



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Christopher Burton

SUBJECT: See Below

DATE: January 20, 2026

Approved

Christopher Burton

Date:

1/27/26

COUNCIL DISTRICT: 7

SUBJECT: CP24-036 & ER24-304. Administrative Hearing on the Appeal of the Planning Commission's Denial of a Conditional Use Permit Located at 1692 Story Road.

RECOMMENDATION

- (a) Conduct an Administrative Hearing to consider the appeal of the Planning Commission's denial of a Conditional Use Permit to allow late-night use (until 2:00 a.m. Friday through Sunday) for an existing public eating establishment within an existing approximately 7,442-square-foot tenant space on an approximately 3.34-gross-acre site, located on the southwestern side of South King Road approximately 150 feet northwest of the South King Road and Marsh Street intersection, (1692 Story Road Suite #100).
- (b) Adopt a resolution denying the permit appeal and denying a Conditional Use Permit to allow late-night use (until 2:00 a.m. Friday through Sunday) for an existing public eating establishment within an existing approximately 7,442-square-foot tenant space on an approximately 3.34-gross-acre site, located on the southwestern side of South King Road approximately 150 feet northwest of the South King Road and Marsh Street intersection, (1692 Story Road Suite #100).

SUMMARY AND OUTCOME

The hearing before the City Council is a *de novo* hearing pursuant to Section 20.100.280, Chapter 20.100 of the San José Municipal Code to appeal the Planning Commission decision made on November 19, 2025, to deny the project application. A *de novo* hearing means the City Council considers the request anew, along with the staff report, comments from the appellant and applicant, and other information as part of

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the administrative record, and must make the required findings to grant the permit or determine whether the required findings cannot be met and therefore deny the permit.

Staff found that the project is inconsistent with:

- City Council Policy 6-27 Area Use Compatibility finding which states that “twenty-four-hour uses should not be approved unless the facility can operate without detriment to nearby residential uses or the general welfare of the surrounding area.”
- City Council Policy 6-27 Police Issues finding which state that “Crime statistics and police safety issues which are directly related to uses operating between 12:00 midnight and 6:00 a.m. will be analyzed and considered in determining the appropriateness of 24-hour uses.”
- Conditional Use Permit finding Section 20.100.720.A.4. of the San José Municipal Code which requires that “the proposed use at the location requested will not: a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or c. Be determinantal to public health, safety or general welfare.”

Staff is unable to find consistency with the above findings due to the After Bar & Grill's history of noncompliance with state and local laws. After Bar & Grill has violated their Alcohol Beverage Control (ABC) license by not serving food in conjunction with alcohol sales, which is a requirement for a Type 47 license for public eating establishments; providing live entertainment including dancers without an Entertainment Permit as required by the Police Department; operating past midnight without a Conditional Use Permit; and creating nuisance as demonstrated through noise and public nuisance citations for the operation from the Police Department. Despite warnings, instructions, and an opportunity to achieve compliance granted by the Police Department, the project applicant has continued to operate out of compliance with public eating establishment requirements.

If the Conditional Use Permit allowing late-night use (until 2:00 a.m. Friday through Sunday) for an existing public eating establishment is denied, the public eating establishment will still be able to continue operating every day between 6:00 a.m. and 12:00 a.m. However, no live entertainment would be allowed during those times without an Entertainment Permit from Police Department.

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BACKGROUND

Reason for Hearing

The project applicant has appealed the Planning Commission's decision to accept staff's recommendation and deny the proposed Conditional Use Permit to allow late-night use (until 2:00 a.m. Friday through Sunday) for an existing public eating establishment (After Bar & Grill).

Site Description

The subject property is located on the southwestern side of South King Road approximately 150 feet northwest of the South King Road and Marsh Street intersection (1692 Story Road Suite #100, APN 486-10-091). The tenant space (Suite #100) is located at the east side of an existing commercial shopping center near the vehicle entrance along South King Road. The existing commercial shopping center is surrounded by single-family residences to the southeast and southwest, commercial uses to the northeast, and Emma Prusch Farm Park across Story Road to the northwest. The subject site has two vehicle entrances along South King Road and Story Road that lead into a shared parking lot for all the tenants of the shopping center. The subject property is accessed by one pedestrian entrance within the shopping center located on the northwest building occupancy frontage. The site has existing pedestrian sidewalks along South King Road and Story Road with two crosswalks across South King Road and one crosswalk across Story Road. The site is also served by an existing Valley Transit Authority bus stop for the 22 and 77 lines along South King Road.

Project Details

The Conditional Use Permit requests late night operations Friday through Sunday until 2 a.m. with live entertainment. The project does not include any external modifications to the existing commercial building or site.

If the Conditional Use Permit is approved, the existing public eating establishment would operate between 12:00 p.m. and 12:00 a.m. Monday through Thursday, and between 12:00 p.m. and 2:00 a.m., Friday through Sunday.

An Entertainment Permit through the San José Police Department would be required for live entertainment and music during the proposed hours of operation.

Food would be served during all operational hours; there would be no hours where only alcohol is sold. The public eating establishment has an active Type 47 license with the California Department of Alcoholic Beverage Control, authorizing the sale of beer, wine, and distilled spirits for on-site consumption. Security personnel would be on site during

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all hours of operation. The project does not include any outdoor seating or outdoor entertainment.

Planning Commission

Staff's Presentation

The Planning Division of the Planning, Building and Code Enforcement Department and Police Department staff presented the proposed Conditional Use Permit and explained how the project is inconsistent with the City Council late-night use policies and required Conditional Use Permit findings for public health and safety. The San José Police Department opposed the project due to the documented history of noncompliance, including serving alcohol without food, providing entertainment without permits, operating past midnight without approval, and receiving noise and public nuisance citations despite multiple warnings and opportunities to correct violations. Based on these issues and the inability to make the required Conditional Use Permit findings under the San José Municipal Code, staff recommended denial of the Conditional Use Permit.

Applicant Team's Presentation

The applicant team presented their request of a Conditional Use Permit to extend operating hours for After Bar & Grill from midnight to 2:00 a.m. Friday through Sunday, emphasizing the owner's experience operating restaurants in Los Altos, Morgan Hill, and previously in Gilroy, and noting the economic hardships facing restaurants in the community and the Tropicana Village shopping center. The applicant team acknowledged the violations identified in the staff report and stated that since October 2024, the owner has worked to correct those issues and bring the business into compliance with City ordinances and ABC license requirements. The applicant expressed a willingness to accept conditions of approval to demonstrate a commitment to safety and to show that the business has made meaningful improvements.

The applicant team further focused on security measures, explaining that the business intends to provide enhanced security through off-duty police officers if available, or alternatively armed private security, to ensure a safe environment. As a compromise, the applicant proposed a six-month compliance period, after which they would return to demonstrate a positive operating record and justify the requested extended hours, asking the Commission for an opportunity to prove the business can operate responsibly during the additional late-night hours.

Public Comment

A member of the public, Victor Fong, who works at the Tropicana Shopping Center, spoke in support of the applicant, stating that he has personally observed Mr. Orellana

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operate a clean business with security present during busy times. He described an incident in which Mr. Orellana intervened when a homeless individual set a fire in the back alley, removing the person and putting out the fire, potentially preventing serious damage. Based on his firsthand experience and security footage, Mr. Fong described Mr. Orellana as a responsible member of the shopping center's business community.

Commissioner Discussion

Chair Rosario and Commissioner Bhandal disclosed ex parte communications with the applicant's team.

Commissioner Young led the discussion explaining that the Commission routinely reviews either applications for the sale of alcohol or extension of business hours and that typically the Police Department provides a neutral recommendation. However, in this case, the police report highlighted an unusually poor record for the establishment. Specifically, the San José Police Department's memo documented three significant incidents in 2023 and one in 2024, including brandishing a weapon on the premises and the presence of underage patrons.

Despite these concerns, the Police Department initially provided the owner with an opportunity to correct issues. Sergeant Pham and Lieutenant Pain met with Mr. Orellana on June 26, 2024, to outline the violations and explain what steps were necessary for permit approval. However, subsequent undercover investigations revealed that the establishment continued to violate regulations. Less than a month later, officers found alcohol being served after midnight, food not being served as required, and issues with doors being locked preventing fire access. Young, being a retired fire chief, explained that this is a huge issue that poses serious fire safety risks. Further inspections on July 26 and August 3 in 2024 confirmed ongoing major violations.

Commissioner Young emphasized that the repeated violations raised serious concerns about the operator's ability to comply with ABC regulations. He noted that the issues were not solely security-related but also fundamental operational noncompliance, including serving alcohol without food and operating after hours. Commissioner Young expressed skepticism that an experienced restaurant operator could repeatedly fail to follow clear guidance from the police. Based on the severity and recurrence of the violations, he concluded that there was no justification to approve the application and made a motion to deny it, in line with staff recommendations.

Commissioner Cao seconded the motion.

Vice Chair Bickford asked the applicant to explain what has functionally changed and how those changes would be demonstrated to the community and police.

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The business owner stated that they are committed to working closely with the police to ensure past issues do not recur. Drawing on prior experience running another club and collaborating with cities and police, they explained that recent problems stemmed from miscommunication about a city project and new closing requirements. They already had shows booked and requested time to coordinate with promoters and inform customers of an earlier midnight closing. After meeting with an officer in late October, they agreed to comply and began telling customers that the business would close at 12:00 a.m. Although doors were closed shortly after midnight and no new patrons were allowed in, they still received a citation. The applicant emphasized that they respect and comply with the law, seek a cooperative relationship with the police for safety, and request an opportunity to demonstrate their willingness to work with law enforcement rather than fear involving them when issues arise.

Sergeant Pham explained that his team last inspected the business in August 2024. He clarified that police met with the applicant, Mr. Orellana, in June 2024 and held two additional meetings in June, July, and August to explain applicable laws and compliance expectations. Similar meetings were held with other Tropicana business owners, who generally complied and responded positively. Pham noted that there were incidents in July and August of 2024 suggesting the After Bar & Grill was not complying with regulations.

Commissioner Bhandal expressed support for small businesses and expanded nightlife options outside downtown San José, including East San José and other neighborhoods. He emphasized that the City wants the applicant to succeed but shares concerns raised by Commissioner Young about potential issues. He then asked the business owner how long they have been operating the business, specifically at the Tropicana location.

The owner responded stating that he has operated the business in the Tropicana shopping center since February 2023.

Commissioner Bhandal inquired about the possibility of a six-month compliance hearing, but staff and the City Attorney explained that no such process exists under the City code and that deferral is an available option. Staff clarified that even if the application were denied, the business could continue operating as a public eating establishment but would be required to close at midnight.

Further discussion revealed that only one other business in the shopping center has a permit to operate past midnight, though it currently chooses not to do so. Staff also confirmed that if the application were denied, the applicant could reapply at any time, including immediately.

Vice Chair Bickford asked the owner if they had resolved the issue regarding not serving food while serving alcohol.

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The owner responded that they have resolved the issue and intend on complying with the requirement. The applicant's representative, Xavier Campos, added that they would like to add a condition of approval for the establishment to serve food while serving alcohol.

Chair Rosario asked Sergeant Pham if any incidents have occurred within the last year.

Sergeant Pham responded stating that a total of 60 calls in the past year have come from the surrounding area. Sergeant Pham stated that out of the 60 he believes four were associated with After Bar & Grill including one fight and three calls related to assault and battery.

Chair Rosario asked if the applicant had discussed the six-month compliance period with City staff or the Police Department.

The applicant's representative responded stating that when they were a member of the Planning Commission in the past, they offered a compliance hearing process.

Commissioner Barocio asked Sergeant Pham what it would take and for how long would the business need to maintain good standing for the Police Department to change their stance to neutral.

Sergeant Pham explained that the Police Department evaluates applications using established criteria, including crime statistics, calls for service, and overall police resource use, looking at trends over a broad time frame rather than a short, isolated period. If recent improvements are noted, the department cannot ignore significant issues that occurred in the prior 12 months. To change its stance (such as becoming neutral), the department would need a larger, sustained record of positive performance.

The department conducted a detailed analysis of calls for service in the Tropicana area, distinguishing between After Bar & Grill incidents and other calls. Some incidents cited by commissioners occurred two years ago, including a major fight during Thanksgiving. Since then up to August 2024 the department worked closely with business owners to address problem behaviors, and they believe these efforts showed some success. The department feels it provided ample guidance and opportunity for improvement and is willing to review and reassess the situation again in the future.

Commissioner Barocio stated that there is a path forward but that more time is needed to establish good standing and address past issues. While the answer may be no at present, it may not be in the future. There is an opportunity to reapply or resubmit through the planning process, and the Police Department has clearly outlined what is required for it to take a neutral position.

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Commissioner Young recommended that the applicant work on a plan with the Police Department then reapply in the future when in better standing.

Commissioner Cantrell asked the applicant to characterize their relationship with the Police Department.

The applicant acknowledged a difficult relationship with the San José Police Department but asked for an opportunity to work collaboratively and demonstrate that they are different from past perceptions. They cited positive working relationships and references from other cities, stating they have not experienced similar issues elsewhere. The applicant emphasized a commitment to community involvement, improved communication, and making Tropicana a positive place for the community, and requested a chance to prove their intentions through cooperation with the Police Department and the City.

Commissioner Cantrell questioned Sergeant Pham about the timing of incidents in which food was not served with alcohol. Sergeant Pham cited three separate late-night visits around 11:20 p.m., 11:30 p.m., and 11:45 p.m., during which officers observed alcohol being served without food for about an hour each time.

The applicant stated that the kitchen typically stopped serving food and alcohol 30 minutes before closing and suggested that the lack of food during those visits was due to employee miscommunication or a newly hired staff member.

Commissioner Cantrell asked Sergeant Pham to characterize the crime in the area (high, medium, low).

