

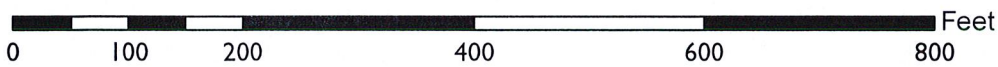
Location:	1501 Harrison Street (314 15th St)
Assessor's Parcel Number:	008-0625-054-00
Proposal:	To establish a limited service restaurant/café and sidewalk seating with sales of alcoholic beverages for on-site consumption and a 1:00 am closing time in a two-story 1,095 square-foot space.
Applicant:	Justin Gilmore
Phone Number:	(831) 431-7455
Owners:	Wilson Tsai
Planning Permits Required:	Major Conditional Use Permit for Alcoholic Beverage Sales Commercial Activity; Additional findings for alcohol sales and Public Convenience or Necessity
General Plan:	Central Business District
Zoning:	CBD-C Central Business District General Retail 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:	Potential Designated Historic Property; Survey rating: C
Service Delivery District:	Metro (Downtown)
City Council District:	3
Date Filed:	December 16, 2015
Finality of Decision:	<i>Appealable to City Council within 10 days</i>
For Further Information:	Contact case planner Moe Hackett, Planner II at (510) 238-3973 or mhackett@oaklandnet.com

SUMMARY

The applicant requests Planning Commission approval of a Major Conditional Use Permit to establish a limited service restaurant/cafe with alcoholic beverage sales (liquor, beer & wine) in a renovated commercial space located Downtown. Because the applicant is requesting a Type-47 license from the State, food is required to be served.

Staff recommends approval of the application, subject to conditions, as described in the report.

CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN15041
Applicant: Justin Gilmore
Address: 1501 Harrison Street (314 15th Street)
Zone: CBD-C

PROPERTY DESCRIPTION

The property is a level corner lot on a T-intersection of Harrison Street at 15th Street. The lot contains a two-story building at zero lot line (no on-site parking) with several commercial spaces facing 15th Street. The subject space has a corner entrance with display windows that extends along 15th Street and Harrison. The space has operated as retail in the past but is currently vacant and boarded. The other spaces in the building contain a variety of commercial shops. To the north (rear) is a mixed use building under construction; to the south (across Harrison Street) are surface parking lots; to the east (next door) is another surface parking lot; and, to the west (across 15th Street) are apartments over a market. The greater neighborhood consists of a combination of these types of uses, which includes development potential.

PROJECT DESCRIPTION

The proposal is to establish a limited service restaurant/café. This would include liquor, beer and wine sales for on-site consumption with meals including sidewalk café seating. Hours of operation would be from 7 am until 1:00 am seven days a week with an option to open later/close earlier and the intent to function as a coffee shop during the morning hours. Minors would be admitted. Tenant improvements would consist of renovations to the interior, including creation of two ADA compliant restrooms and a full kitchen facility. No exterior modifications are proposed at this time.

The project would require a Type 47 license (On-Sale General for Bona Fide Public Eating Place) from the State of California Department of Alcoholic Beverage Control (ABC), which is described as follows:

ON SALE GENERAL – EATING PLACE - (Restaurant) Authorizes the sale of beer, wine and distilled spirits for consumption on the licensed premises. Authorizes the sale of beer and wine for consumption off the licenses premises. Must operate and maintain the licensed premises as a bona fide eating place. Must maintain suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises. Minors are allowed on the premises.

The ABC allows with this license type the retail sales of bottled (“to-go”) beer and wine, although this feature was not requested under the proposal as ensured by proposed conditions of approval. The applicant would like to retain the right to downgrade to beer and wine only with no liquor (ABC # 41).

Background

Generally, full service restaurants include alcohol sales. The applicant does not consider this proposed restaurant to contain adequate dimensions to accommodate a full service format (table service); furthermore, they prefer the flexibility to rely on a limited format (counter service), regardless. The alcohol component is therefore analyzed as its own use rather than as an accessory to the restaurant.

Outreach

The applicant has reached out to the Council District 3 office, Neighborhood Crime Prevention Council (NCPC), and Downtown Oakland Association to present the proposal to the community. Future renovations, not fully designed or analyzed at this time, could include an expanded sidewalk café or pushing into the adjacent parking lot (a separately owned property) for expanded outdoor dining and drinking area; such expansion as well as structural renovations, and/or business signage, would require approval of a Design Review Permit and revision to this conditional use permit (should it be approved) for expanded alcohol sales area.

