



# **PLANNING COMMISSION AGENDA REPORT**

VII.4

MEETING DATE: APRIL 12, 2010

ITEM NUMBER:

**SUBJECT:** REVIEW OF ZONING APPLICATION ZA-09-42  
AMENDMENT TO MINOR CONDITIONAL USE PERMIT ZA-03-11 FOR AVALON BAR  
820 WEST 19TH STREET

**DATE:** APRIL 1, 2010

**FOR FURTHER INFORMATION CONTACT:** WENDY SHIH, ASSOCIATE PLANNER  
(714) 754-5136 ([WSHIH@CI.COSTA-MESA.CA.US](mailto:WSHIH@CI.COSTA-MESA.CA.US))

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## **DESCRIPTION**

Review of Zoning Administrator's approval of an amendment to minor conditional use permit (MCUP) ZA-03-11 for Alcoholic Beverage Control (ABC) license upgrade, extended hours of operation, live entertainment/dancing, and to legalize outdoor patio enclosure for Avalon Bar.

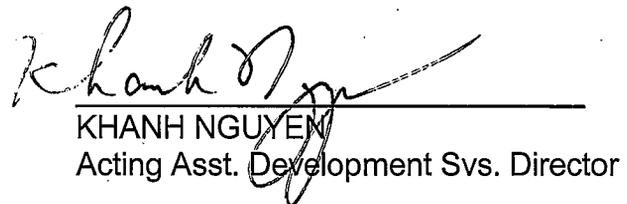
## **APPLICANT**

Commissioner Colin McCarthy filed the review request. Shelly Leonard is the applicant (owner of Avalon Bar) and representing the property owner, Bill Keeler.

## **RECOMMENDATION**

Uphold, reverse, or modify Zoning Administrator's approval of the request by adoption of Planning Commission resolution.

  
WENDY SHIH  
Associate Planner

  
KHANH NGUYEN  
Acting Asst. Development Svs. Director

**BACKGROUND/ANALYSIS**

***Site Location***

The property is located in the City's Westside, on the north side of West 19<sup>th</sup> Street between Federal Avenue and Placentia Avenue. It is zoned C1 (Local Business) and has a General Plan designation of General Commercial. It is also located within the 19 West Urban Plan area. However, because the application is not for new development, it does not activate the provisions of the urban plan.

The property is surrounded by the following uses:

	<b>ZONE</b>	<b>USE</b>
<b>NORTH</b>	MG	Hurley International (wholesale/manufacturing)
<b>EAST</b>	C1	Commercial/retail
<b>WEST</b>	C1	Tire shop
<b>SOUTH</b>	C1	Vista Center (multi-tenant commercial center across West 19 <sup>th</sup> Street)

The property contains a 2,500 square-foot building and is occupied by the following businesses:

<b>820 W. 19<sup>th</sup> St.</b>	Avalon Bar (830 square feet)
<b>816 W. 19<sup>th</sup> St.</b>	Keeler Upholstery (1,670 square feet)

***History (Zoning Application ZA-03-11)***

1994 - 2002

Irma's Bar occupied the 830 square-foot suite. The bar was nonconforming because it predated the City's requirement for a minor conditional use permit (MCUP) to remain open past 11 p.m. and it did not meet current parking requirements. The bar had a Type 42 (On-Sale Beer and Wine for Public Premises) Alcoholic Beverage Control (ABC) license, which was revoked in January 2002. Since Irma's had been closed for more than six months, resulting in the loss of its nonconforming status, a MCUP was required for the reestablishment of a bar on the property.

April 21, 2003

City Council unanimously approved, on appeal, Zoning Application ZA-03-11 to allow sale of alcoholic beverages for on-site consumption after 11 p.m. and to deviate from shared parking requirements for the reestablishment of the bar as Avalon.

The Council approved ZA-03-11 for Avalon Bar because it allowed for a parking lot, landscaping, and façade improvements and included conditions to minimize impacts on surrounding properties. The bar also operates after the neighboring businesses are closed and has permission to use their parking during offset hours, which provides more parking than required by Code for the bar (see parking discussion below).

### ***Proposed MCUP Amendment***

The applicant requests the following amendments to Zoning Application ZA-03-11:

1. Upgrade existing Type 42 (On-Sale Beer and Wine for Public Premises) license to a Type 48 (On-Sale General for public premises) license.
2. Modify the hours of operation to allow the bar to remain open until 2 a.m. daily. The bar does not open for business until 8 p.m. Approved hours of operation under ZA-03-11 are as follows:
  - Mondays through Thursdays - 5 p.m. to midnight
  - Fridays and Saturdays - 5 p.m. to 1 a.m.
  - Sundays - 11 a.m. to 11 p.m.
3. Modify the operational characteristics to allow live entertainment and dancing.
4. Legalize the construction of an outdoor patio enclosure at the front of the building.

### ***Zoning Administrator's Decision***

Following public notice of the proposed amendment, staff received verbal statements from two people opposing the approval of the MCUP and two verbal statements and one letter supporting the approval (Attachment 6).

The Zoning Administrator reviewed the comments and approved the MCUP based on the following:

*The census tract in which the property is located and adjoining census tracts do not have undue concentration of on-sale ABC licenses.* According to the State Department of Alcoholic Beverage Control (ABC), the ratio of the number of alcoholic beverage licenses to population within the census tract does not exceed the countywide ratio. The census tract (636.010) currently has three on-sale licenses (Avalon Bar, Garibaldi de Noche, and Avilas El Ranchito restaurant); four on-sale licenses are allowed.

The two adjoining census tracts closest to the property also do not have undue concentration of on-sale licenses according to ABC. In census tract 636.040, four on-sale licenses are issued (includes Detroit Bar and three restaurants); five are allowed. In census tract 637.010, none are issued; eight are allowed. Tiki Bar and Lions Den are located in census tract 636.050, which contains 12 on-sale licenses while 7 are allowed. However, 10 of the 12 licenses are for restaurants rather than bars.

The ABC license upgrade from Type 42 to Type 48 would not increase the number of on-sale licenses in the area. The current type 42 license would be surrendered when the type 48 license is issued. A census tract map and a map showing existing bars in the area are attached for reference (Attachment 3).

