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## DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

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**ACTION DATE:** August 15, 2013

**TO:** Planning Commission

**APPLICANTS:** Peter and Diane Gomez  
28914 Roadside Drive  
Agoura Hills, CA 91301

**CASE NOS.:** 13-CUP-006 and 13-ODP-001

**LOCATION:** 28914 Roadside Drive, Suite 16  
Latigo Kid Restaurant in the Whizin Shopping Center

**REQUEST:** Request for a Conditional Use Permit to allow the expansion of on-site sale of alcoholic beverages (Type 47 ABC license) for an existing restaurant (Latigo Kid); and an Outdoor Dining Permit to allow dining in the atrium area of the Whizin Market Square, adjacent to the Restaurant.

**ENVIRONMENTAL ANALYSIS:** Exempt from CEQA per Section 15301 of the CEQA Guidelines (Existing Facilities)

**RECOMMENDATION:** Staff recommends that the Planning Commission approve Conditional Use Permit Case No. 13-CUP-006 and Outdoor Dining Permit Case No. 13-ODP-001, subject to conditions.

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

**GENERAL PLAN DESIGNATION:** PD (Planned Development)

### **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.

ABC 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 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’s, Peter and Diane Gomez, owner of Latigo Kid restaurant, an existing eating establishment located at 28914 Roadside Drive, in the Whizin Market Square, currently has an Alcoholic Beverage Control (ABC) Type 47 license to sell beer, wine and distilled spirits for on-site consumption. The applicants are requesting approval of a Conditional Use Permit to allow the expansion of on-site sale of alcoholic beverages (Type 47 ABC license) for an existing restaurant to permit the onsite sales, service and consumption of alcoholic beverages within an outdoor dining area in the common atrium area.

The applicants have also submitted an Outdoor Dining Permit application for approval to allow 4 portable dining tables in a 177 square foot area in the atrium, immediately outside of the restaurant. The proposed furniture would seat a maximum of 8 guests in the atrium area. An Outdoor Dining Permit is required if four or more tables are requested.

## **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 new Ordinance also requires the Planning Commission to make additional findings relative to alcohol beverage sales and service.

Latigo Kid restaurant is located within a multi-tenant commercial shopping center and has operated in its present location since 1987. The existing restaurant space is approximately 4,000 square feet and if approved will include a 6 x 26.5 foot outdoor dining area that would be accessible through the interior of the restaurant. The proposed 177 square foot outdoor dining area is proposed to be located adjacent to the restaurant, in the existing atrium area of the Whizin Market Square that provides access to the center’s east and west parking lots. The applicant is requesting approval of 4 portable tables and 8 portable chairs in the proposed outdoor dining area. Outdoor dining areas are required to be separated from the pedestrian walkway by at least

a rope to distinguish the restaurant space from the public space. A six-foot wide walkway will provide adequate access around the outdoor dining area and will comply with minimum access requirements. The outdoor dining area will be subject to the City's Municipal Code and ABC's requirements. Furthermore, the outdoor dining area will comply with minimum on-site parking requirements for the commercial shopping center. Staff finds the proposed dining area acceptable and logical with the floor plan of the restaurant. It is located under an overhang and access will be from inside the restaurant. The daily hours of operation will remain the same and are Monday through Thursday from 11:30 a.m. to 9:30 p.m., Friday from 11:30 a.m. to 10:30 p.m., Saturday from 4:00 p.m. to 10:30 p.m. and Sunday from 4:00 p.m. to 9:00 p.m.

