



PLANNING & COMMUNITY DEPARTMENT

STAFF REPORT

DATE: September 7, 2022

TO: Hearing Officer

SUBJECT: Six-Month Review of
Modification of Conditional Use Permit #2726

LOCATION: 72 North Fair Oaks Avenue
Der Wolfskopf

APPLICANT: City of Pasadena, Initiated by

ZONING DESIGNATION: CD-1, AD-1 (Central District Specific Plan, Old Pasadena Subdistrict, Alcohol Density Overlay 1)

GENERAL PLAN DESIGNATION: Medium Mixed Use (0.0-2.25 FAR, 0-87 DU/Acre)

CASE PLANNER: Alison Walker

STAFF RECOMMENDATION: Acknowledge that all the conditions imposed on Der Wolfskopf are still valid and the business operator is in compliance with the conditions of approval. Staff recommends no modification to the conditions of approval at this six-month review.

PROJECT PROPOSAL: A six-month review of Modification of Conditional Use Permit #2726, issued to the current business operator (Der Wolfskopf) on March 2, 2022. The purpose of the review is to assess the operating conditions of the approved entitlement and the business operator's compliance with approved conditions.

ENVIRONMENTAL DETERMINATION: This project was previously determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 3 §15303, New Construction or Conversion of Small Structures). This exemption applies the conversion of existing structures from one use to another where only minor modifications are made in the exterior of the structure. This is a six-month review of the Modification of

the Conditional Use Permit. No new information is being presented that would necessitate a change to the original environmental determination.

BACKGROUND:

Site characteristics:

The subject site is located on east side of Fair Oaks Avenue, between Holly Street and Union Street. The property is approximately 23,700 square feet in size, with approximately 132 feet of frontage along Fair Oaks Avenue. The site is developed with a one- and two-story multi-tenant commercial building, and basement tenant spaces. The existing business, Der Wolfskopf, occupies a first floor tenant space, with basement area, fronting on Fair Oaks Avenue.

Adjacent Uses:

North: General Commercial and Residential
South: General Commercial
East: General Commercial
West: General Commercial

Adjacent Zoning:

North: CD-1 (Central District Specific Plan, Old Pasadena Subdistrict)
South: CD-1 (Central District Specific Plan, Old Pasadena Subdistrict)
East: CD-1 (Central District Specific Plan, Old Pasadena Subdistrict)
West: PD-34 (100 West Walnut Planned Development)

Previous Cases:

CUP #2726 – To allow the sale of alcoholic beverages, live entertainment, and commercial entertainment in conjunction with the operation of a restaurant use. Approved, by the Hearing Officer, on August 18, 1993.

Modification of CUP #2726 – A City-initiated public hearing to consider revocation of CUP#2726, originally approved by the Hearing Officer on August 18, 1993 for McMurphy’s Tavern. Revocation proceedings were initiated by the City as a result of violation of conditions of approval and problems related to alcohol sales (e.g. public intoxication and acts of violence). The Board of Zoning Appeals decided to approve modifications to the conditions of approval of CUP#2726, instead of revoking it, on September 13, 2001.

Six-Month Review of Modified CUP #2726 – A scheduled six-month review of Modified Conditional Use Permit #2726. Approved with additional modifications to the conditions of approval by the Board of Zoning Appeals on March 20, 2002.

PROJECT DESCRIPTION:

This is a six-month review of the Modification of Conditional Use Permit #2726 which was approved by the Hearing Officer on March 2, 2022. The City initiated the Modification to Conditional Use Permit #2726 in order to curtail issues documented by the Police Department and Code Compliance Division related to noise, amplified sound, alcohol consumption, and unpermitted activities on-site and violations observed by the staff of the Planning Division. The Hearing Officer, after reviewing the information provided, approved modified conditions of approval.

Condition #16 of the Modification required a public hearing before the Hearing Officer at six- and 12- months from the Modification approval date. The purpose of the hearing is to review the effectiveness of, and compliance with the conditions of approval. At this hearing, staff will provide testimony on the conditions imposed as part of the March 2, 2022 approval.

