

REPORT TO CITY COUNCIL

DATE: MAY 9, 2012

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: MIKE KAMINO, DIRECTOR OF PLANNING AND COMMUNITY DEVELOPMENT

SUBJECT: APPEAL OF THE PLANNING COMMISSION'S APPROVAL OF CONDITIONAL USE PERMIT AMENDMENT #3 (CASE NO. 05-CUP-001) (CITY COUNCIL, APPELLANT / SUNSET ROOM, APPLICANT)

The request before the City Council is to conduct a public hearing to consider an appeal, made by the City Council, of the Planning Commission's approval of Conditional Use Permit Amendment #3, Case No. 05-CUP-001. The applicant, James Ashford, representing the Sunset Room Lopunge, located at 29020 Agoura Road, requested approval to amend three conditions of approval of the existing Conditional Use Permit to extend the restaurant's time for "last call" of alcoholic beverages; to allow outdoor entertainment; and to allow for lingerie shows. The restaurant is in the Agoura Village Shopping Center, which is located in the Planned Development (Agoura Village Specific Plan) zone.

On October 6, 2011, the Planning Commission reviewed a request by James Ashford to amend the Conditional Use Permit for live entertainment, approved in 2006, for the previous restaurant tenant, Chapter 8. The applicant requested a different type and schedule of entertainment in order to conform to his proposed supper club. The Planning Commission approved the request and imposed a number of conditions. Included in these conditions was a requirement for staff to monitor the business for six months and report back to the Planning Commission on the applicant's compliance with the conditions.

On April 5, 2012, staff presented the Planning Commission with the six-month monitoring report, which is included in the attached Planning Commission staff report. The conditions of approval that were adopted by the Planning Commission last October were intended to address the scope of live entertainment, security, parking, and traffic. These were issues that have arisen in the past with similar live entertainment Conditional Use Permits in the City and specific to this location. With the exception of one lingerie show and not getting a permit or approval from the City for an outdoor patio cover, staff reported to the Planning Commission that the applicant complied with all conditions of approval as observed by staff on seven (7) different occasions.

The Planning Commission also considered on April 5, 2012, at a public hearing, the applicant's request to amend three conditions of approval of the Conditional Use Permit, regarding the time of "last call" for alcohol service (Condition No. 13), outdoor entertainment (Condition No. 24), and lingerie shows (Condition No. 25).

Condition No. 13 stated: *“Last call for alcoholic beverages will occur at 1:00 a.m. and there shall be no service of alcohol after 1:15 a.m. On Fridays and Saturdays, last call for alcohol beverages will occur at 1:15 a.m., and there shall be no service of alcohol after 1:30 a.m. All patrons must exit the premises by 2:00 a.m.”* The applicant requested to amend this condition to change the last call to 1:30 a.m. and last service to 1:45 a.m., for each night of the week, in order to be comparable and competitive with other restaurants serving alcohol in the local area.

Staff recommended against the proposed amendment to this condition, which the applicant had previously agreed to, because it was intended to encourage and assist patrons to leave the premises in an expedient, orderly, and safe manner. This condition, which is applied to the current tenant and any future restaurant within the same tenant space, was meant to serve as a “cool down” period in order to avoid the last minute rush to order alcohol prior to close of business, to help dissipate the crowd safely, to minimize crowds waiting for valets retrieving vehicles, and to reduce traffic congestion in the area. This condition was also coordinated with the condition regarding increased security in the parking lot during the last hour of operation (the business closes at 2:00 a.m.) to help in the orderly shutdown of the business. Past experience has shown that substantial control of the parking lot is necessary at the end of the evening as patrons exit the site. This “cool down” protocol was recommended by staff and the Sheriff’s Department in reaction to what was experienced under the previous operator (Chapter 8) in which there were numerous calls for service at the end of the night regarding altercations and disorderly conduct. It also helps reduce the number of calls at the end of the Sheriff’s patrol shift at 2:00 a.m. It was staff’s opinion that the “cool down” provisions have been effective in reducing the calls for service and in protecting public safety. Since Sunset Room opened in October, 2011, the Sheriff’s Department reports five (5) calls related to disorderly conduct, six (6) calls related to drunkenness, two (2) calls related to theft, and five (5) calls related to false security alarms. If compared to number of service calls originated from Chapter 8, the previous operation, the number of calls is lower and limited to fewer categories of disturbance. Thus, staff found this condition of approval has been effective in its intent.

Four out of the five Planning Commissioners (with the exception of Commissioner Northrup), were in favor of the applicant’s request to extend the last call and last service. They were satisfied that the security measures in place were effective in reducing calls to the sheriff and expressed that the change would provide equity to this business in comparison to other alcohol serving businesses in the area that did not have such restrictions on last call and last service.

The applicant also requested to amend Condition No. 24, which states: *“There shall be no outdoor entertainment or dancing.”* The applicant requested to amend this condition to have a musician play a guitar or keyboard on Sunday afternoons and every evening from 5:00 p.m. to 8:00 p.m., along the east wall of the enclosed outdoor patio. No changes to the building were proposed and the full dinner menu was proposed to continue to be provided.

Staff supported the request provided that it is limited to ambience music. The proposed live entertainment would remain ancillary to the dining and is intended to provide ambience music for diners only. The addition of ambience music in the patio area would not trigger a requirement for additional parking, whereas additional dancing space would require additional parking and revising the original traffic study. A similar request to have indoor and outdoor live entertainment was approved in

December, 2011, by the Planning Commission for Ladyface Alheouse & Brasserie. Although there are no residential neighborhoods in the vicinity of Sunset Room, there is one caretaker unit located on the north side of Agoura Road, across the street from the retail center. Currently, the outdoor dining area is enclosed with solid walls, but is open to the sky. The applicant stated his interest in adding a cover over the outdoor dining area that would help in muffling the sound. There is also a condition of approval (Condition No. 28) limiting noise to less than 50 dB at the property line. It was staff's opinion that the addition of ambience music in the patio area would not fundamentally alter the original application.

The Planning Commission agreed with staff recommendation and approved amending Condition No. 24 to state as follows: *"The outdoor entertainment shall be limited to a musician or recorded music for the purpose of playing ambience music to the dining patrons. No dancing is allowed in the outdoor dining area."*

Lastly, the applicant requested to amend Condition No. 25, which states: *"Live entertainment is limited to only what is approved by the Planning Commission under this Conditional Use Permit. There shall be no wet tee-shirt contests, pole dancing, lingerie shows, bikini dancing or taxi dancing, or the like."* The applicant requested to amend this condition to allow lingerie shows "a few times a year." Although specifically prohibited, one lingerie show took place on February 2, 2012, without City approval and despite staff warning the applicant in advance of the potential violation of his Conditional Use Permit. A video of the event can be viewed on the following YouTube web link: http://www.youtube.com/watch?v=uecY_XJOVq8. Staff did not videotape the event, but was present in the restaurant that evening.

When the Planning Commission approved the live entertainment in October, 2011, they expressly limited the type of entertainment allowed. The applicant indicated his intent to operate a "supper club" where live entertainment would be ancillary to dining. At the time, staff worked with the applicant in crafting Condition No. 25 and the applicant was agreeable to prohibiting lingerie shows. Staff informed the Planning Commission on April 5, 2012, that it was our opinion that the allowance of lingerie shows would fundamentally change the character of the use approved last October and thus necessitating additional traffic studies and changes to the floor plan. Such live entertainment would not be ancillary to dining. Any approval of changes to live entertainment would run with the land and is not personal to any individual or particular business and therefore, the restaurant may be operated under different ownership in the future and the CUP could be used for any type of live entertainment that is within the context of the approved conditions. The Planning Commission agreed with staff and found that the Agoura Village Specific Plan prohibits adult entertainment and allowing lingerie shows in a business that caters to adults would be inconsistent with the Specific Plan.

In summary, the Planning Commission, on a 4-1 vote, approved the applicant's request to amend Condition No. 13 (last call) and Condition No. 24 (outdoor live entertainment), and denied the request to amend Condition No. 25 (lingerie shows). Commissioner Northrup dissented, indicating her support for approval of amendment to Condition No. 24 (outdoor live entertainment) only.

For reference, the Planning Commission Resolution No. 12-1055 and amended conditions of approval (including Condition Nos. 13 and 24) are attached to this report, along with the Planning Commission staff report, the draft April 5, 2012 Planning Commission meeting minutes and letters from the public.

The role of the City Council at this time is to conduct a public hearing on the appeal and to determine whether the applicant is permitted to continue live entertainment, as amended by the Planning Commission on April 5, 2012. The City Council has the following options for a motion:

1. Uphold the Planning Commission's decision per the Planning Commission Resolution No. 12-1055 which approved amendments to Condition No. 13 ("last call") and No. 24 (outdoor live entertainment) and denied amendment to Condition No. 25 (lingerie show); or
2. Modify Condition Nos. 13, 24, and 25 of the amended Conditional Use Permit to address specific issues raised by the City Council; or
3. Reverse the Planning Commission's decision and deny the Conditional Use Permit Amendment #3 based on the evidence presented to the City Council. Under this option, the applicant would still be entitled to use the live entertainment Conditional Use Permit per the conditions approved in October 2011.

Based on the City Council's direction, staff will bring back a resolution and conditions of approval reflecting the City Council's motion for adoption at the next available City Council meeting.

RECOMMENDATION

It is recommended the City Council conduct a public hearing to consider the appeal of the Planning Commission's approval of Conditional Use Permit Case No. 05-CUP-001 Amendment #3, and provide direction to staff reflecting Council's desired action.

Attachments: Exhibit A: Appeal Application
Exhibit B: Planning Commission Resolution No. 12-1055 and Amended Conditions of Approval
Exhibit C: Draft April 5, 2012 Planning Commission Meeting Minutes
Exhibit D: April 5, 2012 Planning Commission Staff Report
Exhibit E: Letters

Exhibit A

Appeal Application

City Clerk's Office
Received
April 12, 2012
JAP

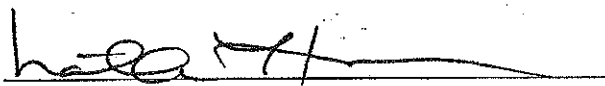
APPLICATION FOR APPEAL

NAME: Agoura Hills City Council
ADDRESS: 30001 Ladyface Court, Agoura Hills, CA 91301
PHONE NO.: (818) 597-7300
CASE NO.: 05-CUP-001 (Amendment #3)

Appeal to (circle one): Planning Commission
City Council

In the following space, please briefly indicate the reasons for the appeal.

The City Council would like to review the amendments to the
Sunset Room's live entertainment Conditional Use Permit Case
No. 05-CUP-001 (Amendment #3) approved by the Planning Commission
on April 5, 2012.


Signature of Applicant

NOTE: Applications for appeals must be filed within fifteen (15) days of the date of the decision. This application, along with the appropriate filing fee, should be submitted to the Director of Community Development. As part of the appeal, applicants should be prepared to provide the Planning Department with additional sets of project plans and other pertinent materials.

Exhibit B

Planning Commission Resolution No. 12-1055

RESOLUTION NO. 12-1055

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS APPROVING AN AMENDMENT TO CONDITION NO. 24 AND CONDITION NO. 13 OF CONDITIONAL USE PERMIT CASE NO. 05-CUP-001 (AMENDMENT #3) AND DENYING AMENDMENT TO CONDITION NO. 25.

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. In May 2005, the Planning Commission for the City of Agoura Hills (“City”) approved Conditional Use Permit No. 05-CUP-001, subject to conditions, per Planning Commission Resolution No. 812. In September 2007, the Planning Commission approved Conditional Use Permit Case No. 05-CUP-001 Amendment #1 per Planning Commission Resolution No. 911.

Section 2. On October 6, 2011, the Planning Commission approved Conditional Use Permit Case No. 05-CUP-001 Amendment #2 per Planning Commission Resolution No. 11-1041. The applicant accepted the conditions attached to Conditional Use Permit Case No. 05-CUP-001 Amendment #2 and began operating The Sunset Room in October 2011.

Section 3. On March 15, 2012, an application was duly filed by James Ashford of 1534 McCadden, LLC, on behalf of The Sunset Room (the “Applicant”), with respect to the real property located at 29020 Agoura Road, Suite A-14, Assessor’s Parcel Numbers 2061-031-023 and 024. The Applicant is requesting approval of an amendment to the current conditions of approval for Conditional Use Permit Case No. 05-CUP-001. Specifically, the Applicant has requested: (1) to delay the time for “last call” of alcoholic beverages (Condition No. 13); (2) to allow for outdoor entertainment in the form of ambience music (Condition No. 24); and (3) to allow for lingerie shows (Condition No. 25).

Section 4. The Planning Commission of the City of Agoura Hills considered the requested changes to the conditions of approval for Conditional Use Permit Case No. 05-CUP-001 at a public hearing held on April 5, 2012 at 6:30 p.m. in the Council Chambers, City Hall at 30001 Ladyface Court, Agoura Hills, CA 91301. Notice of the time, date, place, and purpose of the aforesaid was duly given.

Section 5. Evidence, both written and oral, including the staff report and supporting documentation, was presented to and considered by the Planning Commission at the aforesaid public hearing.

Section 6. Pursuant to Section 9673.2.E of the Agoura Hills Zoning Ordinance, and based upon the evidence presented at the hearing, including the staff report and oral and written testimony, the Planning Commission finds the request to revise Condition No. 24 and Condition No. 13 in substantial conformance with the original approval per the findings in Resolution No. 11-1041.

Section 7. Based upon the evidence presented at the hearing, including the staff report and oral and written testimony, the Planning Commission denies the Applicant's request to amend Condition No. 25 based on the following:

- A. In approving Conditional Use Permit Case No. 05-CUP-001 Amendment #2, the Planning Commission imposed certain conditions on the requested use in order to be able to make the findings required by Section 9673.2.E of the Agoura Hills Zoning Ordinance for the approval of a conditional use permit.
- B. The conditions approved by the Planning Commission per Resolution No. 11-1041 specifically included a prohibition against lingerie shows. The Applicant accepted these conditions and began operating The Sunset Room in October 2011.
- C. The record demonstrates that the Planning Commission imposed this condition in order to ensure that the proposed use of the property is not detrimental to the public health, safety, or welfare. The Applicant has not demonstrated any changed conditions suggesting that this condition is no longer required to make sure that the operation will not be detrimental to the public health, safety or welfare.
- D. The use is located in the Agoura Village Specific Plan (AVSP) area. The Agoura Village Specific Plan prohibits adult entertainment in the AVSP area and allowing lingerie shows in a business that caters to adults would be inconsistent with the AVSP.

