



Community & Economic Development Department

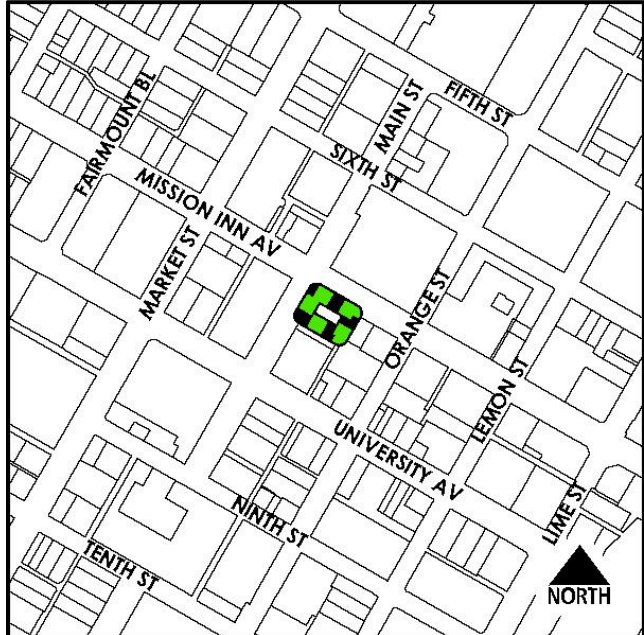
3900 Main Street, Riverside, CA 92522 | Phone: (951) 826-5371 | RiversideCA.gov

Planning Division

PLANNING COMMISSION HEARING DATE: APRIL 18, 2019

AGENDA ITEM NO.: 3

PROPOSED PROJECT

| | | | |
|--------------------------|--|---|--|
| Case Numbers | P18-0572 (Modification of Minor Conditional Use Permit) | | |
| Request | Consideration of a modification of Planning Case P16-0251 (Modification of P15-0255 [Minor Conditional Use Permit]) to allow a modification to The Hideaway Café's Alcohol Beverage Control License to upgrade from a Type 41 (On-Sale Beer and Wine License) to a Type 47 (On-Sale General Eating Place) to allow the sale of spirits in addition to beer and wine. | | |
| Applicant | Craig Johnston on behalf of the Hideaway Cafe/Mission Galleria | | |
| Project Location | 3700 Main Street |  | |
| APN | 213-271-001 | | |
| Project area | 0.34 acres | | |
| Ward | 1 | | |
| Neighborhood | Downtown | | |
| Specific Plan | Downtown Specific Plan | | |
| General Plan Designation | DSP - Downtown Specific Plan | | |
| Zoning Designation | DSP-RC-SP-CR – Downtown Specific Plan Raincross District and Cultural Resources Overlay Zones | | |
| Staff Planner | David Murray, Principal Planner 951-826-5773 dmurray@riversideca.gov | | |

RECOMMENDATIONS

Staff recommends that the Planning Commission:

- 1) **DENY** Planning Case P18-0572 (Modification to Minor Conditional Use Permit) based on 1) the inability of staff to make the findings required by the Zoning Code; 2) a consistent pattern of ignoring and violating the Minor Conditional Use Permit (MCUP); 3) the ongoing extraordinary calls for service; and 4) the ongoing Stayed Revocation status imposed by the California Alcohol Beverage Control for the sales of narcotics by employees in 2016.

The Riverside Police Department concurs with this recommendation.

