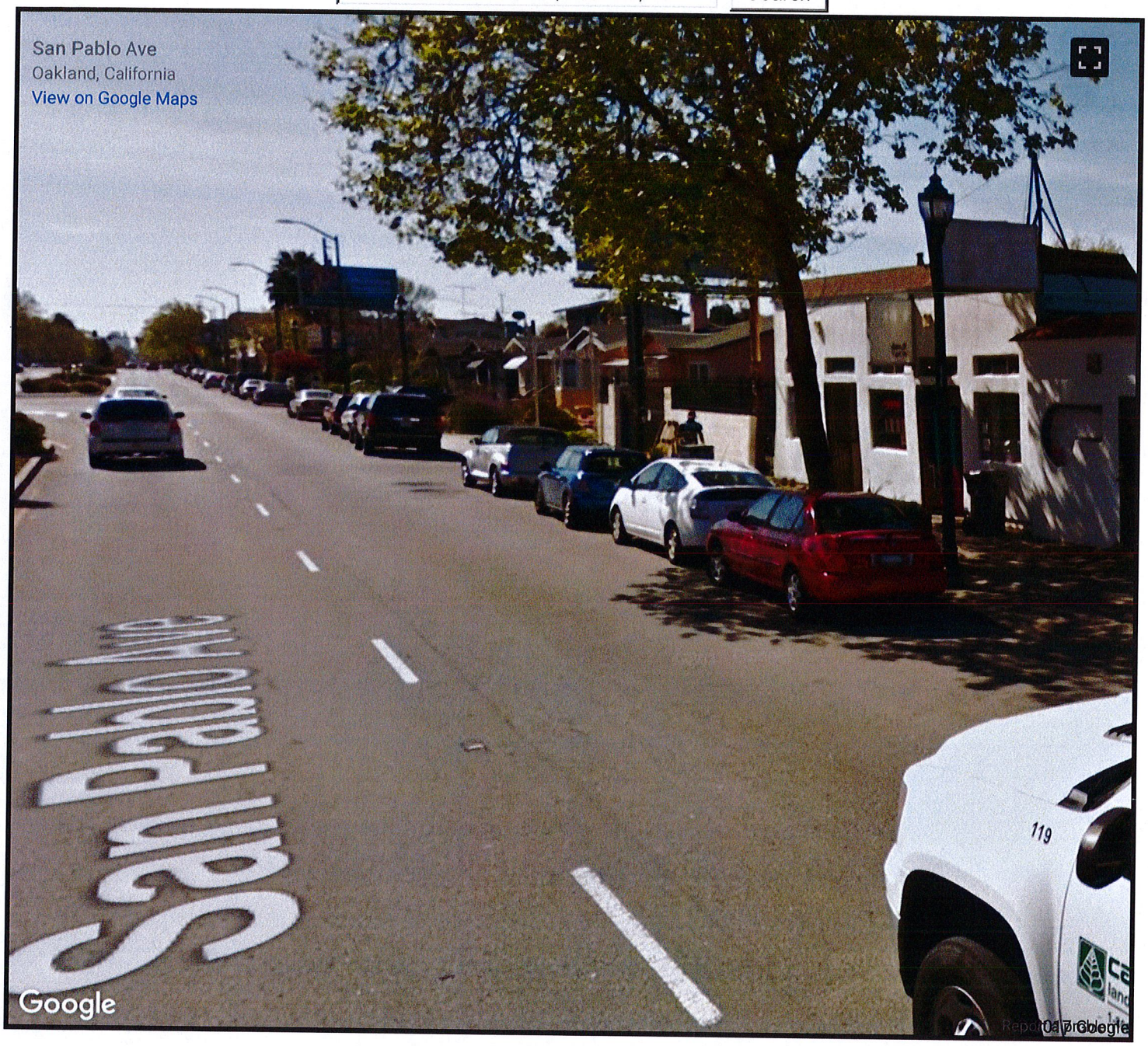
SCALE: 1/4" = 1'-0"

