

Exhibit A

**Draft Conditions of Approval
PCUP-286 (El Balazo)
5331 Hopyard Road**

I. Project Specific Conditions:

Planning Division:

1. Live music and entertainment approved by this conditional use permit are limited to:

- Monday – Monday Night Football (no activity during non-game season)
- Tuesday – Jukebox
- Wednesday – Trivia Night
- Thursday – Karaoke (9:00 p.m. – 12:00 midnight)
- Friday – Live Music (9:00 p.m. – 12:00 midnight)
- Saturday – Jukebox
- Sunday – Football (no activity during non-game season)

All of the above activities shall cease at 12:00 midnight.

2. No dancing is allowed at any time.

3. The following restrictions stated in the letter from the Police and the Community Development Department dated September 15, 2010 shall remain effective:

- Drink specials shall approved by the Police Chief or his/her designee.
- No cover charge shall be imposed to enter the restaurant during business hours.
- No age restrictions shall be imposed to enter the restaurant during business hours.
- All alcohol shall be off the bar and tables by 1:15 am.

Violations of any terms specified in the letter may result in a revocation hearing.

4. This use permit allowing live music and the karaoke machine is valid for one probational year. During this one-year probationary period, staff may revoke the approval for live music and karaoke due to any violation of the conditional use permit, the Municipal Code, or other applicable State or local regulations. At the end of the probation period, the Community Development Director may either extend the period of live music and karaoke or return this item to the Planning Commission for review and action.

5. If additional hours for the activities listed in Condition No. 1 are desired, prior City review and approval is required. The Director of Community Development may approve the modification administratively or may refer the matter to the Planning Commission if judged to be substantial.
6. No live music or karaoke is allowed outside the building.
7. The applicant states that the live band will play 80s music/songs. If changes to the music selection are desired, prior City review and approval is required. This requirement for prior City approval of a change in music selection is based on the City's experience with significant negative secondary effects (fighting, loitering, littering, etc.) with different music selections.
8. Employees who serve alcohol shall undergo a training program such as TIPS (Training for Intervention Procedures), designed to prevent intoxication, underage drinking, and drunk driving. Existing employees that haven't attended such an alcohol training program shall attend one within 90 days of the effective date of this approval. All future employees shall undergo an alcohol training program prior to serving alcohol.
9. The business owner/operation (or designated representative) shall regularly monitor the area outside of the restaurant/bar to ensure peace and quiet.
10. The business shall comply with chapter 9.24 of the Pleasanton Municipal Code (Smoking in Public and Work Places). The business owner/operator shall request smoking customers to be quiet while smoking outside and to not loiter outside after smoking.
11. The business owner/operator shall regularly request patrons via flyers or small signs in the interior of the establishment to not utilize the parking spaces on the adjacent properties.
12. The business owner/operation shall adhere to a "good neighbor" policy, meaning that the operator and employees must respect the rights of neighboring properties and, to the best of their ability, shall ensure their patrons' compliance with the City's noise and smoking regulations and any applicable conditions of approval for the subject business relating to parking location, litter, noise, loitering, etc.
13. If operation of this use results in conflicts pertaining to noise, parking, traffic/circulation, or other factors, at the discretion on the Director of Community Development, this conditional use permit may be submitted to the Planning Commission for their subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit. Possible mitigation measures can include, but are not limited to: modifying the hours of live music and karaoke, prohibiting amplified music, or other measures deemed necessary by the Planning

Commission.

14. Activities conducted on the subject property shall comply with Chapter 9.04 of the Pleasanton Municipal Code (Noise Regulations). The applicant (or designated representative of the business) shall enforce the noise regulation when live band is playing or the karaoke machine or juke box are in use.
15. All exterior doors shall remain closed when not being used for ingress/egress purposes. The applicant or business owner shall install self-closing door mechanisms to all exterior doors. The windows shall remain closed during business hours.
16. Except as noted above, all previous conditions of approval for Case PCUP-132 shall remain in full force and effect.

II. Standard Conditions:

Planning Division:

17. The approved activities at El Balazo restaurant are modified and shall conform substantially to Exhibit B (dated "Received September 24, 2010" and "Received November 1, 2010"), on file with the Planning Division, except as modified by the conditions of approval herein. Minor changes to the approved operation and schedule may be approved by the Director of Community Development.
18. To the extent permitted by law, the project applicant shall defend (with counsel reasonably acceptable to the City), indemnify and hold harmless the City, its City Council, its officers, boards, commissions, employees and agents from and against any claim (including claims for attorney's fees), action, or proceeding brought by a third party to attack, set aside, or void the approval of the project or any permit authorized hereby for the project, including (without limitation) reimbursing the City its attorneys fees and costs incurred in defense of the litigation. The City may, in its sole discretion, elect to defend any such action with attorneys of its choice.

{end}

THE CITY OF



PLEASANTON

January 12, 2007

Marino Sandoval
5910 Bruce Drive
Pleasanton, CA 94588

RE: Case No. PCUP-132/Taqueria El Balazo Restaurant
5331 Hopyard Road

Dear Mr. Sandoval:

This letter is to confirm the discussion and the agreement between you and City staff as a result of the meeting held on Wednesday, January 11, 2007 in the City Offices concerning issues and incidents related to the alcoholic beverage service at the Taqueria El Balazo restaurant located at 5331 Hopyard Road since June 2005.

It is agreed that staff will not bring the existing conditional use permit (Case No. PCUP-132) to the Planning Commission at this January 24, 2007 meeting. You will abide by the conditions of approval as stated in Resolution No. PC-2005-05 for said use permit approval, herein attached, and will take the following measures immediately:

- No alcoholic beverage service after 12:00 midnight on Wednesday;
- No DJ or live band allowed on the premises;
- No tables and chairs removed to create a dance floor;
- No cover charge imposed to enter the restaurant during business hours;
- No age restriction imposed to enter the restaurant during business hours;
- No karaoke or other forms of entertainment permitted at the restaurant during business hours.

Failure to comply with the conditions and/or to implement the above measures will result in staff immediately initiating a revocation hearing before the Planning Commission. Your cooperation in this matter is anticipated.

P. O. Box 520, Pleasanton, CA 94566-0802

200 Old Bernal Avenue

Planning & Community Development
TEL: 925-781-7600
FAX: 925-781-7601

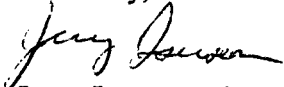
Building Inspection
TEL: 925-781-7600
FAX: 925-781-7600

Utility Billing
TEL: 925-781-7625
FAX: 925-781-7600

Business License
TEL: 925-781-7600
FAX: 925-781-7600

If you have any questions, please call Jenny Soo, Associate Planner, at (925) 931-5615, or via email at: jsoo@ci.pleasanton.ca.us.

