TO: ALBANY PLANNING & ZONING COMMISSION
FROM: ANNE HERSCH, AICP, CITY PLANNER
SUBJECT: PA 13-055 Amendment to Planning Application 11-047 745-747 San Pablo Ave. Albany Taproom
DATE: October 9, 2013

Property Owner
Fara Pakzad
611 Acacia Ave.
Oakland, CA 94618

Applicant/Representative:
Saed Tolui & Keyumars Hakim
745 San Pablo Ave.
Albany, CA 94706

PROJECT: Amendment to PA 11-047
FILE: PA 13-055
LOCATION: 745-747 San Pablo Ave.
GP LU: General Commercial
ZONING: SPC-San Pablo Commercial
PLANNER: Anne Hersch

Original filing: August 19, 2013
Date Deemed Complete: September 13, 2013
Date of Notice Posted/Mailed: 9/27/13
Date of Public Hearing: October 9, 2013

Total number of days to hearing: 51 days

REQUEST

The applicant is seeking a Conditional Use Permit amendment to extend their operating hours to 1 am daily and to allow live entertainment with moderate amplification at the Albany Taproom, 745 San Pablo Ave. A Conditional Use Permit was approved by the City Council on February 21, 2012 which established a closing time of 10 pm Sunday-Thursday and 11pm Friday-Saturday. The business commenced operation in March 2013 and has been operating in compliance with the Use Permit.

STAFF RECOMMENDATION

Staff recommends that the Planning & Zoning Commission review and approve the request subject to the findings and conditions of approval.
SITE LOCATION

Gas Station
Club Mallard
Spa & Salon
Taproom
Grazzy Burger
Residential Mixed Use Building
Residential Uses

74 San Pablo Ave, Albany, CA 94706
BACKGROUND

The subject property is a 7,500 square foot lot with three existing commercial spaces. The building received Design Review approval in July 2007 and the remodel was completed in 2008. The applicant received Conditional Use Permit approval to allow a beer pub (Albany Taproom) in the middle portion of the building measuring 1,834 sq. ft. in area. The Albany Taproom is connected by an interior partition to Grazzy Burger in the neighboring space (747 San Pablo Ave.) This interior area allows patrons to walk through the interior space of both businesses and purchase beer to consume with a meal at the Grazzy Burger. The Taproom maintains a separate food menu, though food service Grazzy Burger is offered in the Taproom. Both businesses maintain identical operating hours of 11am-10pm Monday-Thursday and 11am-11pm Friday-Saturday.
The City Council reviewed and upheld the Planning & Zoning Commission decision approving the Conditional Use Permit to allow the Albany Taproom on February 21, 2012. The Conditions of Approval which were approved by the Planning & Zoning Commission were upheld by the City Council without modification.

The Albany Taproom and the Grazzy Burger businesses opened on March 8, 2013. In the six months they have been in operation, there have not been any calls for police service.

ANALYSIS

Operating Hours

The applicant is seeking an amendment to Special Condition 9 which limits the operating hours. They would like to have an extended closing time of 1 am, seven days a week. Due to popularity of the business, the applicant has indicated that the additional hours of operation will allow them to serve more customers on a daily basis. The applicant has submitted a petition containing 375 signatures of patrons in support of the proposed operating hours.

**SP9** - Business hours shall be consistent with the neighboring hamburger establishment at 747 San Pablo Ave. with closing time Sunday-Thursday at 10 pm and Friday-Saturday closing time of 11 pm.

**SP 1(Amendment)** - Business hours shall be consistent with the neighboring hamburger establishment at 747 San Pablo Ave. with closing time of 1 am seven (7) days a week.

Entertainment

In addition to the operating hours request, the applicant would like to amend the use permit to allow live entertainment with moderate amplification. The noise level would not exceed that of the current amplification system which broadcasts music and television within the business space. Entertainment would include local musicians playing acoustic music including Bluegrass, Gypsy Jazz and singer/songwriters. It is expected that music would be offered on Wednesdays and Saturdays, though the applicant would like the option to offer entertainment other days of the week. When offered, live entertainment would cease by 11pm.

The applicant has indicated that any live entertainment would be located in the middle of the restaurant, adjacent to the bar. This mitigates any noise that could project outside of the business. It also allows the business to maintain clear and accessible paths of travel to the bathrooms. Draft conditions are included below.