Sergeant Pham responded stating that it would be a medium to high crime area.

Commissioner Cantrell emphasized the need for fairness and understanding but noted that, given the restaurant's stated hours, food should have been available even if the full menu was not. Serving food is important to mitigate alcohol-related issues and maintain community acceptance. Commissioner Cantrell expressed concern about a pattern of negative incidents associated with the establishment and stresses that an alcohol license is a privilege requiring strict adherence to the law. Commissioner Cantrell encouraged the applicant to build a stronger, more positive record with the police to grow the business, while prioritizing community safety.

Commissioner Rosario asked the applicant to elaborate on why they had not experienced similar problems at their other establishments.

The applicant responded that records from those cities would show no police or licensing issues, and that this is the first time they have faced such challenges. They suggested that San José feels different in terms of enforcement and environment but

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emphasized respect for the police and reiterated that they were simply asking for an opportunity to operate their business properly and demonstrate compliance.

Commissioner Rosario then reflected on the historical and symbolic importance of the Tropicana intersection, noting that while the Commission wants the business to succeed, it is difficult to overlook the multiple past infractions. Public safety is identified as the primary concern, and the establishment is described as having negatively impacted that goal, despite the desire for it to thrive.

Commissioner Oliverio proposed an alternative to denial. Commissioner Oliverio proposed to defer the decision for six months until the last meeting in May. This would allow the applicant time to improve operations, give the Police Department a longer track record to evaluate, and incentivize compliance. Commissioner Oliverio suggested establishing general performance expectations (such as limiting incidents), while acknowledging that not all situations are fully within a restaurant's control.

A substitute motion to defer was made and seconded.

The applicant's representative indicated a preference for a decision that night rather than a deferral.

As a result, Commissioner Oliverio withdrew the substitute motion.

Vice Chair Bickford expressed appreciation for the applicant's community contributions and acknowledged the financial benefit of extended operating hours. Nonetheless, Vice Chair Bickford stated that they cannot support approval without seeing a proven track record of compliance, safe midnight closures, and improved relationships with local police. They noted that, had the six-month deferral been accepted, approval would have been more likely in the future.

The applicant's representative reiterated that they would like a decision as the business may not survive another six months due to financial concerns.

Commissioner Young voiced opposition to deferral, arguing against placing conditions and stating that the applicant has repeatedly declined a delay and requested a vote.

Decision

The Commission voted unanimously 9-0 to accept staff's recommendation and deny the Conditional Use Permit application.

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ANALYSIS

Permit Appeal

Staff received a timely permit appeal (Exhibit A) from the applicant on November 20, 2025, to contest the denial of the proposed Conditional Use Permit for late-night use. The application did not list the reason for the appeal; it only listed an appeal before the City Council.

Staff's Analysis

Staff continues to recommend denial due to the applicant's documented history of non-compliance with state and local laws detailed in the San José Police Department Memo, dated July 22, 2025. The existing business has violated their ABC license by not serving food in conjunction with alcohol sales which is a requirement for a Type 47 license for public eating establishments, provided live entertainment including male dancers without an Entertainment Permit as required by the Police Department, operated past midnight without a Conditional Use Permit, and received noise and public nuisance citations from the Police Department. Despite warnings, instruction, and an opportunity to achieve compliance granted by the Police Department, the Project Applicant has continued to operate out of compliance with public eating establishment requirements. Furthermore, the Planning Commission thoroughly discussed the project as detailed above and voted unanimously to accept staff's recommendation and deny the project. Therefore, the project is still inconsistent with the "Area Use Compatibility" and "Police Issues" findings required under City Council Policy 6-27, and Conditional Use Permit finding Section 20.100.720.A.4. of the San José Municipal Code which requires that "the proposed use at the location requested will not: a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or c. Be determinantal to public health, safety or general welfare."

EVALUATION AND FOLLOW-UP

The City Council is the final decision-making body for this Conditional Use Permit.

If the City Council denies the permit appeal and upholds the Planning Commission's decision, then the existing public eating establishment cannot operate between the hours of 12:00 a.m. and 6:00 a.m. The public eating establishment can continue to operate between 6:00 a.m. and 12:00 a.m.

If the City Council accepts the permit appeal and approves the Conditional Use Permit, then the public eating establishment can operate until 2:00 a.m. Friday through Sunday.

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COORDINATION

The preparation of this memorandum has been coordinated with the City Attorney's Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the February 10, 2026 City Council meeting.

Additionally, staff followed [City Council Policy 6-30: Public Outreach Policy](#) to inform the public of the proposed project. On-site signs have been posted on the project frontages since September 16, 2025. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. The staff report is also posted on the City's website, and staff has been available to respond to questions from the public.

COMMISSION RECOMMENDATION AND INPUT

At the November 19, 2025, Planning Commission Hearing, the Commission voted unanimously, 9-0, to accept staff's recommendation and deny the proposed Conditional Use Permit.

CEQA

If denied, the project would be exempt per Section 15270 for projects which are denied. If approved, the project would be exempt per Section 15301 for Existing Facilities since there are no physical improvements or outdoor uses proposed.

PUBLIC SUBSIDY REPORTING

This item does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution.

/s/

CHRISTOPHER BURTON, Director
Planning, Building, and Code Enforcement

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For questions on the permit appeal, please contact John Tu, Division Manager, Planning, Building, and Code Enforcement at john.tu@sanjoseca.gov or (408) 535-6818.

ATTACHMENTS:

Exhibit A: Permit Appeal Application

Exhibit B: Planning Commission Staff Report

Exhibit C: Plan Set

Exhibit D: Operations Plan

Exhibit E: Police Department Memo

Exhibit F: Public Comments

Exhibit G: Proposed City Council Resolution (Staff Recommendation)



APPEAL OF PERMIT APPLICATION

The San José City Council or Planning Commission may hear appeals to the issuance of a development permit, variance, or exception. Not all permit processes allow for an appeal. Please refer to Table 20-260 of Municipal Code [20.100.220](#) for a complete list of the types of permit that may be appealed and the related hearing body.

The decision made by the hearing body is final and shall be effective immediately.

This application form must be completed as instructed below to facilitate the appeal.

WHO MAY APPEAL

The applicant, or any property owner or tenant of a property within 1,000 feet of the subject site, may file the appeal. The appellant must sign this application or if signed by the appellant's lawful power of attorney, you must submit written evidence to that person's authority.

Exception for Tree Removal Permits - For a Tree Removal Permit, only property owners or occupants of the subject site or of properties immediately adjacent or across the street from the subject site may appeal.

Exception for Tentative Maps - Any person may file.

DEADLINE

File this completed application on or no later than 10 calendar days after a copy of the permit decision by the Planning Commission or Director of Planning has been mailed to the project applicant. Permit decisions are typically made on Wednesdays with the issued permit mailed two days later on a Friday. Therefore, the 10-day deadline is commonly the second Monday following the hearing (by 5:00 p.m.).

Exception for Tentative Maps - The appeal must be filed within 10 calendar days of the permit approval.

FEES & PROCESS

The application filing fee must be paid by the deadline as previously explained. Find the current fee for a Permit Appeal on the Table of Applications at www.sanjoseca.gov/PlanningApplications. For Tree Removal Permits, a Public Noticing fee will also be charged.

HOW TO SUBMIT - 2 OPTIONS

- **In-Person (no appointment required):** Before the filing deadline stated above, come to the Planning Offices, third floor of City Hall (200 E. Santa Clara Street, San José) to submit the application. You may pay the appeal fee in-person or staff may email you an invoice which must be paid within 14 calendar days of the invoice date for the appeal to be valid.
- **Email:** Before the filing deadline stated above, email the completed application and any attachments to PlanningTechs@sanjoseca.gov. If the appeal is timely and complete, staff will send you an invoice for the appeal fee, which must be paid within 14 calendar days of the invoice date for the appeal to be valid.

WHAT TO SUBMIT

- This application form, completed and signed.
- Assessor's parcel map showing the subject site outlined.

City staff will set a public hearing date with the Planning Commission or City Council as appropriate. The appeal item will be placed on the agenda. Staff will also prepare a recommendation of action to the Planning Commission or City Council.

FOR QUESTIONS

Speak with a City Planner at 408-535-3555; see phone service hours at www.sanjoseca.gov/Planning.

Para información en español, comuníquese con un Planificador de la ciudad al **408-793-4100**.

Để được hỗ trợ, nói chuyện với Người lập kế hoạch thành phố tại **408-793-4174**.

continued >

Exhibit A

APPEAL OF PERMIT APPLICATION

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Please download and save this computer-fillable form to your computer. Follow instructions for [Digital Forms](#).

1. The undersigned respectfully requests an appeal to the permit issued for the property located at:

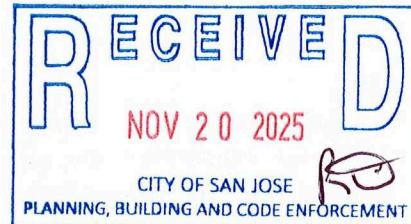
PROPERTY ADDRESS: 1692 Story Road, Suite 100, San Jose, CA 95122

PROPERTY OWNER NAME: Dennis Fong

PROPERTY OWNER MAILING ADDRESS: 1692 Story Road, Suite 218, San Jose, CA 95122

2. REASON/S FOR APPEAL: If more space is needed, attach a separate sheet.

Appeal to the San Jose City Council the Planning Commission decision to deny the CUP application (CP24-036 & ER24-304) for late night use to operate 2 additional hours from midnight to 2am.



3. PERSON FILING APPEAL

RELATIONSHIP TO SUBJECT SITE CHECK ALL THAT APPLY: Property Owner Adjacent Property Owner Tenant on Site
 Property Owner/Tenant Within 1,000 feet Tentative Map Appeal (anyone may appeal)

PRINT NAME: Elmer Orellana

MAILING ADDRESS: 1692 Story Road, San Jose, CA 95122

EMAIL: elmer@fiestavallarta.com

PHONE: 650-946-8775

A handwritten signature in blue ink, appearing to read 'Elmer' twice, once in a larger, cursive style and once in a smaller, more stylized style next to it.

11-20-2025

DATE: [MM/DD/YYYY]

• SIGNATURE OF PERSON FILING THE APPEAL

For electronic submittal or virtual appointments, a [Digital ID Signature](#) is required.
For in-person appointments, an original ink signature is required.

4. CONTACT PERSON IF DIFFERENT FROM PERSON FILING APPEAL

PRINT NAME: Xavier Campos c/o VER Consultants

MAILING ADDRESS: 1154 Park Ave, San Jose, CA 95126

EMAIL: xcampost@ver-consultants.com

PHONE: 408-210-7353

OFFICE USE ONLY

FILE NUMBER:

INTAKE DATE:

BY:

PAID: \$

COMMENTS:



Memorandum

TO: PLANNING COMMISSION**FROM:** Christopher Burton, Director of the Planning, Building, and Code Enforcement Department**SUBJECT:** File Nos. CP24-036 & ER24-304**DATE:** November 19, 2025**COUNCIL DISTRICT: 7**

Type of Permit	Conditional Use Permit
Demolition	N/A
Proposed Land Uses	Public eating establishment with late-night use
New Residential Units	N/A
New Square Footage	N/A
Additional Policy Review Items	Council Policy 6-27: Evaluation of 24-Hour Uses
Tree Removals	N/A
Project Planner	Zachary Johnson
CEQA Clearance	Exemption per CEQA Guidelines Section 15301 for Existing Facilities
CEQA Planner	Zachary Johnson

RECOMMENDATION

Staff recommends that the Planning Commission take all of the following actions:

1. Consider the exemption in accordance with the California Environmental Quality Act (CEQA) Guidelines Section 15301 for Existing Facilities; and
2. Adopt a resolution denying a Conditional Use Permit to allow late-night use (until 2:00 a.m.) for an existing restaurant within an existing approximately 7,442-square-foot tenant space located in an existing commercial shopping center.

PROPERTY INFORMATION

Location	Located on the southwestern side of South King Road approximately 150 feet northwest of the South King Road and Marsh Street intersection, (1692 Story Road Suite #100)
Assessor Parcel No.	486-10-091
General Plan	NCC Neighborhood/Community Commercial
Growth Area	Story Road Employment Area (Former Village)
Zoning	CN Commercial Neighborhood
Historic Resource	No
Annexation Date	January 2, 1957
Council District	7
Acreage	3.34 gross acres
Proposed Density	N/A

PROJECT BACKGROUND

As shown on the attached Aerial Map (Exhibit A), the subject property is located on the southwestern side of South King Road approximately 150 feet northwest of the South King Road and Marsh Street intersection (1692 Story Road Suite #100, APN 486-10-091). The tenant space (Suite #100) is located at the east side of an existing commercial shopping center near the vehicle entrance along South King Road. The existing commercial shopping center is surrounded by single-family residences to the southeast and southwest, commercial uses to the northeast, and Emma Prusch Farm Park across Story Road to the northwest. The subject site is accessed by two vehicle entrances along South King Road and one vehicle entrance along Story Road. The subject property is accessed by one entrance within the shopping center located on the northwest building occupancy frontage. The site has a surface parking lot shared by all of the tenants, and has existing pedestrian sidewalks along South King Road and Story Road with two crosswalks across South King Road and one crosswalk across Story Road. The site is currently accessible with an existing Valley Transit Authority (VTA) bus stop serving the 22 and 77 lines along South King Road.

SURROUNDING USES			
	General Plan	Zoning District	Existing Use
Northwest	Open Space, Parklands and Habitat	OS Open Space	Park
Northeast	Neighborhood/Community Commercial	CP Commercial Pedestrian	Commercial

Southwest	Residential Neighborhood	R-1-8 Single-Family Residence	Single-family
Southeast	Residential Neighborhood	R-1-8 Single-Family Residence	Single-family

PROJECT DESCRIPTION

As shown on the attached Plan Set (Exhibit B), the public eating establishment (After Bar & Grill) currently occupies an approximately 7,442-square-foot tenant space at 1692 Story Road Suite #100.