Staff finds the proposed use to be consistent with the intent of the ordinance and with the findings. The proposed expansion of the on-sale of alcoholic beverages will occur in an existing restaurant and proposed outdoor dining area that is allowed within the Planned Development (PD) zone in the Agoura Village Specific Plan (AVSP) area. With the exception of a residence located on the south side of Agoura Road, across from the center, the nearest residential neighborhood is located approximately 1,000 feet to the southeast of the restaurant. In addition, there is no school or park located within 500 feet of the site. According to the Los Angeles County Sheriff Department, they have not experienced recent problems in the Whizin Market Square related to the consumption of alcoholic beverages. Based on the above analysis, staff finds the proposed request to allow the expansion of on-site sale of alcoholic beverages (Type 47 ABC license) will not negatively impact surrounding properties or neighborhoods. Other businesses in the center share a same ABC license, including the Canyon Club, Blue Table, and Wood Ranch Restaurant.

The proposed project is categorically exempt from the requirements of the California Environmental Quality Act as an existing facility, per CEQA Guidelines Section 15301.

### **III. RECOMMENDATION**

Staff recommends that the Planning Commission approve Conditional Use Permit Case No. 13-CUP-006 and Outdoor Dining Permit Case No. 13-ODP-001, subject to conditions.

### **IV. ATTACHMENTS**

- Draft Resolution and Conditions of Approval
- Vicinity/Zoning Map
- Reduced Site and Floor Plans
- Photographs

**CASE PLANNER:** Renee Madrigal, Associate Planner

DRAFT RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS, CALIFORNIA APPROVING CONDITIONAL USE PERMIT CASE NO. 13-CUP-006 AND OUTDOOR DINING PERMIT CASE NO. 13-ODP-001 FOR THE PROPERTY LOCATED AT 28914 ROADSIDE DRIVE, SUITE 16

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 Peter and Diane Gomez, with respect to the property located at 28914 Roadside Drive, Suite 16 (Assessor's Parcel No. 2061-007-041), requesting the approval of a Conditional Use Permit (Case No. 13-CUP-006) to allow the expansion of on-site sale of alcoholic beverages (Type 47 ABC license) for an existing restaurant (Latigo Kid); and an Outdoor Dining Permit to allow dining in the atrium area of the Whizin Market Square, adjacent to the Restaurant. A public hearing was duly held on August 15, 2013, 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 presented to and was considered by the Planning Commission at the aforesaid public meeting.

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 on-sale of alcoholic beverages will occur on-site of an existing permitted restaurant, within a retail center located in the Agoura Village Specific Plan area. The AVSP allows for restaurant uses, and the on-site sale of alcoholic beverages is allowed pursuant to the approval of this Conditional Use Permit.

B. The proposed use, as conditioned, is compatible with the surrounding properties, and with the other uses in the retail center. The restaurant shares tenant spaces with other retail, office and restaurant uses in the center. Sufficient separation exists with potential sensitive uses in the vicinity of the site, including the residential and office uses south of the retail center.

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. In addition to the existing on-sale of alcoholic beverages within the restaurant, pursuant to this Conditional Use Permit, alcoholic beverages will be served within the common atrium area in a new dining area adjacent to the tenant space. The California Department of Alcoholic Beverage Control

regulates the sales and dispensing of alcohol inside as well as outside and enforces its own public safety regulations.

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 at that location. The restaurant is a permitted use in AVSP zone, and the on-site sale of alcohol is allowed pursuant to this Conditional Use Permit and AVSP zone. 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. In this case, diversity of restaurants rather than the number of restaurants increase the viability of these businesses. The request is subject to the Alcoholic Beverage Control agency's final determination for concentration of licenses.

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.

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 as these types of uses are separated by the 101 Freeway Corridor.

H. The requested use, as conditioned, at the proposed location is sufficiently buffered by private improvements from residentially zoned areas within the immediate vicinity so as not to adversely affect said areas. A minimum 1,000 feet of separation exists between the shopping center and the nearest residential neighborhood to the east.

I. No improvements are proposed to the exterior of the structure, therefore, no visual impacts are expected on the immediate neighborhood and the project will not cause blight or property deterioration, or substantially diminish or impair property values within the neighborhood. The sale of alcoholic beverages will occur within an existing restaurant and within an area immediately adjacent to the restaurant, which will remain compatible with the City's Architectural and Design Standards and Guidelines.