**SP 2 (Amendment)** - The permit approval is to allow live and amplified music within the business at 745 San Pablo Ave (Albany Taproom). Entertainment shall not be offered past 11 pm.
**SP 3- (Amendment)** Noise levels generated by the live music/entertainment shall not exceed the City’s Noise Ordinance. Applicant/permit holder shall be responsible for paying any costs incurred by the City to monitor noise. The use of amplification shall be suspended in the event that violations are documented and until noise control devices are installed.

**SP4- (Amendment)** This entertainment permit shall be restricted to those events that are directly sponsored by Albany Taproom. Live music and entertainment shall be prohibited at any private parties.

**Conditional Use Permit**

Section 20.20.070 (C) requires that bar establishments secure a major use permit through the Planning & Zoning Commission. At its discretion, the Commission may set conditions including but not limited to limitation of hours, use of outdoor areas, provision of security personnel and noise attenuation. The Conditional Use Permit findings are detailed below.

**Section 20.100.030 (D) Required Findings for Approving Use Permits.** A minor use permit may be approved by the Community Development Director, and a major use permit may be approved by the Planning and Zoning Commission only if all of the following findings can be made:

1. **Necessity, Desirability, Compatibility.** That the size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community; and

   **Finding:** The operation of beer pub in conjunction with a hamburger restaurant will occupies a previously vacant store front on the San Pablo Ave. corridor. The pub is compatible with surrounding uses which include various restaurant operations, and other service oriented businesses in the corridor.

2. **Adverse Impacts.** That such use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following:

   a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures;
   b. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading;
   c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor;
d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs; and

**Finding:** The business is located within an existing commercial building along the San Pablo Ave. corridor. Adverse impacts have not occurred since the business opened in March 2013. Impacts are not expected with the business modification.

3. Consistency with Zoning Ordinance, General Plan and Specific Plan. That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.

**Finding:** The project as proposed is consistent with the Zoning Ordinance and General Plan.

**ENVIRONMENTAL REVIEW**

Staff recommends that the proposed project be considered categorically exempt from the requirements of CEQA per Section 15332, “In-Fill Development Projects” of the CEQA Guidelines.

**ATTACHMENTS**

1. Analysis of Zoning Requirements
2. Draft Findings for Approval
3. Draft Conditions of Approval
4. Project Application
5. Petition in Support of Operating Hours Expansion
6. Online Petition in Support of Operating Hours
7. Michael Lindsay E-mail
8. Cathie Kosel E-Mail
ATTACHMENT 1 – ANALYSIS OF COMPLIANCE WITH ZONING REQUIREMENTS

20.12 Zoning Districts and Permitted Uses

General Plan: General Commercial
Zoning: SPC (San Pablo Commercial)

20.16 Land Use Classifications

Surrounding Property Use
North - SPC South - SPC
East – R-3  West – SPC

20.20.080 Secondary Residential Units
Not applicable.

20.24.020 Table Of Site Regulations By District
Not applicable.

20.24.030 Overlay District Regulations
Not Applicable

20.24.040 Hillside Residential Regulations
Not applicable.

20.24.050 Floor-Area-Ratio
Not applicable.

20.24.060 Setback Areas, Encroachments
Not applicable.

20.24.100 Distances Between Structures
Not applicable.

20.24.110 Fences, Landscaping, Screening
See Discussion of Issues.

20.24.130 Accessory Buildings
Not applicable.

20.28 Off-Street Parking Requirement
Not applicable.

20.40 Housing Provisions
Not applicable.
20.44 Non-conforming Uses, Structures and Lot
Not applicable.

20.48 Removal of Trees
Not applicable.

20.52 Flood Damage Prevention Regulations
Not applicable.

20.100.030 Use Permits
See Analysis.

20.100.040 Variances
Not applicable.

20.100.010 Common Permit Procedures

Public notice of this application was provided on October 9, 2013 in the form of mailed notice to property owners and occupants within a 300-foot radius, and posted in three locations.

