

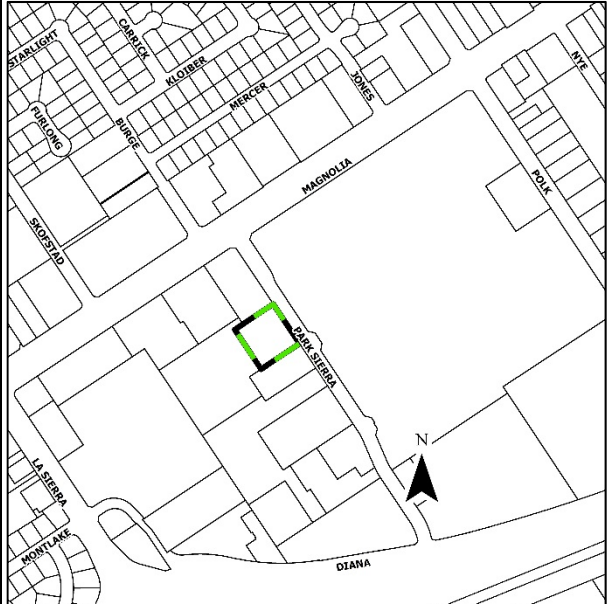


PLANNING COMMISSION HEARING DATE: OCTOBER 17, 2019

AGENDA ITEM NO.: 3

PROPOSED PROJECT

<i>Case Numbers</i>	P18-0849 (Conditional Use Permit) P18-0850 (Variance) P19-0512 (Determination of Public Convenience or Necessity)	
<i>Request</i>	To consider the following entitlements: 1) Conditional Use Permit to permit a dance studio and banquet facility and social mixer (Assemblies of People - entertainment) uses in conjunction with a Type 42 Alcohol License (On-Sale of Beer and Wine – Public Premises) within an existing 10,666 square foot building; 2) Variance to allow the on-sale of alcoholic beverages within 600 feet of a hospital; and 3) Determination of Public Convenience or Necessity to allow the on-sale of beer and wine in an over concentrated census tract.	
<i>Applicant</i>	David Vanderzell of THVS Investments, LLC	
<i>Project Location</i>	3740 Park Sierra Avenue, situated on the west side of Park Sierra Drive between Magnolia Avenue and Diana Avenue.	
<i>APN</i>	138-470-015	
<i>Project area</i>	1.15 acres	
<i>Ward</i>	6	
<i>Neighborhood</i>	La Sierra	
<i>General Plan Designation</i>	MU-U – Mixed-Use Urban	
<i>Specific Plan</i>	Magnolia Avenue Specific Plan – La Sierra District	
<i>Zoning Designation</i>	CR-SP – Commercial Retail and Specific Plan (Magnolia Avenue) Overlay Zones	
<i>Staff Planner</i>	Alyssa Berlino, Assistant Planner 951-826-5628 aberlino@riversideca.gov	



RECOMMENDATIONS

Staff recommends that the City Planning Commission:

1. **DETERMINE** that the project is exempt from the California Environmental Quality Act (CEQA) subject to Section 15301 (Existing Facilities), as this project will not have a significant effect on the environment; and
2. **APPROVE** the following Planning Cases, based on the findings outlined in the staff report, summarized in the attached findings and subject to the recommended conditions (Exhibits 1 & 2):
 - a. P18-0849 - Conditional Use Permit for the following:
 - Dance Studio
 - Banquet Facility (Assemblies of People – Entertainment)
 - Social Mixers (Assemblies of People – Entertainment)
 - On-Sale of Beer and Wine – Public Premises
 - b. P18-0850 - Variance
 - c. P19-0512 - Determination of Public Convenience or Necessity

SITE BACKGROUND

The subject 1.15 acre project site consists of a single parcel developed with an existing 10,666 square foot building (formerly El Torito Restaurant). The existing building is part of a larger 63.3-acre multi-tenant commercial and office complex (Park Sierra Dining and Entertainment Park). Uses within the complex include administrative offices, medical offices, a health and fitness club (LA Fitness), general retail, a drive-thru pharmacy, sit-down and drive-thru restaurants, and automotive repair. In 1980, a shared parking and access agreement was recorded, allowing for mutual access and parking within the complex.

Surrounding land uses include commercial/restaurant uses to the north, a sit-down restaurant (Red Lobster) to the south, a hospital (Kaiser Permanente Riverside Medical Center) to the east across Park Sierra Drive, and a health and fitness club (LA Fitness) to the west (Exhibit 3).

PROPOSAL

The applicant is requesting approval of a Conditional Use Permit to permit a dance studio (Artivan), banquet facility and social mixer (Assemblies of People- Entertainment), in conjunction with a Type 42 Alcohol License (On-Sale Beer and Wine – Public Premises) within an existing 10,666 square foot building. A Variance is requested to allow the on-sale of beer and wine within 600 feet of a hospital (Kaiser Permanente Riverside Medical Center). Additionally, a Determination of Public Convenience or Necessity is requested to allow the on-sale of beer and wine in an over concentrated census tract.

The proposed dance studio, social mixer, and banquet facility will consist of 4,995 square feet, within Rooms 1 and 2. Dance lessons and social mixers for students and dance enthusiasts are proposed in Room 1, totaling 1,750 square feet in area. Room 1 includes a lounge area and dance floor. Practice nights, banquets, other pre-planned events, and dance lessons are proposed in Room 2, totaling 3,245 square feet in area. Room 2 includes seven fixed booths, portable tables and chairs, a dance floor, and a stage. The remaining 5,671 square feet includes the former kitchen, restroom facilities, and office space of the existing building. The equipment within the kitchen area will remain. The applicant has indicated the kitchen will be used as a storage area only.

Site modifications are limited to the addition of an accessible parking space, which will result in the removal of one standard parking space. Access to the site will be provided by the existing driveways along Park Sierra Avenue and throughout the commercial complex. No exterior modifications to the building are proposed in conjunction with this request.

