



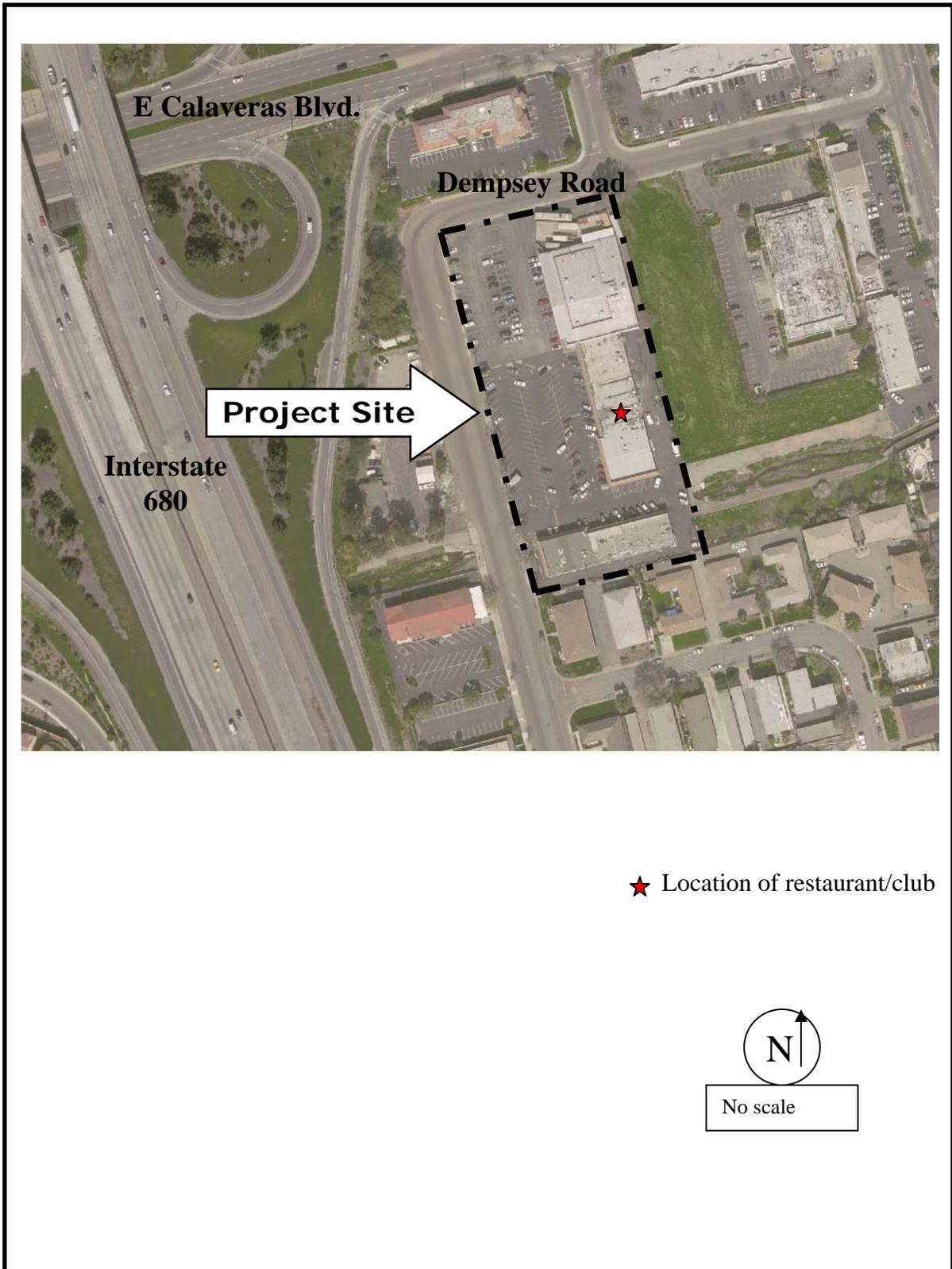
MILPITAS PLANNING COMMISSION AGENDA REPORT

PUBLIC HEARING

Meeting Date: July 9, 2008

- APPLICATION:** **Conditional Use Permit Amendment No. UA08-0010: Club Bahia**
- APPLICATION SUMMARY:** A request to amend a condition of approval to allow seating on the dance floor during restaurant/dining hours and allow the service of a full range of alcoholic beverages for the restaurant that currently serves beer and wine. No additional changes to the operation or restaurant are requested.
- LOCATION:** 78 Dempsey Road (APN: 088-04-001)
- APPLICANT:** Maria De Jesus Zauala, 78 Dempsey Road, Milpitas CA 95035
- OWNER:** Joseph Levng, P.O. Box 36033, Milpitas, CA 95035
- RECOMMENDATION:** **Staff recommends that the Planning Commission:**
- 1. Close the public hearing; and**
 - 2. Adopt Resolution No. 08-032 approving the project and conditions of approval.**
- PROJECT DATA:**
- General Plan/ Zoning Designation: Retail Sub-Center / Neighborhood Commercial (C1)
- Overlay District: "S" Zone District, for Architectural Review
- Related Permits: Use Permit No. 1132
- CEQA Determination:** Categorically exempt from further environmental review pursuant to Section 15301, "Existing Facilities" of the California Environmental Quality Act (CEQA) guidelines.
- PLANNER:** Tiffany Kunsman
- PJ: 2534
- ATTACHMENTS:**
- A. Resolution No. 08-032/Findings/Conditions of Approval
 - B. Site Plans
 - C. Comments from Milpitas Police Department
 - D. Restaurant Menu
 - E. Conditional Use Permit No. 1132

LOCATION MAP



BACKGROUND

On April 22, 1992 the Planning Commission approved a Use Permit for a restaurant with live entertainment, dancing , and the service of beer and wine within the Fiesta Plaza Shopping Center. On May 5, 2008, Maria De Jesus Zauala submitted an application to amend a previous condition of approval and allow the service of a full range of alcoholic beverages. According to the Milpitas Zoning Ordinance Section 57, Conditional Uses Permitted, the proposal requires a Conditional Use Permit Amendment with the approval of Planning Commission.

PROJECT DESCRIPTION

The restaurant is located within a 2,400 square foot tenant space located next to Savors, Halal Market and Gomez Market. The existing layout includes a kitchen with work area, a storeroom, two restrooms, a dining room, a dance floor, and a bar with counter area. The office hours include Sunday through Thursday 10:00 A.M. – 10:00 P.M. and on Friday and Saturday 10:00 A.M. – 2:00A.M. The restaurant menu consisting of gorditas, quesadillas, tacos, seafood, etc and the service of beer and wine. The restaurant is in compliance with the existing Conditional Use Permit approved in 1992.

The applicant would like to amend previously approved condition of approval number three to allow dining seats on the dance floor area during the day and transition the tables off the dance floor during live entertainment hours. Live entertainment and music for dancing will start at 9:00P.M. The proposal does not include the request to allow for more dinning seats.

Condition of Approval #3

The applicant shall not expand the dining room area into the approved dance floor area. Therefore, no seating shall be allocated within the designated dance floor area.

The zoning for this site is Neighborhood Commercial (C1) and the surrounding zones are also Neighborhood Commercial. A vicinity map of the subject site location is included on the previous page.

Issues

Since 2001, several officer-initiated incidents at the 78 Dempsey Road address and parking lot have been noted and include general patrol checks and pedestrian / vehicle stops. Before 2003, police had three significant calls for service which included a vice activity, two for public disturbances, and one narcotic's violation. These activities occurred under different owners and while the restaurant was named LyLy Café.

The current owner has occupied the space since January of 2007. The only calls of service to the police department since then include five alarm calls and two disturbances where the owner reported juveniles hanging out in the parking lot. The restaurant has also been a victim of an attempted burglary.

The police department concludes given that there has only been a slight volume of calls for service for this establishment under it's current ownership, they anticipate the addition of hard liquor sales in conjunction with the restaurant not to be a problem. (*See attachment B*)

The police also recommended that the applicant install video/security cameras at the entrance, cash register, and the safe area. And suggested that the business should be equipped with a monitored burglar, robbery, and panic alarm. The applicant turned in a certificate providing proof of installation for the alarm system and video surveillance installation.

The California Department of Alcoholic Beverages Control (ABC) was contacted to confirm that the project site will not add to or create an over-concentrated area utilizing liquor licenses for the sale/consumption of alcoholic beverages. ABC confirmed that this project site is not located within an over-concentrated area and included that the Census tract (tract#5044.18) containing the project site is allowed up to seven full range of alcoholic beverage licenses and currently has a total of five alcohol licenses. The draft conditions of approval contained in the resolution include the relevant conditions from the original conditional use permit.

Since the restaurant plays amplified sound after 9:00P.M., Staff proposes a condition of approval to limit hours of amplified sound and require that doors and windows are closed during periods when amplified sounds is used.

