



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

ACTION DATE: August 16, 2012

TO: Planning Commission

APPLICANT: Satznik Artinian
8181 Ellenboge Street
Sunland, CA 91040

CASE NO.: 12-CUP-004

LOCATION: 30135 Agoura Road, Suite F & G (Rio Brazil)
(A.P.N. 2061-005-058)

REQUEST: Request for a Conditional Use Permit to allow for an Alcoholic Beverage Control license type 41 (beer and wine) for consumption on the premises of an existing restaurant.

ENVIRONMENTAL ANALYSIS: Exempt from CEQA per Section 15301 of the CEQA Guidelines

RECOMMENDATION: Staff recommends that the Planning Commission approve Conditional Use Permit Case No. 12-CUP-004, subject to conditions.

ZONING DESIGNATION: CS-FC (Commercial Shopping Center – Freeway Corridor)

GENERAL PLAN DESIGNATION: CS (Commercial Shopping Center)

I. PROJECT DESCRIPTION AND BACKGROUND

On July 8, 2009, the City Council adopted an ordinance that requires an approval of a Conditional Use Permit from the Planning Commission for new on-sale and off-sale alcoholic beverage establishments and changes to existing California Alcoholic Beverage Control (ABC) licenses.

The Zoning Ordinance defines on-sale alcoholic beverage establishments as “any establishment where in alcoholic beverages are sold, served, or given away to be consumed on the premises,

and which has obtained or intends to obtain an Alcoholic Beverage Control (ABC) license type 40, 41, 42, 47, 48, 51, 52, 61, and/or 75. References to an on-sale alcoholic beverage establishment shall include any immediately adjacent area that is owned, leased, or rented, or controlled by the permittee. It shall also include any facility, inclusive of a portion thereof, which is rented out for special event functions wherein alcoholic beverages are sold or given away on the premises and are to be consumed on the premises.”

The applicant, Satznik Artinian, owner of Rio Brazil Restaurant, is requesting approval of a Conditional Use Permit to obtain a type 41 license to allow on-site consumption of beer and wine, in conjunction with food service, inside the eating establishment and within an outdoor patio area from ABC. The restaurant is located at 30135 Agoura Road, Suite F and G, within the Agoura Hills Town Center. The previous restaurant in the tenant space, Terry’s Café, had a type 41 license from ABC for the on-site sale and consumption of beer and wine. However, that license has expired.

The shopping center site contains three buildings that include a variety of retail, office, and restaurant uses. The restaurant space is 3,500 square foot with a 440 square foot patio area located at the northwest corner of the center. According to the applicant, the restaurant will serve authentic Brazilian cuisine, Churrascaria style. The restaurants proposed hours of operation are Sunday through Wednesday from 11:00 a.m. to 12:00 a.m., and Thursday through Saturday from 11:00 a.m. to 2:00 a.m. The applicant is not requesting any floor plan modifications and no additional parking is required for this request. No live entertainment is proposed at this time.

II. STAFF ANALYSIS

The City Council’s decision to initiate and approve the Alcoholic Beverage Establishment Ordinance was to achieve greater control over potential nuisance-type issues related to alcoholic beverage establishments, such as noise, particularly related to the proximity to residential areas, as well as overall safety issues, and any impacts related to the concentration of such businesses. The Conditional Use Permit allows for review by the Planning Commission and any appropriate conditions included on a case-by-case basis, following a public hearing. Accordingly, in addition to the findings currently required for approval of a Conditional Use permit, the Zoning Ordinance also requires the Planning Commission make additional findings relative to alcohol beverage sales and service. Furthermore, ABC will also conduct background checks, analyze concentration of licenses in a particular Census Tract, and crime rate, proximity to sensitive uses such as schools and churches and conduct public hearings before approving an application.

The subject business is located within Census Tract No. 8003.26. Contact with ABC, which controls beer and wine licenses, indicated that there are five (5) active on-sale alcohol licenses within this census tract. All five of the licenses are in conjunction with eating establishments. The applicant’s request is to sell alcohol in conjunction with operating an eating establishment. Staff supports this restaurant’s request to acquire an ABC on-sale license because, typically, restaurants that serve alcohol in conjunction with food sales do not create alcohol related problems.

The following businesses within the same Census Tract currently have a license to sell alcoholic beverages for on-site consumption.