Business Operation:

Use	Hours
Dance Studio	Monday through Friday - 10:00 a.m. to 9:00 p.m. Saturday - 10:00 a.m. to 3:00 p.m. Sunday - 1:00 p.m. to 5:00 p.m.
Social Mixers	Monday through Friday - 9:00 p.m. to 12:00 a.m. Sunday - 5:00 p.m. to 9:00 p.m.
Banquet	Friday - 6:00 p.m. to 1:00 a.m. Saturday through Sunday - 1:00 p.m. to 1:00 a.m.

The applicant will require that all banquet events go through a screening process and that full disclosure be provided on the type of party or event, the number of attendees, and the activities planned during the event. Additionally, the applicant will require that the live music provided for the events be from a pre-approved list of vendors.

The on-sale of beer and wine, Type-42 Alcohol License (On-Sale of Beer and Wine – Public Premises), will be restricted to the lounge area, within Room 1. The lounge area will be restricted to patrons aged 21 years and over during the time alcohol is served, which will be during the “Practice Nights / Social Mixers”.

PROJECT ANALYSIS

Authorization and Compliance Summary

	Consistent	Inconsistent
<i>General Plan 2025</i> The General Plan Land Use designation for this site is MU-U – Mixed-Use – Urban, which is intended to provide opportunities for primarily high-density residential development with commercial, office, institutional and business uses emphasizing retail, entertainment and student-oriented activities (Exhibit 4). The project is consistent with the Mixed-Use – Urban land use designation, because it provides additional entertainment uses as part of the larger 63.3 acre Park Sierra Dining and Entertainment Park Complex. As a matter of information, a General Plan Amendment was not required for consistency with the underlying CR-SP – Commercial Retail and Specific Plan (Magnolia Avenue) Overlay Zones, because this project was submitted to the City in 2018, when consistency between the General Plan and Zoning was not required in Charter cities. After Senate Bill 1333 was enacted on January 1, 2019, Charter cities are required to ensure consistency between the General Plan and Zoning is required.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Magnolia Avenue Specific Plan (MASP)</i> The project is located within the La Sierra District of the Magnolia Avenue Specific Plan consisting of commercial centers, residential development including mobile home parks, business park and light industrial uses, medical uses, and motels (Exhibit 5). The project, as proposed, furthers the vision of the District and is consistent with the following Objective: <u><i>Objective 1:</i></u> Enhance the role of the La Sierra District as a major employment center in the City with complementary retail, residential and mixed-use development.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

	Consistent	Inconsistent
<p><i>Zoning Code Land Use Consistency (Title 19)</i></p> <p>The project site is zoned CR-SP – Commercial Retail and Specific Plan (Magnolia Avenue) Overlay Zones, which permits a dance studio, banquet facility, and entertainment, in conjunction with alcohol sales, subject to the approval of a Conditional Use Permit and compliance with Site Location, Development, and Operational Standards (Exhibit 5).</p> <p>The proposal is generally consistent with the applicable development standards of the Zoning Code except for the separation requirement for the on-sale of beer and wine and the assemblies of people – entertainment, within 600 feet of a hospital (Exhibit 7). The Zoning Code allows for consideration of Variances and Modifications to deviate from the development standards. Therefore, the applicant is requesting a Variance and a Modification to facilitate implementation of this project.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<p><i>Compliance with Citywide Design & Sign Guidelines</i></p> <p>No exterior modifications to the building are proposed as part of this application. The minor site modifications to the parking lot comply with the applicable Citywide Design and Sign Guidelines. Any future signs will be subject to Design Review.</p>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

COMPLIANCE WITH APPLICABLE DEVELOPMENT STANDARDS

<i>Chapters 19.250 and 19.450</i>					
<i>Assemblies of People – Entertainment (Banquet Halls) and Alcohol Sales</i>					
<i>Standard</i>			<i>Proposed Separation</i>	<i>Consistent</i>	<i>Inconsistent</i>
<i>Site Location Standards</i>	Schools, Hospitals, Churches, or Public Parks	600 feet	2,177 feet La Sierra High School (4145 La Sierra Avenue) 150 feet Kaiser Permanente Riverside Medical Center (10800 Magnolia Avenue) 1,573 feet My Father's House Church (11130 Magnolia Avenue) 3,109 feet Harrison Park (2851 Harrison Street)	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Residential Use or Zone	100 feet	166 feet Vacant property, residentially zoned – MU-U – Mixed-Use – Urban Zone (3682 Park Sierra Avenue)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Group Housing	1,000 feet	1,950 ft. Villa Lea (3891 Polk Street)	<input checked="" type="checkbox"/>	<input type="checkbox"/>

<i>Chapter 19.580 Parking and Loading</i>				
<i>Land Use</i>		<i>Parking Ratio</i>	<i>Parking Required</i>	<i>Parking Provided</i>
<i>Proposed Uses</i>	Dance Studio/ Banquet Hall Facility (4,995 square feet of assembly area)	1 space / 30 square feet of floor area in main assembly area	167 spaces	1,307 spaces
<i>Existing Uses</i>	Retail / Office Uses (26,285 square feet)	1 space / 250 square feet	106 spaces	
	Medical Offices (40,000 square feet)	1 space / 180 square feet	223 spaces	
	Restaurants (25,057 square feet)	1 space / 100 square feet	252 spaces	
	Health Fitness Club (45,000 square feet)	1 space / 150 square feet	300 spaces	
Total Parking Spaces Required			1,048 spaces	1,307 spaces
Total Parking Space Surplus				259 spaces

Adequate parking will be available to serve the existing and proposed mix of uses within the Park Sierra Dining and Entertainment Park Complex. The Citywide Design Guidelines encourages shared parking amongst commercial uses (Page IV-16). A shared parking and access agreement recorded in 1980 allows for mutual access and parking within the complex. Based on the existing land use patterns, the proposed dance studio, banquet facility, entertainment, and the on-sale of alcoholic beverages (Type-42 Alcohol License) will not be cause for parking concerns, particularly since the facility operates at different peak hours than most of the surrounding businesses.