ADOPTED PLANS AND ORDINANCES CONSISTENCY

General Plan

The table below outlines the project’s consistency with applicable General Plan Guiding Principles and Implementing Policies:

Table 2
General Plan Consistency

Policy	Consistency Finding
<i>2.a-I-3: Encourage economic pursuits which will strengthen and promote development through stability and balance.</i>	Consistent.
<i>2.a-I-5: Maintain policies that promote a strong economy which provides economic opportunities for all Milpitas residents within existing environmental , social fiscal and land use constraints.</i>	Consistent.

Zoning Ordinance

The proposal is consistent pursuant to Section 18.03-17: *Restraints which include the on-premise consumption of alcoholic beverages when found clearly incidental to the primary food service.* The sale of alcohol is in conjunction with the restaurant and no bar is considered with this application.

ENVIRONMENTAL REVIEW

The Planning Division conducted an initial environmental assessment of the project in accordance with the California Environmental Quality Act (CEQA). Staff determined that the project is categorically exempt from further environmental review pursuant to Section 15301, “Existing Facilities” of the California Environmental Quality Act (CEQA) guidelines.

PUBLIC COMMENT/OUTREACH

Staff publicly noticed the application in accordance with City and State law. As of the time of writing this report, there have been two inquiries from the public. The first inquiry is from a tenant within the center in regards to loud music playing throughout the day and not just during entertainment hours. The second was a message from a nearby residence and is opposed to the existing restaurant with entertainment.

CONCLUSION

The restaurant with live entertainment as is, is consistent with the previously approved Conditional Use Permit. The proposal as conditioned would operate as a restaurant and entertainment service. Since the application does not include the addition of a bar or adding more seats than what was previously approved, placing seats on the dance floor and the addition of a full range of alcoholic beverages is incidental to the primary restaurant use. Allowing Club Bahia to serve a full range of alcoholic beverages will not present a significant impact in public health or safety because the restaurant already serves beer and wine; the restaurant will not play live entertainment/amplified music for the purpose of dancing until 9:00P.M. to be courteous to the neighboring tenants, and because the close proximity to residence, Club Bahia will keep their doors closed during entertainment hours to help keep the noise level down to a non offensive level.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve **CONDITIONAL USE PERMIT AMENDMENT NO. UA08-0010, Club Bahia**, subject to the attached Resolution and Conditions of Approval.

Attachments:

- A. Resolution No. 08-032/Findings/Conditions of Approval
- B. Site Plans
- C. Comments from Police Department
- D. Restaurant Menu
- E. Conditional Use Permit No. 1132

RESOLUTION NO. 08-032

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT AMENDMENT NO. UA08-0010, BLUB BAHIA, TO AMEND A CONDITION OF APPROVAL, MINOR TENANT IMPROVEMENTS, AND ALLOW THE SERVICE OF A FULL RANGE OF ALCOHOLIC BEVERAGES FOR THE RESTURANT THAT CURRENTLY SERVES BEER AND WINE LOCATED AT 78 DEMPSEY ROAD.

WHEREAS, on May 5, 2008, an application was submitted by Maria De Jesus Zauala, 78 Dempsey Road, Milpitas, CA 95035, to amend a condition of approval to allow seating on the dance floor during restaurant/dinning hours, minor tenant improvements for an interior patio area, and allow the service of a full range of alcoholic beverages for the restaurant that currently serves beer and wine. The property is located within the Neighborhood Commercial zoning district (APN088-04-001); and

WHEREAS, the Planning Division completed an environmental assessment for the project in accordance with the California Environmental Quality Act (CEQA), and recommends that the Planning Commission determine this project categorically exempt from further environmental review pursuant to Section 15301, "Existing Facilities."

WHEREAS, on July 9, 2008, the Planning Commission held a duly noticed public hearing on the subject application, and considered evidence presented by City staff, the applicant, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

Section 1: The recitals set forth above are true and correct and incorporated herein by reference.

Section 2: The project is categorically exempt from further environmental review pursuant to Section 15301, "Existing Facilities

Section 3: The proposed use, at the proposed location will not be detrimental or injurious to the property or improvements in the vicinity nor to the public health, safety, and general welfare.

Section 4: The proposed use is consistent with the Milpitas General Plan because it is ancillary to a restaurant, which promotes and encourages economic pursuits. (General Plan, Implementation Policy, 2.a-I-3 and 2.1-I-5).

Section 5: The proposed use is consistent with the Milpitas Zoning Ordinance pursuant to Title XI, Chapter 10, Section 18.03-17 (Neighborhood Commercial, Conditional Uses-Restaurants, on-premise consumption of alcoholic beverages), and Section 57

(Conditional Use Permitted by Commission) in that the proposed use is a conditionally permitted use with the approval of the Planning Commission.

Section 6: The Planning Commission of the City of Milpitas hereby approves Conditional Use Permit Amendment No. UA080010, Club Bahia, subject to the above Findings, and Conditions of Approval attached hereto as Exhibit 1.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on July 9, 2008

Chair

TO WIT:

I HEREBY CERTIFY that the following resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on July 9, 2008, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	OTHER
Cliff Williams			
Gunawan Ali-Santosa			
Lawrence Ciardella			
Alexander Galang			
Sudhir Mandal			
Gurdev Sandhu			
Noella Tabladillo			
Aslam Ali			

EXHIBIT 1

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT AMENDMENT NO. UA08-0010**

General Conditions

1. The owner or designee shall develop the approved project in conformance with the approved plans approved by the Planning Commission on July 9, 2008, in accordance with these Conditions of Approval.

Any deviation from the approved site plan, floor plans, or other approved submittal shall require that, prior to the issuance of building permits, the owner or designee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance.

