

Location:	3001 Broadway (APN: 006-0705-008-00) See map on reverse
Proposal:	To sell beer and wine at a limited service restaurant (Chipotle Mexican Grill) with an 11:00 p.m. closing time located within a commercial complex (Sprouts Plaza).
Contact Person/Phone Number:	Dwane Kennedy / (415) 401-9300
Owner:	30 th and Broadway LLC
Case File Number:	PLN16100
Planning Permits Required:	Major Conditional Use Permit with additional findings to allow an Alcoholic Beverage Sales Commercial Activity; Findings for Public Convenience Or Necessity (PCN) to allow an alcohol outlet in an over-concentrated area; Variances to allow an alcohol outlet within 1,000 feet of an existing location, (2) within 1,000 feet of civic uses in an over-concentrated area, and (3) in a police beat high in calls for service
General Plan:	Community Commercial
Zoning:	D-BV-3 Broadway Valdez District Mixed Use Boulevard- 3 Commercial Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities (operations); Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan, general plan, or zoning
Historic Status:	Non historic property
Service Delivery District:	Metro
City Council District:	3
Commission Action to Be Taken:	Decision on Application
Appeal:	<i>Appealable to City Council within 10 days</i>
For Further Information:	Contact case planner Moe Hackett at (510) 238-3973 or by email: mhackett@oaklandnet.com

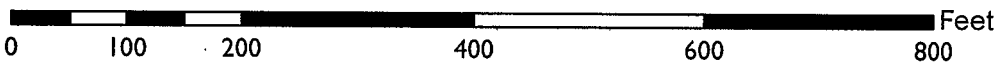
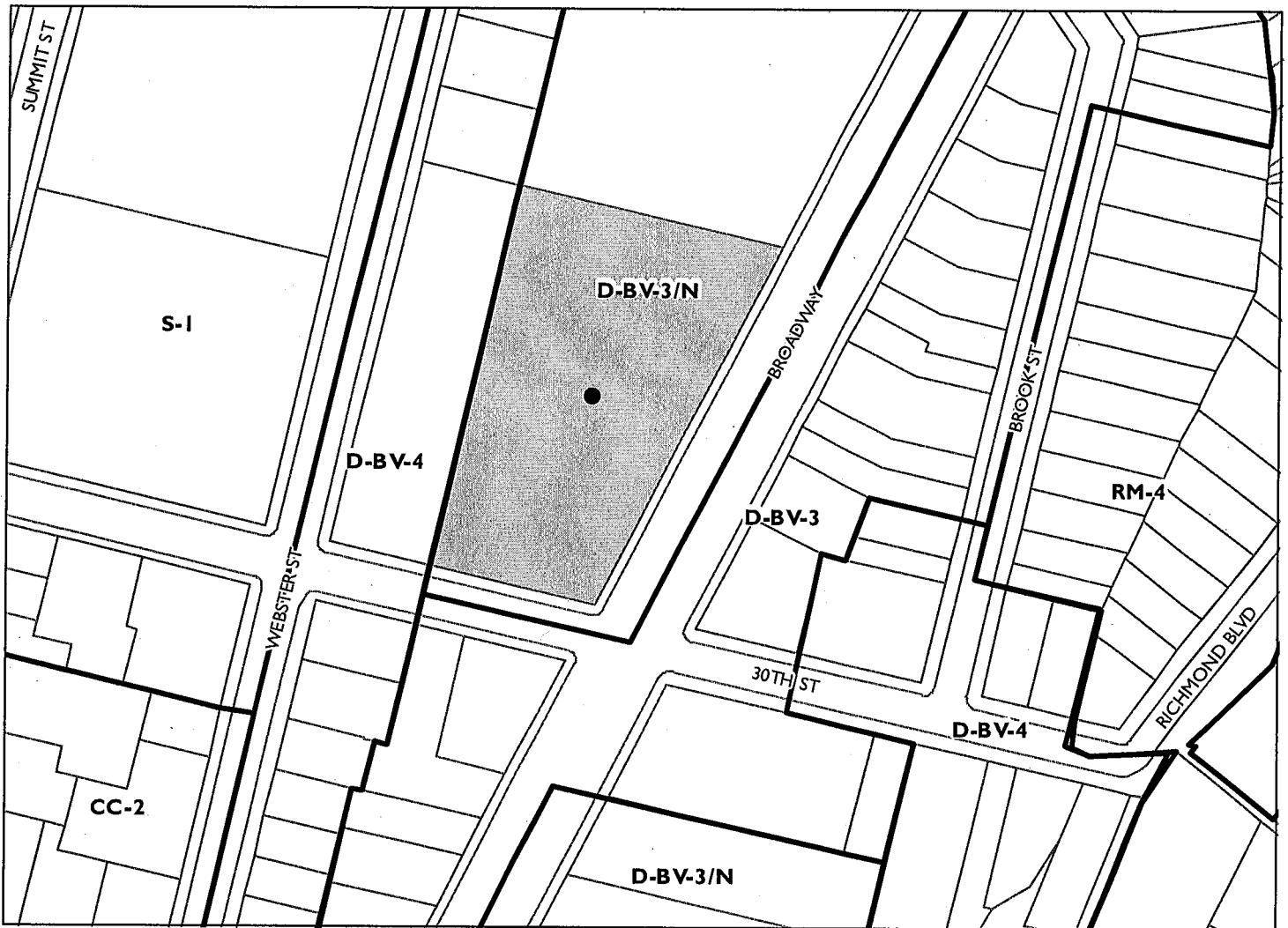
SUMMARY

This is a request to allow beer and wine sales for on-site consumption at a recently-established limited service restaurant (Chipotle Mexican Grill) located within a newer commercial complex (Sprouts Plaza). Staff recommends approval of the application with conditions.

