

City of San Leandro Planning Commission

RESOLUTION NO. 2025-XXX

**A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF SAN LEANDRO**

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT
TO EXPAND A LEGAL NON-CONFORMING 2,248 SQUARE-FOOT BAR BY
APPROXIMATELY 1,369 SQUARE-FEET WITHIN AN EXISTING BUILDING AT 1746
WASHINGTON AVENUE, AND
DETERMINING THAT THE PROJECT IS CATEGORICALLY EXEMPT FROM THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO
CEQA GUIDELINES SECTION 15301
PLN25-0010**

WHEREAS, the applicant and property owner, John Harvey (“Applicant”) (“Property Owner”), is requesting Conditional Use Permit (CUP) approval for the expansion of an existing 2,248 square-foot bar by approximately 1,369 square-feet by occupying the rear space of the existing building at 1746 Washington Avenue, Assessor’s Parcel Number: 77-549-21 (the “Property”); and

WHEREAS, the Property has a Downtown Mixed Use (MUD) General Plan Land Use designation and is located in the Downtown Area 2 (DA-2) Zoning District; and

WHEREAS, the operational characteristics of the proposed use is consistent with the definition for Bars in Zoning Code Section 1.12.108; and

WHEREAS, Zoning Code Section 2.08.228.B.3 requires a Conditional Use Permit to establish a Bar in the DA-2 Zoning District; and

WHEREAS, pursuant to Zoning Code Section 5.08.108, the Bar is a “presumed conditional use,” having been a preexisting use presumed to be subject to a Conditional Use Permit, even though a use permit was not required at the time the use was originally established; and

WHEREAS, pursuant to Zoning Code Section 5.08.108, any modifications to presumed conditional uses shall be subject to a Conditional Use Permit; and

WHEREAS, the Applicant has proposed to expand the existing Bar which would still be consistent with the definition for Bars in Zoning Code Section 1.12.108; and

WHEREAS, the Applicant submitted an application for a Conditional Use Permit (PLN25-0010) on April 22, 2025 requesting for the expansion of an existing 2,248 square-

foot bar by approximately 1,369 square-feet by occupying the rear space of the existing building at 1746 Washington Avenue (the “Project”); and

WHEREAS, staff determined the Project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines, Existing Facilities; and

WHEREAS, a staff report dated October 2, 2025, and incorporated herein by reference, describes and analyzes the proposed Project; and

WHEREAS, on October 2, 2025, the Planning Commission reviewed the staff report at a duly noticed public hearing on the proposed Project, at which time all interested parties had the opportunity to be heard; and

WHEREAS, the Planning Commission has considered all public comments received, the presentation by City staff, the staff report and attachments in adopting this resolution; and

WHEREAS, the Planning Commission has determined that the proposed Project does satisfy the requisite findings of fact necessary for approval as described in the staff report and herein; and

WHEREAS, the Planning Commission desires to approve a Conditional Use Permit for the Project; and

WHEREAS, the City’s General Plan, Zoning Code, and Municipal Code, are incorporated herein by reference, and are available for review at City Hall during normal business hours.

NOW, THEREFORE THE PLAANNING COMMISSION FOR THE CITY OF SAN LEANDRO RESOLVES THAT: The above recitals are true and correct and made a part of this resolution.

BE IT FURTHER RESOLVED THAT, the Planning Commission does hereby determine that the Project is categorically exempt from CEQA pursuant to Section 15301 of the CEQA Guidelines, Existing Facilities.

BE IT FURTHER RESOLVED THAT, the Planning Commission of the City of San Leandro does hereby approve a Conditional Use Permit for the expansion of a legal non-confirming 2,248 square-foot bar by approximately 1,369 square-feet into the rear portion of an existing building at 1746 Washington Avenue, as shown on the submitted Project Plans attached as Exhibit A and Project Statement attached as Exhibit B and incorporated herein, based on the following findings and considering the staff report, and the whole of the record related to the Project:

1. The proposed location of the Project use is in accord with the objectives of the Zoning Code and the purposes of the Downtown Area 2 (DA-2) Zoning District in which the Property is located;
2. The proposed location of the Project and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing, or working in, or adjacent to, the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity, or to the general welfare of the City;
3. The proposed Project will comply with the provisions of the Zoning Code, including all requirements for the proposed use in the DA-2 Zoning District in which it would be located; and
4. The proposed Project will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities, which cannot be mitigated.

