Oakland City Planning Commission

Case File Number CM09-289

STAFF REPORT
April 7, 2010

Location:	**146 Grand Avenue (APN 008-0655-005-00)**
Proposal:	Alcoholic Beverage Service (Not in a Full Service Restaurant) in 1,500 square foot existing space
Contact Person/Phone Number:	Greg Eng (510)301-5381 for TruBurger
Owner:	John Shanahan
Case File Number:	**CM09-289**
Planning Permits Required:	Major Conditional Use Permit for Alcoholic Beverage Sales (Not in a Full Service Restaurant), in a Limited Service Restaurant, hours 7 am to 10 am, for approximately 30 persons at one time
General Plan:	Central Business District
Zoning:	CBD-C Central Business District-General Commercial Zone
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines: Modification of small structures Additional citation: Section 15183 of the State CEQA Guidelines: Projects consistent with a community plan, general plan or zoning
Historic Status:	Potential Designated Historic Property, minor importance, potentially secondary importance, Survey Rating Dc3
Service Delivery District:	2
City Council District:	3
Staff Recommendation:	Approve
Finality of Decision:	Appealable to the City Council
For Further Information:	Contact **David Valeska** at **(510) 238-2075** or dvaleska@oaklandnet.com

SUMMARY

This application involves the request to serve alcoholic beverages with meals at a Limited Service Restaurant in an existing two-story commercial building at 146 Grand Avenue in the Uptown/Lake Merritt area.

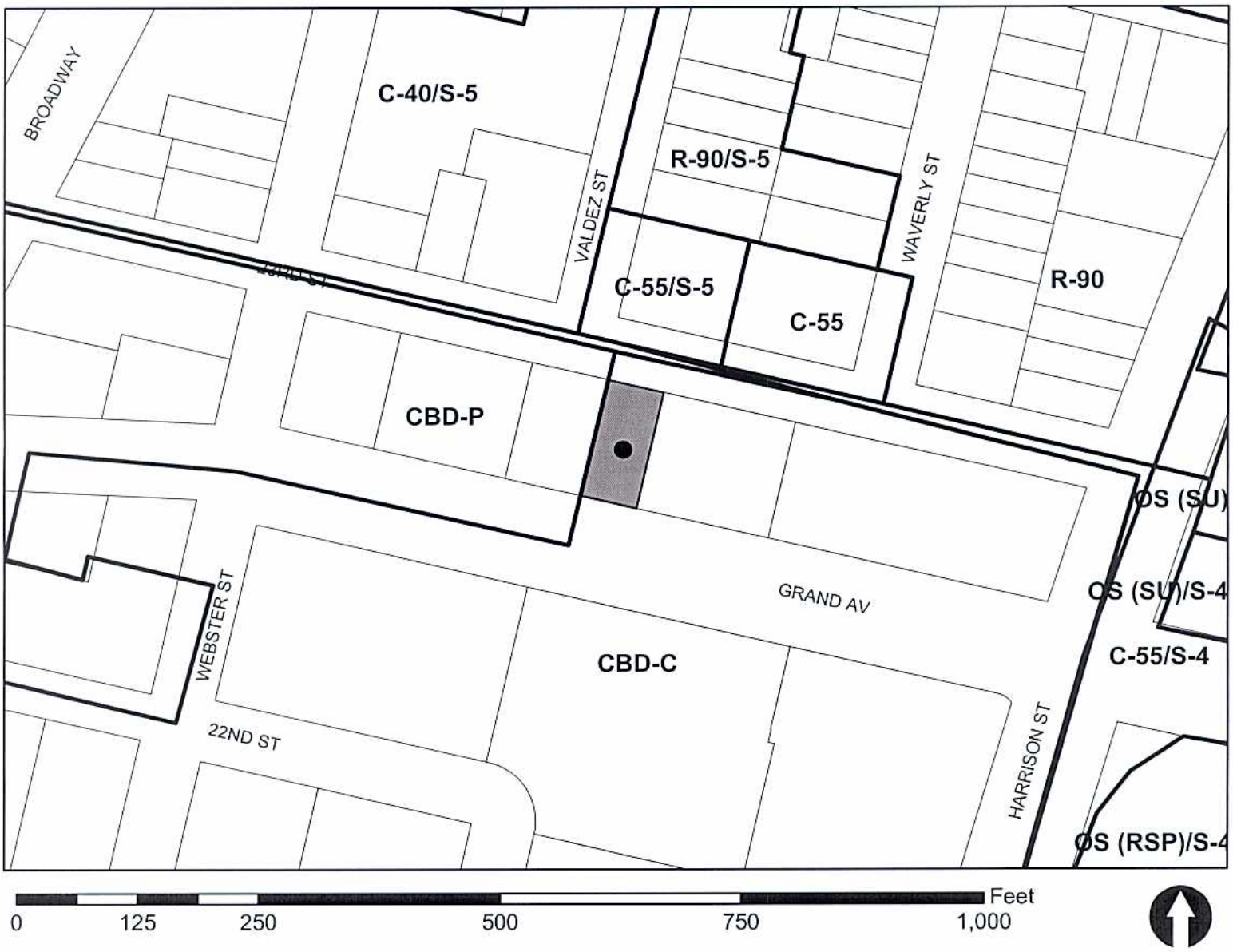
PROJECT DESCRIPTION

The applicant proposes to utilize approximately 1,500 square feet of building for Alcoholic Beverage sales within an existing commercial property. The applicant plans to operate a gourmet hamburger restaurant, a Limited Service Restaurant under the Oakland Planning Code. The menu would include milkshakes, dessert and other "comfort food." Hours would be 7 am to 10 pm, open for breakfast, lunch and dinner. The applicants have experience with gourmet cafes, having worked at Bay Wolf, Cesar and B restaurants and plan for their restaurant to have a unique interior with recycled natural wood and tile floors as well as stainless steel and reclaimed industrial lighting fixtures, with an interior mural representing Oakland's past. Outdoor dining under sun umbrellas is planned in the small private patio in front of the building.

ENVIRONMENTAL REVIEW

Staff has evaluated the project according to the California Environmental Quality Act (CEQA) and determined it is exempt from environmental review for the following reasons: Sections 15301 of the CEQA Guidelines exempt from environmental review small existing or new commercial facilities, respectively, where the building is less than 2,500 square feet in area. The alcoholic beverage use and dining area is in a 2,000 square foot area of an existing building and the outdoor patio area, unchanging

CITY OF OAKLAND PLANNING COMMISSION



Case File: CM09-289
Applicant: Greg Eng for TruBurger
Address: 146 Grand Avenue
Zone: CBD-C

floor area since the prior land use, and is not likely to produce measurable physical or other environmental effects. Therefore, the project is determined to be exempt from further CEQA review. Section 15183 provides CEQA exemption for projects consistent with a community plan, general plan or zoning. This project is consistent with the General plan and zoning subject to CUP approval.

ANALYSIS

The applicant chose this 146 Grand Avenue location due to its proximity to the Lake Merritt and Uptown office and recreational areas. One type of business which is missing from the spectrum of existing and proposed gourmet food and beverage uses in the area is a gourmet hamburger café with beer and wine sales.