The project consists of a Conditional Use Permit to allow late-night use (until 2:00 a.m.) for an existing public eating establishment within an existing approximately 7,442-square-foot tenant space at 1962 Story Road Suite #100. The project does not include any external modifications to the existing commercial building or site.

The public eating establishment would operate between 12:00 p.m. and 12:00 a.m. Monday through Thursday, and between 12:00 p.m. and 2:00 a.m., Friday through Sunday.

An entertainment permit through the San Jose Police Department would be required for live entertainment and music during the proposed hours of operation.

Food would be served during all operational hours; there would be no hours where only alcohol is sold. The public eating establishment has an active Type 47 license with the California Department of Alcoholic Beverage Control, authorizing the sale of beer, wine, and distilled spirits for on-site consumption. Security personnel would be on site during all hours of operation. All entertainment would be conducted indoors. The project does not include any outdoor seating or outdoor entertainment.

The San Jose Police Department issued a memorandum dated July 22, 2025. See attached Exhibit C. The San José Police Department is opposed to the existing applicant's request for a Conditional Use Permit to allow late-night use until 2:00 a.m. due to violating the conditions of their Alcoholic Beverage Control license by not serving food while serving alcohol, providing entertainment uses without an entertainment permit, and a well-documented history of non-compliance with state and local laws.

PROJECT ANALYSIS SUMMARY

Below is a summary of the required analysis for the General Plan, Zoning, and Council Policies. For the comprehensive analysis, reference the attached Exhibit D: Resolution.

Envision San José 2040 General Plan Conformance

The project is consistent with the Envision San Jose 2040 General Plan designation of Neighborhood/Community Commercial as shown on the attached General Plan map (Exhibit E). This designation supports a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development. A public eating establishment with entertainment, including late-night use, is consistent.

The project is consistent with the following General Plan policies:

Land Use and Employment Policy IE-1.3: As part of the intensification of commercial, Village, Industrial Park and Employment Center job Growth Areas, create complete, mixed-employment areas that include business support uses, public and private amenities, child care, restaurants and retail goods and services that serve employees of these businesses and nearby businesses.

Business Growth and Retention Policy IE-2.6: Promote retail development to the maximum extent feasible, consistent with other General Plan goals and policies, in order to generate City revenue, create jobs, improve customer convenience, and enhance neighborhood livability.

The project would intensify the existing commercial use by extending business hours. Adding late-night hours to the existing public eating establishment would potentially increase jobs, generate City revenue, increase pedestrian activity, and improve customer convenience including employees of nearby businesses. (IE-1.3) (IE-2.6) In addition, the project is consistent with the Story Road Employment Growth Area due to the project's potential to increase jobs.

Zoning Ordinance Conformance

The project is consistent with the CN Commercial Neighborhood Zoning District as shown on the Zoning District Map (Exhibit F), including allowed land uses, development standards, and parking standards. Pursuant to Table 20-90 in [Section 20.40.100](#) of the San Jose Municipal Code, a public eating establishment is a permitted land use within the CN Zoning District. Pursuant to [Section 20.40.500](#) of the San José Municipal Zoning Code, late-night use and activity within the CN Commercial Neighborhood Zoning District may be approved through a Conditional Use Permit.

City Council Policy 6-27 Evaluation of 24-Hour Uses Conformance

The tenant space main entrance is located approximately 200 feet from existing residential uses to the south. The entrance is located at the side of the existing commercial building opposite the residential use, and the existing public eating establishment operates exclusively indoors.

Noise attenuation would not be required as the public eating establishment use is entirely indoors and the main entrance is located at the opposite side of the building away from residential uses. All windows and doors would be closed after 10:00 p.m. A condition of approval would be included in the Conditional Use Permit prohibiting the use of outdoor noise-generating cleaning equipment between the hours of 10:00 p.m. and 7:00 a.m.

The public eating establishment provides two restroom facilities. A condition of approval would be included in the Conditional Use Permit requiring the restroom facilities to be open and available during late-night business hours.

According to the attached Operations Plan (Exhibit G), Security personnel would be on site during hours of operation. The project applicant will resolve any operational complaints within 24 hours of being notified. The public eating establishment also has a formal "Comments and Concerns" form available upon request from restaurant management staff and would have an

on-call event coordinator to respond to any concerns received from the San Jose Police Department.

The most recent memo from the Police Department, dated July 22, 2025, was provided to the applicant on July 25th, 2025 (Exhibit C). The Police Department is opposed to the issuance of a Conditional Use Permit for late-night use for the subject establishment due to the non-compliance and unlawful issues stated previously.

PROJECT FINDINGS SUMMARY

The project does not meet all of the findings for the issuance of a Conditional Use Permit pursuant to Section 20.40.500 of the Zoning Code as analyzed in the attached Exhibit D: Resolution.

The project would be consistent with the Neighborhood/Community Commercial General Plan land use designation and zoning code requirements. The project is consistent with most applicable requirements from Council Policy 6-27 including area use compatibility, use separation, restroom availability, noise, and site maintenance. The project is inconsistent with the policy regarding concerns around safety as identified by San Jose Police Department, and thus not all of the findings can be made for the issuance of a Conditional Use Permit. Based on the Police Memo (Exhibit C), dated April 1, 2025, the San Jose Police Department is opposed to the existing After Bar & Grill's Conditional Use Permit for late-night use until 2:00 a.m.. While the subject establishment is not unduly concentrated for crime within the police beat area, the establishment has violated the conditions of their Alcoholic Beverage Control license by not serving food while serving alcohol, provided entertainment uses such as male dancers without an entertainment permit, received noise and public nuisance citations, and has a well-documented history of non-compliance with state and local laws. The Police Department also noted that previous applications for Entertainment Permits for the establishment have been denied due to failure to comply with current business allowances (restaurant without late-night use approval). According to the Police Department Memo on June 26, 2024 Lt. Payne and Sgt. Pham met with owner, Elmer Orellana, and discussed compliance/enforcement at Tropicana Plaza over the summer. The owner was advised that his Entertainment Permit would be based upon how the business operated during that timeframe. On July 20, 2024 the business was issued an Administrative Citation for violations including proving entertainment uses without an Entertainment Permit, operating past midnight without a Conditional Use Permit, and noise and public nuisance violations. The business was cited again on July 26, 2024, for providing entertainment without an Entertainment Permit, operating past midnight without a Conditional Use Permit, and noise and public nuisance violations. Last, on October 3, 2024, the owner was issued a criminal and administrative citation for violations, including providing entertainment uses without an Entertainment Permit, needing an ownership/management license, operating past midnight without a Conditional Use Permit, noise and public nuisance violations, not serving food with alcohol, and loudspeaker project noise outside the business. The provided memo does not mention any citations or site visits since October 3, 2024.

Given the Police Department's opposition to late-night use for the subject establishment, staff

recommends that the Planning Commission deny the Conditional Use Permit Application as the project would be inconsistent with City Council Policy 6-27 and the project would have an adverse impact on public health, safety, and general welfare. If the Planning Commission denies the application, the applicant may continue to operate as a public eating establishment, without late-night use, and serve alcohol in conjunction with meals with a valid Type 47 ABC license. Alternatively, the applicant may appeal the Planning Commission's decision to the City Council pursuant to Municipal Code Section 20.100.240.

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Under the provisions of Section 15301 for Existing Facilities of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this Project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Zoning Code, implementing the California Environmental Quality Act of 1970, as amended.

Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the Project involves negligible or no expansion of an existing use.

Examples include, but are not limited to:

- a. Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances.

Analysis: The Project allows an existing public eating establishment to continue to occupy an existing tenant space. The Project does not include any exterior modifications or expansion to the footprint of the existing commercial building. The public eating establishment would operate wholly inside the building. Therefore, the Project is categorically exempt pursuant to CEQA Section 15301 for Existing Facilities.

PUBLIC OUTREACH

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed project. On-site signs have been posted on the project frontages since September 16, 2025. A legal notice of the public hearing was distributed as appropriate to the owners and tenants of all properties located within 500 feet of the project site. The hearing agenda and staff report were posted on the City website. Staff has been available to respond to questions from the public.

Staff has received one comment in support of the project from the Mayor of Morgan Hill, Mark Turner. Please see attached Exhibit H.

Project Manager: Zachary Johnson, Planner III
Approved by: Manira Sandhir, Deputy Director of Planning

ATTACHMENTS:

Exhibit A: Aerial Map
Exhibit B: Plan Set
Exhibit C: Police Department Memo
Exhibit D: Resolution
Exhibit E: General Plan Map
Exhibit F: Zoning Map
Exhibit G: Operations Plan
Exhibit H: Public Comments

Owner:	Applicant:	Applicant's Representative:
DPJW Group II	Elmer Orellano 1692 Story Road Suite #100 San Jose	Xavier Campos

TENANT IMPROVEMENTS :