SITE BACKGROUND

The Hideaway Cafe is one of four tenants that operate in the building located at 3700 Main Street. The 0.34 acre site is currently developed with a three-story multi-tenant commercial building (Exhibit 1). The table below lists the surrounding land uses and current hours of operation (Exhibit 2).

| | Business | Hours of Operation |
|---------------------|---------------------------------|---|
| Project Site | Hideaway Cafe | Sunday - Saturday: 11:00 AM – 2:00AM Wednesday – Saturday: Entertainment Permitted |
| | A.D. Jewelry Creations | Sunday - Monday: Closed Tuesday - Friday: 10:00 AM to 5:30 PM Saturday: 10:00 AM- 3:00 PM |
| | Mission Galleria Antique Shoppe | Sunday: 11:00 AM – 5:30 PM Monday – Thursday: 10:00 AM to 5:30 PM Friday - Saturday: 10:00 AM- 9:00 PM |
| | Molino's Coffee | Sunday: 7:00 AM – 9:00 PM Monday – Friday: 6:00 AM to 10:00 PM Saturday: 7:00 AM – 10:00 PM |
| North | The Mission Inn Hotel and Spa | Sunday - Saturday: 24 Hours |
| East | Mario's Place | Sunday: Closed Monday: 5:30 PM – 9:00 PM Tuesday - Wednesday: 5:30 – 9:30 Thursday – Saturday: 5:30 - 1:00 AM |
| South | Riverside Art on Main | Sunday: 12:00 PM – 4:00 PM Monday - Tuesday: Closed Wednesday - Saturday: 3:00 PM- 10:00 PM |
| West | Coffee Bean and Tea Leaf | Sunday: 6:00 AM – 7:00 PM Monday - Thursday: 5:30 AM – 9:00 PM Friday: 5:30 AM – 10:00 PM Saturday: 6:00 AM – 10:00 PM |

In 2010, the Galleria Café Wine Gallery restaurant was granted a Type 41 (On-sale Beer and Wine – Eating Place) Alcoholic Beverage Control (ABC) license in the current location of the Hideaway Cafe. In 2013, the Hideaway Cafe opened and took over the Type 41 ABC license. The current ABC License is held by Mr. Craig Johnston, property and business owner.

On September 11, 2015, following numerous Code Enforcement complaints against the Hideaway Café because they had on-premises 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 July 14, 2016, because of Riverside Municipal Code violations, extraordinary calls for service, and suspected illegal activities on the premises, a staff-initiated request for revocation of the Minor Conditional Use Permit P15-0255 was considered by the Planning Commission. The Planning Commission continued this item 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. The meeting was continued to the September 8, 2016, and then to the October 6, 2016, Planning Commission meetings. Following the July 14, 2016, Planning Commission meeting, staff met with the business owner on August 8, 2016, to discuss a number of changes made by the business owner to the operation of Hideaway. Staff also met with the business owner's representative on September 9, 2016, to discuss modifying the Minor Conditional Use Permit (P15-0255) to allow the business to continue to operate, while providing clear safeguards in the Conditions of Approval. Because changes were made in the operation, management, and security of the facility, on October 2, 2016, the Planning Commission approved Planning Case P-16-0251 (Modification of P15-0255 [Minor Conditional Use Permit]), subject to the recommended conditions of approval (Exhibit 3).

PROPOSAL

The applicant is requesting modifications to the Conditions of Approval related to Planning Case P16-0251 (Modification of P15-0255 [Minor Conditional Use Permit]) to upgrade from a Type 41 (On-Sale Beer and Wine License) to a Type 47 (On-Sale General Eating Place) to allow for the sale of distilled spirits.

PROJECT ANALYSIS

Staff is recommending that the Planning Commission deny the request to modify the Conditions of Approval related to Planning Case P16-0251 (Modification of P15-0255 [Minor Conditional Use Permit]) to upgrade from a Type 41 (On-Sale Beer and Wine License) to a Type 47 (On-Sale General Eating Place) to allow for the sale of spirits. This recommendation is based on a history of violations of the Conditions of Approval of the Minor Conditional Use Permit (MCUP), the Riverside Municipal Code, and State and Federal laws, which have been documented. The Hideaway Café has been identified as a business associated with poor security and management practices, extraordinary calls for service from the Riverside Police Department, and various criminal incidents summarized within this staff report.

