



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

May 15, 2012

Sunny Hsu
221 E. Valley Blvd.
San Gabriel, CA 91776

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**REGARDING: PROJECT NO. R2012-00058
CONDITIONAL USE PERMIT NO. 201200009
1569 S. Fairway Drive, Suite 126B, Rowland Heights, CA 91789**

Dear Applicant:

Hearing Officer Pat Hachiya, by her action of May 15, 2012, **APPROVED** the above described project and entitlements. The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 2 requires that the permittee file an affidavit accepting the conditions before the grants becomes effective.

The applicant or and other interested person may appeal the Hearing Officer's decision to the Regional Planning Commission at the office of the Commission secretary, Room 1350, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Please contact the Commission secretary for the appeal procedures and fee at (213) 974-6409. **The appeal period for this project will end at 5:00 p.m. on May 29, 2012.** Any appeal must be delivered in person to the commission secretary by this time. If no appeal is filed during the specified period, the Hearing Officer's action is final.

Upon completion of the appeal period, **hand deliver** a notarized affidavit of acceptance form, a certified copy of the recorded findings and conditions of approval, and any other required fees or materials to the planner assigned to your case (see attached instructions for more information). Please **make an appointment** with the case planner to ensure that processing will be completed expeditiously. If the required documents and fees are not received within 60 days of this final letter's date, this permit will be transferred to Zoning Enforcement for further action.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Steve Mar of the Zoning Permits East Section at (213) 974-6435 or e-mail at smar@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

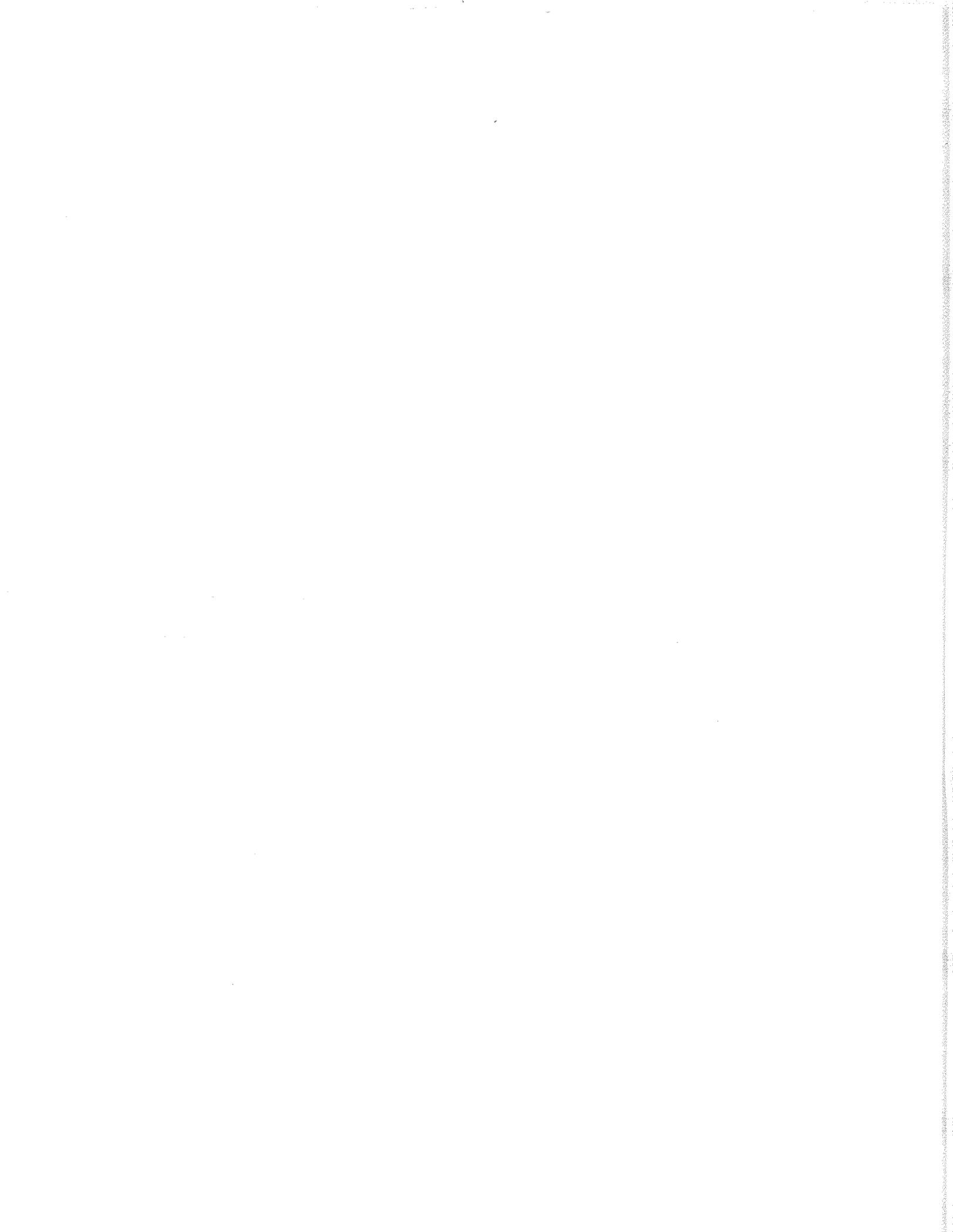
Sincerely,
DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner
Director