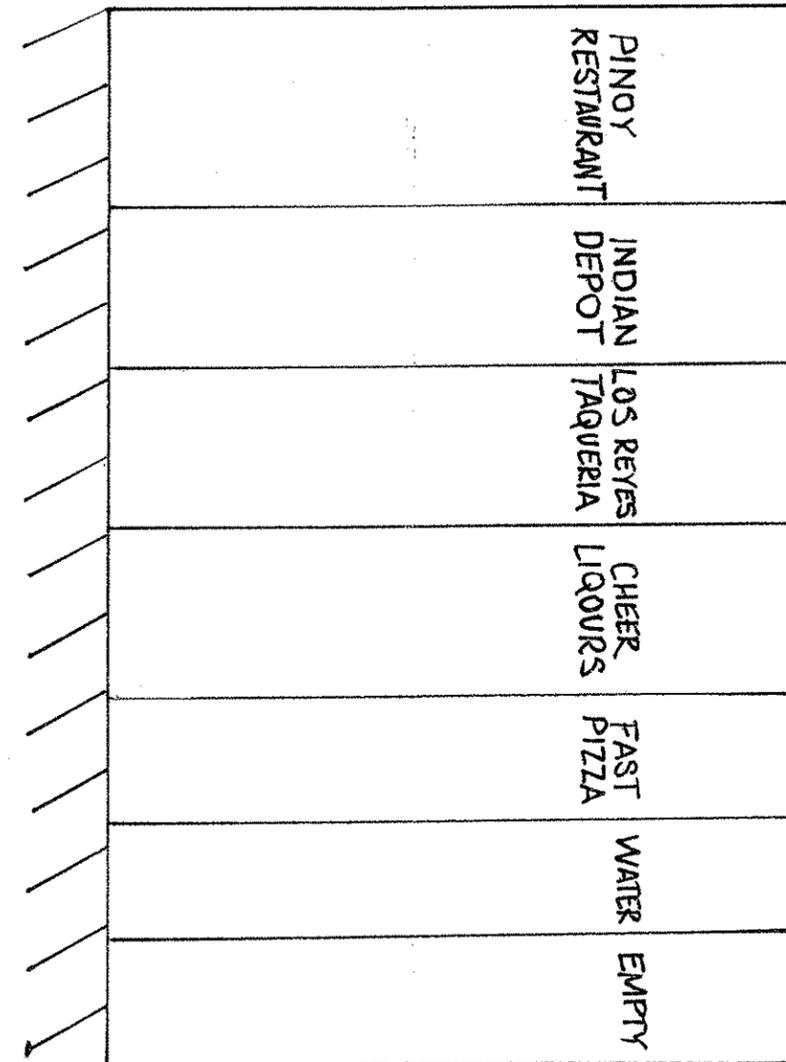
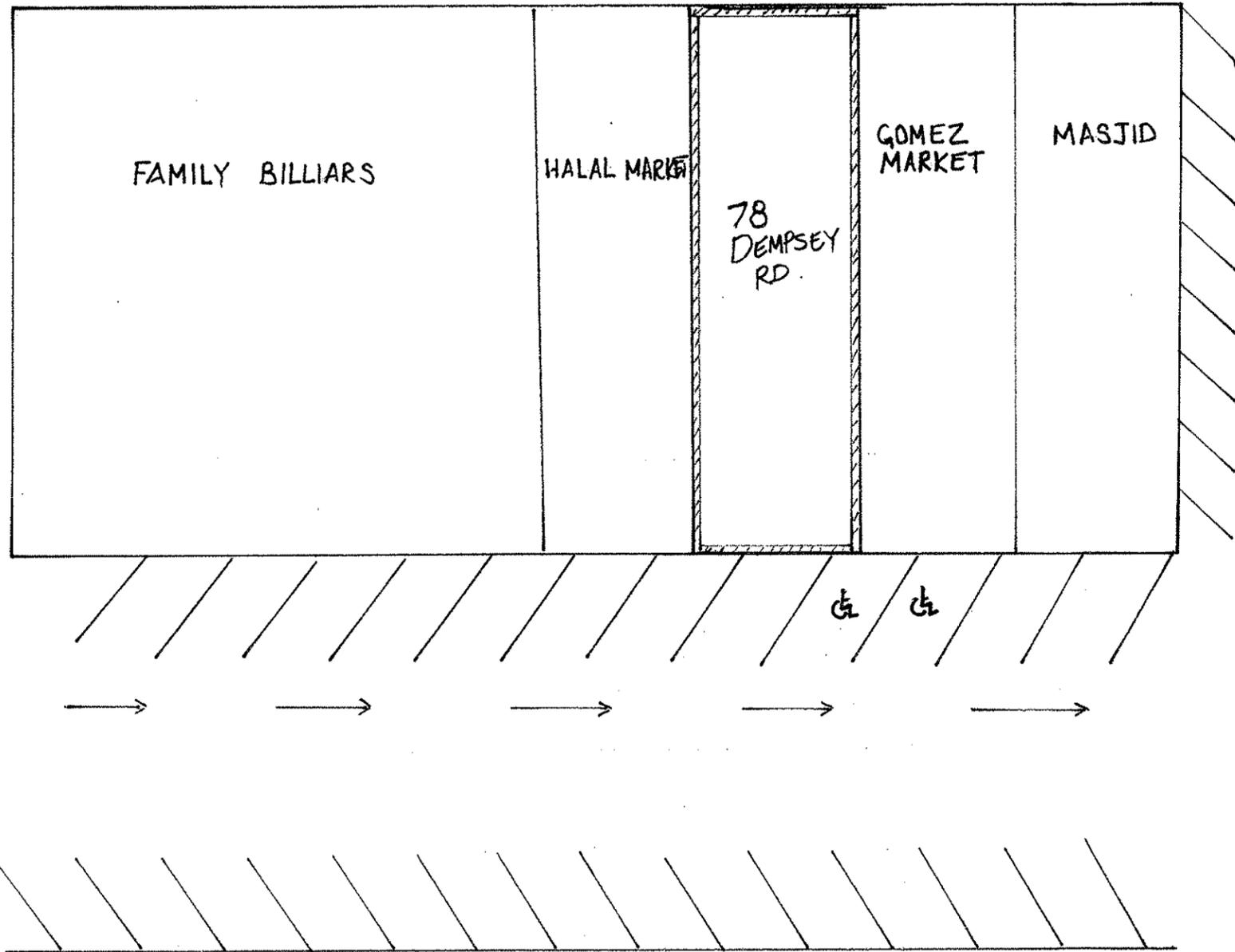
- a) These conditions of approval shall supersede the previous conditions of approval.
2. Conditional Use Permit Amendment No. UA08-0010 is for a restaurant as a primary use that includes on-site dining, takeout foods, onsite consumption of a full range of alcoholic beverages, sale of cigarettes, dancing, live entertainment, amplified music, and no more than six video game tables. The tenant space is 2,400 square feet with a maximum of 59 seats total. Hours of operation are Sundays through Thursdays, 10:00A.M. – 10:00P.M., Fridays and Saturdays from 10:00A.M. – 2:00A.M.
3. Conditional Use Permit Amendment No. UA08-0010 shall become null and void if the project is not commenced within 18 months from the date of approval. Pursuant to Section 64.04-2 of the Zoning Ordinance of the City of Milpitas, since the project requires the issuance of a business license, the project shall not be deemed to have commenced until the date of the business license is issued.

Pursuant to Section 64.04-1, the owner or designee shall have the right to request an extension of UA08-0010 if said request is made, filed and approved by the Planning Commission prior to expiration dates set forth herein.

4. Live entertainment and amplified sound for the purpose of dancing and entertainment shall not play until 9:00 P.M. and not go passed 2:00A.M. The restaurant shall keep doors and windows closed during those hours amplified music is played. Any amplified sound playing throughout the day shall be at a level not to disturb neighboring tenants.

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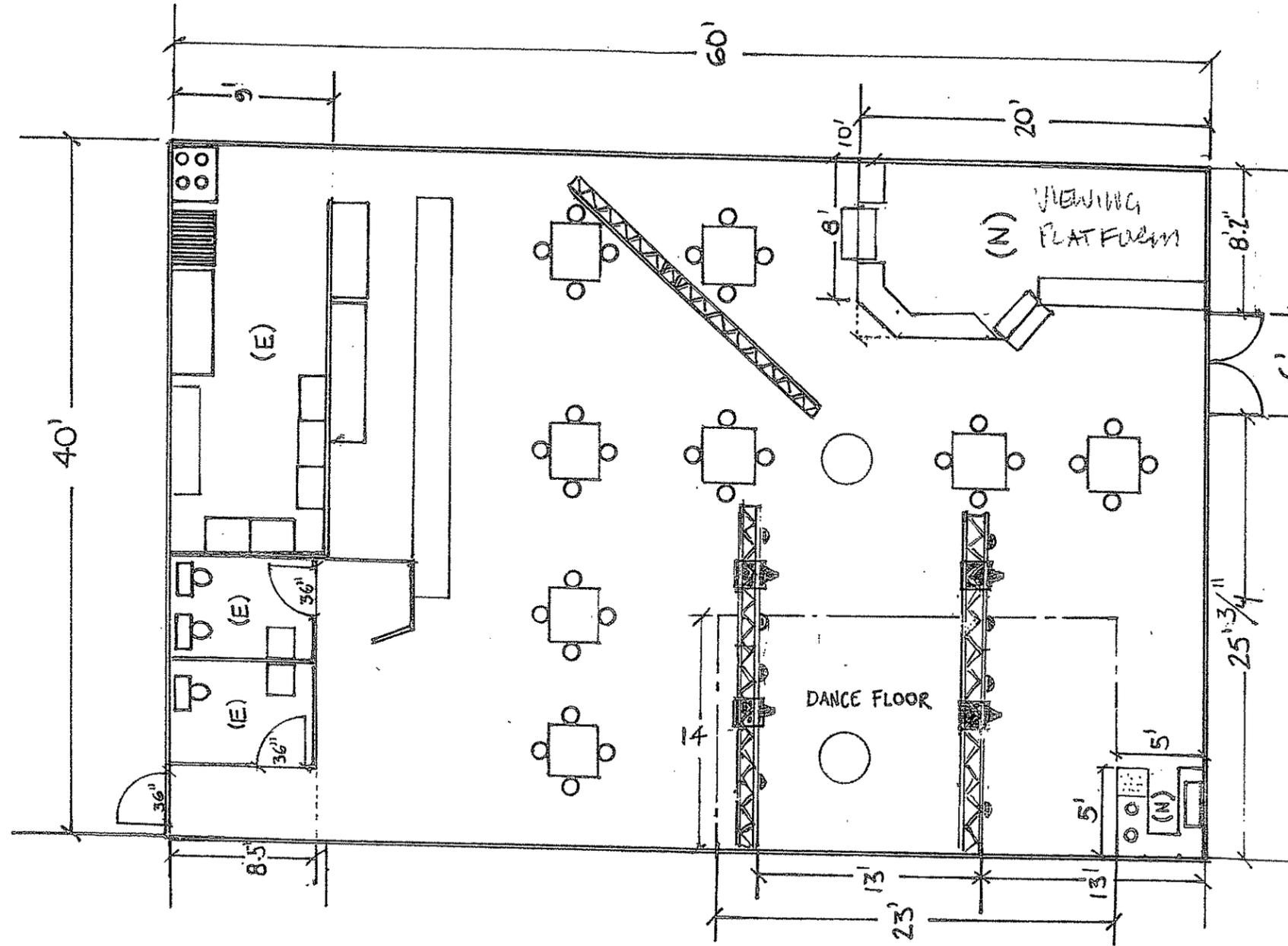
FIESTA PLAZA SHOPPING CENTER



No. 1	05/13/08	
EDUARDO GOMEZ		

DEMPSEY RD

← Z →



JOB COPY
 MAY 21 2008
 CITY OF MILPITAS
 BUILDING DIVISION

(3) PROPOSED DECK (NEW)
 (4) MUSIC STORAGE CABINET (NEW)

- (5) LIGHT RACK (N)
- (1) 36" X 36" TABLE
4 CHAIRS TYP.
- (2) 36" HIGH ROUND TABLE

No. 2	SCALE 1/8"	5/15/08
EDUARDO GOMEZ		

6-5-08

Tiffany,

I spoke with Cathy Tran [277-1200] from the ABC re Club Bahia. She is aware of their request to amend the CUP, and is available to speak with you about this if you wish

I confirmed with Cathy that Club Bahia has an existing beer and wine license. Given that there has only been a slight volume of calls for service from this establishment under it's current ownership, we are not terribly concerned about the amendment request to add hard liquor sales.