COMPLIANCE WITH APPLICABLE DEVELOPMENT STANDARDS

The property complies with the following applicable development standards:

| Chapter 19.460 – Alcohol Sales Distance Requirement Standards (Exhibit 4) | | | | |
|--|-----------|--|-------------------------------------|--------------------------|
| Standard | | Proposed | Consistent | Inconsistent |
| Setback From Residential Zone or Use Excluding Mixed Use Projects Approved with a Conditional Use Permit | 100 feet | DSP – RES – Downtown Specific Plan Residential District Zone 920 feet | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Setback From Supportive Housing | 1000 feet | No supportive housing facilities within 1,000 feet. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

| California Department of Alcoholic Beverage Control Census Tract 303.00 On-Sale Alcohol Licenses (Exhibit 5) | | | | | | |
|--|---|-------------------|-------------------|--|-------------------------------------|--------------------------|
| Standard | | Existing Licenses | Proposed Licenses | Total Number of Existing and Proposed Licenses | Consistent | Inconsistent |
| Maximum Number of Off-sale Licenses | 4 | 43 | 0 | 43 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Note: This application is for the modification of an existing license. No new licenses are proposed. | | | | | | |

PROJECT SUMMARY

1) Extraordinary Calls for Police Service:

The Riverside Police Department memorandums relating to the operations of the Hideaway Cafe (Exhibits 6, 7 and 8) summarize the police responses since October 1, 2016, when the CUP was last modified. Each response was examined and data was compiled for only those calls that appeared to be directly related to the Hideaway Cafe. 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.

From October 1, 2016, through February 11, 2019, there were approximately 95 calls for police service related to the Hideaway Cafe where a police report was generated, not including those alarm, parking, bar check, and other routine calls.

According to the Police Department, Hideaway Café management has failed to provide adequate and required security measures which have created an environment that threatens the safety of patrons and those visiting Downtown Riverside.

The following summarizes several of the events that are detailed in Exhibits 6, 7 and 8. The events show a pattern of intoxicated patrons at Hideaway Café and claims against the Security Guards.

2) Significant Incidents since October 2016

| Date of Incident | Type of Call | Summary |
|------------------|--------------|---|
| December 7, 2016 | Fight | <ul style="list-style-type: none"> An intoxicated patron was attempting to start fights with other patrons. A Security Guard and the intoxicated patron engaged in physical altercation. Neither party desired prosecution. |
| March 19, 2017 | Battery | <ul style="list-style-type: none"> Subject alleged the Hideaway Cafe Security Guards assaulted her. Security Guards alleged the subject had assaulted one of them. Employees were unable to access the surveillance video. Video was made available the following day. No further action was taken. |
| May 21, 2017 | Assault | <ul style="list-style-type: none"> Subject claimed that Security Guard stated that he had elbowed him. Security Guards placed the subject in a chokehold without applying pressure and escorted subject out of the club. Outside of the club, a Security Guard pushed the subject causing them to fall. Subject had visible injuries and was taken to the hospital for treatment. Employees were unable to access the surveillance video and the incident could not be reviewed. |
| July 27, 2017 | Assault | <ul style="list-style-type: none"> Victim advised another subject assaulted him inside the Hideaway Café. Victim was dragged outside of the bar by security and thrown to the ground. Victim stated the security guards held him down while security began to punch and kick him and believed he was also tased. Victim did not desire prosecution. |
| August 13, 2017 | Assault | <ul style="list-style-type: none"> Subject called Riverside Police Department Dispatch Center claiming she was assaulted by Security Guards. Subject advised the incident occurred a few days ago. Subject advised she would contact the police when she returned to the City. |
| October 24, 2017 | Battery | <ul style="list-style-type: none"> Adult victim claimed he was assaulted by the Hideaway Cafe's Security Guards on October 22, 2017. |

