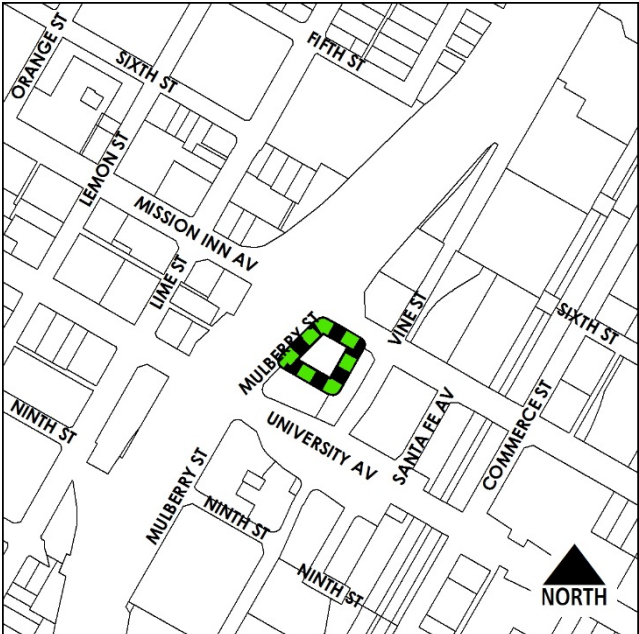




**PLANNING COMMISSION HEARING DATE: FEBRUARY 7, 2019  
AGENDA ITEM NO.: 2**

**PROPOSED PROJECT**

<i>Case Numbers</i>	<b>P18-0843</b> (Revocation)	
<i>Request</i>	Consideration of a partial revocation of Planning Cases CU-024-978 (Minor Conditional Use Permit) and P03-1166 (Revised Minor Conditional Use Permit) to revoke the nightclub and rooftop uses (including entertainment) at Café Sevilla Restaurant, Tapas Bar, Nightclub, and Rooftop Patio	
<i>Petitioner</i>	City of Riverside Community & Economic Development Department	
<i>Project Location</i>	3252 Mission Inn Avenue	
<i>APN</i>	213-291-013	
<i>Project area</i>	0.68 acres	
<i>Ward</i>	2	
<i>Neighborhood</i>	Eastside	
<i>Specific Plan</i>	Riverside Marketplace Specific Plan	
<i>General Plan Designation</i>	C - Commercial	
<i>Zoning Designation</i>	CR-SP-CR – Commercial Retail, Specific Plan (Riverside Marketplace), and Cultural Resources Overlay Zones	
<i>Staff Planner</i>	Sean P. Kelleher, Associate Planner 951-826-5712 SKelleher@riversideca.gov	

## RECOMMENDATIONS

Staff recommends that the Planning Commission:

1. **DETERMINE** that the proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15321 (Enforcement Actions by Regulatory Agencies) of the CEQA Guidelines, as the proposed project will not have a significant effect on the environment;
2. **APPROVE** Planning Case P18-0843 (Revocation), revoking the nightclub and rooftop uses (including entertainment) previously approved by Planning Cases CU-024-978 (Minor Conditional Use Permit) and P03-1166 (Revised Minor Conditional Use Permit) based on the findings outlined in the Staff Report and subject to the recommended conditions (Exhibit 1); and
3. **ADOPT** the Resolution revoking the nightclub and rooftop uses (including entertainment). (Exhibit 2).

## SITE BACKGROUND

The 0.68 acre site is currently developed and operated as the Café Sevilla Restaurant, Tapas Bar, Nightclub, and Rooftop Patio (Café Sevilla) (Exhibit 3). The table below lists the surrounding land uses and current hours of operation (Context Map Exhibit 4).