The applicant's proposal requires a Major Conditional Use Permit (CUP) for Alcohol Beverage Service. If this was a Full Service Restaurant, no CUP would be needed. A Limited Service Restaurant like the applicant's proposal by itself does not require a CUP in the CBD-C zone. However, because this Limited Service Restaurant also proposes beer and wine sales, a CUP is proposed.

Section 17.10.274 of the Planning Code states that a Limited Service Restaurant and Café provides "food or beverages to patrons that order and pay before eating. Food and beverages may be served in disposable containers and may be consumed on the premise or taken out. Seating for on-premises consumption is usually available and table service may not be provided. Examples of these activities include, but are not limited to, cafes and restaurants that do not fall under 17.10.270 Full Service Restaurant or 17.10.290 Fast-food Restaurant Commercial Activities." The proprietors intend to secure a Type 41 Alcohol License from the State Alcoholic Beverage Commission, which is for on-sale beer and wine, eating place (restaurant).

The applicant's facility will serve primarily hamburger and other sandwiches, milkshakes etc. rather than full lunches and dinners, and may not always include full table service and on-sales consumption. While this restaurant will not be fast-food like McDonalds or Burger King, it. will also not be a Full Service Restaurant (FSR) like Pican, Max's Grill or other FSR's. Being a Limited Service Restaurant and Café rather than FSR, the restaurant will not be permitted to serve alcoholic beverages unless a Major Conditional Use Permit for Alcoholic Beverage Service pursuant to Section 17.134.050 is approved.

It is envisioned that the small size and localized customer base of the proposed restaurant will result in limited impacts similar to the business which formerly occupied this building. Further, immediate neighbors are commercial uses on a busy street. The nearest residential units are in the new Essex/100 Grand tower over 150 feet distant.

The restaurant is not expected to increase crime in this vicinity. Overall City of Oakland Police Department crime statistics for the area on March 4, 2010 were generally comparable 2009 statistics for other commercial areas which are not perceived as high crime areas, such as Jack London Square. Within a quarter-mile radius of the site over the 90 days prior to March 4, 2010, there were 27 thefts, 4 simple assaults, 2 aggravated assaults, 4 burglaries, 1 narcotics case, 5 robberies, 1 case of vandalism and 6 vehicle thefts. While some crime does occur in the area, staff and the applicant believe the proposed café will not significantly contribute to crime levels.

The applicant plans to sell beer and wine only with meals or occasionally for separate on-sale social use (office workers having a drink after work) but the Conditional Use Permit would run with the property and alcohol other than beer and wine could later be sold. However, if this cafe moves out, a replacement business would be required to comply with the project description and conditions of this CUP.

In the Central Business District, the proposed café and alcoholic sales activity would reinforce the gourmet tourism concept and help to bring customers to neighboring commercial uses. The Lake Merritt-Uptown District Association has been consulted and declined to express opposition to the project prior to preparation of this staff report. Therefore, staff concludes that the Findings for the Major CUP, including findings of Public Convenience or Necessity, are fulfilled, as further explained in the Findings Section and through proposed Conditions of Approval.

RECOMMENDATION:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit for Alcoholic Beverage Sales, at 146 Grand Avenue, based on findings and subject to the attached conditions.

Prepared by:

David Valeska, Planner II

Approved by:

SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:

for

Walter Cohen, CEDA Director
Community & Economic Development Agency

Attachments:

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

ATTACHMENT A: FINDINGS

FINDINGS FOR APPROVAL (ALCOHOLIC BEVERAGE SERVICE)

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

Section 17.134.050 (General Use Permit Criteria):

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

The proposed café with alcoholic beverage service would satisfy a community need which does not affect livability of the surrounding neighborhood, and will be operated in a scale which is compatible with neighborhood character. The proposed restaurant will offer a gourmet Limited Service menu in a neighborhood which derives part of its identity from other nearby gourmet food and drink facilities. The draft approval contains conditions limiting noise, light, trash/litter, loitering, late hours and similar factors to offset any potential for negative effects of alcohol sales.

B. **That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The proposed café with alcoholic beverage service will promote availability of quality food and beverages and enhance the convenience and functional living environment of its customers. The small size of the retained existing facility is attractive as warranted by the location and setting, a background building in an area of larger buildings. This is near a gourmet food/beverage related business district where such uses are appropriate.

C. **That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The proposed small café and alcoholic beverage service will function to meet the community's needs including daily use as well as small celebrations. This facility would have less traffic, noise and light than a similar business might have offered in a larger format. This facility complements the offerings of nearby existing offices and businesses.

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

The building to be utilized by the café and alcoholic beverage service has existed in this neighborhood for years. No major changes in the building are proposed from the existing façade which has been compatible with designs of neighboring facilities for many years.

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

The General Plan allows for review and approval of alcoholic beverage sales uses by Conditional Use Permit. The General Plan also allows for businesses that will not cause undue nuisance activity. The Central Business District land use category envisions a wide range of retail, restaurant and specialty stores along with promoting mixed-use developments. An attractive and well-managed limited service restaurant with alcoholic beverage sales at this location will conform to adopted plans.

Section 17.102.210 (A) - Special Use Permit Criteria:

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

   The proposed limited service restaurant with alcoholic beverage sales is not envisioned to contribute to the same types of loitering and other problems as some other Alcoholic Beverage Sales facilities such as liquor stores and bars. City crime statistics for recent months show that overall crime rates near the applicant's site are similar to commercial areas elsewhere in the City which are not major crime locations, such as Piedmont Avenue. The neighborhood streets have sufficient capacity to support this small facility without causing undue traffic or other problems.

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

   The facility will be over 300 feet from a community-recreational park and from school sites and is unlikely to adversely affect them. Likewise, this small building is not visible from houses of worship such as the Cathedral. This facility design has built-in sound attenuation characteristics within the structure. Staff believes that the gourmet limited service restaurant and alcoholic beverage service will protect nearby uses from adverse effects.

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

   The facility entrance provides disabled access. The 50 to 100 projected daily customers would be arriving throughout the day and evening, which minimizes the crowd management issues of the building tenant. The building entry does not impede pedestrian corridors.

4. **That the proposed development will be of an architectural and visual quality and character, which harmonizes with, or where appropriate enhances the surrounding area.**

   The building's façade shares a simple Bauhaus/moderne architectural theme with several nearby facilities similar to some of its neighbors, including color and shape. The facility is of an architectural character that harmonizes with and enhances the area.

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

Proposed signage would be similar to past signage for this commercial building, and would not be overly large or obtrusive. No parking is provided on-site, which is consistent with the Oakland Planning Code standard for reuse of existing commercial buildings. The site is a short walking distance to BART, AC Transit and to parking garages, which supplement on-street parking in the area.

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

As conditioned, there will be non-flammable trash containers installed proximate to the entrance of the facility and litter will be removed from the sidewalk and gutter in front of and to twenty feet beyond the premises.

7. **That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of ten PM and seven AM.**

The nearest dwellings are in the new Essex tower at 100 Grand Avenue and are sufficiently distant to limit noise effects. Existing rail, ship and freeway noise creates an ambient level which may mask some of the store's noise effects. Attached conditions are provided to ameliorate some of the potential noise effects, including reduced hours of evening operations to 10 pm and lighting controls.