ANALYSIS:

This staff report was prepared to inform and update the public as well as the Hearing Officer on Der Wolfskopf's operating characteristics as a result of the conditions imposed by Modification to CUP #2726. As part of this public hearing, staff will present information regarding specific conditions of approval. Following the public hearing, the Hearing Officer will consider if the applicant has been in compliance with the conditions of approval.

Compliance Analysis:

Modification to CUP #2726 was approved by the Hearing Officer on March 2, 2022 and new and modified conditions were imposed in order to curtail issues related to noise and amplified sound, alcohol consumption, and unpermitted activities on-site. The full list of conditions of approval is included with this report as Attachment A.

Pasadena Police Department and Code Compliance Activity

Since the March 2, 2022 public hearing, there have been no complaints to the Code Compliance Division nor have there been any Pasadena Police Department calls for service related to Der Wolfskopf.

Compliance with Conditions of Approval

Staff has identified key operational conditions below with discussion on how the conditions have been addressed since the March 2022 approval.

Condition #16: Within 60 days of this approval, the business operator or property owner, shall submit floor plans demonstrating the layout of the restaurant, its amenities (bars, stage, seating, tables, restrooms, kitchen, etc.), and compliance with the conditions of approval to the satisfaction of the Zoning Administrator. Floor plans shall include the first level, basement level, front patio dining area, and any upper level areas used by the restaurant.

On July 19, 2022, 139 days after approval, the business operator provided staff with updated floor and site plans. Staff conducted a site visit on August 25, 2022 to confirm that the business is in compliance with the provided floor and site plans. Although this condition was not satisfied within the 60 day timeline, it is staff's determination, that the business operator has met the intent of this condition.

Condition #26: No live entertainment shall occur in the basement, in the front patio area, or in the rear outdoor patio area at any time.

Staff conducted a site visit on August 25, 2022 and there was no evidence of live entertainment in the basement, front patio area, or in the rear patio area, such as stages or DJ booths. As such, it is staff's determination, that the business operator has made all efforts to meet the intent of this condition.

Condition #27: Live entertainment shall occur only on the existing raised platform located in the first floor.

Staff conducted a site visit on August 25, 2022 and there was no evidence of live entertainment in the basement, front patio area, or in the rear patio area, such as stages or DJ booths. As such, it is staff's determination, that the business operator has made all efforts to meet the intent of this condition.

Condition #28: Customized (i.e. color turning or mechanically moving) lighting and sound systems conducive of a nightclub atmosphere shall be allowed on the first floor only when in conjunction with live entertainment as specified in Condition No. 29.

Staff conducted a site visit on August 25, 2022 and there was no presence of lighting or sound systems installed in the basement. Lighting and sound systems installed on the outdoor patio area, and staff recommends these systems be removed prior to the required 12-month review in order to comply with Condition #28.

Condition #29: Promoter-produced parties, events or performances shall be prohibited. These events include private parties that involve third parties who profit from organizing and/or drawing attendees to the events.

Staff reviewed social media websites and did not see advertisements for promoter-produced parties, events or performances events. As such, it is staff's determination, that the business operator has made all efforts to meet the intent of this condition.

Condition #30: No cover charges, entry fees, or minimum drink orders shall be charged/required of patrons to enter any portion of the restaurant.

Staff reviewed social media websites and did not see advertisements for events with cover charges, entry fees, or minimum drink orders. As such, it is staff's determination, that the business operator has made all efforts to meet the intent of this condition.

Condition #31: No dancing shall be allowed where persons dance, appear, or perform attired in swimsuits, bikinis, lingerie, nude, or any other attire in a nude or semi-nude state, or in violation of Zoning Code Section 17.50.295 (Sexually Oriented Businesses).

The Pasadena Police Department and Code Compliance Division have not received any complaints or calls related to dancing in a nude or semi-nude after the March 2, 2022 meeting. In addition, staff reviewed social media websites and did not see evidence of or advertisements for activities of this sort. As such, it is staff's determination, that the business operator has made all efforts to meet the intent of this condition.