Sgt. Ron Gordon has offered some analysis [attached] for your information. Feel free to call me if you have any questions or concerns.

Thanks,

Steve Pangelinan 

PD

X2426

DATE: June 2, 2008
TO: Commander Steve Pangelinan
FROM: Sergeant Ron Gordon *RM*
SUBJECT: Site Review: 78 Dempsey Rd.



Dennis Graham
Chief of Police

I have reviewed the site plan for the onsite consumption of alcoholic beverages at the Club Bahia restaurant, located at 78 Dempsey Rd.

Since 2001 we have had several officer-initiated incidents at this address or in the parking lot in front of it, including general patrol checks, pedestrian and vehicle stops. Before 2003 we had three significant calls for service: a vice activity, two for public disturbances, and one narcotic's violation. These activities occurred under different owners and while named the Ly Ly Café.

The current owner has possessed the property since approximately January 2007 to present; the calls for service have included five alarm calls and two disturbances where the owner reported juveniles hanging out in the parking lot. The business has also been the victim of an attempted burglary.

The parking area and stalls appear to be sufficient for safe vehicle traffic.

The following recommendations should be considered if not already in place.

Video/security cameras should be installed for the entrance, cash register, and the safe area.

The business should be equipped with a monitored burglar, robbery, and panic alarm.

Exterior lighting should be designed with a brightness level sufficient enough to provide natural surveillance into the parking area.

RM 155 6-5-08

TRITECH LOCATION QUERY

Click on the Event number to bring up the full details of the event/Hyperlink to be built in Trittech later
Also, the apartment will be coded in the search

Your Parameters - Start: 5/29/1998 8:21:19AM End: 5/29/2008 8:21:19AM Digits: 78 Street: dempsey Type: rd

EVENT #	CODE	TOC	DISPO	ADDRESS
PD08140003	1033A	05/19/08 00:22	27D02L	78 DEMPSEY RD, CLUB BAHIA
PD08139076	1033A	05/18/08 09:26	27D02L	78 DEMPSEY RD, GOMEZ
PD08139009	PCS	05/18/08 00:39	45G99L	78 DEMPSEY RD, GOMEZ
PD08134078	1033A	05/13/08 08:13	27D02L	78 DEMPSEY RD
PD08133061	1033A	05/12/08 09:08	27D02L	78 DEMPSEY RD, CLUB BAHIA
PD08132233	PCS	05/11/08 23:45	45G99L	78 DEMPSEY RD, GOMEZ
PD08132026	PCS	05/11/08 01:32	45L03L	78 DEMPSEY RD, GOMEZ
PD08130242	PCS	05/09/08 23:23	45G99L	78 DEMPSEY RD, GOMEZ
PD08130079	1033A	05/09/08 08:39	27D02L	78 DEMPSEY RD
PD08126139	FU	05/05/08 16:33	*CLOSE	78 DEMPSEY RD, GOMEZ
PD08118009	PCS	04/27/08 01:10	45G99L	78 DEMPSEY RD, GOMEZ
PD08110024	415	04/19/08 03:09	19E99L	78 DEMPSEY RD, GOMEZ
PD08025179	415	01/25/08 18:57	*CLOSE	78 DEMPSEY RD, GOMEZ
PD08015172	415	01/15/08 21:11	26Q00L	78 DEMPSEY RD, GOMEZ
PD07321277	PCS	11/17/07 23:47	45G99L	78 DEMPSEY RD, GOMEZ
PD07308087	1096	11/04/07 12:35	*CLOSE	78 DEMPSEY RD, GOMEZ
PD07308022	1096	11/04/07 01:20	26Z00R	78 DEMPSEY RD, GOMEZ
PD07300017	FOOT	10/27/07 01:38	45G99L	78 DEMPSEY RD, GOMEZ
PD07280029	PCS	10/07/07 01:55	*CLOSE	78 DEMPSEY RD, GOMEZ
PD07258031	PCS	09/15/07 02:23	45G08L	78 DEMPSEY RD, GOMEZ
PD07236252	PCS	08/24/07 23:09	45G99L	78 DEMPSEY RD, GOMEZ
PD07229255	PCS	08/17/07 23:52	45G08L	78 DEMPSEY RD, GOMEZ
PD07223011	FOOT	08/11/07 01:19	45G08L	78 DEMPSEY RD, GOMEZ
PD07142186	1196	05/22/07 14:40	25C00R	78 DEMPSEY RD, GOMEZ
PD07116070	FU	04/26/07 08:47	FUP-Follo	78 DEMPSEY RD, GOMEZ
PD07098022	1154	04/08/07 01:49	27B51L	78 DEMPSEY RD, GOMEZ
PD07082173	FU	03/23/07 19:54	FUP-Follo	78 DEMPSEY RD, GOMEZ
FD07074004	FDPR	03/15/07 13:12	*Report	78 DEMPSEY RD, GOMEZ
PD07047239	C7	02/16/07 19:49	*CLOSE	78 DEMPSEY RD, GOMEZ
PD07038124	1066	02/07/07 12:29	27B02L	78 DEMPSEY RD, GOMEZ
PD07027077	459ATT	01/27/07 10:36	26E00R	78 DEMPSEY RD, GOMEZ MARKET
FD07027004	FDPR	01/27/07 11:12	*Report	78 DEMPSEY RD, GOMEZ MARKET
PD06146227	C7	05/26/06 18:10	*CLOSE	78 DEMPSEY RD, PHO 78 NOODLE HOUSE
PD06123219	C7	05/03/06 19:04	*CLOSE	78 DEMPSEY RD, PHO 78 NOODLE HOUSE
PD06116120	911HU	04/26/06 13:51	45H00L	78 DEMPSEY RD, PHO 78 NOODLE HOUSE
PD06103248	C7	04/13/06 19:26	*CLOSE	78 DEMPSEY RD, PHO 78 NOODLE HOUSE
PD04243001	FOOT	08/30/04 00:08	45G08L	78 DEMPSEY RD, LY LY CAFE
PD04172163	FOOT	06/20/04 23:02	45G08L	78 DEMPSEY RD, LY LY CAFE
PD04148166	PR	05/27/04 19:30	45A00L	78 DEMPSEY RD, LY LY CAFE
PD04146004	PCS	05/25/04 00:16	45G08L	78 DEMPSEY RD, LY LY CAFE

EVENT #	CODE	TOC	DISPO	ADDRESS
PD04141202	BAR	05/20/04 22:11	45G08L	78 DEMPSEY RD, LY LY CAFE
PD02252015	415	09/09/02 02:23	19E99L	78 DEMPSEY RD, LY LY CAFE
PD01187106	VICE	07/06/01 16:08	13B00R	78 DEMPSEY RD, LY LY CAFE
PD01109004	1096	04/19/01 00:14	16B06R	78 DEMPSEY RD, LY LY CAFE

Number of Events: 44

Tropicana

1670 story rd.
San jose ca, 95122,
(408) 251 5539.

Alum rock

1964 alum rock ave.
San jose ca. 95116.
(408)254 8355.

Capitol

280 N. Capitol ave.
San jose ca. 95127.
(408)259 7574.

Union city

31014 union city blvd
Union city ca, 94587
(510)4751011

milpitas

(dentro del club Bahia)
78 Dempsey rd, Milpitas ca, 95035
(408)942 3363

Chalateco



Willow

245 willow st.
San jose ca. 95110.
(408)998 0403.

Hamilton

4161 Hamilton ave.
San jose ca. 95116.
(408)379 1149

William

515 S 10th
San jose ca.95112
(408)947 7710.

Alameda

2323 Alameda ave.
Santa clara ca. 95050
(408)243 1357

More info: www.chalateco.com

BREAKFAST

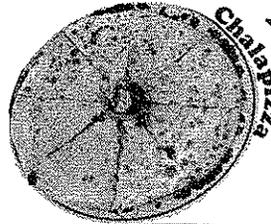
INCLUDES: RICE, BEANS AND CORN TORTILLA
HUEVOS RANCHEROS.....\$6.99
TWO FRIED CORN TORTILLAS WITH SUNNY SIDE UP EGGS ON TOP WITH RED SAUCE
HUEVOS A LA MEXICANA.....\$6.99
MEXICAN STYLE EGGS WITH TOMATOES, ONIONS, AND JALAPENO PEPPER.
CHILAQUILES CON CARNE.....\$8.95
FRIED TORTILLA IN GREEN SAUCE WITH BEEF OR CHICKEN
CHILAQUILES SOLOS.....\$6.99
FRIED TORTILLA IN GREEN SAUCE
TORTA DE CHILAQUILES.....\$5.25
BREAKFAST BURRITO.....\$3.75
INCLUDES: RICE, BEANS, CHEESE AND EGGS
DESAYUNO ESPECIAL.....\$8.25
INCLUDES: CHILAQUILES, RICE, BEANS, EGGS AND TWO PANCAKES.
PANCAKES.....\$2.99
PLATANOS CON LECHERA.....\$4.95
BANANA WITH SWEET CREAM MILK.