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 physical changes to the site are proposed with this application. No consumption of alcohol within areas outside the establishment, or its approved outdoor dining space in the atrium area, is approved with this permit.

K. The proposed hours of alcohol beverage sales, as conditioned, 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 only permitted between the hours of 11:30 a.m. and 10:30 p.m., which will minimize the potential for impacts on the quiet enjoyment of the neighborhood beyond the normal business operations.



L. The requested use will not contribute to an undue concentration of alcoholic beverage establishments in the area. The restaurant is within a multi-tenant retail center. Although other restaurants with ABC licenses exist in the retail center, the number of establishments in the retail center has not changed and ABC is responsible for determining whether the type of requests is within acceptable levels of licenses concentration.

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

Section 5. Based on the aforementioned findings, the Planning Commission hereby approves Case Nos. 13-CUP-006 and 13-ODP-001, subject to the attached conditions, with respect to the property described in Section 1 hereof.

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.

PASSED, APPROVED, and ADOPTED this 15<sup>th</sup> day of August 2013, by the following vote to wit:

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

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Michael Justice, Chairperson

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Mike Kamino, Secretary

## **CONDITIONS OF APPROVAL (Case Nos. 13-CUP-006 and 13-ODP-001)**

### **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 on August 15, 2013.
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 or on the approved Outdoor Dining Permit.
6. Unless this permit is used within two (2) years from the date of City approval, Case Nos. 13-CUP-006 and 13-ODP-001 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 47 as defined by the State Department of Alcohol Beverage Control.
9. No additional signage is made part of this approval.
10. Live entertainment is not permitted as part of this approval.

11. Consumption of alcoholic beverages (license type 47) is allowed in the restaurant's new outdoor dining area. Consumption of alcoholic beverages in public areas outside this area is prohibited.
12. 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.
13. 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.
14. No more than 4 tables are permitted in the designated outdoor dining area. The specific location of the tables shall be subject to the review and approval by the Director of Planning and Community Development.
15. All outdoor dining areas shall meet federal, state, and local requirements including, but not limited to a dedicated table and spacing, and finished surface. Details shall be provided.
16. Details shall be provided on how the outdoor dining area is being separated from the pedestrian walkway.
17. The outdoor dining area, including flooring, shall remain clear of litter, food and scraps, and soiled dishes at all times.
18. The outdoor dining shall be operated in a manner that meets all requirements of the Los Angeles Health Department and other applicable health regulations.
19. An approval shall be acquired by the applicant from the Alcohol Beverage Control Agency in order to serve alcohol in the outdoor dining area.

END



Conditional Use Permit Case No. 13-SPR-006 and  
Outdoor Dining Permit Case No. 13-ODP-001