Condition #33: In the outdoor areas, pre-recorded amplified and/or non-amplified music shall be limited to ambient background music. The playing of pre-recorded music shall be prohibited after 10:00 p.m., daily.

The Pasadena Police Department and Code Compliance Division have not received any complaints or calls related to noise in the outdoor areas. Staff conducted a site visit on August 25, 2022 and found large sound systems installed on the outdoor patio area, and staff recommends these systems be removed prior to the required 12-month review to be in compliance with Condition #33.

Condition #34: Use of the rear outdoor patio area for consumption of food and beverages shall be limited to a maximum of 400 square feet in area and shall be secured and delineated by a barrier with a minimum height of three feet or as required by the California Department of Alcoholic Beverage Control within 60 days of this approval.

On August 16, 2022, 174 days after approval, the business owner applied for a Zoning Permit for a 50-inch high barrier to secure and delineate the 400 square-foot rear outdoor patio area. Although this condition was not satisfied within the 60 day timeline, it is staff's determination, that the business operator has met the intent of this condition.

Condition #35: Use of the rear outdoor patio area for consumption of food and beverages shall cease nightly at 10:00 p.m.

The Pasadena Police Department and Code Compliance Division have not received any complaints or calls related to activity or noise in the rear outdoor patio area after 10:00 p.m. As such, it is staff's determination, that the business operator has made all efforts to meet the intent of this condition.

Condition #36: In the outdoor patio areas, televisions, projectors or other devices used to transmit moving images shall be prohibited at all times, except for major sporting events such as NFL, NBA, and MLB Playoffs, the NFL Super Bowl, the MLB World Series, UFC Championships, and the FIFA World Cup, which shall be prohibited after 10:00 p.m.

The Pasadena Police Department and Code Compliance Division have not received any complaints or calls related to noise in the outdoor patio area. Staff conducted a site visit on August 25, 2022, and observed that there were two televisions installed in the outdoor patio area and the business operator informed staff that the televisions are only used for the major sporting events described in the condition. As such, it is staff's determination, that the business operator has made efforts to meet the intent of this condition.

Condition #37: To reduce noise impacts, doors accessing the front main entry and rear outdoor patio area, shall remain closed at all times. The door accessing the rear patio shall be self-closing and shall be designed to comply with all applicable building code and fire code requirements. The door shall be modified as needed to comply within 90 days of approval.

Staff conducted a site visit on August 25, 2022 and the doors accessing the front main entry and rear outdoor patio area were self-closing. As such, it is staff's determination, that the business operator has made all efforts to meet the intent of this condition.

Condition #40: All seating provided in the basement, with the exception of seating at the bar, shall consist of standard restaurant booths and tables with a minimum tabletop height of 30 inches. The existing basement dining area shall be modified as needed to comply within 90 days of this approval.

Staff conducted a site visit on August 25, 2022 and the basement seating has been changed and is now consistent with standard restaurant booths and tables. As such, it is staff's

determination, that the business operator has made all efforts to meet the intent of this condition.

Condition #41: A security plan, with video surveillance plan, shall be in place during operating hours, and shall ensure there is security staff on duty during the live performances and/or when dancing occurs and as specified by these conditions. The security plan shall be submitted to the Police Department within 60 days of approval of this permit. The Police Department shall review and approve the plan.

On July 19, 2022, 139 days after approval, the business operator provided Staff with the security plan which was reviewed and approved by the Pasadena Police Department. Although this condition was not satisfied within the 60 day timeline, it is staff's determination, that the business operator has met the intent of this condition.

ENVIRONMENTAL REVIEW:

This project was previously determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Public Resources Code §21080(b)(9); Administrative Code, Title 14, Chapter 3, Class 3 §15303, New Construction or Conversion of Small Structures). This exemption applies the conversion of existing structures from one use to another where only minor modifications are made in the exterior of the structure. This is a six-month review of the Modification of Conditional Use Permit. No new information is being presented that would necessitate a change to the original environmental determination.

