

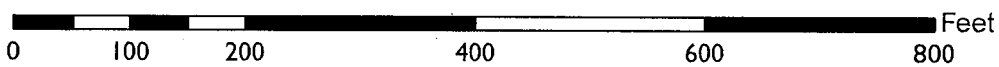
<b>Location:</b>	460-464 8 <sup>th</sup> Street, The Trappist (see map on reverse)
<b>Assessor's Parcel Number:</b>	001-0201-007-00
<b>Proposal:</b>	To modify an approved beer & wine tavern by upgrading the ABC license to include on-site liquor sales/consumption. The premises contain two adjoining spaces, under prior approvals to establish (granted 2007) and expand (2011), and include two front doors, internal connection, and a rear door/patio. Total area to remain 1,398 s.f. interior/432 s.f. exterior, and closing time to remain 2:00 AM.
<b>Applicant:</b>	Aaron Porter
<b>Phone Number:</b>	510-409-3427
<b>Owner:</b>	11 West Ninth Street Properties
<b>Planning Permits Required:</b>	Revision to amend: Major Conditional Use Permit for Alcoholic Beverage Sales Commercial Activity; Additional findings for a CUP involving sale of alcohol, and, public convenience or necessity for over-concentration
<b>General Plan:</b>	Central Business District
<b>Zoning:</b>	CBD-P Central Business District-Pedestrian Retail Commercial, S-7 Preservation Combining District
<b>Environmental Determination:</b>	Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities (operation); Section 15183: Projects Consistent with a Community Plan, General Plan or Zoning
<b>Historic Status:</b>	Designated Historic Property: A1+ rating; Area of Primary Importance contributor (Old Oakland Historic District)
<b>Service Delivery District:</b>	Metro
<b>City Council District:</b>	3
<b>Date Filed:</b>	July 25, 2016
<b>Finality of Decision:</b>	<i>Appealable to City Council within 10 days</i>
<b>For Further Information:</b>	Contact <b>Gregory Qwan, Planner I</b> at (510) 238-2958 or <a href="mailto:gqwan@oaklandnet.com">gqwan@oaklandnet.com</a>

**SUMMARY**

The applicant requests an amendment to an existing Major Conditional Use Permit in order to upgrade a beer and wine tavern to include distilled spirits (hard liquor). The business is currently approved for on-sale (on-site consumption) of beer and wine (approved by the Planning Commission in 2011). No changes are proposed to the existing tenant space or building.

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

# CITY OF OAKLAND PLANNING COMMISSION



Case File: CMDI0265-R01  
Applicant: Aaron Porter  
Address: 460-464 8th Street  
Zone: CBD-P / S-7

## **PROPERTY DESCRIPTION**

The property is a level lot that contains a two-story commercial building, at zero lot line along the front and sides, and a rear patio. The building is an A rated Designated Historic Property in the Old Oakland District. The building was constructed circa 1873-1874 and remodeled in 1957 and 1987. The façade is comprised of brick and concrete with large framed windows. The subject space contains two adjoining spaces with two front doors, internal connection, and rear door/patio. Total area will remain 1,398 square-feet (interior) with a 432 square-foot rear patio. The surrounding area consists of other historic two-story buildings and parking lots, and includes alcoholic beverage sales establishments.

## **BACKGROUND**

In 2007, the Planning Commission approved a Major Conditional Use Permit to establish the existing beer tavern which specializes in Belgian beers and ales with light meals. In 2011, the Planning Commission approved a Major Conditional Use Permit and Design Review to extend the tavern into the neighboring tenant space (464 8<sup>th</sup> Street) and outdoor rear patio. The tavern has been in continuous operation since 2007.

## **PROJECT DESCRIPTION**

The proposal is to modify the existing Major Conditional Use Permit to allow the sale for on-site consumption of high-end distilled spirits in addition to beer and wine. Hours of operation would remain the same, from 10:00 a.m. to 2:00 a.m., with alcohol sales allowed from 11:00 a.m. to 1:45 a.m. The project requires the tavern to upgrade the existing type 42 license (On-Sale Beer and Wine for Public Premises) to a type 48 license (On-Sale General for Public Premises) with the State of California's Department of Alcoholic Beverage Control (ABC). The original operator would continue to operate the establishment, with enhanced offerings, with no other requested changes to existing Conditions of Approval. No physical changes to the building or tenant space are proposed. Following is the ABC's description of a type 48 license:

**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 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 area 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 the enhancement of a successfully-operated tavern in an area of Downtown where several eating, drinking and entertainment establishments are located. The proposal for an enhanced establishment would add to the number of businesses in the area with a full bar that are open late, serving the entertainment district and increasing evening safety. The establishment is not located adjacent to housing or civic uses operated during evenings. It should continue, therefore, not to generate nuisances to existing Downtown residences and civic uses.