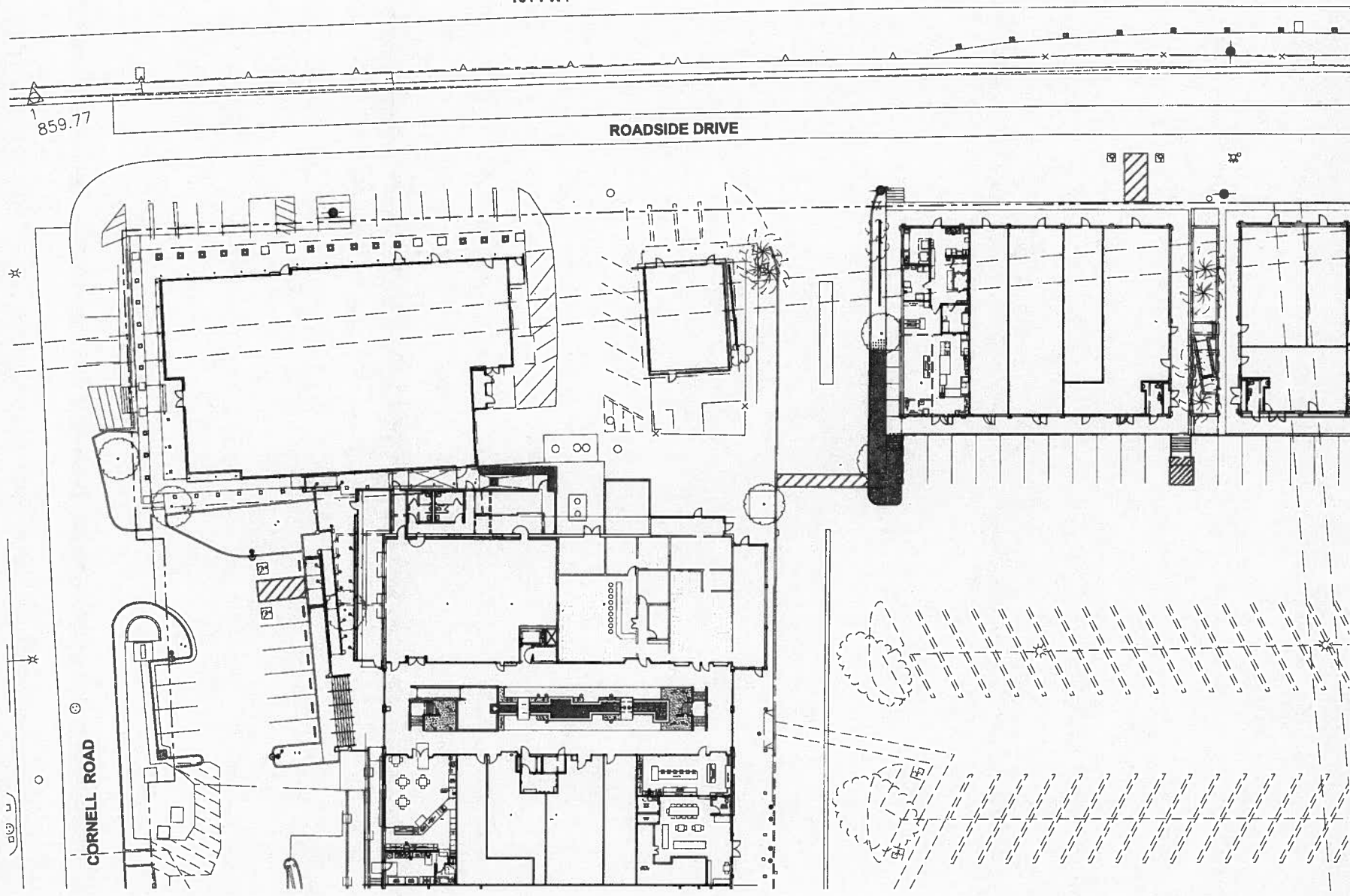


101 FWY

859.77

ROADSIDE DRIVE

CORNELL ROAD



REVISIONS

DRAWING INFO
DATE
JULY 18, 2012
230 NO.