CONCLUSION:

The business operator is required to comply with the conditions of approval as granted by the Hearing Officer on March 2, 2022. The intent of the conditions is to ensure the existing restaurant use does not negatively impact the surrounding area. Based on the information provided to and observed by staff, it has been determined that the business operator, Der Wolfskopf, has complied with all the conditions of approval with the caveat that the sound system and lighting in the rear outdoor patio shall be removed. As such, staff recommends that the Hearing Officer acknowledge that the conditions of approval have been adhered to, that the business operator has satisfied their six-month review, and require the applicant continue to adhere to the conditions of approval. It should be noted that a 12-month review from the March 2, 2022 approval date will also be required in accordance with Condition #16 to ensure that the business operator continues to operate in compliance with the conditions of approval.

Attachments:

Attachment A: Decision Letter for Modification of Conditional Use Permit #2726

**ATTACHMENT A
DECISION LETTER FOR MODIFICATION OF CONDITIONAL USE PERMIT #2726
DATED MARCH 8, 2022**



PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

March 8, 2022

Crystal Aceves
Der Wolfskopf
72 North Fair Oaks Avenue
Pasadena, CA 91103

**Re: Modification of Conditional Use Permit #2726
72 N. Fair Oaks Avenue
Council District #3**

Dear Ms. Aceves:

The application for a **Modification of Conditional Use Permit #2726** at **72 North Fair Oaks Avenue** was considered by the **Hearing Officer** on **March 2, 2022**.

MODIFICATION OF CONDITIONAL USE PERMIT #2726: A City-initiated public hearing to consider the modification of conditions of approval for Conditional Use Permit (CUP) #2726, originally approved by the Hearing Officer on August 18, 1993. CUP #2726 allows the sale of alcoholic beverages, live entertainment, and commercial entertainment in conjunction with the operation of a restaurant use.

After careful consideration of this application, and with full knowledge of the property and vicinity, the Hearing Officer made the finding as shown on Attachment A to this letter. Based upon this finding, it was decided by the Hearing Officer that the **Modification to Conditional Use Permit** be **approved** with the modified conditions in Attachment B and in accordance with approved plans stamped March 20, 2002.

You are hereby notified that, pursuant to Pasadena Municipal Code Chapter 17.72 (Appeals), any person affected or aggrieved by the decision of the Hearing Officer has the right to appeal this decision within **ten days (March 14, 2022)**. The effective date of this case will be **March 15, 2022**. Prior to such effective date, a member of the City Council or Planning Commission may request that it be called for review to the Board of Zoning Appeals. However, if there is a request for a call for review, the appeal period will continue to run. If the tenth day falls on a day when City offices are closed, the appeal deadline shall be extended through the next day when offices are open. The decision becomes effective on the eleventh day from the date of the decision. The regular Appeal fee is \$807.01. The Appeal fee for non-profit community-based organizations is \$403.50.

Any permits necessary may be issued to you by the Building Division on or after the effective date stated above. A building permit application may be submitted before the appeal deadline has expired with the understanding that should an appeal be filed, your application may, at your

expense, be required to be revised to comply with the decision on the appeal. A copy of this decision letter (including conditions of approval) shall be incorporated into the plans submitted for building permits.

This project has been determined to be exempt from environmental review pursuant to the guidelines of the California Environmental Quality Act (Title 14, Chapter 3, Section §15301, Class 1, Existing Facilities). This exemption applies to the operation and permitting of uses in existing structures where there involves negligible or no expansion of the use. The modification and addition of conditions of approval for an existing use is not an expansion of the use.

For further information regarding this case, please contact **Alison Walker** at **(626) 744-6742** or **awalker@cityofpasadena.net**.