Section 17.102.210(B) - Special Use Permit Criteria

Finding C.1.below is not required for facilities in the Central Business District:

C. Special Restrictions on Establishments Selling Alcoholic Beverages.

1. **No Alcoholic Beverage Sales Commercial Activity shall be located closer than one thousand (1,000) feet to any other Alcoholic Beverage Sales Commercial Activity except;**
   a. **On-sale retail licenses located in the Central District (defined as within the boundaries of I-980 and Brush Street to the west; 27th Street to the north; Harrison Street/Lake Merritt and the Lake Merritt Channel to the east; and the Estuary to the south); or**
   b. **Activity is in conjunction with a Full-Service Restaurant; or**
   c. **Establishments with twenty-five (25) or more full time equivalent (FTE) employees and a total floor area of twenty thousand (20,000) square feet or more.**

The property is within the Central District, therefore this separation is not a requirement.

17.102.210-B-3: Public Necessity and Convenience Findings (Central Business District Sites)

a. **A community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing specifically how the project would serve an unmet or underserved community need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to alcohol; and**

The proposed mix of gourmet limited-service menu and alcoholic beverage service is not generally available to the public on this street, as demonstrated by the applicant's documents in the public

record files. Where nearby larger businesses offer food and/or alcoholic beverage service, they do not provide the full customer service which the applicant proposes, with casual menu, fast service, dignified but informal setting and beer/wine 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

A gourmet limited menu restaurant and alcoholic beverage service would be compatible with and complimentary to other businesses in the Kaiser Center/Lake Merritt district's gourmet business concentration, providing economic benefits to the area. This type of use is reported to not cause significant increases in calls for police service.

c. Alcohol sales are typically a part of this business in the City of Oakland (for example and not by way of limitation, alcohol sales in a Laundromat would not meet this criteria).

Alcohol sales are a common accessory use of limited service restaurants in shopping centers and some downtown areas. The applicant's activity proposes alcoholic beverage service primarily to facilitate social dining and gathering for downtown (Kaiser Center/Lake Merritt) office workers and for residents in new housing buildings nearby.

ATTACHMENT B: CONDITIONS OF APPROVAL

STANDARD CONDITIONS:

1. **Approved Use.**
   Ongoing.
   a. The project shall be constructed and operated in accordance with the authorized use as described in this letter and the plans dated **November, 2009** and submitted **December 23, 2009** and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.
   b. This action by the City Planning Commission ("this Approval") includes the approval set forth as follows: On-site sales area of gourmet limited service menu with alcoholic beverage products sold primarily with meals.

2. **Effective Date, Expiration, Extensions and Extinguishment**
   Ongoing.
   Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, unless within such period all necessary permits have been issued, or authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any valid building permit for this project may invalidate this approval if the said extension period has also expired.

3. **Scope of This Approval; Major and Minor Changes**
   Ongoing.
   The project is approved pursuant to the Planning Code only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. **Conformance with Other Requirements.**
   Prior to issuance of a demolition, grading, P-job or other construction related permit.
   a. The project applicant shall comply with all other applicable federal, state, regional and/or local codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshall, and the City's Public Works Agency.
   b. The applicant shall submit approved plans for project-specific needs related to fire protection including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access and vegetation management for preventing fires and soil erosion.

5. **Conformance to Approved Plans; Modification of Conditions or Revocation**
   Ongoing.
   a. Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
   b. The City Planning Department 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 or other corrective action.
   c. Violation of any term, Conditions or project description relating to the Approvals is unlawful, prohibited and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and /or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these Conditions if it is found that there is violation of any of the Conditions, or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement Actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. **Signed Copy of the Conditions**
   With submittal of a demolition, grading and building permit.
   A copy of the approval letter and Conditions shall be signed by the property owner and submitted with each set of permit plans submitted for this project.

7. **Indemnification**
   Ongoing
   a. To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and their respective agents, officers, and employees (hereafter collectively called the City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action or proceeding (including legal costs, attorney's fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The project applicant shall reimburse the City for its reasonable legal costs and attorneys fees.

   b. Within ten (10) calendar days of the filing any Action as specified in subsection A above, the project applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations These obligations shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the project applicant of any of the obligations contained in this condition or other requirements, or other conditions of approval that may be imposed by the City.

8. **Compliance with Conditions of Approval**
   Ongoing
   The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval and all applicable adopted mitigation measures set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. Severability

Ongoing

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions and if any one or more of such conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions consistent with achieving the same purpose and intent of such Approval.

10. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

At least one (1) copy of the approved plans, along with the Approval Letter and Conditions of Approval shall be available for review at the job site at all times.

11. Recycling Space Allocation Requirements

Prior to issuance of a building permit

The design, location and maintenance of recycling collection and storage areas must substantially comply with the provision of the Oakland City Planning Commission "Guidelines for the Development and Evaluation of Recycling Collection and Storage Areas", Policy 100-28. Pursuant to Section 17.118.020 of the Oakland Planning Code, this condition shall apply to new commercial and industrial development that requires a building permit. A minimum of two cubic feet of storage and collection area shall be provided for each dwelling unit and for each 1,000 square feet of commercial space.

Ongoing.

No deviation shall be made from the approved drawings or conditions of approval that alters the project's siting, height, exterior appearance, and/or required new landscaping without prior written approval from the Oakland Planning & Zoning Department.

12. Construction Practices.

During construction.

All work shall apply the "Best Management Practices" (BMPs) for the construction industry, including BMPs for dust, erosion and sedimentation abatement per Section 15.04 of the Oakland Municipal Code, as well as all specific construction-related conditions of approval attached to this project.

13. Days/Hours of Construction Operation

Ongoing throughout demolition, grading and/or construction.

The project applicant shall require construction contractors to limit standard construction activities as follows:

a) Construction activities are limited to between 7:00 AM and 7:00 PM Monday through Friday, except that pile driving and/or other extreme noise generating activities greater than 90 dBA shall be limited to between 8:00 AM and 4:00 PM Monday through Friday.

b) Any construction activity proposed to occur outside of the standard hours of 7:00 AM to 7:00 PM Monday through Friday for special activities (such as concrete pouring which may require more continuous amounts of time) shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of residents' preferences for whether the activity is acceptable if the overall duration of construction is shortened and such construction activities shall only be allowed with the prior written authorization of the Building Services Division.

c) Construction activity shall not occur on Saturdays, with the following possible exceptions:

i) Prior to the building being enclosed, requests for Saturday construction for special activities (such as concrete pouring which may require more continuous amounts of time), shall be evaluated on a case by case basis, with criteria including the proximity of residential uses and a consideration of residents' preferences for whether the activity is acceptable if the overall duration of construction is shortened. Such construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division.

ii) After the building is enclosed, requests for Saturday construction activities shall only be allowed on Saturdays with the prior written authorization of the Building Services Division, and only then within the interior of the building with the doors and windows closed.

d) No extreme noise generating activities (greater than 90 dBA) shall be allowed on Saturdays, with no exceptions.

e) No construction shall take place on Sundays or Federal holidays.

f) Construction activities include but are not limited to: truck idling, moving equipment (including trucks, elevators, etc.) or materials, deliveries and construction meetings held on-site in a non-enclosed area.