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AGOURA HILLS, CA

LATIGO KIDS  
AS-BUILT DIMENSION PLAN

28012 ROADSIDE DRIVE

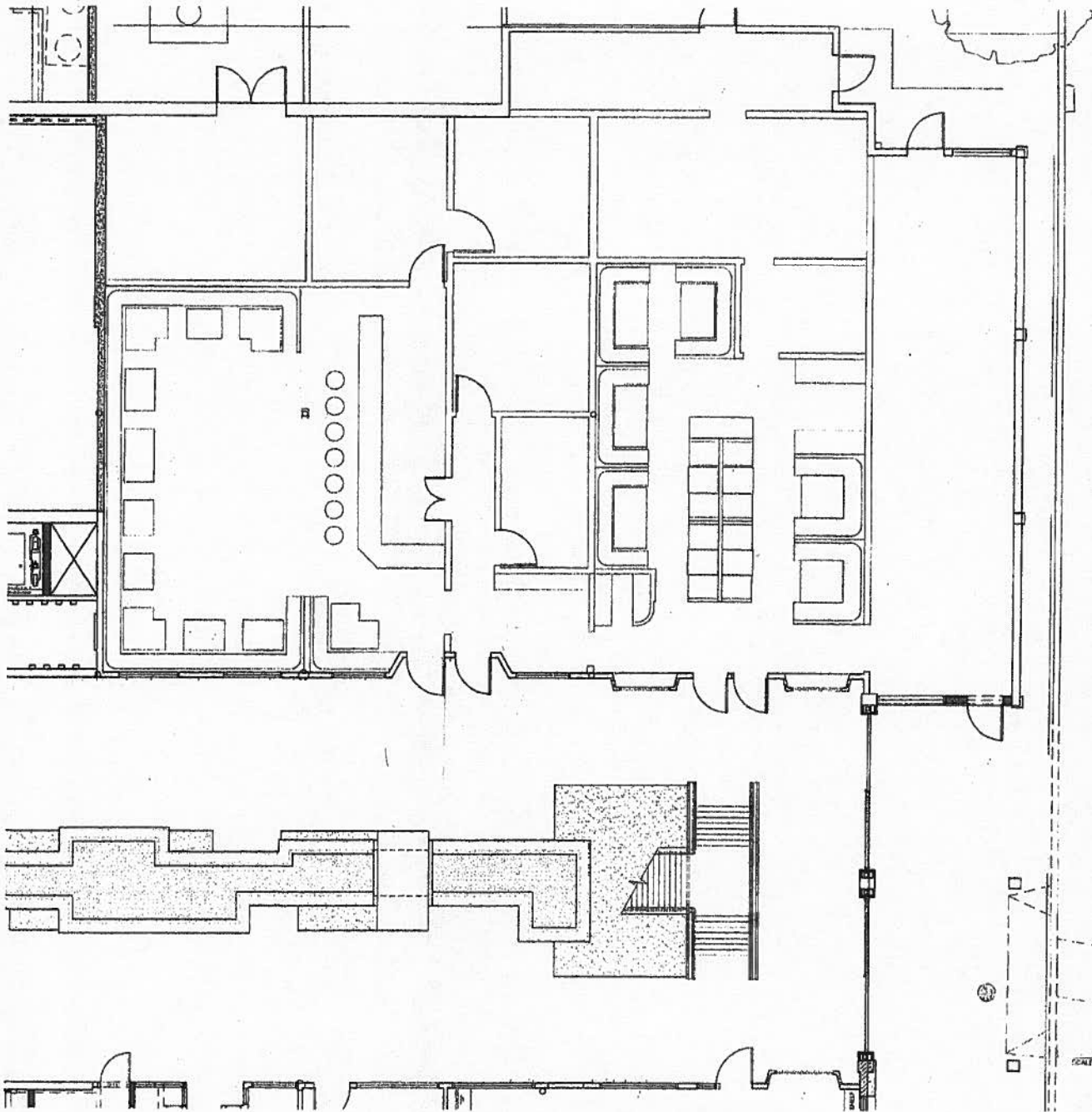


Heathcote & Associates

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California Suite 200  
Phone 805-497-4700

SHEET

LATIGO KID EXISTING SITE PLAN  
SCALE: 1/16" = 1'-0"



REVISIONS

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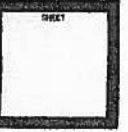
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LATIGO KIDS  
 AS-BUILT DIMENSION PLAN



