



# Planning Commission Memorandum Supplemental

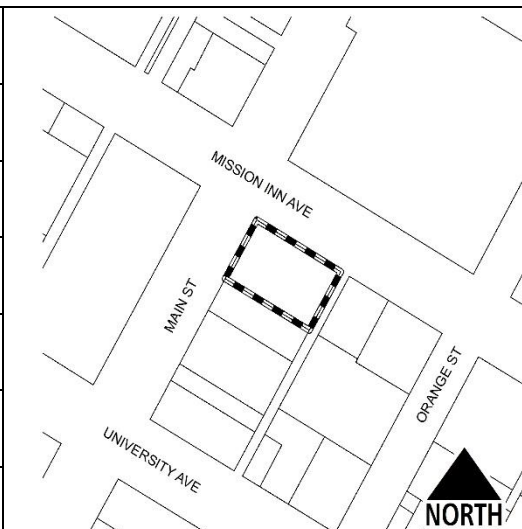
Community & Economic Development Department

3900 Main Street, Riverside, CA 92522 | Phone: (951) 826-5371 | [RiversideCA.gov](http://RiversideCA.gov)

Planning Division

**PLANNING COMMISSION HEARING DATE: OCTOBER 6, 2016  
CONTINUED FROM JULY 14, 2016 AND SEPTEMBER 8, 2016  
AGENDA ITEM NO.: 3**

## OVERVIEW

<b>Case Numbers</b>	<b>P16-0251 (Modification or Revocation of MCUP P15-0255)</b>	
<b>Request</b>	To consider the Modification or Revocation of Minor Conditional Use Permit P15-0255	
<b>Petitioner</b>	Community & Economic Development Director	
<b>Project Location</b>	3700-3720 Main Street	
<b>APN</b>	213-271-001	
<b>Ward</b>	1	
<b>Neighborhood</b>	Downtown	
<b>Specific Plan</b>	Downtown Specific Plan	
<b>General Plan Designation</b>	Downtown Specific Plan	
<b>Zoning Designation</b>	Downtown Specific Plan – Raincross District	
<b>Staff Planner</b>	Travis Randel, Principal Planner; 951-826-5932; <a href="mailto:trandel@riversideca.gov">trandel@riversideca.gov</a>	

## RECOMMENDATION

Staff recommends that the City Planning Commission:

1. **MODIFY** Minor Conditional Use Permit P15-0255 based on the information provided in the staff report.

## BACKGROUND

The Hideaway restaurant has been operating with a Type 41 (On-sale Beer and Wine – Eating Place) Alcoholic Beverage Control (ABC) license since May 2013. Prior to operation as the Hideaway Café, the restaurant operated as the Galleria Café Wine Gallery with a Type 41 ABC license since 2010. The current ABC License is held by Mr. Craig Johnston, property and business owner.

On September 11, 2015, following numerous Code Enforcement complaints that the Hideaway Café restaurant was operating with entertainment (DJ/dance floor) without proper land use permits, the Zoning Administrator considered and approved Minor Conditional Use Permit P15-0255, to permit entertainment in conjunction with the restaurant.

On February 24, 2016, staff from the Planning, Code Enforcement, Building and Safety and the Police Department met with the business owner, as required by a Condition of Approval requiring a “six month review”, to discuss the operation of the Hideaway Café. Staff expressed concerns regarding compliance with conditions of approval, as well as a lack of adequate management oversight and security operations at the business that were resulting in health and safety concerns for patrons and surrounding properties.

On July 14, 2016, a staff-initiated request for the revocation or modification of the MCUP was agenized for Planning Commission consideration. The Planning Commission continued this item to the September 8, 2016 Commission meeting at the request of staff to allow additional time for staff to meet with the business owner to discuss staff concerns outlined in the July 14, 2016 staff report (Exhibit 3).

On August 8, 2016, representatives from the Planning Division and City Attorney's office met with the business owner to discuss the concerns raised in July 14, 2016 staff report. During the meeting, the applicant identified a number of changes he made to the operation of the Hideaway.

On August 12, 2016, the City received a letter from Mr. Johnston's representative (Exhibit No. 4) outlining the operational changes and security enhancements undertaken and proposed by the business owner to address staff's concerns.

On September 8, 2016, the Planning Commission further continued this item to the October 6, 2016 Commission meeting at the request of Planning Staff. On September 9, 2016, staff met with the business owner's representative to discuss the modification of the Minor Conditional Use Permit Conditions of Approval to allow the business to continue to operate while providing better clarify and safeguards in the Conditions of Approval.

## ANALYSIS

As outlined in the July 14, 2016 Planning Commission Staff Report, the Hideaway had a history of violations of the municipal code and extraordinary calls for service ranging from operating a nightclub without a minor conditional use permit to the sale of illegal narcotics by a Hideaway employee.