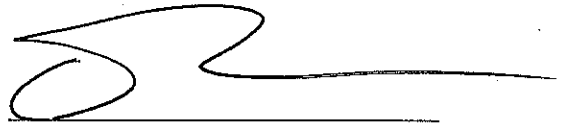
Section 8. The Planning Commission hereby finds that the action taken by this resolution is categorically exempt from the California Environmental Quality Act (Public Resources Code Section 21000 et seq., "CEQA"), pursuant to Section 15061(b)(3) of the state CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 et seq.) because the project does not have any potential for causing a significant effect on the environment. The revised condition of approval amends only one condition of approval to allow ambience music on the outdoor dining patio. Thus, there is no possibility that the project will have a significant effect on the environment. In addition, the Project involves the operation of an existing structure involving negligible or no expansion of use beyond the already existing use. Thus, the Project is exempt from CEQA review pursuant to Section 15301 (Class 1).

Section 9. Based on the aforementioned findings, the Planning Commission hereby approves Conditional Use Permit Case No. 05-CUP-001 Amendment #3 with revised Conditions of Approval, attached hereto as Exhibit A and incorporated herein by reference.

Section 10. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and this certification to be entered in the Book of Resolutions of the Planning Commission of the City.

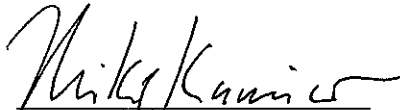
PASSED, APPROVED and ADOPTED this 5th day of April, 2012 by the following vote to wit:

AYES:	(4)	O'Meara, Justice, Rishoff, and Zacuto
NOES:	(1)	Northrup
ABSTAIN:	(0)	
ABSENT:	(0)	



John O'Meara, Chairperson

ATTEST:


Mike Kamino, Secretary

Conditions of Approval
Case No. 05-CUP-001 Amendment #3

STANDARD CONDITIONS

1. This decision, or any aspect of this decision, can be appealed to the City Council within fifteen (15) days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
2. This action shall not be effective for any purpose until the applicant has agreed in writing that the applicant is aware of, and accepts all Conditions of these Permits with the Department of Planning and Community Development.
3. Except as modified herein, the approval of this action is limited to and requires complete conformation to the project plans as approved by the Planning Commission on April 5, 2012.
4. All exterior materials used in this project shall be in conformance with the materials samples submitted as a part of this application.
5. It is hereby declared to be the intent that if any provision of this Permit is held or declared to be invalid, the Permit shall be void and the privileges granted hereunder shall lapse.
6. It is further declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse provided that the applicant has been given written notice to cease such violation and has filed to do so for a period of thirty (30) days.
7. All Conditions of Approval in Planning Commission Resolution No. 11-1041, except as modified herein, are valid and shall remain valid for the life of the project. The Conditions of Approval in Planning Commission Resolution No.11-1041 are amended as follows:

“13. ~~“Last call” for alcoholic beverages will occur at 1:00 a.m. and there shall be no service of alcohol after 1:15 a.m. On Fridays and Saturdays, “last call” for alcoholic beverages will occur at 1:15 a.m. and there shall be no service of alcohol after 1:30 a.m.~~ “Last call” for alcoholic beverages will occur at 1:30 a.m. and there shall be no service of alcohol after 1:45 a.m. On Fridays and Saturdays, “last call” for alcoholic beverages will occur at 1:15 a.m. and there shall be no service of alcohol after 1:30 a.m. All patrons must exit the premises by 2:00 a.m.

“24. ~~There shall be no outdoor entertainment or dancing.~~ The outdoor entertainment shall be limited to a musician or recorded music for the purpose of playing ambience music to the dining patrons to be located along the east wall. No dancing is allowed in the outdoor dining area.”

END

Exhibit C

Draft April 5, 2012 Planning Commission Minutes



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

**MINUTES OF THE REGULAR SCHEDULED MEETING OF
THE PLANNING COMMISSION
April 5, 2012**

CALL TO ORDER:

Chair O'Meara called the meeting to order at 6:35 p.m.

FLAG SALUTE:

Commissioner Steve Rishoff

ROLL CALL:

Chair John O'Meara, Vice Chair Michael Justice, Commissioners Linda L. Northrup, Steve Rishoff, and Curtis Zacuto.

Also present were Director of Planning and Community Development Mike Kamino, City Attorney Craig Steele, Principal Planner Allison Cook, Associate Planner Valerie Darbouze, Civil Engineer Jay Patel, City Traffic Engineer Sri Chakravarthy, Lieutenant Todd Weber with Lost Hills Sheriff's Station, Environmental Consultant Joe Power with Rincon Consultants Inc., and Recording Secretary Sheila Keckhut.

APPROVAL OF AGENDA:

Chair O'Meara moved to change the order of the agenda and moved Item #3 (Sunset Room) to be heard before Item #2 (Brett Trebil). The April 5, 2012, Agenda was approved with changes.

PUBLIC COMMENTS:

There were no public comments.

APPROVAL OF MINUTES:

1. Minutes – March 15, 2012 Planning Commission Meeting

On a motion by Vice Chair Justice, seconded by Commissioner Zacuto, the Planning Commission moved to approve the Minutes of the March 15, 2012 Planning Commission Meeting. Motion carried 4-0-1. Commissioner Northrup abstained.

NEW PUBLIC HEARING

2. REQUEST: Request for the Planning Commission to recommend the City Council adopt an ordinance, approving a Development Agreement for a 10-year time extension for the previously approved entitlements to construct a retail center at 28631 Canwood Street, and a light industrial complex at 28721 Canwood Street, which would also require the construction of additional roadway improvements along Canwood Street, including along the frontage of 28661 Canwood Street; and a request for the Planning Commission to recommend the City Council adopt a Mitigated Negative Declaration.
- APPLICANT: Brett Trebil/Agoura Business Center West LLC and Agoura Business Center North LLC
5304 Derry Avenue, Suite A
Agoura Hills, CA 91301
- CASE NO.: 11-DA-001
- LOCATION: 28631, 28661, and 28721 Canwood Street
(A.P.Ns. 2048-012-029, 031, and 901)
- ENVIRONMENTAL DETERMINATION: Mitigated Negative Declaration
- RECOMMENDATION: Staff recommended that the Planning Commission adopt a Resolution recommending that the City Council adopt an ordinance, approving Development Agreement Case No. 11-DA-001, and adopting a Mitigated Negative Declaration, based on the findings of the draft Resolution.
- PUBLIC COMMENTS: Vice Chair Justice opened the public hearing.

The following person spoke on this project.

Brett Trebil, Dale Poe Real Estate Group, applicant

Vice Chair Justice closed the public hearing.
- ACTION: On a motion by Commissioner Rishoff, seconded by Commissioner Zacuto, the Planning Commission moved to adopt Resolution No. 12-1056, approving Development Agreement Case No. 11-DA-001, and adopting a Mitigated

Negative Declaration, subject to the conditions. Motion carried 4-0-1. Chair O'Meara was absent.

3. REQUEST: Request by applicant to amend a previously approved Conditional Use Permit for live entertainment in a restaurant (Sunset Room). Staff also requests that the Planning Commission review a monitoring report.

APPLICANT: James Ashford of 1534 McCadden, LLC (for Sunset Room)
5126 Clareton Drive
Agoura Hills, CA

CASE NO.: 05-CUP-001 (Amendment #3)

LOCATION: 29020 Agoura Road, Suite A-14
(A.P.Ns. 2061-031-023 & 024)

ENVIRONMENTAL DETERMINATION: This project is exempt from CEQA.

RECOMMENDATION: Staff recommended that the Planning Commission accept the monitoring report, approve the applicant's request to amend Condition No. 24 of Resolution No. 11-1041, and deny the applicant's request to amend Conditions Nos. 13 and 25 of Resolution 11-1041 for Conditional Use Permit Amendment Case No. 05-CUP-001 (Amendment #3), subject to the conditions based on the findings of the draft Resolution.

PUBLIC COMMENTS: Chair O'Meara opened the public hearing.

The following persons spoke on this project.

James Ashford, Applicant

Chris Breed, Applicant

Nelda Cotte, Conejo Storage

Michelle Thrower, All Secure Valet and Parking Inc.

Brian Fitzpatrick, Head of Security - Sunset Room

REBUTTAL: James Ashford and Chris Breed, the Applicants, gave rebuttal regarding the project and answered additional questions of the Planning Commission.

Chair O'Meara closed the public hearing.

ACTION: On a motion by Commissioner Rishoff, seconded by Vice Chair Justice, the Planning Commission moved to adopt Resolution No. 12-1055, approving the applicant's request to amend Condition Nos. 13 and 24 of Resolution No. 11-1041, and denying the applicant's request to amend Conditions No. 25 of Resolution 11-1041 for Conditional Use Permit Amendment Case No. 05-CUP-001 (Amendment #3), subject to the conditions. Motion carried 4-1-0. (Commissioner Northrup opposed Conditions Nos. 13 and 25).

RECESS: Chair O'Meara called a recess at 8:15 p.m.
(Note: Chair O'Meara excused himself from the remainder of the meeting at 8:15 p.m., due to a scheduling conflict.)

RECONVENE: Vice Chair Justice reconvened the meeting to hear Item #2 (Brett Trebil) on the agenda at 8:25 p.m.

PLANNING COMMISSION/STAFF COMMENTS

None

ADJOURNMENT

At 8:46 p.m., on a motion by Commissioner Northrup, seconded by Commissioner Zacuto, the Planning Commission moved to adjourn the meeting to the next scheduled Planning Commission meeting on Thursday, April 19, 2012 at 6:30 p.m. Motion carried 4-0-1. Chair O'Meara was absent.

Exhibit D

April 5, 2012 Planning Commission Staff Report



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

ACTION DATE: April 5, 2012

TO: Planning Commission

APPLICANT: James Ashford of 1534 McCadden, LLC
5126 Clareton Drive
Agoura Hills, CA 91301

CASE NO.: 05-CUP-001 (Amendment #3)

LOCATION: 29020 Agoura Road, Suite A-14
(A.P.Ns. 2061-031-023 & 024)

REQUEST: Request by applicant to amend a previously approved Conditional Use Permit for live entertainment in a restaurant (Sunset Room). Staff also requests that the Planning Commission review a monitoring report.

ENVIRONMENTAL DETERMINATION: The project is exempt from CEQA.

RECOMMENDATION: Staff recommends that the Planning Commission accept the monitoring report, approve the applicant's request to amend Condition No. 24 of Resolution No. 11-1041, and deny the applicant's request to amend Condition Nos. 13 and 25 of Resolution 11-1041 for Conditional Use Permit Case No. 05-CUP-001 (Amendment #3), subject to the conditions based on the findings of the attached draft Resolution.

ZONING DESIGNATION: PD (Planned Development - Agoura Village Specific Plan)

GENERAL PLAN DESIGNATION: PD (Planned Development)

I. PROJECT BACKGROUND AND DESCRIPTION

The applicant, James Ashford, representing the Sunset Room, is requesting a Conditional Use Permit Amendment to modify three live entertainment conditions of approval. The

three conditions were included as conditions of approval for the Conditional Use Permit by the Planning Commission when it approved the Conditional Use Permit Amendment #2 for the Sunset Room on October 6, 2011. The restaurant is located at 29020 Agoura Road within the Agoura Village Shopping Center which is in the Planned Development (Agoura Village Specific Plan) zone. The first Conditional Use Permit for live entertainment was approved by the Planning Commission in 2006 for the previous restaurant at this location (Chapter 8). Over the past five years, the Planning Commission has approved two amendments to the original Conditional Use Permit (CUP) which changed the type, the days, and hours of the entertainment.

The most recent amendment to the Conditional Use Permit, granted for the Sunset Room in 2011, allowed for the following types and hours of indoor entertainment for the restaurant. (For reference, attached are the staff report, Resolution and Conditions of Approval for the Sunset Room's Conditional Use Permit.)

Currently Approved Live Entertainment

Days	Type	Hours
Monday	Sports night	4:00 p.m. to 1:30 a.m.
Tuesday:	Jazz-Blues-Comedy-Similar Entertainment	4:00 p.m. to 1:30 a.m.
Wednesday:	Low Key Live Entertainment	5:00 p.m. to 8:00 p.m.
	Karaoke	8:00 p.m. to 1:30 a.m.
Thursday:	DJ, Live Band with singer	4:00 p.m. to 1:30 a.m.
Friday:	DJ, Live Band with singer	4:00 p.m. to 1:30 a.m.
Saturday:	DJ, Live Band with singer	4:00 p.m. to 1:30 a.m.
Sunday:	Live Entertainment (Easy Rock/Latin Jazz)	12:00 p.m. to 1:30 a.m.

As potential impacts associated with the live entertainment are best gauged after the business is fully operational, the conditions of approval include a condition that a 6-month monitoring report of the applicant's compliance with the conditions be provided by staff to the Planning Commission for review.

While the conditions of approval allow live entertainment seven days a week, currently, the restaurant is open Wednesday through Saturday only. The applicant has informed staff that due to a lower than anticipated patronage, he is seeking to amend the current conditions of approval (attached to this report) to change the time for "last call" of alcoholic beverages (Condition No. 13); to allow for outdoor entertainment (Condition No. 24); and to allow for lingerie shows (Condition No. 25).

II. STAFF ANALYSIS

For purposes of this report, staff has combined findings regarding the monitoring report, with the applicant's amendment requests. Staff inspected the restaurant and live entertainment on the following dates: November 5, and 18, 2011, and February 2, 2012. Staff has also conducted numerous random inspections of the on-site and off-site parking lots over the past six months. The conditions of approval and staff's comments on each are as follows:

CONDITION NOS. 1 through 6 are standards conditions.