	Business		Hours of Operation
Project	Café Sevilla	Restaurant and Tapas Bar	Monday – Tuesday: 4:00 PM to 9:00 PM Wednesday – Thursday: 4:00 PM to 10:00 PM Friday: 4:00 PM to 1:00 AM Saturday: 11:30 PM to 1:00 AM Sunday: 10:00 AM to 9:00 PM
		Nightclub and Rooftop Patio	Sunday - Monday: 8:00 PM to 2:00 AM Tuesday: 9:30 PM to 2:00 AM Wednesday: 8:00 PM to 2:00 AM Thursday – Saturday: 10:00 PM to 2:00 AM
North	Sam's Bahn Thai		Monday – Thursday 11:00 AM to 8:30 PM Friday: 11:00 AM to 9:30 PM Saturday: 12:00 PM to 9:30 PM Sunday: 12:00 PM to 8:30 PM
	The Old Spaghetti Factory		Sunday – Thursday 11:30 AM to 10:00 PM Friday - Saturday: 11:30 AM to 10:30 PM
East	El Patron Restaurant		Monday: Closed Tuesday – Thursday: 11:00 AM to 9:00 PM Friday: 11:00 AM to 10:00 PM Saturday: 12:00 PM to 10:00 PM Sunday: 10:00 AM to 8:00 PM
South	Lee and Associates		Sunday – Saturday: 8:30 AM to 5:30 PM
West	Mulberry Street and California 91 Freeway		Not Applicable

In 1997, a Minor Conditional Use Permit (CU-024-978) was approved for Café Sevilla including a 2,583 square foot restaurant, 1,700 square foot tapas bar, and 3,123 square foot nightclub, with entertainment and alcohol sales (beer, wine, and spirits) for the restaurant, tapas bar and nightclub. The Conditional Use Permit (CUP) included approved hours of operation for each use that includes:

- a. Restaurant: 11:30 AM to 10:30 PM
- b. Tapas Bar: 11:30 AM to 1:30 AM
- c. Nightclub: 8:00 PM to 2:00 AM; entertainment is permitted from 8:00 PM to 2:00 AM.

In 2004, a Revised Conditional Use Permit (P03-1166) was approved to allow for outdoor entertainment on the Roof Top Patio from 11:30 AM to 1:30 AM as part of the operations of Café Sevilla.

## PROPOSAL

The City Community & Economic Development Department is requesting a partial revocation of Planning Cases CU-024-978 (Minor Conditional Use Permit) and P03-1166 (Revised Minor Conditional Use Permit) revoking the nightclub and rooftop uses (including entertainment). This proposal does not impact the operations of the 2,583 square foot restaurant or 1,700 square foot tapas bar.

## PROJECT ANALYSIS

The request for the partial revocation of the Conditional Use Permit is a result of long-standing violations at Café Sevilla. The violations to the Conditions of Approval of the Conditional Use Permit (CUP), the Riverside Municipal Code, and State and Federal laws have been documented. Café Sevilla has been identified as a business that is associated with poor management and security practices, extraordinary calls for service from the Riverside Police Department and numerous criminal incidences.

In order for the Planning Commission to approve the partial revocation of a Minor Conditional Use Permit the Planning Commission must make at least one of findings identified in Section 19.700.020 Revocations of the Zoning Code, listed below:

1. That the variance or permit approval was obtained by fraud;
2. That the variance or permit granted is being or has been exercised contrary to the conditions of such permit or variance or in violation of any applicable licenses, permits, regulations, laws or codes; and/or
3. That the use for which the variance or permit approval was granted is being or has been exercised as to be detrimental to the public health, safety or welfare so as to constitute a nuisance, hazard or detriment to the surrounding properties, neighborhood or City in general.

The activities are summarized in the Staff Report and support the findings of fact to justify the partial revocation of the Minor Conditional Use Permits for Café Sevilla.

## PROJECT SUMMARY

### *I. Extraordinary Calls for Service:*

The Riverside Police Department memorandum (Exhibit 5) relating to the operations of Café Sevilla summarizes the list of police responses to Café Sevilla for a five-year period. Each response was examined and, for calls that appeared to be directly related to Café Sevilla's nightclub, data was compiled. Routine calls such as alarm calls, parking problems, bar checks, etc. were excluded from the memorandum as they do not directly reflect the business practices at the nightclub.

From January 1, 2013, through September 30, 2018, there were approximately 154 calls for police service related to Café Sevilla where a police report was generated. Of the 154 police reports generated, 70 were assault related investigations.