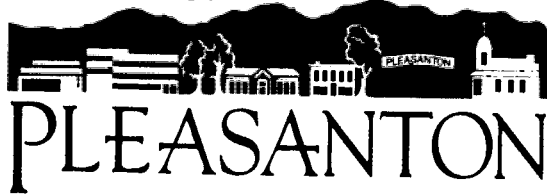
Sincerely,



Jerry Iserson, Director
Planning and Community Development

Cc: Capt. Michael Fraser, Pleasanton Police
Sgt. Jeff Bretzing, Senior Code Enforcement Officer
Jenny Soo, Associate Planner

Attachment: 1) Resolution No. PC-2005-05
2) Staff Report for the Planning Commission Meeting on January 26, 2005



September 15, 2010

Mr. Marino Sandoval
 DBA: Taqueria El Balazo
 5331 Hopyard Road
 Pleasanton, CA 94588

Subject: Proposed Changes to Conditional Use Permit (PCUP-132)

Dear Mr. Sandoval,

In January, 2007, the City's Director of Planning and Community Development met with you to discuss issues surrounding violations of the conditions of approval of PCUP-132 (Conditional Use Permit). Representatives from both the Police Department and Code Enforcement were present during this meeting. As a result of the continuous violations by El Balazo, the City intended to bring the Conditional Use Permit to the Pleasanton Planning Commission for review and possible revocation. In an attempt to avoid the possibility of revocation, you agreed to abide by the limitations set forth in the Conditional Use Permit and further outlined in a letter, dated January 12, 2007. (See attached.) The conditions outlined in that letter are listed below:

- No alcoholic beverage service after 12 midnight on Wednesday;
- No DJ or live band music allowed on the premises;
- No tables and chairs removed to create a dance floor;
- No cover charge imposed to enter the restaurant during business hours;
- No age restrictions imposed to enter the restaurant during business hours;
- No karaoke or other forms of entertainment permitted at the restaurant during business hours.

In the letter you and Mr. Delima recently submitted to the City outlining proposed changes to these operating parameters, you indicate that El Balazo is "one of the only bars in town that are NOT allowed these features." However, it should be noted that El Balazo was not approved to be a bar but rather simply a restaurant with a bar. The restrictions were a result of the various violations committed by El Balazo while attempting to function outside its originally approved business plan.

COMMUNITY DEVELOPMENT

P. O. BOX 520, Pleasanton, CA 94566-0802

Planning

200 Old Bernal Ave.
 (925) 931-5600
 Fax: 931-5483

Building & Safety

200 Old Bernal Ave.
 (925) 931-5300
 Fax: 931-5478

Engineering

200 Old Bernal Ave.
 (925) 931-5650
 Fax: 931-5479

Traffic

200 Old Bernal Ave.
 (925) 931-5650
 Fax: 931-5479

Inspection

157 Main Street
 (925) 931-5680
 Fax: 931-5484

The original business plan, dated November 11, 2004, was written and submitted by Nicole Sandoval. It contains descriptions of the business as "a family and community-oriented restaurant," and "we see ourselves in the food business, not the bar business." (See attached.) Once again, the problems occurred when violations were committed as a result of El Balazo attempting to function more as a bar than a restaurant.

Notwithstanding these issues, City staff will agree to support a trial modification to the 2007 restrictions and the existing use permit. However, in the best interest of the community and public safety we cannot support all of your proposed changes to the restrictions. In the spirit of "second chances," we are willing to support several of the modifications on a probationary basis, as follows:

Your Proposed Modification	Supported Modification/Restriction
Probation period: 6 months	Probation period: 12 months
Jukebox, DJ, Karaoke, Live Music	Jukebox, Karaoke, Live Music (80's cover music), NO DJ for first 6 months.
Hours of consumption: varied 1:00 am to 1:25 am	Hours of consumption: 1:15 am (all alcohol off the bar and tables by this time)
Adequate security (1 per 30 patrons)	Adequate security (1 per 30 patrons)
Security required to have current Guard Card	Security required to have current Guard Card
Drink specials to be approved by Police Chief or designee	Drink specials to be approved by Police Chief or designee
N/A	Inspection by Code Enforcement/Fire Department prior to implementation of plan
N/A	Inspection by ABC prior to implementation of plan
(Maintain current restriction)	Abide by all conditions of approval by Planning Division, ABC laws, and Pleasanton Municipal Code
(Maintain current restriction)	No cover charge imposed to enter the restaurant during business hours
(Maintain current restriction)	No age restrictions imposed to enter the restaurant during business hours

The proposed karaoke and live music would require a modification to the existing use permit from the Planning Commission. We would like to be clear about the fact that during the probationary period, we reserve the right to revoke our support for these modifications due to any violation, regardless of how insignificant it may seem at the

Mr. Marino Sandoval
Page Three
September 15, 2010

time. We have intentionally eliminated DJ music from the proposal for the first six months. However, upon successful completion of the first six months of the probationary period, we will meet with you and may be open to considering additional modifications, which may or may not include the use of a DJ.

If you have any questions or would like to further discuss this matter, please contact Captain Eric Finn with the Operations Division at (925) 931-5100 or via email at efinn@ci.pleasanton.ca.us. Please contact Jenny Soo, Associate Planner, at (925) 931-5615 or via email at jsoo@ci.pleasanton.ca.us to get more detailed information on processing a use permit amendment.

Sincerely,



Michael J. Fraser
Police Chief
Pleasanton Police Department



Brian Dolan
Director of Community Development



PLEASANTON

January 12, 2007

Marino Sandoval
5910 Bruce Drive
Pleasanton, CA 94588

RE: Case No. PCUP-132/Taqueria El Balazo Restaurant
5331 Hopyard Road

Dear Mr. Sandoval:

This letter is to confirm the discussion and the agreement between you and City staff as a result of the meeting held on Wednesday, January 11, 2007 in the City Offices concerning issues and incidents related to the alcoholic beverage service at the Taqueria El Balazo restaurant located at 5331 Hopyard Road since June 2005.

It is agreed that staff will not bring the existing conditional use permit (Case No. PCUP-132) to the Planning Commission at this January 24, 2007 meeting. You will abide by the conditions of approval as stated in Resolution No. PC-2005-05 for said use permit approval, herein attached, and will take the following measures immediately:

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- No age restriction imposed to enter the restaurant during business hours;
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Failure to comply with the conditions and/or to implement the above measures will result in staff immediately initiating a revocation hearing before the Planning Commission. Your cooperation in this matter is anticipated.

P. O. Box 520, Pleasanton, CA 94566-0802

200 Old Bernal Avenue

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925-941-7000
Fax: 925-941-7444

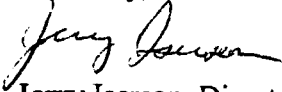
Building Inspection
925-941-7200
Fax: 925-941-7170

Utility Billing
925-941-8100
Fax: 925-941-7400

Business License
925-941-7400
Fax: 925-941-7400

If you have any questions, please call Jenny Soo, Associate Planner, at (925) 931-5615, or via email at: jsoo@ci.pleasanton.ca.us.