The Police Department does not have any objections to the amendment. The Police Department has reviewed the request and has no objections to the proposal. The bar has been operating until 2 a.m. on the weekends with DJ and/or live entertainment. The Police Department has indicated that calls for service for the bar have been low and do not include drunk in public, noise disturbance, or parking related issues. Both Police and Code Enforcement records indicate that this property has not been a problem site. Staff has reviewed the existing permit, in consultation with the Police Department, on an annual basis since the bar opened in 2003 and has not found any problems with the bar.

Live entertainment and dancing will not substantially intensify the existing use on the property or negatively impact surrounding properties. According to the applicant, the business continues to promote a lounge style environment as originally presented and approved. The applicant proposes to include DJ and live entertainment, which would include music performances from local bands. Although not encouraged by the applicant, spontaneous dancing has occurred in conjunction with the DJ and/or live entertainment performances. The entertainment and dancing is not anticipated to generate adverse impacts because the bar is located more than 200 feet away from residential properties and a condition is included requiring the rear door to remain closed during performances. DJ and live entertainment performances have occurred in the past without complaint.

The patio enclosure provides greater security and visual enhancement from the street. The enclosure is approximately 160 square feet and occupies one previously existing, nonconforming parallel parking space within the front setback (see parking discussion below). The applicant constructed the enclosure for patrons to smoke in a confined area that is monitored by a security guard at all times. The enclosure minimizes smoking outside in the parking or driveway areas and provides screening and a landscape planter along West 19<sup>th</sup> Street. No food or beverage service is provided in this area.

No parking impacts are anticipated with the patio enclosure. The parking for this property was nonconforming (15 spaces required for both bar and upholstery shop based on shared parking; 7 spaces were provided on-site). As mentioned before, Council approved a parking deviation for the bar based on off-site and offset hours of operation from adjoining businesses. The Zoning Code requires minimum eight parking spaces for the bar when the upholstery shop is closed; six spaces are provided on-site with the elimination of one parking space for the patio enclosure and the adjacent property to the west provides seven additional parking spaces after business hours. According to the applicant, the parking space in front of the bar was rarely used and appeared unattractive from the street. The bar has not generated any complaints related to parking, even after the loss of the space to the smoking patio. Additionally, since no service is provided on the patio, parking is not required to be provided for this area. Conditions are included requiring striping of the parking lot and maintaining the lot free of litter/storage and available for parking at all times.

## ***Application for Review***

On March 22, 2010, Commissioner Colin McCarthy filed an application for review of the MCUP because he felt a review, at a public hearing, was deserved due to comments from the public against approval (Attachment 1).

## **GENERAL PLAN CONFORMITY**

The General Plan permits a wide range of commercial uses within the General Commercial land use designation for the property. Therefore, approval of the MCUP with modified conditions of approval for the existing bar is consistent with the General Plan. Although the application does not activate the 19 West Urban Plan, it meets the intent of the plan for reinvestment and improvements for the Westside.

## **ALTERNATIVES**

The Planning Commission may consider the following alternatives:

1. *Uphold Zoning Administrator's decision and approve the MCUP.* This would allow the amendment to Zoning Application ZA-03-11 as proposed, subject to conditions and Code requirements.
2. *Reverse Zoning Administrator's decision and deny the MCUP.* If Commission denies the application, no changes to Zoning Application ZA-03-11 may be permitted and a similar request may not be submitted for six months. The outdoor patio enclosure would be required to be demolished; all conditions of approval for ZA-03-11 would still apply to the property.
3. *Modify Zoning Administrator's decision.* The Commission may modify Zoning Administrator's approval of the MCUP by approving or denying any portion of the amendment and/or by adding or deleting any conditions of approval.

## **ENVIRONMENTAL DETERMINATION**

The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities. If the project is denied, it is exempt from the provisions of CEQA Section 15270(a) for Projects Which Are Disapproved.

## **CONCLUSION**

The Zoning Administrator approved the applicant's request because the census tract in which the property is located and adjoining census tracts do not have undue concentration of on-sale ABC licenses; the Police Department does not have any objections to the amendment; the live entertainment and dancing will not substantially intensify the existing use on the property; and the patio enclosure provides greater security and visual enhancement from the street without creating

parking impacts. The Zoning Administrator also believes approval of the MCUP, with related conditions of approval, is consistent with the General Plan and the intent of the 19 West Urban Plan for reinvestment and improvements for the Westside. Commissioner McCarthy filed an application for review of the MCUP because he felt a review, at a public hearing, was deserved due to comments filed against the project.

- Attachments:
1. Application for Review
  2. Draft Planning Commission Resolutions
  3. Census Tract Map and Surrounding Bars Map
  4. Plans
  5. Zoning Administrator's Approval Letter
  6. Public Comments

Distribution: Development Services Director  
Deputy City Attorney  
City Engineer  
Fire Protection Analyst  
Staff (4)  
File (2)

Shelly Leonard  
302 Bowling Green Dr.  
Costa Mesa, CA 92626

Bill Keeler  
820 W. 19<sup>th</sup> St.  
Costa Mesa, CA 92627

File: 041210ZA0942Review	Date: 040110	Time: 4:00 p.m.
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City of Costa Mesa

ATTACHMENT 1

- Appeal of Planning Commission Decision/Rehearing - \$1,220.00
- Appeal of Zoning Administrator/Staff Decision - \$690.00

APPLICATION FOR APPEAL, REHEARING, OR REVIEW

Applicant Name\* \_\_\_\_\_

Address \_\_\_\_\_

Phone \_\_\_\_\_ Representing \_\_\_\_\_

REQUEST FOR:  REHEARING  APPEAL  REVIEW\*\*

Decision of which appeal, rehearing, or review is requested: (give application number, if applicable, and the date of the decision, if known.)

RA 09-42- 820 W. 19th Street

Decision by: Zoning Administrator

Reasons for requesting appeal, rehearing, or review:

Comments from public against approval.