AGUAS FRESCAS

HORCHATA.....\$1.50.....\$2.95
FRUTAS.....\$1.50.....\$ 2.95

CHALAPIZZA.....\$ 15.95
mushrooms, sausage, jalapeno pepper, pineapple, tomatoes, onions and cheese.
CHALATECO ESPECIAL.....\$ 15.75
INCLUDES: Hawaiian plate, chiles toreados and guacamole
APERITIVO SALVADORENO.....\$ 16.99



ENSALADAS

ENSALADA DE POLLO O ASADA.....\$8.75
(beef salad), (chicken salad)
CHALAENSALADA.....\$6.75.....\$8.75
INCLUDES: lettuce, tomatoes, onions, cucumbers and green apples.



TORTAS

PAMBAZO

Potatoes, carrot, lettuce, sour cream and cheese & green salsa
CHORIZO OPOLLO.....\$7.95
(chorizo) (chicken)



SIDE DISH

GUACAMOLE.....\$1.25
ARROZ.....\$1.25
CREMA.....\$1.25
FRIJOL.....\$1.25

APPETIZERS

GUACAMOLE.....\$4.75
CHILES TOREADOS.....\$4.95
QUESO FUNDIDO.....\$3.25
MELTED CHEESE
QUESO CON CARNE.....\$4.25
MELTED CHEESE WITH ANY MEAT.



TOSTADAS

TOSTADAS DE PATA.....\$4.75
TOSTADAS DE TINGA.....\$4.75
Chicken in chipotle sauce.



TORTAS

INCLUDES: ONIONS, TOMATOES, JALAPENOS, MAYONNAISE, AVOCADO, CHEESE & BUTTER
CUBANA.....\$10.75
SUPER CUBANA.....\$12.75
PIERNA (pork ham)
ASADA (beef)
CHORIZO
CHULETA (pork)
PASTOR (marinated pork)
POLLO (chicken)
LENGUA (beef tongue)
HAWAIIANA (ham, pineapple & cheese)



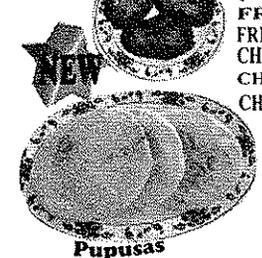
ESPECIALIDADES SALVADORENAS

DESAYUNO SALVADOREÑO.....\$7.75
(Plantain, eggs, beans and sour cream)
YUCA CON CHICHARRON (yuca and pork)
EMPANADAS DE PLATANO (mashed ripe plantain)
PLATANO FRITO (plantain sour cream and beans)
BISTEC SALVADOREÑO.....\$10.99
(salvadorian style steak no spicy)
ENCHILADAS.....\$10.99
(chicken or cheese)
POLLO ENCEBOLLADO.....\$10.99
(chicken marinated with onions)
POLLO GUISADO.....\$10.99
(stewed chicken)



PUPUSAS

DE MAIZ O DE HARINA DE ARROZ
QUESO (cheese)
REVUELTAS (pork, fried beans and cheese)
QUESO CON LOROCO (cheese and loroco)
FRIJOL (beans)
FRIJOL Y QUESO (beans and cheese)
CHICHARRON Y QUESO (pork and cheese)
CHICHARRON (pork)
CHICHARRON Y FRIJOL (pork and beans)



CONSOME DE POLLO (Shredded Chicken stew)
CALDO DE RES (beef stew and vegetables)
CALDO DE POLLO (chicken soup)
MENUDO (tripe soup)
SOPA DE MONDONGO (tripe stew and vegetables)
CALDO DE CAMARON.....\$11.75
(Shrimps stew and vegetables)



TAMALES

PUERCO (pork)
POLLO (chicken)
TAMAL DE ELOTE CON CREMA
(sweet corn tamale with sour cream)

BURRITOS

CHULETA (pork chops)
CHORIZO
SUADERO
LENGUA (beef tongue)
PASTOR (marinated pork)
HAWAIIAN (pineapple, pork & cheese)
TRIPITAS (beef tripe)
ASADA (beef)
POLLO (chicken)
COSTILLA (beef ribs)
VEGETARIANO (vegetarian) \$3.75

SINCRONIZADAS

ASADA (beef)
CHORIZO
CHULETA (pork)
PASTOR (marinated pork)
POLLO (chicken)
LENGUA (beef tongue)
CAMARON (shrimp)
TRIPITAS (beef tripe)
NOPALES (cactus)
CHAMPINONES (mushrooms)
HAWAIIANA (ham, pineapple & cheese)



Weekends only



MISAQUIASARELLA

Cheese, lettuce, salsa, avocado, sour cream and any meat
\$8.75

GORDITAS

- GORDITAS INCLUDES: CHEESE, SOUR CREAM
 ASADA (beef)
 POLLO (chicken)
 CHICHARRON (pork)
 CHORIZO (mexican sausage)
 PASTOR (marinated pork)
 FRIJOLES (beans)
 CHAMPINONES (mushrooms)

SOPE

- SOPE NORMAL (meat).....\$3.25
 POLLO CON CHIPOTLE
 POLLO (chicken)
 BISTEC (beef)
 SUADERO (beef)
 PASTOR (marinated pork)

HONGOS

- LENGUA (beef tongue)
 CHULETA (pork chops)
 NOPALES (cactus)
 TRIPITA (beef tripe)
 CHORIZO



TACOS

- TACO HAWAIIANO ..\$1.99
 TRIPITAS (beef tripe).....\$1.99
 CABEZA (beef head)
 POLLO (chicken)
 BISTEC (beef)
 COSTILLA (beef rib)
 CHULETA (pork chops)
 PASTOR (marinated pork)
 CHULETA ADOBADA (pork in adobo sauce)

CHORIZO

- CHAMPINONES (mushrooms)
 SUADERO
 LENGUA (beef tongue)
 POLLO (chicken)
 CESOS

QUESO ADICIONAL.....\$1.00



Quesadillas

- QUESO (cheese)
 POLLO (chicken)
 PAPA (potatoes)
 PAPAS CON CHORIZO (potatoes and Mexican chorizo)



MEGAHUARACHES

- MEGAHUARACHES.....\$8.75
 Includes black beans, onions, salsa, soy meal, lettuce, cheese and avocado
 MEGAHUARACHE NORMAL.....\$5.75
 NORMAL (beef).....\$4.25

POLLO CON CHIPOTLE

- POLLO ENCHILADO (spicy chicken)
 BISTEC (beef)
 TRIPITAS (beef tripe)
 CHORIZO
 SUADERO (beef)
 PASTOR (marinated pork)
 POLLO (chicken)
 NOPALES (cactus)
 HUEVO (eggs)
 LENGUA (beef tongue)
 CHULETA ADOBADA (pork)



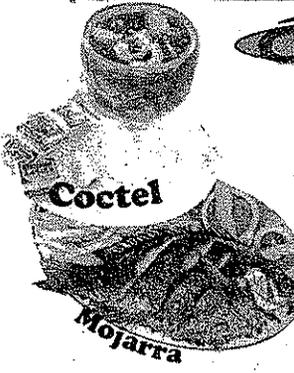
ALAMBRE

- MIX TACOS ONIONS, MEAT, BELL PEPPER AND BACON.
 ESPECIAL (beef, pork, pastor, onion, etc.).....\$9.75

POLLO

- POLLO (chicken)
 BISTEC (beef)
 COSTILLA (beef rib)
 CHULETA (pork chops)
 PASTOR (marinated pork)
 CHAMPINONES (mushrooms)
 CHORIZO
 TRIPAS (beef tripe)
 LENGUA (beef tongue)
 POLLO ENCHILADO (spicy chicken)
 POLLO CON CHIPOTLE (chicken in chipotle sauce)
 POLLO CON MOLE (chicken mole)
 HAWAIIANO (pork chop, pineapple & ham)
 QUESO ADICIONAL.....\$2.00

SEAFOOD



COCTELES

- CAMARON (shrimp).....\$ 9.75
 PULPO (octopus).....\$ 9.75
 CAMPECHANA DE 2 (shrimp & octopus).....\$11.75
 CAMPECHANA DE 3.....\$11.75
 AGUACHIL (shrimp in lime with green sauce).....\$12.75
 CEVICHE (shrimp, fish or octopus).....\$ 7.75
 VUELVE A LA VIDA (seafood combination).....\$14.75
 OSTIONES EN SU CONCHA.....\$8.00/\$13.00
 OSTIONES AL LIMON.....\$13.00