Maria Masis, Supervising Regional Planner
Zoning Permits East Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)

c: Zoning Enforcement, California Department of Alcoholic Beverage Control, Applicant.

MM:SM



HEARING OFFICER'S FINDINGS AND ORDER:

PROJECT NO. R2012-00058-(4)

CONDITIONAL USE PERMIT NO. 201200009

HEARING DATE: May 15, 2012

SYNOPSIS:

The applicant, Kurt Chihwei Chen, is requesting a conditional use permit for the sale and dispensing of beer and wine for on-site consumption for an existing 2,465 sq. ft restaurant (OO Toros Restaurant) within an existing shopping center (Hing Wa Lee Plaza) in the C-2-DP-BE (Neighborhood Business – Development Program - Billboard Exclusion) and P-R (Parking - Restricted) zones in the San Jose Zoned District.

PROCEEDINGS BEFORE THE HEARING OFFICER:

A duly noticed public hearing was held on May 15, 2012 before the Hearing Officer. Hearing Officer Pat Hachiya was in attendance for the Public Hearing. The applicant's representative, Sunny Hsu, testified in favor of the proposed project. There being no further testimony, Ms. Hachiya closed the public hearing and approved the applicants requires with findings and conditions for approval.

Findings

1. The applicant is requesting a conditional use permit ("CUP") for the sale of beer and wine for on-site consumption at an existing restaurant in the C-2 zone.
2. The location of the subject parcel is 1569 S. Fairway Dr., in the unincorporated community of Rowland Heights within the San Jose Zoned District.
3. The restaurant occupies 2,465 sq. ft. of total floor area in an existing 18,500 sq. ft. shopping center situated on a 1.44 acre lot. The subject property is developed with a multi-tenant shopping center comprised of various retail businesses and restaurants.
4. The subject property is zoned C-2-DP-BE (Neighborhood Business – Development Program – Billboard Exclusion) and P-R (Parking – Restricted).
5. Surrounding properties are zoned as follows:
 - North: A-1-15000 (Light Agricultural – 15,000 sq. ft. Minimum Required Area) zone.
 - East: R-1-8500 (Single-family Residence – 8,500 sq. ft. Minimum Required Area) and C-2-BE (Neighborhood Business – Billboard Exclusion) zones.
 - South: C-2-BE (Neighborhood Commercial – Billboard Exclusion) zone.
 - West: C-2-BE (Neighborhood Commercial – Billboard Exclusion) zone.
6. Land uses surrounding the property include:
 - North: Church
 - East: Single-family Residences, Shopping Center
 - South: Shopping Center
 - West: Shopping Center

7. Previous cases on the property include the following:

The Zoning History of this parcel is as follows: R3 (March 24, 1934), A-1-15,000 (May 27, 1958), C-2-DP-BE (August 29, 1991) on 0.705 acres.

Conditional Use Permit / Zone Change No. 89473 – Approved May 29, 1991 for a development program and zone change.

Plot Plan No. 49899 – Approved June 15, 2004 for the construction of two LED letter signs.

Business License No. 200600574 – Approved November 9, 2006 for a public eating establishment.

No other previous case history was found for the parcel.

8. The Rowland Heights Community Plan land use designation of the subject property is C-Commercial. Areas within this designation are suited for retail, commercial, service and office uses. While there are no specific policies concerning commercial uses in the Rowland Heights Community Plan, the Countywide General Plan defines local commercial uses as individual enterprises, or small scale multi-use centers, serving the needs of the local community. Examples of such uses include facilities providing neighborhood or community convenience goods and services and local community/neighborhood-serving office and professional services. The proposed sales of beer and wine within a restaurant that serves the surrounding community is compatible with the commercial designation of the General Plan.
9. The project on the subject property will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety or general welfare. The project is located in an existing restaurant in an existing shopping center and is consistent with the surrounding area. The sale of alcoholic beverages is consistent with other restaurants in the area.
10. The site plan depicts the existing 2,465 sq. ft. restaurant (OO Toros) in a multi-tenant shopping center on the 1.44 acre subject property. The applicant is requesting a Conditional Use Permit to allow the sale of beer and wine for on-site consumption.
11. There are 106 parking spaces shown on the site plan for the subject property. The existing supermarket use requires 29 spaces. The shopping center was permitted with a restaurant use in this location, as such the 106 parking spaces currently provided for the shopping center includes the required parking for the supermarket.
12. The subject property is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required. Access to the shopping center is via Fairway Drive and Brea Canyon Cut Off. The site is served by all necessary public and private facilities, including water, sewer, electricity, and trash collection.