Colin McCarthy  
Colin McCarthy

Date: 3/22/10

Signature:

\*If you are serving as the agent for another person, please identify the person you represent and provide proof of authorization.  
\*\*Review may be requested only by Planning Commission, Planning Commission Member, City Council, or City Council Member

For office use only - do not write below this line

SCHEDULED FOR THE CITY COUNCIL/PLANNING COMMISSION MEETING OF:

If appeal, rehearing, or review is for a person or body other than City Council/Planning Commission, date of hearing of appeal, rehearing, or review:

ATTACHMENT 2

RESOLUTION NO. PC-10-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA UPHOLDING ZONING ADMINISTRATOR'S DECISION AND APPROVING ZONING APPLICATION ZA-09-42**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Shelly Leonard, representing Bill Keeler, with respect to the real property located at 820 West 19<sup>th</sup> Street, requesting approval of an amendment to Minor Conditional Use Permit ZA-03-11 for alcoholic beverage control (ABC) license upgrade, extended hours of operation, live entertainment/dancing, and outdoor patio enclosure for Avalon Bar, in the C1 zone;

WHEREAS, on March 18, 2010, the Zoning Administrator approved Zoning Application ZA-09-42;

WHEREAS, a request for review and appeal were filed by Planning Commissioners on March 22, 2010;

WHEREAS, Planning Commission held a duly noticed public hearing on April 12, 2010, with all persons provided an opportunity to speak for and against the proposed project.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **APPROVES** Zoning Application ZA-09-42 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the Staff Report for Zoning Application ZA-09-42 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B", as well as with compliance of all applicable Federal, State, and local laws Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

**PASSED AND ADOPTED this 12<sup>th</sup> day of April 2010.**

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James Righeimer, Chair  
Costa Mesa Planning Commission



**EXHIBIT "A"****FINDINGS (for approval)**

1. The information presented substantially complies with Section 13-29(e) of the Costa Mesa Municipal Code in that:
  - a. The proposed use is compatible and harmonious with uses on-site as well as those on the surrounding properties.
  - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
  - c. The General Commercial land use designation permits a wide range of commercial uses. Approval of the Zoning Application ZA-09-42 for an amendment to the existing bar is consistent with the General Plan.
  - d. The planning application is for a project-specific case and does not establish a precedent for future development.
2. The minor conditional use permit amendment, subject to conditions, substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the area. Specifically, the census tract in which the property is located and adjoining census tracts do not have undue concentration of on-sale alcohol licenses. The Police Department has no objections to the amendment and records indicate that the bar has not generated any noise disturbance or parking complaints, therefore, the live entertainment, dancing, and smoking patio will not substantially intensify the existing use on the property. Additionally, the patio enclosure provides greater security and visual enhancement from the street. Granting the minor conditional use permit amendment will not allow a use, density or intensity, which is not in accordance with the General Plan designation for the property.
3. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
4. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**EXHIBIT "B"****CONDITIONS OF APPROVAL**

- Plng. 1. The conditions of approval and Code requirements of Minor Conditional Use Permit ZA-03-11 are hereby updated/modified and incorporated into this application approval.
2. A copy of the conditions of approval for the minor conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
3. The use shall be limited to the type of operation described in this staff report. The applicant shall notify Planning Division of any expansion or modification of the use or hours of operation for the bar and/or adjoining businesses, which may require processing of an amendment to the minor conditional use permit.
4. Hours of operation shall be limited to 8 p.m. to 2 a.m. Monday through Saturday and 11 a.m. to 2 a.m. on Sunday.
5. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of the management to ensure that this limit is not exceeded at any time.
6. There shall be no room or designated area reserved for the exclusive use of designated persons or "private club members".
7. There shall be no sales of alcoholic beverages for off-site consumption.
8. The parking lot behind the building shall be double striped per City standards for six parking stalls.
9. The exterior of the building shall be kept free of litter and storage items. The driveway and parking spaces shall remain available for vehicle access and parking only.
10. The parking lot shall be posted with signs directing customers and employees to minimize noise disturbance when entering their cars and leaving the parking lot.
11. The applicant shall post signs stating parking is for bar patrons and that patrons shall not park on nearby residential streets.
12. The applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas over which the applicant has control, to prevent trash, graffiti, and loitering. The applicant shall further provide adequate lighting above the entrance and exit areas to make visible the identity and actions of all persons entering and leaving the premises.
13. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.
14. All operational conditions and restrictions shall be complied with, regardless of operating hours, 24 hours a day, seven days a week.
15. DJ and/or live entertainment shall not be audible beyond the area under the control. The rear door shall remain closed at all times during performances and/or with amplified music.
16. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or operator

shall institute whatever security and operational measures are necessary to comply with this requirement.

17. If parking shortages or other parking-related problems arise, the applicant shall institute whatever physical or operational measures are necessary, as determined by the Planning Division, to minimize or eliminate the problem. Reduction or alterations to the live entertainment, dancing, and/or outdoor smoking patio area may be required.
18. At least one employee shall be assigned to security at all times the business is open. This employee shall not have other duties or responsibilities that would interfere with the ability to respond to and deal with security issues.
19. Live entertainment, amplified music and/or dancing may only be permitted subject to City issuance of a "public entertainment permit." Contact Code Enforcement at (714) 754-5623 for application information.
20. The licensee shall not employ or use the services of any full- or part-time active or reserve peace officer currently employed by the City of Costa Mesa or any contiguous agency for security purposes.
21. All sales and service staff (within 90 days of hire) shall complete Responsible Beverage Service (RBS) training with a provider approved by the California Department of Alcoholic Beverage Control. A copy of the training certificates shall be kept on premises and presented to any authorized City official upon request.

**RESOLUTION NO. PC-10-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF COSTA MESA REVERSING ZONING  
ADMINISTRATOR'S DECISION AND DENYING ZONING  
APPLICATION ZA-09-42**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY  
RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Shelly Leonard, representing Bill Keeler, with respect to the real property located at 820 West 19<sup>th</sup> Street, requesting approval of an amendment to Minor Conditional Use Permit ZA-03-11 for alcoholic beverage control (ABC) license upgrade, extended hours of operation, live entertainment/dancing, and outdoor patio enclosure for Avalon Bar, in the C1 zone;

WHEREAS, on March 18, 2010, the Zoning Administrator approved Zoning Application ZA-09-42;

WHEREAS, a request for review and appeal were filed by Planning Commissioners on March 22, 2010;

WHEREAS, Planning Commission held a duly noticed public hearing on April 12, 2010, with all persons provided an opportunity to speak for and against the proposed project.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **DENIES** Zoning Application ZA-09-42 with respect to the property described above.