PUBLIC CONVENIENCE OR NECESSITY DETERMINATION

<i>California Department of Alcoholic Beverage Control (Census Tract 414.08) On-Sale Alcohol Licenses</i>						
<i>Standard</i>		<i>Existing Licenses</i>	<i>Proposed License</i>	<i>Total Number of Existing and Proposed Licenses</i>	<i>Consistent</i>	<i>Inconsistent</i>
<i>Maximum Number of On-Sale Licenses</i>	3	13	1	14	<input type="checkbox"/>	<input checked="" type="checkbox"/>

The subject site is located in Census Tract 414.08. Per the California Department of Alcoholic Beverage Control (ABC). There are thirteen existing on-sale licenses within the tract, where three on-sale licenses are permitted (Exhibit 8). The proposed license would be the fourteenth license in the tract requiring a determination of Public Convenience of Necessity, pursuant to State Law.

The request meets the public convenience or necessity findings required by Section 23958.4 of the Business and Professional Codes based on the following findings:

1. The Artivan Dance and Banquet Center is a diverse business that offers dance instruction, social gathering, and pre-scheduled events. The proposed on-sale of alcohol will contribute to the diverse array of shopping and dining at Park Sierra Dining and Entertainment Park Complex and can therefore be found to serve the convenience of the public;
2. The proposed establishment, consists of a 10,666 square foot building within a 63.3 acre shopping center (Park Sierra Dining and Entertainment Park). The Artivan will include two assembly areas, designated on the floor plan as "Room 1" and "Room 2". Room 1 will consist of 1,750 square feet space, with a 680 square foot dance floor and a 1,070 square foot lounge area, where beer and wine will be served to patrons during "Practice Nights / Social Mixers", held on Monday – Fridays

from 9:00 p.m. to 12:00 a.m. and 5:00 p.m. to 9:00 p.m. on Sundays. The proposed Type 42 (On-Sale of Beer and Wine) alcohol license will restrict the sale and consumption of alcohol to this room only. The proposal meets all applicable site location, operation and development standards for the on-sale of alcoholic beverages, with the exception of the 600-foot separation requirement from hospitals. No alcohol sales will occur in Room 2;

3. As a condition of approval of the Conditional Use Permit, the applicant is required to implement a number of responsible management and security practices including the provision of high-definition video surveillance technology, and the use of a licensed and bonded security firm to provide on-site security. With the required enhanced security measures, the Police Department does not oppose the sale of alcoholic beverages at this location; and
4. The subject site is located within an existing shopping center with a diverse mix of restaurant, office, and recreational uses in the La Sierra neighborhood. Policies in the General Plan for La Sierra neighborhood encourage improvement of the overall quality of life while balancing the sometimes competing needs of semi-rural, suburban and urban areas. There are currently no other similar uses within the census tract, therefore, the proposed use is unique to the area and provides a service that does not currently exist.

FINDINGS SUMMARY

Modification

The applicant is requesting a modification to one standard related to the separation requirement for Assemblies of People – Entertainment. The Zoning Code requires a minimum separation of 600 feet from hospitals, where the proposed project is located 150 feet from Kaiser Permanente Riverside Medical Center. Section 19.250.040 of the Zoning Code allows for the modification of development standards through the consideration of a Conditional Use Permit. Staff has prepared the following supplemental justifications in support of the modification:

1. The hospital property line is approximately 150 feet from the subject building while the closest hospital building is approximately 500 feet away. While it still does not comply with the 600 foot separation standard, the distance from the hospital building to the proposed project minimizes potential impacts such as noise, traffic, and security concerns;
2. The applicant provided an Acoustical Analysis (Exhibit 12) which demonstrates that the proposed project will comply with Title 7 (Noise Control) of the Riverside Municipal Code; and
3. The applicant provided a Traffic Study Technical Memorandum (Exhibit 13), which demonstrates that the proposed project would result in an estimated net trip reduction of a.m. and p.m. peak period trips.

Staff can support the modification to allow an Assemblies of People – Entertainment use within 600 feet of a hospital, as the use will not be detrimental to the operations of the hospital.

Variance

The proposed project generally meets the required site location and development standards for on-sale of alcoholic beverages, with the exception of the separation requirement of 600-feet from a hospital (Kaiser Permanente Riverside Medical Center), as measured from the outside walls of the building to the nearest property line of the hospital. The applicant has requested a variance to allow for on-sale of alcohol for a public premises within 600 feet of a hospital.

The applicant has prepared justification findings in support of the Variance request (Exhibit 11). In addition, Staff has prepared supplemental justification findings in support of the Variance based on the fact that the subject building has similar setbacks to existing sit-down restaurants, with the on-sale of alcoholic beverages, in the Park Sierra Dining and Entertainment Park complex (Exhibit 1). While the Kaiser Permanente Riverside Medical Center surface parking lot is located approximately 150 feet from the proposed multi-tenant commercial building, the hospital building is located over 500 feet away from the proposed development. Staff can support the proposed Variance.

Conditional Use Permit - Dance Studio, Social Mixers, and Banquet Hall (Assemblies of People – Entertainment) and the On-Sale of Alcoholic Beverages)

The proposed dance studio, social mixers, and banquet hall (Assemblies of People – Entertainment), and the on-sale of alcoholic beverages allow for dining and event gathering space within the neighborhood in a manner that will not be detrimental to the surrounding land uses. The project meets the development standards with the exception of separation requirement from a hospital (Modification of the Development Standard and Variance required).

The Riverside Police Department reviewed the proposal, including the Security Plan and have no objection to the proposed project, provided that the operator complies with the recommended conditions of approval.

The Acoustical Analysis prepared for the project demonstrates that the proposed uses will not have an adverse effect on surrounding properties (Exhibit 12). Additionally the reuse of the vacant tenant space will be beneficial to the general welfare of residents and surrounding properties. Staff can support the proposed Conditional Use Permit.