A summary of calls generated between 2013 and 2018 includes:

	2013	2014	2015	2016	2017	2018	TOTAL
<b>Calls for Service with Police Report generated per year.</b>	31	16	23	39	29	16	154

According to the Police Department, Café Sevilla management has failed to provide the needed security measures for the nightclub and rooftop uses (including entertainment) creating an environment which threatens the safety of patrons. The following summarizes the events that are detailed in Exhibit 5.

### **Recent Incident – October 29, 2018**

The Riverside Police Department is currently conducting a Criminal Investigation into an attempted murder at the Café Sevilla Nightclub. On October 29, 2018, Riverside Police Department's Dispatch Center received calls regarding shootings both inside the Café Sevilla Nightclub and outside in the parking lot. Riverside Police Department officers responded to the scene and discovered hundreds of individuals running from the establishment. When officers arrived, they located two individuals that were injured as a result of being hit by gunfire. These individuals were transported to a local area hospital for medical treatment. A search of the building and immediate area was conducted for any additional victims and/or suspect(s), but none were located. All totaled, a total of seven individuals were struck by gunfire. The officers located evidence that a shooting took place both inside the nightclub and in the parking lot. Officers have contacted the individuals who were struck by gunfire and received medical treatment from area hospitals.

The incident occurred during a special event called "The Purge." The event was promoted by multiple promoters, advertising six different artists associated with gangs based out of the Inland Empire and Los Angeles. At the time of the shooting, the nightclub was at full capacity.

As part of the on-going investigation the police made contact with one of the victims who identified that the “Emcee” expressed concern prior to the shooting that there could be potential issues due to the different gangs in attendance. Another individual noted that a “gang song” was played for a second time before the shooting began inside the nightclub.

The Riverside Police Department made contact with Café Sevilla’s security guards. Two of the security guards, assigned outside the nightclub, were armed but did not fire their guns during the shootings. Officers also contacted four other unarmed security guards stationed by the front entrance, south side exterior door, and near the stage, who provided details of what they witnessed.

Upon review of the security camera footage the Riverside Police Department discovered a number of issues dealing with the lack of security measures put in place including:

- a. Lack of consistent pat down searches by security;
- b. Poor quality searches conducted by security;
- c. Security did not use metal detector wands;
- d. Female bags were not consistently searched;
- e. Subjects who re-entered the venue were not searched again;
- f. Patrons were allowed to loiter in the main entryway;
- g. Failure to maintain security fence separating the patrons from the public;
- h. Subjects were allowed to pass objects, possibly guns, over the security fence to patrons already cleared for admittance into the venue;
- i. A lack of surveillance cameras covering dance floor, stage, tables, or DJ booths area;
- j. Insufficient number of security guards for the size of the crowd;
- k. Vehicles were not parked in designated stalls creating congestion;
- l. Lack of dress code, i.e. subjects wearing masks and hoods;
- m. Allowing backpacks inside the venue; and
- n. Failure to recognize the potentially dangerous atmosphere the performers were creating (gang banging).

#### **Other Significant Incidents Since 2016**

Date of Incident	Type of Call	Summary
May 26, 2018	Battery	a. Victim was hit in the face by an individual inside the nightclub.
Apr. 6, 2018	Subject with a gun	a. Security was informed of a verbal altercation and hearing the racking of a handgun inside the bathroom. b. Security found a subject with a concealed loaded gun. c. Subject was arrested.