**PASSED AND ADOPTED this 12<sup>th</sup> day of April 2010.**

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James Righeimer, Chair  
Costa Mesa Planning Commission

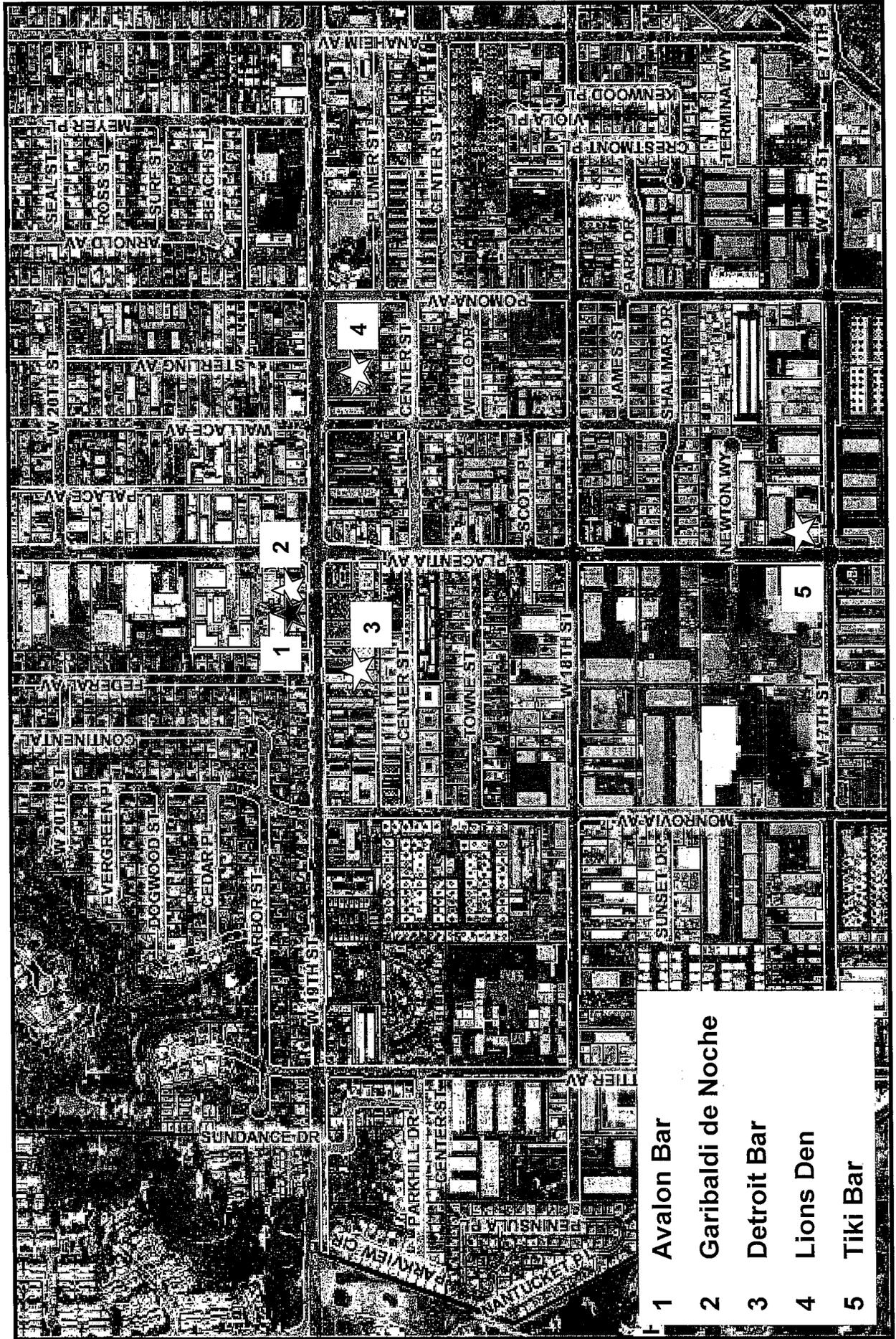
**EXHIBIT "A"**

**FINDINGS (for denial)**

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29 (e) because:
  - a. The proposed use is not compatible and harmonious with uses both on site and those on surrounding properties.
  - b. The project is not consistent with the General Plan.
  
- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) because the proposed use is not compatible with developments in the same general area. Granting the minor conditional use permit will be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Granting the minor conditional use permit will allow a use, density, or intensity which is not in accordance with the General Plan designation for the property.
  
- C. The Costa Mesa Planning Commission has denied ZA-09-42. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a), CEQA does not apply to this project because it has been rejected and will not be carried out.

