



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

ACTION DATE: June 4, 2009

APPLICANT: Carlos Orozco
19629 Victory Boulevard
Reseda, CA 91335

TO: Planning Commission

CASE NO.: 06-CUP-012, Amendment

LOCATION: 30315 Canwood Street
(A.P.N. 2054-020-040)

REQUEST: Request to amend an existing Conditional Use Permit to expand the live entertainment floor area in the Senor Carlos Grill and Tequila Lounge; to extend the live entertainment hours on Sundays; and to provide dance lessons on Thursdays through Sundays.

ENVIRONMENTAL DETERMINATION: Categorically Exempt from CEQA per Section 15301.

RECOMMENDATION: Staff has prepared the attached draft Resolution of denial of Conditional Use Permit Case No. 06-CUP-012 (Amendment).

ZONING DESIGNATION: CRS-FC (Commercial Retail Service – Freeway Corridor Overlay)

GENERAL PLAN DESIGNATION: CG (Commercial Retail/Service)

I. BACKGROUND

The applicant, Carlos Orozco, owner of Senor Carlos Grill and Tequila Lounge, is requesting approval to amend the existing Conditional Use Permit. The restaurant is located at 30315 Canwood Street, Unit 1-5, in the Reyes Adobe Plaza.

The applicant's existing Conditional Use Permit approved live entertainment as an ancillary use to the restaurant use, as presented by the applicant. Currently, live entertainment is allowed to be conducted strictly within a 77 square foot area specified on the approved floor plan, at the southeast corner of the building. The type of entertainment is limited to guitar, drums, piano, and bass instruments, singers, a disc jockey, and karaoke. The approved hours of live entertainment are Monday through Thursday from 9:00 p.m. to 1:30 a.m.; Friday from 4:00 p.m. to 1:30 a.m.; Saturday from 9:00 p.m. to 1:30 a.m.; and Sunday from 4:00 p.m. to 10:00 p.m. The existing permit allows for dancing during the hours of live entertainment.

On May 7, 2009 a public hearing was held and the applicant presented their application for an amended Conditional Use Permit to the Planning Commission. The proposal under consideration at that time was to expand the live entertainment floor area in the restaurant; to extend the live entertainment hours on Sundays from 4:00 p.m. through 10:00 p.m., to 4:00 p.m. through 1:30 a.m.; and to provide dance lessons from 9:00 p.m. to 11:00 p.m. on Thursdays through Sundays.

Following the public hearing, the matter was continued to the June 4, 2009 Planning Commission meeting agenda to allow the applicant to respond to comments from the Commission. The applicant is now requesting to amend the existing approved Conditional Use Permit to expand the existing entertainment area to include a modified stage and dance area, and to modify the hours that a dinner menu is available and the hours that entertainment will be provided.

II. REVISED PROJECT DESCRIPTION

The total size of the restaurant tenant space is 4,500 square feet, with an 890 square foot outdoor patio. The floor plan shows a total of 13 tables and 11 booths, together providing a total of 88 seats in the restaurant, assuming each booth seats 4. The floor plan also shows 11 seats at the bar.

According to the proposed floor plan, a stage area of 144 square feet and a dance area of 275 square feet (19'6" x 14') are proposed to be built in the middle of the restaurant. The proposed stage will be located along the back (westerly) wall of the restaurant customer area. The proposed dance area will be created by moving 4 dining room tables and a total of 20 dining seats out of the area. The dance floor will begin 3 feet in front of the proposed stage and extend back 19 feet 6 inches where a row of tables will be located. The dance floor is described as being 14 feet wide, which leaves 5 feet between either side of the dance floor and existing dining tables. Sound equipment will be installed to the right of the restaurant entry.

The applicant is also proposing to changes the hours of entertainment and food service. It is proposed that entertainment end sooner Monday, Tuesday, and Wednesday (midnight instead of 1:30 a.m.) be extended on Sundays (midnight instead of 10:00 p.m.), with the closing time not changing Thursday, Friday, and Saturdays (1:30 a.m.). The full dinner menu is proposed to be served each night until 11:00 p.m. A limited menu will be available from then until closing each night. The applicant's letter explaining the proposal, dated May 21, 2009, is attached.

The following chart compares elements of the existing approved Conditional Use Permit, the project that was reviewed May 7, and the applicant's current request.

	Approved 2006 CUP	May 7 CUP Amendment	June 4 CUP Amendment
Hours of Live Entertainment			
Monday	9:00 p.m. to 1:30 a.m.		to midnight
Tuesday	9:00 p.m. to 1:30 a.m.		to midnight
Wednesday	9:00 p.m. to 1:30 a.m.		to midnight
Thursday	9:00 p.m. to 1:30 a.m.		to 1:30 a.m.
Friday	4:00 p.m. to 1:30 a.m.		to 1:30 a.m.
Saturday	9:00 p.m. to 1:30 a.m.		to 1:30 a.m.
Sunday	4:00 p.m. to 10:00 p.m.	4:00 p.m. to 1:30 a.m.	to midnight
Type of entertainment			
	Instruments (guitar, drums, piano, and bass), singers, a disc jockey, and karaoke	Same	Not Specified
	No professional dancers	Professional dancers & dance instructors	Not Specified
Stage			
	77 sf by front door	144 sf at back of restaurant	144 sf at back of restaurant
Dance floor			
	Approx 33 sf	432 sf (18' x 24')	275 sf (19'6" x 14')
Dance lessons			
	None	Thursdays through Sundays, from 9:00 p.m. to 11:00 p.m.	Not specified
Security			
	None	None	None
Sound System			
	Not Specified – sometimes supplied by promoter	Built in	Built in
Menu			
	No kitchen service after 10 p.m.	No kitchen service after 9:30	Full menu to 11 p.m.; Light menu 11 p.m. to close

III. STAFF ANALYSIS

Conditional uses require special consideration due to their unusual or special characteristics so that they may be located and operated properly with respect to the

objectives of the Zoning Ordinance and their effects on surrounding properties. The Planning Commission has discretionary authority to grant or deny Conditional Use Permit applications and impose reasonable conditions. For this particular request, the Planning Commission has the authority to establish limitations on the type of live entertainment proposed, as well as the hours of operation, if deemed necessary to achieve compatibility with the surrounding land uses. The Planning Commission also has the authority to consider elements of the existing Conditional Use Permit and revise any conditions it deems appropriate based on current circumstances.

The majority of testimony received at the May 7 hearing focused on activities associated with the operation of the business that were identified as being out of character with the neighborhood and community at large. The number of patrons loitering both on-site and off-site before and after the times of live entertainment were noted as a concern. Noise from individuals and music from the business were also cited as being too loud for the nearby residences, especially considering the early morning hours during the work week.

Discussion by the Commission noted the intent of the approved Conditional Use Permit was for the entertainment to be a minor element, ancillary to the restaurant use, but that the way the business had been conducted in recent months was contrary to that original intent. It was clear that the restaurant essentially closed each evening, and the venue was turned into a nightclub. Taking public testimony into account, the Commission expressed concern for the entertainment's compatibility with the adjacent residential neighborhood. The Commission continued the public hearing and asked that means to control the entertainment aspect of the use be considered by the applicant.