Sincerely,



Jerry Iserson, Director
Planning and Community Development

Cc: Capt. Michael Fraser, Pleasanton Police
Sgt. Jeff Bretzing, Senior Code Enforcement Officer
Jenny Soo, Associate Planner

Attachment: 1) Resolution No. PC-2005-05
2) Staff Report for the Planning Commission Meeting on January 26, 2005

TAQUERIA EL BALAZO
ABSOLUTELY MEXICAN
480 San Ramon Valley Blvd. # H
Danville, CA 94526
Main Telephone: (925) 838-6421
Catering Telephone: (800) 230-5155
Fax: (925) 838-6422
Email: Elbalazo1@aol.com
November 11, 2004

Planning Department
City of Pleasanton
Design and Review

Dear Distinguished Board:

This letter serves to address the issue of allowing our new El Balazo, Pleasanton location, located at 5331 Hopyard Road, to remain open for the purchase of alcoholic beverages after the hour of 10:00 p.m.

Our goal in opening this added location in Pleasanton is three-fold. First, we have enjoyed being Pleasanton residents for the past four years and are anxious to keep our business near home. Second, our first Pleasanton location, located in the Walmart Center, is unable to accommodate large parties. Third, we feel that the Pleasanton community would benefit from our location on Hopyard, as the area now needs a family and community-friendly restaurant. Our hope is to clone the comraderie and community spirit our San Ramon location has given to the Community of San Ramon. Our San Ramon location is a safe and family-friendly scene that is inviting to the entire neighborhood, old and young. It sponsors a local adult male softball team, an adult co-ed softball team, and keeps the people living and working in San Ramon in San Ramon. In any given week, we host various community events, such as mom's night out and teacher appreciation night for local schools. Because we offer full-service on-site catering, we also host weddings, team parties for all sports, fundraisers for local non-profit organizations, and are known within the San Ramon Community as gracious contributors to a variety of events.

We would like to take all of these wonderful features from our San Ramon location and duplicate them at our Hopyard Road location. Being allowed to remain open until 2:00 a.m. is a vital part of that success. Many of these local, community, and family events do not begin until 8:00 p.m. or after. To enforce a shut-down at 10:00 p.m. would severely limit our ability to provide the community with the friendly atmosphere it so desperately needs. We are not the type of business where people come in for the sole purpose of drinking. We see ourselves in the food business, not the bar business. We are the type of establishment that embraces friends, families, and local businesses, and invites people to take a minute to relax for a moment, in spite of their fast-paced, and often hectic, lifestyles.

Given that we have been operating a successful and problem-free location in San Ramon for the past four years, we can comfortably guarantee to you that we will do the same for the Pleasanton facility. Your consideration is greatly appreciated.

Sincerely,
Nicole Sandoval

EXHIBIT A

El Balazo (Hopyard) :proposal by Matt DeLima 510-459-8979

Proposed changes

Probation Period :6 months

<u>Monday</u>	<u>Tuesday</u>	<u>Wed</u>	<u>Thurs</u>	<u>Friday</u>	<u>Sat</u>	<u>Sun</u>
Jukebox	DJ	Karaoke	DJ	Live Music/Dj	Dj	Juke Box

Goal

Is too simply be able to compete with every other Bar /Restaurant in Dublin/Pleasanton, and create new business for all of Pleasanton. As of now We are the one of the only Bars in Town, that are NOT allowed these features

Dj's

Will only play top 40 Pop Mainstream music: (NO RAP, No Bay Area Music)

Drink Specials

Will have to be approved by the Lieutenant, or Chief....All ABC laws will be followed and enforced.

Bands

Will consist of 80's covers mostly....Music will not be able to be heard 100 ft away from our building. Target Demo (30-45)

Advertising

Will be done through on-line, or word a mouth, or posters inside our business NO advertising on these stations: KMEL, WILD 94.9, to keep the listeners of this station away from our business..... (These were the stations that brought the "rowdy" crowd a few years back)

Hours service and Consumption

<u>Monday</u>	<u>Tues</u>	<u>Wednesday</u>	<u>Thursday</u>	<u>Friday</u>	<u>Saturday</u>	<u>Sunday</u>
1:15 am	1:15am	1:15 am	1:25 am	1:25am	1:25 am	1 am

*Food will be available as long as we are open, even after Last call.

Security

Adequate Security (1 per 30 ppl) will be on each night, to ensure the safety of our patrons...All of our security will be required to have a Guard Card and updated lead training....El Balazo will also offer a ABC Lead Training course once every 6 months taught by an ABC Officer, and will be open to all other bars and Restaurants.

PLANNING COMMISSION CITY OF PLEASANTON

ALAMEDA COUNTY, CALIFORNIA

RESOLUTION NO. PC-2005-05

RESOLUTION APPROVING THE APPLICATION OF MARINO AND NICOLE SANDOVAL/TAQUERIA EL BALAZO FOR CONDITIONAL USE PERMIT APPROVAL, AS FILED UNDER CASE PCUP-132

- WHEREAS, Marino and Nicole Sandoval/Taqueria El Balazo has applied for conditional use permit approval to serve alcoholic beverages after 10:00 p.m. at Taqueria El Balazo, an existing restaurant located at 5331 Hopyard Road; and
- WHEREAS, zoning for the property is PUD-C (Planned Unit Development - Commercial) District; and
- WHEREAS, at its duly noticed public hearing of January 26, 2005, the Planning Commission considered all public testimony, relevant exhibits, and recommendations of the City staff concerning this application; and
- WHEREAS, projects of this nature are categorically exempt from the requirements of the California Environmental Quality Act (CEQA); and
- WHEREAS, the Planning Commission made the following findings:
1. The proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.

The site of the proposed use is in a commercial zoning district, which permits a variety of commercial and office uses. The proposed bar is within an existing restaurant, surrounded by other retail stores, hotels, and restaurants, and it is located approximately 0.9 mile from the nearest residential property. As proposed and conditioned, the bar would be operated in a manner so that noise, including live music, that may be played on special occasions, and other aspects of the proposed use would be unlikely to spill over onto adjacent properties and businesses or residential properties at a distance. Therefore, this finding can be made.

2. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties or improvements in the vicinity.

The subject site has adequate parking for the proposed use. The proposed music activities will be contained completely within the building. In addition, noise levels have been conditioned to comply with the City's Noise Ordinance. Any areas of possible concern have been addressed so that the proposed use will comply with all applicable Municipal Code requirements and, therefore, would be operated in a non-nuisance manner. Furthermore, the applicant can be required to mitigate any future nuisances or problems. Therefore, this finding can be made.