ENVIRONMENTAL REVIEW

Planning Division Staff determined that this project is categorically exempt from California Environmental Quality Act (CEQA) review, pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines, as the project will not have a significant effect on the environment.

PUBLIC NOTICE AND COMMENTS

Public hearing notices were mailed to property owners within 1,000 feet of the site. As of the writing of this report, Staff has received four letters (Exhibit 14) in opposition of the project raising concerns related to the proposed use and parking demand.

Use Concerns

1. The banquet facility use will be significantly detrimental to the existing surrounding businesses.

Response: The proposed dance studio, social mixers, and banquet facility (Assemblies of People – Entertainment) and on-sale of alcohol are permitted in the CR-SP – Commercial Retail Specific Plan (Magnolia Avenue) Overlay Zones with approval of a Conditional Use Permit. Staff has analyzed the proposed uses and determined that they are compatible with surrounding uses, specifically the Park Sierra Entertainment and Dining Complex. Additionally, the Acoustical Analysis prepared for the project demonstrates that the proposed project will not adversely affect the surrounding properties. The Riverside Police Department reviewed the proposal, including the Security Plan and Alcohol Management Plan (Exhibit 9), and has no objection to the proposed project, provided that the operator complies with the recommended conditions of approval.

2. The use is inappropriate for the area.

Response: The proposed dance studio, social mixers, and banquet facility (Assemblies of People – Entertainment), and on-sale of alcohol is permitted in the CR-SP – Commercial Retail Specific Plan (Magnolia Avenue) Overlay Zones with approval of a Conditional Use Permit. Staff has analyzed the proposed use and determined that it is compatible with surrounding uses, specifically the Park Sierra Entertainment and Dining Complex. The General Plan Land Use designation for this site is MU-U – Mixed-Use – Urban, which is intended to provide opportunities for business uses emphasizing retail, entertainment and student-oriented activities. The project is consistent with the Mixed-Use – Urban land use designation, because it provides additional entertainment uses as part of the larger 63.3 acre Park Sierra Dining and Entertainment Park Complex.

3. The use may not be permitted by the CC&R's.

Response: The subject parcel is part of the Park Sierra Dining and Entertainment complex, which is governed by recorded Covenants, Conditions, and Restrictions (CC&R's). The CC&R's encompass

the parcels developed with Versatile Information Products, the former Farrell's Ice Cream Restaurant, a two-story medical office building, Red Lobster Restaurant, L.A. Fitness, and a portion of Walgreens Pharmacy, McDonald's Restaurant, and a multi-tenant restaurant building (Parcels 1 through 10 of Parcel Map No. 15817). The uses detailed in the CC&R's are not the City's province to interpret. As previously mentioned, the proposed dance studio, social mixers, and banquet facility (Assemblies of People –Entertainment), and on-sale of alcohol is permitted in the CR-SP – Commercial Retail Specific Plan (Magnolia Avenue) Overlay Zones with approval of a Conditional Use Permit.

Parking Concerns

1. The parking requirement will result in a parking burden for adjacent properties;

Response: The subject parcel consists of 53 parking spaces, and is part of the Park Sierra Dining and Entertainment complex, which is governed by recorded Covenants, Conditions, and Restrictions (CC&R's). The CC&R's encompass the parcels developed with Versatile Information Products, the former Farrell's Ice Cream Restaurant, a two-story medical office building, Red Lobster Restaurant, L.A. Fitness, and a portion of Walgreens Pharmacy, McDonald's Restaurant, and a multi-tenant restaurant building (Parcels 1 through 10 of Parcel Map No. 15817), and provides a nonexclusive parking area easement, which allows for shared parking. Per the parking summary provided in this staff report, the Park Sierra Dining and Entertainment complex has a surplus of 259 parking spaces, the existing and proposed businesses. The proposed dance studio and banquet hall will not result in a parking burden for adjacent properties.

2. An objection to the City's interpretation of the recorded CC&R's; and

Response: As previously stated, the recorded CC&R's for the Park Sierra Dining and Entertainment complex provides a nonexclusive parking area easement, which allows for shared parking. The CC&R's specifically state that "Nonexclusive easements appurtenant to the Owner's Parcel over and across the parking area within the other Parcels for the purposes of parking vehicles of the Owner, the tenants, concessionaires, or owners of any portion of the Owner's Parcel, and the customers, licensees, and invitees of the Owner and its tenants, concessionaires, or sub-lessees". Because of the easements provided in the CC&R's, Staff analyzed the parking required for the proposed use and determined that there was sufficient parking available within the Park Sierra Dining and Entertainment complex.

3. The parking demand is not properly calculated. No parking demand is calculated for the office and other areas in the remaining 5,671 square feet of the building.

Response: Chapter 19.580.060 (Parking and Loading) of the Zoning Code requires 1 parking space per every 30 square feet of the main assembly floor area for an Assemblies of People – Entertainment uses. As previously stated, the project entails a total of 4,995 square feet of assembly area, which requires a total of 167 parking spaces.

APPEAL INFORMATION

Actions by the City Planning Commission, including any environmental finding, may be appealed to the City Council within ten (10) calendar days after the decision. Appeal filing and processing information may be obtained from the Planning Department Public Information Section, 3rd Floor - City Hall.