In order to define the proposed entertainment use as a function of the restaurant, and not as a separate nightclub, the applicant proposes to serve their full menu until 11:00 p.m., and then continue to serve a limited menu until closing. With 68 seats remaining once the dance floor is established, the restaurant will retain over 75% of its seats. While the combination of these will help define the use as a restaurant, the element that had been identified as the most critical factor was the act of transformation that took place each evening, when the restaurant would be vacated, then re-opened some time later as a separate business. Keeping the restaurant open would further establish the restaurant as a continuous use, and eliminate any lines outside the business. A condition of approval has been recommended to this effect. Serving the full menu until closing would also help further define the business as a restaurant. A condition of approval has been recommended to require the full menu be served until closing each evening.

Staff is not sure how the dance floor will be physically defined. Without some way to define the area, it is unsure how the area would be limited. Further, the area should be clearly delineated in order to avoid potential enforcement issues. A condition is recommended to define the area with rope or other similar measure.

Significant discussion occurred on May 7 regarding on-site security. It is clear that the applicant must take this step to control activity in and around the site. Based on testimony at the public hearing, promotions for events at the site were left in the hands of outside promoters who took no responsibility for crowd control. The applicant stated that he would no longer utilize outside promoters and would hire security guards to control

activity both inside and outside the business. In order for any live entertainment to take place it would be necessary for the applicant to take on the responsibility of crowd control, both inside and outside the business. It is not known how many guards would be necessary to patrol the property both inside and out. Rather than stipulating how many guards would be employed, Staff is proposing a required condition be included for the applicant to provide sufficient security to control loitering and noise issues.

It is clear that a large part of the problems created by past events was the nature which they were advertised by promoters eager to draw a large crowd to the events. It is difficult, however, to stipulate how future promotion will be handled. Conditions doing so are not likely to be enforceable. The issue, ultimately, is how those who do come to the business behave in and around the property, and that is best addressed by having enough properly trained security in place.

In order to review whether the recommended conditions of approval have the desired effect, Staff recommends the Planning Commission review a compliance monitoring report in six (6) months regarding the applicant's conformity with the conditions of approval. Upon review of such a report, the Planning Commission may require a public hearing to be held to reconsider the entitlement. Based on the criteria established by the Agoura Hills Municipal Code, the Planning Commission at that time may also consider revocation, or the placement of new or revised conditions of approval to the current permit, if deemed necessary by the Commission.

IV. RECOMMENDATION/OPTIONS

Although nightclub use is a permitted use in the CRS-FC zone with the approval of a Conditional Use Permit for the live entertainment component, the adjacency of the residential neighborhood is a critical factor in the evaluation of this application.

The issue of land use compatibility is at the discretion of the Planning Commission. The evidence obtained to date clearly indicates that there have been numerous occasions which caused legitimate concern for the adjacent residential neighborhood, loitering and noise becoming a nuisance. The applicant also ignored requests for compliance from the City and continued to violate the current Conditional Use Permit.

Staff recommends that the Planning Commission conduct the public hearing, accept testimony, deliberate, and take action on the application. Options the Planning Commission can take regarding the applicant's Conditional Use Permit amendment request, include: 1) a denial of the Conditional Use Permit amendment, which would keep the current Conditional Use Permit in effect, with the original conditions of approval, including the original 77 square-foot live entertainment area; or 2) approval of the proposed Conditional Use Permit amendment, with conditions, which would supersede the current Conditional Permit.

Based on direction given by the Planning Commission on May 7, the Planning Commission can consider the second option, which would be to approve the application, with conditions. Staff has prepared a Resolution and revised Conditions of Approval for this option. This option would allow live entertainment at the business, but would place

conditions to control the operation so that it would remain a restaurant and not convert into a nightclub each evening. It would also require the applicant to provide adequate security to patrol the site and its perimeter to eliminate noise and loitering issues.

If either the Conditional Use Permit amendment is approved or the current Conditional Use Permit stays in effect, and if complaints are subsequently received regarding excessive noise, loitering and parking/traffic issues and the like associated with the live entertainment use, the Planning Commission may immediately initiate a public hearing to reconsider the Conditional Use Permit.

IV. ATTACHMENTS

- Draft Resolution of Approval and Conditions
- Applicant's Project Description
- Architectural Plans
- Planning Commission Staff Report (May 7, 2009)
- Planning Commission Minutes (May 7, 2009)

Case Planner: David Tabor, Planning Consultant

DRAFT RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF AGOURA HILLS
APPROVING CONDITIONAL USE PERMIT AMENDMENT CASE NO. 06-CUP-012

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

Section 1. An application was duly filed by Carlos Orozco for Senor Carlos Grill and Tequila Lounge, with respect to the real property located at 30315 Canwood Street, Unit 1-5, Assessor's Parcel Number 2054-020-040, requesting approval of an amendment of a Conditional Use Permit to expand the restaurant's live entertainment floor area; to extend the live entertainment hours on Sundays; and to provide dance lessons on Thursdays through Sundays. Public hearing was duly held on May 7, 2009, and June 4, 2009, at 6:30 p.m. in the Council Chambers, City Hall at 30001 Ladyface Court, Agoura Hills, California. Notice of the time and 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 at the aforesaid public hearings.

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

A. The proposed use is consistent with the objectives of the Zoning Ordinance and the purposes of the district in which the use is located. A restaurant and nightclub are permitted uses in the Commercial Retail Service (CRS) zone. Section 9132 of the Zoning Ordinance requires development, including existing development, to be compatible with surrounding land uses, including the protection of the quiet enjoyment of existing residential development, and reducing the level of adverse impacts on existing homeowners associations, or private property. The owner has agreed to limit the hours of operation and has agreed to other restrictions (keeping the rear door closed, providing indoor and outdoor security guards, and serving food continually) to ensure the noise impacts of the live entertainment will not negatively impact the privacy and enjoyment of the residential neighborhood north of the applicant's tenant space.

B. The proposed use, as conditioned, is compatible with the surrounding area. The proposed security guards will ensure the rear door is closed at all times, will monitor the surrounding areas to control noise impacts, and prevent loitering on or near the site to protect residents located north of the applicant's tenant space. In addition, the applicant will return to the Planning Commission 6 months from the date of this action to report on whether the proposed measures have abated the neighborhood concerns.

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. With the

limited hours and proposal to continue to serve food until closing, the live entertainment serves as an as the secondary use to the restaurant. The proposed on-site security guards will patrol the parking lot area to control on-site loitering and noise impacts. With the appropriate training from the Sheriff's Dept, the need for increased patrols from the Sheriff's Department should be substantially reduced.

D. The proposed use will comply with each of the applicable provisions of the Zoning Ordinance. The live entertainment is an ancillary and permitted accessory use to a restaurant and conditions are imposed to reduce potential impacts to neighboring businesses and residents.

E. The proposed use is consistent with the goals, objectives, and policies of the General Plan. The additional provisions for security and the limited hours of operation will ensure the project is compatible with adjacent land uses. The applicant's continued operation will be reviewed 6 months from the date of this approval to determine whether the proposed conditions have been successful in ensuring that the proposed use will be compatible with the adjacent residential neighborhood to the north regarding noise, on-site loitering, and hours of operation.

Section 4. The Planning Commission finds that the proposed Conditional Use Permit to be categorically exempt from the requirements of the California Environmental Quality Act, per Section 15301, that the project involves ancillary live entertainment within an existing restaurant.