AFTER BAR & GRILL

1692 STORY ROAD #100
SAN JOSE, CA 95122
CP24-036

GENERAL NOTES	ACCESSIBILITY NOTES	PROJECT DATA	DIRECTORY																																											
<p>1. CONSTRUCTION ACTIVITIES SHALL BE LIMITED TO THE HOURS OF OPERATION PER CITY'S ORDINANCES.</p> <p>1A. CONSTRUCTION EQUIPMENT, INCLUDING COMPRESSORS, GENERATORS AND MOBILE EQUIPMENT SHALL BE FITTED WITH HEAVY-DUTY MUFFLERS DESIGNED TO REDUCE NOISE IMPACTS.</p> <p>2. IF APPLICABLE, THIS PROJECT SHALL COMPLY WITH THE BUILDING SECURITY REQUIREMENT SET FORTH BY THE BUILDING OWNER.</p> <p>3. CONFLICT WITH OTHER WORK: BEFORE STARTING ANY WORK, THE CONTRACTOR SHALL VERIFY THAT THERE ARE NO CONFLICTS WITH THE MECHANICAL, ELECTRICAL, PLUMBING, AFS OR ANY LIFE SAFETY SYSTEMS AND SHALL INDICATE TO THE ARCHITECT ANY DISCREPANCIES IN A TIMELY MANNER.</p> <p>4. ALL WORK SHALL CONFORM TO THE CONTRACT DOCUMENTS WHICH INCLUDES THE DRAWINGS, ALL ADDENDUMS AND/OR MODIFICATIONS ISSUED BY THE ARCHITECT AND/OR ITS CONSULTANTS.</p> <p>5. THE GENERAL CONTRACTOR SHALL REVIEW ALL DOCUMENTS AND VERIFY ALL DIMENSIONS AND FIELD CONDITIONS AND SHALL CONFIRM THAT WORK IS BUILDABLE AS SHOWN, ANY CONFLICTS OR OMISSIONS, ETC., SHALL BE IMMEDIATELY REPORTED TO THE ARCHITECT FOR CLARIFICATION PRIOR TO THE PERFORMANCE OF ANY WORK IN QUESTION. IF APPLICABLE, PATCH & REPAIR EXISTING TO ACCOMMODATE NEW CONSTRUCTION FOR A COMPLETE & CONSISTENT FINISH.</p> <p>6. COORDINATION OF WORK: THE CONTRACTOR IS RESPONSIBLE FOR COORDINATING ALL TRADES AND ALL WORK INCLUDING, BUT NOT LIMITED TO: ARCHITECTURAL, PLUMBING, MECHANICAL AND ELECTRICAL IN CASE OF CONFLICT BETWEEN ARCHITECT AND CONSULTANT DRAWINGS IN LOCATING MATERIALS/EQUIPMENT, THE ARCHITECT SHALL BE NOTIFIED FOR CLARIFICATION.</p> <p>7. COMMENCEMENT OF WORK SHALL BE DEEMED AS THE CONTRACTOR'S ACKNOWLEDGMENT OF ALL WORK NEEDED TO COMPLETE PROJECT IN CONFORMANCE WITH CONTRACT. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO COORDINATE ORDERS, SUBMITTALS AND IMPLEMENTATION OF LONG LEAD TIME ITEMS. SUBSTITUTIONS WILL NOT BE CONSIDERED RESULTING FROM THE CONTRACTOR'S UNTIMELY ORDERING OF PRODUCTS AND/OR MATERIALS.</p> <p>8. PERMITS: THE CONTRACTOR SHALL APPLY FOR, AND OBTAIN ALL NECESSARY CONSTRUCTION PERMITS REQUIRED BY ALL APPLICABLE REGULATORY AGENCIES GOVERNING THIS WORK. THE CONTRACTOR SHALL ARRANGE FOR INSPECTIONS NECESSARY TO OBTAIN A CERTIFICATE OF OCCUPANCY.</p> <p>9. BUILDING OWNER REGULATIONS:</p> <ul style="list-style-type: none"> A. THE CONTRACTOR SHALL COMPLY WITH THE RULES AND REGULATIONS OF THE BUILDING OWNER REGARDING SITE ACCESS, DELIVERIES, HANDLING OF MATERIALS, DEBRIS, ETC. B. SCHEDULE CONSTRUCTION ACTIVITIES TO AVOID INTERFERENCE WITH NORMAL BUILDING OPERATION, IF APPLICABLE. C. REVIEW PROPOSED WORK SCHEDULE WITH OWNER BEFORE STARTING WORK. <p>10. WHERE UL, GA, OR UBC CONSTRUCTION ASSEMBLIES ARE DESIGNATED, THE COMPONENTS AND INSTALLATION DETAILS MUST CONFORM IN EVERY DETAIL OF THE DESIGN NUMBER SPECIFIED.</p> <p>11. WORK AREAS TO REMAIN SECURE AND LOCKABLE DURING CONSTRUCTION.</p> <p>12. DO NOT SCALE DRAWINGS. WRITTEN DIMENSIONS GOVERN WALL LOCATIONS, DIMENSIONS AND TYPES, DOOR AND WINDOW LOCATIONS SHALL BE AS SHOWN ON CONSTRUCTION PLAN. IN CASE OF CONFLICT, NOTIFY ARCHITECT FOR WRITTEN CLARIFICATION PRIOR TO PROCEEDING WITH CONSTRUCTION.</p> <p>13. ALL DIMENSIONS ARE TO FACE OF FINISH & TO CENTERLINE OF DOORS AND OTHER SCHEDULED OPENINGS UNLESS OTHERWISE NOTED. ALL DIMENSIONS ARE TO BE EXACT WITHIN 1/4" FULL WIDTH OF WALLS. CONTRACTOR SHALL NOT ADJUST ANY DIMENSIONS MARKED "CLEAR" OR "CLR".</p> <p>14. ALL DIMENSIONS SHOWN RELATING TO EXISTING CONSTRUCTION ARE APPROXIMATE. CONTRACTOR SHALL FIELD VERIFY ACTUAL DIMENSIONS.</p> <p>15. THE CONTRACT DOCUMENTS ARE COMPLIMENTARY. WHAT IS SHOWN OR REFERRED TO, AT A GIVEN LOCATION, SHALL BE PROVIDED AS THOUGH SHOWN ON ALL (U.O.N.).</p> <p>16. THE CONTRACTOR IS RESPONSIBLE FOR ALL CONCRETE FLOORS TO BE LEVEL AND FREE FROM SCALING. CONTRACTOR TO REPORT ANY VARIATIONS IN FLOOR LEVEL GREATER THAN 1/4" IN 10'-0" (NON-CUMULATIVE) TO OWNER.</p> <p>17. "TYPICAL" OR "TYP" SHALL MEAN THAT THE CONDITION IS REPRESENTATIVE FOR SIMILAR CONDITIONS THROUGHOUT, UNLESS OTHERWISE NOTED. DETAIL= LS ARE USUALLY KEYED AND NOTED "TYP" ONLY ONCE, WHEN THEY FIRST OCCUR.</p> <p>18. "ALIGN" SHALL MEAN ACCURATELY LOCATE FINISH FACES IN THE SAME PLANE.</p> <p>19. "SIMILAR" OR "SIM" MEANS COMPARABLE CHARACTERISTICS FOR ITEM NOTED. VERIFY DIMENSIONS AND ORIENTATION ON PLAN AND ELEVATION AND OR DETAIL.</p> <p>20. COORDINATE ACCESS PANEL, CLEANOUT, AND THE LIKE LOCATIONS (FOR CONCEALED ITEMS) WITH APPROPRIATE CONTRACTOR.</p> <p>21. ALL MANUFACTURED ARTICLES, MATERIALS AND EQUIPMENT SHALL BE APPLIED, INSTALLED, CONNECTED, ERECTED, CLEANED, AND CONDITIONED PER MFR'S INSTRUCTIONS. IN CASE OF DIFFERENCES BETWEEN THE MANUFACTURER'S INSTRUCTIONS AND CONTRACT DOCUMENTS, THE CONTRACTOR SHALL NOTIFY THE OWNER BEFORE PROCEEDING.</p> <p>22. RECORD DRAWINGS: DURING THE COURSE OF CONSTRUCTION, ACTUAL LOCATION OF ITEMS AND/OR DEVIATIONS FROM THE DRAWINGS SHALL BE INDICATED IN THE RECORD DRAWINGS KEPT AT THE CONSTRUCTION SITE AND SUBMIT TO OWNER UPON COMPLETION OF WORK.</p> <p>23. ANY STOCKPILED BUILDING MATERIALS WITH THE POTENTIAL TO POLLUTE STORM WATER RUNOFF SHALL BE PROPERLY CONTAINED AND COVERED TO PREVENT ANY SUCH POLLUTION.</p> <p>24. IMPLEMENTATION OF ALL APPLICABLE BEST MANAGEMENT PRACTICES FROM THE CALIFORNIA STORM WATER QUALITY BEST MANAGEMENT PRACTICES HANDBOOK FOR CONSTRUCTION AS NECESSARY TO CONTROL POLLUTION OF STORMWATER RUNOFF TO THE SATISFACTION OF THE CITY ENGINEER.</p> <p>25. APPROVED NUMBERS OR ADDRESSES SHALL BE PROVIDED IN SUCH A POSITION AS TO BE PLAINLY VISIBLE AND LEGIBLE FROM THE STREET OR ROAD FRONTING THE PROPERTY. ADDRESS SIGNS SHALL BE A MIN. OF 6" IN HEIGHT.</p> <p>26. FINISH MATERIALS SHALL COMPLY WITH CALGREEN SECTION 5.504.4.1 THROUGH 5.504.4.4.</p> <p>27. NO METAL, PIPING OR OTHERWISE, SHALL BE IN DIRECT CONTACT WITH EARTH, PER FCMC 15.16.100 AND 15.20.150.</p>	<p>NOTE: THE FOLLOWING ACCESSIBILITY GUIDELINES ARE FOR INFORMATION ONLY. LISTED ITEMS DO NOT REPLACE OR AMEND FEDERAL, STATE OR LOCAL CODES. IN CASE OF CONFLICT IN THE REQUIREMENT OF AUTHORITIES HAVING JURISDICTION, THE MOST RESTRICTIVE SHALL GOVERN.</p> <p>1. TITLE 24 ACCESSIBILITY AND ADA REGULATIONS: ALL SIGNAGE, ACCESSORIES AND HARDWARE ARE TO MEET APPLICABLE LOCAL, TITLE 24 AND ADA ACCESSIBILITY REQUIREMENTS.</p> <p>2. DOOR CLEARANCES: PROVIDE MINIMUM 18" STRIKE SIDE CLEARANCE AT PULL SIDE OF ALL INTERIOR DOORS, AND MINIMUM 12" AT PUSH SIDE CLEARANCE AT ALL EXTERIOR DOORS FOR ACCESSIBILITY COMPLIANCE. (ON DOORS WITH CLOSURES), AND PROVIDE MINIMUM 24" STRIKE SIDE CLEARANCE AT ALL EXTERIOR DOORS FOR ACCESSIBILITY COMPLIANCE.</p> <p>3. GENERAL CONTRACTOR SHALL ALLOW FOR APPLIED FINISH DIMENSIONS IN ADDITION TO STANDARD CONSTRUCTION TOLERANCES IN ACHIEVING ALL ACCESSIBILITY CLEARANCES PER DRAWINGS AND/OR ADA GUIDELINES.</p> <p>4. ABRUPT CHANGES IN LEVEL ALONG ACCESSIBLE ROUTE SHALL NOT EXCEED $\frac{1}{2}$". WHEN THESE CHANGES DO OCCUR, THEY SHALL BE BEVELED WITH A SLOPE NO GREATER THAN 1:20, EXCEPT LEVEL CHANGES NOT EXCEEDING $\frac{1}{4}$" VERTICAL.</p> <p>5. MAXIMUM EFFORT TO OPERATE DOORS SHALL NOT EXCEED 5 LBS. FOR EXTERIOR DOORS AND FOR INTERIOR DOORS, WITH SUCH PUSH/PULL EFFORT BEING APPLIED AT RIGHT ANGLES TO HINGED DOORS.</p> <p>6. ALL ACCESSIBLE ENTRANCES SHALL BE IDENTIFIED WITH AT LEAST ONE BUILDING STANDARD SIGN AND WITH ADDITIONAL SIGNS AS REQUIRED, VISIBLE FROM APPROACHING PEDESTRIAN WAYS.</p> <p>7. WHERE PERMANENT IDENTIFICATION IS PROVIDED FOR ROOMS AND SPACES, RAISED LETTERS SHALL ALSO BE PROVIDED AND SHALL BE ACCOMPANIED BY BRAILLE. PER CBC 11B-703.</p>	<p>APPLICABLE CODES:</p> <p>ALL CONSTRUCTION IS TO CONFORM TO: 2022 CALIFORNIA BUILDING CODE 2022 CALIFORNIA GREEN BUILDING STANDARDS CODE 2022 CALIFORNIA ELECTRICAL CODE 2022 CALIFORNIA PLUMBING CODE 2022 CALIFORNIA MECHANICAL CODE 2022 CALIFORNIA FIRE CODE 2022 CALIFORNIA ENERGY CODE CITY OF SAN JOSE CODES AND ORDINANCES</p> <p>BUILDING: SINGLE STORY</p> <p>CONSTRUCTION TYPE: V-B (SPRINKLERED)</p> <p>OCCUPANCY GROUP: A2</p> <p>EXISTING USE: RESTAURANT</p> <p>TENANT AREA: ±7,442 S.F.</p> <p>AREA OF WORK: ±470 S.F.</p> <p>EXISTING PARKING: RETAIL CENTER - SHARED PARKING</p>	<p>TENANT: AFTER BAR & GRILL 1692 STORY ROAD SAN JOSE, CA 95122 TEL: 650.946.8775 EMAIL: elmer@fiestavallarta.com</p> <p>ELECTRICAL: GREWAL ENGINEERING ASSOCIATES, INC. 4767 MANGELS BLVD. FAIRFIELD, CA 94534 TEL: 707.373.9451 EMAIL: pj@grewalengineering.com</p> <p>MECHANICAL/PLUMBING: LMR ENGINEERS 1165 A' STREET, HAYWARD, CA 94541 TEL: 510.33.2330 EMAIL: team@lmrengineers.com</p>																																											
<p>HEALTH DEPARTMENT NOTES</p> <p>CODE COMPLIANCE PER CALIFORNIA HEALTH AND SAFETY CODE, CHAPTER 4, CURFL, SECTION 113700, PLAN APPROVAL FROM COUNTY'S HEALTH DEPARTMENT SERVICES SHALL BE OBTAINED PRIOR TO SUBMITTAL TO THE CITY FOR BUILDING PERMIT.</p> <p>COMPLIANCE TO LOCAL HEALTH AGENCY: THESE PLANS CONTAIN SUFFICIENT INFORMATION TO DEMONSTRATE COMPLIANCE WITH THE "MINIMUM REQUIREMENTS FOR FOOD FACILITY PLANS".</p> <p>HEALTH DEPARTMENT FIELD INSPECTION "ALL CONSTRUCTION AND EQUIPMENT INSTALLATION SHALL BE SUBJECT TO FIELD INSPECTION. THE FOOD FACILITY SHALL NOT OPEN FOR BUSINESS UNTIL FINAL APPROVAL IS OBTAINED FROM THE LOCAL HEALTH AGENCY AND A VALID HEALTH PERMIT IS ISSUED. PROVIDE HEALTH DEPARTMENT APPROVAL PRIOR TO OBTAINING A BUILDING PERMIT.</p> <p>FIELD CONSTRUCTION INSPECTION PROCEDURE: 1. PRELIMINARY CONSTRUCTION INSPECTION IS REQUIRED BY COUNTY HEALTH AGENCY. 2. FINAL CONSTRUCTION INSPECTION IS REQUIRED BY COUNTY HEALTH AGENCY.</p> <p>FLOOR FINISH REQUIREMENTS: ALL FLOORS IN FOOD ESTABLISHMENT AREA (PRODUCE PREP AREA, WALK IN COOLER & CUSTOMER SERVICE AREA) SHALL BE APPROVED QUARRY TILE FLOORING WITH A INTEGRAL COVE BASE EXTENDING 5" UP THE ADJACENT WALL. RESTROOMS SHALL HAVE CERAMIC TILE FLOOR, COVED BASE EXTENDING UP TO 5" AND WAINSCOT TO MIN. 48" HIGH. OR APPROVED EQUAL SUCH AS: EPOXY FLOORING W/ INTEGRAL COVE BASE.</p> <p>LIGHTING NOTES: 1. IN EVERY ROOM AND AREA IN WHICH ANY FOOD IS PREPARED, MANUFACTURED, PROCESSED, OR PREPACKAGED, OR IN WHICH EQUIPMENT OR UTENSILS ARE CLEANED, SUFFICIENT NATURAL OR ARTIFICIAL LIGHTING SHALL BE PROVIDED TO PRODUCE THE FOLLOWING LIGHT INTENSITY, WHILE THE AREA IS IN USE: (a) AT LEAST 10-FOOT CANDLES AT A DISTANCE OF 30 INCHES ABOVE THE FLOOR, IN WALK-IN REFRIGERATION UNITS AND DRY FOOD STORAGE AREAS. (b) AT LEAST 20-FOOT CANDLES FOR THE FOLLOWING: 1. AT A SURFACE WHERE FOOD IS PROVIDED FOR CONSUMER SELF-SERVICE OR WHERE FRESH PRODUCE OR PREPACKAGED FOODS ARE SOLD OR OFFERED FOR CONSUMPTION. 2. INSIDE EQUIPMENT SUCH AS REACH-IN AND UNDER-COUNTER REFRIGERATORS. 3. AT A DISTANCE OF 30 INCHES ABOVE THE FLOOR IN AREAS USED FOR HANDWASHING, WAREWASHING, AND EQUIPMENT AND UTENSIL STORAGE, AND IN TOILETS ROOMS. (c) AT LEAST 50-FOOT CANDLES AT A SURFACE WHERE A FOOD EMPLOYEE IS WORKING WITH FOOD OR WORKING WITH UTENSILS OR EQUIPMENT SUCH AS KNIVES, SLICERS, GRINDERS, OR SAWS WHERE EMPLOYEE SAFETY IS A FACTOR AND IN OTHER AREAS AND ROOMS DURING PERIODS OF CLEANING. 2. LIGHTS MUST BE PROVIDED WITH SHATTERPROOF PROTECTION OR CONTAINMENT WHEN LOCATED OVER AREAS USED FOR FOOD PREPARATION (INCLUDING BEVERAGES), UTENSIL WASHING, OPENED FOOD STORAGE, AND WHERE THE LIGHT FIXTURES AREA EXPOSED TO EMPLOYEE CONTACT (E.G., INSIDE REFRIGERATION UNITS).</p> <p>OTHER NOTES: 1. PROVIDE APPROVED FLOOR, WALL BASE, WALLS AND CEILING IN ALL FOOD SERVICE AREAS AND RESTROOM. 2. DRAIN ALL DRAINAGE / CONDENSATING EQUIPMENT ONTO FLOOR SINK WITH AIR GAP. 3. AIR HEATING EQUIPMENT IS TO BE PROPERLY UNDER HOOD EXHAUST UNLESS CONDITIONALLY APPROVED BY STATE HEALTH DEPARTMENT. 4. PROVIDE ADEQUATE HOT WATER ON DEMAND; 61,000 BTUs OR 15 KW</p>	<p>SCOPE OF WORK</p> <p>SCOPE OF WORK :</p> <p>1. THE SCOPE OF WORK INCLUDES THE INSTALLATION OF SELECT EQUIPMENT IN THE BAR SERVICE AREA AS DEPICTED IN THESE DRAWINGS, AND THE ASSOCIATED ELECTRICAL & PLUMBING UTILITIES.</p> <p>NOTE: ALL OTHER BUILDING SYSTEMS SUCH AS: MECHANICAL & LIGHTING ARE EXISTING TO REMAIN AS-IS.</p> <p>2. NO OTHER ALTERATIONS OR IMPROVEMENTS ARE PROPOSED UNDER THIS APPLICATION.</p>	<p>DRAWING INDEX</p> <table border="1"> <thead> <tr> <th>SHEET #</th> <th>DESCRIPTION</th> <th>REVISION</th> </tr> </thead> <tbody> <tr> <td>G001</td> <td>COVER SHEET</td> <td>△</td> </tr> <tr> <td>G002</td> <td>ABBREVIATIONS & SYMBOLS</td> <td>△</td> </tr> <tr> <td>SP100</td> <td>SITE & EGRESS PLANS</td> <td>△</td> </tr> <tr> <td>A101</td> <td>FLOOR & FIXTURE PLANS</td> <td>△</td> </tr> <tr> <td>A102</td> <td>REFLECTED CEILING PLAN</td> <td>△</td> </tr> <tr> <td>A103</td> <td>ROOF PLAN</td> <td>△</td> </tr> <tr> <td>A601</td> <td>INTERIOR ELEVATIONS</td> <td>△</td> </tr> <tr> <td>A804</td> <td>ACCESSIBILITY & CLEARANCE DETAILS</td> <td>△</td> </tr> <tr> <td>A805</td> <td>ANCHORING DETAILS</td> <td>△</td> </tr> </tbody> </table> <p>ELECTRICAL</p> <table border="1"> <tbody> <tr> <td>E0.1</td> <td>ELECTRICAL ABBREVIATIONS, SYMBOLS, NOTES, ETC.</td> </tr> <tr> <td>E0.2</td> <td>ONE LINE DIAGRAM & PANEL SCHEDULES</td> </tr> <tr> <td>E0.3</td> <td>POWER T24 COMPLIANCE</td> </tr> <tr> <td>E1.0</td> <td>OVERALL FLOOR & POWER PLAN</td> </tr> </tbody> </table> <p>PLUMBING</p> <table border="1"> <tbody> <tr> <td>P-1</td> <td>PLUMBING SPECIFICATIONS, NOTES, LEGEND & SCHEDULES</td> </tr> <tr> <td>P-2</td> <td>PLUMBING SCHEDULES</td> </tr> <tr> <td>P-3</td> <td>PLUMBING FLOOR PLANS</td> </tr> </tbody> </table>	SHEET #	DESCRIPTION	REVISION	G001	COVER SHEET	△	G002	ABBREVIATIONS & SYMBOLS	△	SP100	SITE & EGRESS PLANS	△	A101	FLOOR & FIXTURE PLANS	△	A102	REFLECTED CEILING PLAN	△	A103	ROOF PLAN	△	A601	INTERIOR ELEVATIONS	△	A804	ACCESSIBILITY & CLEARANCE DETAILS	△	A805	ANCHORING DETAILS	△	E0.1	ELECTRICAL ABBREVIATIONS, SYMBOLS, NOTES, ETC.	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P-2	PLUMBING SCHEDULES																																													
P-3	PLUMBING FLOOR PLANS																																													