BE IT FURTHER RESOLVED THAT, the Planning Commission's approval of the Conditional Use Permit for the Project is subject to the following conditions of approval:

PLANNING DIVISION

Compliance with Approved Plans and Conditions of Approval

1. **Permitted Use.** The approval of this Conditional Use Permit (CUP) allows the expansion of an existing 2,248 square-foot bar by approximately 1,369 square-feet within the existing building at 1746 Washington Avenue. APN: 77-549-21.
2. **Compliance with Approved Plans.** The Project shall comply with Exhibit A (Project Plans) and Exhibit B (Project Statement), except as hereinafter modified. Exhibits are on file at City Hall, at the City of San Leandro, Community Development Department, located at 835 E. 14th Street, San Leandro, California, 94577.
3. **Modifications.** The project shall remain in substantial compliance with the approved Plans, Exhibits, and Conditions of Approval. Proposed changes to the project shall be made in writing to the Zoning Enforcement Official. The Zoning Enforcement Official may approve changes to approved Exhibits or Conditions of Approval without a public hearing upon determining that the changes are minor and are consistent with the intent of the original approval. Revisions involving substantial changes to approved Exhibits or Conditions of Approval shall be treated as new applications, to be reviewed as a new project. The Zoning Enforcement Official may also refer any changes to the Planning Commission.
4. **Effective Date.** The project approval shall become effective on the 15th day after the date the Planning Commission approves the project, unless appealed, as provided in Zoning Code Chapter 5.20 (Appeals).

5. **Expiration Date.** The Project approval shall lapse on **October 2, 2027**, unless diligent progress has been made evidencing a good faith intent to commence the intended use; or an occupancy permit has been issued; or the approval is renewed, as provided in Zoning Code Section 5.08.136.A. Pursuant to Zoning Code Section 5.08.136(E), upon written request, the approval may be renewed by the Zoning Enforcement Official for one (1) year, with one additional (1) one-year renewal allowed for a total period not to exceed two (2) years without notice or public hearing if the findings required by Zoning Code Section 5.08.124.A remain valid. An application for renewal shall be made in writing to the Zoning Enforcement Official prior to the expiration of the permit.
6. **Revocation.** In accordance with Zoning Code Section 5.24.136.D, upon determination by the Zoning Enforcement Official that there are reasonable grounds for revocation of this use permit, a revocation hearing shall be set by the Zoning Enforcement Official before the Planning Commission. Reasons for revocation may include, but are not limited to any activities in violation of Zoning Code Section 5.40.120.B, including "repeated nuisance activities within the premises or in close proximity of the premises, including but not limited to disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passers by, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests."
7. **Access to Conditions of Approval.** These Conditions of Approval shall be made available and accessible to all tenants, employees and vendors on the property.
8. **Successors in Interest.** These conditions of approval shall run with the land and the Applicant/Property owner shall be responsible for ensuring that any heirs, executors, administrators, and successors in interest who assumes responsibility for this approval are informed of its terms and conditions.

Operational Conditions

9. **Hours of Operation.** Hours of operation for the bar shall be limited to 10:00 a.m. to 1:30 a.m. daily. Any modification to the hours of operation shall be requested in writing to the Community Development Director, who may approve the request or direct the matter to the Planning Commission.
10. **Maximum Occupancy.** The bar shall limit the maximum occupancy of the inside of the building per Building Code requirements. The occupancy restrictions shall be clearly posted on site.
11. **Location Inside Building.** All operations of the Bar shall be contained inside the building.

12. **Performance Standards for Alcoholic Beverage Sales.** The Applicant/Property Owner and Bar operator shall ensure that the operation of the bar complies with Zoning Code Section 5.40.120.B, which lists performance standards that the Bar operator shall follow in order to control foreseeable dangerous or objectionable environmental effects of alcoholic beverage sales commercial activities.
13. **Noise.** The property shall comply with Municipal Code Chapter 4-1, Article 11 (Noise). The Applicant/Property Owner shall take proactive measures to avoid and reduce noise that would disturb the peace, quiet and comfort of neighboring residents or persons of normal sensitivity.
14. **Smoking.** The Applicant/Property Owner shall be responsible for enforcing the smoking regulations per Municipal Code Chapter 4-12 (Smoking Pollution Control).
15. **Security Cameras and Surveillance Footage.** The bar shall install, use, and maintain security cameras capable of digitally recording audio and video in high-definition (HD-quality) for at least 72 hours inside and outside of the building, covering the building interior, entry/exit doors. The security cameras shall be operating and located as shown on the approved plans.
16. **Refuse.** The bar operator shall provide the appropriate waste, recycling, and compost receptacles and shall be responsible for ensuring that all waste generated is removed.
 - a. **Refuse Screening** – Prior to permit issuance and as part of the construction drawings, the Applicant/Property Owner shall provide, for permit review and approval by the Community Development Director, dimensioned architectural drawings (floor plans, elevation drawings, roof plans) for the trash enclosure.
 - b. **Trash Emptying** – Trash shall not be emptied between the hours of 10:00 p.m. and 6:00 a.m.
17. **Bicycle Parking.** One bicycle parking space shall be provided. Prior to permit issuance and as part of the construction drawings, the Applicant/Property Owner shall provide, for permit review and approval by the Community Development Director, installation details for the short-term storage of one bicycle parking space (e.g., bicycle rack or hooks in a safe location). Prior to building permit final for the patio structure, the bicycle storage shall be installed.