Section 5. Based on the aforementioned findings, the Planning Commission hereby approves Conditional Use Permit Case No. 06-CUP-012 Amendment, with respect to the property described in Section 1 herein. Existing Conditional Use Permit Case No. 06-CUP-012 is hereby null and void.

Section 6. Any interested party may appeal this decision to the City Council pursuant to Sections 9804.5 and 9804.6 of the Agoura Hills Municipal Code. Section 1094.6 of the California Code of Procedure governs the time within which judicial review, if available, of the Planning Commission's decision must be sought, unless a shorter time is provided by other applicable law.

PASSED, APPROVED, and ADOPTED this 4th day of June, 2009, by the following vote to wit:

AYES: (0)

NOES: (0)

ABSTAIN: (0)

ABSENT: (0)

John O'Meara, Chairperson

ATTEST:

Doug Hooper, Secretary

CONDITIONS OF APPROVAL (Case No. 06-CUP-012 Amendment)

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 provided a statement in writing that the applicant is aware of, accepts all conditions of the Permit 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 Floor Plan, approved on June 4, 2009, and attached as Exhibit 'A.'
4. 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.
5. 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 failed to do so for a period of thirty (30) days.
6. Unless this permit is used within two (2) years from the date of City approval, Case No. 06-CUP-012 Amendment will expire. A written request for a one (1) year extension may be considered prior to the expiration date.
7. The applicant shall comply with all standards and requirements of the Agoura Hills Municipal Code.

SPECIAL CONDITIONS

8. Live entertainment shall be conducted within the area specified on the Floor Plan approved June 4, 2009, and attached as Exhibit 'A,' and shall be limited to musical instruments, singers, a disc jockey, and karaoke.
9. All live entertainment and music shall be played through the built-in sound equipment provided by the owner, and shall not include additional amplifiers or speakers beyond the existing sound system.

10. Dancing shall only be permitted within the area defined as "Dance Floor" shown on the Floor Plan approved on June 4, 2009, and attached as Exhibit 'A.'
11. Dancing is limited to customers only except that dance instructors may offer lessons from 9:00 p.m. to 11:00 p.m. Thursday through Sunday nights. Other than dance instructors offering lessons, no performing dancers are permitted as part of this application.
12. The area of entertainment shall be limited to the 112 square foot stage located west of the dance floor, and the 275 square foot floor area (14' x 19.5') located 3 feet east of the stage, as shown on the Floor Plan approved on June 4, 2009, and attached as Exhibit 'A.' During the hours of entertainment specified in Condition No. 13, the perimeter of the approved dance floor space shall be displayed with rope or other similar method approved by the Director of Planning and Community Development.
13. Live entertainment is limited to the following hours:

Sunday through Wednesday: 9:00 p.m. to 12:00 a.m.
Thursday through Saturday: 9:00 p.m. to 1:30 a.m.
14. The full menu shall be available to customers until closing each evening.
15. The restaurant shall be open continuously during business hours, and shall not close or vacate the premises prior to providing the live entertainment.
16. No additional exterior lighting or exterior amplified music or vocals are permitted as part of this application, including within the area identified as the "Outdoor Patio" shown on the Floor Plan approved on June 4, 2009, and attached as Exhibit 'A.'
17. Outdoor entertainment is strictly prohibited under this application.
18. The front entry, front exit, patio doors, and the rear door on the service aisle shall be closed during the hours of live entertainment, as specified in Condition No. 13.
19. No signage is approved as part of this application.
20. The applicant shall clean the area outside the tenant space every night upon the close of business.
21. The applicant shall post maximum occupancy signs within the restaurant and bar, based on the approved occupancy determined by the Building and Safety Department.

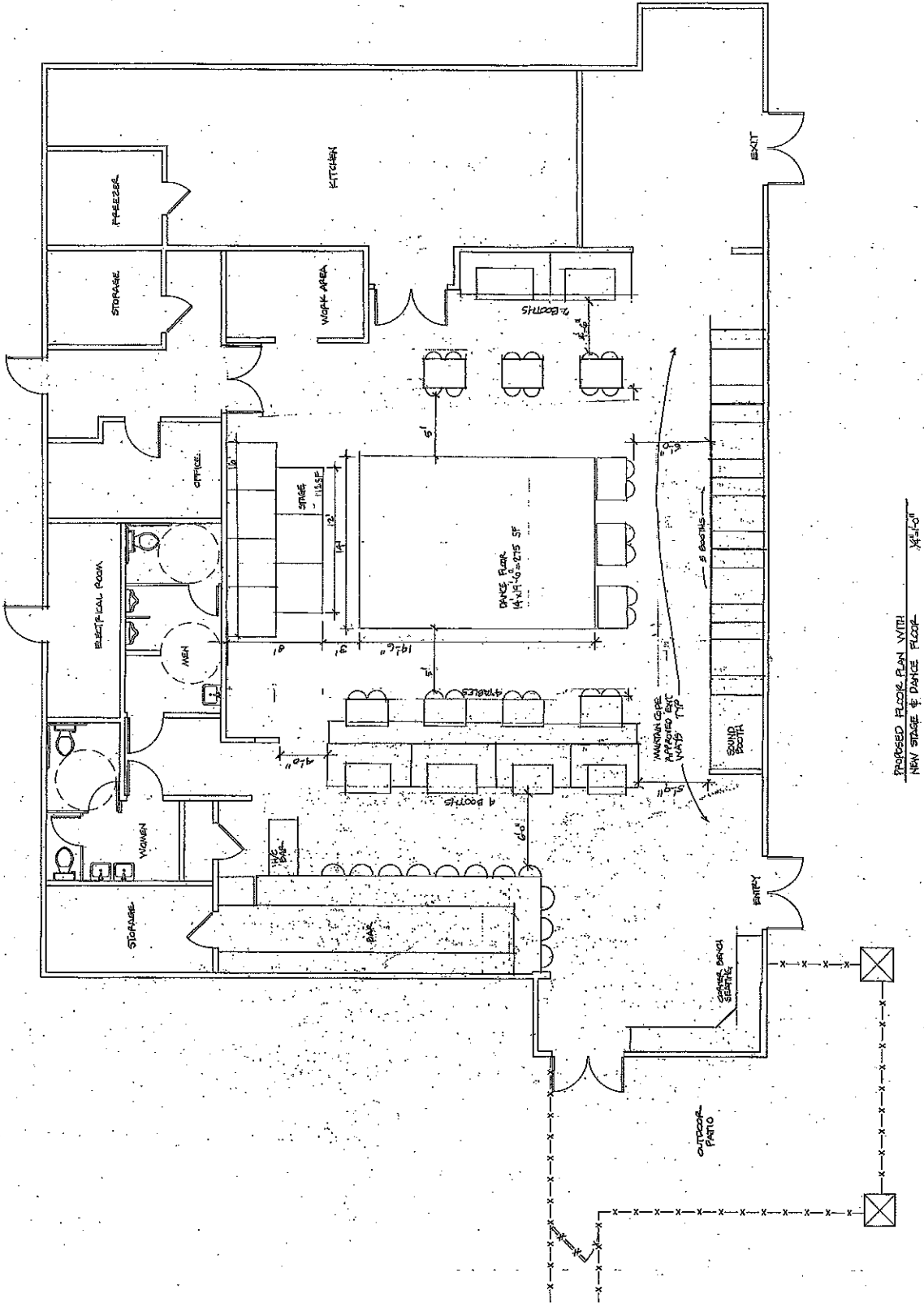
22. The applicant shall provide an adequate number of security personnel who shall maintain order inside and outside the business, and shall include at least one security guard outdoors. Security personnel shall be on duty every day at least ½ hour prior to the beginning of the live entertainment, and until ½ hour after the live entertainment ends. In addition to other duties necessary to ensure the business is conducted in a manner compatible with the neighboring residential areas, the security personnel shall ensure the doors remain closed during the times of live entertainment, that customers do not loiter in and around the property, and that sound from the live entertainment is not discernable at the eastern end of the parking lot.
22. The applicant shall maintain a current City Business Registration and Los Angeles County Entertainment Permit at all times, and shall provide proof of compliance when requested by the City.
23. If complaints are received regarding excessive noise, loitering, and parking/traffic safety issues, or other nuisance issues associated with the live entertainment use, the Planning Commission may initiate a public hearing to reconsider the Conditional Use Permit. The applicant shall also comply with the City Noise Ordinance standards and requirements.
24. A monitoring report on the Applicant's compliance with the conditions of approval shall be reviewed by the Planning Commission six (6) months from the date of approval. Upon review of the report, the Planning Commission may require a public hearing to be held to reconsider the entitlement. Based on the criteria established by the Agoura Hills Municipal Code, the Planning Commission may also consider revocation, or new or revised conditions of approval may be placed on the use if deemed necessary by the Commission.
25. This permit, Case No. 06-CUP-012 Amendment, shall supersede the existing Conditional Use Permit Case No. 06-CUP-012 which is null and void.