CONDITION NO. 7: *"The applicant shall comply with all requirements of the State Department of Alcohol Beverage Control."*

- The applicant has received approval from the Alcohol Beverage Control Department (ABC) for a Type 47 license (on-sale of beer, wine, and distilled spirits). Included in the application was a list of ABC enforceable conditions of approval. ABC confirms that the applicant has abided by all the conditions and is not in violation of ABC regulations.

CONDITION NO. 8: *"In accordance with Zoning Ordinance Section 9710, a new Conditional Use Permit by the City shall be required when any of the following conditions of the business apply:*

- A. *The establishment changes its type of retail liquor license with the Department of Alcoholic Beverage Control;*
 - B. *There is substantial modification to the mode or character of operation, including, but not limited to, any increase of 20% or more in the floor area.*
 - C. *The alcoholic beverage license has either been revoked or suspended for any period by ABC."*
- No such changes have occurred.

CONDITION NO. 9: *"All employees involved in direct sales to customers shall enroll annually in ABC-approved alcoholic service training."*

- The owner has verified that all the employees involved in direct sales were trained on ABC's rules and regulations.

CONDITION NO. 10: *"A full dinner menu shall be available until 1:00 a.m."*

- The kitchen appears to be staffed and functioning into the late hours as inspected by staff.

CONDITION NO. 11: *"There shall be no minimum number of drinks required to be consumed during the operation of the eating establishment."*

- Staff was not able to verify this condition but has not received evidence on any violation.

CONDITION NO. 12: *"There shall be no service of alcoholic beverages on the dance floor."*

- Staff conducted inspections during the hours of operation on November 5 and 18, and February 2, 2011, and was able to confirm that no alcohol was served on the dance floor during the inspections.

CONDITION NO. 13: *"'Last call' for alcoholic beverages will occur at 1:00 a.m. and there shall be no service of alcohol after 1:15 a.m. On Fridays and Saturdays, 'last call"*

for alcohol beverages will occur at 1:15 a.m. and there shall be no service of alcohol after 1:30 a.m. All patrons must exit the premises by 2:00 a.m."

Staff conducted inspections during the hours of operation on November 5 and 18, 2011 and February 2, 2012, and was able to confirm that no alcohol was served after the hours specified above while present.

- The applicant has filed a request to amend Condition No. 13 to change the last call to 1:30 a.m. (currently 1:00 a.m. except Friday and Saturday 1:15 a.m.), and last service to 1:45 a.m. (currently 1:15 a.m. except Friday and Saturday 1:30 a.m.). The applicant has indicated that the reason for this request is to be comparable with the other alcohol servicing businesses in the area.

Condition No. 13 as currently written, which the applicant had agreed to previously, was intended to encourage and assist patrons to leave the premises in an expedient, orderly, and safe manner. This condition was meant to serve as a "cool down" period in order to avoid the last minute rush to order alcohol prior to close of business, to help dissipate the crowd safely, to minimize crowds waiting for valets retrieving vehicles, and to reduce traffic congestion in the area. This condition was also coordinated with the condition regarding increased security in the parking lot during the last hour of operation (the business closes at 2:00 a.m.) to help in the orderly shutdown of the business. Past experience has shown that substantial control of the parking lot is necessary at the end of the day as patrons exit the site. This "cool down" protocol was recommended by staff and the Sheriff's Department in reaction to what was experienced under the previous operator (Chapter 8) in which there were numerous calls for service at the end of the day regarding altercations and disorderly conduct. It is staff's opinion that the "cool down" provisions have been effective in reducing the calls for service and in protecting public safety. Since Sunset Room opened its doors in October 2011, the Sheriff's Department reports 5 calls related to disorderly conduct, 4 calls related to drunkenness, 2 calls related to theft and 5 calls related to false security alarms. If compared to the number of service calls originated from Chapter 8, the previous operator, the number of calls is lower and limited to a fewer categories of disturbances. Staff is not in favor of the request to modify Condition No. 13.

CONDITION NO. 14: *"Bottle service" shall only be allowed at times when a full dinner menu is available."*

- Staff was not able to confirm that condition, but has not received evidence of any violation.

CONDITION NO. 15: *"The applicant shall comply with all the provisions in the Security Plan, marked Exhibit E, and is made a condition of the Conditional Use Permit Amendment #2."*

- Staff conducted inspection during the hours of operation on November 5, and 18, 2011 and February 2, 2012 and was able to confirm that security was in place during the visits, both inside the premises and in the parking lot per the security plan.

CONDITION NO. 16: *"Security/monitoring staff will be designated to patrol the parking lot and adjacent areas during the evening hours until the close of business and until all of the patrons have left the premises."*

- Staff conducted inspection during the hours of operation on November 5, and 18, 2011 and February 2, 2012 and confirmed that security was in place during the visit.

CONDITION NO. 17: *"The telephone number of a responsible party shall be available upon request from the Lost Hills Sheriff Station staff."*

- The owner has confirmed that the owner's phone number is available to the Sheriff Station's staff.

CONDITION NO. 18: *"Minors must be accompanied by an adult whenever there is dancing or live entertainment."*

- No minors appeared in the restaurant during inspections, however staff was not able to confirm the age of the customers. The applicant confirms that the patrons' identification is checked before entry.

CONDITION NO. 19: *"On-site security cameras shall be maintained. The recording shall be archived a minimum of 14 calendar days."*

- Security cameras have been installed and inspected by the Los Angeles Sheriff's Department.

CONDITION NO. 20: *"There shall be no pool tables or electronic gaming machines."*

- There are no pool tables or electronic gaming machines within the restaurant.

CONDITION NO. 21: *"There shall be no leasing of the facility or subletting the facility for outside events."*

- Staff is not aware of third party leasing of the restaurant.

CONDITION NO. 22: *"There shall be no "after hours" use of the facility. Closing time shall be no later than 2:00 a.m."*

- Staff is not aware of the use of the facility after hours.

CONDITION NO. 23: *"The dance floor shall not exceed 1,080 square feet."*

- Staff verified that the dancing is occurring only in the designated area shown on the approved floor plan.

CONDITION NO. 24: *"There shall be no outdoor entertainment or dancing."*

- No outdoor dancing was occurring during Staff's visit. Staff did note that speakers were installed outside for ambiance music, but the weather was not conducive for customers to stay outside.

The applicant has filed a request to modify Condition No. 24 to have a musician play the guitar or the keyboard on Sunday afternoons and every evening from 5:00 p.m. to 8:00 p.m. in the enclosed outdoor patio along the east wall. No

changes to the building are proposed and the full dinner menu would continue to be provided. The proposed amendment to Condition No. 24 is as follows:

Condition No. 24: ~~“There shall be no outdoor entertainment or dancing.~~

The outdoor entertainment shall be limited to a musician or recorded music for the purpose of playing ambience music to the dining patrons. No dancing is allowed in the outdoor dining area.”

Outdoor entertainment is a conditionally permitted use in the Agoura Village Specific Plan and falls under the purview of the current Conditional Use Permit for live entertainment. The proposed live entertainment would remain ancillary to the dining and is intended to provide ambience music for diners only. Since the patio was originally approved for dining and drinking, and was designed as such, and the applicant has not provided any details on dancing, including a floor plan and other operational components, staff recommends dancing continue to be prohibited outdoors. However, the addition of ambience music in the patio area would not trigger a requirement for additional parking whereas additional dancing space would require revising the original traffic study. Therefore, the amendment to Condition No. 24 excludes dancing on the patio and as such, all other conditions remain applicable. A similar request to have indoor and outdoor live entertainment was approved in December 2011 by the Planning Commission for a restaurant located at the northwest corner of Agoura Road and Kanan Road (Ladyface Alehouse & Brasserie). Although there are no residential neighborhoods in the vicinity, there is one caretaker unit across the street from the shopping center that could be impacted and as such the applicant was conditioned not to exceed the 50 db at the property line. Currently, the outdoor dining area is enclosed with solid walls, but is open to the sky. The applicant is interested in adding a cover over the outdoor dining area that would help in muffling the sound. In Staff's opinion, the addition of ambience music on the patio area would not fundamentally alter the original application. Staff supports the request to amend Condition No. 24 with respect to ambience music.

CONDITION NO. 25: *“Live entertainment is limited to only what is approved by the Planning Commission under this Conditional Use Permit. There shall be no wet tee-shirt contests, pole-dancing, lingerie shows, bikini dancing or taxi dancing, or the like.”*

- Although specifically prohibited, one lingerie show took place on February 2, 2012, without City approval. A video of the event can be viewed on the following YouTube web link: http://www.youtube.com/watch?v=uecY_XJOVq8. Staff did not videotape the event, but was present in the restaurant that evening.

The applicant is now requesting to amend Condition No. 25 to allow lingerie shows. When the Planning Commission approved the live entertainment Conditional Use Permit Case No. 05-CUP-001 Amendment #2 in October 2011, the Planning Commission expressly limited the type of entertainment allowed. The Applicant indicated his intent to operate a “supper club” where live entertainment would be ancillary to dining. At that time, Staff worked with the applicant in crafting Condition No. 25 and the Applicant agreed to the restrictions in Condition No. 25. Staff finds that amending Condition No. 25 to allow lingerie shows would change the character of the use approved by Conditional Use Permit

Case No. 05-CUP-001 Amendment #2. Such live entertainment would not be ancillary to dining as originally proposed and approved. In addition, the addition of lingerie shows would fundamentally alter the character of the use, potentially necessitating additional traffic studies and changes to the floor plan. The Applicant previously agreed to the condition prohibiting lingerie shows. Staff does not support the request to change Condition No. 25 to allow lingerie shows.

CONDITION NO. 26: *"Any changes to the Floor Plan shall be subject to review and approval by the Director of Planning and Community Development and/or the Planning Commission."*

- No major change in the floor plan has been requested by the applicant and staff is not asking for a change. Some events required the use of a stage of various dimensions.

CONDITION NO. 27: *"The facility shall be responsible for removing all trash and debris from the site and adjacent sites every day after closing."*

- With the exception of two Sunday mornings on October 29, 2011 and February 5, 2012, the Code Enforcement Officer was able to verify that the site is kept clean after the closing of the business. Staff would note a recent increase in debris on Cornell Road, but cannot verify that it is attributable to the Sunset Room's patrons.

CONDITION NO. 28: *"There shall be no noise audible over 50 dB beyond the property line per the Zoning Ordinance."*

- Staff noted that the music was audible from the street on November 18, 2011 and requested the applicant not use outdoors speakers but no complaint was received.

CONDITION NO. 29: *"All live entertainment shall cease no later than 1:30 a.m."*

- Staff was able to verify on one visit that the entertainment ended at the required time.

CONDITION NO. 30: *"All graffiti on the site shall be removed or painted over within 24 hours of each occurrence."*

- No graffiti has been found at the site or on adjacent sites.

CONDITION NO. 31: *"Prior to issuance of occupancy, the applicant shall meet with the City Traffic Engineer and shall submit a valet parking circulation plan to the satisfaction of the City Traffic Engineer."*

- The applicant met with staff and submitted a valet parking circulation plan that would comply with the City Traffic Engineer's requirements. The applicant contracted to have cars parked off-site at a business park on Agoura Road. Contracts were signed with other property owners to gain access to additional parking.

CONDITION NO. 32: *"Any changes to the valet parking, including changes to Condition Nos. 31, 33, and 34, shall be subject to review and approval by the Director of Planning and Community Development and/or the Planning Commission prior to implementation."*

- A Parking Study was submitted as part of the Conditional Use Permit Amendment which concluded that the new restaurant would require additional parking off-site with valet services. As a result, the Sunset Room was required to provide valet parking services and start the process with securing an agreement with nearby properties with adequate parking facilities. Over the course of six months, the Sunset Room negotiated with the Adobe Cantina, the Whizin Market Place, the Gateway and the Shamrock office buildings. The City approved each request, each time consulting with the City Traffic Engineer on public safety. Each site was found to be adequate as long as the Valet Parking Company could have access to at least 140 parking spaces in the evenings Monday through Sunday.

Following the Planning Commission hearing, the applicant submitted three subsequent requests to use alternative sites for parking. Realizing that the parking lot at the Adobe Cantina would not be paved in time to be used for the grand opening, a first request was submitted to the Planning Department to use an unused area of the Whizin Shopping Center instead of the Adobe Cantina which would provide about 100 spaces in addition to the originally agreed upon Canyon Tile and Stone for the remainder 29 parking spaces. The second request came shortly thereafter, using the Gateway Corporate Center located at 28632 Agoura Road, which had enough parking to accommodate the 129 required additional spaces and with good access. While writing the agreement, the applicant agreed to lease an additional 11 spaces for a total of 140 spaces. These requests were approved by the Director of Planning and Community Development as allowed under Condition No. 32. A third request was submitted to use the Shamrock office building located at 28720 Roadside Drive instead, one lot closer to the restaurant with cars to be driven on Cornell Road and Roadside Drive. That request was approved administratively as well. The valet company's services are being used the days the Sunset Room is open, on Thursday, Friday and Saturday nights. The reported number of spaces that are being utilized did not exceed 50 spaces on any one evening over the course of 6 months; the applicant requested to reduce the required number to 70 or half of the originally agreed number of spaces. The Director of Planning and Community Development agreed to a modification to the contract provided that availability for and access to 140 spaces is guaranteed.

CONDITION NO. 33: *"Prior to issuance of occupancy, the applicant shall enter into parking agreements with the property owner of the property currently occupied by the Adobe Cantina, and with the property owner of the property currently occupied by the Canyon Tile and Stone, acceptable to the City, for use as off-site valet parking lots of The Sunset Room patrons' vehicles. Per the Parking Study, there shall be a minimum of 226 spaces provided both on-site and off-site at all times."*

- See discussion above. Another location was chosen and approved administratively.

CONDITION NO. 34: *"Prior to occupancy, the Adobe Cantina parking lot's unpaved areas to be used for parking, per the Parking Study, shall be provided with a finished*

surfaced and improved to the satisfaction of the City Engineer and the Director of Planning and Community Development."