FORM #300 03/13/2020 SUBJECT TO CHANGE
FOR EXISTING COMMERCIAL/INDUSTRIAL AND MULTIFAMILY PROPERTIES

Accessibility Compliance Form

This form enables the Applicant to verify that the proposed construction will conform to California Building Code accessibility requirements.

ACCESSIBILITY COMPLIANCE DECLARATION

PROJECT ADDRESS: 1692 Story Road #100
CITY: San Jose Zip: 95122

I have surveyed the building at the above address for compliance with required accessibility features per the California Building Code. Proposed alteration work will include any upgrades required to provide compliance with the latest edition of the accessibility features serving the area of work as described in section CBC 11B-202. I acknowledge the following scope of required upgrades:

The existing required accessibility features serving the area of work are in conformance with California Building Code.

Upgrades to the existing condition are proposed to provide full compliance with required accessibility features serving the area of work in conformance with California Building Code.

The feasibility of the proposed work will be severely impacted if full accessibility compliance is provided. Not all access features will be provided with the proposed scope of work, thus an Unreasonable Hardship determination is sought. Upgrades will be provided for all features not exempted in the approved **Unreasonable Hardship Application**.

David Mena
Signature
PRINT NAME: David Mena
DATE: 07/26/2024
I am the: Project Designer Business Owner Other_Architect

San Jose Permit Center 408-535-3555 www.sanjoseca.gov/building San Jose City Hall, 200 E. Santa Clara St., San Jose, CA 95113



TENANT IMPROVEMENTS
AFTER BAR & GRILL
1692 STORY ROAD #100
SAN JOSE, CA 95122

HEALTH PC-1 09.09.24
PC-2 08.14.24
PC-1 06.28.24
PERMIT SET 03.26.24
REVISION DATE
DATE: 03.26.24
JOB NO.: 23-788

COVER SHEET

SCALE: AS NOTED

G001

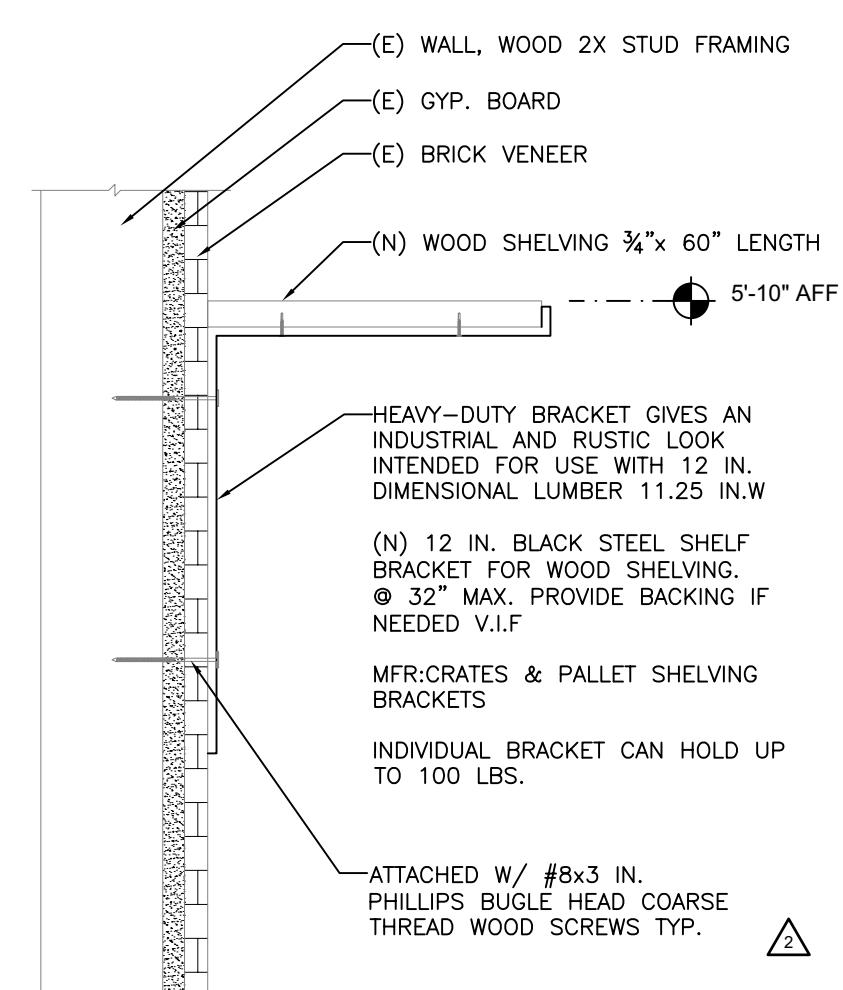


575 W EL CAMINO REAL/MOUNTAIN VIEW, CA 94040
TEL: 650.210.8800
EMAIL: www.mendaarchitects.com

CITY STAMP

MATERIAL	FLOOR		BASE		WALL		CEILING	
	1	2	3	4	5	6	7	8
	<input checked="" type="radio"/> CERAMIC FLOOR TILE			<input checked="" type="radio"/> BASE TILE		<input checked="" type="radio"/> CERAMIC WALL TILE	<input checked="" type="radio"/> SEMI GLOSS PAINT	<input checked="" type="radio"/> OPEN TO STRUCTURE ABOVE
BAR AREA	<input checked="" type="radio"/>			<input checked="" type="radio"/>		<input checked="" type="radio"/>	<input checked="" type="radio"/>	<input checked="" type="radio"/>

FINISH SCHEDULE TABLE 16



FLOOR

FT CERAMIC TILE @ BAR AREA
MFR: DAL TILE
COLOR : WHITE
SIZE: 8"X8" POLISHED (OR APPROVED EQ

BASE:

B1 CERAMIC TILE WITH 3/8" INTEGRAL COVE BA

WAL

WT CERAMIC TILE @ BAR AREA
MFR: DAL TILE
COLOR : WHITE
SIZE: 4"X8" POLISHED (OR APPROVED E

P1 PAINT
MANUFACTURER: SHERWIN-WILLIAMS
COLOR: SEMI GLOSS - PURE WHITE (OR APPROVED EQUAL)

ITEM	DESCRIPTION	MAKE	MODEL / ITEM NO.	WEIGHT (LBS.)	WIDTH (INCH.)	LENGTH (INCH.)	HEIGHT (INCH.)	WALL DET. REF.
BAR AREA								
01	BLENDER STATION WITH DUMP SINK	ADVANCE TABCO	SL-RS 12	21	12	23	33	N/A
02	SPLASH GUARD	SERV-WARE	SSP-2420	APPROX. 3	-	24	20	N/A
03	DOUBLE BOTTLE RAIL	KROWNE	RD36	11	30	36	APPROX. 10	N/A
04	COMBINATION ICE BIN W/ 12" BOTTLE STORAGE	KROWNE	K319-M36L	172	36	26	36 1/2	N/A
05	UNDERCOUNTER REF.	SUMMIT	AL57G	95	22.63	23.63	32	N/A
06	BLENDER	BLENDTEC	STEALTH TM CQB1 STEALTH 88	18.1	8.6	9	17.3	N/A
07	3 COMP BAR SINK	ADVANCE TABCO	CRB-63C	88	21	72	33	N/A
08	UNDERCOUNTER DISH MACHINE	ENERGY STAR	E-ULT	179	25.6	24	34	N/A
09	UNDERBAR BEER DISPENSER	BEVERAGE -AIR	DZ24	180	29 3/8	24	53	N/A
10	HANDSINK	GSW	HS-1615S	14	15 1/4	15 3/4	16 3/8	N/A
11	WORK TABLE 24" x 36" W/ BACKSPLASH	ADVANCE TABCO	KLAG 243-X	61	24	36	35 1/2	N/A
12	WORK TABLE 24" x 48" W/ BACKSPLASH	ADVANCE TABCO	KLAG 244-X	75	24	48	35 1/2	N/A
13	UNDERBAR BEER DISPENSER	TRUE	TDD-3-HC	375	27 1/8	69 1/8	37	A805/01
13A	23 GALLON BIN FOR COMPOST /WASTE	LAVEX	GREEN SLIM RECTANGULAR W/ GREEN SHOT LID	8	20	11	29	N/A
14	REFRIGERATOR	COOLER DEPOT	DXXBD-350	168	23 1/2	24	70	N/A
15	3 DOOR BACK BAR COOLER	KOOLMORE	BC3DSWBK	231	20.8	53.1	35.2	A805/02
15A	5" HEAVY DUTY ZINC SWIVEL PLATE CASTERS	REGENCY	#600CASTERPC4	-	-	-	-	-
15B	CASTER POSITIONING CHOCK	KROWNE	28-200	-	-	-	-	-
17	COUNTERTOP REFRIGERATED MERCHANDISER	UNITY	U-CR3	53	19.29	17.13	27.32	N/A
18	SHELVING	N/A	N/A	-	12	60	-	15
19	TV SCREEN BY OWNER	LG	UR3406	26	50 DIAGONAL			

CUSTOM SHELVING ANCHOR DETAILS

AIL

CUSTOM SHELVING ANCHOR DETAIL **15** **14'-1" 0"** **07** **COUNTER TOP REFRIGERATED MERCHANDISER** **UNITY** **U-CR** **53** **19.29** **17.13** **27.32** **N/A**