No.	Description	Date

THE DRAWING IS
 THE PROPERTY OF
 ARCHITECTURAL DESIGN
 CONSULTANTS, INC.
 1500 S. BAYVIEW BLVD.
 SUITE 100
 WEST PALM BEACH, FL 33411
 PHONE (561) 838-0033
 FAX (561) 838-0034
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**SENOR CARLOS GRILLE AND
 TEQUILA LOUNGE**
 REYES ADORGE PLAZA
 3045 CAMWOOD ST
 AGOURA HILLS, CALIFORNIA

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PROPOSED FLOOR PLAN WITH NEW STAGE & DANCE FLOOR 1/4" = 1'-0"

EXHIBIT "A"

ALSTON & BIRD LLP

2801 Townsgate Road
Suite 215
Westlake Village, CA 91361-3020

805-497-9474
Fax: 805-497-8804
www.alston.com

Charles W. Cohen

Direct Dial: 805-230-2301

E-mail: chuck.cohen@alston.com

May 21, 2009

Ms. Renee Madrigal
City of Agoura Hills
30001 Ladyface Court
Agoura Hills, CA 91301

Re: **Senor Carlos Grill & Tequila Lounge
06-CUP-012**

Dear Renee:

I am writing to clarify the hours of the restaurant for the above referenced project. Carlos would propose the following schedule:

Sunday – Wednesday

- Serving a full dinner menu until 11:00 p.m.
- Serving a smaller, limited menu from 11:00 p.m. – midnight
- Provide entertainment until midnight

Thursday – Saturday

- Serving a full dinner menu until 11:00 p.m.
- Serving a smaller, limited menu from 11:00 p.m. – 1:30 a.m.
- Provide entertainment until 1:30 a.m.

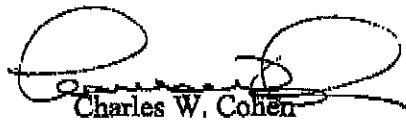
The stage for the band would be relocated away from the corner to the center portion of the restaurant. The stage will be increased from 77 s.f. to 112 s.f. as shown on the plan. Relocating the stage area away from the corner will create a safer exit passage at the existing exit doors.

The dance floor will be located in the center of the restaurant. This area will be 275 s.f. This new location will be out of the way from the exist passage way. Under the current conditions the dance area was in conflict with the exit passage way.

Ms. Renée Madrigal
May 21, 2009
Page 2

If you have any questions, please do not hesitate to call me.

Very truly yours,



Charles W. Cohen

CWC:tlc

cc: Carlos Orozco
Larry Graves

LEGAL02/31329081v1

Revisions	Date

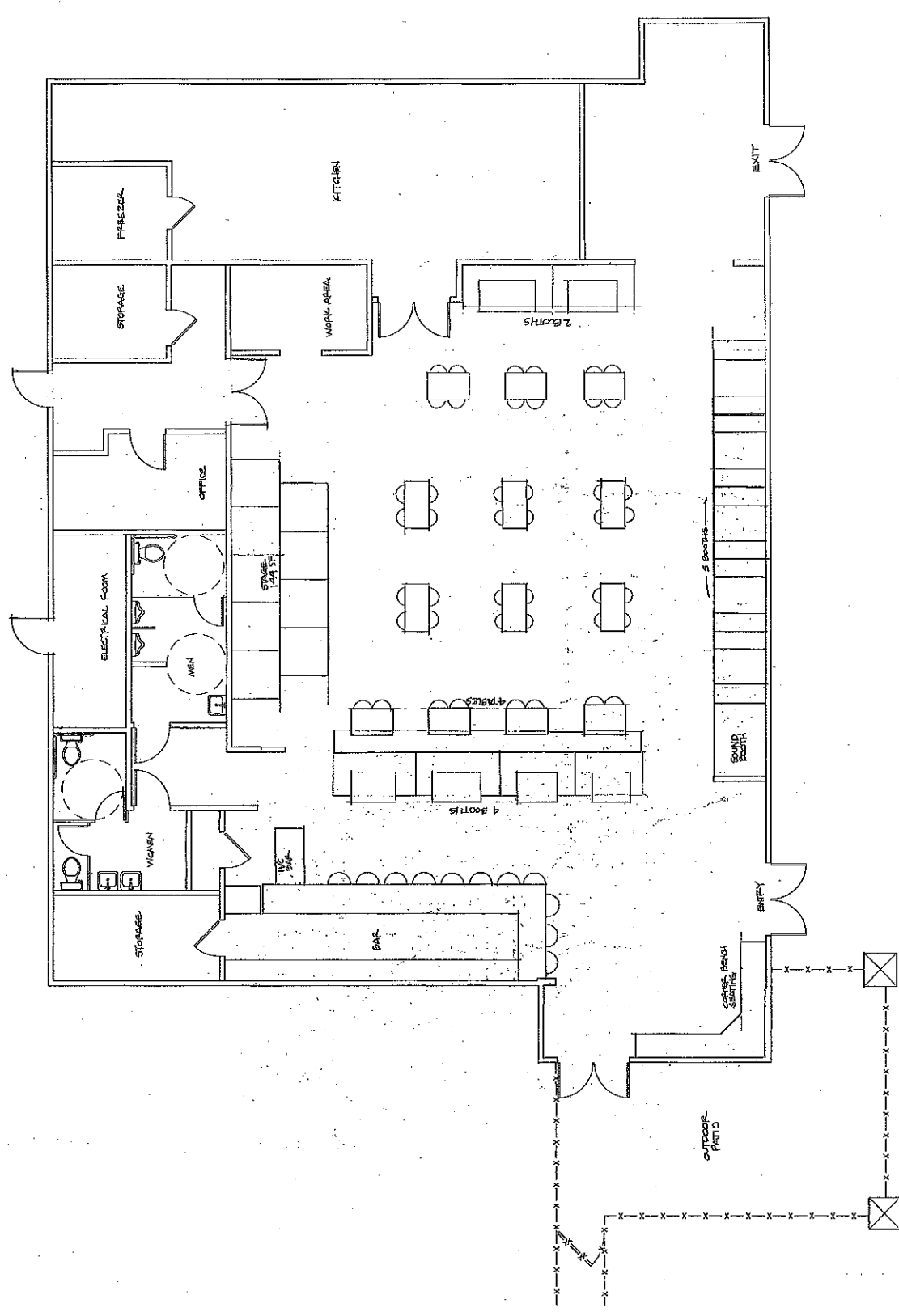
AD
 ARCHITECTURAL DESIGN
 811 South Ave.
 Suite 200
 Encinitas, CA 92024
 Tel: (619) 441-1519
 Fax: (619) 441-1517
 Email: info@ad.com