<u>Business Name</u>	<u>Address</u>	<u>Description</u>	<u>License Type</u>
Grissini Ristorante	30125 Agoura Road, Ste. I & J	Restaurant	47
The Lab Brewing Co.	30105 Agoura Road, Ste. A	Restaurant	47
Sheraton Agoura Hills Hotel	30100 Agoura Road	Restaurant/Hotel	47
Ladyface Alehouse	29281 Agoura Road, Ste. A	Restaurant	47
Island Fine Burgers & Drinks	29271 Agoura Road, Ste. A	Restaurant	47

Staff finds the proposed use to be consistent with the intent of the ordinance and supports the request in that the alcohol service will be ancillary to the food service of the restaurant. The proposed on-sale of alcoholic beverages will occur in a new restaurant that is allowed in the CS zone. The nearest residential neighborhood is located approximately 700 square feet to the north of the restaurant site, and is adequately buffered and separated by the 101 freeway and developed commercial properties. In addition, there is no school located within 500 feet of the site. The nearest parks, Reyes Adobe Park and Forest Cove Park, are located approximately 2,500 feet from the restaurant and are separated by the 101 Freeway. Therefore, staff finds the proposed use will not negatively impact surrounding properties or neighborhoods. The nearest businesses located south of the freeway that are permitted for the on-sale of alcoholic beverages are The Lab Brewing Company Restaurant and Grissini Italian Restaurant, which are located in the same retail center, and the Sheraton Hotel, located across the street from Agoura Hills Town Center, on the south side of Agoura Road.

Staff finds the proposed Conditional Use Permit application to be categorically exempt from the requirements of the California Environmental Quality Act as an existing facility, per Section 15301 of the CEQA Guidelines.

III. RECOMMENDATION

Staff recommends that the Planning Commission approve Conditional Use Permit Case No. 12-CUP-007, subject to conditions.

IV. ATTACHMENTS

- Draft Resolution and Conditions of Approval
- Site Plan and Floor Plan
- Vicinity Map
- Photographs

CASE PLANNER: Renee Madrigal, Associate Planner

DRAFT RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF AGOURA HILLS APPROVING CONDITIONAL USE
PERMIT CASE NO. 12-CUP-004 FOR THE ON-SITE SALE OF
ALCOHOL AT A RESTAURANT LOCATED AT 30135
AGOURA ROAD

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS DOES HEREBY
RESOLVE, FIND, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. An application was duly filed by Satznik Artinian with respect to the property located at 30135 Agoura Road, Suites F and G (Assessor's Parcel No. 2061-005-058), requesting approval of a Conditional Use Permit (Case No. 12-CUP-004) to allow the on-site sale of alcoholic beverages (beer and wine only) at the proposed Rio Brazil restaurant. A public hearing was duly held on August 16, 2012, at 6:30 p.m. in the Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid meeting was duly given and published as required by state law.

Section 2. Evidence, both written and oral, including the staff report and supporting documentation, was duly presented to and was considered by the Planning Commission at the aforesaid public hearing.

Section 3. Based on the evidence presented at the public hearing, including the staff report and oral and written testimony, the Planning Commission finds, pursuant to the Agoura Hills Municipal Code Sections 9673.2.E and 9396.3, 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. The sale of alcoholic beverages will occur on-site at an existing restaurant in the CS-FC zone. The CS-FC zone specifically allows for restaurant uses, and the on-site sale of alcoholic beverages is allowed pursuant to the approval of this CUP. Thus, the proposed use is consistent with the objectives of the Zoning Ordinance and the purposes of the CS-FC zone.

B. The proposed use, as conditioned, is compatible with the surrounding properties, and specifically compatible with the surrounding uses in the shopping center. The proposed restaurant is located in an existing tenant space in the Agoura Hills Town Center. The Town Center includes other retail, office, and restaurant uses. No sensitive uses currently exist on the site or in the vicinity of the site. Thus, the proposed use is compatible with the surrounding properties.

C. The proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare. Pursuant to this CUP, alcoholic beverages are to be consumed indoors and in a permitted patio area adjacent to the tenant space. The total seating floor area for the alcoholic beverage establishment will

not expand beyond the seating floor area of the previous restaurant that occupied the tenant space. The alcohol use will occur in conjunction with the restaurant use, which will reduce potential public safety hazards related to the consumption of alcohol on-site. The project site is not in the vicinity of any residential or sensitive uses. Thus, the proposed use will not be detrimental to the public health, safety, or welfare.

D. The proposed use, as conditioned, will comply with each of the applicable provisions of the Zoning Ordinance. This permit allows for the on-site sale of alcoholic beverages in a restaurant. The restaurant use is a permitted use in the CS-FC zone, and the on-site sale of alcohol is allowed pursuant to this CUP. No Variance request is considered as part of this application. Thus, the proposed use will comply with the Zoning Code.