EXHIBITS LIST

1. Staff Recommended Findings
2. Staff Recommended Conditions of Approval
3. Location Map
4. General Plan Map
5. Specific Plan and Zoning Map
6. Project Plans (Site Plan, Floor Plan)
7. Distance Requirements Map

8. ABC Alcohol License Census Tract Concentration Map
9. Applicant Prepared Project Description, Security Management Plan, and Alcohol Management Plan
10. Applicant Prepared Public Convenience or Necessity Request
11. Applicant Prepared Variance Justifications
12. Acoustical Analysis, Prepared by Christopher Jean & Associates, Inc.
13. Traffic Study Technical Memorandum, Prepared by KOA Corporation
14. Comment Letters
15. Existing Site Photos

Prepared by: Alyssa Berlino, Assistant Planner

Reviewed by: Patricia Brenes, Principal Planner, and Candice Assadzadeh, Senior Planner

Approved by: Mary Kopaskie-Brown, City Planner



EXHIBIT 1 – STAFF RECOMMENDED FINDINGS

PLANNING CASES: **P18-0849** (Conditional Use Permit)
 P18-0850 (Variance)
 P19-0512 (Public Convenience or Necessity)

Conditional Use Permit Findings pursuant to Chapter 19.760.040:

- A.** Dance Studio
- B.** Banquet Facility (Assemblies of People – Entertainment)
- C.** Social Mixers (Assemblies of People – Entertainment)
- D.** On-Sale of Alcoholic Beverages – Public Premises

1. *The proposed use is substantially compatible with other existing and proposed uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics and environmental impacts.*

Finding A (Dance Studio): The project complies with this finding. As described in the project analysis above, the subject site is located within a large commercial shopping center with a variety of restaurant, office, retail, health and fitness, and personal service uses. Dance studios are similar to other uses anticipated in a large shopping center and therefore are consistent with the character and intent with the existing uses. Dance instruction will take place from 10:00 a.m. to 9:00 p.m. Mondays through Fridays, 10:00 a.m. to 3:00 p.m. on Saturdays, and 1:00 p.m. to 5:00 p.m. on Sundays, consistent with operating hours within the Park Sierra Entertainment and Dining complex. The applicant provided a Traffic Study Technical Memorandum, prepared by a Traffic Engineer that concluded most of the traffic generated by the project will occur during off-peak periods. In addition, the applicant provided an Acoustical Analysis that demonstrates the project will comply with all Noise Code standards. No exterior modifications are proposed in conjunction with the proposal. For these reasons, the proposed dance studio is substantially compatible with other existing and proposed uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics and environmental impacts.

Finding B (Banquet Facility) and C (Social Mixers) (Assemblies of People – Entertainment Uses): The project complies with this finding. As stated above, the commercial shopping center hosts a variety of commercial uses including restaurants to the north and south, a health and fitness club to the west (LA Fitness), and a hospital to the east (Kaiser Permanente Riverside Medical Center). The proposed banquet facility and social mixers are similar in operation to the former El Torito restaurant, which could include large rooms available for reservation upon request, similar to a banquet facility. Restaurants often include a bar component, which is similar in nature to Room 1, the area designated for the social mixer use. The project generally complies with all site development standards with the exception of the 600 foot distance requirement from a hospital (Kaiser Permanente Riverside Medical Center), as measured from the outside walls of the building to the nearest property line which is approximately 150 feet. As stated in the Findings Summary, an Acoustical Analysis was provided by the applicant which ensures the proposed use would comply with all Noise Code requirement standards. In addition, the

traffic memorandum provided by the applicant concludes that the proposed use would result in a new trip reduction from the previous tenant (El Torito).

Finding D (On-Sale of Alcoholic Beverages): The project complies with the finding. As previously stated, the project generally complies with all development standards with the exception of the 600 foot separation requirement from a hospital (Kaiser Permanente Riverside Medical Center), for the on-sale of alcoholic beverages. The applicant has therefore requested a Variance to allow for on-sale of alcoholic beverages. The applicant has prepared justifications in addition to staff supplemented justifications in support of the Variance. The on-sale of alcohol is currently offered at 4 restaurants in the shopping center.

2. *The proposed uses 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.*

Finding A (Dance Studio): The project complies with this finding. As previously mentioned, the project site is located within an existing commercial shopping center with a variety of uses. The proposed dance studio is consistent with a health and fitness use and is permitted in spaces over 4,000 square feet in the CR – Commercial Retail Zone with a Conditional Use Permit. Staff has analyzed the operational characteristics and determined that they are consistent with other uses in the shopping center, therefore, fits with the character and intent of the shopping center and has determined that the dance studio will not be detrimental to the health, safety, and general welfare of the public.

Finding B (Banquet Facility) (Assemblies of People – Entertainment): The project complies with this finding. The proposed banquet facility is similar in operations to a restaurant, a use permitted by right within the CR – Commercial Retail Zone and consistent in character with existing uses in the shopping center. As previously stated, restaurants often offer a private room or gathering space that can be reserved, similar to the banquet facility. The proposed business also provides a service to the citizens of Riverside in the area that is not currently available and is no more intrusive than a restaurant use. The Riverside Police Department reviewed the proposal, including the security plan and business operations and has no objection to the proposed project, provided that the operator complies with the recommended conditions of approval. Therefore, the use will not be detrimental to the health, safety, and general welfare of the public.

Finding C (Social Mixers) (Assemblies of People – Entertainment): The project complies with this finding. The proposed social mixer provides an opportunity for dance students and enthusiasts to practice in an environment with other dancers to specific genres of music 6 days of the week, after dance instruction classes. The hours of the social mixer operations will be 9:00 p.m. to 12:00 a.m. Mondays through Fridays and 5:00 p.m. through 9:00 p.m. on Sundays. The music provided will be substantially pre-recorded and will not allow subwoofers to amplify the bass as keeping the level of noise low is important for people to comfortably talk. Any live band proposed to play during social mixers would be similar to a lounge quartet, acoustic swing band, or traditional Latin rhythms band. In addition, the social mixers anticipate to attracting approximately 40 to 100 people of all ages. As this is a small group of people, similar to the population expected for a restaurant use, the proposed use will not be detrimental to the health, safety, and general welfare of the public.

Finding D (On-Sale of Alcoholic Beverages): The project complies with this finding. The proposed Type-42 alcohol license for the on-sale of beer and wine is an incidental use to the primary social mixer operations. Alcohol sale and consumption will be limited to “Room 1”, a 1,750 square foot room where the lounge area is located and will only be provided during the hours of the social mixers. Room 1 will be age restricted during the hours of the social mixer operations. Therefore, the operations will be more restrictive than a restaurant would be as the

on-sale of alcohol will be limited in comparison to other operations of the proposed business and will be restricted to a small area of the building which will be age restricted when being served and will not be detrimental to the health, safety, and general welfare of the public. No alcohol will be sold in Room 2.