VERY GREAT, INCENT
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 31500 WASH. BLVD.
 VAN Nuys, CA 91411

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SENOR CARLOS GRILLE AND
 TEQUILA LOUNGE
 REYES ADOBE PLAZA
 30315 CAYWOOD ST
 Agoura Hills, California

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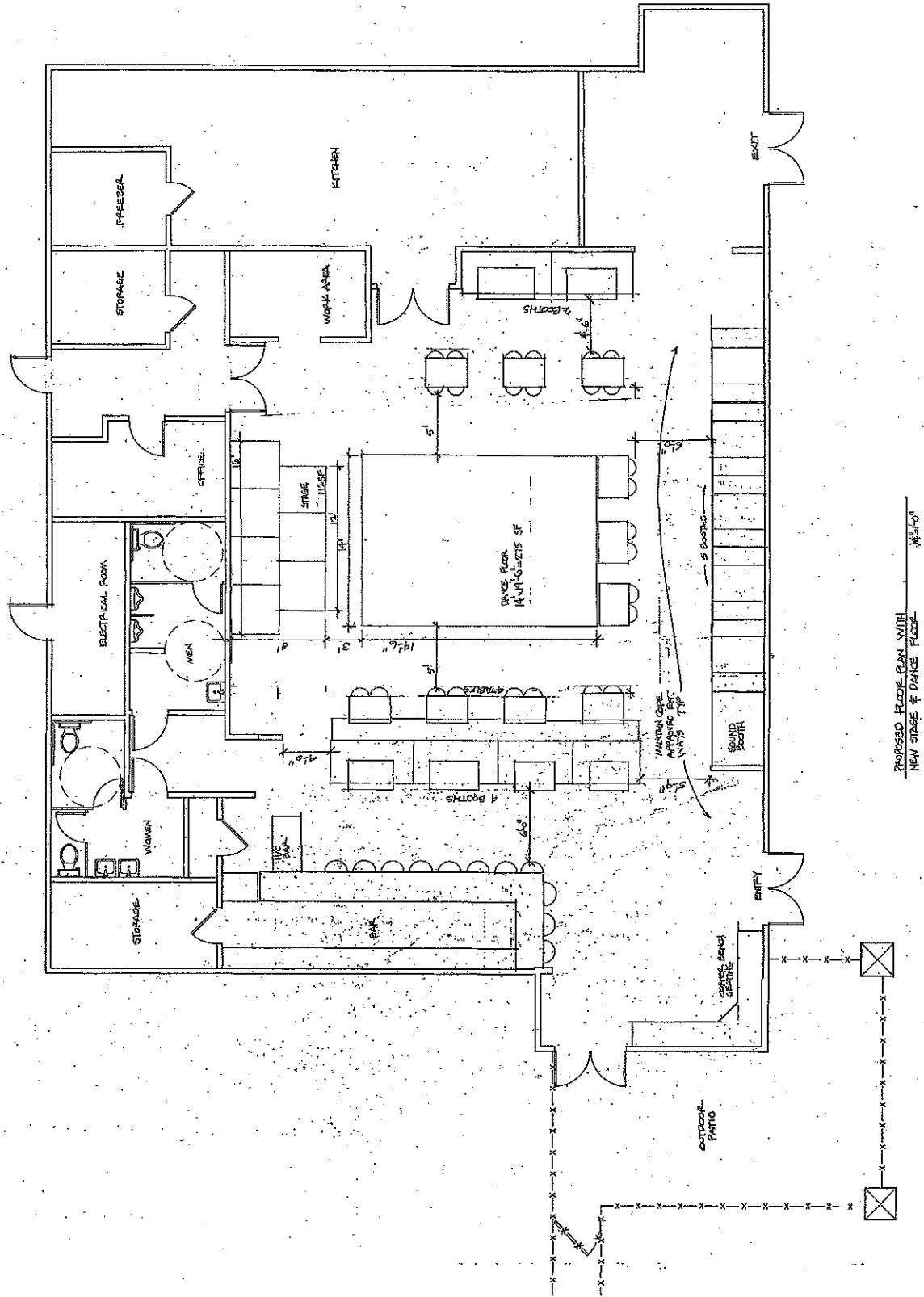
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AD
 ARCHITECTS
 LARRY OWEN, MANAGER
 10101 WILSON BLVD., SUITE 100
 SILVER SPRING, MARYLAND 20910
 (301) 991-1515
 (301) 991-1516
 FAX (301) 991-1517
 ARCHITECTS REGISTERED
 IN THE STATE OF MARYLAND
 AND THE STATE OF CALIFORNIA
 LICENSE NO. 10101
 LICENSE NO. 20910