3. The proposed conditional use will comply with each of the applicable provisions of the Zoning Ordinance.

The City's Municipal Code permits the establishment of restaurants and bars with a conditional use permit. The proposed use complies with all relevant sections of the zoning district. Granting a conditional use permit to the applicants for a bar is consistent with the City's ability to regulate zoning as listed in the Municipal Code Chapter 18.24 (Conditional Use). Therefore, this finding can be made.

WHEREAS, the Planning Commission determined that the proposed conditional use would be compatible with the existing uses in the area.

NOW, THEREFORE, THE PLANNING COMMISSION OF THE CITY OF PLEASANTON RESOLVES THE FOLLOWING:

Section 1. Approves Case PCUP-132, the application of Marino and Nicole Sandoval/ Taqueria El Balazo for conditional use permit approval to serve alcoholic beverages after 10:00 p.m. at Taqueria El Balazo, an existing restaurant located at 5331 Hopyard Road, subject to the conditions shown in Exhibit "B," attached hereto and made part of this case by reference.

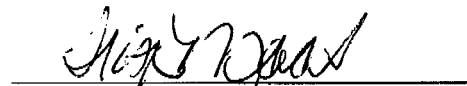
Section 2. This resolution shall become effective 15 days after its passage and adoption unless appealed prior to that time.

THIS RESOLUTION ADOPTED BY THE PLANNING COMMISSION OF THE CITY OF PLEASANTON ON THE 26TH DAY OF JANUARY 2005 BY THE FOLLOWING VOTE:

AYES: Commissioners Blank, Fox, Maas, and Roberts.
NOES: None.
ABSTAIN: None.
RECUSED: None.
ABSENT: Commissioner Arkin.

ATTEST:


Dawn G. Abrahamson
City Clerk


Trish Maas
Chairperson

APPROVED AS TO FORM:

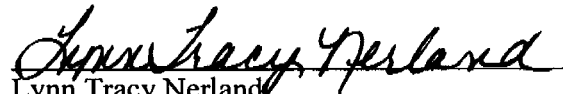

Lynn Tracy Nerland
Assistant City Attorney

EXHIBIT B
CONDITIONS OF APPROVAL

PCUP-132, Marino and Nicole Sandoval/Taqueria El Balazo
5331 Hopyard Road
January 26, 2005

1. The operation of the use shall conform substantially to Exhibit A, dated "Received November 24, 2004", on file with the Planning Department, except as modified by the following conditions. Minor changes to the plans may be allowed subject to the approval of the Planning Director if found to be in substantial conformance to the approved exhibits and conditions of approval.
2. In the event that the applicant proposes to modify the hours of operation or other aspects of the business operation, or to modify the exterior building or site, the modification shall be subject to the review of the Planning Director. The Planning Director may approve the modification or refer the matter to the Planning Commission if judged to be substantial.
3. Appetizers and/or the full menu shall be available for patrons of the restaurant/bar during the operating hours from 10:00 p.m. to 2:00 a.m.
4. No recorded or live music shall be played outside the building.
5. Live and recorded music, unless low-level background music, shall not be played inside the restaurant after 12:00 midnight.
6. The applicants shall obtain all necessary approvals from the Department of Alcoholic Beverage Control (ABC) prior to occupancy.
7. The applicants shall contact the Building, Fire, Police, and County Environmental Health Departments to determine all applicable requirements. The structure shall conform to all applicable occupancy requirements, codes, and ordinances. All future tenant improvements shall be included as part of this condition.
8. The outdoor dining area is not part of the this use permit approval.
9. In the event that nuisances are created through the operation of the bar, either within the bar itself or by its patrons in the vicinity of the bar, the Planning Director may refer the conditional use permit to the Planning Commission for review at a public hearing. If necessary, the Planning Commission may add additional conditions of approval or may revoke the conditional use permit.

10. If operation of this use results in conflicts pertaining to parking, noise, traffic, or other impacts, at the discretion of the Planning Director, this conditional use permit may be referred to the Planning Commission for subsequent review at a public hearing. If necessary, the Commission may modify or add conditions of approval to mitigate such impacts, or may revoke said conditional use permit.
11. All restaurant facilities shall be equipped at all times with filtering devices to minimize odors and fumes.
12. The applicants shall effectively screen from view all new ducts, meters, air conditioning equipment, and any other mechanical equipment, whether on the structure, on the ground, or on the roof, with materials architecturally compatible with the main structure. Screening details shall be shown on the plans submitted for issuance of building permits, the adequacy of which shall be determined by the Planning Director. All required screening shall be provided prior to occupancy. The applicant shall comply with the Municipal Code requirements and standards for satellite dishes.
13. All mechanical equipment shall be constructed in such a manner that noise emanating from it will not be perceptible beyond the property plane of the subject property in a normal environment for that zoning district.
14. At no time shall balloons, banners, pennants, or other attention-getting devices be utilized on the site except as allowed by Section 18.96.040 of the Zoning Ordinance if approved by temporary conditional use permit as part of a decorating plan in conjunction with shopping center promotional events. At no time shall spot lighting be used after 10:00 PM in conjunction with such grand openings and/or promotional events.

{end}

PCUP-132, Marino and Nicole Sandoval/Taqueria El Balazo

Application for a conditional use permit approval to serve alcoholic beverages after 10:00 p.m. at an existing restaurant located at 5331 Hopyard Road. Zoning for the property is PUD-C (Planned Unit Development – Commercial) District.

Mr. Pavan summarized the staff report and described the proposed use. He noted that because the application was for a conditional use permit, the item could be returned to the Planning Commission at a future time for additional consideration and additional conditions, if warranted. He noted that other establishments in close proximity to this site offered after-hours alcohol sales. According to the Code Enforcement Officer, there had been no problems with after-hours alcohol sales in the vicinity. Staff recommended approval of this item.

Chairperson Maas advised that a letter from the Pleasanton Police Department was attached to the staff report, stating that Chief Neal had no objections to approving the request.

Commissioner Blank expressed concern that food should be available during the hours when alcohol is served.

THE PUBLIC HEARING WAS OPENED.

A gentleman representing the applicant noted that a full menu would be available until 2:00 a.m. He noted that alcohol was already served at his San Ramon location until 2:00 a.m. but not at the taqueria in Pleasanton.

THE PUBLIC HEARING WAS CLOSED.

Commissioner Maas moved to make the conditional use permit findings as listed in the staff report and to approve PCUP-132 as conditioned in the staff report.

Commissioner Roberts seconded the motion.

Commissioner Blank proposed amending the motion to modify Condition No 5 to state that no loud music will be played after midnight; low-level music would be acceptable.

The motion was amended as proposed.