3. *The proposed uses will be consistent with the purposes of the Zoning Code and the application of any required development standards is in the furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.*

Finding A (Dance Studio), B (Banquet Facility), C (Social Mixers), and D (On-Sale of Alcoholic Beverages): The project complies with this finding. The proposed dance studio, social mixers, and banquet facility (Assemblies of People – Entertainment), and on-sale of alcohol is permitted in the CR-SP – Commercial Retail Specific Plan (Magnolia Avenue) Overlay Zones, subject to the approval of a Conditional Use Permit. The project has been reviewed against the applicable development standards of Chapter 19.250 (Assemblies of People Entertainment) and Chapter 19.450 (Alcohol Sales) of the Zoning Code, and found to be consistent with the exception of the required Modification and Variance for the 600 foot separation requirement from hospitals. For these reasons, the project will be consistent with the purposes of the Zoning Code and the application of any required development standards is in the furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

Variance Findings pursuant to Chapter 19.720.040:

Variance Requested: To allow the on-sale of alcoholic beverages within 600 feet of a hospital.

1. *The strict application of the provisions of the Zoning Code would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Zoning Code.*

The proposal complies with this finding. Strict application of the Zoning Code would prohibit the on-sale of alcohol due to the fact that the site is within 600 feet of a hospital (Kaiser Permanente Riverside Medical Center). While the Kaiser Permanente Riverside Medical Center surface parking lot is located approximately 150 feet from the exterior of the building on the project site, the hospital building is located nearly 500 feet away from the proposed development, which is still less than required per the Code, but the equivalent distance as the adjacent Red Lobster with an existing on-sale alcohol license. The site was constructed as a restaurant with alcohol sales within a large shopping center. Four other restaurants currently have licenses for the on-sale of alcohol within the shopping center. Prohibiting alcohol sales at the subject location would create a burden for the proposed use and other potential restaurants if this proposal were not approved. The previous tenant of the subject building (El Torito) also had an on-sale alcohol license, which postdates the construction of the hospital. Therefore, strict application of the separation requirement from the hospital would result in an unnecessary hardship that is not experienced by other businesses with the on-sale of alcohol within the Park Sierra Dining and Entertainment Park Complex.

2. *There are exceptional circumstances or conditions applicable to this property or to the intended use or development of this property which do not apply generally to other property in the same zone or neighborhood.*

The proposal complies with this finding. The proposed project site is located west of Park Sierra Drive between Magnolia Avenue and Diana Avenue in the Park Sierra Dining and Entertainment Park Complex, a 63.3 acre multi-tenant commercial and office complex. As stated above, the site was originally constructed as a restaurant with alcohol sales, an incidental use standard to sit-down restaurants. The existing building is approximately 150 feet from an existing hospital (Kaiser Permanente Riverside Medical Center) site. However, the closest area of the hospital property to the project site is utilized as a surface parking lot. The

existing building postdates the construction of the hospital (Kaiser Permanente Riverside Medical Center). Therefore, an exceptional circumstance exists due to the separation of the proposed multi-tenant commercial building from the hospital building.

3. *The granting of this request will not prove materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located.*

The proposal complies with this finding. The on-sale of alcoholic beverages is an incidental use and will only be made available during the social mixers. There are four existing restaurants within the Park Sierra Dining and Entertainment Park (Red Lobster, BurgerIM, Blaze Pizza, and California Fish Grill with on-sale alcohol licenses. These business have operated without being detrimental or injurious to the neighborhood. Therefore, the granting of this request will not prove materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located.

4. *The granting of this request will not be contrary to the objectives of the General Plan.*

The proposal complies with this finding. Based on the scope of the requested Variance, the granting of this request will further the development of commercial businesses and provide a unique means of entertainment and recreational activities, consistent with the intent of the Mixed-Use – Urban land use designation. Therefore, the proposal will not be contrary to the objectives of the General Plan 2025 or the Magnolia Avenue Specific Plan.



EXHIBIT 2 – STAFF RECOMMENDED CONDITIONS OF APPROVAL

RECOMMENDED CONDITIONS & GENERAL INFORMATION NOTES

PLANNING CASES: **P18-0849** (Conditional Use Permit)
 P18-0850 (Variance)
 P19-0512 (Public Convenience or Necessity)

• **Planning**

1. The subject property shall be developed and operated substantially as described in the text of this Staff Report and as shown on the plot plan on file with this case, except for any specific modifications that may be required by these conditions of approval.
2. 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.
3. The applicant shall notify Planning Division staff of a future change of ownership of the subject property and/or vacancy of the subject tenant space.
4. Should the City enact an ordinance for the regulation of entertainment within the City, the Applicant and/or property owner shall be required to obtain said entertainment permit and relinquish this Conditional Use Permit as it relates to entertainment only.
5. *Advisory:* Signs shall be permitted in accordance with Chapter 19.620 of the Zoning Code. Any new signs shall be subject to separate review and assessment. A separate sign application, including fees and additional sets of plans, will be necessary prior to sign permit issuance.

Operational Conditions:

6. Entertainment shall be limited to Monday through Thursday 9:00 p.m. to 12:00 a.m., Friday from 6:00 p.m. to 1:00 a.m., and Saturday and Sunday from 1:00 p.m. to 1:00 a.m.
7. All exterior doors shall be equipped with automatic door closers to ensure that doors remain closed when not in use.
8. Integral door stops or other means of propping doors open shall be prohibited.
9. The use of sub-woofers inside the building shall be strictly prohibited.
10. There shall be no external speakers for any audio amplification system.
11. 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.
12. All operations shall be in compliance with Title 7 (Noise Control) of the Riverside Municipal Code.