PROPERTY DESCRIPTION

The project space located at 3001 Broadway measures 4,200 square-feet in floor area. It faces Broadway across a pedestrian open space which includes a shared patio with outdoor furniture. The site, which consists of a recently established large commercial building with multiple spaces and tenants including Sprouts Farmers Market and Sleep Train, is located north of Downtown within the Broadway Valdez District Specific Plan area.

CITY OF OAKLAND PLANNING COMMISSION



Case File: PLN16100
Applicant: Dwane Kennedy
Address: 3001 Broadway
Zone: D-BV-3/N

PROJECT DESCRIPTION

The applicant requests permission to sell beer and wine at a limited service restaurant. A small alcohol display consisting of beer bottles for sale would be kept behind the customer service counter in an employee-only area. Maximum occupancy is twenty-eight (28) seats, subject to Fire Marshal approval. The proposed business hours are Monday through Sunday from 9:00a.m. to 11:00 p.m. No use of the outdoor space for alcohol consumption is proposed. The project would require a Type 41 license from the ABC ("On-Sale Beer and Wine –Eating Place"). Following is the ABC's description for a Type 41 license:

Type 41: ON SALE BEER & WINE – EATING PLACE. Authorizes the sale of beer and wine for consumption on or off the premises where sold. Distilled spirits may not be on the premises (except brandy, rum, or liqueurs for use solely for cooking purposes). 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.

GENERAL PLAN ANALYSIS

The subject property is located within the Community Commercial land use area under 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 conforms to this intent and to the following LUTE Objective:

Objective N1.1: *Concentrating Commercial Development. Commercial development in the neighborhoods should be concentrated in areas that are economically viable and provide opportunities for smaller scale, neighborhood-oriented retail.*

Issues associated with the project are discussed in the 'Key Issues and Impacts' section of this report. Staff finds the proposal to conform to the General Plan, subject to conditions of approval.

ZONING ANALYSIS

The project requires Planning Commission approval of a Major Conditional Use Permit with additional findings to allow an Alcoholic Beverage Sales Commercial Activity, Variances to allow an alcohol outlet within 1,000 feet of an existing location, (2) within 1,000 feet of civic uses in an over-concentrated area, and (3) in a police beat high in calls for service, and Findings for Public Convenience or Necessity (PCN) to allow an Alcoholic Beverage Sales Commercial Activity that is located in an over-concentrated area outside of Downtown. Findings for these approvals are found in Attachment A, and issues associated with the project are discussed in the 'Key Issues and Impacts' section of this report.

Full service restaurants may generally serve alcoholic beverages as an accessory use without an additional Zoning approval; however, the Chipotle Corporation's model is for limited service restaurant, where customers order and pay at the counter. Typically, the corporation prefers to sell margaritas containing tequila; however the applicants have agreed to limit their service to beer and wine. The project consists of the two use classifications of Limited Service Restaurant (no table service) and Alcoholic Beverage Sales Commercial Activities (alcohol sales not involving a full service

restaurant). A Limited Service Restaurant is permitted by-right within the D-BV-3/N Zone, but a Major Conditional Use Permit is required for an Alcoholic Beverage Sales Commercial Activity and Major Permits are decided by the Planning Commission.

Staff finds the proposal to conform to the Planning Code, subject to conditions of approval.

KEY ISSUES AND IMPACTS

The proposed establishment, a limited service restaurant enhanced with sale of beer and wine for on-site consumption, is not anticipated to generate nuisances or police calls. This is due to the implementation of restrictions such as provision of food service, no off-sale (retailing) of alcohol, early closing time, staff training, and maintenance of the site (**Attachment B**). The following non-restaurant alcohol outlets are located within 1,000 feet of the site, and a variance is therefore required:

3001 Broadway (Sprouts)
2984 Broadway (CVS)
2910 Broadway (Grocery Outlet)
299 29th Street (Broadway Liquor)

These premises all hold a Type 21 license with the ABC (market with liquor, beer and wine). Furthermore, the area is over-concentrated: Census Tract 4013 (boundaries are Broadway/Highway 580/Highway 24/Grand Avenue) is higher than the countywide median for ABC licenses. The Tract contains the following ABC licenses:

#20 (market with beer and wine): 2
#21 (market with liquor, beer and wine): 2
#41 (*restaurant with beer and wine*): 11 *
#42 (beer tavern): 1
#47 (restaurant with liquor, beer and wine): 8
#48 (bar): 4

**same license type as proposed*

Lastly, Police Beat 08X is over-concentrated for reported crime that is higher than the citywide average (Boundaries are Grand/Harrison/Highway 580/Broadway/40th Street/Highway 24). Additional findings of Public Convenience or Necessity (PCN) are therefore required. For projects outside of Downtown, PCN findings include a requirement for low calls for police service within the Beat. Police Beat 08X is also high in calls for service, so an additional Variance is required.

However, staff finds that alcohol regulations are sufficient to control nuisances due to the following factors:

- Consumption of beer and wine would occur on site with food at a premises admitting children.
- The ABC often mandates a standard closing time for all restaurants serving alcohol in a given district. Should that time ever become earlier than 11:00pm for this district, the establishment will be further restricted to that earlier closing time.

- Consistent with ABC approvals for a restaurant (license type #41), no off-sale (to go) of alcoholic beverages would be permitted.
- Should the business be sold, a future operator of similar nature could utilize an approved CUP but would be subject to the same conditions.

Furthermore, staff also finds the reduced distance separation is acceptable due to the following factors:

- While the premises is located on the same block as a market selling liquor, beer and wine, it would function as a restaurant with different hours of operation and would only serve beer and wine with food.
- No parks, schools, churches, day cares or senior facilities are located in the immediate vicinity.
- Due to the primary restaurant nature of the establishment, the potentially undesirable situation where intoxicated patrons pose a nuisance to civic uses is considered very unlikely.