ROLL CALL VOTE:

AYES: Commissioners Blank, Fox, Maas, and Roberts.
NOES: None.
ABSTAIN: None.
RECUSED: None.
ABSENT: Commissioner Arkin/

Resolution No. PC-2005-05 was entered and adopted as motioned.

Jenny Soo

From: Walter Wallner r
Sent: Monday, January 03, 2011 3:57 PM
To: Jenny Soo
Cc:
Subject: Re: PCUP-286, El Balazo Restaurant

Sorry, Please disregard my previous. I slipped and sent 1/2 my message.

Jenny, We are the owners of the Burger King at 5315 Hopyard Rd. and shopping center at 5321 Hopyard Rd. I am writing to object to this increased intensity of use as it will increase traffic across our property. El Balazo's only access is across our property. They have in the narrow easements (25') which run though the cars backing into the same driveway and pedestrians on their way to their cars. In the recent past there have been problems with El Balazo patrons parking and partying in our parking lot reducing the parking available for our tenants and making a mess. This road house is just going to compound the problem.

Call if you have questions.

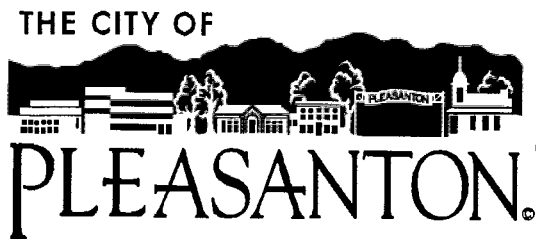
Warren Avenue Associates

Walter Wallner, General Partner

>
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**Planning Commission
Staff Report**

January 26, 2005
Item 6.e.

SUBJECT: PCUP-123

APPLICANTS: Marino and Nicole Sandoval/Taqueria El Balazo

PROPERTY OWNERS: King's Family Limited Partnership

PURPOSE: Application for a conditional use permit to serve alcoholic beverages after 10:00 p.m. at an existing restaurant.

GENERAL PLAN: Retail/Highway/Service Commercial, Business and Professional Offices.

ZONING: Planned Unit Development – Commercial (PUD-C) District

LOCATION: 5331 Hopyard Road

ATTACHMENTS:

1. Written Narratives, Site Plan, Floor Plans, and Menu (Exhibit A)
2. Draft Conditions of Approval (Exhibit B)
3. Memo From Police Department
4. Location Map

BACKGROUND

The applicants are owner and operators of Taqueria El Balazo in the Metro 580 Shopping Center, across the parking lot from Kohl's Department store and Border's. They are currently preparing to open a second Taqueria El Balazo at 5331 Hopyard Road, in the building formerly occupied by the Buttercup Pantry and then by Steve B's Diner. They wish to serve alcohol at this restaurant after 10 p.m. until 2:00 a.m. Restaurant establishments serving alcohol after 10:00 p.m. are considered "bars" by the Municipal Code and are conditionally permitted uses by the PUD-C zoning district covering this property. Hence, the conditional use permit is required.

SITE DESCRIPTION

The subject property is located on the east side of Hopyard Road, south of Interstate 580. The restaurant is a 5,500 square feet freestanding building. A total of 52 parking spaces are provided on site.

The property is bordered on the south by Burger King restaurant, Conroy's Florist and a variety of other retail businesses and restaurants; on the east by Schoeber's Racquetball and Spa, on the north by Ramada Inn and Interstate 580, and on the west by Hopyard Road, Candlewood Hotel and Pleasanton Park Business Park. A shared driveway connects the subject site with Schoeber's Racquetball and Spa.

PROJECT DESCRIPTION

The restaurant and bar would serve lunch and dinner featuring primarily Mexican food. The restaurant would be open seven days a week from 10 a.m. to 2:00 a.m. A full menu would be available during business hours and is attached.

As proposed, the restaurant could seat approximately 80 people at tables and approximately 30 people at the bar. As stated by the applicants, a total of 12 employees would be on duty during any given shift. Low-level recorded music would normally be played inside the restaurant. No speakers would be installed outside. A mariachi band may play inside the restaurant during special holidays, such as Cino de Mayo, or at a private function, such as birthdays or anniversaries. At no time would the band be playing past midnight.

The currently on-going tenant improvements include a new kitchen, bar, restrooms, private dining rooms, and tables, booths and chairs. The applicants would also add outdoor patio dining areas as part of an exterior modification project to be submitted on a later date

Please refer to the attached written narratives and floor plan for additional information.

ANALYSIS

Conditional uses are those uses, which, by their nature, require special consideration so that they may be located properly with respect to the objectives of the Municipal Code and with respect to their effects on surrounding uses and properties. In order to achieve these purposes, the Planning Commission is empowered to approve, conditionally approve, or deny applications for use permits. As discussed below, there are potential adverse impacts that could occur as a result of having a bar inside a restaurant and with late-night hours and a live band playing on special occasions. In addition, staff notes that some of the existing bars in the City have created problems from time to time due to disorderedly patrons or loud music.

Land Use

One of the primary concerns in reviewing a conditional use permit application is the effect of the proposed use on surrounding properties. The site of the existing restaurant is in a commercial area. Surrounding land uses include restaurants, retail shops, hotels, and office uses. The closest residential neighborhood is located approximately 0.91 miles from the building, on the west side of Hopyard Road.

Staff was initially concerned of potential adverse impacts that could occur by allowing a bar to be open until 2:00 a.m. Visits to the site and area show that Y'All Come Back Saloon is located at 5321 Hopyard Road, approximately 250 feet from Taqueria El Balazo. This saloon has been in business since 1990 and it is open until 2:00 a.m. The Senior Code Enforcement Office stated that there have been no incidents at this location.

There are a number of restaurants that serve alcoholic beverage until 11:00 p.m.: Chevys Restaurant on Owens Drive, Faz Restaurant on Hopyard Road, Chilli's restaurant on Hopyard Road. The City has not received any complaints regarding these operations. Thus, if operated as described in the applicants' written narrative and as conditioned by staff, staff believes that the use would be operated similar to the existing establishments in the vicinity serving alcoholic beverages without incidents.

The Police Department has also reviewed the proposed use and is comfortable with its operation at this location. The attached memo states that the Police Department does not believe that having a bar inside the restaurant at this location with late-night hours and a live band on special occasions would be an issue. Thus, staff believes that there would be no land use conflicts that would be created by allowing this restaurant to have a live band on special occasions, to remain open until 2:00 a.m., and to offer alcoholic beverage sales with food from 10:00 p.m. to 2:00 a.m.

In addition, staff believes that, as proposed and conditioned, the use would not produce any adverse impacts on the adjacent properties in terms of noise, parking, litter, disorderly behavior, or other objectionable influences. However, if problems do occur, staff has added conditions of approval which will allow the Planning Director to refer the use permit back to the Planning Commission for review at which time the Commission may choose to impose additional conditions to mitigate such problems or to revoke the use permit.