Prior to Building Permit issuance:

13. The Applicant shall submit manufacturer's cut sheets of all exterior lighting on the building, in the landscaped areas and in the parking lot as part of the exterior lighting plan. Light sources shall be shielded to minimize off-site glare, shall not direct light skyward and shall be directed away from adjacent properties and public rights-of-ways. If building-mounted lights are proposed, down-lights shall be utilized. Light poles shall not exceed fourteen (14) feet in height, including the height of any concrete or other base material, within fifty (50) feet of any residentially zoned property.

Standard Conditions:

14. There shall be a one-year time limit in which to commence operation of the project beginning the day following approval by the Planning Commission.
15. The Conditional Use Permit and associated Variance and Public Convenience or Necessity Permit, may be granted time extensions by the Community & Economic Development Director, or their designee, up to a total of five years beyond the original approval expiration date prior to issuance of any building permits. At the exhaustion of Community & Economic Development Director approved extensions, the original Approving or Appeal Authority may grant one final permit extension of up to two years following a public hearing noticed pursuant to Section 19.670.030 (Notice of Hearing for Discretionary Actions Requiring a Public Hearing). A public hearing notification fee is required of the applicant in such case in addition to a time extension fee. Once a building permit has been issued, the development will be considered vested and time extensions are no longer needed.
16. Within 30 days of approval of this case by the City, the 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.
17. The Conditional 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.
18. This permit is issued based upon the plans 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.
19. The Applicant 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.
20. Failure to abide by all conditions of this Conditional Use Permit shall be cause for revocation.

21. 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.
22. 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
23. The plans shall be submitted for plan check review to assure that all required conditions have been met prior to exercising of this permit.
24. 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.

- **Fire Department**

25. Requirements for construction shall follow the currently adopted California Building Code and California Fire Code with City of Riverside amendments.
26. Construction plans shall be submitted and permitted prior to construction.
27. Fire Department access shall be maintained during all phases of construction.
28. Specify the use and occupancy of each space within the building.
29. Justify the construction type(s), building height and size of the proposed building(s) through an Area Analysis in accordance with Chapters 5 and 6 of the California Building Code.
30. Specify all fire resistive design elements, walls, and horizontal assemblies in accordance with Chapter 7 of the California Building Code.
31. Provide a complete exiting analysis for each story in accordance with Chapter 10 of the California Building Code. Clarify and justify required exits versus provided.
32. Occupant load calculations per story shall be provided with the exiting analysis for the building in accordance with Chapter 10 of the CBC.

Assembly Group A occupancies shall be provided with a manual fire alarm system having an occupant load of 300 or more. See C.F.C. exceptions and specific requirements for occupant loads of 1000 or more. Submit plans and obtain approvals from the Fire Department prior to installation. New fire alarm systems shall be UL, FM or ETL certificated for the life of the system. Central Station shall be UL UUFX.

- **Police Department**

Alcohol Conditions:

33. The business shall follow the guidelines of the Alcohol Beverage Control (ABC) requirements for acting as a bona fide public eating establishment (Compliance with Section 23038 of the Business and Professions Code).
34. 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.
35. No alcoholic beverages are to be sold or dispensed for consumption beyond the premises.
36. No alcohol sales shall be permitted after 2:00 a.m.
37. No alcoholic beverages shall be permitted on the property adjacent to the licensed

premises under the control of the licensee.

38. The licensee/employees shall attend a 4-hour License, Education, Alcohol and Drugs (LEAD) class presented by the Riverside Office of the Alcoholic Beverage Control within 90-days of obtaining an ABC sales license.

Entertainment Conditions:

39. Applicant or Applicant's designated representative must be present on the Premises during all hours that the facility is open.
40. Applicant or Applicant's designated representative shall make reasonable efforts to prevent the admittance of any person whose conduct is described in Penal Code Section 415 (fighting, loud noise, offensive words in public places) or 647 (disorderly conduct) at the premises or on any parking lot or similar facility used by the establishment. Applicant or Applicant's designated representative shall make reasonable efforts to remove any persons exhibiting such conduct from the establishment.
41. Applicant or Applicant's designated representative shall make reasonable efforts to prevent the admittance of any obviously intoxicated person. A person is "obviously intoxicated" when he or she exhibits readily apparent outward manifestations of drug or alcohol intoxication, including but not limited to, inability to walk or stand in a normal manner, bloodshot or glassy eyes, flushed face, incoherent or slurred speech, alcoholic breath, belligerence or other loud or boisterous conduct, extreme agitation or nervousness or mental confusion.
42. Applicant or Applicant's designated representative shall obey all laws applicable to noise abatement, including those contained in Title 7 of the Riverside Municipal Code.
43. Applicant or Applicant's designated representative shall make reasonable efforts to control the conduct of patrons so as to prevent or minimize disorderly or unlawful conduct within the establishment and within fifty (50) feet of the establishment. The distance shall be measured in a straight line from the property line of the establishment.
44. Applicant or Applicant's designated representative shall use reasonable efforts to cause the orderly dispersal of individuals from the vicinity of the establishment at closing time, and shall not allow them to congregate within fifty (50) feet of the establishment in a disorderly fashion. The distance shall be measured in a straight line from the property line of the establishment.
45. It is unlawful for Applicant or Applicant's designated representative to allow any person to bring an alcoholic beverage and/or drugs onto the premises unless such action is allowed by the establishment's ABC License.
46. The Premises 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.
47. The Chief of Police may require Applicant or Applicant's designated representative to close down operations and disperse all patrons for the remainder of its daily operation whenever conduct by disorderly patrons reaches a magnitude that presents an immediate threat to the public safety or well-being of the patrons and general public in the vicinity. It is unlawful for any person to fail to comply with any directive issued by the Chief of Police.
48. Outdoor amplified music and Entertainment, if permitted, will be subject to the following restrictions: a) sound amplifying equipment may be used only between 10:00 a.m. and 10:00 p.m. Sunday through Thursday, and 10:00 a.m. and midnight Friday and Saturday.