FLOOR PLAN

5 TABLE & CHAIR AND STORAGE SUMMARY 01

CP24-036

mena architects

5575 W El Camino Real/Mountain View, CA 94040
tel 650.210.8800 - fax 650.210.8801
www.mencarchitects.com

TENANT IMPROVEMENTS

ENTER BAR & GRILL

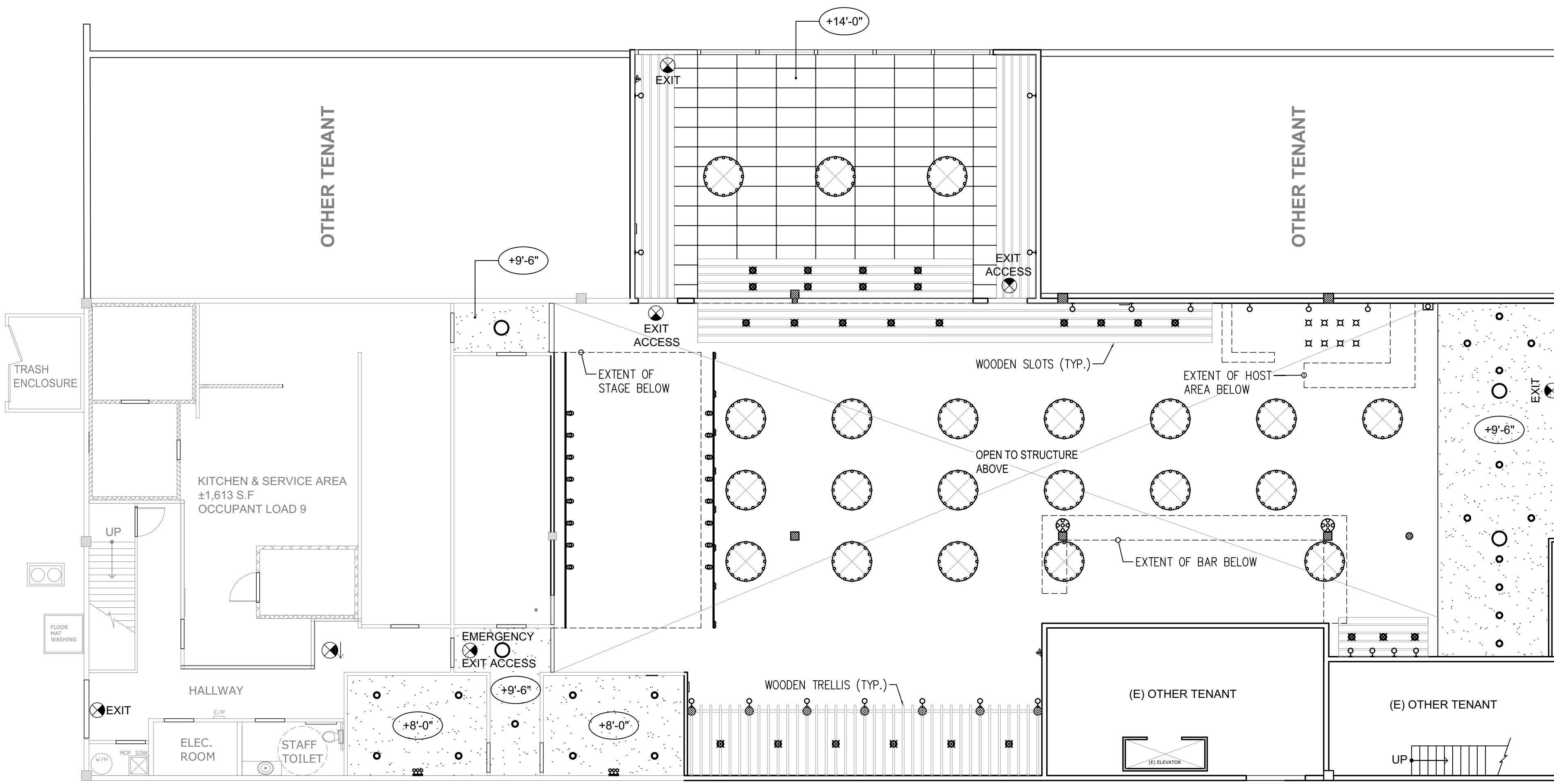
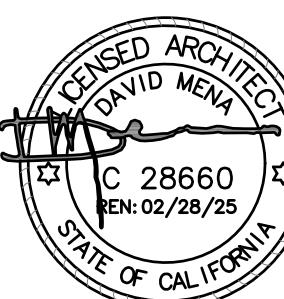
1692 STORY ROAD #100

 3	HEALTH PC-1	09.09
 2	PC-2	08.14
 1	PC-1	06.28
	PERMIT SET	03.26
	REVISION	DA
	DATE:	03.26
	JOB NO.:	2345

FLOOR & FIXTURE PLANS

SCALE: AS NO

A101



(E) CEILING PLAN

1/8"=1'-0"

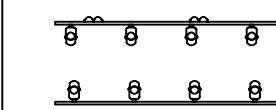
23-788

05

NOTES 01

A102

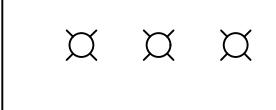
OF



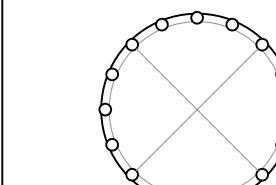
(E) TRACK LIGHTS



GYPSUM BOARD CEILING ASSEMBLY



(E) CHANDELIER LIGHT FIXTURE



(E) CHANDELIER LIGHT FIXTURE



(E) COUNTERTOP SCONCE



(E) FLOOR SCONCE



(E) PENDANT LIGHT FIXTURE



(E) CAN LIGHT FIXTURE



(E) CAN LIGHT FIXTURE



(E) WALL SCONCE



(E) WALL SCONCE



EXIT SIGNS

RCP LEGEND 02

1. CONTRACTOR SHALL VERIFY ALL EXISTING SIGNS & PROVIDE NEW IF REQUIRED AT LOCATIONS SHOWN.
2. EXIT SIGNS SHALL COMPLY WITH CFC 1013.6.3 AND EMERGENCY FLOOR LIGHTING PER CFC 1008.3.1
3. CONTRACTOR SHALL VERIFY WITH FIRE MARSHALL QUANTITY AND LOCATION OF EXIT SIGNS.

 TENANT IMPROVEMENTS
 AFTER BAR & GRILL
 1692 STORY ROAD #100
 SAN JOSE, CA 95122

HEALTH PC-1	09.09.24
PC-2	08.14.24
PC-1	06.28.24
PERMIT SET	03.26.24
REVISION	DATE
DATE:	03.26.24
JOB NO.:	23-788

 REFLECTED
 CEILING
 PLAN

SCALE: AS NOTED

Operation Plan:

After Bar & Grill Restaurant

After Bar & Grill - Operates as an existing restaurant with a type 47 ABC license and proposes to extend the hours of operations to offer late night uses for live entertainment and DJ music to 2:00am.

Hours of Operation: Monday – Thursday 12:00pm to 12:00am

Friday 12:00pm to 2:00am
Saturday 12:00pm to 2:00am
Sunday 12:00pm to 2:00am

Staffing. Staffing levels will consist of:

1. 6 employees for the lunch period Monday – Sunday*
2. 8 employees for dinner period Monday – Thursday*
3. 10 employees for dinner period and late night hours on Friday*
4. 10 employees for dinner and late night hours on Saturday*
5. 8 employees for dinner on Sunday*

*Staffing levels are in addition to management staff

Food Service. The After Bar and Grill will maintain a full open kitchen and menu throughout the operation hours of the restaurant.

Lunch	12:00pm - 4:00 pm
Dinner	4:00 pm - Closing (All days for the week)

Security. Security will be contracted and provided during all hours of operations and with staffing ratios required by the City of San Jose for late night uses. Security will be off duty San Jose Police officers. The After Bar will have a minimum of 2 - 6 security for regular restaurant operations and special events. All windows and doors will be closed after 10:00PM.

Occupancy Load. 269

Maintenance: After Bar & Grill will keep surrounding areas and parking area maintained and cleaned on a daily and nightly basis. The public right of way will up to 200 feet from the After Bar and Grill will be cleaned daily of litter before 8:00am. Blowlers will not be used between the hours of 10:00PM and 6:00AM. Restrooms will be remain open during business hours.

Neighborhood Complaints: The After Bar and Grill will work with the community to resolve business operational complaints within 24 hours after being notified. The After Bar and Grill has a formal "Comments and Concerns" form available upon request from the After Bar and Grill management.

The After Bar and Grill is committed to working with San Jose Police Department and will have an established Event Coordinator who is on call as the identified After Bar and Grill representative for the San Jose Police Department. In addition, the After Bar and Grill will use off duty San Jose Police Department officers as part of their security detail.



Memorandum

TO: Angela Wang
Planning Department

FROM: Ofc. Ikeuchi #4574
San Jose Police Vice Unit

SUBJECT: CP24-036
After Bar & Grill

DATE: July 22, 2025

Approved

Date

I have received your request for input regarding the existing bar, After Bar & Grill, located at 1692 Story Road in San Jose. After Bar & Grill is seeking a Conditional Use Permit to allow late-night use until 3am.

Per Business and Professions (B&P) Code Section 23958, the State of California Department of Alcohol Beverage Control shall deny an ABC Application for an ABC License if the issuance of that license would tend to create a law enforcement problem or if it would result in or add to an undue concentration of ABC Licenses, as described in B&P Sections 23958.4 (a)(1) and 23958.4(a)(3). A location can be unduly concentrated because of its criminal statistics and/or it's proximity to other ABC Licenses. ABC can issue the license per B&P Sections 23958.4 (b)(1), and 23958.4 (b)(2) if the local governing body determines that the public convenience or necessity would be served. The City of San Jose Planning Department and the Planning Commission are the delegated authorities to grant these exceptions.

1692 Story Road is in San Jose Police Beat C2. The reported crime statistics as defined by B&P Section 23958.4(c) are not over the 20% crime index thus the location is not considered unduly concentrated per B&P Section 23958.4 (a)(1) for on sale establishments.

Police Beat Crime Statistics

Beat	Index Crimes	Arrests	Total	20% Above Average
C2	260	168	428	No
City Average	353	127	480	

A crime analysis indicated a total of 1830 calls for service and self-initiated events occurred within a 1000 ft. radius of 1692 Story Road in a 12-month period (April 1, 2024 – April 1, 2025.) Of the 1830 calls and events, 256 occurred during the hours between midnight and 6:00 a.m. Some of the calls are listed in the table below.

*As mentioned above, the crime analysis listed below are calls for service and self-initiated events that occurred within a **1000-foot radius** of 1692 Story Road Suite 100, San Jose, CA between 4/1/2024 – 4/1/2025. Further, the analysis below are not calls or self-initiated events that solely occurred at 1692 Story Road Suite 100.*

Items #1 and #2 are, in fact, not within the one-year period the Crime Analysis Unit uses to gather their statistics, however, it is within the criteria that Vice uses during their review of applications.

Crime Analysis

Number	Nature of Call
201	Disturbances
475	Vehicle Accidents / Traffic Related
235	Thefts / Burglary
52	Assault/Battery
0	Drunk in Public
16	DUI
9	Drug Offenses
8	Sex Crime
23	Robbery

1. On 11/24/23, at approximately 0115 hours, a large disturbance between officers and intoxicated bar patrons occurred. As a result, multiple officers were assaulted.
2. On 12/10/23, at approximately 0200 hours, a battery occurred at After Bar and Grill. The suspect punched the victim in the face and dragged on the ground by her hair.
3. On 5/4/24, at approximately 0013 hours, a brandishing a weapon occurred at After Bar and Grill. Upon officers arriving on scene, they discovered multiple underage subjects inside of the business. This business was operating past their allowed time and serving alcoholic beverages (a/b) after hours. Officers cited the owner for various Business and Professions code violations.
4. * On 6/26/24, Lt. Payne and Sgt. Pham had a meeting with owner, Elmer Orellana, and discussed compliance/enforcement at Tropicana Plaza over the summer. (Owner was advised that his EP would be based upon how the business operated during that timeframe.)
5. On 7/20/24, at approximately 2330 hours, the Vice Unit conducted an undercover (UC) operation at After Bar and Grill. UC officers posed as patrons and entered the business. UC officers observed a DJ playing audibly loud music. UC officers ordered and consumed a/b after midnight. UC officers asked if they were still serving food and they told them that the kitchen was closed. UC officers observed the business staying open and operating past midnight without a Conditional Use Permit (CUP). Assisting officers outside observed security close the door. Several patrons outside tried to open the front door but were unable to. They were in violation of

their ABC license as they were supposed to maintain a bona fide eating establishment. An Administrative Citation was issued for the following violations:

- a. 6.60.040 SJMC – Public entertainment permit required
- b. 20.40.500 SJMC – Late Night Use w/o CUP
- c. 6.60.290 SJMC – Public Nuisance
- d. 6.60.230 SJMC – Noise

6. On 7/26/24, at approximately 2345 hours, the Vice Unit conducted a UC operation at After Bar and Grill. UC officers posed as customers and attempted to enter the business. Security told UCs that the business was closed. The UCs heard music coming from within the business and observed subjects walk inside after they walked away. Officers outside did not observe patrons inside leave the establishment. An Administrative Citation was issued for the following violations:

- a. 6.60.040 SJMC – Public entertainment permit required
- b. 20.40.500 SJMC – Late Night Use w/o CUP
- c. 6.60.290 SJMC – Public Nuisance
- d. 6.60.230 SJMC – Noise

7. On 8/3/24, at approximately 2320 hours, the Vice Unit conducted a UC operation at After Bar and Grill. UC officers posed as customers and entered the business. A DJ was playing extremely loud music that UCs could not hear each other talk. The UCs tried to order food, but their waitress told them that the kitchen was closed. They were in violation of the ABC license as they are required to have an operating kitchen while exercising their license. UCs ordered a/b as late as 0200 hours, beyond the permitted times their ABC license allows. At 0045 hours, officers approached the business and tried to open the front door. The door was locked. Officers knocked on the door and owner, Elmer Orellana, opened the door. Vice detectives contacted and spoke with Owner Orellana. The owner made excuses about locking the front door and lied about not serving alcohol after hours. Officers shut the business down for the night and the patrons left without incident. Owner Orellana was issued a criminal and administrative citation for the following violations:

- a. 6.60.040 SJMC - Public entertainment permit required
- b. 6.60.060 SJMC – Ownership/Management license required
- c. 20.40.500 SJMC – Late Night Use w/o CUP
- d. 6.60.290 SJMC – Public Nuisance
- e. 6.60.230 SJMC – Noise
- f. 23038 B&P and 23396 B&P – Operating kitchen needed to serve a/b
- g. 10.16.030 SJMC – loudspeakers projecting noise outside

8. After Bar had a DJ playing loud music, did not serve food, and had male dancers on stage. They stopped serving alcohol before midnight. No citations were issued. They were in violation of the ABC license as they are required to serve food while exercising their license. They do not have an EP and are **not allowed** to have live entertainment.