However, over the past several months, the business owner has made a number of significant changes in the operation and management of the facility that have reduced impacts on surrounding properties and the need for Police services. These changes include:

- Implemented the use of PatronsCan, an ID scanning system designed to capture data and screen patrons prior to entering the facility.
- Installed 21 new high definition security cameras.
- Implemented a new dress code policy.
- Introduced live band performances on weekends.
- Termination of employees for inappropriate actions.
- Provided a specialized 3-day security training for all bars in Downtown (June 6 – 8, 2016).

Since the business owner implemented these operational changes and improved security protocols, the demand for police services has decreased. The business has taken the proper steps to be a safe and viable option for patrons to the downtown entertainment district.

In consultation with staff, the business owner has also agreed to implement a number of other operation changes that are anticipated to further reduce impacts. These include the following changes that have been incorporated into the revised conditions of approval:

- Provide a minimum ratio of 1 licensed proprietary private security officer for every 30 patrons.
- Implementing a minimum \$5 cover charge.
- Clarification of the 'Happy Hour' provisions.

Based on these operational changes and revised conditions of approval, staff recommends that the Planning Commission modify the MCUP to provide the business owner the opportunity to operate in a manner that is not detrimental to surrounding properties, or cause an undue burden on Police services. The complete list of revised conditions of approval are attached as Exhibit 1 to this report.

## ENVIRONMENTAL REVIEW

This proposal is categorically exempt from California Environmental Quality Act (CEQA) review pursuant to Section 15321, Enforcement Actions by Regulatory Agencies.

## PUBLIC NOTICE AND COMMENTS

Pursuant to Section 19.730.090 – Review for Compliance and Revocation, public hearing notices were mailed to property owners within 300 feet of the site. As of the writing of this report, no responses have been received by staff.

## VOTE REQUIREMENT

Each decision by the Planning Commission to **modify** a minor conditional use permit shall be by an affirmative vote of a majority of the membership of the Planning Commission (acting as the Zoning Administrator/Development Review Committee).

## TIME LIMITS ON REAPPLICATION AND APPEAL INFORMATION

Actions by the City Planning Commission may be appealed to the City Council within ten calendar days after the decision. Appeal filing and processing information may be obtained from the Community Development Department, Planning Division, Public Information Section, 3rd Floor, City Hall.

In the event the Minor Conditional Use Permit is revoked, no new application for the same or similar request may be accepted within one year of the date of the action unless the Community Development Director, his/her designee or Zoning Administrator as appropriate determines that a new application is warranted due to a substantial change in land use on properties in the vicinity, improved infrastructure in the vicinity, altered traffic patterns, or any such similar change resulting in a changed physical environment.

## EXHIBITS LIST

1. Revised Conditions of Approval
2. Riverside Police Department Memo, Dated September 21, 2016
3. Planning Commission Staff Report, Dated July 14, 2016.
4. Letter from Raychele Sterling (Business Representative), Dated August 12, 2016.

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Report and Recommendations Prepared by:	Travis Randel, Principal Planner
Report and Recommendations Reviewed by:	Ted White, City Planner
Report and Recommendations Approved by:	Rafael Guzman, Community & Economic Development Director



**EXHIBIT 1 – STAFF RECOMMENDED REVISED CONDITIONS OF APPROVAL**

**PLANNING CASE: P16-0251 (Modification of P15-0255 [Minor Conditional Use Permit])**

1. All conditions herein supersede previous conditions of approval for Minor Conditional Use Permit Case P15-0255 as approved on September 11, 2015.

*The following conditions shall be met/satisfied **PRIOR** to any entertainment events/activities:*

2. The premises on which the business is located shall be posted to indicate that it is unlawful for any person to drink or consume any alcoholic beverage in any public place or posted premises in accordance with Section 9.05.020 of the Riverside Municipal Code.
3. At all times, the business shall operate consistent with the written security plan reviewed and approved by the Riverside Police Department including the following items.
  - a. A minimum ratio of 1 licensed proprietary private security officer ("Security Officer") (per §7574.10 California Business and Professions Code) for every 30 patrons shall be on-site one hour prior to the beginning of entertainment to monitor the activity of their patrons inside the facility as well as the existing sidewalk area, and extending a minimum of 30 minutes past closing. Two Security Officers shall be stationed outside all entry and exit doors 1 hour prior to the beginning of entertainment, and shall actively work with management staff to clear the surrounding area of all persons within 30 minutes of closing. Doors designated for "Emergency Exit Only" equipped with audible alarms (minimum 95 dB) do not require dedicated Security Officers.
  - b. The security manager shall coordinate with the Riverside Police Department at least 2 weeks prior to events where bands or other performances are expected to draw large crowds.
  - c. Installation of a security camera surveillance system consisting of high definition video technologies with the minimum requirement of having the ability to save recorded video for a thirty day period and which shall also be made available to the Riverside Police Department immediately upon request. An on-site manager shall have working knowledge on how to retrieve video when requested by Riverside Police Department.
  - d. PatronScan, or other similar ID scanning system designed to capture data on patrons, shall be approved by the Riverside Police Department and utilized to screen all patrons entering the establishment after 8:00 pm. If the recorded data is stored by and/or under the control of the business then it shall be made available to the Riverside Police Department immediately upon request. If the recorded data is stored off-site by a third party then the business shall make an immediate request to the

third party to obtain the recorded data and forward it to the Riverside Police Department without delay. The recorded data shall be stored for a minimum of 90 days.