Staff finds that the proposal, as conditioned, conforms to the General Plan.

## ZONING ANALYSIS

The site is located in the CBD-P Central Business District Pedestrian Retail Zone. The intent of the CBD-P 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 existing tavern, originally granted entitlements in 2007, returned to the Planning Commission in 2011 to expand the tenant space. The following approvals have already been granted:

- Major Conditional Use Permit (CUP) to allow Alcoholic Beverage Sales Commercial Activity (tavern);
- Regular Design Review for an expansion into a neighboring tenant space and construction of a rear patio; and
- Additional findings required for conditionally-approved establishments selling alcoholic beverages, and, public convenience or necessity (for sales in an over-concentrated area).

Alcoholic beverage sales are allowed by the Planning Code with approval of a Major Conditional Use Permit. Conditional Use Permits for alcoholic beverage sales outlets are decided by the Planning Commission. The current request seeks to continue the sale and consumption of alcoholic beverages, with the addition of distilled spirits (hard liquor), at a non-problematic premises located in an appropriate district for drinking establishments. Since no physical changes are proposed to the building or tenant space, no further Design Review is required given recent approvals. Required permits are analyzed in the "Key Issues And Impacts" section later in this report.

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

## KEY ISSUES AND IMPACTS

The review is meant to ensure operating characteristics would be compatible with and not a nuisance to the surrounding area. In this case, the existing business has not been problematic due to the operating characteristics required by the Conditions of Approval of the original approval. Additionally, the operator has been responsible for attractive renovations to the exterior and interior of the building, including the constructed rear patio. Conditions of Approval would apply to any future operator.

### Public Convenience or Necessity

The site is located in an over-concentrated area so additional findings are required in order to approve the project, and can be made, as described below.

### Reported Crime

The site is located in Police Beat 03Y which is bound by Broadway, 14<sup>th</sup> Street, Brush and Castro Streets, and the 880 freeway. This Beat is higher in terms of reported crime than the Citywide average, and is therefore considered to be over-concentrated. However, crimes in this Beat do not tend to cluster adjacent to the project site, and generally are not alcohol-related in nature. Furthermore, the establishment is not known to generate crime and the proposal to enhance the establishment is not anticipated to generate crime. Therefore, staff does not find crime to be an issue with this proposal.

### ABC Licenses

The site is also located in Census Tract 4031 which is bound by Broadway, 14<sup>th</sup> Street, Martin Luther King Jr. Way, and the 880 freeway. The Tract is higher in terms of number of ABC-licensed premises than the countywide median, and is therefore considered to be over-concentrated. The Tract contains one ABC type 20 license (market with beer and wine), two 21's (market with liquor, beer and wine), ten 41's (restaurant with beer and wine), eighteen active 47's (restaurant with liquor, beer and wine), one 42 (beer tavern at subject site), and three 48's (bar). While the ABC licenses in the Tract tend to cluster around the site in the Old Oakland District, this is in fact desirable and appropriate for a downtown entertainment and visitor-serving area, and furthermore, many of these establishments are restaurants rather than bars. Therefore, over-concentration is not considered to be an issue in relation to this proposal.

## ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines categorically exempt 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 upgraded licensing of an existing tavern in an existing space 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.

**CONCLUSION**

The proposal is considered to be an economic asset that is compatible with the area's function and appropriate for the establishment; findings can therefore be made to approve the project. The applicant proposes to continue the existing operation as a bar, without expansion of floor area or building footprint. No additional parking is required. The current request does not include modification to the existing building or tenant space. All historic materials and character defining features would remain. Given these considerations, staff recommends the Planning Commission grant the request, subject to conditions of approval.

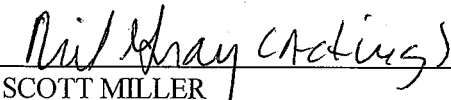
**RECOMMENDATIONS:**

1. Affirm staff's environmental determination.
2. Approve the Amendment to an existing Major Conditional Use Permit with additional findings subject to the attached findings and conditions.

Prepared by:

  
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GREGORY QWAN  
Planner I

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. ABC license data for Census Tract 4031
- E. OPD data for Police Beat 03Y
- F. 2011 approval letter