ESPECIALIDADES

- TACOS DORADOS DE CEVICHE (1 fried crupper taco).....\$10.75
 MOJARRA FRITA (fried tilapia).....\$11.99
 CAMARONES EMPANIZADOS (breaded shrimp).....\$11.99
 CAMARONES AL MOJO DE AJO.....\$11.99
 CAMARONES RANCHEROS.....\$11.99
 Shrimp with onions, tomatoes, jalapenos pepper
 CAMARONES A LA DIABLA (Spicy shrimps).....\$11.99
 TACOS DE CAMARON (Three shrimp soft tacos).....\$ 6.75
 TACOS DE PESCADO (Three fish soft tacos).....\$ 6.75
 ENCHILADAS DE CAMARON (Shrimp enchiladas in green sauce).....\$12.99
 FILETE A LA PLANCHA (small fish fillet).....\$11.99
 TOSTADAS DE CEVICHE (Shrimp, octopus or fish).....\$ 4.75
 CAMARON, PESCADO O PULPO
 CALDO DE CAMARON (shrimp soup).....\$11.75
 SOPA DE MARISCOS (seafood soup).....\$12.95



PARRILLADAS

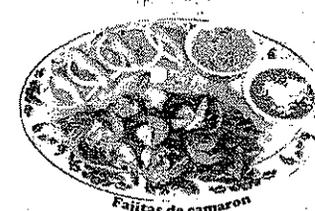
- MIX TACOS
 PARRILLADA GUS (steak, pineapple, ham, onions & cheese)
 HAWAIIANA (pineapple, ham, onions & cheese)
 CHAMPINONES (mushrooms)
 POLLO ADOBADO (chicken breast, adobo sauce)
 PARRILLADA ESPECIAL (chorizo, pork chop)
 AL PASTOR (marinated pork)
 POLLO CON CHIPOTLE (chicken in chipotle sauce)
 COSTILLA ENCEBOLLADA (beef rib marinated with onions)
 POLLO CON MOLE (chicken breast with mole)
 POLLO ENCHILADO (spicy chicken breast)

PLATILLOS

- PLATO DE DIETA (low carb)
 BISTEC A LA MEXICANA (mexican style steak)
 PLATILLO DE LENGUA (beef tongue plate)
 CARNE ASADA (steak plate)
 POLLO CON MOLE (chicken with real mole)
 POLLO DORADO (fried chicken)
 BISTE ENCEBOLLADO (steak with marinated onions)
 CHILE RELLENO (poblano pepper stuffed with cheese)
 PLATO DE MILANEZA (breaded steak)
 FLAUTAS (2) (deep fried tacos)
 TAMPIQUENA.....\$12.25
 1 steak, 2 enchiladas with mole
 ENCHILADAS POBLANAS.....\$11.95
 ENCHILADAS SUIZAS.....\$11.95
 (2 chicken enchiladas in green sauce)
 ENCHILADAS CAMPECHANA.....\$12.99
 (2 enchiladas in Mexican mole and 2 enchiladas in green sauce)
 PECHUGA GUS.....\$11.95
 (breaded boneless chicken breast with ham & melted cheese)

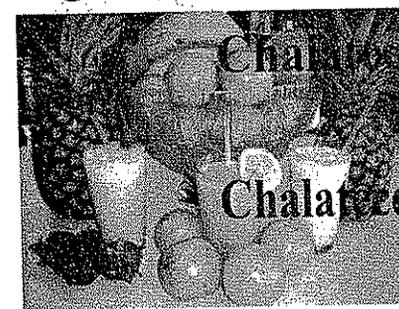


FAJITAS



- CHALAJITAS.....\$12.99
 (Beef, chicken and shrimps)
 CAMARON.....(shrimp).....\$12.99
 PASTOR (marinated pork)
 BISTEC (beef)
 POLLO (chicken)
 HONGOS (mushrooms)

Jugos y licuados



Solo en
Chalatezo Willow
 (408) 998 0403

Chalatezo Tropicana
 (408) 251 5539

Date: April 22, 1992

Item No. **6**

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report Prepared By: Judd *[Signature]*

Public Hearing: Yes: XX No: _____

Notices Mailed On: 4-10-92 Published On: 4-8-92 Posted On: 4-7-92

TITLE: USE PERMIT NO. 1132

Proposal Restaurant with Live Entertainment, Dancing, Beer & Wine

Location: 78 S. Dempsey Road

RECOMMENDATION: Approval with Conditions

Applicant: Vinh Ngo & Alan Tran, 404 Gemma Dr., Milpitas, CA 95035

Property Owner: Joseph Leung, P. O. Box 36033, Milpitas, CA 95036

Previous Action(s): "S" Zone, Use Permits

Environmental Info: Exempt

General Plan Designation: Retail Sub-Center

Present Zoning: Neighborhood Commercial (C1-S)

Existing Land Use: Shopping Center

Agenda Sent To: Applicant & Owner
Angelo Leber, 1073 Harlan Dr., San Jose, CA 95129

Attachments: Plans
Letter from Applicant, dated 4-10-92
Letter from Area Residents, dated 4-16-92

REPORT:

The applicant is requesting approval to operate a restaurant at 78 S. Dempsey Road. The proposed restaurant would include the following amenities: on-site dining, take-out foods, sale of beer, wine and cigarettes, dancing, live entertainment (consisting of sing-along), and video game tables. According to the applicant, the menu would consist of sandwiches and microwave foods.

The 2,400-square-foot tenant space is proposed to contain kitchen and work areas, storeroom, restrooms, dining room, dance floor, video area, and counter with bar stools. The restaurant would have 59 seats total.

USE PERMIT NO. 1132
Restaurant with Live Ent., Dancing, Beer & Wine
78 S. Dempsey Road

April 22, 1982
Page 2

REPORT (CONT'D):

Due to parking requirements and the proposed seating, this restaurant will require an allocation of 11 additional excess on-site parking stalls. Because the shopping center maintains parking facilities in excess of requirements, this allocation can be made if the landlord so chooses. After such an allocation, parking at this site would still remain in excess of that required (41 excess stalls).

With respect to the video game tables, the zoning ordinance defines an arcade as an establishment containing 7 or more mechanical or electronic game type machines. The submitted floor plan indicates 11 such game tables within this restaurant. The applicant would need to reduce the number of these game tables to 6. An amendment to this Use Permit would be required to designate this establishment as an arcade, if the applicant desires to maintain 7 or more game tables.

Staff has received one letter from area residents in response to the proposed project. The residents express concerns regarding the dancing and live entertainment aspects of this proposed restaurant, and ask that the Commission restrict the Use Permit to restaurant operation, with beer/wine and take-out only. The Commission should also be aware of a potential conflict between this proposal and a recent Use Permit approval for a daycare center in the vicinity of this restaurant site (approximately 700 feet away on Dempsey Road). The Police Department's Crime Prevention Unit has reviewed the applicant's plans and letter, however, and has no objections to the application as proposed.

RECOMMENDATION:

Close the public hearing. Approve Use Permit No. 1132 with the following Findings and Special Conditions:

FINDINGS:

A restaurant with live entertainment, dancing, beer and wine is an appropriate use within this retail center, providing a service to area residents and not causing detriment to adjacent land uses.

Special Conditions:

1. The maximum dining room seating for this restaurant shall not exceed 59 seats, including the 9 bar stools. A sign measuring a minimum of 1' by 1' shall be posted in a conspicuous location near the restaurant front entrance stating this maximum seating. (P)

USE PERMIT NO. 1132
Restaurant with Live Ent., Dancing, Beer & Wine
78 S. Dempsey Road

April 22, 1992
Page 3

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Special Conditions (Cont'd):

2. The dining room portion of the restaurant shall not exceed 885 square feet (exclusive of dance floor area and take-out area) without further review and approval by the Planning Commission in the form of a use Permit-Amendment. (The submitted floor plan indicates approximately 922 square feet proposed.) (P)
3. The applicant shall not expand the dining room area into the approved dance floor area. Therefore, no seating shall be located within the designated dance floor area. (P)
4. The applicant shall not maintain more than 6 game tables within this establishment, without Planning Commission review and approval of a Use Permit-Amendment. (P)
5. Sales of alcoholic beverages shall be limited to on-site consumption. (P)
6. The maximum dining room seating approval of 59 seats is subject to the landlord allocating in writing 11 additional excess on-site parking stalls to this tenant. This allocation statement shall be in the form of a letter to the Planning Division. (P)

NOTES TO APPLICANT:

- a) Portable fire extinguishers shall be provided prior to building final as per 1991 UFC Standard 10-1. 1991 UFC Section 10.505(a). (F)
- b) Applicant must submit a Sewer Needs Questionnaire and pay the related fee with the building permit application. Contact the Engineering Utilities Section (408 942-2362) to obtain the form. (E)
- c) The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in Flood Zone A (flood insurance is required). (E)
- d) If the existing services (water, sewer) are not adequately sized to serve this additional development, plans showing new services must be submitted and approved prior to building permit issuance. (E)
- e) Two water closets required in female restroom, water closet and a urinal required in male restroom. At least one water closet and a urinal shall be handicapped-people accessible. (B)
- f) Back exit hallway shall be 1-hour rated with 20-minute door, leading to dining area. (B)
- g) Occupant load sign shall be posted. (B)
- h) Obtain permit from Health Department prior to application for building permit. (B)

~~Motion to close the Public Hearing on Use Permit No. 1131.~~

~~M/S: Augustine/Unger Ayes: 5 Absent: 2 (Merl, Spencer)~~

~~Motion to approve Use Permit No. 1131 for a security trailer (motor home) for the City's water tanks construction site located at the northerly terminus of Gibraltar Court, as submitted by staff, with their Findings and one Special Condition.~~

~~M/S: Augustine/Unger Ayes: 5 Absent: 2 (Merl, Spencer)~~

6. Use Permit 1132
Restaurant w/Live
Entertainment, Dancing
Beer & Wine
78 S. Dempsey Road
Vinh Ngo & Alan Tran

Chairman Rush opened the Public Hearing and called for a staff report. Principal Planner Reliford overviewed, noting that the applicant was requesting approval to operate a restaurant with on-site dining, take-out foods, sale of beer, wine and cigarettes, dancing, live entertainment and video game tables. He noted that staff was recommending approval with Findings and six (6) Special Conditions, one of them being that no more than six (6) game tables be allowed without Planning Commission approval of an amendment to the Use Permit.

Commissioner Dixon asked about the family billiards parlor two doors down, if there have been any registered complaints about it. Principal Planner Reliford answered that there have not. Community Development Manager Smith added that complaints would most likely be registered with the Police Department, and the Police Department received a copy of this request and had made no comment. Chairman Rush asked if there was still dancing and live entertainment at Calamity Janes' down the street. Commissioner Dixon answered that they still have live entertainment. Vice-Chair Unger asked what type of games would go in there. Principal Planner Reliford replied that he envisioned video games like "Pac Man" and "Star Wars", things like that. He asked if the applicant was in the audience. There was no response. Mr. Unger noted that we need to be very specific, pointing out that there are some very noisy type games with simulated guns, etc., at San Jose State University, and that the term "game tables" is very broad. He said he would like to take out "game tables" and make it specifically "video games", because otherwise it is far too broad. The other Commissioners agreed.

Principal Planner Reliford noted that the Commission should be reminded about the day care center which was recently approved, which is about 700 feet away. Commissioner Dixon asked the hours of operation for the restaurant. Mr. Reliford responded that he didn't know. Chairman Rush suggested that they continue this matter, and the Public Hearing, so the applicant could be present to answer questions.

Motion to continue the Public Hearing on Use Permit No. 1132, until the Planning Commission meeting of May 13, 1992, so the applicant could be present to answer questions.

M/S: Rush/Unger

Chairman Rush asked if there was anyone in the audience who would like to address the Commission concerning Use Permit No. 1132 before they continue the public hearing. There was no response. Chairman Rush called for the question.

Ayes: 5 Absent: 2 (Merl, Spencer)

Date: MAY 13, 1992

Item No. **2**

MILPITAS PLANNING COMMISSION AGENDA REPORT

Category: Public Hearing

Report Prepared By: Oteri
Oteri

Public Hearing: Yes: XX No: _____

Notices Mailed On: 4-10-92

Published On: 4-8-92

Posted On: 4-7-92

TITLE: USE PERMIT NO. 1132 (Cont'd.)

Proposal: Restaurant with Live Entertainment, Dancing, Beer & Wine

Location: 78 S. Dempsey Road

RECOMMENDATION: Approval with Conditions

Applicant: Vinh Ngo & Alan Tran, 404 Gemma Dr., Milpitas, CA 95035

Property Owner: Cheung-Kan & Pui-Sheung Mok, P.O. Box 694, Milpitas, CA 95035

Previous Action(s): "S" Zone, Use Permits, Zone Change

Environmental info: Exempt

General Plan Designation: Retail Sub-Center

Present Zoning: "Neighborhood Commercial" (C1-S)

Existing Land Use: Shopping Center

Agenda Sent To: Applicant & Owner
Angelo Leber, 1073 Harlan Dr., San Jose, CA 95129
Joseph Leung, P.O. Box 36033, Milpitas, CA 95036

Attachments: Plans
Letter from Applicant, dated April 10, '92
Letter from Area Residents, dated April 16, '92

REPORT:

This application was continued from the April 22nd Commission meeting due to the applicant's absence. The public hearing was left open.

The applicant is requesting approval to operate a restaurant at 78 S. Dempsey Road. The proposed restaurant would include the following amenities: on-site dining, take-out foods, sale of beer and wine, dancing and live entertainment (consisting of sing-along). The facility will also contain 6 video game tables.

PAGE 2
P.C. ARS
MAY 13, 1992

USE PERMIT NO. 1132

CONT'D.:

The applicant has revised the floor plan since the last meeting. The new floor plan shows seating for 44 in addition to 8 bar stools, but due to the size of the establishment it can accommodate up to 68 seats. The only exterior change would be the tinting of the front windows. The applicant has indicated that they would be open 7 days a week from 11:00 am to 12 midnight.

Due to parking requirements and seating this restaurant, at the size shown (926 Sq. Ft. dining area will accommodate 68 seats), would only require an allocation of 13 additional parking stalls. Because the shopping center has excess parking this allocation can be made, if the landlord desires to do so. They would then need to provide written documentation for the parking allocation. After such an allocation there would still be 39 extra spaces. Without the extra parking allocation the restaurant must be reduced in size (per Commission policy) to contain only 19 seats and the dining area be no larger than 285 Sq. ft. The dining area would then be smaller than the dance floor.

The Police Department's Crime Prevention Unit has reviewed the applicant's plans and letter and has no objections to the proposed use.

RECOMMENDATION:

Close the public hearing. Approve Use Permit No. 1132 with the following Findings and Special Conditions:

FINDINGS:

A restaurant with live entertainment and dancing, beer and wine sales and an arcade, at this location in the shopping center, is found to be an appropriate use which would provide a service to residents and not to be detrimental to the adjacent businesses in the area since there already exist similar uses in this center and the immediate area.

Special Conditions:

1. The maximum dining room seating for this restaurant shall not exceed 68 seats; this figure includes the 8 bar stools and the 6 video game machines. A sign shall be posted in close proximity to the front entrance indicating the maximum seating capacity established by this Use Permit. The establishment of any seating over the maximum shall be grounds for revocation of this Use Permit. (P)
2. Prior to the issuance of a building permit for any tenant improvements at this site, the property owner must submit a letter to the Planning Division assigning 13 extra spaces to this use. (P)

PAGE 3
P.C. ARS
MAY 13 1992

USE PERMIT NO. 1132

CONT'D.:

NOTES TO APPLICANT:

- a) Portable fire extinguishers shall be provided prior to building final as per 1991 UFC Standard 10-1. 1991 UFC Section 10.505(a). (F)
- b) The Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) under the National Flood Insurance Program shows this site to be in Flood Zone A (flood insurance is required). (E)
- c) If the existing services (water, sewer) are not adequately sized to serve this additional development, plans showing new services must be submitted and approved prior to building permit issuance. (E)
- d) At least one water closet required in each restroom, and a urinal shall be handicap people accessible, including privacy compartments. (B)
- e) Back exit hallway shall be 1-hour rated with 20-minute door, leading to dining area. (B)
- f) Obtain permit from Health Department prior to application for building permit. (B)
- g) Provide occupant load sign when occupancy load exceed 50. (B) See special condition no. 1.

2. U. P. 1132 (Cont'd)
Restaurant w/Live
Entertainment, Dancing,
Beer & Wine;
78 S. Dempsey Road
Vinh Ngo & Alan Tran

Chairman Rush noted that Use Permit No. 1132 was continued from the April 22nd Planning Commission meeting and that the Public Hearing was kept open, and called for a staff report. Principal Planner Reliford overviewed, noting that the Commission had expressed several concerns with this application, such as the type and number of games, and the type of entertainment which would be there, and that the applicant was in the audience to any questions. Mr. Reliford stated that staff was recommending approval, with the Findings and Special Conditions which were listed in the agenda report, and pointed out that the Commission was given a memo tonight listing three (3) additional notes from the Fire Department, which should also be included.

Principal Planner Reliford also stated, for the record, that staff received a letter dated April 16, 1992, from a nearby resident, Bella C. Lin, expressing her concerns about noise and traffic on Dempsey Road, and the possible impact on the school children, if dancing and live entertainment were allowed. Mr. Reliford pointed out, however, that there is a commercial building, which serves as a buffer, between the residences and this establishment.