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 project involving *operation of existing private...facilities*. The proposal to serve beer and wine at a limited service restaurant located in a commercial district meets this description: the project would constitute operation of an existing facility. The proposal also adheres to Section 15183 for projects consistent with a community plan, general plan or zoning. The project is therefore exempt from Environmental Review.

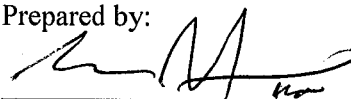
In conclusion, staff finds the proposal to not pose a nuisance to civic uses or constitute a proliferation of alcohol outlets in the district. Due to the nature of the operation and setting, staff supports the proposal with the inclusion of conditions of approval.

RECOMMENDATION:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permits and Variances for Alcoholic Beverage Sales Commercial Activity at 3001 Broadway, based on findings, including additional findings for

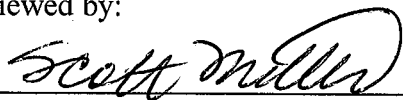
Public Convenience or Necessity, and subject to the attached conditions.

Prepared by:



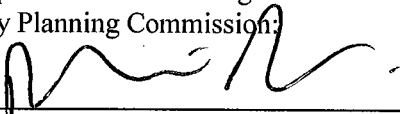
Moe Hackett, Planner II

Reviewed 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, including Standard Conditions of Approval
- C. Plans

ATTACHMENT A: FINDINGS FOR APPROVAL

This proposal meets all the required Conditional Use Permit Criteria (Section 17.134.050), Additional CUP findings for alcohol sales (Section 17.103.030.A), Findings of Public Convenience or Necessity (OMC Sec. 17.103.030(B)(3)), and Variance Procedure/Findings Required (OMC Sec. 17.148.050(A)) and as set forth below and which are required to approve your application. Required findings are shown in **bold** type; reasons your proposal satisfies them are shown 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.**

Sale of alcoholic beverages is expected to comprise only two percent of revenues. The business will utilize security cameras to increase safety. Staff at the establishment will monitor the site and public right-of-way and shared patio area for noise, loitering, and cleanliness as required by Conditions of Approval. As evidenced by visits to other Chipotle restaurants that serve beer and wine, and as confirmed on plans, the space devoted to sales of beer and wine is very limited, approximately eight square feet of floor space. The limited space devoted to alcohol sale further indicates the ancillary nature of such sales, and reduces the potential for nuisance activities that could adversely affect abutting properties and the district.

- 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 location is a newly established multi-tenant commercial structure which currently functions as a Chipotle restaurant. The proposal will not require interior alterations, and will retain an efficient floor plan and attractive frontage. The frontage will be not be altered.

- 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 restaurant will contribute to the variety of choices available for area shoppers, and will provide jobs. The proposal will bring additional customers to a commercial district by providing an expanded dining option within an existing facility and operation.

- D. That the proposal conforms to all applicable regular design review criteria set forth in the regular design review procedure at Section 17.136.050.**

The proposal for alcohol sales does not require design review; façade improvements and new signage were approved prior to this application.

- E. 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 has been adopted by the Planning Commission or City Council.**

The proposal conforms to the General Plan for the following reasons:

The premises are located in the Community Commercial of the General Plan's Land Use & 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." These areas typically include larger scale retail and commercial uses as well as entertainment venues among a mix of other activities. The proposal to expand an existing limited service restaurant to include beer and wine service, conforms to this intent and strategy and to the following LUTE Objective and Policies:

Objective N1.1: Concentrating Commercial Development. Commercial development in the neighborhoods should be concentrated in areas that are economically viable and provide opportunities for smaller scale, neighborhood-oriented retail.

Section 17.103.030 (A) - Special Use Permit Criteria for Alcoholic Beverage Sales:

- 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 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-mall commercial liquor stores. City crime statistics for recent months show that overall crime rates near the applicant's site are similar to those of the greater downtown areas which are adjacent to the Broadway Valdez area, and are not major crime locations. The neighborhood streets have sufficient capacity to support this facility without causing undue traffic or other problems.

The area consists of commercial establishments including several food and beverage businesses along Broadway as well as nearby Telegraph Avenue and Piedmont Avenue. Food and beverage businesses include formula retail franchises, independent restaurants, establishments serving alcoholic beverages, and establishments not engaged in serving alcohol. On-sale alcohol establishments such as restaurants and bars are appropriate for this area and do not constitute nuisances such as litter, noise, loitering, or crime when controlled by conditions of approval. As evidenced by visits to other Chipotle restaurants that serve beer and wine, and as confirmed on plans, the space devoted to sales of beer and wine is very limited, approximately eight square feet of floor space. The limited space devoted to alcohol sale further indicates the ancillary nature of such sales, and reduces the potential for nuisance activities that could adversely affect abutting properties and the neighborhood. The premises is at zero lot line with no driveway or street fronting surface parking lot and has one entrance and exit, so vehicular and pedestrian circulation as well as capacity will not be an issue. Nuisances and capacity will be regulated by conditions of approval.

Alcohol regulations are sufficient to control nuisances due to the following factors:

- Consumption of beer and wine would occur on site with burritos in a newly renovated dining room at a premises admitting children and containing restrooms. As a result, this type of restaurant tends to attract families, which create limited off-site nuisances.
 - Restaurants rarely require Planning Commission decision; this establishment is being regulated similar to a bar except that it will have an earlier closing time.
 - The ABC often mandates a standard closing time for all restaurants serving alcohol in a given district. Should that time ever become earlier than 11:00pm for this district, the establishment will be further restricted to that earlier closing time.
 - Unlike with ABC approvals for a restaurant (license type #41), no off-sale (to go) of alcoholic beverages would be permitted.
 - With a license type #41 the ABC does not differentiate between full service and limited service; the Planning Code is, therefore, more restrictive than the ABC in this regard in requiring a Major CUP for the project.
 - Under the Limited Service Restaurant or Café use classification, the Planning Code does not distinguish between restaurant and café and a Major Conditional Use Permit does not distinguish between types of alcohol; therefore, this limited service restaurant is being regulated the same as a café with a full bar or a stand-alone bar, for that matter.
 - The Code also does not distinguish between types or quantity of alcohol at a full service restaurant. In the case of a limited service restaurant, the permit type would be restricted to beer and wine where some restaurants also serve liquor/distilled spirits.
 - Quantity would be restricted to a minimal sales display area of eight square feet.
 - Should the business be sold, a future operator of similar nature could utilize an approved CUP but would be subject to its conditions.
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 not be located within close proximity to any schools. The premises are located within 1,000-feet of parks, hospitals, and churches. The majority of these sensitive receptors are not located along the Broadway corridor, and their users are not expected to pass by the premises, and patrons are not typically expected to pass directly by the parks, hospitals or churches on foot (although staff does not find a clear concern with either scenario).