- e. Security personnel shall mechanically keep an accurate count of persons during hours of entertainment and make the count available to public safety personnel upon request.
  - f. Any changes to the security plan shall be reviewed and approved by the Riverside Police Department and a copy provided to the Planning Division.
4. The sale of alcohol is limited to an ABC Type 41, On-Sale Beer and Wine Eating Place. Any changes to the ABC license shall require a revision to the Minor Conditional Use Permit.

*The following conditions shall be met **DURING** all entertainment activities or events:*

- 5. Entertainment shall be limited to Wednesday through Saturday. Modifications may be permitted to "switch" a day of the week on a temporary basis if the request is submitted a minimum of 30 days prior to the event and approved by the Planning Division and Police Department.
- 6. Entertainment shall be limited to the basement level of the Hideaway as shown on the submitted floor plans (P15-0255).
- 7. Last call shall be no later than 1:30 or 30 minutes before closing, whichever is earlier on nights with entertainment. No alcohol shall be permitted to be sold after 1:30 am.
- 8. The full menu shall be available until 10:00 p.m. and an appetizer/finger food menu shall be available until 1:30 p.m.
- 9. No "happy hour" or other drink specials shall be permitted after 7:00 pm on nights with entertainment.
- 10. The posting of fliers or other promotional material where visible to the exterior of the building is prohibited.
- 11. Commercial handbills (i.e. fliers) inconsistent with Chapter 9.16 shall be prohibited.
- 12. A minimum \$5 cover charge shall be required for all patrons entering the facility after 9:00 pm on nights with entertainment.
- 13. All patrons must be over 21 after 9:00 pm on nights with entertainment.
- 14. Operation of the business, including entertainment, shall be in compliance with Title 7 (Noise) of the Municipal Code. All exterior doors shall remain closed while entertainment activities are occurring to minimize noise impacts.
- 15. This Minor Conditional Use Permit shall be terminated if the operation is no longer maintained as a "Bona Fide Public Eating Place" as defined by the California

Department of Alcoholic Beverage Control Act Section 23038 or as it may be amended and further as required by these conditions of approval.

16. No alcoholic beverages are to be sold or dispensed for consumption beyond the premises.
17. The sale of food shall constitute more than 50% of the total revenues generated by the establishment as required by the California Department of Alcoholic Beverage Control.
18. This Minor Conditional Use Permit shall be subject to a 12 month review before the Planning Commission which may result in further modification to the conditions of approval.



### **Standard Notes**

- A. The maximum seating capacity and/or occupancy shall not exceed that which is established by the City Fire Marshall.
- B. A copy of the minor conditional use permit and the final Conditions of Approval shall be available at the site and presented to City staff, including the Police Department and Code Enforcement, upon request. Failure to have the latest approved conditions available upon request will be grounds for revocation.
- C. The applicant shall notify Planning Division staff upon a future change of ownership of the subject property and/or vacancy of the subject restaurant building.
- D. The owner and/or occupant shall be liable for the cost of excessive police service or response in accordance with Chapter 9.60 of the Riverside Municipal Code.
- E. The applicant is advised that the business or use for which this minor conditional use permit is granted cannot be legally conducted on the subject property until all conditions of approval have been met to the satisfaction of the Planning Division.
- F. This project shall fully and continually comply with all applicable conditions of approval, State, Federal and local laws in effect at the time the permit is approved and exercised and which may become effective and applicable thereafter, and in accordance with the terms contained within the staff report and all testimony regarding this case. Failure to do so will be grounds for Code Enforcement action, revocation or further legal action.
- G. This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to public safety, property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
- H. This permit is issued based upon the business operations plan and information submitted by the applicant, which has been used as the basis for evaluation of the proposed use in this staff report and for the conditions of approval herein. Permittee shall notify Community Development Department, Planning Division, of any change in operations and such change may require a revision to this permit. Failure to notify the city of any change in operations is material grounds for revocation of this conditional use permit.
- I. The applicant acknowledges all of the conditions imposed and accepts this permit subject to those conditions and with the full awareness of the provisions of Title 19 of the Riverside Municipal Code. The applicant shall inform all its employees and future operators of the restrictions and conditions of this permit as they apply to the business operations.