20.100.050 Design Review
Not applicable.
### ATTACHMENT 2 - FINDINGS
Findings for Conditional Use Permit approval (Per section 20.100.030.D of the AMC)

<table>
<thead>
<tr>
<th>Required Finding</th>
<th>Explanation</th>
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<tbody>
<tr>
<td><strong>1. Necessity, Desirability, Compatibility.</strong> The project’s size, intensity and location of the proposed use will provide a development that is necessary or desirable for, and compatible with, the neighborhood or the community.</td>
<td>The General Plan designates this area for General Commercial. Additionally, the project meets City zoning standards for location, intensity and type of development. The site is an existing commercial building and the extension of operating hours will help support and retain an existing business.</td>
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<td><strong>2. Adverse Impacts.</strong> The project’s use as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or physically injurious to property, improvements or potential development in the vicinity, with respect to aspects including but not limited to the following: a. The nature of the proposed site, including its size and shape, and the proposed size, shape and arrangement of structures; b. The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic, and the adequacy of proposed off-street parking and loading; c. The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor; d. Treatment given, as appropriate, to such aspects as landscaping, screening, open spaces, parking and loading areas, service areas, lighting and signs;</td>
<td>a. The business is located within an existing commercial building along the San Pablo Ave. corridor. Adverse impacts have not occurred since the business opened in March 2013. Impacts are not expected with the business modification. The proposal is in scale and harmony with existing development in the vicinity of the site. It is an already developed site. b. At the hours of proposed entertainment, on-street parking is often available in the San Pablo commercial district. c. No noxious or offensive emission such as noise, glare or dust will occur from the granting of conditional use permit. d. It is an existing site without need for additional landscaping, services areas and lighting. Design review approval and a building permit for signage has already been obtained by the property owner.</td>
</tr>
<tr>
<td>3. <strong>Consistency with Zoning Ordinance, General Plan and Specific Plan.</strong> That such use or feature as proposed will comply with the applicable provisions of this Chapter and will be consistent with the policies and standards of the General Plan and any applicable specific plan.</td>
<td>The proposed project will not be detrimental to the health, safety, convenience and welfare of those in the area and would not adversely impact property, improvements or potential future development in the area.</td>
</tr>
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</table>
ATTACHMENT 3
Draft Conditions of Approval

SP 1 (Amendment)- Business hours shall be consistent with the neighboring hamburger establishment at 747 San Pablo Ave. with closing time of 1 am seven (7) days a week.

SP 2 (Amendment)- The permit approval is to allow live and amplified music within the business at 745 San Pablo Ave (Albany Taproom). Entertainment shall not be offered past 11 pm.

SP 3- (Amendment) Noise levels generated by the live music/entertainment shall not exceed the City’s Noise Ordinance. Applicant/permit holder shall be responsible for paying any costs incurred by the City to monitor noise. The use of amplification shall be suspended in the event that violations are documented and until noise control devices are installed.

SP 4- (Amendment) This entertainment permit shall be restricted to those events that are directly sponsored by Albany Taproom. Live music and entertainment shall be prohibited at any private parties.

EXISTING CONDITIONS

Special Project Conditions

SP 1- Signs shall be placed at the entrances/exits reminding patrons they are near a residential neighborhood and should be quiet while exiting and returning to their cars.

SP 2- The use permit shall be reviewed for compliance by the Albany City Council approximately six months from the date of operation commencement.

SP 3- The Planning & Zoning Commission reserves the right review the Use Permit at any time to insure compliance with all project conditions. Failure to comply with the Conditions may result revocation of the Use Permit subject to public notification and formal public hearing.

SP 4- The Use Permit shall be subject to review and possible revocation if the Police Department determines there are law enforcement concerns regarding the operation of the beer pub.

SP 5- The business operation shall comply with Section 17-1 “Smoking Pollution Control” of the Albany Municipal Ordinance.

SP 6- Sound-proofing materials shall be installed in the interior of the establishment and shown on the building permit drawings for Community Development Department review.

SP 7- The applicant shall prepare an alcohol training policy for staff and provide a copy of the policy to the Community Development Department.
**SP8.** All functions in the space must comply with City noise standards.

**SP9.** Business hours shall be consistent with the neighboring hamburger establishment at 747 San Pablo Ave. with closing time Sunday-Thursday at 10 pm and Friday-Saturday closing time of 11 pm.

**SP10.** The applicant shall install bicycle racks and work with City staff on the placement of the facilities. The City may pay for the installation of the bicycle racks and seek full reimbursement from the applicant for the cost of the racks and installation.

**SP11.** Mechanical roof equipment shall be screened and detail of the screen shall be shown on the building permit drawings for staff review.

**Appeals:**

The Albany Municipal Code provides that any action of the Planning and Zoning Commission may be appealed to the City Council if such appeal is filed within 14 calendar days of the date of action. Appeals may be filed in the Community Development Department by completing the required form and paying the required fee. The City Clerk will then schedule the matter for the next available City Council meeting.