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

This finding is met; There is no driveway or parking lot to interrupt pedestrians.

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 proposal would include very minimal exterior changes, which will harmonize with the surrounding area.

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

Any signage would be required to meet the City's Small Project Design Review requirements and will go through that process at a later date. However, the project does not propose any new significant signage at this time.

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

The establishment will contain litter receptacles within the premises and the City contains litter receptacles outside along the sidewalk; additionally, conditions of approval require the business to ensure the public right-of-way (sidewalk and gutter) in front and near the restaurant remain free of litter.

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 proposal does not directly abut any residential uses. The proposal is approximately 300 feet from the nearest residential zone, is no closer than approximately 250 feet to the nearest residential uses, and has no direct line of sight or path of travel.

Section 17.103.030(B-3): Public Necessity and Convenience Findings (Central District Sites)

- 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 proposed alcoholic beverage service would only be allowed indoors at an existing limited service restaurant and is in conjunction with a dining experience. These types of alcohol sales are typically associated with similar full service restaurants, with the main difference here being the lack of full table service.

- b. The overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service; and

As noted elsewhere in the staff report and findings, there is not a substantial risk of anticipated negative impacts or an anticipated significant increase in police calls. As a result, the economic and other benefits outweigh anticipated negative impacts. The project will provide consumer variety, jobs, a gathering place, and involves only a minor expansion of use within an existing limited food sales activity located in a multi-use commercial complex. Sit down dining facilities such as this are not typically a large cause for police concern such as what might be seen at a bar or nightclub.

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

Alcohol sales are a typical component of many limited service restaurants. There are other restaurants in the City, including limited service restaurants, which serve beer and wine and other alcoholic beverages.

ADDITIONAL PUBLIC CONVENIENCE OR NECESSITY FINDINGS (OMC SEC. 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 project site is located within 1,000 feet of existing alcohol outlets (liquors stores) and a Variance is therefore required; Variance findings required in order to approve the project can be made 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 *not* met; Police Beat 08X exceeds average calls for police service citywide and a Variance is therefore required; Variance findings required in order to approve the project can be made as described in the following section of this Attachment.

VARIANCE PROCEDURE/FINDINGS REQUIRED (OMC SEC. 17.148.050(A))

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.

The project requires a variance because it involves alcohol sales at a limited service restaurant in an over-concentrated area, and under the Planning Code an Alcoholic Beverages Sales Commercial Activity can consist of a stand-alone full bar and a Limited Service Restaurant and Café Commercial Activity can consist of a café with no food. The project meets neither the distance separation requirement of 1,000-feet to the next closest alcohol outlets. In addition to the Sprouts Market which shares the same building, it is located on the same block as a full service restaurant with a bar (3000 Broadway Restaurant, Bar, and Lounge), a liquor store (Broadway Liquors at 2860 Broadway), and a market (The Grocery Outlet at 2910 Broadway), all of which sell alcoholic beverages. The required of 1,000-foot distance from civic uses is also not met (there are parks and a church in the area, as well as Hospitals).

The area is over-concentrated for liquor licenses in the Census Tract only and for crime in the Police Beat; crime is, therefore, not a major concern at this location but potential proliferation adjacent to alcohol outlets and civic uses is still a consideration. The variance finding can be made with respect to the deficient distance separation for the following reasons:

- While the premises are located on the same block as a restaurant bar it would function as a restaurant with different hours of operation and only serve beer and wine with food.
- Area parks and churches are not on the same lengthy block as the restaurant, and are a greater distance from the site at 1,000-feet or greater (as a walking path of travel).
- The majority of park and church users are not expected to pass by the premises and patrons are not expected to pass directly by the parks, school or church on foot (although staff does not find a clear concern with either scenario).
- Due to these locations as well as differing hours of use and the primary restaurant nature of the establishment, the potentially undesirable situation where intoxicated patrons pose a nuisance to civic uses is considered very unlikely.

- The proposed activity would differ greatly from a bar or liquor store; required findings especially for a variance could likely not be made for those types of establishments; the character of a restaurant serving beer and wine is very different.
- Conditions of approval (Attachment B) would require the litter clean-up by the establishment and signage to discourage loitering, litter, and noise with a contact telephone number to report transgressions.

Due to the nature of the operation and setting, the proposal with conditions of approval is justified. As evidenced by visits to other Chipotle restaurants that serve beer and wine, and as confirmed on floor plans, the space devoted to sales of beer and wine is very limited, approximately eight square feet of floor space. The limited space devoted to alcohol sale further indicates the ancillary nature of such sales, and reduces the potential for nuisance activities that could adversely affect abutting properties and the neighborhood.

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;

There are other establishments in the district that serve alcoholic beverages and are not full service restaurants. These establishments do not meet the regulations for required distance separation between alcohol outlets or civic uses given the area is over-concentrated.

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 restaurant is not full service and is located on the same block as a restaurant bar and three markets /liquor stores selling alcoholic beverages and just beyond 1,000 feet of parks and a church. To allow the restaurant to sell beer and wine for on-site consumption with food while adhering to conditions of approval will not negatively affect pedestrians, patrons of adjacent businesses, park users, or church goers. The proposal will attract customers to the retail district.