Date of Incident	Type of Call	Summary
<b>Apr. 1, 2018</b>	Disturbance	<ul style="list-style-type: none"> <li>a. Subject punches at security guards when being kicked out of the nightclub.</li> <li>b. Security guards tased the subject.</li> <li>c. Subject claimed an individual with them was inappropriately touched.</li> <li>d. No arrests were made.</li> </ul>
<b>Dec. 1, 2017</b>	Battery	<ul style="list-style-type: none"> <li>a. Victim was punched multiple times by two subjects in the Union Bank Parking lot following a verbal altercation in the nightclub.</li> </ul>
<b>Nov. 10, 2017</b>	Fight	<ul style="list-style-type: none"> <li>a. A large crowd gathered outside of the nightclub to take pictures with the artist "RJ MR LA."</li> <li>b. This artist also performed during the October 29, 2018 incident.</li> <li>c. The artist's entourage, upset with the crowd yelled "gang slangs" and made "gang signs."</li> <li>d. An argument lead to a victim being hit on the head from behind with a bottle.</li> </ul>
<b>Aug. 13, 2017</b>	Battery	<ul style="list-style-type: none"> <li>a. Security escorted a subject involved in a disturbance on the rooftop patio out of the nightclub.</li> <li>b. The subject punched a security guard in the head while attempting to get back into the nightclub.</li> <li>c. Subject was pepper sprayed and detained by a security guard until officers arrived.</li> </ul>
<b>Jun. 11, 2017</b>	Fight	<ul style="list-style-type: none"> <li>a. A security guard attempted to stop a fight when the subject who started the fight attacked him.</li> <li>b. Subject was pepper sprayed and detained by a security guard until officers arrived.</li> </ul>
<b>May 6, 2017</b>	Rape	<ul style="list-style-type: none"> <li>a. A victim under 21 years of age of an allegedly sexually assaulted reported the incident to the Riverside Police Department Orange Station.</li> <li>b. The victim was initially denied entry due to being under 21.</li> <li>c. A male subject promoting the nightclub made arrangements to allow the victim to enter the nightclub.</li> <li>d. The victim was marked with an "X" to signify that she was under 21 but was still able to access alcoholic beverages.</li> <li>e. The victim was kicked out for underage drinking.</li> <li>f. The victim was followed to her car where the allegedly sexually assaulted occurred.</li> </ul>
<b>Mar. 19, 2017</b>	Intoxication	<ul style="list-style-type: none"> <li>a. Intoxicated subject was challenging people to fights.</li> <li>b. Subject was arrested for public intoxication.</li> </ul>
<b>Feb. 21, 2017</b>	Assault	<ul style="list-style-type: none"> <li>a. Security Guards escorting an individual out of the nightclub were assaulted by other subjects.</li> <li>b. Three subjects were arrested for assault with a deadly weapon.</li> </ul>

Date of Incident	Type of Call	Summary
Nov. 23, 2016	Fight with gun shots heard	a. Security identified loud arguments and multiple gunshots. b. Officers found approximately thirty subjects loitering in the parking lot and a spent bullet shell casing on Mission Inn Avenue.
Sep. 16, 2016	Shots heard	a. Victims were confronted by a subject claiming to carry a gun. b. Security guards escorted victims to their vehicle. c. The victims claimed their vehicle was followed by the subject in another vehicle and shot at them. d. The suspect vehicle fled and no arrests have been made.
Sep. 12, 2016	Subject with a gun	a. Multiple fights occurred within the parking lot between individuals. b. A handgun was produced in one fight but was kicked away by a security guard. c. Multiple gun shots were heard near Old Spaghetti Factory. d. Vehicle searched in Old Spaghetti Factory Parking lot yielded a loaded SKS rifle and a 22 caliber handgun.
Jun. 15, 2016	Subject with a gun	a. Victim attacked by approximately four subjects. b. Witnesses identified seeing a gun. c. Officers did not find a gun.
Jun. 7, 2016	Assault	a. Intoxicated subject punched security guard multiple times after being denied entry into the nightclub. b. Subject was pepper sprayed and detained by a security guard until officers arrived.

## ***II. Violation of Conditions of Approval of the Conditional Use Permit***

Café Sevilla is regulated by a total of 35 Conditions of Approval established by Planning Case CU-024-978 (Minor Conditional Use Permit) and modified by Planning Case P03-1166 (Revised Minor Conditional Use Permit). The Conditions of Approval for Café Sevilla can be grouped into 4 categories:

1. Requirements and Timelines to Exercise Entitlements;
2. Revocation Procedures;
3. Site Improvements and Studies; and
4. Operational Characteristics.

The majority of the Conditions of Approval are related to the first three categories which do not address the operation of Café Sevilla. The proposed modifications (partial revocation) of the Conditional Use Permit as part of this partial revocation are specifically related to the Operational Conditions. Exhibit 6 illustrates the Conditions of Approval, including the proposed modifications.