SENOR CARLOS GRILLE AND
 TEQUILA LOUNGE
 REYES ADORGE PLAZA
 3015 CAYWOOD ST
 AGOURA HILLS, California


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PROPOSED FLOOR PLAN WITH
NEW STAGE & DANCE FLOOR

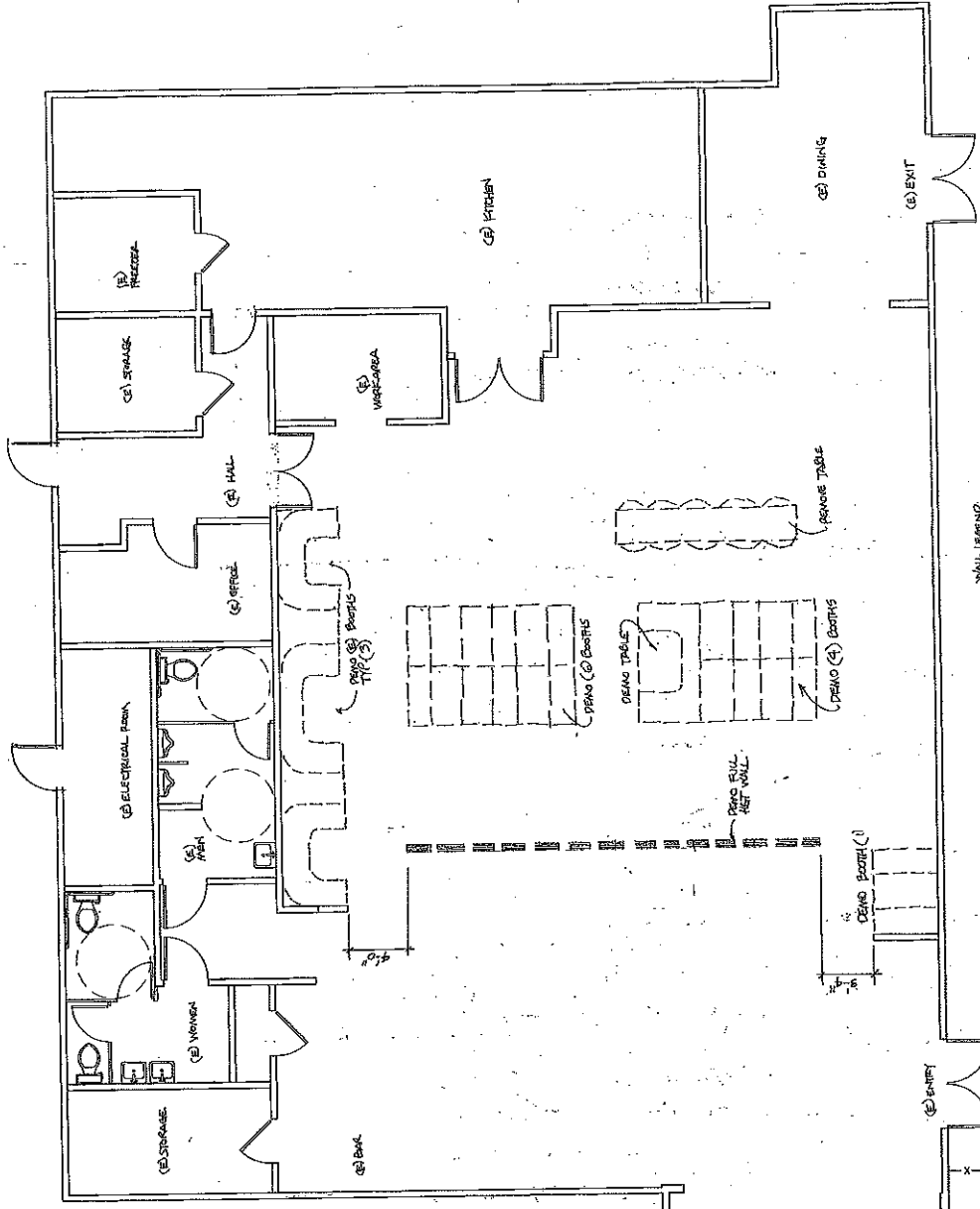
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LARRY OWENS, ARCHITECT
 1000 W. GARDEN ST.
 AGOURA HILLS, CALIF. 91223
 TEL: (909) 712-1118
 FAX: (909) 439-1017
 WWW.LOWARCHITECTS.COM
 THE ARCHITECT HAS REVIEWED AND APPROVED THESE PLANS AS SHOWN ON THESE SHEETS. THE ARCHITECT HAS NO LIABILITY FOR ANY ERRORS OR OMISSIONS OR FOR ANY DAMAGE TO PROPERTY OR PERSONS ARISING FROM THE USE OF THESE PLANS. THE ARCHITECT HAS NO LIABILITY FOR ANY DAMAGE TO PROPERTY OR PERSONS ARISING FROM THE USE OF THESE PLANS.



SENOR CARLOS GRILL #
 TROPICANA LOUNGE
 PETES ADOBE PLAZA
 30315 CANNWOOD ST
 AGOURA HILLS, California

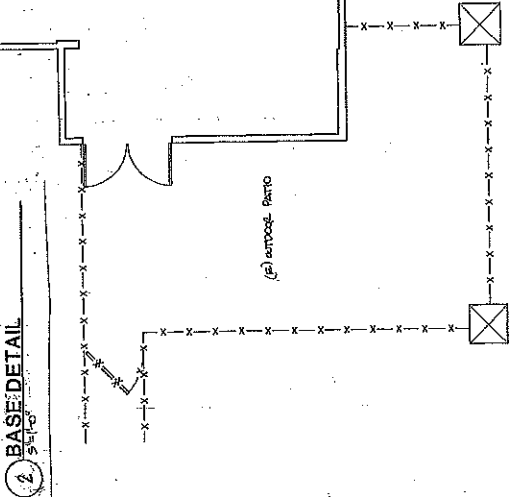
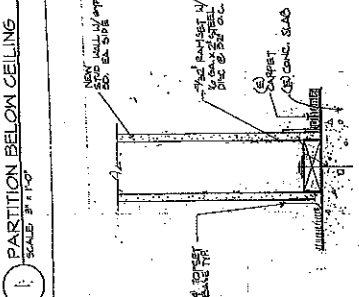
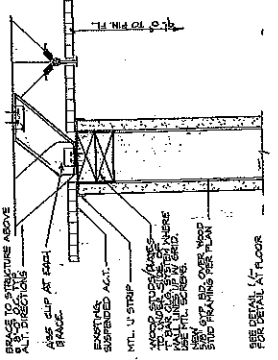
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 Agoura/Hillbill .dwg
 Scale: 1/4" = 1'-0"
 Sheet: **A-4**



OWNER:
 PETES ADOBE PLAZA
 30315 CANNWOOD STREET
 AGOURA HILLS, CA
 CARLOS GROZZO
 818-931-2170
 818-368-7585
ARCHITECT:
 ALLIANCE DESIGN GROUP
 1811 GARDNER AVE.
 VENTURA, CALIF. 93004
 LARRY OWENS ARCHITECT
 805-657-4017

WALL LEGEND:
 BASTARD WALLS
 DEMO FULL-HIGH WALL
 9'-0"

FLOOR PLAN - DEMO FROM APPROVED PERMITTED PLAN
 1/4" = 1'-0"





DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

ACTION DATE: May 7, 2009

APPLICANT: Carlos Orozco
19629 Victory Boulevard
Reseda, CA 91335

TO: Planning Commission

CASE NO.: 06-CUP-012, Amendment

LOCATION: 30315 Canwood Street
(A.P.N. 2054-020-040)

REQUEST: Request to amend an existing Conditional Use Permit to expand the live entertainment floor area in the Senor Carlos Grill and Tequila Lounge; to extend the live entertainment hours on Sunday to 4:00 p.m. through 1:30 a.m.; and to provide dance lessons from 9:00 p.m. to 11:00 p.m. on Thursdays through Sundays. The Planning Commission will also be reconsidering the existing Conditional Use Permit for live entertainment.

ENVIRONMENTAL DETERMINATION: Categorically Exempt from CEQA per Section 15301.

RECOMMENDATION: Staff has prepared the attached draft Resolution of denial of Conditional Use Permit Case No. 06-CUP-012 (Amendment).