13. The site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area.
14. The project on the subject property will not adversely affect the use of a place used exclusively for religious worship, school, park, playground or any similar use within a 600-foot radius because no such uses are found within a 600-foot radius of the project.
15. The project is sufficiently buffered in relation to any residential area or sensitive use within the immediate vicinity so as not to adversely affect said area. The church to the project's north is buffered by fences and lack of access from the subject property to the church. The residential area to the project's east is buffered by Fairway Drive and a wall immediately adjacent to the residential area.
16. The project will not adversely affect the economic welfare of the nearby community because it is located in a space approved for a restaurant and will serve as a public convenience and necessity for the community.
17. The exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within the neighborhood because no exterior alterations are being proposed.
18. The Hearing Officer determined that the project qualifies for a Categorical Exemption under Class 1, Existing Facilities, of the CEQA reporting requirements and the Los Angeles County Environmental Document Reporting Guidelines, since the project will not require any addition or significant alteration to the existing facility beyond that which existed at the time of the environmental determination.
19. The public was properly noticed of the public hearing for the project. A total of 62 public hearing notices were mailed to property owners within a 500-foot radius of the subject property on April 10, 2012 to notify the surrounding residents regarding the proposal. The hearing notice was also published in the San Gabriel Valley Tribune Newspaper on April 12, 2012, as well as in La Opinion on April 11, 2012. Case-related material, including the hearing notice, factual and burden of proof were sent on April 6, 2012 to the Hacienda Heights County Library located at 16010 La Monde St., Hacienda Heights. The hearing notice has been posted on the property for a minimum of 30 days prior to the public hearing date.
20. No comments were received from the public opposing this proposal.
21. The Rowland Heights Community Coordinating Council reviewed the application and has no objections to the granting of the Conditional Use Permit regarding the sale of beer and wine for on-site consumption with the exception of restricting the hours when alcoholic beverages are served to when there are no elementary school students in the vicinity.
22. According to the California Department of Alcoholic Beverage Control, the requested use at the proposed location will result in an undue concentration of similar premises within Reporting District 2938 and Census Tract 4082.12. There are currently 10 existing alcohol licenses in this census tract and 3 licenses are allowed. The average number of offenses

reported in Reporting District 2938 is 151.74 and the actual number of crimes reported for the District is 118.

23. The granting of this conditional use permit to sell beer and wine for on-site consumption at an existing restaurant would serve as a public convenience and necessity to the surrounding community.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

- A. That the proposed use is consistent with the adopted general plan for the area; and
- B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, and will not jeopardize, endanger, or otherwise constitute a menace to the public health, safety or general welfare; and
- C. That the proposed site is adequate in size and shape to accommodate the development features prescribed in Title 22 of the County Code, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and by other public or private service facilities as are required; and
- E. The requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground or any similar use within a 600-foot radius; and
- F. The requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area; and
- G. The requested use at the proposed location will result in an undue concentration of similar premises under ABC regulations as currently there are 10 existing licenses in this census tract and 3 are allowed. Therefore the applicant would require a finding of public convenience and necessity in order to obtain authorization from ABC to allow for alcohol sales. The granting of this CUP to sell beer and wine for on-site consumption at an existing restaurant would serve as a public convenience to the surrounding neighborhood and would be a complementary use for the restaurant. Neighboring restaurants in the vicinity already serve alcohol as part of their food service. Therefore the sale of alcohol by the applicant would provide a customary accompaniment to full service dining that is available at similar restaurants in the neighborhood; and
- H. The requested use at the proposed location will not adversely affect the economic welfare of the nearby community; and
- I. The exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within the neighborhood.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a Conditional Use Permit for alcohol sales as set forth in Sections 22.56.040 and 22.56.195, Title 22, of the Los Angeles County Code.