E. The distance from other similar and like uses is sufficient to maintain the diversity of the community. There are two other restaurants with on-sale alcoholic beverage licenses in the Town Center. In this case, the diversity of restaurants, rather than the number of restaurants, increases the viability of local businesses and the diversity of the community. The proposed use would not duplicate any nearby restaurant uses. Thus, the distance between the proposed use and like uses is sufficient to maintain the diversity of the community.

F. The proposed use is consistent with the goals, objectives and policies of the General Plan. The specialty restaurant adds to the diversity of the eating establishments within the center and the community, which conforms to the general plan. The proposed restaurant use is consistent with the General Plan's vision for the Freeway Corridor and with respect to Economic Development.

G. The requested use at the proposed location will not adversely affect the use of a school, park, playground or similar use within a 500-foot radius because these types of uses are located over 2,500 feet away from the project site. In addition, those types of uses are separated from the project site by the 101 Freeway.

H. The requested use at the proposed location, as conditioned, is sufficiently buffered by topographic conditions or public or private improvements from residentially zoned areas within the immediate vicinity so as not to adversely affect said areas. A minimum 700-foot separation exists between the shopping center and the nearest residential neighborhood to the east.

I. The exterior appearance of the structure will be the same as the present tenant space, and therefore, it will not be inconsistent with the external appearance of commercial structures already constructed or under construction within the immediate neighborhood, nor will the project cause blight or property deterioration, or substantially diminish or impair property values within the neighborhood. The alcoholic beverages sales will occur within an existing building, which will remain compatible with the City's Architectural and Design Standards and Guidelines. As the external appearance will not change, the proposed use will not cause blight or affect property values in the surrounding neighborhood.

J. The upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development and use of abutting properties and the surrounding neighborhood. No consumption of alcohol within areas outside the establishment, or its approved patio space, is approved with this permit. The on-site consumption of alcohol will not affect the use of abutting properties because the site is surrounded by other commercial establishments in the Town Center. The restaurant use will be held to the same operational standards as the remaining commercial establishments in the Town Center, and subject to the City's nuisance laws.

K. The proposed hours for the sale of beer and wine will ensure that activities related to the project are compatible with the quiet enjoyment of the neighborhood. The on-site sale of alcoholic beverages in the restaurant is proposed to occur during the hours of 11:00 a.m. to 12:00 a.m. on Sunday through Wednesday, and 11:00 a.m. to 2:00 a.m. on Thursday through Saturday. The project is not close to residential uses or other park, playground, or school uses. Thus, the proposed hours of alcohol sales will not impact the quiet enjoyment of the neighborhood.

L. The requested use will not contribute to an undue concentration of alcoholic beverage establishments in the area. The restaurant shares a space with other existing and well established restaurants in the shopping center. Although there are five other establishments in the same census tract that have licenses for the on-site consumption of alcohol, all of these licenses are in conjunction with either restaurant or hotel uses. The area does not have any alcohol establishments that do not also serve food. In addition, the same tenant space historically secured a beer and wine license. Thus, the approval of this permit would add a new permit, but keep the number of restaurants in the area selling beer and wine the same as it has been in recent years. Approval of this requested use will not create an undue concentration of alcoholic beverage establishments.

M. The Sheriff's Department has confirmed that the requested use is not located in a high-crime area, or where a disproportionate number of police calls occur.

Section 4. The project is categorically exempt from the California Environmental Quality Act ("CEQA"), as stated in Section 15301 of the CEQA Guidelines, because the project consists of the operation of an existing structure, involving negligible expansion of use beyond the existing use.

Section 5. Based on the aforementioned findings, the Planning Commission hereby approves Case No. 12-CUP-004, subject to the attached Conditions of Approval, which are attached hereto as Exhibit A and incorporated herein by this reference.