These modifications (partial revocation) are intended to address the following violations of the Operational Characteristics Conditions of Approval:

**a. Condition No. 1, Planning Case P03-1166 (MCUP):**

*"This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed uses 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."*

**Violations:** The failure of Café Sevilla's management to provide adequate and skilled security staff and measures has created an environment which threatens the safety of patrons and tourists visiting Riverside's historical Downtown. Police records indicate that from January 1, 2013 through September 30, 2018:

1. The nightclub and rooftop patio uses generated approximately 154 calls for police service where a police report was generated.
2. Seventy (70) of the police reports were assault related investigations.

**b. Condition No. 9, Planning Case P03-1166 (MCUP)**

*"Prior to beginning the outdoor entertainment component of the business, the applicant shall prepare a security plan, subject to Police, Planning and Legal Departments approval. The security plan shall detail the specific scope of the security guard patrol, the qualifications of the security guards, operational and security response policies, methods of rule enforcement and other related information. Specifically, the plan shall further specify that any time when there is live entertainment or DJ music, the owner(s) of the business shall provide security guards in the parking lot and in the businesses that are licensed by the State of California. During these times, there shall be a minimum of two security guards at all times in the parking lot and one security guard per 75 people inside the business."*

**Violations:** Based on the Riverside Police Department's memorandum (Exhibit 5) the following violations of the Site Security Plan (Exhibit 7) and this Condition of Approval have been identified.

**October 29, 2018**

On October 29, 2018, six provisions of the security plan were violated. Below is a description of the violations.

- A. Security Plan Provision: *"There shall be a minimum of two security guards at all times in the parking lot and one security guard per 75 people inside the business."*



**Violations:**

- i. On October 29, 2018 there were a total of 400 people in attendance.
  - ii. Pursuant to the security plan, eight security guards should have been on-site including two within the parking lot and six inside the building.
  - iii. The Riverside Police Department identifies in their report that six security guards were on-staff that evening including five within the parking lot and one inside the building.
- B. Security Plan Provision: *"Always be on the lookout for hazardous conditions for both other staff and for the guests."*

**Violations:** The Police report identified the following hazardous conditions that should have been corrected by security staff and/or management.

- i. Lack of consistent pat down searches by security.
- ii. Poor quality searches conducted by security.
- iii. Security did not use metal detector wands.
- iv. Female bags were not consistently searched.
- v. Subjects who re-entered the venue were not searched again.
- vi. Permitting patrons to loiter in the main entryway.
- vii. Failure to maintain security fence separating the patrons from the public.
- viii. Subjects were passing objects, possibly guns, over the security fence to patrons already cleared for admittance into the venue.
- ix. No surveillance cameras covering dance floor, stage, tables, or DJ booths area.
- x. Insufficient number of security guards for the size of the crowd.
- xi. Vehicles were not in parked in designated stalls creating congestion.
- xii. Lack of dress code, i.e., subjects wearing masks and hoods.
- xiii. Allowing backpacks in the nightclub.
- xiv. Failure to recognize the atmosphere the performers were creating (gang banging).

- C. Security Plan Provision: *"Manage the guest line at the front door. The line should form along the wall to allow enough room on the sidewalk for normal pedestrian traffic. Alcoholic Beverage Control (ABC) regulations stipulate that for every 50 people in line, a minimum of two security personnel must be present at the door at all times."*

Violation: Security videos demonstrate that an orderly line was not maintained and individuals were allowed to loiter at the club entrance.

- D. Security Plan Provision: *"Keep club entrance and area around the cashier clear of people."*

Violation: Security videos demonstrate that individuals were permitted to loiter at the club entrance.

- E. Security Plan Provision: *"Always be aware of and be attentive to all guests entering, exiting, or anywhere in the premises."*

Violations: Security videos demonstrate the following issues:

- i. Subjects who re-entered the venue were not searched again.
- ii. Failure to maintain security fence separating the patrons from the public.
- iii. Subjects not admitted to the venue were passing objects, possible guns, over the security fence to patrons already cleared for admittance into the venue.

- F. Security Plan Provision: *"Cafe Sevilla prohibits the possession or handling of any type of weapon or self-defense tools by employees while on duty."*

Violation: Two contract security guards were armed with hand guns in violation of the security plan.