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;

There are other similar establishments in the district, not subject to proposed conditions attached to this establishment. Other similar establishments, if approved in the future, will also be subject to such heightened restrictions. Other limited service restaurants in the City of Oakland have been granted approvals, some including similar variances.

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;

This finding is inapplicable; the variances are required due to insufficient distance separations which are elements not subject to design review.

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 conforms to the General Plan as described in the preceding Conditional Use Permit section of this Attachment under Finding E, above.

ATTACHMENT B: CONDITIONS OF APPROVAL

1. **Approved Use**

The project shall be constructed and operated in accordance with the authorized use as described in the approved application materials, **staff report** and the approved **plans received April 11, 2016**, as amended by the following conditions of approval and mitigation measures, if applicable (“Conditions of Approval” or “Conditions”).

2. **Effective Date, Expiration, Extensions and Extinguishment**

This Approval shall become effective immediately, unless the Approval is appealable, in which case the Approval shall become effective in ten calendar days unless an appeal is filed. Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the Approval date, or from the date of the final decision in the event of an appeal, 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 Approval, 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 or other construction-related permit for this project may invalidate this Approval if said Approval has also expired. If litigation is filed challenging this Approval, or its implementation, then the time period stated above for obtaining necessary permits for construction or alteration and/or commencement of authorized activities is automatically extended for the duration of the litigation.

3. **Compliance with Other Requirements**

The project applicant shall comply with all other applicable federal, state, regional, and local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City’s Bureau of Building, Fire Marshal, and Public Works Department. 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 #4.

4. **Minor and Major Changes**

- a. Minor changes to the approved project, plans, Conditions, facilities, or use may be approved administratively by the Director of City Planning.
- b. Major changes to the approved project, plans, Conditions, facilities, or use shall be reviewed by the Director of City Planning to determine whether such changes require submittal and approval of a revision to the Approval by the original approving body or a new independent permit/approval. Major revisions shall be reviewed in accordance with the procedures required for the original permit/approval. A new independent permit/approval shall be reviewed in accordance with the procedures required for the new permit/approval.

5. **Compliance with Conditions of Approval**

- a. The project applicant and property owner, including successors, (collectively referred to hereafter as the “project applicant” or “applicant”) shall be responsible for compliance with all the Conditions of Approval and any recommendations contained in any submitted and approved technical report at his/her sole cost and expense, subject to review and approval by the City of Oakland.

- b. The City of Oakland reserves the right at any time during construction to require certification by a licensed professional at the project applicant's expense that the as-built project conforms to all applicable requirements, including but not limited to, approved maximum heights and minimum setbacks. Failure to construct the project in accordance with the Approval may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension, or other corrective action.
- c. Violation of any term, Condition, or project description relating to the Approval 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 Approval 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 Approval or Conditions.

6. **Signed Copy of the Approval/Conditions**

A copy of the Approval letter and Conditions shall be signed by the project applicant, attached to each set of permit plans submitted to the appropriate City agency for the project, and made available for review at the project job site at all times.

7. **Blight/Nuisances**

The project site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60 days of approval, unless an earlier date is specified elsewhere.

8. **Indemnification**

- a. To the maximum extent permitted by law, the project applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the Oakland Redevelopment Successor Agency, the Oakland City Planning Commission, and their respective agents, officers, employees, and volunteers (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 this Approval or implementation of this Approval. The City may elect, in its sole discretion, to participate in the defense of said Action and the project 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 project applicant shall execute a Joint Defense Letter of Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Joint Defense Letter of Agreement shall survive termination, extinguishment, or invalidation of the Approval. Failure to timely execute the Letter of Agreement does not relieve the project applicant of any of the obligations contained in this Condition or other requirements or Conditions of Approval that may be imposed by the City.

9. **Severability**

The Approval 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.

10. **Special Inspector/Inspections, Independent Technical Review, Project Coordination and Monitoring**

The project applicant may be required to cover the full costs of independent third-party technical review and City monitoring and inspection, including without limitation, special inspector(s)/inspection(s) during times of extensive or specialized plan-check review or construction, and inspections of potential violations of the Conditions of Approval. The project applicant shall establish a deposit with the Bureau of Building, if directed by the Building Official, Director of City Planning, or designee, prior to the issuance of a construction-related permit and on an ongoing as-needed basis.

11. **Public Improvements**

The project applicant shall obtain all necessary permits/approvals, such as encroachment permits, obstruction permits, curb/gutter/sidewalk permits, and public improvement ("p-job") permits from the City for work in the public right-of-way, including but not limited to, streets, curbs, gutters, sidewalks, utilities, and fire hydrants. Prior to any work in the public right-of-way, the applicant shall submit plans for review and approval by the Bureau of Planning, the Bureau of Building, and other City departments as required. Public improvements shall be designed and installed to the satisfaction of the City.

PROJECT-SPECIFIC CONDITIONS

12. **Hours.**

Ongoing.

The business may be open to the public for business from 9:00 a.m. to 11:00 p.m. Any work outside these hours shall solely be staff preparation and not open to the public.

13. **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.

14. **Facility Management**

a. Ongoing

Lighting shall be maintained providing enough illumination to identify loiterers standing in front of the storefront. 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.

15. 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.

16. Sign Modifications

Ongoing

Signs if modified shall receive all required Planning and Building permits to the satisfaction of the Zoning Manager.

17. Operational Noise-General

Ongoing.

Noise levels from the activity, property, or any mechanical equipment on site shall comply with the performance standards of Section 17.120 of the Oakland Planning Code and Section 8.18 of the Oakland Municipal Code. If noise levels exceed these standards, the activity causing the noise shall be abated until appropriate noise reduction measures have been installed and compliance verified by the Planning and Zoning Division and Building Services.