SPECIFIC PROJECT CONDITIONS

14. Hours.
Ongoing.
The business may be open to the public for business from 7 am to 10 pm daily. Any work outside these hours shall solely be staff preparation and not open to the public. After ninety (90) days of operation, the applicant may request of the Zoning Manager, in writing, the ability to open until 12 Midnight on Friday and Saturday only, subject to written approval of the Zoning Manager.

15. Security.
Ongoing
The applicant/property owner shall continue to keep windows clear of visual obstructions including, but not limited to signage beyond 20% window coverage, any advertising displays, product racks, refrigerated equipment, cardboard, trash, wire mesh/security bars, reflective coatings, or other materials. Note that this is more restrictive than the state regulations related to signage.

16. Facility Management
a. Ongoing
Lighting shall be maintained providing enough illumination to identify loiterers standing in front of the store and in the parking lot. Such illumination shall remain lit during all hours of darkness when the business is open.

b. Ongoing
The licensees/property owners shall clear the gutter and sidewalks twenty 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 72 hours (3 days) of application.

d. ***Ongoing.***
No pay phones are permitted outside the building.

e. ***Ongoing.***
The owner, manager, and employees of this establishment shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they remove loiterers who refuse to leave. Persons hanging around the exterior of the establishment with no apparent business for more than ten minutes shall be asked to leave. Techniques discussed in the manual entitled "Loitering: Business and Community Based Solutions" may be used and are recommended by the Alcoholic Beverage Action Team.

17.Trash and litter
Prior to commencement of use and ongoing.
The applicant/property owner shall install and maintain at least one (1), non-flammable trash can located near the entrance of the store. Said trash receptacle shall be emptied as needed to avoid overflow and/or adverse odors.

18.Crowd Control/Anti-Loitering Plan
Prior to commencement of use and ongoing
A crowd control/anti-loitering plan shall be reviewed and approved by the Zoning Manager prior to occupancy. The applicant shall provide staff on duty from 7 am until closing on days when the business is open to the public. Staff shall patrol the interior and exterior as necessary to achieve crowd control and to deter nuisance, loitering and crime.

19. Sign Modifications
Within 90 Days of Approval, with Zoning Manager Option to Extend 90 Further Days
Signs if modified shall receive all required Planning and Building permits to the satisfaction of the Zoning Manager.

SPECIFIC CONDITIONS RELATED TO ALCOHOL SALES

20. Food Sales with Alcohol Sales
Ongoing
The facility shall serve food during all hours open, and shall not serve alcohol at any time that food is not available.

21. Conformance with State Department of Alcoholic Beverage Control regulations
Ongoing.
This use shall conform to all provisions of the State ABC license. The state license and state conditions shall be posted along with these Conditional Use Permit conditions in a place visible to the public. This use shall also conform to all State Operating Standards of the Business and Professions Code and local Performance Standards, where applicable including any future changes in the above regulations. The intent of these standards is to reduce nuisance, litter, loitering, and crime associated with alcohol outlets. The City Conditions of Approval shall be forwarded to the Department of Alcoholic Beverage Control.

22. **Inclusion of conditions in State Department of Alcoholic Beverage Control license.**
Prior to signing of State Department of Alcoholic Beverage Control zoning affidavit.
The applicant shall submit a letter to staff signed by the applicant addressed to the State Department of Alcoholic Beverage Control stipulating that they wish to include conditions number 14, 15, 16, 17, 18, 20 and 21 in the conditions of their ABC license. The Oakland Planning Commission may, after notice and hearing, revoke this Conditional Use Permit if the applicant fails to include the above conditions in the ABC license or fails to maintain an ABC license.