- See discussion above. Another location was chosen so it is not necessary to pave the Adobe Cantina parking lot.

CONDITION NO. 35: *"A copy of these conditions will be maintained on the premises and all managers shall be made aware of these conditions."*

- The applicant informed staff that the conditions are on site at all times but that has not been verified.

CONDITION NO. 36: *"The applicant shall allow inspection of premises by City Staff during normal business hours. A monitoring report on the applicant's compliance with the conditions of approval shall be prepared by the City Staff to the Planning Commission no later than 6 months after initial operation and at anytime thereafter as deemed necessary by the City. If at any time there are excessive calls for service by the Sheriff's Department, the applicant shall take action to address those issues immediately, including increasing security personnel and paying the City of Agoura Hills to offset the costs for the increases in calls for services attributed to the Sunset Room."*

- Staff made random site visits and reported on the operation. The applicant cooperated with staff on each inspection. The Los Angeles County Sheriff's Department has provided the City with a report of service calls. To date, there have been from October 2011 to mid March 2012:
 - 5 calls for false alarms triggered by the cleaning staff
 - 5 calls for disorderly conduct
 - 4 calls for drunkenness
 - 2 calls for theft

CONDITION NO. 37: *"In the event that the applicant seeks to install a cover over the outdoor dining area, the design of the cover is subject to the review and approval of the Director of Planning and Community Development Department and the Building Official."*

- The applicant has installed a temporary structure over the outdoor dining area in order to continue serving his clientele during inclement weather. If the cover remains, it would require a Planning Department and Building and Safety Department approval.

CONDITION NO. 38: *"The Sunset Room Restaurant and Lounge will not open for business until the Conditional Use process for live entertainment is completed and all required permits are issued."*

- The applicant has been approved for all the work conducted inside and only operated after receiving final inspections and occupancy issuance from the Building and Safety Department.

The applicant is requesting amendment to the Conditional Use Permit conditions regarding "last call", outdoor live entertainment and lingerie shows. With the exception

of the patio cover and outdoor speakers, and the occurrence of a lingerie show, the applicant appears to have complied with all the conditions of approval.

If the Planning Commission wishes to approve the proposed amendment, the Commissioners may impose any reasonable conditions found necessary to meet the objectives of the Conditional Use Permit. Such conditions may include such limitations regarding the number of performers, the location, days and hours of the performances, noise restriction, a monitoring report, and the like. The revised conditions prepared for the Planning Commission's consideration are intended to ensure the entertainment is ancillary to the restaurant.

In reviewing the Sunset Room's Conditional Use Permit last year, staff's analysis and recommendations were based on past experience with live entertainment, particularly combined with on-sale of alcohol, at this location as well as at other locations in the city. The scope of live entertainment, security, traffic, and parking have been issues that have arisen in the past and staff had worked diligently with the applicant in crafting conditions to avoid conflicts. After six months of operation, staff believes that these conditions of approval have been effective.

In approving any request for Conditional Use Permit or amendments, the Planning Commission should be mindful that the Conditional Use Permit and the conditions of approval run with the land and is not personal to any individual or to a particular business. Therefore, the Commission should be aware that the restaurant may be operated under different ownership in the future and the Conditional Use Permit could be used for any type of live entertainment that is within the context of the approved conditions.

III. ENVIRONMENTAL REVIEW

The project is exempt from the California Environmental Quality Act, as defined in Section 15301 (Class 1).

IV. RECOMMENDATION

Based on staff's analysis, it is recommended that the Planning Commission accept the monitoring report, approve the draft Resolution for the applicant's request to amend Condition No. 24 of Resolution No. 11-1041 to allow for outdoor live entertainment, and deny the applicant's request to amend Condition Nos. 13 and 25 of Resolution 11-1041 regarding "last call" of alcohol beverages and lingerie shows.

If the Planning Commission desires to grant approval of amendments to either Condition No. 13 or 25, or to deny each the applicant's proposed amendments, staff would return with a revised draft Resolution for approval.

V. ATTACHMENTS

- Draft Resolution and Conditions of Approval of the Conditional Use Permit Amendment #3

- Exhibit A: October 6, 2011 Staff Report, Approved Resolution and Conditions of Approval of Conditional Use Permit Amendment #2
- Exhibit B: Vicinity/Zoning Map
- Exhibit C: Site and Floor Plans
- Exhibit D: New Valet Parking Plan

Case Planner: Valerie Darbouze, Associate Planner

DRAFT RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS APPROVING AN AMENDMENT TO CONDITION NO. 24 OF CONDITIONAL USE PERMIT CASE NO. 05-CUP-001 (AMENDMENT #3) AND DENYING AMENDMENTS TO CONDITION NO. 13 AND CONDITION NO. 25.

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. In May 2005, the Planning Commission for the City of Agoura Hills (“City”) approved Conditional Use Permit No. 05-CUP-001, subject to conditions, per Planning Commission Resolution No. 812. In September 2007, the Planning Commission approved Conditional Use Permit Case No. 05-CUP-001 Amendment #1 per Planning Commission Resolution No. 911.

Section 2. On October 6, 2011, the Planning Commission approved Conditional Use Permit Case No. 05-CUP-001 Amendment #2 per Planning Commission Resolution No. 11-1041. The applicant accepted the conditions attached to Conditional Use Permit Case No. 05-CUP-001 Amendment #2 and began operating The Sunset Room in October 2011.

Section 3. On March 15, 2012, an application was duly filed by James Ashford of 1534 McCadden, LLC, on behalf of The Sunset Room (the “Applicant”), with respect to the real property located at 29020 Agoura Road, Suite A-14, Assessor’s Parcel Numbers 2061-031-023 and 024. The Applicant is requesting approval of an amendment to the current conditions of approval for Conditional Use Permit Case No. 05-CUP-001. Specifically, the Applicant has requested: (1) to delay the time for “last call” of alcoholic beverages (Condition No. 13); (2) to allow for outdoor entertainment in the form of ambience music (Condition No. 24); and (3) to allow for lingerie shows (Condition No. 25).

Section 4. The Planning Commission of the City of Agoura Hills considered the requested changes to the conditions of approval for Conditional Use Permit Case No. 05-CUP-001 at a public hearing held on April 5, 2012 at 6:30 p.m. in the Council Chambers, City Hall at 30001 Ladyface Court, Agoura Hills, CA 91301. Notice of the time, date, place, and purpose of the aforesaid was duly given.

Section 5. Evidence, both written and oral, including the staff report and supporting documentation, was presented to and considered by the Planning Commission at the aforesaid public hearing.

Section 6. Pursuant to Section 9673.2.E of the Agoura Hills Zoning Ordinance, and based upon the evidence presented at the hearing, including the staff report and oral and written testimony, the Planning Commission finds the request to revise Condition No. 24 in substantial conformance with the original approval per the findings in Resolution No. 11-1041.

Section 7. Based upon the evidence presented at the hearing, including the staff report and oral and written testimony, the Planning Commission denies the Applicant's request to amend Condition No. 13 and Condition No. 25 based on the following:

- A. In approving Conditional Use Permit Case No. 05-CUP-001 Amendment #2, the Planning Commission imposed certain conditions on the requested use in order to be able to make the findings required by Section 9673.2.E of the Agoura Hills Zoning Ordinance for the approval of a conditional use permit.
- B. The conditions approved by the Planning Commission per Resolution No. 11-1041 specifically included a prohibition against lingerie shows, and a requirement that last call occur at 1:00 a.m. Sunday through Thursday, and 1:15 a.m. Friday and Saturday. The Applicant accepted these conditions and began operating The Sunset Room in October 2011.
- C. The record demonstrates that the Planning Commission imposed those two conditions in order to ensure that the proposed use of the property is not detrimental to the public health, safety, or welfare. The Applicant has not demonstrated any changed conditions suggesting that these two conditions are no longer required to make sure that the operation will not be detrimental to the public health, safety or welfare.

Section 8. The Planning Commission hereby finds that the action taken by this resolution is categorically exempt from the California Environmental Quality Act (Public Resources Code Section 21000 et seq., "CEQA"), pursuant to Section 15061(b)(3) of the state CEQA Guidelines (Title 14, California Code of Regulations, Section 15000 et seq.) because the project does not have any potential for causing a significant effect on the environment. The revised condition of approval amends only one condition of approval to allow ambience music on the outdoor dining patio. Thus, there is no possibility that the project will have a significant effect on the environment. In addition, the Project involves the operation of an existing structure involving negligible or no expansion of use beyond the already existing use. Thus, the Project is exempt from CEQA review pursuant to Section 15301 (Class 1).

Section 9. Based on the aforementioned findings, the Planning Commission hereby approves Conditional Use Permit Case No. 05-CUP-001 Amendment #3 with revised Conditions of Approval, attached hereto as Exhibit A and incorporated herein by reference.

Section 10. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and this certification to be entered in the Book of Resolutions of the Planning Commission of the City.

PASSED, APPROVED and ADOPTED this 5th day of April, 2012 by the following vote to wit:

AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

Draft Resolution No. ____
Page 3

(Case No. 05-CUP-001 Amendment #3)

John O'Meara, Chairperson

ATTEST:

Mike Kamino, Secretary

Conditions of Approval
Case No. 05-CUP-001 Amendment #3

STANDARD CONDITIONS

1. This decision, or any aspect of this decision, can be appealed to the City Council within fifteen (15) days from the date of Planning Commission action, subject to filing the appropriate forms and related fees.
2. This action shall not be effective for any purpose until the applicant has agreed in writing that the applicant is aware of, and accepts all Conditions of these Permits with the Department of Planning and Community Development.
3. Except as modified herein, the approval of this action is limited to and requires complete conformation to the project plans as approved by the Planning Commission on April 5, 2012.
4. All exterior materials used in this project shall be in conformance with the materials samples submitted as a part of this application.
5. It is hereby declared to be the intent that if any provision of this Permit is held or declared to be invalid, the Permit shall be void and the privileges granted hereunder shall lapse.
6. It is further declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse provided that the applicant has been given written notice to cease such violation and has filed to do so for a period of thirty (30) days.
7. All Conditions of Approval in Planning Commission Resolution No. 11-1041, except as modified herein, are valid and shall remain valid for the life of the project. The Conditions of Approval in Planning Commission Resolution No.11-1041 are amended as follows:

“24. ~~There shall be no outdoor entertainment or dancing.~~
The outdoor entertainment shall be limited to a musician or recorded music for the purpose of playing ambience music to the dining patrons to be located along the east wall. No dancing is allowed in the outdoor dining area.”

END

CASE NO. 05-CUP-001 Amendment #3

**For the project located at 29020 Agoura Road
Agoura Hills**

Exhibit A

**October 6, 2011 Staff Report, Approved Resolution
and
Conditions of Approval**



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

ACTION DATE: October 6, 2011

TO: Planning Commission

APPLICANT: James Ashford of 1534 McCadden, LLC
5126 Clareton Drive
Agoura Hills, CA 91301

CASE NO.: 05-CUP-001 Amendment #2

LOCATION: 29020 Agoura Road, Suite A-14
(A.P.Ns. 2061-031-023 & 024)

REQUEST: Request to approve an amendment to a
Conditional Use Permit for Live Entertainment
in a restaurant.

ENVIRONMENTAL
DETERMINATION: Categorical Exemption Section 15301 (Class 1)

RECOMMENDATION: Staff recommends approval of Conditional Use
Permit Amendment Case No. 05-CUP-001
Amendment #2, subject to the conditions based
on the findings of the attached Resolution.

ZONING DESIGNATION: SP (Agoura Village Specific Plan)

GENERAL PLAN DESIGNATION: PD (Planned Development)

I. PROJECT BACKGROUND AND DESCRIPTION

The applicant, James Ashford, representing The Sunset Room, is requesting a Conditional Use Permit Amendment for live entertainment as an ancillary use to a proposed restaurant/supper club. The restaurant is located at 29020 Agoura Road within the Agoura Village Shopping Center and is one of seven tenants in the shopping center. The restaurant is also located in the Agoura Village Specific Plan area which allows the use at this location. A Conditional Use Permit for live entertainment was originally approved by the Planning Commission for the previous restaurant, Chapter 8, in July of 2006 for the same tenant space and the Conditional Use Permit amended in September of 2007. The original Conditional Use Permit allowed dancing to recorded music on Fridays and Saturdays. The amended Conditional Use Permit allowed a 3-man band to play ambiance music during the dinner-serving hours every day in the early hours of

dining. The new restaurant operator for The Sunset Room proposes to open the facility as a supper club with a different type of entertainment and hours.

The Zoning Ordinance requires the submittal of a Conditional Use Permit for any proposed live entertainment to be considered by the Planning Commission to ensure compatibility with neighboring uses and to apply appropriate conditions of approval. In order to achieve these purposes, the Planning Commission may grant or deny a Conditional Use Permit application and impose reasonable conditions, subject to the right of appeal to the City Council. In this case, since a CUP for live entertainment has already been approved for a prior user and remains applicable to the tenant space, an amendment is required to revise the scope of the previously approved entertainment. The applicant would continue operating with a Department of Alcoholic Beverage Control License Type 47, for on-sale of beer, wine, and distilled spirits sales. The applicant is not considering upgrading or adding any other types of alcohol licenses and is not subject to obtaining a separate Conditional Use Permit from the Planning Commission for the alcohol license. The applicant is agreeable, though, to the draft conditions of approval for the live entertainment, and the Department of Alcohol Beverage Control withholding the issuance of the liquor license for the restaurant until the City takes final action on the Conditional Use Permit amendment for the proposed live entertainment.

The shopping center is located at the southwest corner of Agoura Road and Cornell Road. The parcel is bordered by the Medea Creek flood control channel to the west, Cornell Road and vacant hillside property to the east, vacant open space land to the south, and the Regency Theater Center to the north. Padri Restaurant is not part of this shopping center and is under separate ownership.