18. Security

Ongoing

If necessary, or requested by the Oakland police department, the applicant shall provide one or more qualified security guards, and (additional) security cameras during hours when alcoholic beverages are served.

19. 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.

20. **Maintaining a Clean Street Frontage.**

ongoing

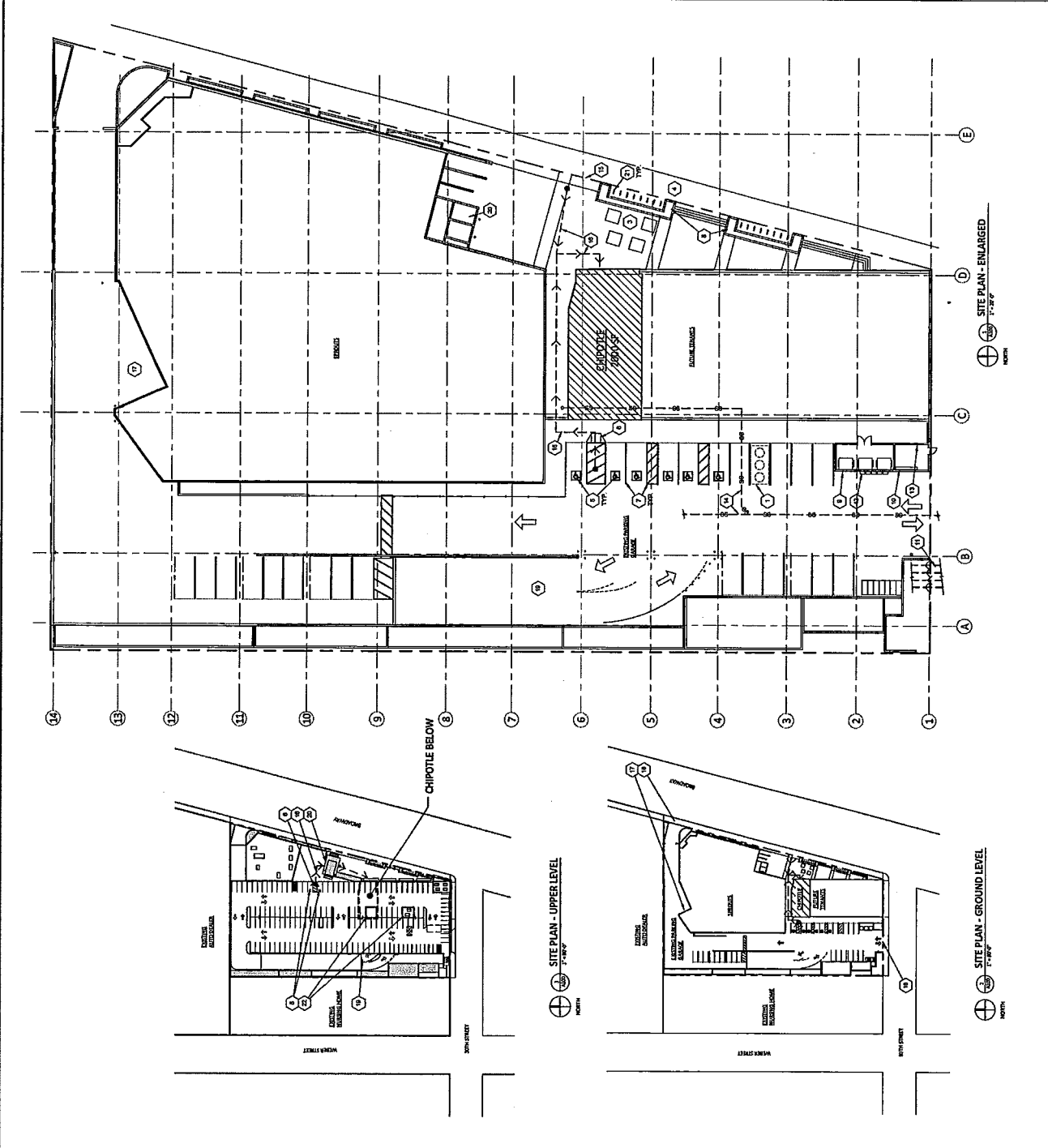
The applicant shall keep clean and clear of trash the street frontage immediately in front of the restaurant site.

GENERAL NOTES

1. ALL SITE WORK SHALL BE IN ACCORDANCE WITH THE CITY OF OAKLAND'S LANDSCAPE AND TRAFFIC ENGINEERING AND ARCHITECTURAL STANDARDS.

KEY NOTES

1. EXISTING GRADE INTERLUMEN
2. NOT USED
3. EXISTING SHARED UTILITY TRENCHES FOR POWER, TELEPHONE, CABLE, AND FIBER OPTIC
4. EXISTING SIGNAGE
5. EXISTING ACCESSIBLE PARKING & LOADING
6. EXISTING ACCESSIBLE RAMP
7. EXISTING PARKING STRIPS
8. EXISTING PARKING
9. EXISTING TRASH ENCLOSURE LOCATION
10. EXISTING ELECTRICAL SWITCHGEAR & PANELS
11. TO EXISTING WATER MAINLINE
12. EXISTING GAS MAINLINE & MANHOLE
13. EXISTING FIRE MAIN AND FIRE ALARM LOOP
14. EXISTING SANITARY SEWER LINE
15. PROPOSED
16. ACCESSIBLE PATH OF TRAVEL
17. PROPOSED LANDSCAPE
18. STREET ACCESSIBLE PARKING CHANGE
19. EXISTING RAMP ACCESS TO UPPER LEVEL PARKING
20. EXISTING ELEVATOR
21. EXISTING SIDE WALK
22. EXISTING SCREEN WALL FOR TRAFFIC ENGINEERING ON TRADING QUAY