| Date of Incident | Type of Call | Summary |
|------------------|---------------------|---|
| December 3, 2017 | Fight | <ul style="list-style-type: none"> Two subjects were fighting in front of the club. Security broke up the fight by taking one subject to the ground. Subject was arrested for public intoxication. During the arrest the subject's brother began to interfere with the officers and was also arrested for public intoxication. Following the incident the subject called the police to report he was assaulted by the security guards. |
| April 29, 2018 | Fight | <ul style="list-style-type: none"> Female subject made threats to blow up the business after getting into an argument with her girlfriend. Security guard attempting to break up the fight was punched by female. Security guard tackled female subject. Female subject claimed that she was assaulted by security guards. Female subject was arrested and later issued a citation. |
| July 8, 2018 | Assault | <ul style="list-style-type: none"> Security staff escorted adult male victim out of the club for harassing female patrons. Outside Security Guards shoved the victim in the back causing him to stumble. City surveillance video confirmed what occurred. No prosecution was desired. |
| July 28, 2018 | Assault and Robbery | <ul style="list-style-type: none"> Victim inside restroom approached by security guard who placed the victim in a chokehold until he lost consciousness. Victim was able to break free of grip when they regained consciousness. Two additional security guards placed the victim in handcuffs and escorted him to an office. Victim was then told to leave. Officer noted victim had visible injuries. Employees were unable to access the surveillance video at the time of this investigation. |

3) Alcohol Beverage Control Actions

The Riverside Police Department November 14, 2018, memorandum (Exhibit 6) identifies enforcement actions that have been taken by the California Department of Alcohol Beverage Control since October 2016.

| Date | Incident | Enforcement Action |
|-----------------|---|---|
| August 18, 2017 | A bottle of Vodka was found inside the Hideaway Café. | <ul style="list-style-type: none"> Hideaway Café was served a five-day suspension from serving alcohol. In lieu of serving the suspension, the Hideaway Cafe paid a fine of approximately \$3,000. |
| August 23, 2018 | Sales of Narcotics by employees between March 24, 2016, and May 11, 2016. | <ul style="list-style-type: none"> Hideaway Café was penalized with a twenty-day suspension from serving alcohol and a period of stayed revocation for one year. |

4) Incident reported by Streetsplus (Downtown Safety Ambassador Program)

The Streetsplus memorandum (Exhibit 9) identifies an incident on October 26, 2018, where a female subject's phone was stolen inside the Hideaway Cafe. The phone was recovered and suspect arrested inside the Hideaway Cafe.

5) Violation of Conditions of Approval

The Hideaway Cafe is regulated by a total of 18 Conditions of Approval established by Planning Case P16-0255 (Modification of P15-0255 [Minor Conditional Use Permit]) (Exhibit 3).

Below is a discussion of violations of the Conditions of Approval:

a. Condition No. 3c

"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 fourteen 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."

Violation: Based on the Riverside Police Department's memorandum (Exhibit 6) on March 31, 2017, May 21, 2017, and July 28, 2018, the on-site manager failed to release video footage requested by the Police Department as part of an investigation.

b. Condition No. 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."

Violations: Based on the Riverside Police Department's memorandum (Exhibit 6) on August 18, 2017, during an inspection by the Riverside Police Department and California Department of Alcoholic Beverage Control, a bottle of Vodka was found behind the bar.

c. Condition No. 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."

Violations: Based on the Riverside Police Department's memorandum (Exhibit 6 and 8) the following are examples of violations of this Condition of Approval as no request to "switch days" was received or approved:

August 18, 2017 - during an inspection by the Riverside Police Department and California Department of Alcoholic Beverage Control, signs were identified inside the club advertising entertainment on Sunday, Monday, and Tuesday.

September 4, 2018, and September 30, 2018 - The Riverside Police Department found flyers posted on the Hideaway Cafe Facebook page advertising nightclub events for Sunday, August 19, 2018, and Sunday, September 30, 2018.

March 10, 2019 – The Riverside Police Department found an advertisement posted on the Hideaway Café Instagram page advertising entertainment for later in the evening (Sunday, March 10, 2019). The Riverside Police Department visited the Hideaway Café at approximately 11:51 PM and noted a “DJ” performing.