Sincerely,



Paul Novak
Hearing Officer

Enclosure: Attachment A, Attachment B, Attachment C (Floor Plans)

xc: City Manager, City Clerk, City Council, City Council District Liaison, Building Division, Public Works, Design and Historic Preservation, Department of Transportation, Hearing Officer, Code Compliance, Case File, Decision Letter File, Planning Commission (9)

ATTACHMENT A
SPECIFIC FINDINGS FOR MODIFICATION OF CONDITIONAL USE PERMIT #2726

Modification of Conditional Use Permit

1. *There are sufficient grounds to justify revocation that can be corrected by modifying existing conditions or imposing new or additional conditions.*

Based on the documentation provided by the Pasadena Police Department and the Code Compliance Division, in conjunction with the observations by the Planning Division, there are sufficient grounds to justify revocation that can be corrected by modifying existing conditions and imposing new conditions. Documentation and observations determined violation of existing conditions, non-compliance with the floor plans and engaging in unpermitted activities (e.g. karaoke, age restrictions, entry fees...etc.) The modification of the existing conditions of approval, along with new proposed conditions of approval, were crafted specifically to address the operations of the restaurant that lead to the City-initiated modification of this permit, with the intent of curtailing issues related to, but not limited to, alcohol consumption, noise and unpermitted activities at the site. A new condition of approval would require a public hearing before the Hearing Officer at six and 12 months from the date of this Modification approval. The purpose of the hearing is to review the effectiveness of, and compliance with the conditions of approval.

**ATTACHMENT B
CONDITIONS OF APPROVAL FOR
MODIFICATION OF CONDITIONAL USE PERMIT #2726**

The business operator or successor in interest shall meet the following conditions. These conditions supersede the conditions of approval from all previous Conditional Use Permit approvals

1. Alcoholic beverages shall not be served in disposable containers.
2. Signs advertising brands of alcoholic beverages for sale at the subject site shall not be visible from the exterior of the premises and shall be oriented to the interior tenant space. The display of alcoholic beverages shall be interior only (no outdoor display) at all times.
3. The hours of operation shall be limited from 10:00 a.m. to 1:00 a.m., seven days per week. The last alcoholic beverage shall be served no later than one-half hour before closing.
4. Video cameras for safety and security purposes shall be installed on the premises and continually maintained in good and working condition. Video cameras shall be positioned to monitor the building entrances and exits, dance floor, and rear courtyard area. The business owner or his/her designated representative shall instruct the company or individual installing the surveillance equipment to position the cameras to maximize the quality of facial and body images and to avoid backlighting and physical obstructions. The cameras shall remain operative during business hours and videotapes shall be retained for a minimum period of 48 hours. Video shall be made available to the Pasadena Police Department upon request.
5. The business operator or successor in interest shall meet the applicable code requirements of all other City Departments.
6. The business operator shall undertake the following preventive measures to reduce potential for alcohol related problems to occur:
 - a. The business operator shall stock the bar with coffee and/or a variety of non-alcoholic drinks at all times.
 - b. Rideshare service phone numbers shall be posted in a conspicuous location at all times in the area(s) where alcohol is served to customers;
 - c. All alcohol service personnel, along with management staff, shall participate in the L.E.A.D. (Licensee Education on Alcohol and Drugs) State-sponsored alcohol service-training program. Within 60 days of the effective date of this action, a copy of a certificate of such training for all alcohol service personnel and management staff shall be submitted to the Zoning Administrator for inclusion in the file. Any new employees shall participate in L.E.A.D. training within 60 days from their date of hire.
 - d. All alcohol service personnel, along with management staff, shall participate in the Responsible Beverage Service (RBS) State-mandated alcohol service training program. Within 60 days of the effective date of this action, a copy of a certificate of such training for all alcohol service personnel and management staff shall be submitted to the Zoning Administrator for inclusion in the file. Any new employees shall participate in RBS training within 60 days from their date of hire.