Section 6. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

Draft Resolution No. _____

Page 4

PASSED, APPROVED, and ADOPTED this August 16, 2012, by the following vote to wit:

AYES: (0)

NOES: (0)

ABSENT: (0)

ABSTAIN: (0)

John O'Meara, Chairperson

Mike Kamino, Secretary

CONDITIONS OF APPROVAL (Case No. 12-CUP-004)

STANDARD CONDITIONS

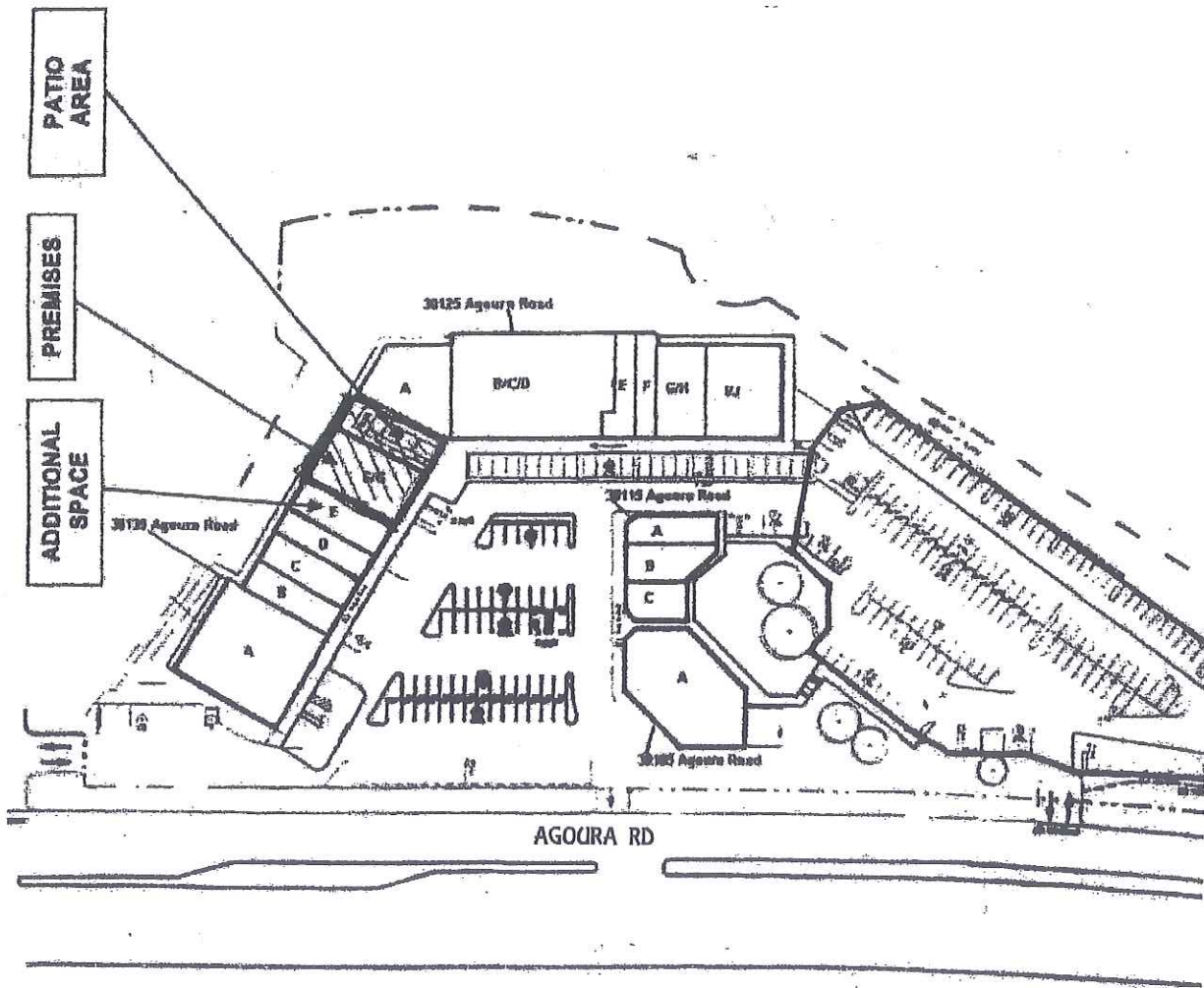
1. This action shall not be effective for any purpose until the applicants have agreed in writing that the applicants are aware of, and accept all, Conditions of Approval of this permit with the Department of Planning and Community Development. Any conditions on such acceptance or challenges, including 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 of the subject property must be complied with unless set forth in the Conditional Use Permit.
6. Unless this permit is used within two (2) years from the date of City approval, Case No. 12-CUP-004 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. This permit shall be valid strictly for license type 41 (beer and wine) as defined by the State Department of Alcohol Beverage Control.
9. No additional signage is made part of this approval.
10. Consumption of alcoholic beverages in public areas outside the tenant space is prohibited. Consumption of alcoholic beverages (license type 41) is allowed in the restaurant's existing outdoor patio.