ZONING DESIGNATION: CRS-FC (Commercial Retail Service – Freeway Corridor Overlay)

GENERAL PLAN DESIGNATION: CG (Commercial Retail/Service)

I. PROJECT BACKGROUND AND DESCRIPTION

The applicant, Carlos Orozco, owner of Senor Carlos Grill and Tequila Lounge, is requesting approval to amend the existing Conditional Use Permit to expand the live entertainment floor area in the restaurant; to extend the live entertainment hours on Sundays from 4:00 p.m. through 10:00 p.m., to 4:00 p.m. through 1:30 a.m.; and to provide dance lessons from 9:00 p.m. to 11:00 p.m. on Thursdays through Sundays. The Planning Commission will also be reconsidering the existing Conditional Use Permit for live entertainment. The restaurant is located at 30315 Canwood Street, Unit 1-5, in the Reyes Adobe Plaza.

The public hearing for the applicant's request was originally scheduled for the Planning Commission Meeting of April 2, 2009. The public hearing was continued to May 7, 2009, at the applicant's request, without the Planning Commission taking testimony or conducting any discussion.

On November 16, 2006, the Planning Commission approved Conditional Use Permit Case No. 06-CUP-012, allowing for live entertainment to be conducted in Agoura Bistro, which has since been renamed to Senor Carlos Grill and Tequila Lounge. The live entertainment was approved as an ancillary component of the restaurant and the Planning Commission required staff to return with a monitoring report on the applicant's compliance with the required conditions of approval for live entertainment.

The restaurant owner received his entertainment license from the County of Los Angeles in November of 2007. However, in the later half of 2008, staff received complaints regarding on-site loitering and noise impacts to neighboring residents associated with the live entertainment. Staff subsequently inspected the live entertainment on a Sunday night (November 16, 2008) and found the following violations of the Conditional Use Permit that included alterations to the approved floor plan; entertainment occurring beyond the approved hours; restaurant door kept open during the entertainment; blocking of paths of exit; and failing to provide the City with proof of a current entertainment permit required from the Los Angeles County Health Department.

Staff's findings were presented to the Planning Commission as a discussion item on December 18, 2008. Options that were provided by staff on how to proceed with the violations were to: 1) schedule a public hearing for reconsideration of the Conditional Use Permit; 2) request staff to continue monitoring the live entertainment and report the findings to the Planning Commission; or 3) take no action on the Conditional Use Permit. Based on testimony given by the applicant and the public, the consensus of the Planning Commission was to request staff to continue monitoring the restaurant's live entertainment and provide another monitoring report to the Planning Commission for discussion.

Staff re-inspected the restaurant on Friday, January 30, 2009. This inspection revealed several violations of the Conditional Use Permit. Food service stopped at 9:30 p.m. for customers and the restaurant then operated as a nightclub. An entrance cover charge of \$20.00 was required of customers. This was also required during staff's November, 2008 inspection. The approximate 1,100 square foot dining floor area located in the middle of

the restaurant was cleared for the entertainers and customer dancing. This area differs from the approved entertainment area approved by the Planning Commission, which was to be located in a 77 square-foot corner at the south end of the restaurant. Entertainment consisted of a disc-jockey and adult female "go-go" dancers who performed every hour. The entertainment occurred until 2:30 a.m., beyond the 1:30 a.m. limit imposed by the Planning Commission. Also, the same entertainment was advertised for the following Friday evening, on February 6, 2009.

At the December 18, 2008 Planning Commission meeting, the applicant provided staff with a copy of his current Entertainment Permit from the County of Los Angeles. After the Planning Commission meeting, staff spoke with the applicant to remind him of his conditions of approval. He attempted to file an application in January of 2009 to amend his Conditional Use Permit, but the application was incomplete and staff did not accept it.

Staff's observations of the restaurant revealed to us that entertainment is no longer ancillary to the restaurant use. Rather, the floor plan conversion, the non-permitted type entertainment being conducted, the hours of operation, the requirement of a cover charge, and entertainment occurring beyond the approved hours, revealed the restaurant was being used in the evenings for nightclub purposes, which is beyond the limits of the applicant's Conditional Use Permit. This had occurred after the Planning Commission informed the applicant of their concerns last December.

Staff's findings were presented to the Planning Commission as a discussion item on February 19, 2009. The Planning Commission directed staff to schedule a public hearing for reconsideration of the current live entertainment Conditional Use Permit for the restaurant, and consideration of the applicant's new Conditional Use Permit amendment application, which was submitted on February 18, 2009.

After the Planning Commission meeting, staff sent the applicant a letter to remind him of his required compliance with his conditions of approval. The applicant's subsequent advertisement for nightclub events for the evenings of Friday, March 6, 2009 and Friday, March 13, 2009, prompted the mailing of the City Prosecutor's attached March 5, 2009 letter to the applicant.

Staff re-inspected the restaurant during the evening of Saturday, April 25, 2009, and on the afternoon of Sunday April 26, 2009. On both occasions the restaurant was closed.

The applicant's existing Conditional Use Permit approved live entertainment as an ancillary use to the restaurant use, as presented by the applicant. Live entertainment is allowed to be conducted strictly within a 77 square foot area specified on the approved floor plan, at the southeast corner of the building. The type of entertainment is limited to guitar, drums, piano, and bass instruments, singers, a disc jockey, and karaoke. The approved hours of live entertainment are Monday through Thursday from 9:00 p.m. to 1:30 a.m.; Friday from 4:00 p.m. to 1:30 a.m.; Saturday from 9:00 p.m. to 1:30 a.m.; and Sunday from 4:00 p.m. to 10:00 p.m. The existing permit allows for dancing during the hours of live entertainment.

The applicant is now requesting to amend the existing approved Conditional Use Permit to expand the entertainment area to include a stage and dance area. The total size of the restaurant tenant space is 4,500 square feet, with an 890 square foot outdoor patio. According to the proposed floor plan, a stage area of 144 square feet and a dance area of 432 square feet (18'x24') are proposed to be built in the middle of the restaurant. The proposed dance area will be created by moving 4 dining room tables out of the area. The applicant is also proposing to extend the live entertainment by three hours on Sunday, to 4:00 p.m. through 1:30 a.m. The applicant's written description of the proposed uses is attached and is essentially the same as what has occurred since last year.

In addition, the applicant is requesting to provide dance lessons on Thursdays through Sundays, from 9:00 p.m. to 11:00 p.m. Professional entertainers would provide the music and instruction. The applicant is proposing to provide a separate sound booth to control the volume of the music generated by the band on stage. The equipment in the sound booth would be owned and operated by the applicant; therefore, the volume level would be controlled by the applicant and not the band performing. The applicant has stated that all doors would remain closed during the live music entertainment and would be monitored by 5 security guards employed by the applicant.

II. STAFF ANALYSIS

Conditional uses require special consideration due to their unusual or special characteristics so that they may be located and operated properly with respect to the objectives of the Zoning Ordinance and their effects on surrounding properties. The Planning Commission has discretionary authority to grant or deny Conditional Use Permit applications and impose reasonable conditions. For this particular request, the Planning Commission has the authority to establish limitations on the type of live entertainment proposed, as well as the hours of operation, if deemed necessary to achieve compatibility with the surrounding land uses.

Past live entertainment permits have been approved in several locations in the city, including The Canyon Club in the Whizin Shopping Center, Coffee Island in the Mann Theater Center, Corfu Island in the Towncenter, Chapter 8 in the Agoura Village Shopping Center, Padri Restaurant, and at the Renaissance Hotel. Most of the live entertainment permits have been issued to businesses located on the south side of the freeway; this request would be the third one north of the freeway.