Maintenance Conditions

18. **Fences.** All fencing, gates and walls on the project site shall be structurally sound, graffiti-free, and well-maintained at all times. Fences, walls and hedges shall comply with Zoning Code Section 4.04.364 (Fences, Walls, and Hedges). The installation of barbed wire, razor, cyclone and electrified fencing are prohibited. Prior to building permit final for the patio structure, the Applicant/Property Owner shall paint the metal wall panels the same color as adjacent building/structure surfaces to reduce glare and provide a coherent design to the satisfaction of the Community Development Director.

19. **Graffiti.** Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be promptly removed or painted over. Prior to building permit final for the patio structure, the Applicant/Property owner shall provide photographs showing that the site and the structures under the control of the Property Owner do not contain any graffiti.
20. **Lighting.** Lighting shall remain well-maintained and replaced periodically to ensure proper functioning. The position of such lighting shall not disturb the normal privacy and use of any neighboring residences. All lighting shall be down-shielded.
21. **Landscaping.** All landscaping improvements, if any, shall be maintained in a healthy, growing, and weed-free condition at all times. Any missing, dead, or damaged plant and groundcover material shall be promptly replaced with a material similar in type and comparable in size to the plant(s) or groundcover being removed.
22. **Signs.** All signage shall conform to the regulations in Zoning Code Chapter 4.12 (Signs). No temporary or unauthorized signs including but not limited to banners, balloons, streamers, and pennants, shall be placed on the property, unless approved by the City under a Temporary Sign Permit or Temporary Use Permit.
23. **Litter Control.** The site shall be maintained and shall be kept free of litter, debris, and weeds. The Applicant/Property Owner shall be responsible for prompt pick-up of any litter or debris attributable to the bar and any of its appurtenant operations.

Additional Submittals

24. **Applicable Permits.** The Applicant/Property Owner shall obtain any and all required permits, including but not limited to Health Permits from the Alameda County Department of Environmental Health, grading permits, encroachment permits for any work in the right-of-way, and building and fire permits.
25. **ABC License.** The Applicant/Property Owner and Bar operator shall obtain all required license(s) from the California Department of Alcoholic Beverage Control (ABC) and comply with all subsequent regulations of that agency. The operation of the Bar shall be consistent with ABC License Type 48 (On Sale General – Public Premises, or, alternatively, a License Type 42 (On Sale Beer & Wine – Public Premises).
26. **Mechanical Screening.** Prior to permit issuance and as part of the construction drawings, the Applicant/Property Owner shall provide, for permit review and approval by the Community Development Director, details for the mechanical screening required by Zoning Code Section 4.04.328 for any new mechanical equipment that is visible from the public sidewalk on Washington Avenue (e.g., tankless water heater).
27. **Temporary Use Permit.** The Applicant/Property Owner or Operator shall obtain a temporary use permit for any operations that are conducted outside of the approved hours of operation, utilize a different site plan and logistics, exceed the maximum

occupancy for the Bar and/or constitute a Temporary Use pursuant to Zoning Code Sections 1.12.108 (Definitions) and 5.08.144 (Temporary Use Permits).

28. Notations to Conditions of Approval. Prior to permit issuance, the Applicant/Property Owner shall provide an annotated copy of these conditions of approval that details how every condition of approval has been complied with or will be complied with. Each annotation shall include a standard reference to the specific sheet(s) and drawing(s) of the construction plans that demonstrate(s) such compliance. Construction plans shall not be accepted without the annotated conditions of approval document.

29. Improvements Installed. Prior to the issuance of any Certificate of Occupancy on the property, the improvements included within this approval shall be completely installed to the satisfaction of the Community Development Director and the City Engineer.

30. Fees. Prior to permit issuance, any and all outstanding deposit fees or balances (including Planning, Engineering or Building fees) shall be paid in full.