March 14, 2019, and March 15, 2019 – The Riverside Police Department found two advertisements on the Hideaway Café's Instagram page and one advertisement on the establishment's Facebook page advertising a St. Patrick's Day event to be held on Sunday, March 17, 2019. Officers visited the club on March 17, 2019, at approximately 10:00 PM and noted a guitarist performing. Dancing at 9:00 PM was also advertised, but Riverside Police Department was unable to confirm if this occurred because officers being unable to conduct a bar check during this time.

d. Condition No. 9

“No “happy hour” or other drink specials shall be permitted after 7:00 pm on nights with entertainment.”

Violation: Based on the Riverside Police Department's memorandum (Exhibit 6) on August 18, 2017, during an inspection by the Riverside Police Department and California Department of Alcoholic Beverage Control, drink specials were advertised after 7:00 PM.

e. Condition No. 12

“A minimum \$5 cover charge shall be required for all patrons entering the facility after 9:00 pm on nights with entertainment.”

Violation: Based on the Riverside Police Department's memorandum (Exhibit 6) on August 18, 2017, during an inspection by the Riverside Police Department and California Department of Alcoholic Beverage Control, free entry before 11:00 PM was advertised.

FINDINGS SUMMARY

Pursuant to Chapter 19.730.040 of the Zoning Code, the following required findings must be made by staff in order to approve a modification to an existing Minor Conditional Use Permit:

- A. The proposed use is substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics and environmental impacts.
- B. The proposed use will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area.
- C. The proposed use will be consistent with the purposes of the Zoning Code.

- D. The proposed use is in conformance with specific site location, development and operation standards as may be established in the Zoning Code for the particular use.

Based on the record noted above, staff is unable to make the Minor Conditional Use Permit findings as follows:

- A. The proposal to allow the Hideaway Cafe to upgrade their Alcohol Beverage Control License to a Type 47 (On-Sale General Eating Place) to allow the sale of spirits is not substantially compatible with other uses in the area based on the repeated violations of their existing Minor Conditional Use Permit and current operations, including: 1) the presence of spirits on premises; 2) the selling of narcotics on premises by employees; 3) the advertising and holding of special events without Planning Division or Police Department approval; 4) the failure to access and release video surveillance footage to the Riverside Police Department; 5) the advertising of drink specials after 7:00 PM; and 6) the advertising of free entry after 9 PM.
- B. The proposal to allow the Hideaway Cafe to upgrade their Alcohol Beverage Control License to a Type 47 (On-Sale General Eating Place) to allow the sale of spirits will be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area based on 1) the ongoing and extraordinary number of calls for service (95 calls from October 1, 2016, through February 11, 2019), including multiple calls related to fights on the premises and assaults of patrons by other patrons and security guards; 2) the selling of narcotics on premises by employees; and 3) the repeated violations of their existing Minor Conditional Use Permit including: 1) the presence of spirits on premises; 2) the advertising and holding of special events without Planning Division or Police Department approval; 3) the failure to access and release video surveillance footage to the Riverside Police Department; 4) the advertising of drink specials after 7:00 PM; and 5) the advertising of free entry after 9 PM.
- C. Pursuant to Chapter 19.730.010 of the Zoning Code, the Minor Conditional Use Permit is required for uses "deemed to possess location, use, building or traffic characteristics of such unique and special form as to make impractical or undesirable, their automatic inclusion as permitted uses." In granting a Minor Conditional Use Permit, the City is granted the authority to require certain conditions to "protect the public health, safety, convenience, and general welfare and to assure that the purposes of the Zoning Code shall be maintained with respect to the location, use, building, traffic and other impacts of the proposed use and its relationship with other existing and proposed uses in the surrounding area." The Hideaway Café has repeatedly violated the conditions of the Minor Condition Use Permit that ensure purposes of the Zoning Code are implemented and to protect the public health, safety, convenience, and general welfare. These violations include: 1) the presence of spirits on premises; 2) the advertising and holding of special events without Planning Division or Riverside Police Department approval; 3) the failure to access and release video

surveillance footage to the Riverside Police Department; 4) the advertising of drink specials after 7:00 PM; and 5) the advertising of free entry after 9 PM. The granting the modification of the Minor Conditional Use Permit to allow the sale of spirits at an establishment that has repeatedly violated its conditions of approval would not be consistent with the purposes of the Zoning Code.