A nightclub use is a permitted use in the CRS-FC zone with the approval of a Conditional Use Permit for the live entertainment component. During the daytime, the use would share the same operating hours as most retail businesses in the center. The proposed evening hours for dining would be similar to the restaurants and liquor store in the center, which close between 8:00 p.m. and 9:00 p.m. Staff believes that the uses proposed by the applicant, would not be complementary of each other without impacting residential neighborhood. The restaurant is located near the southwest corner of the property. Its main entrance is located approximately 335 feet from the nearest residential zoned area (Stone Crest Homes tract) to the north, 97 feet away from the nearest business within the center, and 140 feet from Canwood Street. An office building is located to the west of

the shopping center. The applicant is agreeable to keeping doors closed and providing security during the entertainment performances.

Staff has received the attached complaints from neighbors regarding noise, on-site loitering and traffic/safety issues from neighboring residents. The issue of land use compatibility is at the discretion of the Planning Commission. However, the evidence staff has obtained clearly indicates that the applicant ignored requests for compliance from the City and continued to violate the current Conditional Use Permit.

There are a number of options the Planning Commission can take regarding the applicant's Conditional Use Permit amendment request, including: 1) a denial of the Conditional Use Permit amendment would keep the current Conditional Use Permit in effect, along with the conditions of approval, which includes an existing 77 square-foot live entertainment area; 2) should the Planning Commission revoke the current Conditional Use Permit and deny the Conditional Use Amendment, live entertainment would no longer be an allowed use in the restaurant; and 3) the Planning Commission's approval of the requested Conditional Use Permit amendment would supersede the current Conditional Permit. With the approval of the amended permit, a new 432 square foot dance floor with a 144 square foot stage area (total 576 square feet) would be allowed.

If the Conditional Use Permit amendment is approved or the current Conditional Use Permit stays in effect, and if complaints are subsequently received regarding excessive noise, loitering and parking/traffic issues and the like associated with the live entertainment use, the Planning Commission may initiate a public hearing to reconsider the Conditional Use Permit. Also, if the Conditional Use Permit amendment is approved, staff recommends the Planning Commission review a compliance monitoring report in six (6) months regarding the applicant's compliance with the conditions of approval. Upon review of such a report, the Planning Commission may require a public hearing to be held to reconsider the entitlement. Based on the criteria established by the Agoura Hills Municipal Code, the Planning Commission may also consider revocation, or the placement of new or revised conditions of approval to the current permit, if deemed necessary by the Commission.

III. RECOMMENDATION

Staff recommends that the Planning Commission conduct the public hearing, accept testimony, deliberate, and provide direction to staff. If the Commission's decision is to deny the requested Conditional Use Permit Amendment, staff has prepared the attached draft resolution for adoption. If the Commission's direction is to also revoke the existing Conditional Use Permit, staff will return with a separate resolution. If the Planning Commission's decision is to approve the requested Conditional Use Permit Amendment, staff will return with a resolution for approval with conditions.

IV. ATTACHMENTS

- Draft Resolution
- Applicant's Project Description
- Architectural Plans
- Approved Resolution No. 894 and Conditions of Approval
- Letter from City Prosecutor (Dapeer, Rosenblit & Litvak, LLP)
- Letters to the Planning Commission
- Planning Commission Meeting Minutes (November 16, 2006)
- Planning Commission Staff Report (November 16, 2009)
- Vicinity Map

Case Planner: David Tabor, Planning Consultant



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

**MINUTES OF THE REGULAR SCHEDULED MEETING OF
THE PLANNING COMMISSION
May 7, 2009**

CALL TO ORDER:

Chair O'Meara called the meeting to order at 6:34 p.m.

FLAG SALUTE:

Commissioner Buckley Weber

ROLL CALL:

Chair John O'Meara, Vice Chair Curtis Zacuto, Commissioners Illece Buckley Weber and Cyrena Nouzille.

Also, present were Assistant Community Development Director Doug Hooper, Assistant City Attorney Candice Lee, Planning Consultant Dave Tabor, Lt. Steve Smith of the Lost Hills Sherriff's Department, and Recording Secretary Sheila Keckhut.

Chair O'Meara stated that the Commissioners had received notification of Commissioner Rishoff's request for an excused absence from the meeting due to scheduling conflicts. There were no objections to excusing the absence.

APPROVAL OF MINUTES

1. Minutes – April 16, 2009 Planning Commission Meeting

Approval of the Minutes of the April 16, 2009 Planning Commission Meeting was continued to the May 21, 2009 Planning Commission meeting due to a lack of quorum for this agenda item..

PUBLIC COMMENTS:

None

CONTINUED PUBLIC HEARING:

2. REQUEST: Request to amend an existing Conditional Use Permit to expand the live entertainment floor area in the Senor Carlos Grill and Tequila Lounge; to extend the live entertainment hours on Sunday to 4:00 p.m. through 1:30 a.m.; and to provide dance lessons from 9:00 p.m. to 11:00 p.m. on Thursdays through Sundays. The Planning Commission also considered the existing Conditional Use Permit for live entertainment.

APPLICANT: Carlos Orozco
19629 Victory Boulevard
Reseda, CA 91335

CASE NO.: 06-CUP-012 (Amendment)

LOCATION: 30315 Canwood Street
(A.P.N. 2054-020-040)

ENVIRONMENTAL
DETERMINATION: Categorically Exempt from CEQA per Section 15301.

RECOMMENDATION: Staff recommended the Planning Commission conduct the public hearing, accept testimony, deliberate, and provide direction to staff for Conditional Use Permit Case No. 06-CUP-012 (Amendment).

PUBLIC COMMENTS: Chair O'Meara opened the Public Hearing.

The following persons spoke on this agenda item:

Chuck Cohen, Attorney representing the applicant.

Barry Batholomay, Resident

Cynthia Bartholomay, Resident

Lygia Lonntiu, Resident

Ria Slagter, Resident

Coreen Costello, Resident

Dr. Jim Costello, Resident

The following persons turned in speaker cards but did not speak

Steve Price, Representing Applicant

REBUTTAL: Carlos Orozco, Applicant, gave rebuttal regarding the project and answered additional questions of the Planning Commission. Chuck Cohen answered questions of the Planning Commission.

Chair O'Meara closed the public hearing.

RECESS: Chair O'Meara called for a recess at 8:30 p.m.

RECONVENE: Chair O'Meara reconvened the meeting at 8:45 p.m.

Chair O'Meara reopened the Public Hearing for the purpose of a continuance.

ACTION: On a motion by Vice Chair Zacuto, seconded by Commissioner Nouzille, the Planning Commission moved to continue Conditional Use Permit Case No. 06-CUP-012 (Amendment) to the June 4, 2009 Planning Commission meeting. Motion carried 4-0. Commissioner Rishoff was absent.

ANNOUNCEMENTS ON ITEMS NOT LISTED ON THE AGENDA
(Planning Commission and Staff)

None

ADJOURNMENT

At 9:20 p.m., on a motion by Vice Chair Zacuto, seconded by Commissioner Buckley Weber, the Planning Commission adjourned the meeting to the next scheduled Planning Commission meeting on Thursday, May 21, 2009, at 6:30 p.m. Motion carried 4-0. Commission Rishoff was absent.