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

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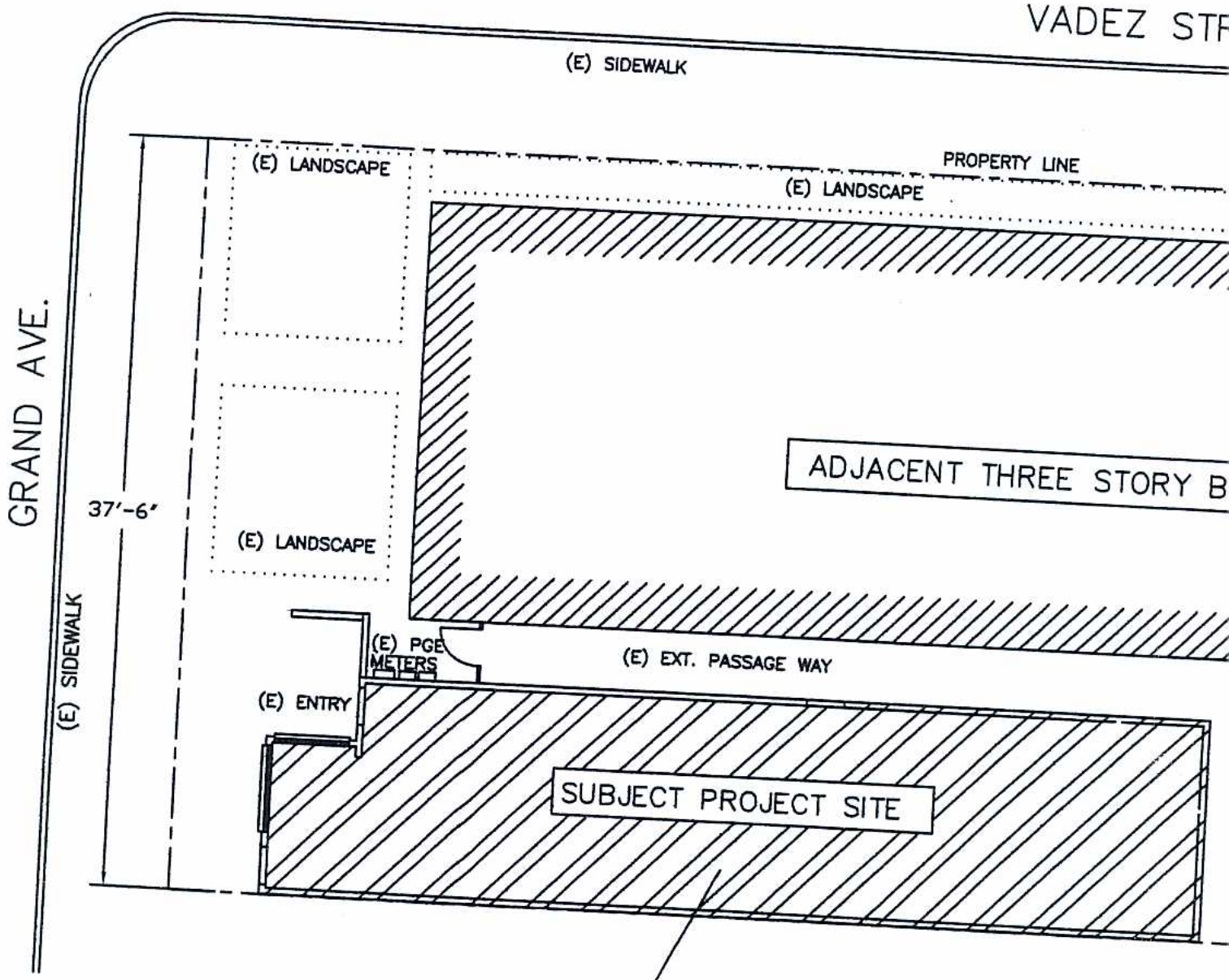
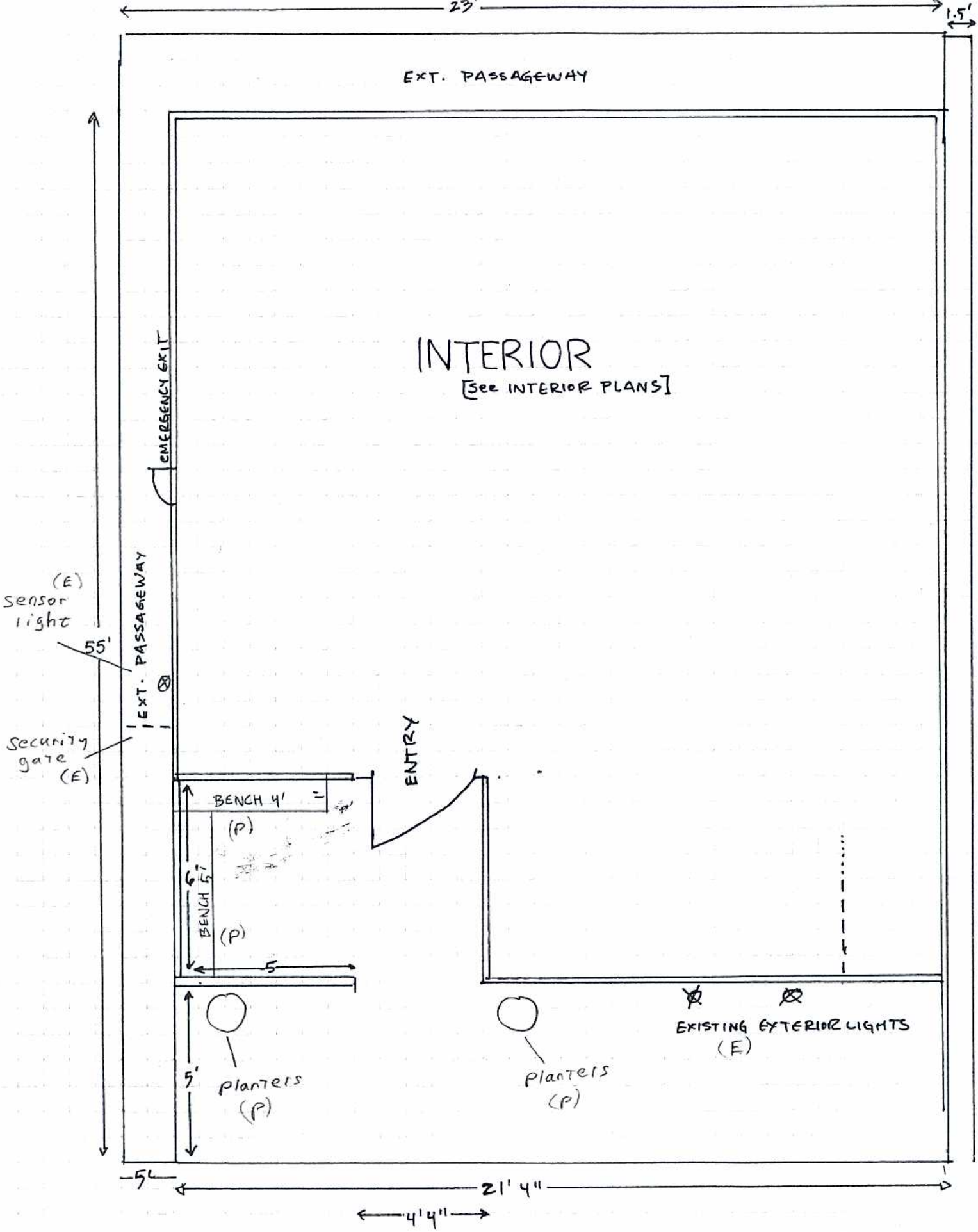
ATTACHMENT C
PLANS AND PHOTOGRAPHS



PROJECT SITE
TRUE BURGER
146 GRAND AVE.
OAKLAND, CA

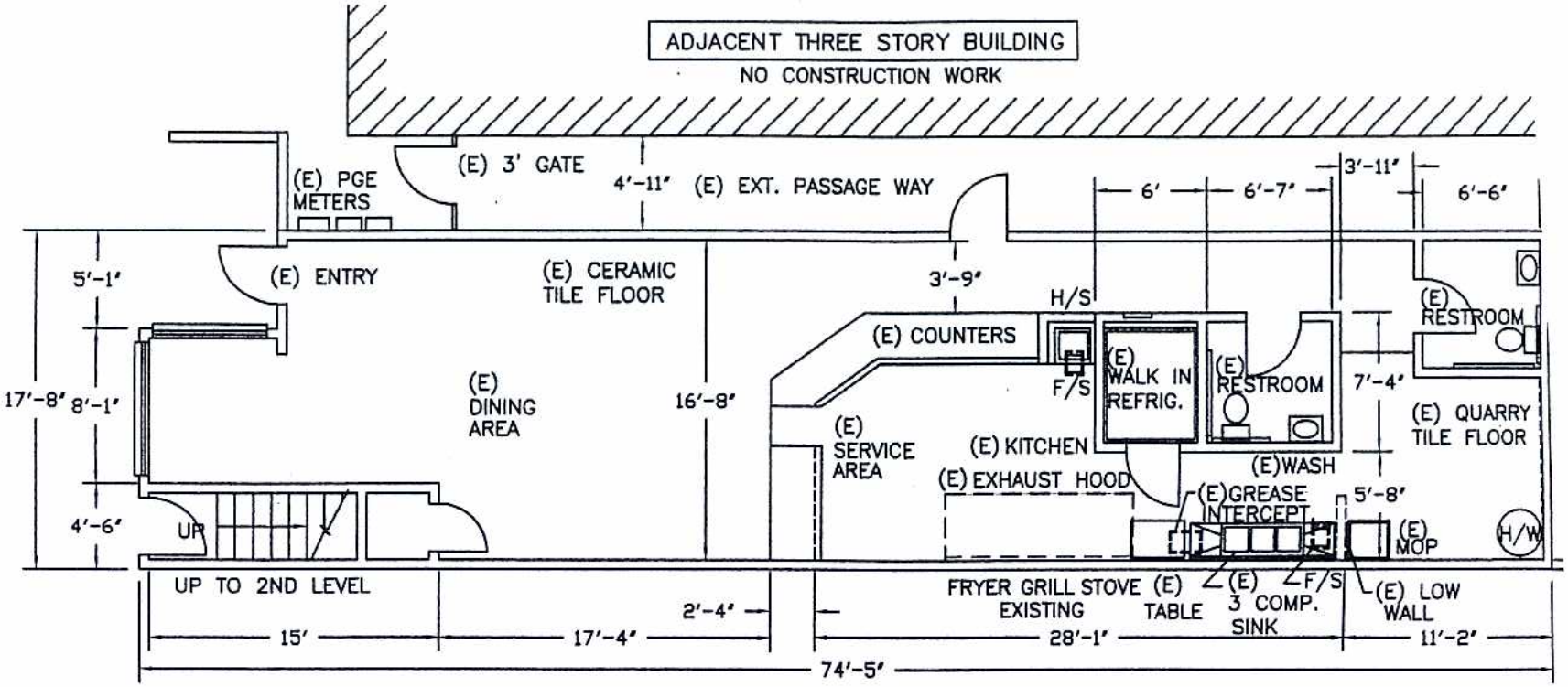
SITE PLAN
1/20" = 1'-0"