- D. The proposal to allow the Hideaway Cafe to upgrade their Alcohol Beverage Control License to a Type 47 (On-Sale General Eating Place) to allow the sale of spirits would not be consistent with specific operation standards established in the Zoning Code for the particular use because the Hideaway Café has repeatedly violated its conditions of approval related to its operation, including: 1) the ongoing and extraordinary number of calls for service (95 calls from October 1, 2016, through February 11, 2019), including multiple calls related to fights on the premises and assaults of patrons by other patrons and security guards; 2) the presence of spirits on premises, 3) the advertising and holding of special events without Planning Division or Police Department approval; 4) the failure to access and release video surveillance footage to the Riverside Police Department; 5) the advertising of drink specials after 7:00 PM; and 5) the advertising of free entry after 9 PM.

Based on 1) the inability of staff to make the findings required by the Zoning Code; 2) a consistent pattern of ignoring and violating the Minor Conditional Use Permit (MCUP); 3) the ongoing extraordinary calls for service; and 4) the ongoing Stayed Revocation status imposed by the California Alcohol Beverage Control for the sales of narcotics by employees in 2016, staff does not recommend modifications to the MCUP to allow the Alcohol Beverage Control License to upgrade from a Type 41 (On-Sale Beer and Wine License) to a Type 47 (On-Sale General Eating Place) to allow the sale of spirits in addition to beer and wine. The Riverside Police Department concurs with this recommendation.

If the Planning Commission rejects staff's recommendation, the Planning Commission must make all of the findings identified in Section 19.730.040 "Required Findings" of the Riverside Municipal Code, listed below, which must be based upon facts in the record and before the Planning Commission when those findings are made:

- A. The proposed use is substantially compatible with other uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics and environmental impacts.
- B. The proposed use will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area.
- C. The proposed use will be consistent with the purposes of the Zoning Code.
- D. The proposed use is in conformance with specific site location, development and operation standards as may be established in the Zoning Code for the particular use.

If the Planning Commission decides to approve the modification to the MCUP, staff recommends that the Planning Commission continue the item to a date certain to allow staff to prepare conditions of approval based on the Planning Commission's findings.

PUBLIC NOTICE AND COMMENTS

Staff mailed public hearing notices to property owners within 300 feet of the site informing them of the proposed project and inviting them to comment. As of the writing of the staff report, Staff received responses from The Deana Foundation and Neighbors of the Wood Streets in support of the proposed license upgrade (Exhibit 10).

TIME LIMITS ON REAPPLICATION AND APPEAL INFORMATION

No new application for the same or similar request may be applied for or accepted by the City within one year of the date of the action to deny the request to modify the Minor Conditional Use Permit, unless the Community & Economic Development Director, his/her designee 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. Location Map
2. Context Map
3. Planning Case P16-0251 (Modification of P15-0255 [Minor Conditional Use Permit])
Conditions of Approval
4. Distance Requirements Map
5. ABC Alcohol License Census Tract Concentration Map
6. Riverside Police Department November 14, 2018, Memorandum
7. Riverside Police Department February 15, 2019, Memorandum
8. Riverside Police Department March 21, 2019, Memorandum
9. Streetplus February 20, 2019 Memorandum
10. Public Comments
 - a. Letter from The Deana Foundation dated September 18, 2018
 - b. Letter from Neighbors of the Wood Streets dated September 18, 2018
11. General Plan Map
12. Specific Plan and Zoning Map
13. Project Plans (Site Plan and *Floor Plan*)
14. Existing Site Photos
15. Application

Prepared by: Veronica Hernandez, Associate Planner
Reviewed by: David Murray, Principal Planner
Approved by: Mary Kopaskie-Brown, City Planner