#### **April 6, 2018**

On April 6, 2018, the Security Plan was violated when security allowed for a hazardous condition for both other staff and for the guests by either not conducting searches and pat downs on patrons at the entrance of the nightclub or conducting inadequate screening. This allowed an individual with a loaded gun to enter the premises.

#### **April 1, 2018, August 13, 2017, June 11, 2017 and June 7, 2016**

On April 1, 2018, August 13, 2017, June 11, 2017, and June 7, 2016 security personnel violated the security plan when they possessed and used tasers and pepper spray in altercations with guests.

#### **November 10, 2017**

On November 10, 2017, the security plan was violated when security allowed for a hazardous condition for both other staff and for the guests when security

allowed guests to loiter outside of the nightclub to take a picture with the artist that had performed that night. Additionally, security guards failed to recognize the hazardous situation when the artist's entourage began yelling "gang slangs" and throwing "gang signs" at the crowd.

#### **May 16, 2017**

On May 16, 2017, The Riverside Police Department received a report of an allegedly sexually assaulted female victim, under 21 years of age, inside a parked vehicle in a nearby parking lot after being kicked out of Café Sevilla's for underage drinking. By permitting this individual to enter Café Sevilla and drink alcohol, four provisions of the Security Plan were violated:

- A. Security Plan Provision: *"Strictly follow I.D. guidelines, questioning and verifying all I.D.'s."*

**Violation:** By permitting the individual under 21 years of age to enter, security did not strictly follow the I.D. guidelines.

- B. Security Plan Provision: *"Must always be on alert for minors trying to sneak into the club or attempting to consume alcoholic beverages."*

**Violation:** Security permitted the individual to enter and obtain alcoholic beverages although they were under 21 years of age.

- C. Security Plan Provision: *"Must know and understand all the conditions of Cafe Sevilla's liquor license in order to ensure compliance with and be able enforce all applicable liquor laws and policies regarding the responsible service of alcohol."*

**Violation:** The individual was able to obtain alcoholic beverages although they were under 21 years of age.

- D. Security Plan Provision: *"Stamp customers who look under 25 years old."*

**Violation:** The individual received a hand stamp from security; however, the stamping of a customer's hand is intended to demonstrate that the individual is over the minimum legal age to drink.

c. **Condition No. 14, Planning Case P03-1166 (MCUP)**

*"No loitering shall be permitted outside the licensed premises including adjacent parking lot and on any property adjacent to the licensee's premises and under the control of the licensee. "No Loitering" signs shall be posted, subject to approval of the Police Department."*

**Violation:** Based on the Riverside Police Department's memorandum (Exhibit 5), on October 29, 2018, November 23, 2016, and September 12, 2016, there were fights between individuals loitering in the Café Sevilla parking lot. This is significant because in each of these incidents the sound of gun shots was reported, guns were recovered, or evidence of guns being fired was found.

## **FINDING SUMMARY**

Pursuant to Chapter 19.700.020 of the Zoning Code, the following required findings can be made by Staff based on the record noted above.

1. The Conditional Use Permits granted to Café Sevilla as it relates to the nightclub and rooftop uses (including entertainment) is being, or has been, exercised contrary to the conditions of such permits or in violation of any applicable licenses, permits, regulations, laws or codes; and
2. The use for which the Permit approvals were granted is being, or has been, exercised as to be detrimental to the public health, safety or welfare so as to constitute a nuisance, hazard or detriment to the surrounding properties, neighborhood or City in general.

## **ENVIRONMENTAL DETERMINATION**

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 19.700.020 – Written notice of the date, time, place and purpose of such public hearing were served on the owner of the property for which the Minor Conditional Use Permit was granted by registered mail, postage prepaid, return receipt requested, not less than ten days prior to the date of such hearing. Additional public hearing notices were mailed to the all property owners within 300 feet of the site. As of the writing of this report, no responses have been received by Planning Staff.