SITE PLAN



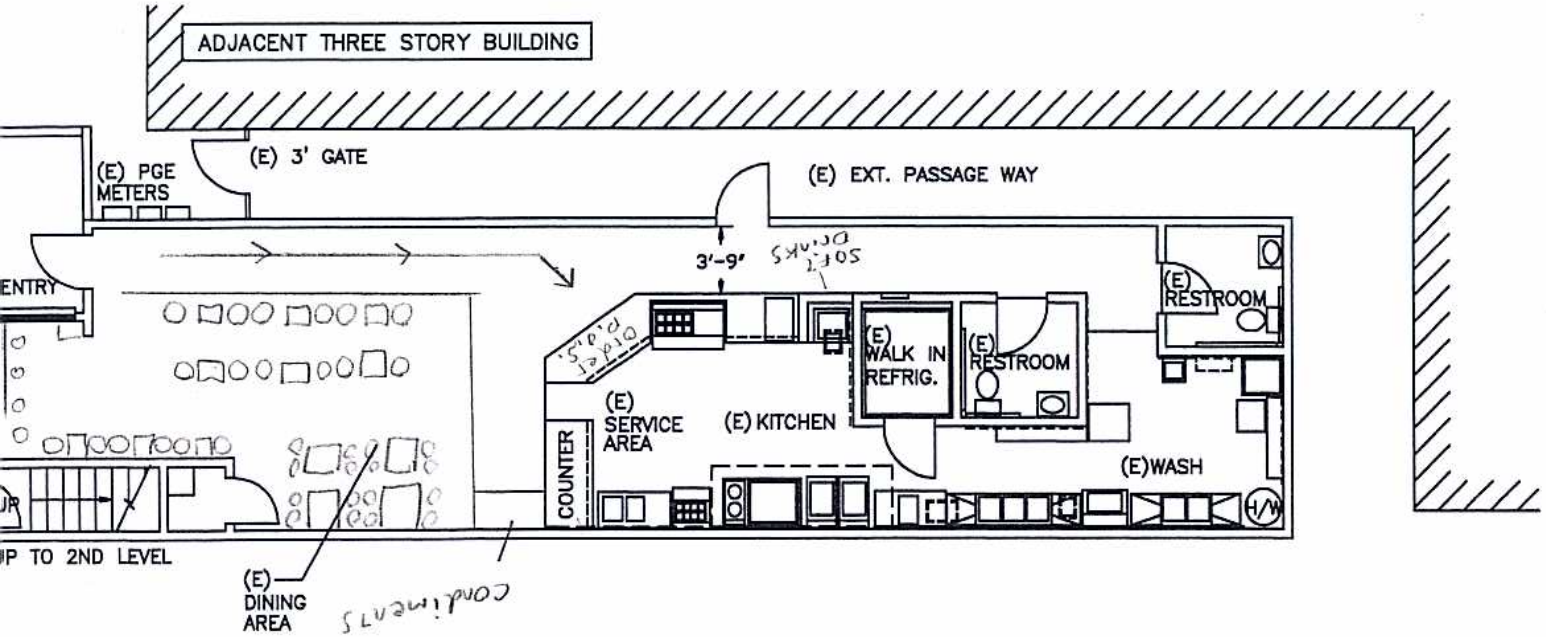
EXTERIOR SITE PLAN

GRAND AVE



(E) GROUND FLOOR PLAN (1)

1/8" = 1'-0" DIMENSION PLAN



PROPOSED
GROUND FLOOR PLAN
1/8" = 1'-0"
1
A4

FLOOR PLAN

NORTH

0' 4' 8' 12'
SCALE: 1/4" = 1'-0"

AMPEAK DESIGN CO.
8255 SKYLINE BOULEVARD; Oakland, California 94
(510) 339-0609

TENANT IMPROVEMENT
TRUE BURGER
146 GRAND AVE.
OAKLAND, CALIFORNIA

REVISIONS

MK	DESCRIPTION	DATE
1	HEALTH REV.	11/13/09

TITLE: PROPOSED PLAN
DESIGNER: WILSON NG
DRAWN BY: WJN
DATE: 11/1/09
CHECKED:
JOB #:
SCALE: AS NOTED
SHEET NO. SKETCH

From across the street

Coming Soon Sign

ATTACHMENT D
APPLICANT & NEIGHBOR CORRESPONDENCE

TRUE BURGER

oakland, ca.

Trueburger LLC

Business partners:
Greg Eng
Jason Low

Contact:
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TRUEBURGER
oakland, ca.

TRUEBURGER, LLC

1.0 Executive summary

Partners Greg Eng and Jason Low are currently looking to secure a lease in the San Francisco Bay Area to start TRUEBURGER, a modern hamburger restaurant. Inspired by the classic diners scattered throughout the United States, the food at TRUEBURGER will have a nostalgic feel but the chefs will use updated techniques to produce better-than-expected flavors from simple foods. House-ground hamburgers, fresh-dipped corn dogs and hand-spun milk shakes with seasonal ingredients will be offered at affordable prices, giving guests the opportunity to eat at TRUEBURGER 2–3 times a week without breaking their bank account.

The owners are looking for a location in close proximity to an open space that is near a park or lake where they plan to run a profitable take-away business. Indoor seating will consist of counter seats and community tables; the favorable Bay Area weather will allow for outdoor picnic tables. Working with an interior designer, TRUEBURGER will have a contemporary, clean and confident look where guests will feel comfortable eating and can't help but have an enjoyable dining experience. Whether it's friends enjoying the weekend, Bay Area foodies, a mother and her child, or a first date, TRUEBURGER will appeal to all demographics because people love great, affordable food.

1.1 Our mission

The mission is to produce simple, fun food from a small menu so that the quality of the product can be focused on. Food will be value-based but quality will not be compromised. The high standards in the kitchen will carry over to the dining area, which will be kept clean, helpful and inviting. The hope is that guests leave with the feeling "I can't wait to come back again."

1.2 Business objective

TRUEBURGER will adhere to the following objectives to ensure a successful and profitable business:

- Investors, if needed ,will be paid back with the highest interest rates within a three- year period.
- The small well-designed menu will allow for minimal food waste.
- A target goal of <25% food cost (extremely low by industry standards).
- The business will be high volume with a product that has a high profit margin (300% mark up or higher). At the same time, price points will be affordable for guests, resulting in repeat business.