There are currently 97 parking spaces in the parking lot which is served by a 2-way driveway off of Agoura Road and a one-way (ingress only) driveway off of Cornell Road. The Sunset Room will share the parking lot with other tenants including Isabella Italian Restaurant, Teague Pilates, and Let's Face It (permanent make-up treatments). The remaining tenant spaces are vacant.

The following two tables summarize the requested floor plan changes to accommodate the new restaurant and live entertainment (Table 1), and the types of entertainment proposed during the week (Table 2). Attached are copies of the proposed floor plan for the Sunset Room and previous floor plan (Chapter 8).

TABLE 1

	Total Tenant Space	Previous Dining Area (Chap 8)	Proposed Dining Area (Sunset Room)	Previous Entertainment Area (Chapter 8)	Proposed Entertainment Area (Sunset Room)
Indoor	6,531 sq.ft.	3,500 sq.ft.	1,944 sq.ft.	1,080 sq.ft.	1,080 sq.ft.
Outdoor	1,000 sq.ft.	1,000 sq.ft.	1,000 sq.ft.	None	None
Total:	7,563 sq.ft.	4,500 sq.ft.	2,944 sq.ft.	1,080 sq.ft.	1,080 sq.ft.

TABLE 2

<u>Days</u>	<u>Type</u>	<u>Hours</u>
Monday	Sports night	4:00 p.m. to 1:30 a.m.
Tuesday:	Jazz-Blues-Comedy-Similar Entertainment	4:00 p.m. to 1:30 a.m.
Wednesday:	Low Key Live Entertainment	5:00 p.m. to 8:00 p.m.
	Karaoke	8:00 p.m. to 1:30 a.m.
Thursday:	DJ, Live Band with singer	4:00 p.m. to 1:30 a.m.
Friday:	DJ, Live Band with singer	4:00 p.m. to 1:30 a.m.
Saturday:	DJ, Live Band with singer	4:00 p.m. to 1:30 a.m.
Sunday:	Live Entertainment (Easy Rock/Latin Jazz)	12:00 p.m. to 1:30 a.m.

II. STAFF ANALYSIS

Staff has reviewed the proposed request for the Conditional Use Permit Amendment and has the following comments regarding live entertainment, traffic/parking and security.

Live Entertainment

The previously approved Conditional Use Permit for Chapter 8 was limited to dancing to recorded music between the hours of 10:00 p.m. and 2:00 a.m. on Fridays and Saturdays, and a live 3-piece band on Tuesday through Friday, from 5:00 p.m. to 10:00 p.m. for dining ambiance. The live entertainment was required to be provided completely inside the restaurant. Fridays were the only days when the two types of entertainment were allowed from 5:00 p.m. to 2:00 a.m.

The current applicant is asking to change the scope, frequency, and hours of the entertainment, as well as the interior layout of the tenant space. The existing CUP for Chapter 8 allowed for up to 1,080 square feet of dance area on the right side of the entrance to the restaurant adjacent to the outdoor dining area. The live entertainment for Chapter 8 was created by relocating tables in the dining area. The Sunset Room, however, will not make the dining area and live entertainment area interchangeable. Although the applicant is proposing to keep 1,080 square feet of dancing area as the previous facility, the dance floor is proposed to be relocated to the left side of the entrance to the restaurant, which the applicant has stated, is more conducive to accommodating live bands, a DJ station, and other types of stand-up entertainment. Likewise, it may be more conducive to a higher occupancy. The restaurant's operating hours are expected to be on Monday through Sunday from 11:00 a.m. to 2:00 a.m. The restaurant would offer dancing every night, except possibly of stand-up comedy performances and sports nights. The previous dance floor area would be converted to a dining area, and the mezzanine that was approved for a DJ and dancers above the areas would be reduced in size and specifically designed to support a sound system.

All proposed entertainment as stated by the applicant is listed in Table 2 in Section I of this report. While some of the listed entertainment during the week, as proposed by the applicant, is somewhat open-ended in specific details, what is apparent is that the applicant is proposing: 1/ band performances with singers (i.e. rock, jazz, Latin jazz, blues music); 2/ karaoke singing; 3/ DJ recorded music; and 4/ comedy performances.

Since these are the only, specific types of live entertainment given by the applicant, staff recommends that the conditions of approval limiting the allowable entertainment to only these types. If the applicant desires to change the types of live entertainment in the future to something other than what has been approved by the Planning Commission, the applicant would be required to obtain approval of new Conditional Use Permit amendment. The Planning Commission may also elect, instead, to defer requests for minor changes to live entertainment to the Director with the option of the Director to refer the matter to the Planning Commission for a CUP amendment. Staff is, however, recommending a condition that specific forms of live entertainment, including wet-T-shirt contests, pole dancing, lingerie show, bikini dancing, or taxi dancing or the like be strictly prohibited.

Staff remains unclear as to what live entertainment, if any, is associated with the "sports night." Of the allowable types of entertainment, staff does not see the need to distinguish which day of the week a particular type of performance is held, as the owners may want the flexibility to choose and change the appropriate days of the entertainment. Staff does, however, support specifying the allowable hours of live entertainment for each day of the week. Although a full dinner menu is conditioned to be provided until 1:00 a.m., staff is concerned that the combination of reduced dining areas within the restaurant, and the allowable hours of entertainment, may be conducive for the supper club to be more akin to a night club during the later evening hours. Thus, the entertainment could become the primary use of the supper club during certain hours and not necessarily cater primarily to diners. The conditions of approval are intended to help ensure dining remains a primary use for this restaurant, and any other future eating/drinking establishment that may occupy the tenant space. Also, if deemed appropriate by the Planning Commission, staff would also request the Planning Commission conditions, since the applicant has not, the maximum number of band members allowed to perform. Staff would note that all entertainers would be required to be located within the designated dance floor area, and/or adjacent equipment area.

The applicant has communicated to staff that this type of facility would not be intended to attract a young crowd but rather the 21 year-old and above age range of customers. A condition of approval is included that minors must be accompanied by an adult whenever there is dancing or live entertainment. Minors must also be accompanied by an adult during the dining hours and beyond. No customers under the drinking age will be allowed in the facility unless accompanied by an adult. Additionally, their personnel are responsible for monitoring the maximum occupancy determined by the Fire Department. As such, the personnel will be using hand-held counters at all times. The applicant has indicated that he is expecting to be approved for the same occupancy approved while under the previous ownership.

With respect to noise impacts, the use is subject to the requirements of the Noise Ordinance which establishes maximum decibel levels. The area of the restaurant that will be providing the entertainment is away from the outdoor dining area and surrounded by walls on at least 3 sides. The DJ station is turned away from the front door and the facility has been insulated to minimize noise impacts to other tenants. The shopping center is surrounded by open space to the south and is not in proximity to residential neighborhoods. Outdoor entertainment in the patio is not allowed and no outdoor

speakers are allowed as well. Staff is aware of one dwelling unit that is located in the storage facility across the street used by a site manager.

Staff would note that other Conditional Use Permits for live entertainment have been issued in the area, including for the Fettuccini Bar, the predecessor of the Padri Restaurant located at 29008 Agoura Road adjacent to the site, and the Canyon Club at Whizin's Market Place. Immediately following the Fettuccini Bar change in ownership, another Conditional Use Permit for live entertainment was issued in 2002 at the same site currently occupied by Padri Restaurant. Both aforementioned Conditional Use Permits are currently active.

As previously stated, live entertainment is a permitted use in the SP zone, with the approval of a Conditional Use Permit as being ancillary to dining. The Conditional Use Permit process allows the Planning Commission to impose conditions of approval to minimize impacts on adjacent properties. The previous restaurant within this tenant space required extensive calls for Sheriff's Department services while the business was in operation. The calls for service were attributed to the live entertainment crowds, alcohol consumption, lack of proper security or insufficient security, and the conflicts experienced at the close of business during wait time for valet service. The sections below regarding parking and security address these potential impacts. It is staff's desire to address these concerns through appropriate conditions of approval, which have been agreed to by the applicant. Staff would also note that the restaurant ownership could change in the future. As the Conditional Use Permit "runs with the land", it is important to impose conditions that are clearly written to avoid any ambiguity for future successor users of the restaurant as to what is allowed and what is not.

Parking

This 19,688 square-foot shopping center currently has 97 parking spaces. It is presently occupied by an eating establishment, exercise facility and facial care business. The remainder of the space is vacant but is expected to be occupied by retail uses. The current land use profile of the center is provided below:

TABLE 3

	Current Tenant Space Space	Current Parking Req'mt.	Parking Supply	Previous Req'mt
Vacancy ¹	5,189 sq.ft.	20.75		2
Retail	975 sq.ft.	3.90		3
Exercise	5,073 sq.ft.	21.05		4
Food Use:				
Isabella	2,200 sq.ft.	10		10
Sunset Room (Proposed)	6,531 sq.ft.	44.16 ⁵		67.83 (Chapter 8)
Total	19,688 sq.ft.	100 sp.	97⁶ sp.	116 spaces

As shown above, technically the parking requirement per code for all the uses is for 100 spaces once the Sunset Room is in operation. Because Chapter 8 previously received approval for the outdoor dining patio which increased the parking requirement, a Variance was approved to allow for a 19 space reduction (116 spaces required), per Case No 05-VAR-005. The technical parking requirement for the new restaurant calls for fewer spaces to 100 spaces, so the previous Variance approval could still apply to The Sunset Room.

The applicant is proposing to reduce the overall size of the dining area resulting in a lower parking requirement per Code. However, typically staff has found, as with Chapter 8, that any new entertainment component would tend to increase the actual demand for parking beyond what is required as it is intended to attract more people. Also, historically, during the first few months of operation, new establishments will experience a high parking demand. When combining dining and entertainment components with the novelty of the business, the parking demand will exceed the capacity of the site.

As requested by staff, the applicant has contracted the services of Overland Traffic Consultants, Inc., which prepared a parking study to evaluate the potential parking demand of the new supper club, accounting for existing conditions in the shopping center and surrounding properties. Currently, there are 97 spaces in the parking lot. Based on the current occupancy of the center, the study notes that, the peak demand of the shopping center (both for customers and employees) will reach 213 spaces at 9:00 p.m. on a week night. On weekend nights a peak demand of 226 spaces will start beginning at 9:00 p.m. Additionally, the study finds that the demand will exceed the supply during a week day and weekend starting at 4:00 p.m., therefore, additional parking needs to be available starting at 4:00 p.m. to accommodate all uses. The proposed use will compete

¹ The parking demand was calculated for retail uses.

² Parking requirement of the uses changed over a 5-year period.

³ Same as above

⁴ Same as above

⁵ The parking requirement was based on the dining areas which is less than the previous restaurant.

⁶ Over the years, some of the parking spaces were eliminated for handicap accessible spaces which take more space than a regular space.

with the other tenants parking demand until 9:00 p.m. during the week, and until 10:00 p.m. on weekends. The Code required number of parking spaces is, for the other tenants, 56 parking spaces and the study estimates the peak demand at 66. The Code required number of parking spaces for Sunset Room is 44 and the study anticipates, at its worst case scenario, 190 spaces for the Sunset Room. The solution proposed in the study to accommodate the increased demand is to park off-site through valet parking.

In order to manage the parking demand, the applicant plans on hiring a valet parking company to store the vehicles, to direct traffic, and reserve some of the spaces in the shopping center for the tenants that would still be open. The valet parking operator proposes to start at 5:00 p.m. and end at the close of business. The operator plans to employ a managed parking system and expects to use 20 valet parking attendants, 2 managers, 3 directors and one additional attendant in an electrically-powered cart to monitor the sites. The valet parking plan shows that some of the parking spaces to be reserved for access to the other tenants of the center. Staff expects that self-parkers will be using Cornell Road as well which is permitted in some sections of the road. Staff suggests that the valet parking/security team monitor where clients park to avoid impacts on adjacent properties. A valet parking circulation plan has been included in the Parking Study (Exhibit D). The valet parking company would allow patrons to enter from Agoura Road and continue to the front door to drop off their vehicles or continue around the parking lot to self-park. Patrons could retrieve their vehicles near the entrance and then exit the parking lot on Agoura Road. The valet parking staff would use the same route to park and retrieve the vehicles. The City Traffic Engineer has expressed some concern with the potential traffic volumes and queuing associated with valet parking circulation and impacts on Agoura Road. A condition is included requiring that the applicant design a valet circulation plan to the satisfaction of the City Traffic Engineer.

The applicant/valet parking operator has contracted with the Adobe Cantina, a restaurant located 160 feet to the west on Agoura Road, to use their parking lot for valet parking services and estimates that the facility could potentially provide an additional 130 stacked parking spaces (34 paved and remainder unpaved). The Adobe Cantina needs to maintain a minimum of 32 spaces for its business until 9:30 p.m. and the remainder of the parcel could be used for additional parking. The applicant will also lease parking at the Canyon Tile and Stone located near the Whizin Market Place that could provide an additional 25 spaces. When combining the 97 existing parking spaces in the Agoura Village Shopping Center with the off-site valet parking lots at Adobe Cantina (130 parking spaces) and Canyon Tile and Stone (25 parking spaces), there will be a total of 252 parking spaces available to accommodate the Sunset Room. The Parking Study concludes that since the shared peak weekend demand was for 226 parking spaces, the combination of on-site parking and off-site valet parking will be sufficient.

Both sites that could be used by the applicant's valet parking staff are developed and paved with the exception of the rear portion of the Adobe Cantina parking lot. That portion has been left unpaved over the years and is not required for the Adobe Cantina restaurant. Parking must typically be provided on a finished surface. Public Works staff has also expressed concern with parking on unpaved surfaces due to dust generation and possible runoff, especially into the floor control channel. Also an unfinished parking surface is subject to mud during and after wet conditions which could potentially render

the lot unusable. Given the amount of use that this unpaved area behind Adobe Cantina is expected to experience, staff recommends that this area be provided with a finished surface to the satisfaction of the City. A condition to this effect is included. A condition of approval is also included requiring submittal of parking agreements with Adobe Cantina and with Canyon Tile and Stone for the use of the parking lots for valet parking to ensure that these off-site valet parking lots are available at all times.