## **VOTE REQUIREMENT**

Each decision by the Planning Commission to revoke a Minor Conditional Use Permit shall be by a formal and numbered resolution adopted by the affirmative votes of at least two-thirds of the membership of the Planning Commission, such membership being based upon membership present and voting. §19.730.090B4

## **TIME LIMITS ON REAPPLICATION AND APPEAL INFORMATION**

No new application for the same or similar request may be accepted within one year of the date of the action to revoke the Minor Conditional Use Permit, 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.

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 & Economic Development Department, Planning Division, Public Information Section, 3rd Floor, City Hall.

## EXHIBITS LIST

1. Staff Recommended Conditions of Approval
2. Planning Commission Resolution
3. Location Map
4. Context Map
5. Riverside Police Department December 31, 2018 Memorandum
6. Modified Conditions of Approval Planning CU-024-978 (Minor Conditional Use Permit) and P03-1166 (Revised Minor Conditional Use Permit) Conditions of Approval
7. Site Security Plan
8. General Plan Map
9. Specific Plan and Zoning Map
10. Project Plans (*Floor Plans*)
11. Existing Site Photos

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Prepared by:	Sean P. Kelleher, Associate Planner
Reviewed by:	David Murray, Principal Planner
Approved by:	Mary Kopaskie-Brown, City Planner



**EXHIBIT 1 – STAFF RECOMMENDED CONDITIONS OF APPROVAL**  
*(See Exhibit 6 for tracked changes)*

**RECOMMENDED CONDITIONS & GENERAL INFORMATION NOTES**

**PLANNING CASE:**    **P18-0843** (Modification to Conditions of Approval)

**Case Specific**

•     **Planning**

1.     (Condition of Approval Planning Case P03-1166) This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed uses 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.
2.     (Condition of Approval Planning Case P03-1166) The applicant shall comply with all federal, state and local laws and shall cooperate with the Riverside Police Department (RPD) in the enforcement of all laws relating to this permit. Material violation, as determined by the City Planning Commission, of any laws in connection with this use or failure to cooperate with RPD will be cause for revocation of this permit.
3.     (Condition of Approval Planning Case P03-1166) 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 City Planning Department 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.
4.     (Condition of Approval Planning Case P03-1166) The applicant herein of the business subject to this conditional use permit 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 business subject to this permit of the restrictions and conditions of this permit as they apply to the business operations.
5.     (Condition of Approval Planning Case P03-1166) This 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. Such termination shall be effective no later than ten (10) days following such change in operation, unless an application for revision of this permit has been submitted to the City Planning Department and has not been denied.

6. (Condition of Approval Planning Case P03-1166) Food service shall be available during all hours of operation.
7. (Condition of Approval Planning Case P03-1166) Any entertainment shall be limited to the 2,583 square foot restaurant and 1,700 square foot tapas bar.
8. The hours of operation for the restaurant and tapas bar shall be from 11:30 a.m. to 10:30 p.m., seven days a week.
9. The tapas bar stage shall be limited to 52 square feet.
10. (Condition of Approval Planning Case P03-1166) No alcoholic beverages shall be permitted outside the licensed premises, including adjacent parking areas.
11. (Condition of Approval Planning Case P03-1166) The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernable the appearances and conduct of all persons on or about the parking lot. The lighting shall be certified by a qualified lighting engineer to provide no less than one foot candle at ground level throughout the parking area and the areas providing access to the business. The lighting in the parking lot of the premises shall be directed, positioned and shielded in such a manner so as not to unreasonably illuminate the area of the nearby business or residential area.
12. (Condition of Approval Planning Case CU-024-978) Lighting, as certified by a qualified lighting engineer, shall be provided at a level no less than one foot candle of lighting throughout private parking lots and access areas serving the business.
13. (Condition of Approval Planning Case P03-1166) The licensee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
14. (Condition of Approval Planning Case P03-1166) The licensee shall be responsible for maintaining free of graffiti the area adjacent to the premises over which they have control.
15. (Condition of Approval Planning Case P03-1166) No loitering shall be permitted outside the licensed premises including adjacent parking lot and on any property adjacent to the licensee's premises and under the control of the licensee. "No Loitering" signs shall be posted, subject to approval of the Police Department.
16. (Condition of Approval Planning Case CU-024-978) 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 9.04.020 of the Riverside Municipal Code.