- Labor costs will be kept at 25% or below (low by industry standards) by hiring part-time workers to avoid overtime.
- Revenue will increase each year by establishing good relations with local businesses and residential communities.
- Both owners will work full-time to minimize staff size.
- During the workweek, the restaurant will serve the afternoon lunch crowd and the after-work commuters. The weekends will be the busiest since the location will be near an open space where guests can get their made-to-order lunch or dinner and take it with them.

1.3 Keys to success

To give itself an edge over the competition, TRUEBURGER will follow these keys to success:

- The food will be affordable allowing for repeat business and a broader demographic range.
- The quality of the food will be better than the competition by using products made on-site, working with a small focused menu, and having experienced and knowledgeable chefs overseeing the operation.
- Provide an atmosphere for the customer that is always organized, inviting and has a good "flow" from beginning to end. To-go food will be packaged with convenience in mind.
- Both owners are investing their money, time and industry knowledge.
- On going staff training from management to maintain high standards.
- Create a user-friendly website.
- Monthly specials will be posted within the restaurant and online so customers can preview upcoming seasonal desserts, keeping them excited about their next visit.
- Connect with the local community by participating in local events and neighborhood activities.
- A Point Of Sale (POS) system will carefully track expenses, revenues and compensations.
- Valuable accounting, graphic design and architectural support from friends and family.

2.0 Biographies

Greg Eng, co-owner

Greg was born and raised in the San Francisco Bay Area, and has a strong understanding of the finicky palates that the locals posess. He started his professional cooking career over fifteen years ago tossing salads at the still successful restaurant Café for all Seasons in San Francisco. He has worked in several San Francisco restaurants including EOS Restaurant and Wine Bar in Cole Valley while also earning a Restaurant and Hospitality Management degree

from San Francisco State University. In 1997, he helped open the wildly popular Absinthe Brasserie and Bar in the theatre district. Under executive chef Ross Brown, Greg learned valuable cooking techniques and management skills and eventually was promoted to sous chef in the highly demanding kitchen. Coincidentally, hamburgers were a popular item at this restaurant and Greg learned valuable secrets to making this humble item taste sublime. It was at this time that Greg fell in love with regional Italian food and decided to cook at the acclaimed Delfina Restaurant in the Mission district. Delfina set high standards, which Greg still follows in his cooking today; he learned the importance of using the great products that the Bay Area has to offer including organic produce, naturally raised meats and locally made artisan products. In 2001, Greg moved to Oakland where he continued to hone his cooking skills as sous chef under chef/owner Micheal Wild at Bay Wolf Restaurant—an East Bay institution of over 35 years.

Currently employed by San Francisco City College as a chef instructor in the culinary and hospitality department, Greg teaches students with different ethnic, economic, and educational backgrounds which is both challenging and rewarding; helping these students find jobs after their training is a great joy, and Greg hopes to employ some outstanding students in the future.

Jason Low, co-owner

Born in the San Francisco Bay Area, Jason was raised with an appreciation of cuisines and fresh, local food. Jason tinkered with cooking throughout his childhood, and throughout his college career at UC Davis, where he earned a B.S. in Economics. After working at Charles Schwab and Co., he returned to his passion of cooking and enrolled in the cooking program at San Francisco City College.

While in cooking school, Jason earned an internship at the renowned Spanish tapas restaurant, Cesar, in Berkeley, thus beginning his professional cooking career. Later he trained at Jardiniere in San Francisco, where he gained experience preparing haute French-Californian cuisine following the lead of Chef Traci DeJardins. He went to work with restaurant industry veteran, chef Michael Wild at Bay Wolf restaurant, in Oakland, rising to the level of sous chef. Looking to receive more training on how to open a restaurant, he helped to launch Metro Lafayette Restaurant, eventually earning 3 stars from the San Francisco Chronicle's Michael Bauer and rising to $3+ million in annual sales. At Metro Lafayette, Jason continues to refine his skills, particularly in restaurant administration and management.

2.1 Company ownership and operations summary

TRUEBURGER will be an LLC owned, operated, and managed by Greg Eng and Jason Low. The owners will enter into a formal written operational agreement, which details all the operational aspects of the company.

3.0 Concept

The concept behind TRUEBURGER is to provide an eatery that is most importantly simple, tasty and affordable. The menu will be small with the main focus on freshly ground hamburgers cooked perfectly on the griddle. TRUEBURGER will have other offerings such as fresh-dipped corndogs, crispy Portobello mushroom burgers, French fries sprinkled with fresh herbs and sea salt, chopped salad with a creamy herb dressing and a selection of ice creams and milk shakes with seasonal mix-ins. The food will have a classic American feel reminiscent of the old diners and drive-ins that are beloved by so many, but we will employ modern culinary touches to update these classics. Our food will be cooked to order and will take no longer than 3 minutes to prepare. Contemporary fast food done correctly without unnecessary preservatives, additives, or transfat is how TRUEBURGER will be marketed. TRUEBURGER will use organic produce when available.

We plan to do a large take-away business if located near an open space, the food will be packaged in a convenient manner (easy to carry, easy to eat and easy to recycle waste). Our logo will be on the packaging to promote branding.

The actual dining area will be relatively small (20–25 seats), with a mix of counter seats, community tables and outside picnic tables. Though the food will have a throw-back-feel to the past, the space will be clean, modern and inviting. Natural light through windows, warm colors on the walls, tile floors, stainless steel counters and an easy-to-read menu that is above the ordering area are all tangible items our guests will appreciate. An open kitchen will be visible to our guests to ensure and "show-off" the professionalism and quality of our staff and food. Condiments and fountain drinks will be available for guests to help themselves at a separate station away from the ordering area to promote good traffic flow within the restaurant. The condiment station, along with the eating area and bathroom will be checked, re-stocked and cleaned regularly.

4.0 Market analysis

Oakland, a major metropolitan city, has one of the best population

demographics in terms of disposable income. It has a high population density, and a well-established social scene.

Currently, the U.S. economy is going through a recession and we believe we are answering the call by offering a product that is affordable to a larger demographic. Our food will be value-based quality-comfort food, which is now, and always will be in high demand. The value will allow for higher sales volume and the quality will generate repeat business.

The following is a recent article written by Michael Bauer, food critic for the San Francisco Chronicle, about current food trends.

"The news is gloom when it comes to the economy. Yet like everything else, with every setback comes opportunity. If you're McDonald's, for example, you're feeling pretty good now. Figures released last week showed that the Golden Arches are shinier than ever; in the third quarter, the company performed better than expected, with an 11 percent increase in profits.

Value seems to be the name of the game in all segments of the restaurant business.

Locally, some restaurants are bracing for hard times. I've reported how Cav, the excellent wine bar near Zuni Cafe, has lowered prices. I also heard from Frank Klein of Fish & Farm, who said that the restaurant just implemented a "recession-proof menu."

He reports that in the first two weeks of the change, his business spiked 27 percent. "We are doing many things, getting price point to $18-22 bucks, lower-priced comfort food, etc., and it seems to be resonating!"

I'm sure we'll see more of these type of readjustments in the months ahead."