DATE: 09-16-2016

PROJECT: 00000

Enter an address : (Ex. 1300 broadway, Oakland, CA)and click search

6041 SAN PABLO AVE, oakland, ca Search

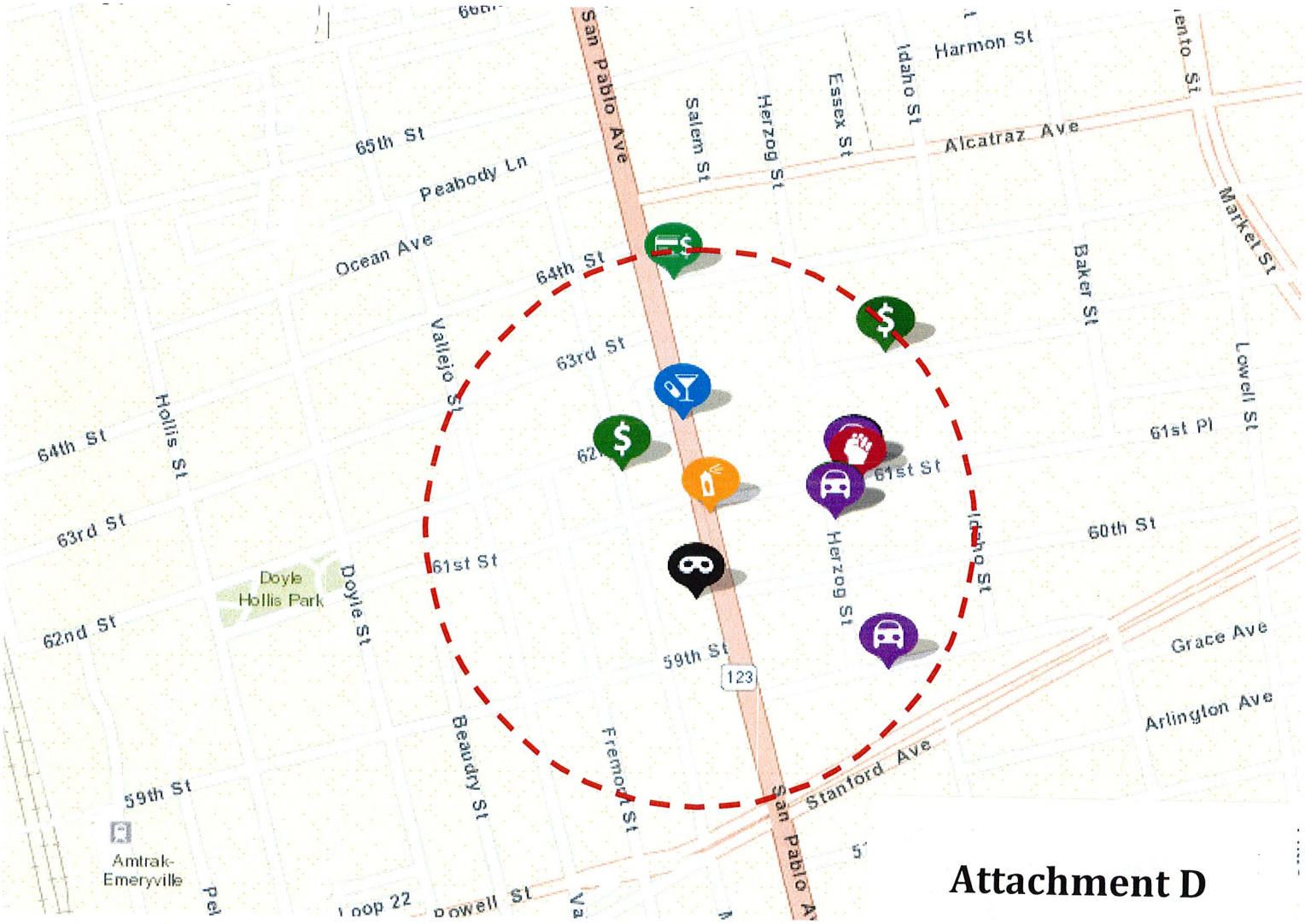


Print

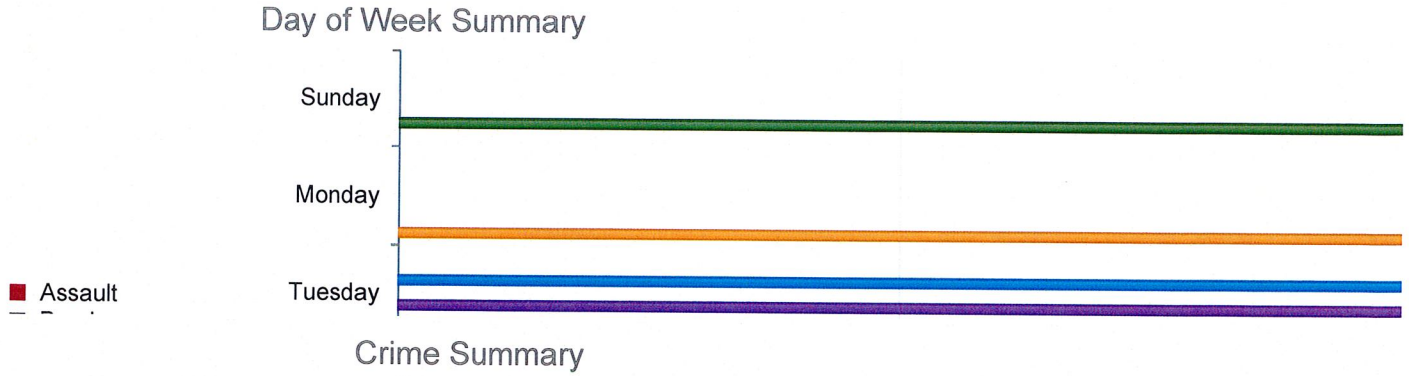
CrimeMapping.com Map

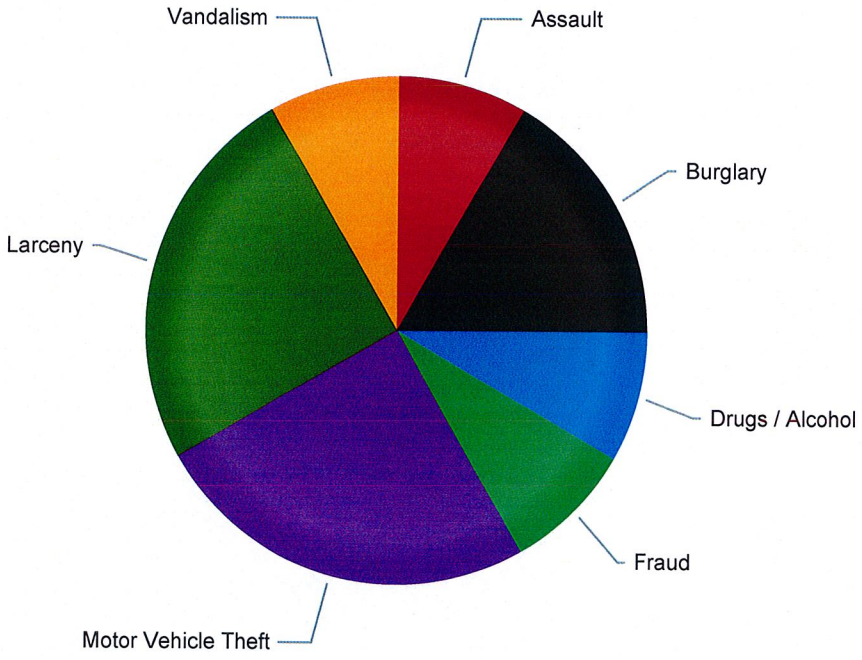
Thursday, August 24, 2017 through **Wednesday, September 20, 2017**

Showing crime types: Arson, Assault, Burglary, Disturbing the Peace, Drugs / Alcohol Violations, DUI, Fraud, Homicide, Motor Vehicle Theft, Robbery, Sex Crimes, Theft / Larceny, Vandalism, Vehicle Break-In / Theft, Weapons



Attachment D





Crime Report

Type	Description	Incident #	Location	Agency
	MOTOR VEHICLE THEFT - AUTOS	17-047820		Oakland Police
	VANDALISM	17-047624		Oakland Police
	MOTOR VEHICLE THEFT - AUTOS	17-047571		Oakland Police
	LARCENY THEFT (EXCEPT MOTOR VEHICLE THEFT)	17-914327		Oakland Police
	FRAUD	17-914225		Oakland Police
		17-914206		Oakland Police

Type	Description	Incident #	Location	Agency
	BURGLARY - FORCIBLE ENTRY			
	MOTOR VEHICLE THEFT - AUTOS	17-046860		Oakland Police
	NARCOTICS	17053003	SAN PABLO AVE / SIXTY-SECOND ST	Berkeley Police