17. (Condition of Approval Planning Case P03-1166) The business shall follow the guidelines of the Alcoholic Beverage Control requirement for acting as a bona fide eating place (compliance with Section 23038 of the Business and Professions Code).
18. (Condition of Approval Planning Case P03-1166) The licensees/employees shall attend a three hour L.E.A.D. (License Education Alcohol and Drugs) class presented by the Riverside Office of the Alcoholic Beverage Control within 90 days of obtaining an ABC license.
19. (Condition of Approval Planning Case P03-1166) (Condition of Approval Planning Case CU-024-978) Soundproofing shall be provided sufficient to prevent noise and vibrations from penetrating into surrounding properties or building lease space.
20. 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.

#### **Standard Conditions**

21. (Condition of Approval Planning Case P03-1166) Six months from the final approval date of this MCUP and every six months thereafter, the City Planning and Police Departments will jointly review the proposed use with the applicant, if necessary. Based on this review, the matter may be referred to the Planning Commission for further public hearings. Remedies to any problems resulting from this business, including revocation of this MCUP, may be considered as part of such hearings. Notwithstanding the preceding condition, the City Planning and/or Police Departments may review the facility operations at any time to verify compliance with these conditions.
22. (Condition of Approval Planning Case P03-1166) A public hearing to consider the revocation of the minor conditional use permit may be conducted by the Planning Commission at its own initiation or at the direction of the City Council in accordance with the provisions of Section 19.64.180 of the Riverside Municipal Code.
23. (Condition of Approval Planning Case P03-1166) All decisions of the Zoning Administrator or Planning Commission shall be final and effective ten days following the notice of decision unless a member of the City Council has requested the item be reviewed or a written appeal has been filed by the applicant or an interested person within this time.
24. (Condition of Approval Planning Case P03-1166) Any minor conditional use permit not exercised within one year of its effective date shall become void provided, however, that the Zoning Administrator may extend the time limit no more than twice and no more than one year per extension, if a written application for such an extension showing good cause and the fee for a time extension is submitted to the Planning Department prior to the expiration of the permit.

25. (Condition of Approval Planning Case P03-1166) A minor conditional use permit shall become void if any of the conditions listed below apply:
- a. The construction or use authorized by the Minor Conditional Use Permit is not commenced and diligently pursued to completion within one year of the effective date of the conditional use permit or within the time period granted by a time extension granted in accordance with Section 19.64.285 of Municipal Code;
  - b. The use of which the Minor Conditional Use Permit was granted has ceased to exist or has been suspended for one year or more; or
  - c. The owner or owner's authorized representative of the property for which the minor conditional use permit was granted requests, in writing, that the permit be voided and the Zoning Administrator approves the request.
26. (Condition of Approval Planning Case P03-1166) Failure to comply with these conditions and/or with zoning code provisions may be cause for revocation. A public hearing to consider the revocation of a minor conditional use permit may be conducted by the Planning Commission at its own initiation or at the direction of the City Council in accordance with the provisions of Section 19.64.180 of Municipal code.
27. (Condition of Approval Planning Case P03-1166) If a minor conditional use permit is denied, no reapplication for the same type of use on the same property shall be allowed for at least one year following the date of final denial by either the Zoning Administrator or the City Council. The Zoning Administrator shall have the authority to determine what constitutes the "same type of use" in all instances of requested reapplication.
28. (Condition of Approval Planning Case CU-024-978) The applicant is advised that the business or use for which this 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.
29. A copy of the 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.
30. Within 30 days of approval, the applicant / developer shall execute an agreement approved by the City Attorney's Office to defend, indemnify, including reimbursement, and hold harmless the City of Riverside, its agents, officers and employees from any claim, action, or proceeding against the City of Riverside, its agents, officers, or employees to attack, set aside, void, or annul, an approval by the City's advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Section 66499.37 of the Government Code. The City will promptly notify the developer of any such claim, action or proceeding and the City will cooperate in the defense of the proceeding.

31. Enumeration of the conditions herein shall not exclude or excuse compliance with all applicable rules and regulations in effect at the time this permit is exercised.