GENERAL PLAN ANALYSIS

The property is located in the Central Business District area of the General Plan's Land Use & Transportation Element (LUTE). The intent of the area is: "to encourage, support, and enhance the downtown areas as a high density mixed use urban center of regional importance and a primary hub for business, communications, office, government, high technology, retail, entertainment, and transportation in Northern California." The proposal conforms to this intent and to the following Policies of the LUTE:

Policy D5.1 Encouraging Twenty-Four Hour Activity.

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

Policy D12.1 Promoting Oakland's Strengths.

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

The proposal involves a new restaurant in an area of Downtown where several eating and drinking establishments are located to serve workers, residents and visitors. The establishment would increase the number of businesses in the area that are open late, serving the entertainment district and increasing evening safety. Downtown is a Showcase district, under the LUTE, specializing in entertainment establishments. The establishment would be a limited service restaurant as opposed to bar or liquor store, and although it would be located adjacent to housing, it would not create the same types of impacts that might be expected from a full bar or liquor store. It should not, therefore, generate nuisances to existing Downtown residences and civic uses. Staff finds that the proposal, as conditioned, conforms to the General Plan.

SPECIFIC PLAN

The project site falls within the boundaries of the Downtown Specific Plan study area; however, the Plan is pending and Policies are therefore still forthcoming. This report therefore does not analyze the proposal for conformity with the Specific Plan.

ZONING ANALYSIS

The site is located in the CBD-C Central Business District General Retail Zone. The intent of the CBD-P/C zone is: "to create, maintain, and enhance areas of the Central Business District for ground-level, pedestrian-oriented, active storefront uses. Upper story spaces are intended to be available for a wide range of office and residential activities." The following are permits required for the proposal, the reason each permit is required, and a discussion of each permit requested.

1) Major Conditional Use Permit with additional findings

Alcoholic beverages sales, including for on-site consumption at a limited service restaurant, requires a Major Conditional Use Permit (CUP), which is decided by the Planning Commission. The review considers compatibility with surroundings, as described in the Key Issues and Impacts section of this report.

2) Findings of Public Convenience or Necessity

These findings, modeled on State Code, are required for Alcoholic Beverage Sales to be established in an over-concentrated area. The area is over-concentrated for crime in the police beat (04X) in comparison to Citywide rates (OPD data), and ABC license count in the Census Tract (4029) in comparison to countywide rates (ABC data). The Census Tract contains four # 20's (market with beer and wine), one # 21 (market with liquor, beer and wine), seven # 41's (restaurant with beer and wine), fifteen #47's (restaurant with liquor, beer and wine), and eleven #48's (bar). The majority of these establishments are not located within one thousand feet of the project site. The proposal requires an ABC license type 47.

Findings of Public Convenience or Necessity (PCN) are therefore required. When operated as a restaurant, alcohol sales are typically not problematic; same for establishments with late closing times when located Downtown. PCN findings consider variety, economic benefits, and whether alcoholic beverage sales are typical for the establishment type. As indicated, this format is not anticipated to lead to nuisances, which are further avoided by conditions of approval.

Staff finds the proposal, as conditioned, to be in conformance with the Planning Code, pursuant to the attached Findings.

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 a limited service restaurant or café with on-sale of alcoholic beverages (liquor, beer and wine) in a renovated space within a central business district 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 Permits for alcoholic beverage sales outlets are meant to ensure operating characteristics would be compatible with and not a nuisance to a surrounding area. In this case, the nature of the restaurant establishment, Downtown surroundings, and operating characteristics memorialized as conditions of approval should ensure no nuisances are created as a result of the business (See Attachment B). These conditions of approval include: no sale of alcohol without operation of the café /restaurant, no retail bottles sales of alcohol, no alcoholic beverage advertising, and no sale of convenience items. Given these considerations, staff recommends the Planning Commission grant the request, subject to conditions of approval.

RECOMMENDATIONS:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit, and Findings of Public Convenience or Necessity subject to the attached findings and conditions.

Prepared by:



MOE HACKETT
Planner II

Approved by:



SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:



DARIN RANELLETTI, Interim Director
Planning and Building Department

ATTACHMENTS:

- A. Findings
- B. Conditions of Approval
- C. Plans
- D. Crime Map/Report (1,000 feet / four weeks ending 9/27/16)