11. The Director of Planning and Community Development is authorized to prepare a letter of Public Necessity for this approval if required by the California Alcohol Beverage Control.
12. In accordance with Zoning Ordinance Section 9710, reconsideration of the 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.

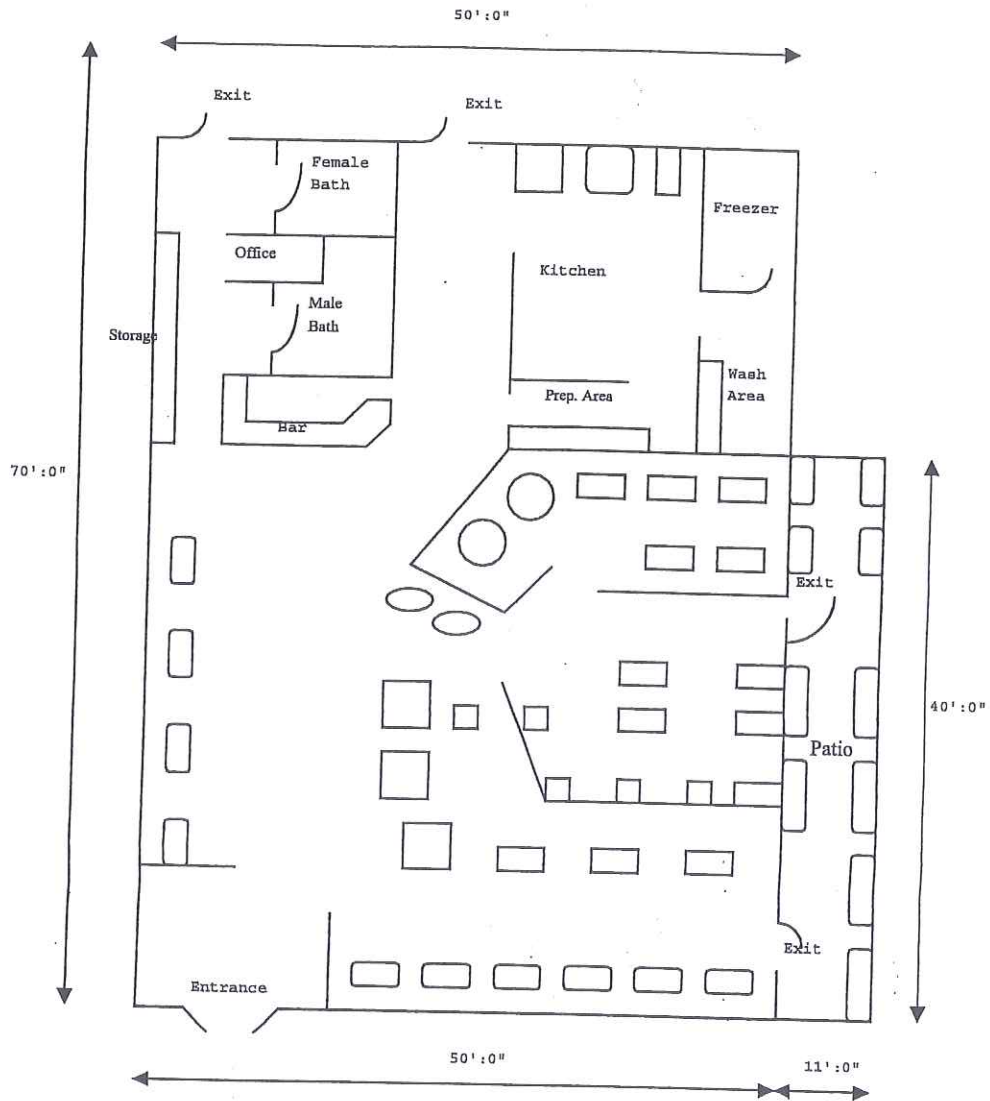
END



SITE PLAN

30135 AGOURA RD. STE F & G

AGOURA HILLS, CA 91301



INTERIOR SEATING	65
PATIO SEATING	26
TOTAL	91

This is the existing Floor Plan and the Restaurant will continue to operate as is.

FLOOR PLAN
MAISON de BRAZIL

30135 AGOURA RD. Ste F & G
 AGOURA HILLS, CA 91301

CONDITIONAL USE PERMIT CASE NO. 12-CUP-004
(A.P.N. 2061-005-058)





FERRIS CAFE

E

NO PARKING
FIRE DEPT. ONLY

Handicapped
Parking