ATTACHMENT C

HARLAN R. FAUST ARCHITECT
 HARLAN R. FAUST ARCHITECT
 4544 N. STREET, SUITE 204
 OAKLAND, CA 94613
 415.558.0818
 415.558.0818 FAX
 www.harlanrfaust.com



STORE NO. 04-2544
 3017 BROADWAY & 30TH
 OAKLAND, CA 94613

DATE	10/15/14
PROJECT	3017 BROADWAY & 30TH
CLIENT	CHIPOTLE
ARCHITECT	HARLAN R. FAUST ARCHITECT
SCALE	AS SHOWN
DATE	10/15/14

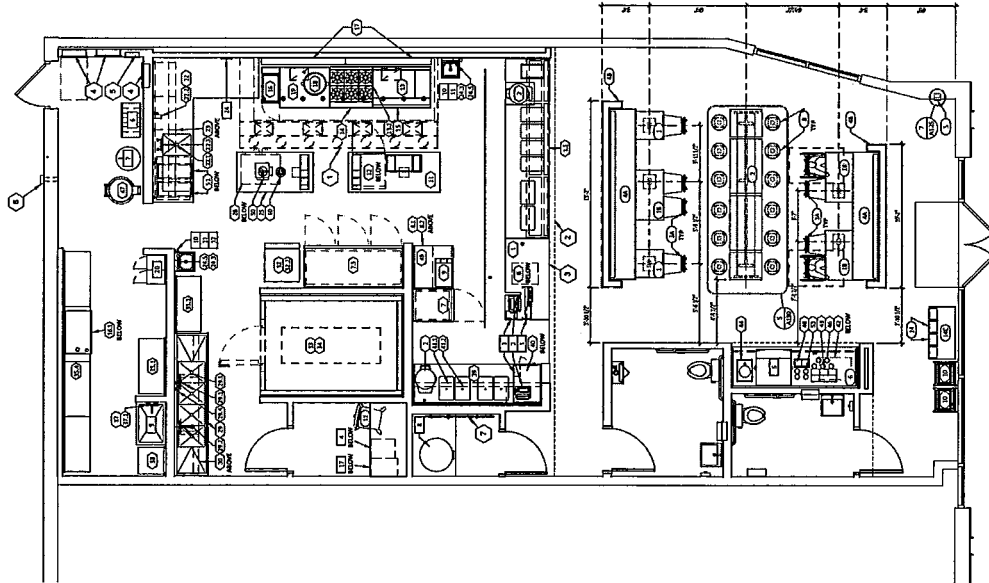
Architectural Site Plan

GENERAL NOTES

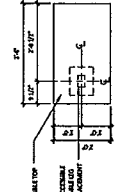
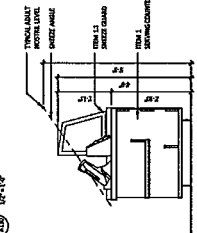
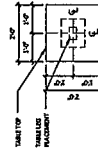
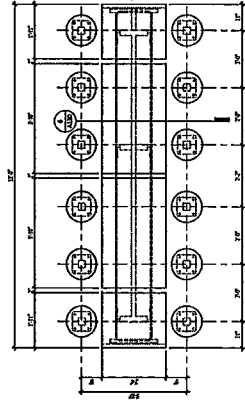
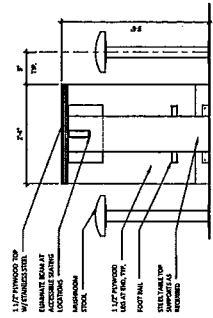
- A. REFER TO SHEET FOR EQUIPMENT LIST AND PARTS LIST.
- B. ALL DIMENSIONS UNLESS OTHERWISE SPECIFIED.
- C. MATERIALS AND FINISHES TO BE DETERMINED BY THE CLIENT.
- D. REFER TO SHEET FOR EQUIPMENT LIST AND PARTS LIST.

KEY NOTES

1. TYPE I FOOD SERVICE AREA.
2. JURY AREA.
3. POSITIONING COUNTERS, SEE DETAILS.
4. ELECTRICAL PANELS, SEE ELEC. PLAN.
5. SPAS EQUIPMENT PANEL, SEE ELEC. PLAN.
6. COFFEE/TEA BAR, PANELS AND MACHINES TO BE SUPPLIED BY THE CLIENT. VERIFY LOCATION WITH CLIENT ON THIS SHEET.
7. WATER FILTER UNIT, REFER TO PLUMBING DRAWING.



FURNITURE FIXTURE & EQUIPMENT PLAN
00'-0" x 0'-0"



HARLAN R. FAUST
ARCHITECT
1500 S. 10TH STREET, SUITE 204
OAKLAND, CA 94611
415.252.5252 FAX
WWW.HARLANRFAUST.COM



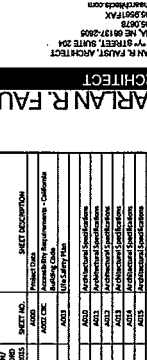
STORE NO: 04-2544
3017 BROADWAY
OAKLAND, CA 94611

PROJECT NAME	3017 BROADWAY
PROJECT ADDRESS	OAKLAND, CA 94611
CLIENT	CHIPOTLE MEXICAN GRILL
ARCHITECT	HARLAN R. FAUST ARCHITECT
DATE	02/20/2014
SCALE	AS SHOWN
DESIGNED BY	HARLAN R. FAUST
DRAWN BY	CONTRIBUTORS
CHECKED BY	
DATE	

Fixtures, Furniture & Equipment Plan

A130

RECEIVE



APR 11 2016

City of Oakland
 Store Number: 04-2544
 Planning & Zoning
 3017 Broadway
 Oakland, CA 94611

REGULATORY AGENCIES & UTILITIES

PLANNING & ZONING DEPARTMENT
 City of Oakland
 2348 Alameda
 Oakland, CA 94612
 (415) 778-6000
 Fax: (415) 778-6070