Your business has a well-documented history of non-compliance with state and local laws. Your actions to attempt to defraud the application process will not be condoned. You were advised on multiple occasions. The San Jose Police Department denied the businesses' permit application

for a Public Entertainment Permit. The above listed incidents thoroughly represent your on-going willingness to disobey the law.

Department of Alcoholic Beverage Control (ABC) records indicate that 1692 Story Road, is in census tract 5034.01. Pursuant to B&P Section 23958.4 (a)(3), the ratio of on-sale retail licenses population in census tract 5034.01 does exceed the ratio of on-sale retail licenses to population in the county in which the applicant premises are located if approved.

Authorized and Current ABC Licenses in Census Tract

Census Tract	Authorized ABC Licenses		Current ABC Licenses		Unduly Concentrated	
	On - Sale	Off - Sale	On - Sale	Off – Sale	On - Sale	Off – Sale
5034.01	6	2	12	3	YES	YES

The San Jose Police Department is **opposed** to the existing After Bar & Grill's Conditional Use endorsement for late-night use until 3am.

Please feel free to contact me at (408) 277-4041 if you have any questions.

Ofc. Ikeuchi #4574
San Jose Police Department
Special Investigations/Vice Unit



Letter of Support for Afterbar

From Xavier Campos <xcampos@ver-consultants.com>

Date Thu 10/23/2025 3:41 PM

To Johnson, Zachary <Zachary.Johnson@sanjoseca.gov>

Cc Vince Rivero <vrivero@ver-consultants.com>

1 attachment (42 KB)

Sinaloa - Elmer Orellana.pdf;

[**External Email**. Do not open links or attachments from untrusted sources. [Learn more](#)]

Good afternoon Zach,

I am forwarding you a letter of support Mr. Orellana received from the Mayor of Morgan Hill showing Mr. Orellana as being a good business owner and restaurant operator. Can you please add this to the staff packet?

Thank you,

Best,

Xavier

This message is from outside the City email system. Do not open links or attachments from untrusted sources.



17575 PEAK AVENUE
MORGAN HILL, CA 95037-4128
TEL: 408-778-6480
FAX: 408-779-7236
WWW.MORGANHILL.CA.GOV

October 22, 2025

Zachary Johnson
Department of Planning, Building, and Code Enforcement
City of San Jose
200 East Santa Clara Street, 3rd Floor
San Jose, CA 95113

Dear Mr. Johnson

I am writing to enthusiastically recommend Sinaloa's Cafe as a valuable addition to any community. For many years, Sinaloa's Cafe has been a cornerstone of our downtown, offering not only delicious and authentic cuisine but also a warm and welcoming atmosphere that brings people together.

The owner, Elmer, Orellana, has been a long-standing and respected member of our community, consistently demonstrating a commitment to quality, hospitality, and local engagement. Whether it's through their exceptional dining experience or their support for local events and initiatives, Sinaloa's Cafe has enriched our town in countless ways.

I have no doubt that their ~~expansion~~ into a new community will bring the same level of excellence and heart that we've come to know and love.

Sincerely,

Mark Turner
Mayor



Re: Letter of Support for Afterbar

From Xavier Campos <xcampos@ver-consultants.com>

Date Mon 11/17/2025 4:07 PM

To Johnson, Zachary <Zachary.Johnson@sanjoseca.gov>

Cc Vince Rivero <vrivero@ver-consultants.com>

2 attachments (129 KB)

Mr Orellana Letter (Tovar).pdf; E.Orellana letter.docx;

[**External Email**. Do not open links or attachments from untrusted sources. [Learn more](#)]

Good afternoon Zachary,

I am forwarding two more letters provided to me by Mr. Orillana.

Best,

Xavier

Hon. Xavier E. Campos (Ret.)

Principal

VER Engineers

1154 Park Avenue

San Jose, CA 95126

408-210-7353

www.ver-consultants.com

Civil Engineering | Land Planning | Land Entitlements | Permitting

From: Johnson, Zachary <Zachary.Johnson@sanjoseca.gov>

Sent: Friday, October 24, 2025 8:37 AM

To: Xavier Campos <xcampos@ver-consultants.com>

Cc: Vince Rivero <vrivero@ver-consultants.com>

Subject: Re: Letter of Support for Afterbar

Hi Xavier,

Thank you for sharing this letter.

I will add this as to the Public Comment Exhibit in the staff report.

October 27, 2025

The Honorable Matt Mahan
Mayor of San Jose and
San Jose City Council
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

Re: Business Owner Elmer Orellana

To Whom It May Concern:

I am writing this letter in support of business owner Elmer Orellana who has recently submitted a request for a business permit for "After" a sports bar and entertainment venue located in La Placita Tropicana 1692 Story Rd. San Jose, CA 95122.

As a former Gilroy City Councilmember serving from 2016-2024, I worked with Mr. Orellana when he opened a similar venue named "Capos" in downtown Gilroy in 2019. His investment in remodeling this formerly vacant space and opening a vibrant entertainment venue helped revitalize an underdeveloped block of downtown and helped stimulate economic development in the area which had a positive and meaningful impact on the existing business owners in that area and helped drive new business development as well. His investment in Capos had a significant impact on the growth of new business to the area that continues to this day.

Mr. Orellana worked with city staff to obtain all the necessary permits needed and in so doing developed a very collaborative and responsive relationship with the City of Gilroy.

As an experienced business owner who also owns Cafe Sinaloa in Morgan Hill, Mr. Orellana has a proven track record of successful operations developed through a hands-on approach to business management that makes him a true owner/operator of his establishments.

During his time at Capos, Mr. Orellana was able to bring in a plethora of well known performers that drew in large crowds from all over the bay area as well as from the local community. Over time, these events not only grew in size, scope and frequency; Mr. Orellana quickly earned a reputation for hosting safe, properly staffed and well organized events ensuring that concert goers would have a safe and enjoyable experience each time they attended.

Providing a safe and secure experience for his guests was always a top priority for Mr. Orellana and his attention to detail in this regard was always paramount. He worked closely with city staff, including fire and police to ensure proper measures were always taken to manage crowd control and provide enough well trained security at the door and inside the venue at each event.

Mr. Orellana was the one business owner in downtown Gilroy who could always be counted on to have sufficient well trained, experienced security at his venue even during regular business hours during the week/weekend. As a result, each time Mr Orellana requested to host a special event, or needed to renew his business license, the city of Gilroy always approved his requests. To my knowledge the City of Gilroy never had any problems at Capos where Gilroy PD or Fire had to intervene or help manage any event held at his venue.

Based on my positive experience working with Mr. Orellana during my time on council I would support and recommend his request to open After in the La Placita Shopping Center in San Jose.

I am happy to answer any questions you might have to the best of my ability, or provide any additional information that I can, as needed.

Sincerely,

Fred M. Tovar, M.Ed.

Fred M. Tovar, M.Ed
Gilroy City Councilmember (2016-2024)
Email: FredMTovar@gmail.com



Mt. Madonna YMCA

171 W. Edmundson Ave.
Morgan Hill, CA 95037
(408) 762-6018

November 6, 2025

To Whom It May Concern,

It is my pleasure to provide this character and professional reference for Mr. Elmer Ornales, a respected business owner and dedicated volunteer with the Mt. Madonna YMCA, a branch of the YMCA of Silicon Valley.

Elmer has served with distinction as a member of our Mt. Madonna YMCA Advisory Board, dedicating his time and leadership to improving the quality of life in our South County community. His involvement has been instrumental in supporting our mission to strengthen community through youth development, healthy living, and social responsibility.

Elmer owns Sinaloa Restaurant in Morgan Hill and hosts a variety of events for nonprofits, schools, and churches to help them raise money for their charitable causes. He also uses his restaurant to host family gatherings and community celebrations, creating a welcoming and inclusive space that strengthens the bonds among community members.

As a business owner, Elmer consistently models professionalism, integrity, and generosity. He has actively supported local nonprofit organizations through donations, in-kind contributions, and collaborative community projects. Beyond his business contributions, Elmer has volunteered as a mentor to youth, offering guidance, encouragement, and a positive example for young people seeking to develop leadership and life skills.

Elmer's character reflects the YMCA's core values of caring, honesty, respect, and responsibility. He is reliable, trustworthy, and deeply committed to giving back to his community. His service as both a business leader and a volunteer demonstrates his belief in creating equitable opportunities for all and his ongoing dedication to making Santa Clara County a stronger, more connected place to live and work.

For licensing or verification purposes, please feel free to contact me directly with any questions regarding Mr. Ornales's community involvement or character.

With appreciation,

Andrea Nicolette
Executive Director
Mt. Madonna YMCA
andrea.nicolette@ymcasv.org
(831) 801-7650

RESOLUTION NO._____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE DENYING A PERMIT APPEAL AND UPHOLDING THE PLANNING COMMISSION'S DECISION TO DENY A CONDITIONAL USE PERMIT TO ALLOW LATE-NIGHT USE (UNTIL 2:00 A.M. FRIDAY THROUGH SUNDAY) FOR AN EXISTING PUBLIC EATING ESTABLISHMENT WITHIN AN EXISTING APPROXIMATELY 7,442-SQUARE-FOOT TENANT SPACE ON AN APPROXIMATELY 3.34-GROSS-ACRE SITE, LOCATED ON THE SOUTHWESTERN SIDE OF SOUTH KING ROAD APPROXIMATELY 150 FEET NORTHWEST OF THE SOUTH KING ROAD AND MARSH STREET INTERSECTION (1692 STORY ROAD SUITE #100) (APN 486-10-091)

FILE NO. CP24-036

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on February 10, 2025, Xavier Campos filed an application (File No. CP24-036) on behalf of the property owner, DPJW GROUP II LP ("Permittee"), with the City of San José ("City") for a Conditional Use Permit to allow late-night use (until 2:00 a.m. Friday through Sunday) for an existing public eating establishment within an existing approximately 7,442-square-foot tenant space on an approximately 3.34-gross-acre site ("Project"), on that certain real property situated in the CN Commercial Neighborhood Zoning District and located on the southwestern side of South King Road approximately 150 feet northwest of the South King Road and Marsh Street intersection (1692 Story Road Suite #100; APN 486-10-091) (the "subject property"); and

WHEREAS, a legal description of the subject property is attached as Exhibit "A" and incorporated by reference; and

WHEREAS, at a duly noticed public hearing on November 19, 2025, the Planning Commission considered public comments, and all evidence and testimony received at the public hearing regarding the Project and voted unanimously to deny the Project; and

WHEREAS, on November 20, 2025, the Project applicant filed a timely appeal of the Planning Commission's decision; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this City Council conducted a de novo administrative hearing on said Project application and the appeal of the Planning Commission's decision, notice of which was duly given, provided all persons full opportunity to be heard and to present evidence and testimony respecting said matter, received and considered the reports and recommendations of the Director of Planning, Building and Code Enforcement, and received in evidence a plan for the subject property entitled, "AFTER BAR & GRILL" dated September 9, 2024; said plan is on file in the Department of Planning, Building and Code Enforcement and is incorporated by reference; and

WHEREAS, this City Council has heard and considered the testimony presented at the public hearing and has further considered written materials submitted on behalf of the Project applicant, City staff, and other interested parties;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:

The foregoing recitals are hereby incorporated by reference as if fully set forth herein, and after considering evidence presented at the public hearing the City Council finds that the following are the relevant facts and findings regarding this Project:

- 1. Site Description and Surrounding Uses.** The subject property is located on the southwestern side of South King Road approximately 150 feet northwest of the South King Road and Marsh Street intersection (1692 Story Road Suite #100, APN 486-10-

091). The tenant space (Suite #100) is located at the east side of an existing commercial shopping center near the vehicle entrance along South King Road. The existing commercial shopping center is surrounded by single-family residences to the southeast and southwest, commercial uses to the northeast, and Emma Prusch Farm Park across Story Road to the northwest. The subject property is accessed by two vehicle entrances along South King Road and one vehicle entrance along Story Road. The subject tenant space is accessed by one entrance within the shopping center located on the northwest building occupancy frontage. The site has a surface parking lot shared by all of the tenants, and has existing pedestrian sidewalks along South King Road and Story Road with two crosswalks across South King Road and one crosswalk across Story Road. The site is currently accessible with an existing Valley Transit Authority (VTA) bus stop serving the 22 and 77 lines along South King Road.