Noise

The applicants wish to have a mariachi band for restaurant patrons during special holidays and for special private functions. The applicants have stated that the band would stop playing at midnight. Recorded music would also be played inside the restaurant during business hours. Musical equipment and speakers would be located in the rear of the restaurant and would be oriented to direct music towards the front of the building. No speakers would be located outside

the establishment, and the applicants have stated that the manager on duty would monitor the noise levels to ensure compliance with the City Noise Ordinance.

Parking

The restaurant has its own parking lot and provides a total of 52 parking spaces. The Municipal Code requires one parking space for each 200 square feet of gross floor area or one parking space for each three seats, whichever is greater. Based on its seating of approximately 80 seats by the tables and 30 seats by the bar, a total of 37 parking spaces would be required. The restaurant will provide sufficient parking for its patrons.

Public Notice

Notice of the proposed use was sent to the surrounding property owners and all tenants within 1,000 ft. of the restaurant. As of the writing of this report, staff has not received comments from residents or business owners/tenants.

CONDITIONAL USE PERMIT FINDINGS

The Planning Commission needs to make the following findings prior to the granting of a use permit:

A. The proposed location of the conditional use is in accordance with the objectives of the zoning ordinance and the purpose of the district in which the site is located.

The site of the proposed use is in a commercial zoning district, which permits a variety of commercial and office uses. The proposed bar is within an existing restaurant, surrounded by other retail stores, hotels, and restaurants, and it is located approximately 0.9 miles from the nearest residential property. As proposed and conditioned, the bar would be operated in a manner so that noise, including live music that may be played on special occasions, and other aspect of the proposed use would be unlikely to spill over onto adjacent properties and businesses or residential properties at a distance. Therefore, staff believes this finding can be made.

B. The proposed location of the conditional use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to the properties of improvements in the vicinity.

The subject site has adequate parking for the proposed use. The proposed music activities will be contained completely within the building. In addition, noise levels have been conditioned to comply with the City's Noise Ordinance. Staff feels that any areas of possible concern have been addressed so that the proposed use will comply with all applicable Municipal Code requirements and, therefore, would be operated in a non-nuisance man-

ner. Furthermore, the applicant can be required to mitigate any future nuisances or problems. Therefore, staff believes that this finding can be made.

C. The proposed conditional use will comply with each of the applicable provisions of this chapter.

The City's Municipal Code permits the establishment of restaurants and bars with a conditional use permit. In staff's opinion, the proposed use complies with all relevant sections of the zoning district. Granting a conditional use permit to the applicants for a bar is consistent with the City's ability to regulate zoning as listing in the Municipal Code Chapter 18.24 (Conditional Use). Therefore, staff believes that this finding can be made.

ENVIRONMENTAL ASSESSMENT

Projects of this nature are categorically exempt from the requirements of the California Environmental Quality Act (CEQA). Therefore, no further environmental assessment is required.

CONCLUSION

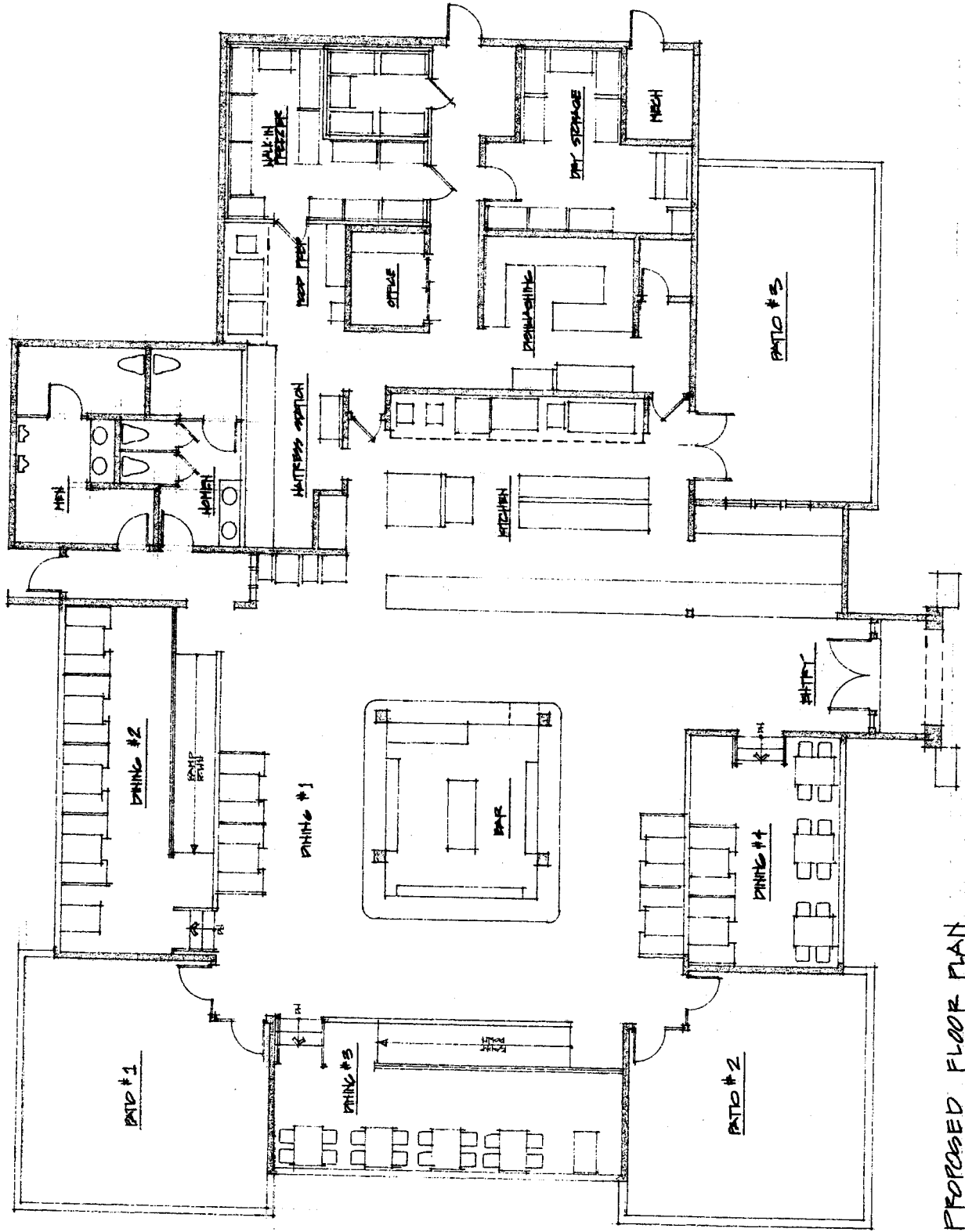
Staff believes that the proposed use permit for Taqueria El Balazo to allow alcoholic beverages to be served after 10:00 p.m. would be in keeping with other restaurants in the commercial districts. Given the location of the restaurant, and as proposed by the applicants and conditioned by staff, the proposed bar would unlikely to create impacts to surrounding land uses. Conditions of approval have been included which will ensure that the safety and general welfare of the surrounding area, and the City in general, is maintained.