	LARCENY THEFT (EXCEPT MOTOR VEHICLE THEFT)	17-046199		Oakland Police
	BURGLARY - UNLAWFUL ENTRY - NO FORCE	17-045557		Oakland Police
	LARCENY THEFT (EXCEPT MOTOR VEHICLE THEFT)	17-913563		Oakland Police
	ASSAULT - OTHER ASSAULTS - SIMPLE, NOT AGGRAVATED	17-044650		Oakland Police

Golden Gate Public Safety Council

December 21, 2016

Janet Ezell
6041 San Pablo Avenue
Oakland, CA

Dear Ms. Ezell:

The Golden Gate Public Safety Council supports the establishment of Paradise Café and Lounge at 6041 San Pablo Avenue. We understand it will open at 7am for breakfast items. It will begin offering alcohol at 2pm and will close at 10pm Monday – Thursday and at midnight on Friday and Saturday. The back doors will be closed when the cafe is open.

The owner, Ms. Janet Ezelle has attended neighborhood meetings in the Golden Gate community requesting this support.

For additional information, contact Felicia Verdin, Oakland Police Department, Neighborhood Services at 510-238-3128 or fverdin@oaklandnet.com

Sincerely,

Sylvia Tellez
Co-Chair
Golden Gate Public Safety Council

c/o Neighborhood Services
250 Frank Ogawa Plaza, Suite 6303
Oakland, CA 94612

Attachment E