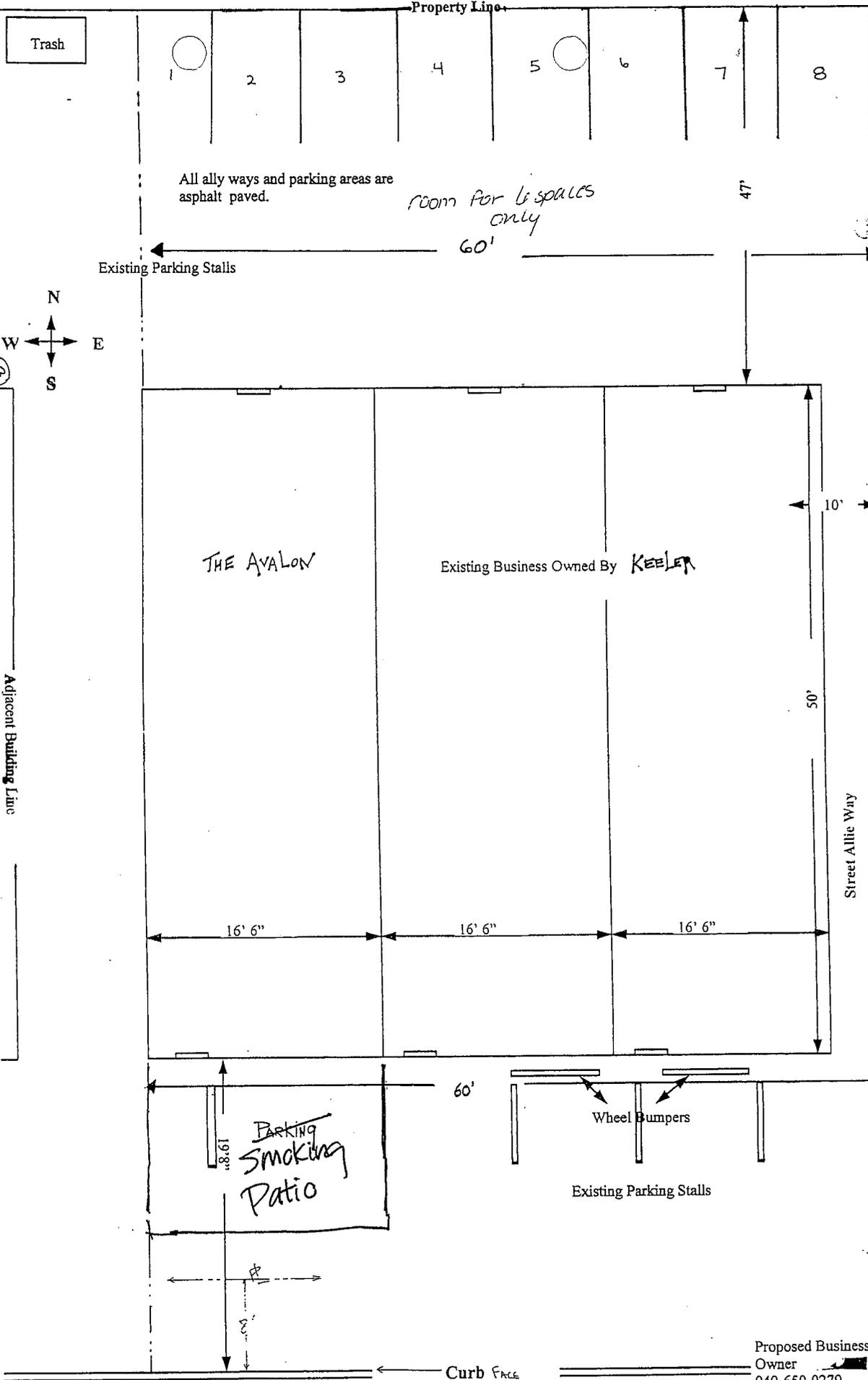


# Existing Bars in the Surrounding Area



- 1 Avalon Bar
- 2 Garibaldi de Noche
- 3 Detroit Bar
- 4 Lions Den
- 5 Tiki Bar



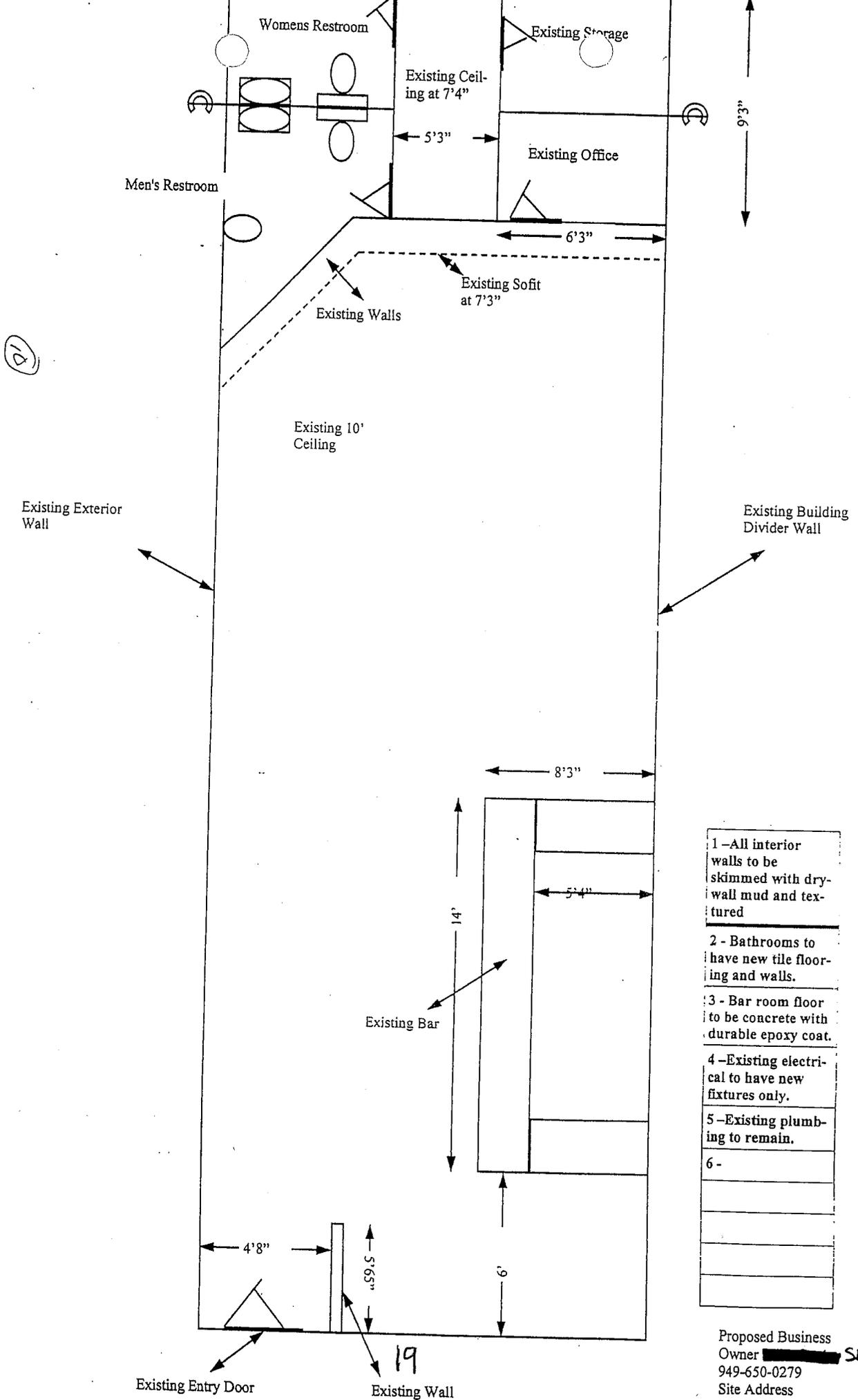


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18

19th Street  
Site Plan

Proposed Business  
Owner  
949-650-0279  
Site Address  
820 W 19th Street  
Costa Mesa, CA. 9