The Parking Study also mentions a possible valet parking lot location at the Westlake Lutheran Church located on the north side of Agoura Road, west of Kanan Road, at 29295 Agoura Road for an additional 75 parking spaces. Given the distance, staff does not support including this location as part of the valet parking plan.

Staff visited the site on multiple occasions since the closure of the previous restaurant and noted that the parking lot is usually not fully occupied on any night. Two of the five existing tenants in the shopping center, Isabella Restaurant (formerly Fabrocini) and Pilates Fitness, would continue to operate during the hours the live entertainment would be operating (8:00 p.m. and 10:00 p.m.); other stores would be closed. The hours of operation of all the tenants have not changed since the last review. In order to avoid Sunset Room customers from occupying the entire parking lot, the Sunset Room proposes to use the services of a valet parking company to monitor traffic and direct all the customers to the appropriate designated parking spaces. Some of the spaces will be reserved for self-parkers and other will valet park. The existing tenants could continue to park on-site.

Security

A security plan has been provided for the Planning Commission's review and has been reviewed by City staff. The Sheriff's Department has provided extensive input on the development of the security plan and has approved the plan. In the Security Plan, are listed a number of precautionary measures intended to control crowds and avoid conflicts both inside and outside the establishment and as well as all adjacent areas where customers may be. These measures consist of providing trained personnel, security equipment and implementing policies regarding handling customers. The personnel would consist of one security guard for every 40 guests. However, the applicant is expecting increased security by having between 13 and 15 trained security guards on Friday and Saturday nights. Security staff will have specific responsibilities. Some of the security personnel are intended to monitor parking lots, some to verify IDs and sobriety of the customers coming in and leaving the establishment, some to resolve customer complaints; and others to protect the overall safety of the establishment and dissipate the crowds outside until everyone has left the premises. Each security guard is expected to be stationed in a specific location. The ratio of guards to be inside or outside would depend on the type of entertainment and the time of the day or night. The staff would be dressed in recognizable garments; those monitoring the parking lots would be dressed with safety jackets carrying flash lights. One supervisor would be equipped with portable video recording capabilities and available whenever needed. Past experience has shown that substantial control and monitoring of the parking lot is necessary at the end of the day as patrons exit the site. Measures are included in the security plan calling for increased security personnel to be relocated to the outside and remain in the parking lot

until the parking lot is clear after close of business. The intent is to encourage and assist patrons to leave the premises in an expedient, orderly, and safe fashion. In order to avoid the last minute rush to order alcohol and immediate closing of the establishment, the project is conditioned to stop serving alcohol earlier to allow for a "cool down" period. Specifically, Condition #13 specifies that the "last call" shall be made at 1:00 a.m. Monday through Friday and 1:15 a.m. Saturday and Sunday and that no alcohol shall be served after 1:30 a.m. Condition #29 requires that all live entertainment cease by 1:30 a.m.

The security staff will also coordinate with the valet parking staff to provide expedient service in retrieving the vehicles in order to avoid traffic congestion in and around the shopping center and any potential for conflicts. The security staff is equipped with communication devices to alert of the management of potential issues. In addition, security cameras will be used during the hours of operation of the business. Additional cameras will be installed inside and some outside to monitor the outdoor dining area and the front door and other areas and the coverage has been reviewed and approved by the Sheriff's Department. Conditions of approval include a condition to archive the recordings of the activities during business hours for future use if necessary. The applicant does not intend to lease the facility to third-party promoters to host special events such as those intended for younger age groups. No after hours use is proposed. The CUP is conditioned to accordingly.

Other Comments

The applicant is finishing the final stages of remodeling work that has been permitted by the Building and Safety Department. Tenant improvements permit were required of the new restaurant operator to upgrade the facility to current Building Code standards. From an architectural design standpoint, the exterior appearance will remain the same with the exception of new light fixtures that are painted silver that are painted to match the sign and a new wrought iron gate which was required by the Alcohol Beverage Control Agency. The applicant has communicated his interest to add, in the future, a cover over the outdoor dining area. The request can be approved by the Director of Planning and will require a separate application for a Building Permit.

The above staff analysis of the issues have been based on past experience with live entertainment, particularly when combined with on-sale of alcohol, at this location, as well as at other locations in the City. The scope of the live entertainment, traffic and parking, and security have been issues that have arisen in the past and staff has worked with the applicant in addressing these issues to avoid potential conflicts. Many of the proposed conditions in the draft resolution have been volunteered by the applicant. However, it is not possible to foresee all potential impacts and to properly address those issues beforehand. Therefore, a condition has also been included that staff prepare a monitoring report for review by the Planning Commission no later than 6 months after the initial start of operation and anytime thereafter as deemed necessary. Upon review of the monitoring report, the Planning Commission can schedule a public hearing for the purpose of considering adjustment to the conditions of approval to address issues. Also, if at any time, there are excessive calls for service by the Sheriff's Department, the applicant is required to take action to address those issues immediately.

Staff is recommending approval of this CUP amendment, subject to conditions of approval. However, if the Planning Commission has other issues that they feel need to be addressed prior to acting on this CUP amendment, staff would request that the Commission give direction to the applicant and/or staff regarding those specific issues and to continue this item.

III. ENVIRONMENTAL REVIEW

The project consists of providing additional services in an existing eating establishment without expansion of space and is therefore exempt from the California Environmental Quality Act, as defined in Section 15301 (Class 1) and does not require the adoption of an environmental impact report or negative declaration.

IV. RECOMMENDATION

Based on the above analysis, staff recommends approval of Amendment #2 to Conditional Use Permit Case No. 05-CUP-001, subject to the findings and conditions in the attached Resolution.

V. ATTACHMENTS

- Draft Resolution and Conditions of Approval for the Conditional-Use Permit
- Exhibit A: Vicinity/Zoning Map
- Exhibit B: Proposed Architectural Plans
- Exhibit C: Previously Architectural Plans (Chapter 8)
- Exhibit D: Parking Study/Valet Parking Plan
- Exhibit E: Security Plan/Diagram
- Exhibit F: Photographs of the Site

CASE PLANNER: Valerie Darbouze, Associate Planner

DRAFT RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF AGOURA HILLS
APPROVING AMENDMENT #2 TO CONDITIONAL USE PERMIT
CASE NO. 05-CUP-001

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY
FINDS, RESOLVES AND ORDERS AS FOLLOWS:

Section 1. An application was duly filed by James Ashford of The Sunset Room, with respect to the real property located at 29020 Agoura Road, Assessor's Parcel Numbers 2061-031-023 and 024, requesting approval of an amendment to an approved Conditional Use Permit for live entertainment in conjunction with an existing restaurant. A public hearing was duly held on October 6, 2011 at 6:30 p.m. in the Council Chambers, City Hall at 30001 Ladyface Court, Agoura Hills, CA 91301. Notice of the time, date and place and purpose of the aforesaid was duly given.

Section 2. Evidence, both written and oral, was duly presented to and considered by the Planning Commission of the aforesaid Public Hearing.

Section 3. The Planning Commission finds, pursuant to the Agoura Hills Zoning Ordinance, that:

- A. The proposed use, as conditioned, is consistent with the objectives of the Zoning Ordinance and the purposes of the district in which the use is located in that live entertainment is permitted in the Agoura Village Specific Plan, subject to approval of a Conditional Use Permit.
- B. The proposed use, as conditioned, is compatible with the surrounding area in that there are no residential uses in the immediate surrounding area and live entertainment is currently permitted in neighboring restaurants within the Agoura Village Overlay District.
- C. The proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health and safety, or welfare in that the entertainment will be contained indoors. The entertainment will consist of dancing to live bands, recorded music, performing acts and specialty nights. A security plan for the project has been submitted by the applicant, with input by the Sheriff's Department, containing security measures to address potential security issues.
- D. The proposed use as conditioned, will comply with each of the applicable provisions of the Zoning Ordinance in that the entertainment will be located in a delineated area which is approximately 1,080 square feet located inside the restaurant with no entertainment proposed outdoors. The entertainment is to remain ancillary to the dining and a menu is available until closing. The excess

parking demand is mitigated as described by the Parking Study by the use of a valet parking services which will be storing vehicles off-site.

- E. The distance from other similar and like uses is sufficient to maintain the diversity in the area as the other live entertainment uses in the area and in other parts of the city offer different types of live entertainment and are regulated under separate Conditional Use Permits.
- F. The proposed use, as conditioned, is consistent with the goals, objectives, and policies of the General Plan in that the live entertainment offers a land use which serves the diverse need of the Agoura Hills residents, as called for in the Land Use Element of the City's General Plan.

Section 4. The Planning Commission finds that the proposed amendment to be categorically exempt from the requirements of the California Environmental Quality Act, per Section 15303, in that the project involves live entertainment inside an existing insulated structure.

Section 5. Based on the aforementioned findings, the Planning Commission hereby approves Amendment #2 to Conditional-Use Permit Case No. 05-CUP-001, with respect to the property described in Section 1.

PASSED, APPROVED and ADOPTED this 6th day of October, 2011 by the following vote to wit:

AYES: (0)
NOES: (0)
ABSTAIN: (0)
ABSENT: (0)

Steve Rishoff, Chairperson

ATTEST:

Mike Kamino, Secretary

CONDITIONS OF APPROVAL
(Case No. 05-CUP-001 Amendment #2)

STANDARD CONDITIONS

1. This action shall not be effective for any purpose until the applicants have agreed in writing that the applicants are aware of, and accept all, Conditions of Approval of this permit with the Department of Planning and Community Development. Any conditions on such acceptance or challenges, including the filing of legal action, relating to the permit or the conditions shall be treated as a failure to meet this Condition and shall nullify and void this permit.
2. Except as modified herein, the approval of this action is limited to and requires complete conformation to the labeled exhibits approved by the Planning Commission.
3. It is hereby declared to be the intent that if any provision of this Permit is held or declared to be invalid, the Permit shall be void and the privileges granted hereunder shall lapse.
4. It is further-declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicants have been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
5. All requirements of the Zoning Ordinance and of the specific zoning designation of the subject property must be complied with unless set forth in the Conditional Use Permit and Conditional Use Permit Amendments.
6. Unless this permit is used within two (2) years from the date of City approval, Case No. 05-CUP-001 Amendment will expire. A written request for a one (1) year extension may be considered prior to the expiration date.

SPECIAL CONDITIONS

7. The applicants shall comply with all requirements of the State Department of Alcohol Beverage Control.
8. In accordance with Zoning Ordinance Section 9710, a new Conditional Use Permit by the City shall be required when any of the following conditions of the business apply:
 - A. The establishment changes its type of retail liquor license with the Department of Alcoholic Beverage Control;
 - B. There is substantial modification to the mode or character of operation, including, but not limited to, any increase of 20% or more in the floor area.
 - C. The alcoholic beverage license has either been revoked or suspended for any period by ABC.

Conditions of Approval (Case No. 05-CUP-001 Amendment #2)
Page 2 of 4

9. All employees involved in direct sales to customers shall enroll annually in ABC-approved alcoholic service training.
10. A full dinner menu shall be available until 1:00 a.m.
11. There shall be no minimum number of drinks required to be consumed during the operation of the eating establishment.
12. There shall be no service of alcoholic beverages on the dance floor.
13. "Last call" for alcoholic beverages will occur at 1:00 a.m. Monday through Friday and 1:15 a.m. Friday through Saturday. No alcohol shall be served after 1:30 a.m. All patrons must exit the premises by 2:00 a.m.
14. "Bottle service" shall only be allowed at times when a full dinner menu is available.
15. The applicant shall comply with all the provisions in the Security Plan, marked Exhibit E and is made a condition of the Conditional Use Permit-Amendment #2.
16. Security/monitoring staff will be designated to patrol the parking lot and adjacent areas during the evening hours until the close of business and until all of the patrons have left the premises.
17. The telephone number of a responsible party shall be available upon request from the Lost Hills Sheriff Station staff.
18. Minors must be accompanied by an adult whenever there is dancing or live entertainment.
19. On-site security cameras shall be maintained. The recording shall be archived a minimum of 14 calendar days.
20. There shall be no pool tables or electronic gaming machines.
21. There shall be no leasing of the facility or subletting the facility for outside events.
22. There shall be no "after hours" use of the facility. Closing time shall be no later than 2:00 a.m.
23. The dance floor shall not exceed 1,080 square feet.
24. There shall be no outdoor entertainment or dancing.
25. Live entertainment is limited to only what is approved by the Planning Commission under this Conditional Use Permit. There shall be no wet tee-shirt contests, pole-dancing, lingerie shows, bikini dancing or taxi dancing, or the like.

Conditions of Approval (Case No. 05-CUP-001 Amendment #2)

Page 3 of 4

26. Any changes to the Floor Plan shall be subject to review and approval by the Director of Planning and Community Development and/or the Planning Commission.
27. The facility shall be responsible for removing all trash and debris from the site and adjacent sites every day after closing.
28. There shall be no noise audible over 50 dB beyond the property line per the Zoning Ordinance.
29. All live entertainment shall cease no later than 1:30 a.m.
30. All graffiti on the site shall be removed or painted over within 24 hours of each occurrence.
31. Prior to issuance of occupancy, the applicant shall meet with the City Traffic Engineer and shall submit a valet parking circulation plan to the satisfaction of the City Traffic Engineer.
32. Any changes to the valet parking shall be subject to review and approval by the Director of Planning and Community Development and/or the Planning Commission prior to implementation.
33. Prior to issuance of occupancy, the applicant shall enter into parking agreements with Adobe Cantina and with Canyon Tile and Stone, acceptable to the City, for use as off-site valet parking lots of The Sunset Room patrons' vehicles, as per the Parking Study.
34. Prior to occupancy, the Adobe Cantina parking lot's unpaved areas to be used for parking per the Parking Study, shall be provide with a finished surfaced and improved to the satisfaction of the City Engineer and the Director of Planning and Community Development.
35. A copy of these conditions will be maintained on the premises and all managers shall be made aware of these conditions.
36. The applicant shall allow inspection of premises by City Staff during normal business hours. A monitoring report on the applicant's compliance with the conditions of approval shall be prepared by the City Staff to the Planning Commission no later than 6 months after initial operation and at anytime thereafter as deemed necessary by the City. If at any time there are excessive calls for service by the Sheriff's Department, the applicant shall take action to address those issues immediately, including increasing security personnel and paying the City of Agoura Hills to offset the costs for the increases in calls for services attributed to the Sunset Room.