2. **Project Description.** The project consists of a Conditional Use Permit to allow late-night use (until 2:00 a.m. Friday through Sunday) for an existing public eating establishment within an existing approximately 7,442-square-foot tenant space at 1962 Story Road Suite #100. The Project does not include any modifications to the existing commercial building or site. The Project is subject to City Council Policy 6-27: Evaluation of 24-Hour Uses.
3. **Conditional Use Permit Findings.** Section 20.100.720 of the San José Municipal Code specifies the required findings for the approval of a Conditional Use Permit.

- a. The Conditional Use Permit, as approved, is consistent with and will further the policies of the general plan, applicable specific plans, and area development policies; and

General Plan Consistency. The subject site is designated Neighborhood/Community Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram. This designation is intended to allow a very broad range of commercial activity, including commercial uses that serve the communities in neighboring areas, such as neighborhood serving retail and services and commercial/professional office development.

The Project is consistent with the following General Plan policies:

Land Use and Employment Policy IE-1.3: As part of the intensification of commercial, Village, Industrial Park and Employment Center job Growth Areas, create complete, mixed-employment areas that include business support uses, public and private amenities, child care, restaurants and retail goods and services that serve employees of these businesses and nearby businesses.

Business Growth and Retention Policy IE-2.6: Promote retail development to the maximum extent feasible, consistent with other General Plan goals and policies, in order to generate City revenue, create jobs, improve customer convenience, and enhance neighborhood livability.

Analysis: The business would continue to operate as a public eating establishment. The project would intensify the existing commercial use by extending business hours. Adding late-night hours to the existing public eating establishment would potentially increase job employment hours and opportunities, generate City revenue, increase pedestrian activity, and improve customer convenience, including employees of nearby businesses (IE-1.3) (IE-2.6), which is consistent with the Story Road Employment Growth Area goals.

b. The Conditional Use Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the Project; and

Zoning Conformance. The subject site is located within the CN Commercial Neighborhood Zoning District. Pursuant to Section 20.40.100, Table 20-90 of the Zoning Code, a public eating establishment is a permitted use. However, pursuant to Section 20.40.500 of the Zoning Code, any establishment proposing to operate between the hours of 12:00 midnight and 6:00 AM requires the issuance of a Conditional Use Permit. There are no physical changes proposed to the existing building or tenant space.

Analysis: The Project is consistent with the CN Commercial Neighborhood Zoning District, including allowed land uses, development standards, and parking standards. The Project does not include any new floor area or exterior alterations. All business operations will be conducted indoors. Pursuant to Section 20.90.020.A. of the San José Municipal Code the Project is not subject to current bicycle parking requirements as no new square footage is being added to the existing building. Pursuant to Section 20.90.900.B.a. of the San José Municipal Code the Project is exempt from Transportation Demand Management requirements as the use is existing and not changing. Pursuant to Section 20.90.350 of the San José Municipal Code the Project does not include any vehicle parking spaces and therefore does not require two-wheeled motorized vehicle parking. Pursuant to Table 20-90 in Section 20.40.100 of the San José Municipal Code, a public eating establishment is a permitted land use within the CN Commercial Neighborhood Zoning District. Pursuant to Section 20.40.500 of the San José Municipal Zoning Code, Late night use and activity within the CN Commercial Neighborhood Zoning District may be approved through a Conditional Use Permit.

c. The Conditional Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

City Council Policy 6-27: Evaluation of 24-Hour Uses

The Project is partially inconsistent with Council Policy 6-27: Evaluation of 24-Hour Uses.

- Area Use Compatibility. Twenty-four-hour uses should not be approved unless the facility can operate without detriment to nearby residential uses or the

general welfare of the surrounding area. Given the potential for problems arising from such uses which may or may not have been anticipated at the time of approval, all such permits should include a condition for a Compliance Review based on written complaints, and all such complaints should be referred to the Planning Commission.

Analysis: The establishment will operate exclusively indoors. The Project does not include any outdoor seating or outdoor entertainment. The Operations Plan specifies that windows and doors will be closed after 10:00 p.m. The establishment will have a minimum of two to six security staff on-site during all hours of operation and will have an established Event Coordinator who is on call as the identified contact for the San José Police Department. However, the existing business has been cited for various violations including noise and public nuisance violations by the San José Police Department. Therefore, the Project is inconsistent with this requirement.

- Use Separation. Physical separation of incompatible uses is the best means to avoid potential problems. Generally, 24-hour uses should not be located within 300 feet (measured from the building entrance and "Designated Parking Area" and/or "Outdoor Use Area" to the residential property line) from any property residentially zoned, planned, or used. Exceptions to the 300-foot separation may be made if the project site is located within the Downtown Core Area or in transition areas where the proximate residential uses are not zoned or planned for residential uses in the long term. The 300-foot separation requirement may be increased or decreased on a case-by-case review of the specific circumstances of the site and proposed use based on the intensity of use, location of other buildings and physical features, neighborhood input or other relevant criteria. Examples of circumstances which might mitigate the 300-foot separation requirement:
 - Separation for residential by a major thoroughfare of at least four moving lanes and a sound wall at the residential property.
 - Complete physical separation from residential by other non-residential buildings.
 - One-hour extensions on Friday and Saturday nights and/or one hour from 5:00 a.m. to 6:00 a.m. daily.

Analysis: The tenant space main entrance is located approximately 200 feet from existing residential uses to the south. The entrance is located at the side of the existing commercial building opposite the residential use and the existing public eating establishment use operates entirely indoors. The tenant space has a rear door which opens to the rear drive aisle that is screened from the adjacent residential properties by an approximately 6-foot-high concrete masonry wall. This rear area will only be accessed by

restaurant employees and will continue to function in the same manner as the existing business and will be monitored by staff. Therefore, the Project is consistent with this requirement.

- Outdoor Activities. Outdoor activities may be limited for 24-hour operations except in the Downtown Core Area. Due to the unique combination of uses in the Downtown Core Area, 24-hour outdoor activities will be evaluated on a case-by-case basis. Services and sales should be conducted entirely within interior spaces between the hours of 12:00 midnight and 6:00 a.m., except for specific development types identified under Policy 2. More restrictive hours and days of operation may be imposed in order to implement policy requirements. Other late night outdoor activities on the site such as truck deliveries, maintenance and garbage collection should be reviewed and may be conditioned to minimize noise impacts.

Analysis: No outdoor activities are included in this Project. Therefore, the Project is consistent with this requirement.

- Police Issues. Crime statistics and police safety issues which are directly related to uses operating between 12:00 midnight and 6:00 a.m. will be analyzed and considered in determining the appropriateness of 24-hour uses. The Chief of Police should provide a written memorandum with this analysis, including a recommendation with or without conditions, for each Conditional Use Permit application for a 24-hour use. Conditions may be imposed to monitor 24-hour uses and minimize nuisance activities. These conditions may include such requirements as interior or exterior security guards, video cameras, additional lighting, limited occupancy, and modifications of controls or procedures to increase effective law enforcement. The likelihood of impacts caused by the disorderly conduct of late-night patrons on the surrounding neighborhood should be considered in the review process, especially as it relates to proximity of residential uses.

Analysis: The San José Police Department issued a memorandum dated July 22, 2025. The San José Police Department is opposed to the applicant's request for a Conditional Use Permit to allow late-night use until 2:00 am. While the subject establishment is not unduly concentrated for crime within the police beat area, the establishment has violated the conditions of their Alcoholic Beverage Control license by not serving food while serving alcohol, provided entertainment uses such as male dancers without an entertainment permit, received noise and public nuisance citations, and has a well-documented history of non-compliance with state and local laws. The Police Department also noted that previous applications for Entertainment Permits for the establishment have been denied due to failure to comply with current business allowances (restaurant without late-night use approval). According to the Police Department Memo dated July 22, 2025, Lt. Payne and Sgt. Pham met with the

owner, Elmer Orellana, on June 26, 2024 and discussed compliance/enforcement at Tropicana Plaza over the summer. The owner was advised that his Entertainment Permit would be based upon how the business operated during that timeframe. On July 20, 2024, the business was issued an Administrative Citation for violations including providing entertainment uses without an Entertainment Permit, operating past midnight without a Conditional Use Permit, and noise and public nuisance violations. The business was cited again on July 26, 2024 for providing entertainment without an Entertainment Permit, operating past midnight without a Conditional Use Permit, and noise and public nuisance violations. Lastly, on October 3, 2024 the owner was issued a criminal and administrative citation for violations, including providing entertainment uses without an Entertainment Permit, needing an ownership/management license, operating past midnight without a Conditional Use Permit, noise and public nuisance violations, not serving food with alcohol, and loudspeaker projected noise outside the business.

The provided operations plan includes that a minimum of two and up to six security staff members will be on site during regular restaurant operations and special events.

The Project is inconsistent with this requirement due to the Police Issues mentioned above.

- **Restroom Facilities**. Restroom facilities required by other codes or policies shall remain open and be available during late night business hours. Customer access to restrooms is not required for drive-through facilities when there is no customer access permitted to interior areas. Restrooms that have exterior access will be analyzed from a safety and surveillance aspect and will remain open on a case-by-case basis.

Analysis: The public eating establishment provides two restroom facilities. A condition of approval would be included in the Conditional Use Permit requiring the restroom facilities to be open and available during late-night business hours. The Project is consistent with this requirement.

- **Noise**. Use of sound attenuation walls and landscaping may be required at property lines in order to minimize noise emanating from the site. Special attention should be paid to the possibility of noise at late night hours such as car stereos, cars starting and conversations which may not be quantifiable, but can reasonably be expected to occur. No amplified sound is permitted between 10:00 p.m. and 7:00 a.m., except low-volume drive-through speakers specifically approved in conjunction with 24-hour drive-through use.

Analysis: Noise attenuation would not be required as the public eating establishment use is entirely indoors and the entrance is located at the opposite

side of the building away from residential uses. All windows and doors would be closed after 10:00 p.m. The Project is consistent with this requirement.

- Cleaning and Maintenance. Cleaning and maintenance for outdoor areas utilizing mechanical blowers, vacuums or other noise generating equipment shall not be used between the hours of 10:00 p.m. and 7:00 a.m. Special conditions to control on-and off-site litter may be required on a case-by-case basis.

Analysis: A condition of approval would be included in the Conditional Use Permit prohibiting the use of outdoor noise-generating cleaning equipment between the hours of 10:00 p.m. and 7:00 a.m. The Project is consistent with this requirement.

- Mitigation Management Plan. A mitigation management plan should be required for all mitigated 24-hour uses to ensure compliance with conditions of approval. The plan should be realistic, practical, and enforceable. The plan should include detailed provisions for response to neighborhood complaints; control of noise, litter, graffiti, etc., and provide a protocol for interface with police to resolve potential problems with gangs, drugs, loitering, and other criminal activities.

Analysis: The provided operations plan states that the Project applicant will resolve any operational complaints within 24 hours of being notified. The public eating establishment also has a formal “Comments and Concerns” form available upon request from restaurant management staff and will have an on-call event coordinator to respond to any concerns received from the San Jose Police Department. Therefore, the Project is consistent with this requirement.

Overall, the Project is inconsistent with City Council Policy 6-27: Evaluation of 24-Hour Uses due to the Project being incompatible with surrounding uses and police issues. The existing business has received violations related to noise and public nuisance. The San José Police Department has also documented various police issues as mentioned above.

City Council Policy 6-30: Public Outreach Policy

Staff followed Council Policy 6-30: Public Outreach Policy in order to inform the public of the proposed Project. On-site signs have been posted on the Project frontages since September 16, 2025. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the Project site and posted on the City website. The staff report is also posted on the City's website, and staff has been available to respond to questions from the public.

As of the date of the Planning Commission on November 19, 2025, staff had received three letters in support of the Project. Most notably, staff received letters

from the Mayor of Morgan Hill, Mark Turner, Former Gilroy City Councilmember Fred M. Tovar, and Mt. Madonna YMCA Executive Director, Andrea Nicolette.

- d. The proposed use at the location requested will not:
 - i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - iii. Be detrimental to public health, safety or general welfare.

Analysis: Given the Police Department's opposition to late-night use for the subject establishment and the applicant's documented history of non-compliance with state and local laws detailed in the San José Police Department Memo, dated July 22, 2025, the Project would have an adverse impact on public health, safety, and general welfare. The existing business has violated their ABC license by not serving food in conjunction with alcohol sales which is a requirement for a Type 47 license for public eating establishments, provided live entertainment including male dancers without an Entertainment Permit as required by the Police Department, operated past midnight without a Conditional Use Permit, and received noise and public nuisance citations from the Police Department. Despite warnings, instruction, and an opportunity to achieve compliance granted by the Police Department, the Project applicant has continued to operate out of compliance with public eating establishment requirements. Therefore, the Project is inconsistent with this requirement, and this finding cannot be made.

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and

Analysis: The approximately 7,442-square-foot tenant space is adequate in size to accommodate indoor use as a public eating establishment. The Project does not include any other uses or site improvements such as walls, fences, or landscaping. The Project is consistent with this requirement.

- f. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.

Analysis: The Project site is adequately served by streets and public transit. The subject site is accessed by two vehicle entrances along South King Road and one vehicle entrance along Story Road. The subject tenant space is accessed by one entrance within the shopping center located on the northwest building occupancy frontage. The site has existing pedestrian sidewalks along South King Road and Story Road with two crosswalks across South King Road and one crosswalk across Story Road. The site is currently accessible with an existing VTA bus stop serving the 22 and 77 lines along South King Road. The Project is consistent with this requirement.

- g. The environmental impacts of the Project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

Environmental Review. Under the provisions of Section 15270 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this Project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. Section 15270 applies to projects which are denied, in that CEQA does not apply to projects which a public agency rejects or disapproves.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above is hereby **denied**.

ADOPTED this _____ day of _____, 2026, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

MATT MAHAN
Mayor

ATTEST:

TONI J. TABER, MMC
City Clerk

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.