- 1 - All interior walls to be skimmed with dry-wall mud and textured
- 2 - Bathrooms to have new tile flooring and walls.
- 3 - Bar room floor to be concrete with durable epoxy coat.
- 4 - Existing electrical to have new fixtures only.
- 5 - Existing plumbing to remain.
- 6 -

Proposed Business Owner XXXXXXXXXX SHE  
 949-650-0279  
 Site Address  
 870 W 10th Street



# CITY OF COSTA MESA

P.O. BOX 1200 • 77 FAIR DRIVE • CALIFORNIA 92628-1200

DEVELOPMENT SERVICES DEPARTMENT

ATTACHMENT 5

March 18, 2010

Shelly Leonard  
302 Bowling Green Dr.  
Costa Mesa, CA 92626

**RE: ZONING APPLICATION ZA-09-42  
AMENDMENT TO MINOR CONDITIONAL USE PERMIT ZA-03-11 FOR ABC  
(ALCOHOLIC BEVERAGE CONTROL) LICENSE UPGRADE, EXTENDED  
HOURS OF OPERATION, LIVE ENTERTAINMENT/DANCING, AND  
OUTDOOR PATIO ENCLOSURE FOR AVALON BAR  
820 WEST 19<sup>TH</sup> STREET, COSTA MESA**

Dear Ms. Leonard:

Review of the minor conditional use permit for the above-referenced project has been completed. The application, as described in the attached project description, has been approved, based on the findings and subject to the conditions of approval (attached). The decision will become final at 5 p.m. on March 25, 2010, unless appealed by an affected party (including filing of the necessary application and payment of the appropriate fee) or by a member of the Planning Commission or City Council.

If you have any questions regarding this letter, please feel free to contact the project planner, Wendy Shih, at 714-754-5136 between 1 p.m. and 5 p.m. or via email at [wshih@ci.costa-mesa.ca.us](mailto:wshih@ci.costa-mesa.ca.us)

Sincerely,

WILLA BOUWENS-KILLEEN, AICP  
Zoning Administrator

Attachments:      Project description  
                         Findings  
                         Conditions of approval and Code Requirements  
                         Census Tract Map and Surrounding Bars Map

cc:      Engineering  
         Fire Protection Analyst  
         Building Division

Bill Keeler  
820 W. 19<sup>th</sup> St.  
Costa Mesa, CA 92627

20

**PROJECT DESCRIPTION**

***Project Location***

- The property is located in the City's Westside, on the north side of West 19<sup>th</sup> Street between Federal Avenue and Placentia Avenue. It is zoned C1 (Local Business) and has a General Plan designation of General Commercial. It is also located within the 19 West Urban Plan area. However, because the application is not for new development, it does not activate the provisions of the urban plan.
- The property is surrounded by the following uses:

	<b>ZONE</b>	<b>USE</b>
<b>NORTH</b>	MG	Hurley International (wholesale/manufacturing)
<b>EAST</b>	C1	Commercial/retail
<b>WEST</b>	C1	Tire shop
<b>SOUTH</b>	C1	Vista Center (multi-tenant commercial center across West 19 <sup>th</sup> Street)

- The property contains a 2,500 square-foot building and is occupied by the following businesses:

<b>820 W. 19<sup>th</sup> St.</b>	Avalon Bar (830 square feet)
<b>816 W. 19<sup>th</sup> St.</b>	Keeler Upholstery (1,670 square feet)

***History (Zoning Application ZA-03-11)***

- Irma's Bar occupied the 830 square-foot suite from 1994 to 2002. The bar was nonconforming because it predated the City's requirement for a minor conditional use permit (MCUP) to remain open past 11 p.m. and it did not meet parking requirements. The bar had a Type 42 (On-Sale Beer and Wine for Public Premises) Alcoholic Beverage Control (ABC) license, which was revoked in January 2002. Since Irma's had been closed for more than six months, resulting in the loss of its nonconforming status, a MCUP was required for the reestablishment of a bar on the property.
- On April 21, 2003, City Council unanimously approved, on appeal, Zoning Application ZA-03-11 to allow sale of alcoholic beverages for on-site consumption after 11 p.m. and to deviate from shared parking requirements for the reestablishment of a bar as Avalon.
- The Council approved ZA-03-11 for Avalon Bar because it allowed for a parking lot, landscaping, and façade improvements and included conditions to minimize impacts on surrounding properties. The bar also operates after the neighboring businesses are closed and has permission to use their parking during offset hours, which provides more parking than required by Code for the bar (see parking discussion below).

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2. Modify the hours of operation to allow the bar to remain open until 2 a.m. daily. The bar does not open for business until 8 p.m. Approved hours of operation under ZA-03-11 are as follows:
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  - Sundays - 11 a.m. to 11 p.m.
3. Modify the operational characteristics to allow live entertainment and dancing.
4. Legalize the construction of an outdoor patio enclosure at the front of the building.

### ***Analysis***

Staff supports the proposed amendment for the following reasons:

1. The census tract in which the property is located and adjoining census tracts do not have undue concentration of on-sale ABC licenses. According to the State Department of Alcoholic Beverage Control (ABC), the ratio of the number of alcoholic beverage licenses to population within the census tract does not exceed the countywide ratio. The census tract (636.010) currently has three on-sale licenses (Avalon Bar, Garibaldi de Noche, and Avilas El Ranchito restaurant); four on-sale licenses are allowed.

The two adjoining census tracts closest to the property also do not have undue concentration of on-sale licenses according to ABC. In census tract 636.040, four on-sale licenses are issued (includes Detroit Bar and three restaurants); five are allowed. In census tract 637.010, none are issued; eight are allowed. Tiki Bar and Lions Den are located in census tract 636.050, which contains 12 on-sale licenses while 7 are allowed. However, 10 of the 12 licenses are for restaurants rather than bars.