STAFF RECOMMENDATION

Staff recommends the Planning Commission approve Case PCUP-132 by taking the following actions:

1. Make the Conditional Use Permit findings as listed in the staff report; and,
2. Approve Case PCUP-132 subject to the conditions of approval listed in Exhibit "B".

Staff Planner: Jenny Soo – 925.931.5615 or email: JSoo@ci.pleasanton.ca.us



PROPOSED FLOOR PLAN
1/4" = 1'-0"

501
P

inc
d.

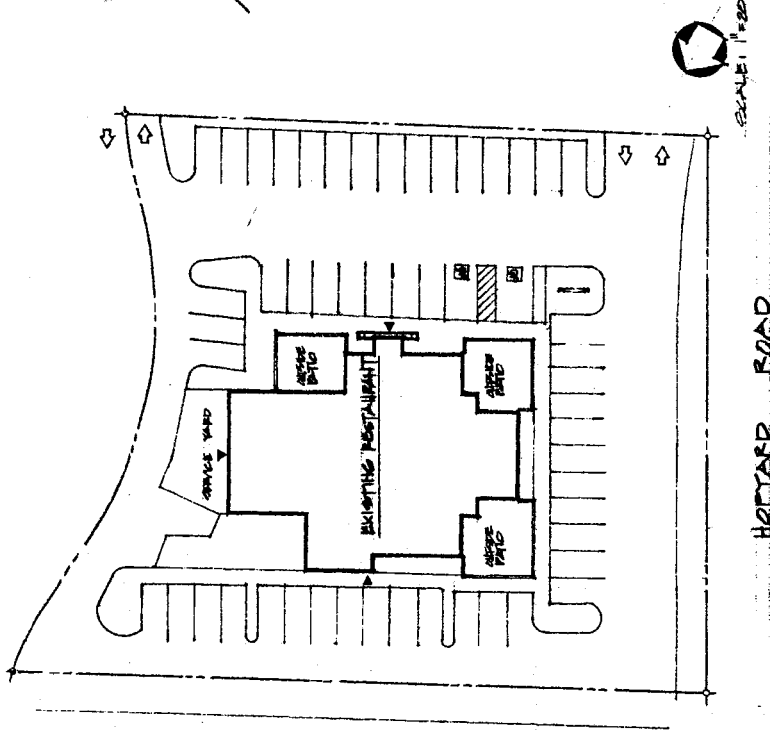
EXHIBIT A

RECEIVED

NOV 2 4 2004

CITY OF PLEASANTON
PLANNING DEPT.

PDR - 429
PCUP - 132



SITE PLAN

A.

TAQUERIA EL BALAZO
ABSOLUTELY MEXICAN
480 San Ramon Valley Blvd. # H
Danville, CA 94526
Main Telephone: (925) 838-6421
Catering Telephone: (800) 230-5155
Fax: (925) 838-6422
Email: Elbalazo1@aol.com
November 11, 2004

Planning Department
City of Pleasanton
Design and Review

Dear Distinguished Board:

This letter serves to address the issue of allowing our new El Balazo, Pleasanton location, located at 5331 Hopyard Road, to remain open for the purchase of alcoholic beverages after the hour of 10:00 p.m.

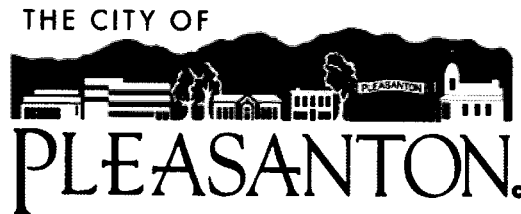
Our goal in opening this added location in Pleasanton is three-fold. First, we have enjoyed being Pleasanton residents for the past four years and are anxious to keep our business near home. Second, our first Pleasanton location, located in the Walmart Center, is unable to accommodate large parties. Third, we feel that the Pleasanton community would benefit from our location on Hopyard, as the area now needs a family and community-friendly restaurant. Our hope is to clone the comraderie and community spirit our San Ramon location has given to the Community of San Ramon. Our San Ramon location is a safe and family-friendly scene that is inviting to the entire neighborhood, old and young. It sponsors a local adult male softball team, an adult co-ed softball team, and keeps the people living and working in San Ramon in San Ramon. In any given week, we host various community events, such as mom's night out and teacher appreciation night for local schools. Because we offer full-service on-site catering, we also host weddings, team parties for all sports, fundraisers for local non-profit organizations, and are known within the San Ramon Community as gracious contributors to a variety of events.

We would like to take all of these wonderful features from our San Ramon location and duplicate them at our Hopyard Road location. Being allowed to remain open until 2:00 a.m. is a vital part of that success. Many of these local, community, and family events do not begin until 8:00 p.m. or after. To enforce a shut-down at 10:00 p.m. would severely limit our ability to provide the community with the friendly atmosphere it so desperately needs. We are not the type of business where people come in for the sole purpose of drinking. We see ourselves in the food business, not the bar business. We are the type of establishment that embraces friends, families, and local businesses, and invites people to take a minute to relax for a moment, in spite of their fast-paced, and often hectic, lifestyles.

Given that we have been operating a successful and problem-free location in San Ramon for the past four years, we can comfortably guarantee to you that we will do the same for the Pleasanton facility. Your consideration is greatly appreciated.

Sincerely,
Nicole Sandoval

EXHIBIT A



MEMORANDUM

Date: January 18, 2007

To: Chair Fox and Members of the Planning Commission

From: Jenny Soo, Associate Planner

Subject: PCUP-132/Taqueria El Balazo

On January 11, 2007, staff (Jerry Iserson, Planning Director, Captain Mike Fraser, Pleasanton Police, Sgt. Jeff Bretzing, Senior Code Enforcement Officer, and myself) met with Mr. Marino Sandoval, owner of Taqueria El Balazo located at 5331 Hopyard Road concerning issues and incidents related to the alcoholic beverage services at the restaurant after 10:00 p.m. and violations of the approved use permit, Case No. PCUP-132. The Planning Director proposed corrective measures to resolve the issues, and Mr. Sandoval agreed to abide by the conditions of approval as outlined in the attached January 12, 2007 letter. Therefore, the existing conditional use permit will not be reviewed by the Planning Commission on January 24, 2007.

Pleasanton Police and City's Code Enforcement Officers will continue to monitor the activities at the restaurant. Failure to comply with the conditions and/or implement the measures will result in staff immediately initiating a revocation hearing.

