

**Agreed to Mitigations as applied to ZAB Staff report**  
**2525 Telegraph**  
**8/9/07**

**Items from negotiated agreement which modify the ZAB staff report**

Item 2 Parking for out of area patrons

ZAB staff report Findings & Conditions sections –

- 2. A. 4) -- items a) thru e)
- 2.C items b) and e)
- 2.D items b) and e)
- 3.D items a) to e)
- 4.C item e)
- 25. item e)
- 28. items a) to d)
- 29. items a) to e)

- a) Staff will direct patrons to park in UC public lot on Dwight West of Telegraph.
- b) Signage inside front entrance will ask patrons not to park in neighborhood but rather to park in UC public lot or take public transit
- c) Expanded parking and public transit information to be posted on website
- d) Escort service provided for patrons to walk to their cars when requested after dark
- e) Conduct yearly survey of patrons including where they live and how did they travel to the project.

Item 3 Sound insulation for Regent St. side of project

ZAB staff report Findings & Conditions sections –

- 2. A. 4) -- items a) and e)
- 2.D items a), c) and d)
- 2.F items a)
- 2.G items a) to e)
- 3.C items a) and e)
- 36. item e)
- 42. item e)

- a) The rear area of the building currently listed as dinning/gallery space will be a sound buffer zone with no amplified sound above normal conversation level, approximately 65 dB.
- b) The rear door opening onto Regent St. will be an emergency exit and will be alarmed
- c) The rear door will also provide handicap access/egress for the mezzanine level. Establishment personnel will have keys to the alarm and will escort handicapped patrons in and out of that door.
- d) Signage inside the doorway will ask patrons to be respectful of the peace and quiet of the neighborhood when exiting the establishment.
- e) No sound will be audible greater than 50' from the establishment on Regent St. This is a much stricter standard than is contained in Section 13.40.050. but one that has

been agreed to by Mr. Elsami. It does not require the use of a decibel meter which is not typically available on nights and weekends when the establishment will be generating most of its audible sound.

Item 4 Sound insulation between establishment and residences above

ZAB staff report Findings & Conditions sections –

- 2. A. 4) -- items a) and b)
- 2.D items a) and b)
- 2.F items a) and b)
- 2.G items a) and b)
- 3.C items a) and b)
- 36. items a) and b)
- 42. items a) and b)

- a. No sound will be audible between the club and the residences above the establishment. This is a much stricter standard than is contained in Section 13.40.060. but one that has been agreed to by Mr. Elsami. It does not require the use of a decibel meter which is not typically available on nights and weekends when the establishment will be generating most of its audible sound.
- b. No noticeable vibrations from bass notes of music played may be felt in the residences above the establishment. It does not require the use of a decibel meter which is not typically available on nights and weekends when the establishment will be generating most of its audible sound.

Item 5 Live or Amplified performances in the establishment

ZAB staff report Findings & Conditions sections –

- 2. A. 4) -- items a) to c)
- 2.D items b) and c)
- 2.F items a) to c)
- 2.G items a) to c)
- 3.C items b) and c)
- 36. items a) to c)
- 42. items a) to c)

- a) All Live or Amplified performances will end by:
  - 10 pm on Sunday through Wednesday evenings
  - 11 pm on Thursday through Saturday evening
- b) The maximum sound level in any portion of the establishment will be no higher than 85 dB. We request the project permanently install a sound level meter with a big readout somewhere in the establishment so that levels can be easily monitored and controlled where feasible.
- c) Amplified background music that allows normal conversation to be carried on may be played at any time during operating hours and will be approximately 65 dB.

Item 8 Noise from “roving parties”

ZAB staff report Findings & Conditions sections –

- 2.D items a) and b)
- 29. items a) and b)
- 35. item b)
- 39. item a) and b)

- a. Many of the proposed mitigations such as early cut off of entertainment and limits on hours of operation make “roving parties” attributable to this establishment less likely to occur.
- b. Signage inside the front doorway will ask patrons to be respectful of the peace and quiet of the neighborhood when exiting the establishment.

Item 9 smoking on sidewalk

ZAB staff report Findings & Conditions sections –

- 2.D items a) and b)
- 29. items a) and b)
- 35. items a) and b)
- 39. item a) and b)

- a) Signage saying “no smoking within 20’ of doorway” will posted.
- b) Establishment personnel will enforce this prohibition.

**Items in the negotiated agreement which are not discussed in the ZAB staff report**

Item 7 Visual isolation of Regent St from establishment

- a. The window facing Regent St, will be blocked after sunset.

## Items which are in conflict with the ZAB staff report

### Item 1 Liquor License

ZAB staff report Findings & Conditions sections –

- |       |                 |
|-------|-----------------|
| 4. -- | items a) and b) |
| 29.   | item b)         |
| 35.   | item b)         |
| 39.   | item b)         |

a. application for type 47 license

Establishment must serve at least as much food as alcohol and compliance is measured in dollar volume.

b. All personnel will receive employee training regarding general issues of alcohol consumption (ABC regulations), specific laws in Berkeley regarding alcohol consumption (BAPAC ordinances) and specific issues regarding the immediate neighborhood including noise and parking.

### Item 6 Hours of Operation

ZAB staff report Findings & Conditions sections –

- |       |                    |
|-------|--------------------|
| 4. -- | items a) to d)     |
| 4.C   | items a) to d)     |
| 25.   | item d)            |
| 27.   | item b), c) and d) |
| 41.   | item a) to d)      |

- a) The establishment may be open from 6:30 am everyday
- b) The establishment will close by 12 am on Sunday through Wednesday
- c) The establishment will close by 1 am on Thursday through Saturday
- d) The hours of operation will be reviewed after the establishment has been in business for one year. The success of all the mitigations listed here will form the basis of such a review. Notice of this review will be delivered to all residents within 300 feet of the establishment and to all other groups and individuals who have demonstrated an interest in the operation of the establishment during that year.