Construction Conditions

31. Construction Hours and Noise. Construction on the project site shall not commence prior to 7:00 a.m. and shall cease by 7:00 p.m., Monday through Friday, and shall not commence prior to 8 a.m. and shall cease by 7 p.m. Saturday and Sunday, unless otherwise approved by the Chief Building Official. There shall be no construction on Federal holidays. As provided in Municipal Code Chapter 4-1, Article 11 (Noise), "construction" shall mean any site preparation, assembly, erection, substantial repair, alteration, demolition or similar action, for or on any private property, public or private right-of-way, streets, structures, utilities, facilities, or other similar property. Construction activities carried on in violation of this Article may be enforced as provided in Section 4-11-1130, and may also be enforced by issuance of a stop work order and/or revocation of any or all permits issued for such construction activity. Prior to the start of construction activities, the construction contractor shall:

- a. Maintain and tune all proposed equipment in accordance with the manufacturer's recommendations to minimize noise emission.
- b. Inspect all proposed equipment and fit all equipment with properly operating mufflers, air intake silencers, and engine shrouds that are no less effective than as originally equipped by the manufacturer.
- c. Post a sign, clearly visible at the site, with a contact name and telephone number of the construction manager.
- d. Place stationary construction equipment and material delivery in loading and unloading areas as far as practicable from the residences.
- e. Limit unnecessary engine idling to the extent feasible.

- f. Use smart back-up alarms, which automatically adjust the alarm level based on the background noise level, or switch off back-up alarms and replace with human spotters.
 - g. Use low-noise emission equipment.
 - h. Limit use of public address systems.
 - i. Minimize grade surface irregularities on construction sites.
32. **Dust Control.** Construction activity shall not create dust, noise or safety hazards for adjacent businesses and properties. Dirt and mud shall not be tracked onto public streets from the project site during construction. Standard construction dust control procedures, such as wetting, daily road washing and other maintenance functions to control emissions, shall be implemented at all times during outdoor construction. Dust generating activities such as grading, excavation, paving, etc. shall be scheduled the early morning and other hours when wind speeds are low. All construction activities entailing soil disturbance shall cease when winds exceed 30 miles per hour as an hourly average.
33. **Street Sweeping Related to Construction Activities.** The City shall charge the Applicant/Property Owner, and the Applicant/Property Owner shall pay, for all costs of sweeping city streets in the vicinity of the project as necessary to control dust and spillage.

POLICE DEPARTMENT

34. **Loitering.** Loitering is prohibited on or around the premises and areas under the control of the owner and business.
35. **Cooperation with Investigations.** The business, owners, employees and operators shall cooperate fully with the San Leandro Police Department and City of San Leandro regarding any criminal, code enforcement or community-related investigation(s) conducted by employees of the San Leandro Police Department or City of San Leandro.
36. **Operating Restrictions.** As is standard, the Police Department reserves the right to apply additional operating restrictions on the ABC license through the procedures of the California Department of Alcoholic Beverage Control.

ALAMEDA COUNTY FIRE DEPARTMENT

37. The Project shall comply with the California Building and Fire Codes and current and local ordinances in effect at the time of building permit submittal.

BUILDING DIVISION

38. The plan review for this Conditional Use Permit application does not constitute a complete building plan review. A formal plan check review will be completed at the time of project submittal to the Building Division. All construction shall fully comply with the current adopted California Building Standards Code in effect at the time of building permit issuance.
39. The Applicant/Property Owner shall provide detailed construction plans (working drawings) and structural calculations to the Building Division for plan review prior to issuance of a building permit. Plans and supporting documents shall be prepared by a California state-licensed architect or engineer. Upon completion of the plan check, all applicable fees shall be paid and a building permit issued prior to commencement of any actual construction work on-site.
40. The Applicant/Property Owner shall incorporate the following on plans submitted for permit issuance. All building permit plan submittals shall include required mechanical, electrical, and plumbing (MEP) plans. Deferred plans for MEP shall not be accepted.
- a. Alameda County Environmental Health approval is required when adding any new kitchen equipment, plumbing, or mechanical.
 - b. CalGreen Non-Residential Mandatory Checklist.
 - c. Non-Residential Title 24 for any new mechanical, electrical, or plumbing (MEP).
 - d. Construction and Demolition per CalGreen.
41. The Applicant/Property Owner shall demonstrate compliance with the following conditions of approval on plans submitted for building permit issuance. All revision clouds and deltas added to the plans during Planning approval must be removed prior to submitting the building permit application
- a. Restrooms shall be ADA compliant.
 - b. Provide accessible clearances for all accessible spaces.
 - c. Accessibility upgrades shall be required.
 - d. Plans shall show egress path and exits based on increased occupant load.