Conditions of Approval (Case No. 05-CUP-001 Amendment #2)

Page 4 of 4

37. In the event that the applicant seeks to install a cover over the outdoor dining area, the design of the cover is subject to the review and approval of the Director of Planning and Community Development Department and the Building Official.
38. The Sunset Room Restaurant and Lounge will not open for business until the Conditional Use process for live entertainment is completed and all required permits are issued.

END

Exhibit A

CASE NO. 05-CUP-001 Amendment #2

**For the project located at 29020 Agoura Road
Agoura Hills**

Vicinity/Zoning Map

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City of Agoura Hills

Conditional Use Permit Amendment
05-CUP-001 Amendt #2

Vicinity/Zoning
Map

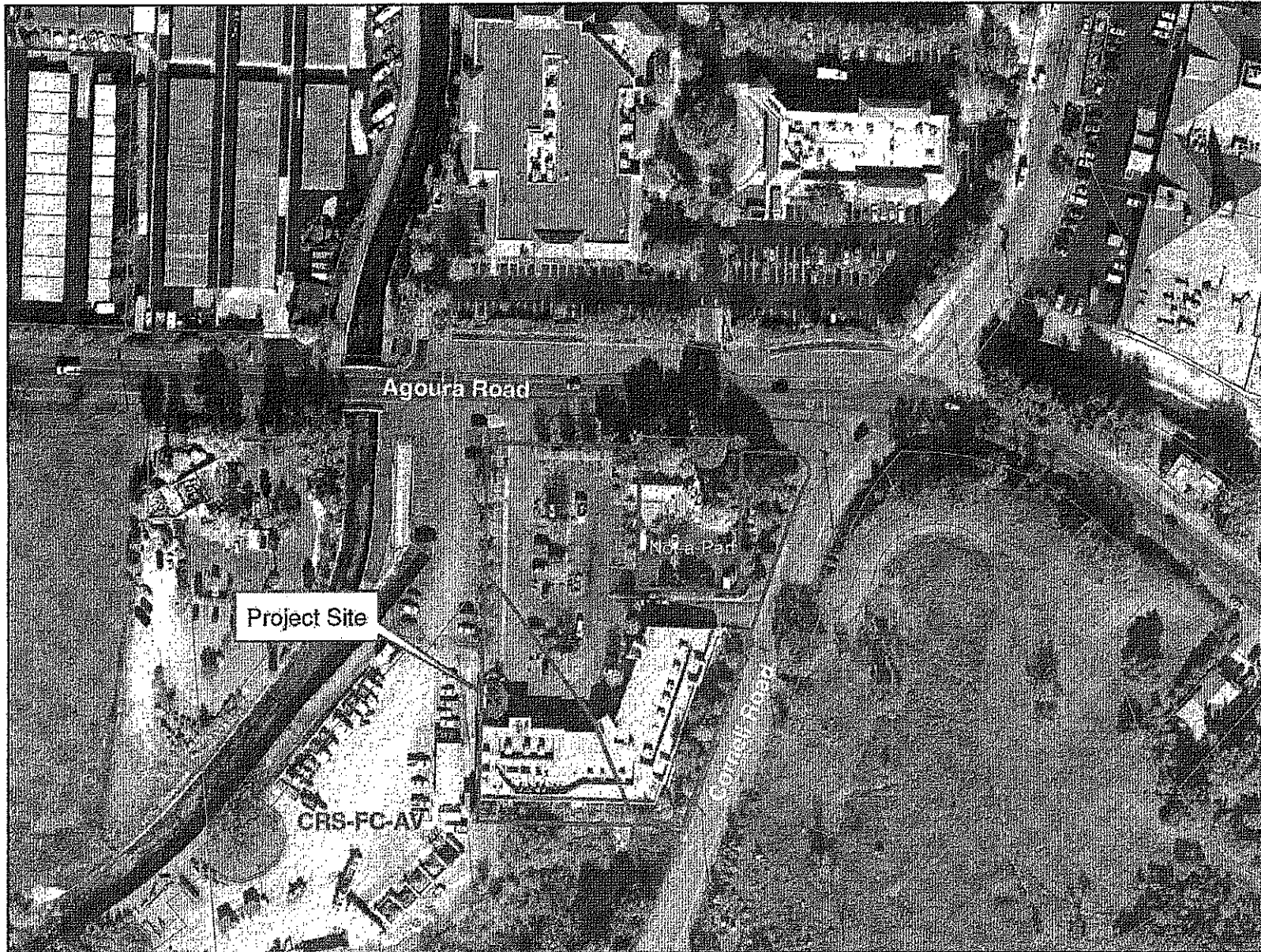


Exhibit B

CASE NO. 05-CUP-001 Amendment #2

**For the project located at 29020 Agoura Road
Agoura Hills**

Proposed Architectural Plans

REV	REVISIONS	DATE
1		

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SUNSET ROOM
 29020 AGOURA RD.
 AGOURA HILLS, CA. 91301

TNO DESIGN

DESIGN & CONSTRUCTION
 10000 CHINA GATE
 CHINA GATE, CA 91702

PROJECT TITLE
SUNSET ROOM

SHEET TITLE
SITE PLAN

DATE
 11-04-11

SCALE
1"=10'

AGOURA RD

CORNELL RD

PARKING DATA
 57 STALLS PROVIDED
 8 STALLS REQUIRED

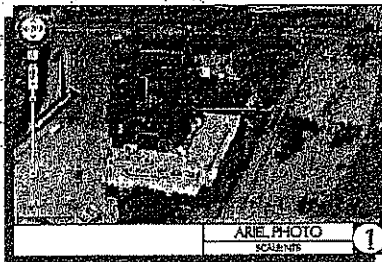
LEGEND
 [Symbol] PROPOSED E.D.G.

KEY LINES

- PROPERTY LINE
- CONCRETE
- ASPHALT
- COMPACTED METAL DECK
- CYCLIC FENCE
- FIRE TRUCK ACCESS PATH

NOTES

- LOT AREA = 16,630 SF
- PROJECT FOOTPRINT W/ AUTO = 4,524 SF
- SITE LANDSCAPE AREA = 2,194 SF
- AUDITORIUM AREA = 1,234 SF
- OUTDOOR PATIO COVERED AREA = 1,004 SF



BACKGROUNDCOUNTY PLATTMAP

AREA DATA (SQ)

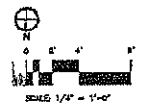
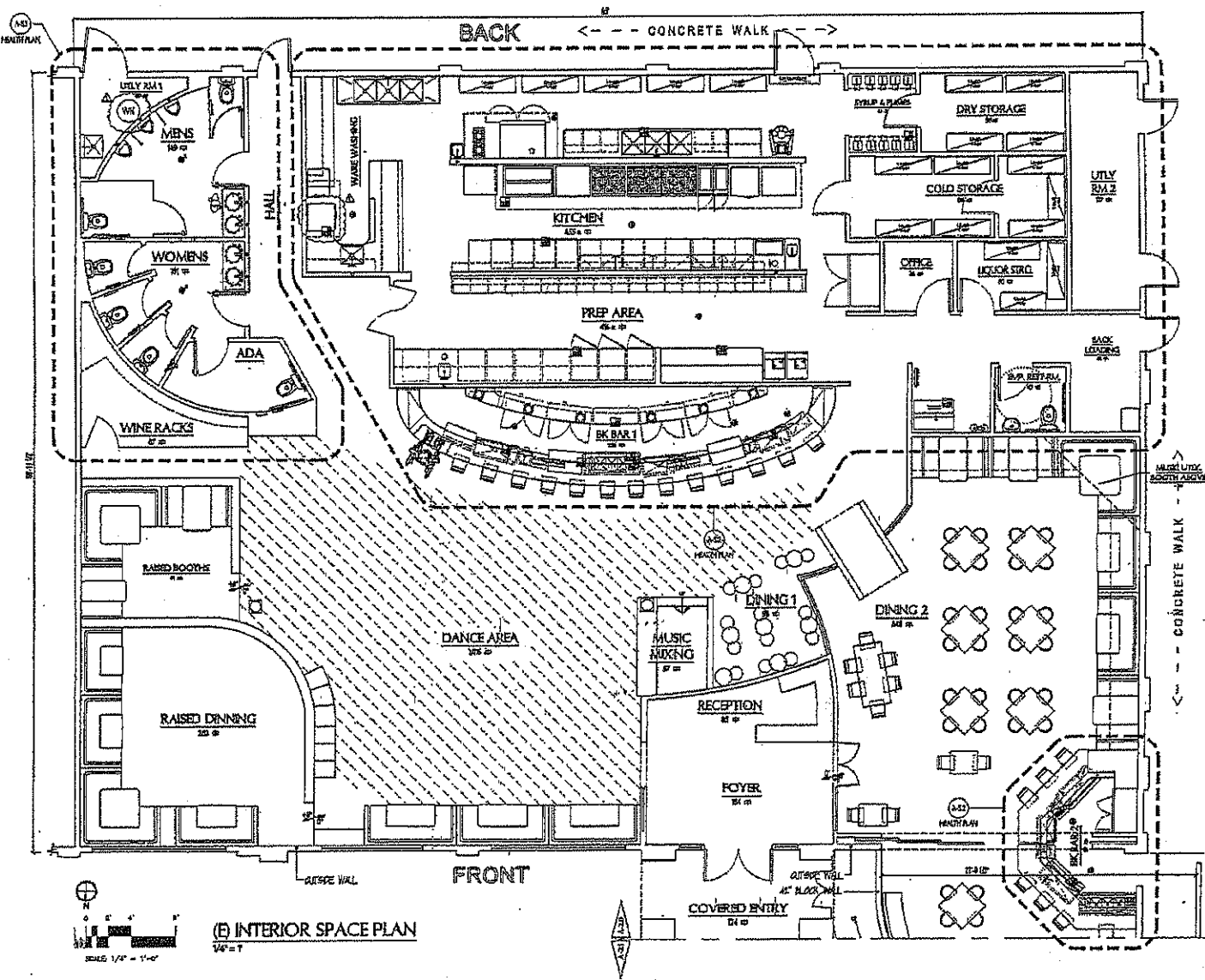
INDOOR DINING	1,794
OUTDOOR DINING	1,500
DANCE AREA	1,016
BAR & BIKER BAR	132
MUSIC MIXING	57
BAR & KITCHEN	3,350
SALE & WAREHOUSE	205
ENTRY/FOYER	233

SEE SHEET A-14 FOR DETAILS

OCCUPANCY

ROOMS PER HOUR: 75
 PERSONS PER HOUR: 75
 PERSONS PER HOUR: 75

DESIGNED AND DRAWN BY: GARY D. LEE ARCHITECTS INC.
 REGISTERED PROFESSIONAL ARCHITECT, STATE OF CALIFORNIA, NO. 1254



(E) INTERIOR SPACE PLAN
 W4-T

05/28/21

REV	REVISIONS	DATE
1	ISSUE FOR PERMITS	05/28/21

REVISIONS TO BE MADE BY THE ARCHITECT UNLESS OTHERWISE NOTED

SUNSET ROOM
 29020 AGOURA RD.
 AGOURA HILLS, CA. 91301

TRU DESIGN

3000 LA BARRONIA DRIVE
 AGOURA HILLS, CA 91301
 TEL: 909-251-5100

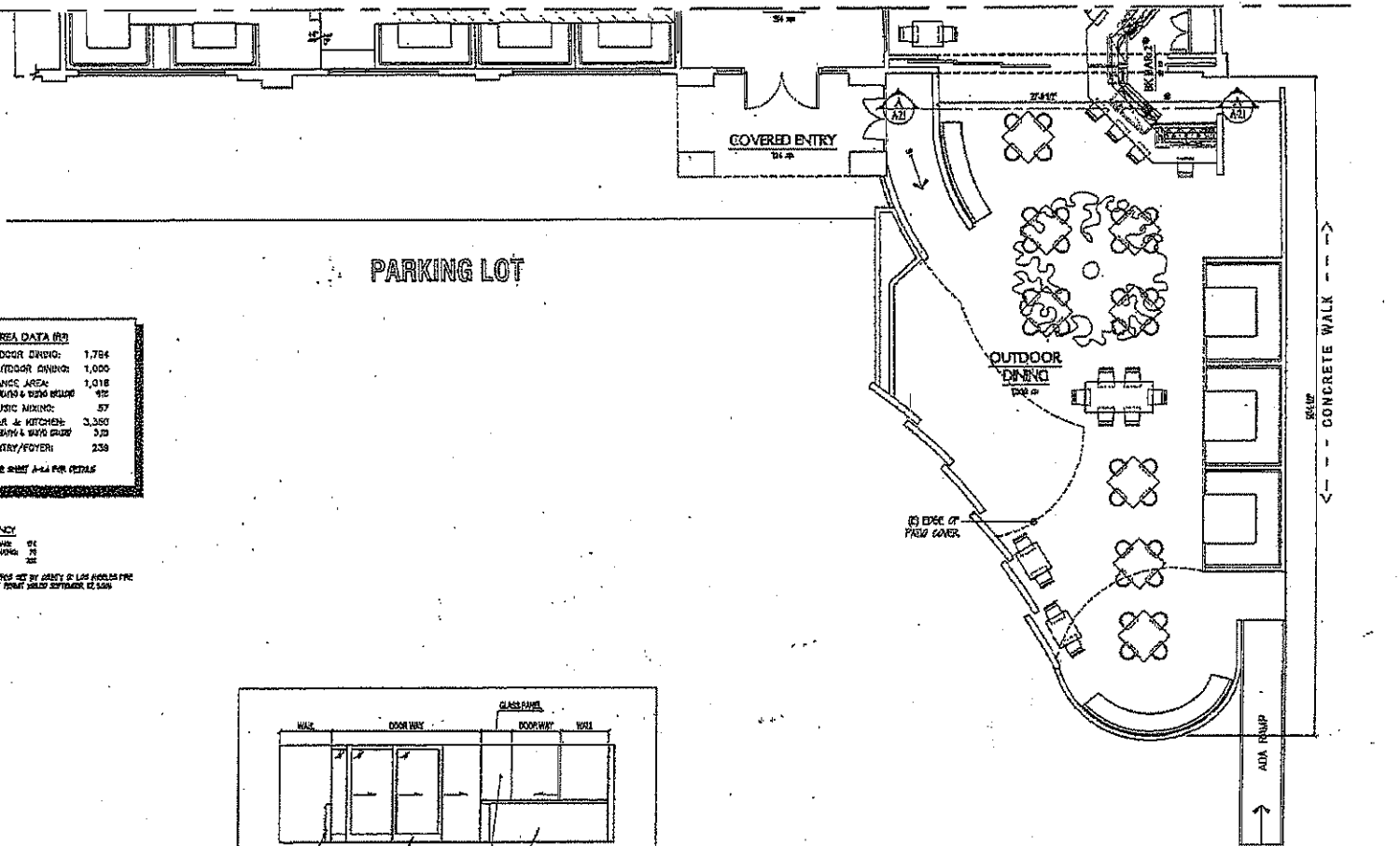
PROJECT TITLE
SUNSET ROOM

SHEET TITLE
FLOOR PLAN & SEATING PLAN

RP

DATE: 11-04-20
 DRAWN BY: AGOURA

SHEET NO.
A-2.0



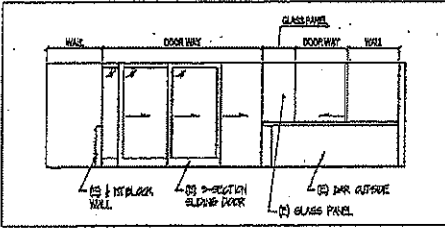
AREA DATA (SQ)