The ABC license upgrade from Type 42 to Type 48 would not increase the number of on-sale licenses in the area. The current type 42 license would be surrendered when the type 48 license is issued. A census tract map and a map showing existing bars in the area are attached for reference.

2. The Police Department does not have any objections to the amendment. The Police Department has reviewed the request and has no objections to the proposal. The bar has been operating until 2 a.m. on the weekends with DJ and/or live entertainment. The Police Department has indicated that calls for service for the bar have been low and do not include drunk in public, noise disturbance, or parking related issues. Both Police and Code Enforcement records indicate that this property has not been a problem site. Staff has reviewed the existing permit,

in consultation with the Police Department, on an annual basis since the bar opened in 2003 and has not found any problems with the bar.

3. Live entertainment and dancing will not substantially intensify the existing use on the property or negatively impact surrounding properties. According to the applicant, the business continues to promote a lounge style environment as originally presented and approved. The applicant proposes to include DJ and live entertainment, which would include music performances from local bands. Although not encouraged by the applicant, spontaneous dancing has occurred in conjunction with the DJ and/or live entertainment performances. The entertainment and dancing is not anticipated to generate adverse impacts because the bar is located more than 200 feet away from residential properties and a condition is included requiring the rear door to remain closed during performances. DJ and live entertainment performances have occurred in the past without complaint.
4. The patio enclosure provides greater security and visual enhancement from the street. The enclosure is approximately 160 square feet and occupies one previously existing, nonconforming parallel parking space within the front setback (see parking discussion below). The applicant constructed the enclosure for patrons to smoke in a confined area that is monitored by a security guard at all times. The enclosure minimizes smoking outside in the parking or driveway areas and provides screening and a landscape planter along West 19<sup>th</sup> Street. No food or beverage service is provided in this area.
5. No parking impacts are anticipated with the patio enclosure. The parking for this property was nonconforming (15 spaces required for both bar and upholstery shop based on shared parking; 7 spaces were provided on-site). As mentioned before, Council approved a parking deviation for the bar based on off-site and offset hours of operation from adjoining businesses. The Zoning Code requires minimum eight parking spaces for the bar when the upholstery shop is closed; six spaces are provided on-site with the elimination of one parking space for the patio enclosure and the adjacent property to the west provides seven additional parking spaces after business hours. According to the applicant, the parking space in front of the bar was rarely used and appeared unattractive from the street. The bar has not generated any complaints related to parking, even after the loss of the space to the smoking patio. Additionally, since no service is provided on the patio, parking is not required to be provided for this area. Conditions are included requiring striping of the parking lot and maintaining the lot free of litter/storage and available for parking at all times.
6. Consistency with the General Plan and 19 West Urban Plan. The General Plan permits a wide range of commercial uses within the General Commercial land use designation. Therefore, approval of the MCUP amendment with modified conditions of approval for the existing bar is consistent with the General Plan. Although the application does not activate the 19 West Urban Plan, it meets the intent of the plan for reinvestment and improvements for the Westside.

## **FINDINGS**

1. The information presented substantially complies with Section 13-29(e) of the Costa Mesa Municipal Code in that:
  - a. The proposed use is compatible and harmonious with uses on-site as well as those on the surrounding properties.
  - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation have been considered.
  - c. The General Commercial land use designation permits a wide range of commercial uses. Approval of the Zoning Application ZA-09-42 for an amendment to the existing bar is consistent with the General Plan.
  - d. The planning application is for a project-specific case and does not establish a precedent for future development.
2. The minor conditional use permit amendment, subject to conditions, substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the proposed use is substantially compatible with developments in the same general area. Granting the minor conditional use permit will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the area. Specifically, the census tract in which the property is located and adjoining census tracts do not have undue concentration of on-sale alcohol licenses. The Police Department has no objections to the amendment and records indicate that the bar has not generated any noise disturbance or parking complaints, therefore, the live entertainment, dancing, and smoking patio will not substantially intensify the existing use on the property. Additionally, the patio enclosure provides greater security and visual enhancement from the street. Granting the minor conditional use permit amendment will not allow a use, density or intensity, which is not in accordance with the General Plan designation for the property.
3. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
4. The project is exempt from Chapter XII, Article 3 Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

## CONDITIONS OF APPROVAL

- Plng. 1. The conditions of approval and Code requirements of Minor Conditional Use Permit ZA-03-11 are hereby updated/modified and incorporated into this application approval.
2. A copy of the conditions of approval for the minor conditional use permit must be kept on premises and presented to any authorized City official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
3. The use shall be limited to the type of operation described in this staff report. The applicant shall notify Planning Division of any expansion or modification of the use or hours of operation for the bar and/or adjoining businesses, which may require processing of an amendment to the minor conditional use permit.
4. Hours of operation shall be limited to 8 p.m. to 2 a.m. Monday through Saturday and 11 a.m. to 2 a.m. on Sunday.
5. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of the management to ensure that this limit is not exceeded at any time.
6. There shall be no room or designated area reserved for the exclusive use of designated persons or "private club members".
7. There shall be no sales of alcoholic beverages for off-site consumption.
8. The parking lot behind the building shall be double striped per City standards for six parking stalls.
9. The exterior of the building shall be kept free of litter and storage items. The driveway and parking spaces shall remain available for vehicle access and parking only.
10. The parking lot shall be posted with signs directing customers and employees to minimize noise disturbance when entering their cars and leaving the parking lot.
11. The applicant shall post signs stating parking is for bar patrons and that patrons shall not park on nearby residential streets.
12. The applicant shall secure the premises with appropriate security lighting and employee scrutiny of adjacent areas over which the applicant has control, to prevent trash, graffiti, and loitering. The applicant shall further provide adequate lighting above the entrance and exit areas to make visible the identity and actions of all persons entering and leaving the premises.
13. Any graffiti painted or marked upon the premises shall be removed or painted over within 48 hours of being applied.
14. All operational conditions and restrictions shall be complied with, regardless of operating hours, 24 hours a day, seven days a week.
15. DJ and/or live entertainment shall not be audible beyond the area under the control. The rear door shall remain closed at all times during performances and/or with amplified music.
16. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or operator shall institute whatever security and operational measures are necessary to comply with this requirement.