Permittee agrees that the following standard is reasonable: Noise emanating from Permittee's premises shall not be unreasonably loud or disturbing in light of the facts and circumstances then prevailing within fifty feet (50') of the perimeter of the premises in all directions. Sound and amplification equipment shall be monitored during business hours to ensure that audible noise remains at acceptable levels in accordance with Title 7 of the Riverside Municipal Code.

49. Applicant or Applicant's designated representative shall place or post conditions on the premises in a place easily accessible by City staff, including law enforcement personnel.
50. The lawful conduct of activity Applicant or Applicant's designated representative shall be limited to those activities expressly indicated on the application. Any change in use as to entertainment will require the approval of the Chief of Police and/or the Planning Division.
51. Applicant or Applicant's designated representative shall not allow others to use or rent his/her permitted premises for any other use not listed in the application.
52. Applicant or Applicant's designated representative shall be responsible for all entertainment at the location, including those conducted by promoters. Applicant and any promoter hired by Applicant, shall obtain a City Business Tax Certificate prior to conducting business. Applicant shall provide all promoters and agents hired with a copy of the approved Permit, which shall include a copy of the approved conditions of operation.
53. If Applicant or Applicant's designated representative utilizes an independent third party event promoter to provide entertainment related services resulting in any public safety call for service, the City reserves the right to remove and/or restrict the use of any independent third party promoters.
54. Applicant or Applicant's designated representative shall conduct all aspects of his or her operation, including before- and after-hours deliveries and maintenance, in consideration of businesses and residences located nearby.
55. No adult entertainment, as defined by Title 19 of the Riverside Municipal Code, shall be conducted on the permitted premises. Applicant or Applicant's designated representative shall not allow, permit, procure, or encourage, anyone to expose male or female genitals, cleft of the buttocks, the areola or any portion of the female breast below the areola, while at or inside the business.
56. Current occupancy loads shall be posted at all times, and Applicant or Applicant's designated representative shall have an effective system to keep count of the number of occupants present at any given time and provide that information to public safety personnel upon request.
57. If Applicant's operations give rise to a substantial increase in complaints/calls for police service, Applicant shall increase security staff, implement the use of electronic metal detection equipment, increase outside lighting, or make other changes to the premises or operation as the Chief of Police determines are necessary to protect the safety of the public. In the event of a conflict on this issue between the requirements of this Entertainment Permit and any permit issued by the Alcoholic Beverage Commission, the more stringent regulation shall control.
58. Applicant or Applicant's designated representative shall be responsible for maintaining an adequate security staff, per it's security plan, to supervise patrons and those waiting to enter. Security staffing requirements shall be as follows:
 - a. Potential patrons awaiting entry in a defined "queue" shall be counted toward the calculation of required security staffing levels.

- b. For up to fifty (50) people inside (or in a defined queue waiting to enter) an establishment, the Permittee shall provide a minimum of one (1) uniformed, licensed by the state of California, security guard per floor.
 - c. There shall be one (1) additional guard for each subsequent increment or each partial increment of fifty (50), plus one (1) guard per each additional floor.
 - d. The Chief of Police may relax these staffing levels during daylight hours, or during hours in which the primary activity in the establishment is dining, if he determines that a lower level of security staffing is consistent with the protection of public health and safety.
 - e. The attire of each security guard shall clearly indicate the guard's affiliation with the establishment by means of a pin, shirt, or other clearly-visible form of identification.
59. Applicant shall install and maintain a video surveillance system that monitors no less than the front and rear of the business with full view of the public rights-of-way and any parking lot under the control of Applicant. The video system must be capable of delineating on playback the activity and physical features of persons and areas within the premises. Recordings shall be retained for a minimum of thirty (30) days and be accessible upon request by the Riverside Police Department.
 60. Applicant or Applicant's designated representative shall work directly with the Riverside Police Department at least 2 weeks prior to events where bands or other performances are expected to draw large crowds.
 61. Applicant or Applicant's designated representative shall mechanically keep an accurate count of persons in the Entertainment Establishment and make the count available to the Riverside Police Department upon request.
 62. Applicant or Applicant's designated representative shall ensure that there is no loitering and/or littering outside any of the entrance/exit doors at all times when open for business.
 63. Applicant or Applicant's designated representative shall take steps to prevent patrons from loitering in the immediate area, littering, or making excessive noise at the conclusion of each event and at closing time.
 64. Applicant or Applicant's designated representative shall not distribute, post or attach, and shall be responsible for ensuring that its promoters and or agents do not distribute, post or attach, advertising matter on public and private property, including vehicles.
 65. Any graffiti painted or marked upon the premises or on any adjacent area under the control of Applicant shall be removed or painted over within twenty-four (24) hours of being applied.
 66. Insofar as is practicable, during the hours of operation, the front door of the establishment, or any door fronting on a public right-of-way, including an alley, shall remain closed at all times to minimize noise.
 67. Windows shall not be obscured by the placement of signs, including signs advertising alcoholic products, dark window tinting, shelving, racks or similar obstructions.

Grounds Conditions:

68. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easy discernment of the appearance and conduct of all persons on or about the parking lot.
69. The licensee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.

70. The licensee shall be responsible for maintaining free of graffiti the area adjacent to the premises over which they have control.
71. No loitering shall be permitted on any property adjacent to the licensee's premises and under control of the licensee.

Compliance Conditions:

72. A copy of the Conditional Use Permit and the Conditions of Approval shall be available at the site and presented to City staff, including the Riverside Police Department and Code Enforcement upon request.
73. The Conditional Use Permit shall be subject to a mandatory six-month review following the issuance of the Conditional Use Permit. This review shall be conducted by the Planning Division in consultation with other agencies, including the State ABC, the Riverside Police Department and the City Code Enforcement Division. In addition to any other stipulations, three or more sustained complaints to the Riverside Police Department within any 12-month period regarding disturbances caused by patrons or staff at the site shall be grounds for revocation proceedings.