- e. No drink specials shall be offered after 7:00 p.m.
 - f. No alcohol over 100 proof shall be served.
 - g. The licensee shall be restricted from serving any “double” alcoholic drinks or shots during the last two hours of alcohol service.
7. The service and consumption of alcoholic beverages shall be in conjunction with food sales in the front patio area until 6:00 p.m. After 6:00 p.m., there shall be no service or consumption of alcoholic beverages in the front patio during which time it may be used as a waiting/queuing area with no food service. Alcoholic beverages shall be served only with food in the rear and front patio area.
8. The business operator shall provide a waiting area inside the building to reduce the impact of noisy crowds waiting to enter the restaurant and from congregating outside of the building disrupting adjacent land uses. Monday through Sunday from 6 p.m. on, the exterior front patio area may be used as a waiting/queuing area for patrons waiting to enter the restaurant. A minimum of two security guards shall be positioned outside to monitor and direct the patrons through the line in an orderly manner.
9. The business operator shall maintain a minimum of one licensed and uniformed security guard per 20 patrons during the hours of 8:00 p.m. and 1:00 a.m.; or at closing time, whichever occurs first.
10. To reduce the potential for noise from entertainment activities the applicant shall undertake the following preventive measures:
- a. Noise resulting from entertainment activities shall be conscientiously monitored by the applicant and noise level must maintain in accordance with Chapter 9.36 of the Pasadena Municipal Code.
 - b. Live entertainment may be comprised of not more than eight band members.
 - c. Amplification devices including speakers must be located away from windows and entrances.
 - d. Security shall be present during the hours that live music is in progress to discourage loitering, compliance with the occupancy limitations and other activities that may be disruptive to surrounding land uses.
 - e. Live entertainment and amplified or unamplified music within the restaurant shall terminate no later than daily at 12:30 a.m. or half an hour before closing, whichever occurs first.
11. There shall be no billiard tables, video games, karaoke or dart games, unless otherwise approved by the required permit.
12. The Zoning Administrator, at any time, can call for a review of the approved conditions at a duly noticed public hearing before the Hearing Officer. These conditions may be modified or new conditions added to reduce any impacts of the use.

13. The project, Planning **Activity Number 93-CUP2726**, was approved with new and modified conditions and is subject to the Condition Monitoring Program by the City. Condition Monitoring is required for the project. Under the Monitoring Program, the project will be inspected by Code Compliance Staff to determine compliance with the conditions of approval. Required monitoring fees for setup and inspections shall be paid within 30 days of the effective date of this action. Contact the Code Compliance Staff at (626) 744-8633 to verify the fee. Failure to pay the required monitoring fee may result in revocation proceedings of this entitlement.
14. The dollar sales of alcoholic beverages shall not exceed the dollar amount of food and non-alcoholic beverages in a quarterly basis to ensure the primary use of the premises as a restaurant. The sales record shall be maintained at the premises at all times and be presented to the City agencies for review upon request.
15. The business operator shall remain in compliance with the floor plans approved at the Board of Zoning Appeals hearing on March 20, 2002, which provides for a full service restaurant. Any modifications, including those required in accordance with Condition No. 17 below, shall require review and approval by the Zoning Administrator. **The dance floor area shall not exceed 242 square feet and shall be located on the first floor only. The dance floor shall permit the removal of no more than six tables and related chairs.** The stage floor area shall be located on the first floor and shall not expand beyond what is indicated on the plans. The Zoning Administrator may work with the applicant to redesign the front of the restaurant.
16. The Hearing Officer shall conduct a public hearing at six months and 12 months from the date of approval of this modification to Conditional Use Permit #2726 to ensure the effectiveness of and compliance with the modified conditions of approval. These conditions may be modified or new conditions added to reduce any impacts of the use. The Hearing Officer may revoke the Conditional Use Permit if sufficient cause is given.
17. Within 60 days of this approval, the business operator or property owner, shall submit floor plans demonstrating the layout of the restaurant, its amenities (bars, stage, seating, tables, restrooms, kitchen, etc.), and compliance with the conditions of approval to the satisfaction of the Zoning Administrator. Floor plans shall include the first level, basement level, front patio dining area, **rear outdoor patio area**, and any upper level areas used by the restaurant.
18. The business operations of the establishment shall be limited to the interior of the tenant space, the front patio area, and the **rear outdoor patio area** as specified in Condition No. 35.
19. Smoking is prohibited in all areas of the restaurant (indoors and outdoors), per Chapter 8.78 of the Pasadena Municipal Code.
20. The site and surrounding area shall be maintained in a litter and graffiti free manner. Any graffiti that should appear on the site shall be removed within 48 hours.
21. Compliance with the City of Pasadena Refuse Storage regulations, see Section 17.40.120 of the Pasadena Municipal Code, shall be maintained at all times.
22. The restaurant, and its activities, shall comply with the regulations of Chapter 9.36 (Noise Restrictions) of the Pasadena Municipal Code.