Commissioner Crespo asked if the restaurant would be striping the parking spaces, which were allocated to them by the property owner, with their name. Associate Planner Oteri responded that they would not, as that is illegal.

Commissioner Dixon asked who would take care of tinting the restaurant's front windows. Principal Planner Reliford answered that that would be between the lessee and the property owner.

Commissioner Augustine asked how many video tables they planned to have, noting that the applicant's letter states eight (8) but the plans indicate six (6). Principal Planner Reliford responded that the zoning ordinance would allow no more than six (6), if that is what the Commission recommends. Vice-Chairman Unger suggested that, if the Commission does limit this, he thinks the word "arcade" should be taken out because an arcade is more than six (6). Staff agreed.

Commissioner Dixon observed that the application states that this is a restaurant, but it sounds like a nightclub. She asked if there is anything in the ordinance that defines a nightclub. Associate Planner Oteri responded that there is not. Mrs. Dixon asked about the hours of operation, and what kind of control the City has if they go past midnight. It was answered, "None". Commissioner Dixon commented, then, that they would have to restrict their hours of operation. Vice-Chair Unger stated, following up on the same thought, that this appears to be more of an entertainment center than a restaurant, seeing as how they only plan to serve sandwiches.

Commissioner Spencer asked if the Special Conditions the Commission received tonight were in addition to the conditions in the agenda report. Principal Planner Reliford answered that they were.

Vice-Chair Unger asked staff if the Commission could approve this use, but tag on it a review after six months. Associate Planner Oteri responded that they could, and that they have done this in the past for palm readers, etc.

Chairman Rush announced that this is a Public Hearing item and asked if there was anyone in the audience who would like to address the Commission concerning it. There was no response. The Chairman invited the applicant forward.

Joseph Leung, stated that he was the property owner, and representative of Fiesta Shopping Plaza. Vinh Ngo and Alan Tran, partners in the proposed establishment, stated their names. Mr. Leung said that a condition for a 6-month review would be an extreme hardship, because of their investment, and that the type of entertainment they would have would not be exotic dancing, it would be more like a coffee shop atmosphere for people to have a drink, and sing songs.

Commissioner Meri asked Mr. Leung if he was calling it a "coffee-shop" type atmosphere, then why would they have beer and wine? Mr. Leung answered that some people like coffee and some people like beer and wine. Commissioner Meri asked him to explain the financial hardship. Mr. Leung answered that the former tenant was a bookstore, and the new tenant would have to make changes to the building to add a brand-new kitchen. Commissioner Meri explained that the intent of the six-month review is not for a revocation of their use permit, it is for a review, in case there are any problems or complaints, so they can be addressed at that time.

Commissioner Augustine stated that he has a great deal of trouble seeing this as a restaurant. He asked the applicant if they would be preparing food. Mr. Leung responded that they would have microwave foods. Mr. Augustine asked staff if the food is not prepared on site, if it still qualifies as a restaurant. Associate Planner Oteri responded that the Building Code classifies it as a restaurant. Commissioner Augustine asked if an establishment has to have food in order to get a beer and wine license. Associate Planner Oteri answered that there are minimum regulations that have to be met, according to the Alcoholic Beverage Control, and that packaged food is acceptable. Commissioner Augustine asked how many mechanical games they plan to have. Mr. Leung answered that they would stick to the six (6).

Commissioner Dixon asked the reason for tinting the windows. Mr. Leung answered that the number one reason is energy conservation, and there is also a tremendous problem with the light from about 4:00 p.m.-9:00 p.m.. Mrs. Dixon asked if any of the other restaurants in that center, also facing the west, have tinted windows. Mr. Leung answered that they do not, they use drapes or canvas-type curtains to block the light, and some put up newspaper. Commissioner Dixon asked how dark the tinting would be and if anyone would be able to look inside. Mr. Ngo answered, "Most likely not". Mrs. Dixon asked if the dance floor area would be permanent. Mr. Ngo answered that it would be used for special occasions, like birthday celebrations. Mrs. Dixon asked if it would be used for a banquet hall, for large groups of people. Mr. Ngo answered that it would not, they have a limit for 60-70 people.

Commissioner Meri observed that their slide projector seemed to be in the middle of the dance floor, and asked what it would be used for. Mr. Ngo answered that it would be used for sing-alongs. Commissioner Meri asked if there would be a policy to always have the doors closed during their hours of operation, or did they plan to leave them open in order to draw in customers. Mr. Ngo answered that they would keep the doors closed and would use their sign for advertising.

Chairman Rush noted that this is a Public Hearing and asked if there was anyone in the audience who would like to address the Commission concerning it. There was no response.

Motion to close the Public Hearing on Use Permit No. 1132.

M/S: Unger/Meri

Ayes: All

Motion to approve Use Permit No. 1132 for a restaurant with live entertainment, dancing, beer & wine, at 78 S. Dempsey Road, with staff's Findings and two recommended Special Conditions, plus an additional Special Condition (No. 3), that the applicant come back to the Planning Commission, 6 months after they open, for a review of their operation, to make sure there are no other problems with adjacent businesses or neighbors.

M/S: Meri/Unger

Ayes: All

Associate Planner Oteri asked, on the 6-month review, if the Commission wants it to be a "Public Hearing" or a "New Business" item. It was answered, "New Business".

3. Variance No. 485
Increase Rear Yard
Coverage Beyond 30%
Requirement, Reduction
in Setback Between
Main & Accessory Bldgs.,
& Encroachment Into
Side Yard w/Bldg. Add'n
1199 Park Willow Ct.
Richard C. Harmon

Chairman Rush noted that the Public Hearing was kept open on Variance No. 485, and called for a staff report. Associate Planner Oteri overviewed, noting that this item was continued from the April 8th Planning Commission meeting. He stated that the City Attorney has reviewed this request, and has no objections, and that staff is recommending approval, using the City Attorney's memo as Findings.

Chairman Rush announced that this was a Public Hearing item and asked if there was anyone in the audience who would like to address the Commission concerning it. There was no response.

Motion to close the Public Hearing on Variance No. 485.

M/S: Unger/Crespo

Ayes: All

Commissioner Dixon asked if staff knows what triggered this Variance request, if there was a complaint. Associate Planner Oteri answered that a building inspector discovered it.

Motion to approve Variance No. 485, with the City Attorney's memo as Findings.

M/S: Crespo/Meri

Ayes: All

4. U. P. 876-Amend.
Expansion of Restaurant
w/Storage Room
Swagat Indian Cuisine
68 S. Abel Street
(Abel Plaza)
Robert Yen

Chairman Rush opened the Public Hearing on Use Permit No. 876-Amendment, and noted that the applicant has requested that this matter be continued to the next meeting (May 27, 1992). Commissioner Dixon asked staff if that use permit number was specifically for this restaurant. Associate Planner Oteri answered that it was not. Mrs. Dixon asked, if they were looking at taking half the building next to them, if that would require an amendment. Mr. Oteri answered that it would not, because the use runs with the land.

RECEIVED

MAY 13 1992
CITY OF MILPITAS
PLANNING DIVISION

Fiesta Shopping Plaza, P.O. Box 360333, Milpitas, CA 96036

Planning Division
City of Milpitas Planning Commission
455 E. Calaveras Blvd
Milpitas, CA 95035

May 13, 1992

Attention: Mr. Bob Oteri

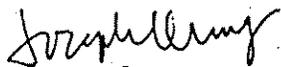
Subject: Use Permit No. 1132
78 So. Dempsey Road, Milpitas
May 13, 1992 Planning Commission Agenda

Gentlemen,

In accordance with your recommendation, we, the owner of Fiesta Shopping Plaza and the subject property, assign 13 extra spaces to this permit use.

We appreciate your effort to assist our new tenant to fulfill the City's requirement for its business in Milpitas. Thank you!

Yours sincerely,



Joseph Leung
Owner Representative
Fiesta Shopping Plaza, Milpitas

2

DATE: May 13, 1992
TO: Planning Commission
FROM: Felix J. Reliford
SUBJECT: Use Permit No. 1132 - Restaurant with Live Entertainment, Dancing, Beer & Wine, at 78 S. Dempsey Road (Item No. 2)

The following Notes to the Applicant should be added to this application.

Notes to Applicant:

- h) The applicant shall provide one 2A10BC portable fire extinguisher. Sec. 10.505(a) UFC. (F)
- i) The requirements for a Hazardous Materials permit shall be met prior to the Fire Department final of Building Permit. Sec. 80.103(b), UFC. (F)
- j) A hood and duct fire extinguishing system shall be provided in accordance with the Mechanical Code for commercial-type food heat-processing equipment that produces grease-laden vapors. Sec. 10.513 UFC. (F)

Staff has spoken with the applicant's representative to inform him of these added Notes, but as of this writing has been unable to reach the applicant and/or property owner.

FJR:tmj
cc: Fire Department