17. If parking shortages or other parking-related problems arise, the applicant shall institute whatever physical or operational measures are necessary, as determined by the Planning Division, to minimize or eliminate the problem. Reduction or alterations to the live entertainment, dancing, and/or outdoor smoking patio area may be required.
18. At least one employee shall be assigned to security at all times the business is open. This employee shall not have other duties or responsibilities that would interfere with the ability to respond to and deal with security issues.
19. Live entertainment, amplified music and/or dancing may only be permitted subject to City issuance of a "public entertainment permit." Contact Code Enforcement at (714) 754-5623 for application information.
20. The licensee shall not employ or use the services of any full- or part-time active or reserve peace officer currently employed by the City of Costa Mesa or any contiguous agency for security purposes.
21. All sales and service staff (within 90 days of hire) shall complete Responsible Beverage Service (RBS) training with a provider approved by the California Department of Alcoholic Beverage Control. A copy of the training certificates shall be kept on premises and presented to any authorized City official upon request.

### **CODE REQUIREMENTS**

The following list of federal, state and local laws applicable to the project has been compiled by staff for the applicant's reference. Any reference to "City" pertains to the City of Costa Mesa.

- Plng. 1. The zoning application herein approved shall be valid until revoked. The Development Services Director or his/her designee may refer the zoning application to the Planning Commission for modification or revocation at any time if, in his/her opinion, any of the following circumstances exist: 1) the use is being operated in violation of the conditions of approval; 2) the use is being operated in violation of applicable laws or ordinances or 3) one or more of the findings upon which the approval was based are no longer applicable.
2. Permits shall be obtained for all signs according to the provisions of the Costa Mesa Sign Ordinance.
  3. Street address shall be visible from the public street with numerals a minimum 12 inches in height with not less than three-fourth-inch stroke and shall contrast sharply with the background.
  4. All exits shall be clearly marked with "EXIT" signs.
  5. All requirements of the California Alcoholic Beverage Control Board shall be complied with.
- Bldg. 6. If new construction is proposed, comply with the requirements of the 2007 California Building Code, California Electrical Code, California Mechanical Code, California Plumbing Code (or the applicable adopted California Building Code, California Electrical Code, California Mechanical Code and California Plumbing Code at the time of plan submittal) and California Code of Regulations, Title 24 energy, also known as the California Building

ZA-09-42  
820 W. 19<sup>th</sup> Street ,  
March 18, 2010

Standards Code, as amended by the City of Costa Mesa.

March 17, 2010

ATTACHMENT 6

Willa Bouwens-Killeen  
Zoning Administrator, City of Costa Mesa  
Regarding: Avalon Bar, 820 W. 19<sup>th</sup> St., ZA-09-42

Dear Willa,

I'm writing in support of the requested operation changes for the Avalon Bar, 820 W. 19<sup>th</sup> Street, including an upgrade to a full liquor license and extending operating hours to 2 a.m.

The Avalon Bar is one of several cutting-edge businesses that is striving to improve West Costa Mesa, of which I've been a relentless cheerleader since I moved to the adjacent Freedom Homes/Canyon Park neighborhood in 1988.

As a member of the fledgling Westside Business Culture organization, the Avalon Bar and its owners have nurtured the arts/music/design creative element that is so important to West Costa Mesa's continued development. As a meeting place for employees and managers of companies such as Hurley, Volcom, and Paul Frank, as well as artists, musicians, and lots of neighbors from the Freedom Homes/Canyon Park tract, the Avalon Bar has become a hub of West Costa Mesa energy.

Although my own nightlife is pretty much limited to how early I can be in bed, as a longtime neighborhood activist and local Realtor specializing in the West Side, I've never heard anything but praise for the Avalon Bar from people in the neighborhood. They like the intimate physical structure, they like the people who work there, and they really like the music. They'd also like to have a real margarita or martini (which they could with a full liquor license), and they'd like to stay a little later sometimes too.

Unlike several other nearby bars, it's my understanding that the Avalon Bar has been extremely vigilant in regard to making sure its patrons are respectful of the neighborhood. The results are a very low record of calls for service from the Costa Mesa Police Department, and no complaints filed with the state alcoholic beverage control department. How many other West Costa Mesa bars can say the same thing?

Yes, some West Costa Mesa bars cause problems. But the Avalon Bar is an asset to West Costa Mesa!

Thanks for your consideration of their requests for an upgraded liquor license and extended operating hours. Please don't hesitate to call if you have any questions.

Sincerely,

*Mary Fewel*

Mary Fewel  
2000 Republic Ave.  
Costa Mesa, CA 92627  
(949) 285-2161

Metro Estates  
120 Newport Center Dr. #160  
Newport Beach, CA 92660

## **AVALON BAR COMMENTS**

820 W. 19<sup>th</sup> St. (ZA-09-42)

1. March 8, 2010

Val Skoro, owner of 859 W. 19<sup>th</sup> St. (**oppose**)

- He is strongly against allowing the bar to stay open until 2 a.m.
- Problem with transients, sleeping in front and rear of his property.
- He is against the bar having a general license.
- He has not experienced problems with this bar but is concerned with the application.

2. March 16, 2010

Michelle Martinez, owner of 1900 Federal Avenue (**oppose**)

- Opposed to approval of the application, but primarily extended hours.
- Problem with transients and noisy bar patrons, although cannot confirm that the noisy bar patrons are Avalon's.

3. March 17, 2010

Carlos, resident on Federal Avenue (**support**)

- Supports approval of the application.
- Avalon is an improvement over previous bar.
- Nice fascia and patio fence, improvement to the street.
- Upgrade to the neighborhood.
- Many in the neighborhood agree.

4. March 18, 2010

Steve Monroe, owner of 21 Latitude Court in Newport Beach (**support**)

- He drives by Avalon going home and is a customer there.
- Supports approval of the application.
- He is familiar with the area and other bars, and feels Avalon is a great improvement over Irma's.
- Avalon is an improvement to the area.