ENGINEERING
 City of Oakland
 2348 Alameda
 Oakland, CA 94612
 (415) 778-6000
 Fax: (415) 778-6070

UTILITIES CONTACT:
 WATER DEPARTMENT
 3150 Broadway
 Oakland, CA 94612
 (415) 778-6000
 Fax: (415) 778-6070

ELECTRICITY
 Pacific Gas & Electric
 P.O. Box 39999
 Oakland, CA 94639
 (415) 778-6000
 Fax: (415) 778-6070

NATURAL GAS
 PG&E
 P.O. Box 39999
 Oakland, CA 94639
 (415) 778-6000
 Fax: (415) 778-6070

UTILITY COORDINATOR

NOTE TO GC:
 FOR ALL WATER, SEWER,
 NATURAL GAS, & ELECTRICITY
 UTILITIES CONTACT:

RECEIVE

APR 11 2016

City of Oakland
 Store Number: 04-2544
 Planning & Zoning
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 Oakland, CA 94611

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 P.O. Box 39999
 Oakland, CA 94639
 (415) 778-6000
 Fax: (415) 778-6070

BUILDING CODE AND ZONING DATA

FOR COMMENT ONLY - SUBJECT TO CITY REVIEW

1. GOVERNMENT GROUP
 1.000 1.0000 1.0000
 OCCUPANT TYPE: RESIDENTIAL

2. TYPE OF CONSTRUCTION
 1.000 1.0000 1.0000
 TYPE: CONSTRUCTION

3. USE GROUP
 1.000 1.0000 1.0000
 USE: RESIDENTIAL

4. ALLOWABLE NUMBER OF STORIES
 1.000 1.0000 1.0000
 MAXIMUM NUMBER OF STORIES: 4
 ACTUAL NUMBER OF STORIES: 4

5. OCCUPANT LOAD FACTOR
 1.000 1.0000 1.0000
 OCCUPANT LOAD FACTOR: 1

DESCRIPTION	1.000	1.0000	1.0000
1. GOVERNMENT GROUP	1.000	1.0000	1.0000
2. TYPE OF CONSTRUCTION	1.000	1.0000	1.0000
3. USE GROUP	1.000	1.0000	1.0000
4. ALLOWABLE NUMBER OF STORIES	1.000	1.0000	1.0000
5. OCCUPANT LOAD FACTOR	1.000	1.0000	1.0000

UTILITY COORDINATOR

NOTE TO GC:
 FOR ALL WATER, SEWER,
 NATURAL GAS, & ELECTRICITY
 UTILITIES CONTACT:

DESCRIPTION	1.000	1.0000	1.0000
1. GOVERNMENT GROUP	1.000	1.0000	1.0000
2. TYPE OF CONSTRUCTION	1.000	1.0000	1.0000
3. USE GROUP	1.000	1.0000	1.0000
4. ALLOWABLE NUMBER OF STORIES	1.000	1.0000	1.0000
5. OCCUPANT LOAD FACTOR	1.000	1.0000	1.0000

PARCEL INFORMATION

ADDRESS: 3017 BROADWAY, OAKLAND, CA 94611

OWNER: HARLAN R. FAUST ARCHITECT

PROJECT INFORMATION

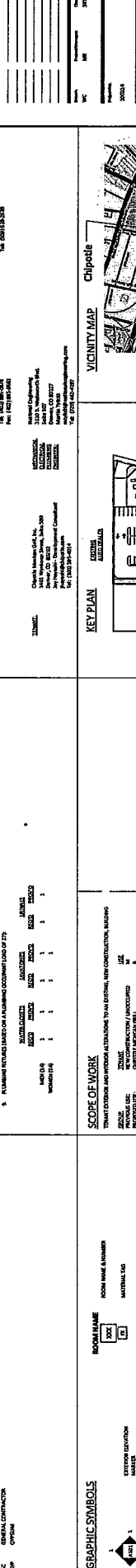
PROJECT NAME: STORE 04-2544

LOCATION: 3017 BROADWAY, OAKLAND, CA 94611

DATE: APRIL 11, 2016

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4. ALLOWABLE NUMBER OF STORIES	1.000	1.0000	1.0000
5. OCCUPANT LOAD FACTOR	1.000	1.0000	1.0000

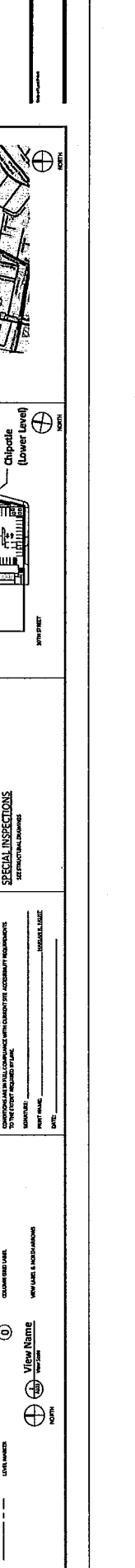
KEY PLAN



PROJECT DATA

PROJECT NO:	04-2544
PROJECT NAME:	Store 04-2544
CLIENT:	Harlan R. Faust Architect
DATE:	April 11, 2016
SCALE:	As Shown
DRAWN BY:	JG
CHECKED BY:	JG
DATE:	4/11/16

VICINITY MAP



DESCRIPTION	1.000	1.0000	1.0000
1. GOVERNMENT GROUP	1.000	1.0000	1.0000
2. TYPE OF CONSTRUCTION	1.000	1.0000	1.0000
3. USE GROUP	1.000	1.0000	1.0000
4. ALLOWABLE NUMBER OF STORIES	1.000	1.0000	1.0000
5. OCCUPANT LOAD FACTOR	1.000	1.0000	1.0000

DESCRIPTION	1.000	1.0000	1.0000
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5. OCCUPANT LOAD FACTOR	1.000	1.0000	1.0000