Posted By: Michael Bauer (Email) | October 27 2008 at 05:04

City of Oakland, 2007 Demographics

Population (est.)	420,000
Households (est.)	160,000
Average Household Size	3 persons
Average Household Income	$70,000
Est. Per Capita Income	$30,000
Median Age	36 years
Median Housing Price	$510,000

Source: CCG, Claritas Inc., August 2007

5.0 Competition and inspiration

Competition is good for business and now more than ever, people have the opportunity to choose different food venues with the same price points.

Below is a list of successful places that TRUEBURGER will share the market with using similar styles and/or prices:

In-N-Out Burger (locations throughout the western U.S.)
Barneys (Berkeley, Oakland and San Francisco, CA)
Cactus Taqueria (Oakland, CA)
Bakesale Betty (Oakland, CA)
Genova Delicatessen (Oakland, CA)
Simply Greek (Oakland, CA)
Gordo Burrito (Berkeley, Oakland, and San Francisco, CA)
Tacubayu (Berkeley, CA)
Gregoire (Berkeley and Oakland, CA)
Arizmendi (Emeryville and Oakland, CA)
The Sentinel (San Francisco, CA)
Taylor's Refresher (San Francisco and St. Helena, CA)
Burger Joint (Burlingame and San Francisco, CA)
Counter Burger (Walnut Creek, CA)
Shake Shack (New York, NY)
Five Guys Burger (Washington, D.C.)
Mighty Fine (Austin, TX)

6.0 Marketing strategy

TRUEBURGER plans to market itself through many avenues, all with effectiveness, creativity, community, and frugality in mind.

- The most effective way to penetrate our market is through a positive word of mouth within our local community. Both owners, Greg and Jason, have strong ties with the San Francisco Bay Area food community, which will help generate a buzz about our product. Their combined experience of over twenty years in the food industry will promote confidence in our food and with our customers.

- TRUEBURGER will be marketed in creative ways such as having a user-friendly website that is fun to use. We will encourage customers to give feedback on

-Supplemental forms and findings (conditional use permit findings)

A.

Location:

Trueburger's location is situated at a central point between the Lake Merrit, Uptown, and Financial District neighborhoods. As such, we will bridge/ attract/mingle residents and employees of said neighborhoods facilitating discovery of areas previously unexplored.

Size

Trueburger's modest square footage (approx 1200 sq.ft) is large enough to provide expedient, efficient, quality product and service but small enough to remain a community eatery.

Design

We at Trueburger believe in designing to harmonize with our neighborhood, specifically using classic elements such as recycled natural wood, earthtone colored tile floors as well as modern elements to salute Oakland's industrial past, such as modern stainless steel and reclaimed industrial lighting fixtures. In addition, we have hired a muralist to paint a scene on our walls that celebrates the urban renewal spirit so prevalent in Oakland.

Operating Characteristics

We, the owners of Trueburger, have a combined 20 years experience working in fine dining restaurants, all rated in the "top 100 restaurants" by the San Francisco Chronicle. Specifically in Oakland, we've worked at Bay Wolf, Cesar, and B Restaurant, establishments that have taught us much about the tastes and tendencies of Oakland residents. Our highest priorities are providing customers with high quality product at a reasonable price, excellent customer service and keeping our facility "white-glove" clean.

As obvious as this may sound, we feel this bears repeating: we treat people with respect, we treat our food with respect and we treat ourselves with respect. We don't take shortcuts when it comes to our business.

B.

As our location is in the financial district, many of the eateries are open for breakfast and lunch only. We will be open for dinner as well to fill this void, for our neighbors such as the residents of the many new apartment/condiminum developments. We also service the commuters returning or leaving Oakland via the 19th street bart station of which we are 3 blocks away. Our location is also ideal for those Oaklanders enjoying a walk or jog around the lake.

Potentially, a large number of our customers will be lunch time office workers in the financial district. We've provided a place to get away and enjoy a meal for the lunch period with outdoor seating, colorful sun umbrellas and a bright, natural light sunroom. For those needing a meal on the run, we've planned for expedient to-go service with a high-tech computer order system.

C.

Our commitment to Oakland small business is evident. To name a few, our meat is from Del Monte Meats (Jack London Square), much of our hardware is purchased from Sincere Hardware and Plumbing (Downtown Oakland), our coffee is from Peerless Coffee (Jack London Square), our beer is from Linden Street Brewery (West Oakland) our pastries are from Gregory's Bakery (literally next door to us)

We strongly believe in the revitalization of Oakland. We've often heard that Oakland residents are 'needing more places and things to be proud of' and we've kept that in mind throughout our entire planning and build-out process.

Our goal is to bring honor and attention to the Oakland food scene earning awards such as "Best Burger in the Bay". With our combined 20 years in the food service industry, we are sure this can become reality.

We aren't just owners, we're also Oakland residents and we've created an establishment that services people like us, people who carry around Oakland totebags, wear the Oaklandish logo with pride, and brag about how grand the Fox and Paramount theaters are.

We admire Oakland's beautiful classic buildings and wonder "where are all the people?" Trueburger will draw those people to help Oakland thrive once again.

Additional Findings:

1. We are not within 1000ft of any Alcoholic Beverage Sales Commercial Activity.

2. Our location 146 Grand Ave is in compliance as we are not located in the areas stated.

3a. Community need: we provide low cost, high quality food, managed by 2 chef-owners with over 20 years experience.

3b. Positive outweighs the negative:

Parking-we are located one block away from multiple, multi-level public parking garages.

Hours – we plan to open at 730AM and close at 9Pm out of consideration for our neighbors.

Alcohol Sales – make up a small part of our business. We only plan to offer one type of beer and one type wine to add depth to our beverage selection to better serve our customers.

3c. By operating during the dinner hour, we anticipate certain customers will desire an alcoholic beverage (beer or wine) with their meal.

- Lighting plan

We plan to use the existing light fixtures located outside above our window to light our signs. There is also a sensor light for security on the side of the building. Our site plan will indicate this.

Valeska, David

From: Steve Snider [steve@lakemerritt-uptown.org]
Sent: Tuesday, March 16, 2010 1:33 PM
To: Valeska, David
Subject: RE: 146 Grand Ave, Trueburger, April 7 Planning Commission Hearing

Hey David,

We completely endorse your effort to provide beer and wine to your customers and think your business as a wonderful contribution to the thriving Lake Merritt-Uptown area. Everyone in our office LOVES your burgers...including me!!! We also love the fact that you are open for dinner Thurs-Sat. Good luck with the hearing and let us know if we can be of further assistance.

We will post your business on our website as soon as possible.

Thanks,

Steve

Steve Snider
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From: Valeska, David [mailto:DValeska@oaklandnet.com]
Sent: Tuesday, March 16, 2010 1:19 PM
To: steve@lakemerritt-uptown.org
Subject: 146 Grand Ave, Trueburger, April 7 Planning Commission Hearing

Steve, on April 7 at 6 pm, the Planning Commission will consider CM09-289 for Trueburger (146 Grand Ave.) to be able to add beer & wine to their lunches and Dinners. This Conditional Use Permit is open for public comment between now And then. Please let me know if you or others have concerns or issues or if You support the request; I spoke briefly with Andrew this AM. Thanks!