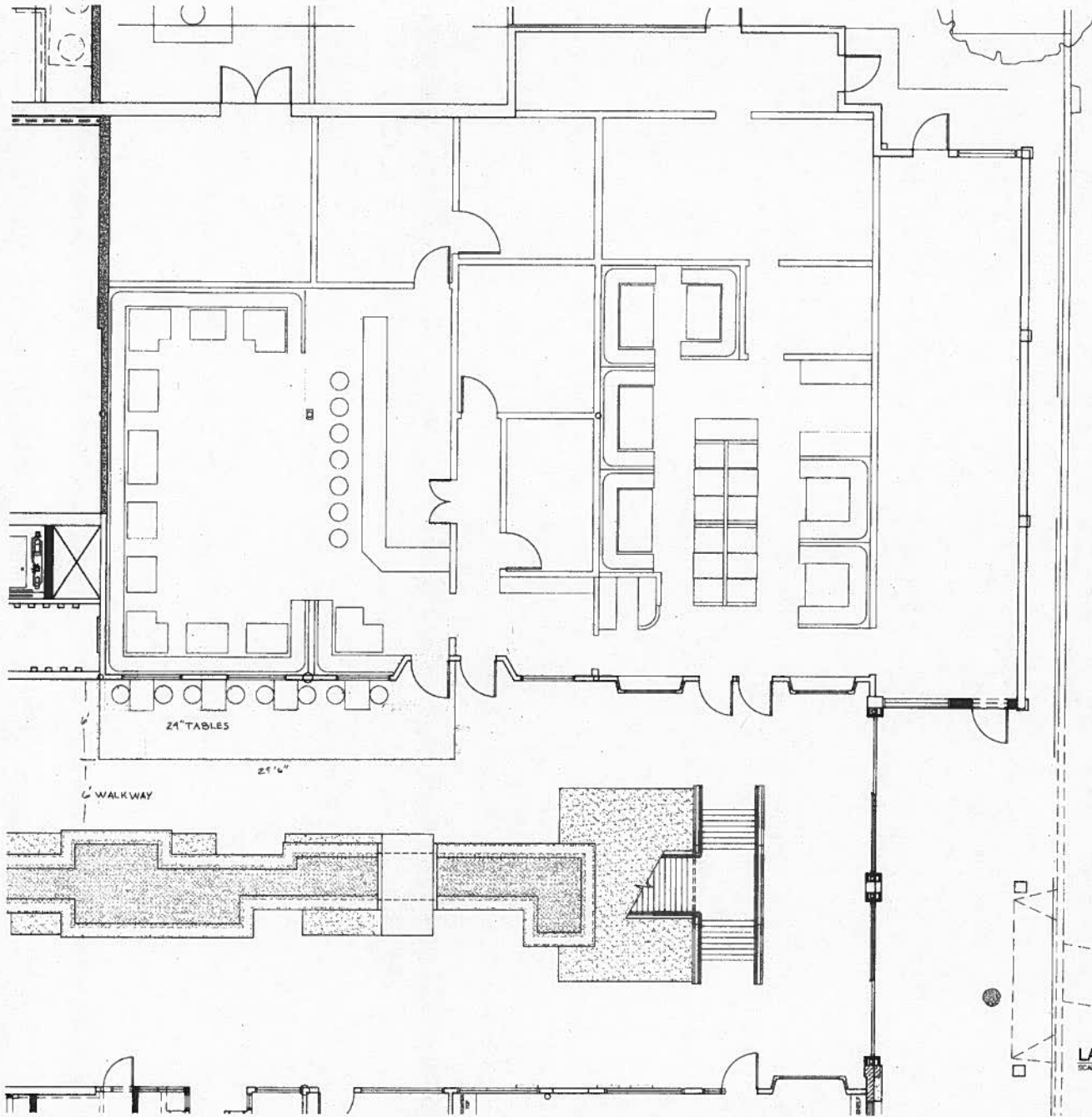
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2812 ROADSIDE DRIVE



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**LATIGO KID PROPOSED PLAN**  
 SCALE: 1/4" = 1'-0"





MARKET HALL