A copy of the letter from the Planning Director specifying measures to stop unapproved activities is attached.

PCUP-286

City of Pleasanton

GIS

Department

5331 Hopyard Road

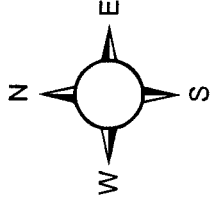
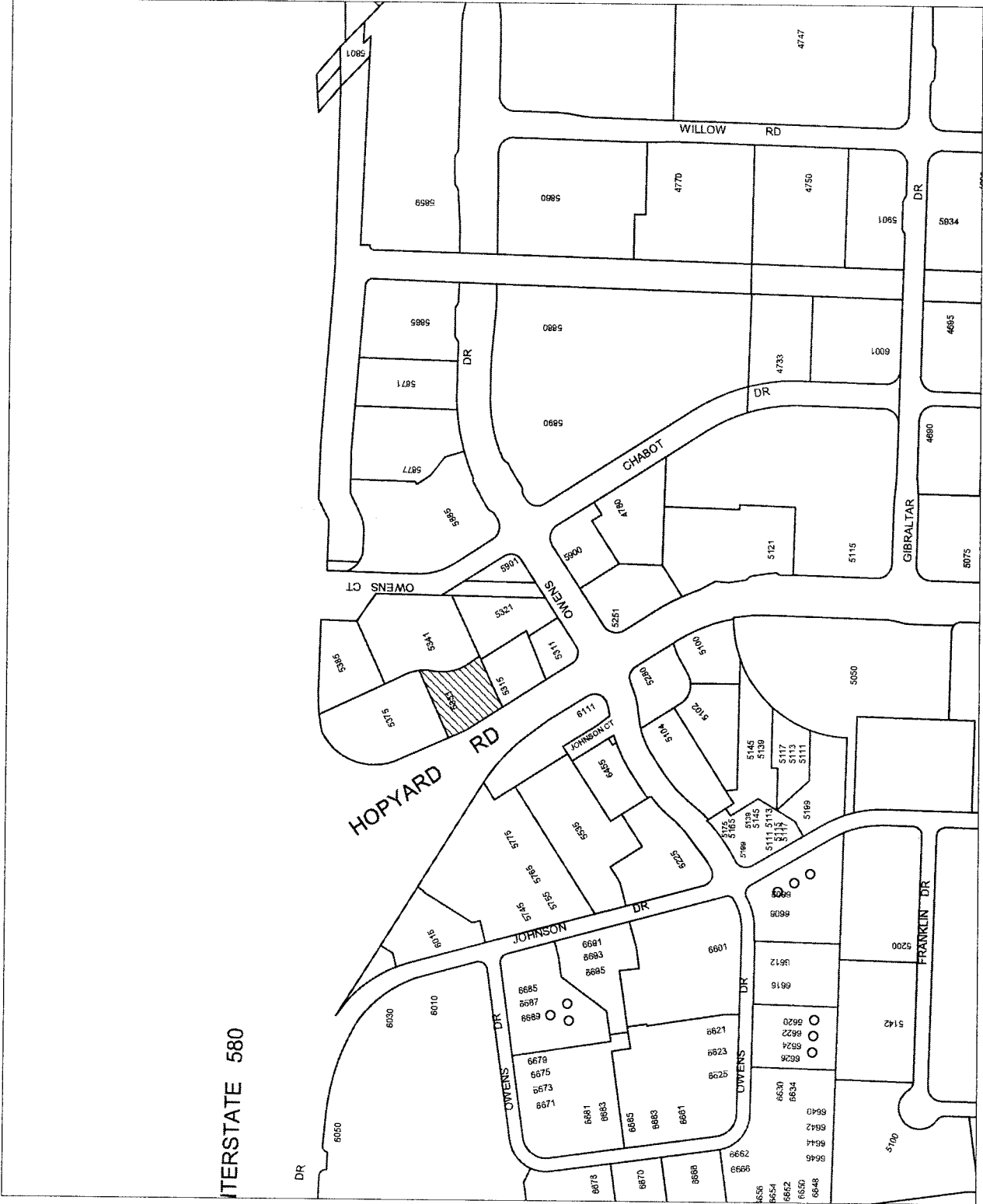


EXHIBIT K

Printed 1/6/2011



INTERSTATE 580

THE CITY OF



MEMORANDUM

Date: January 12, 2011

To: Chair Narum and the Planning Commission

From: Jenny Soo, Associate Planner

Subject: Item 6.a./PCUP-286; El Balazo

The attached spreadsheet is Exhibit M of the staff report. It lists Police Service Calls from 2005 to the present time. Staff has shaded areas that may be directly associated with the restaurant's operation.

Thank you.

EL BALAZO ACTIVITY 5331 HOPYARD RD. - JAN. 1, 2005 - DEC. 31, 2010

ACTIVITY TYPE	YEAR 2005	YEAR 2006	YEAR 2007	YEAR 2008	YEAR 2009	YEAR 2010
ADMIN ASSIGNMENT	1	5				
ANIMAL CALL	1				1	
BATTERY	4	7			3	1
BP VIOLATION		1				
BRANDISH WEAPON				1		
BURGLARY			1			
CITIZEN ASSIST		1				
CODE 5 ADMIN	1					
DISTURBANCE	12	16	3	3	5	2
DRUNK DRIVING				2		
FIELD INTERVIEW				1		1
FOLLOW-UP		5			2	
FRAUD						1
HAILED BY CITIZEN	2	4				
HIT/RUN TC		1		1	1	
HS VIOLATION	1					
ILLEGAL PARK		2	1		1	
INCIDENT		1	3	2	5	3
IN-CUSTODY		1				
INTOXICATED SBJ	3	4	3	1	2	1
JUVENILE PROB	1	0				
LOCK OUT	1					
LOST PROPERTY	1	3		1		
MEDICAL		1		1		
MINICIPAL VIOLATION			1			1
MISC. PUBLIC SERVICE						1
ODOR		1				
OTHER	1	1				
PATROL CHECK	110	150	12	3	2	5
PEDESTRIAN STOP	12	21	5	3	2	1
SPEC'L. ENFORCE		1				
STOLEN VEHICLE	1	1	4			
SUSP. CIRCUM.	0	2				
SUSP. PERSON	6	9			1	
SUSP. VEHICLE	7	17		7	2	4
TC-PROP DMG		2		2		
THEFT RPT	3		2		1	1
TRAFFIC STOP	14	39	20	12	18	10
TRESPASSING				1		
VANDALISM					2	
VEH FIRE		2				
VEH CODE VIOLATION					1	
WARRANT-SUBPOENA SERV.				1		
YEAR TOTAL	182	298	55	42	49	32