HEARING OFFICER ACTION:

1. The Hearing Officer finds that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA). The project is within a class of projects, which have been determined not to have a significant effect on the environment in that it meets the criteria set forth in Section 15303 of the State CEQA Guidelines and Class 1 – Existing Facilities, Categorical Exemption of the County Environmental Document Reporting Procedures and Guidelines, Appendix G.
2. In view of the findings of facts and conclusions presented above, Project No. 2011-01307-(4) / Conditional Use Permit 201100123 is **APPROVED**, subject to the attached conditions.

Action Date: May 15, 2012

MM:SM

**CONDITIONS OF APPROVAL
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. R2012-00058-(4)
CONDITIONAL USE PERMIT NO. 201200009**

PROJECT DESCRIPTION

The project is a conditional use permit to authorize the sale of beer and wine for on-site consumption at an existing restaurant located within an existing shopping center subject to the following conditions of approval:

GENERAL CONDITIONS

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 7, and until all required monies have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4, 5, and 9, shall be effective immediately upon the date of final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and

duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

6. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
7. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall **record the terms and conditions** of the grant in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
8. **This grant shall terminate on May 15, 2027.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new Conditional Use Permit, application with Regional Planning, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six (6) months prior to the expiration date of this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
9. This grant shall expire unless used within two (2) years from the date of final approval of the grant. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$1,600.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **eight (8) biennial (one every other year)** inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission

("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.

12. All development pursuant to this grant must be kept in full compliance with the County Fire Code.
13. All development shall comply with the requirements of Title 22 of the County Code ("Zoning Ordinance") and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director.
14. All development pursuant to this grant shall conform with the requirements of County Department of Public Works.
15. All structures, walls and fences open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of notification of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

16. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, **three (3) copies** of a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval.
17. In the event that subsequent revisions to the approved Exhibit "A" are submitted, the permittee shall submit **three (3) copies** of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.
18. This permit authorizes the sale of beer and wine for on-site consumption at a restaurant.

PROJECT SPECIFIC CONDITIONS

19. This grant authorizes the sale of alcoholic beverages from 11:30 a.m. to 3:00p.m. and from 5:30 p.m. to 10:00 p.m. on Mondays to Saturdays and from 5:30 p.m. to 10:00 p.m. on Sundays;
20. The conditions of this grant shall be retained on the premises at all times and shall be immediately produced upon request of any County Sheriff, Zoning Inspector or Department of Alcoholic Beverage Control agent. The manager and all employees of the facility shall be knowledgeable of the conditions herein;

21. Loitering shall be prohibited on the subject property, including loitering by employees of the subject property. Signage in compliance with Section 22.52 Part 10 of the County Code shall be placed on the premises indicating said prohibition. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary;
22. The permittee, and all managers and designated employees of the establishment, who directly serve or are in the practice of selling alcoholic beverages, shall participate in the LEAD (Licensee Education on Alcohol and Drugs) Program provided by the State of California Department of Alcoholic Beverage Control. All new designated employees shall be required to attend. The licensee shall display a certificate or plaque in a publicly accessible area of the establishment such as the lobby, indicating they have participated in this program. Proof of completion of the facilities' training program by employees, the licensee and all managers shall be available upon request;
23. The permittee shall not advertise the sale of alcoholic beverages on the exterior of any structure on the subject property including windows, walls, fences or similar structures;
24. All regulations of the State of California prohibiting the sale of alcoholic beverages to minors shall be strictly enforced;
25. The permittee shall post or otherwise provide telephone numbers of local law enforcement agencies and taxicab companies at or near the cashier, or similar public service area. Such telephone numbers shall be visible by and available to the general public;
26. There shall be no consumption of alcoholic beverages outside the designated areas of the subject facility. The permittee shall instruct all designated employees, who directly serve or are in the practice of selling alcoholic beverages, regarding this restriction. Employees shall be instructed to enforce such restrictions and to call local law enforcement as necessary;
27. The permittee shall develop and implement a Designated Driver program (i.e. free soft drinks or coffee to a designated driver of a group). The permittee shall submit the program to the Director of Planning for approval prior to the approval of the Exhibit "A". A printed two-sided card explaining this program shall be placed on all tables in the restaurant or an explanation regarding the program shall be printed on the menu;
28. All servers of alcoholic beverages must be at least 18 years of age;
29. There shall be no music or other noise audible beyond the restaurant premises;
30. No live entertainment, dancing, or dance floor is authorized in or outside the premises;
31. Alcoholic beverages shall be sold to customers only when food is ordered and consumed within the subject restaurant only;
32. The sale and serving of alcoholic beverages for consumption outside the restaurant is prohibited;
33. The business shall employ not less than one full-time cook that is engaged in the preparation of meals for patrons during the permissible hours of operation and;
34. Food service shall be continuously provided during operating hours.