PUBLIC WORKS – SOLID WASTE

42. Applicant is required to confirm trash enclosure's capacity for additional solid waste material and/or bins. All solid waste, recycling and organic materials must be contained inside of said enclosure at all times. Prior to permit issuance and as part of the construction drawings, the Applicant/Property Owner shall provide, for permit review and approval by the Public Works Department, dimensioned architectural

drawings (floor plans, elevation drawings, roof plans) for the trash enclosure. Solid waste enclosures shall have enough solid waste and recycling storage capacity to contain all materials generated at the site. The enclosure must be sized to ensure enough capacity for the collection, proper sorting and containment of all materials (landfill, recycling and organics). The plans shall show compliance with all codes and regulations. Prior to building permit final for the patio structure, the trash enclosure shall be built to the approved construction plans.

43. The property owner, occupant and tenants shall maintain the enclosure free of litter and other debris in accordance with Municipal Code Section 3-15-215 (Reduction of Pollutants in Storm Water), which requires, in part, that “the occupant or tenant, or in the absence of occupant or tenant, the owner, lessee, or proprietor, of any real property in the City of San Leandro in front of which there is a paved sidewalk shall maintain said sidewalk free of dirt or litter to the maximum extent practicable.”
44. The subject property is required to comply with California state law, SB 1383, which mandates that compostable and recyclable materials be separated from landfill materials and properly recycled. In San Leandro, SB 1383 is implemented and enforced under the Alameda County Organics Reduction and Recycling Ordinance. For more information, visit <https://www.stopwaste.org/rules>.
45. The project site is in the Alameda County Industries (ACI) service area. For questions about solid waste and recycling service, service levels and/or proposed service location(s) for residential and commercial tenants, contact ACI at (510) 357-7282.

ENVIRONMENTAL SERVICES

46. The project shall be subject to San Leandro Municipal Code Section 3-14-35, requirements for interceptors.
47. Submittals of plans to the City of San Leandro Permit Center showing kitchen equipment and properly sized grease interceptor will be required. <https://www.sanleandro.org/199/Building-Safety-Division>
48. All fixtures, equipment and drain lines located in a food service establishment which may contain fats, oil and grease (FOG) or other objectionable materials shall be connected to an appropriately sized grease interceptor.
49. The following types of equipment or fixtures identified as a potential source of FOG include but are not limited to pre-rinse and/or pre-wash sinks or sinks in dishwashing areas; two or three compartment sinks; wok stoves; soup kettles; self-cleaning stove ventilation/exhaust hood; kitchen floor drains; kitchen floor trench; kitchen floor sinks; mop sinks; and food prep sinks. No sanitizing dishwashers are to be connected to drainage pipes conveying wastewater to a grease interceptor unless such connections are approved by the Manager.

50. The interceptor shall be maintained in efficient operating condition by periodic removal of accumulated grease and solids. Unless otherwise approved by the Manager, grease interceptors must be pumped in full when the total accumulation of surface grease and settled solids reaches 25% of the grease interceptor's overall liquid depth. All accumulated grease and solid materials shall be removed by a certified waste hauler licensed by the State of California.
51. No accumulated FOG shall be introduced into any drainage piping or public or private sewer. The introduction of emulsifying agents such as chemicals, solvents or enzymes which will cause pass through of grease is strictly prohibited. Bacterial agents used to reduce FOG may be used in addition to regular maintenance but shall not be a consideration in determining grease interceptor sizing or maintenance frequency.
52. Wastewater more than one hundred forty degrees Fahrenheit (140°F) shall not be discharged to the grease interceptor for any duration. Failure to clean or maintain the interceptor shall be a violation and subject to enforcement action.
53. The user shall develop and maintain a record of periodic maintenance and cleaning/pumping of the interceptor. Records shall be retained for a period of not less than three years.
54. The interceptor shall be installed and connected to be readily accessible for inspection, cleaning and removal of grease.
- 55.2. A Hazardous Materials Business Plan (HMBP) is required if the facility handles 1,000 cubic feet or more of carbon dioxide (e.g. beverage dispensing).
- 56.3. Discharge of anything other than rainwater to the stormwater collection system, which includes area drains, sidewalks, parking areas, street curb and gutter, is prohibited.
57. The elimination of outdoor exposure of materials, processes, or equipment to the maximum extent practicable is necessary to prevent contamination of rainwater. Exposures that cannot be eliminated require use of Best Management Practices (BMPs), both engineered and administrative, to prevent any exposure from impacting rainwater runoff.

PASSED, CONDITIONALLY APPROVED, AND ADOPTED, on this 2nd day of October 2025 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Litha Zuber
Chair of the Planning Commission

ATTEST:

Avalon Schultz, AICP
Secretary to the Planning Commission