INDOOR DINING	1,754
OUTDOOR DINING	1,000
DANCE AREA	1,018
BAR & BISTRO BELLO	472
MUSIC MIXING	57
BAR & KITCHEN	3,350
BAR & WAIT STAFF	573
ENTRY/FOYER	239

SEE SHEET A-4.4 FOR DETAILS

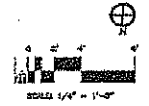
OCCUPANCY
 MEASUREMENT: SF
 OUTDOOR DINING: 75
 DINING: 82

SCALE: THIS SET BY GENCO © LOS ANGELES FIRE
 DEPARTMENT 20120 SOFTWARE 12.15.09



(E) ELEV. OUTDOOR BAR
 1/4" = 1'

(E) EXTERIOR SPACE PLAN
 3/4" = 1'



REVISIONS

NO.	DESCRIPTION	DATE

Checked/Conformed/Approved
 DWYER/PURVIS/GENCO

SUNSET ROOM
 29020 AGOURA RD.
 AGOURA HILLS, CA. 91301

TJ DESIGN
 ARCHITECTURE & CONSTRUCTION DOCUMENTS
 4444 Wilshire Blvd. Suite 200
 Beverly Hills, CA 90210
 TEL: 310.274.1111 FAX: 310.274.1112

PROJECT TITLE
SUNSET ROOM

SHEET TITLE
PATIO PLAN & SEATING PLAN

REV
 RP

DATE
 11-04-15

DATE
 04/28/11

SHEET NO.
A-2.1

Exhibit C

CASE NO. 05-CUP-001 Amendment #2

**For the project located at 29020 Agoura Road
Agoura Hills**

Previously Approved Architectural Plans

GENERAL NOTES

1. ALL WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES.

2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE APPLICABLE AGENCIES.

3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

4. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES TO REMAIN.

5. THE CONTRACTOR SHALL MAINTAIN ALL NECESSARY RECORDS AND AS-BUILT DRAWINGS.

6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE AND BONDS.

7. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

8. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES TO REMAIN.

9. THE CONTRACTOR SHALL MAINTAIN ALL NECESSARY RECORDS AND AS-BUILT DRAWINGS.

10. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE AND BONDS.



DAVIS-INK



TOTAL CONCEPT DESIGN

CHAPTER 8

29020 AGOURA RD. UNIT A-1-C
AGOURA HILLS, CA

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DATE	11.12.2004
DRAWN BY	DAVIS-INK
CHECKED BY	DAVIS-INK
SCALE	AS SHOWN

CHAPTER 8

29020 AGOURA RD.

AGOURA HILLS, CALIFORNIA 91301

PROJECT INFORMATION

PROJECT ADDRESS: 29020 AGOURA RD. AGOURA HILLS, CA

TOWN: AGOURA HILLS

PROPERTY OWNER: AGOURA HILLS COMMUNITY DEVELOPMENT DEPARTMENT

ARCHITECT: DAVIS-INK

STRUCTURAL ENGINEER: A. J. ...

MECHANICAL ENGINEER: ...

ELECTRICAL ENGINEER: ...

PLUMBING ENGINEER: ...

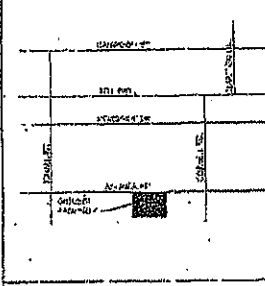
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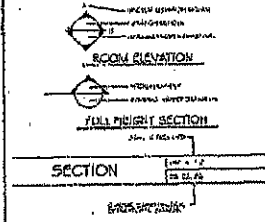
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FINISHES: ...

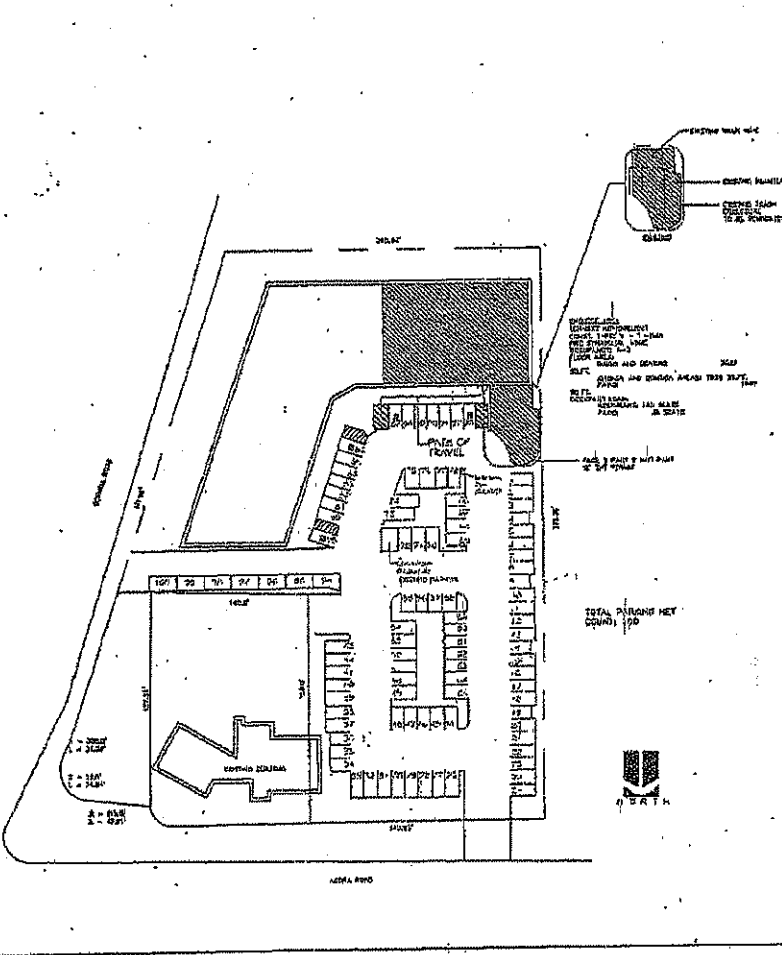
VICINITY MAP



LEGEND



PLOT PLAN



FIRE PREVENTION NOTES

1. ALL FIRE PROTECTION WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODES AND ALL APPLICABLE LOCAL ORDINANCES.

2. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS FROM THE APPLICABLE AGENCIES.

3. THE CONTRACTOR SHALL MAINTAIN ACCESS TO ALL ADJACENT PROPERTIES AT ALL TIMES.

4. THE CONTRACTOR SHALL PROTECT ALL EXISTING UTILITIES AND STRUCTURES TO REMAIN.

5. THE CONTRACTOR SHALL MAINTAIN ALL NECESSARY RECORDS AND AS-BUILT DRAWINGS.

6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY INSURANCE AND BONDS.

ABBREVIATIONS

AC	AUTOMATIC	AS	AS SHOWN
AD	ADJUSTABLE	AW	AWAY FROM
AF	AFTER	BA	BATHROOM
AG	AGOURA HILLS	BB	BEST AVAILABLE
AI	AIR	BC	BUILDING CODE
AJ	AIR CONDITIONING	BD	BEDROOM
AK	AIR CURTAIN	BE	BEST AVAILABLE
AL	AIR EXHAUST	BF	BEST AVAILABLE
AM	AIR FLOW	BH	BEST AVAILABLE
AN	AIR LOCK	BI	BEST AVAILABLE
AO	AIR OUTLET	BJ	BEST AVAILABLE
AP	AIR PURIFICATION	BK	BEST AVAILABLE
AQ	AIR RETURN	BL	BEST AVAILABLE
AR	AIR SUPPLY	BM	BEST AVAILABLE
AS	AIR SUPPLY	BN	BEST AVAILABLE

DAVIS-INK



DAVIS LINK
3000 ACQUA RD. UNIT A-14
ACQUA HILLS, GA.
30108



TOTAL
CONCEPT
OFFICES

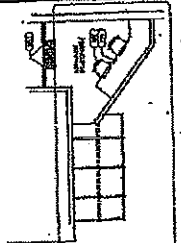
CHAPTER 8

3000 ACQUA RD. UNIT A-14
ACQUA HILLS, GA.

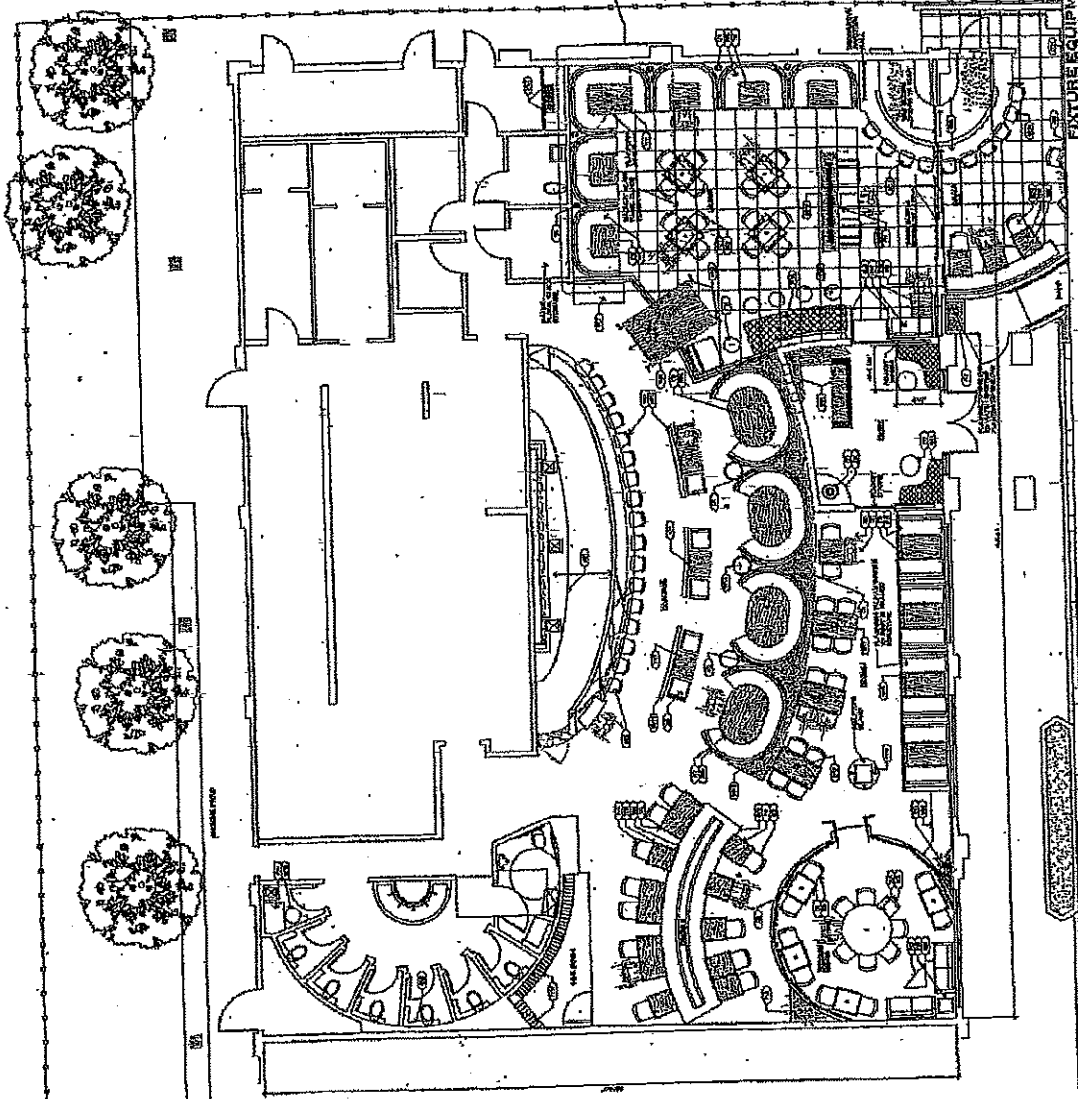
TABLE WITH MULTIPLE COLUMNS AND ROWS OF SYMBOLS AND TEXT

TABLE WITH MULTIPLE COLUMNS AND ROWS OF SYMBOLS AND TEXT

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CLOSER AREA
See Site
Plan for
Details



FUTURE EQUIPMENT FLOOR PLAN