23. To maintain the atmosphere of a full-service restaurant establishment, patrons of all ages, shall be allowed to enter any portion of the restaurant at all times.
24. The applicant shall maintain a complete food menu, and maintain the atmosphere of a full-service restaurant establishment at all times. Food service of the full menu shall remain open and available during the hours that alcoholic beverages are sold.
25. The service of the full menu shall be made available to all dining areas, indoors and outdoors, being utilized by patrons.
26. No live entertainment shall occur in the basement, in the front patio area, or in the rear outdoor patio area at any time.
27. Live entertainment shall occur only on the existing raised platform located in the first floor.
28. Customized (i.e. color turning or mechanically moving) lighting and sound systems conducive of a nightclub atmosphere shall be allowed on the first floor only when in conjunction with live entertainment as specified in Condition No. 27.
29. Promoter-produced parties, events or performances shall be prohibited. These events include private parties that involve third parties who profit from organizing and/or drawing attendees to the events.
30. No cover charges, entry fees, or minimum drink orders shall be charged/required of patrons to enter any portion of the restaurant.
31. No dancing shall be allowed where persons dance, appear, or perform attired in swimsuits, bikinis, lingerie, nude, or any other attire in a nude or semi-nude state, or in violation of Zoning Code Section 17.50.295 (Sexually Oriented Businesses).
32. The private dining area shall be located entirely within the private property of the related business and shall not encroach within any public right-of-way unless the required permits and/or approvals are obtained from the Department of Public Works.
33. In the outdoor areas, pre-recorded amplified and/or non-amplified music shall be limited to ambient background music. The playing of pre-recorded music shall be prohibited after 10:00 p.m., daily.
34. Use of the rear outdoor patio area for consumption of food and beverages shall be limited to a maximum of 400 square feet in area and shall be secured and delineated by a barrier with a minimum height of three feet or as required by the California Department of Alcoholic Beverage Control within 60 days of this approval.
35. Use of the rear outdoor patio area for consumption of food and beverages shall cease nightly at 10:00 p.m.
36. In the outdoor patio areas, televisions, projectors or other devices used to transmit moving images shall be prohibited at all times, except for major sporting events such as NFL, NBA, and MLB Playoffs, the NFL Super Bowl, the MLB World Series, UFC Championships, and the FIFA World Cup, which shall be prohibited after 10:00 p.m.

37. To reduce noise impacts, doors accessing the front main entry and rear outdoor patio area, shall remain closed at all times. The door accessing the rear patio shall be self-closing and shall be designed to comply with all applicable building code and fire code requirements. The door shall be modified as needed to comply within 90 days of approval.
38. The exterior door serving the basement from the Fair Oaks Avenue frontage shall be limited to emergency egress only. Patron access to the basement shall be limited to the interior stairwell at the front of the restaurant except as allowed in Condition No. 39.
39. When the basement dining area is reserved for a private group dinner, the exterior door serving the basement from the Fair Oaks Avenue frontage may be utilized for patron ingress/egress provided that a hostess station is provided and staffed at the door to monitor patron access. The hostess station shall be placed on the interior of the restaurant.
40. All seating provided in the basement, with the exception of seating at the bar, shall consist of standard restaurant booths and tables with a minimum tabletop height of 30 inches. The existing basement dining area shall be modified as needed to comply within 90 days of this approval.
41. A security plan, with video surveillance plan, shall be in place during operating hours, and shall ensure there is security staff on duty during the live performances and/or when dancing occurs and as specified by these conditions. The security plan shall be submitted to the Police Department within 60 days of approval of this permit. The Police Department shall review and approve the plan.

ATTACHMENT C FLOOR PLANS

