

Location:	4149 Foothill Blvd. (see reverse for map)
Assessor's Parcel Number:	033 -2150-006-02
Proposal:	To allow an existing full service restaurant "Las Adelitas" serving beer and wine under conditional use permit #CM98123 (approved 1998) to also sell distilled spirits/liquor. The restaurant would maintain its 10:00 pm closing time.
Applicants/ Phone Number:	Mr. Oswal Jimenez (510) 928-2286
Owners:	Mixtly Inc.
Planning Permits Required:	Major Conditional Use Permit with additional findings for a full service restaurant located on a restricted street to change its State ABC license
General Plan:	Urban Residential
Zoning:	RU-5 Urban Residential Zone - 5
Environmental Determination:	Exempt, Section 15301 of the State CEQA Guidelines: Existing Facilities (operations); Section 15183 of the State CEQA Guidelines: Projects Consistent with a Community Plan, General Plan or Zoning
Historic Status:	Non-historic property
Service Delivery District:	IV
City Council District:	5
Date Filed:	February 8, 2012
Staff Recommendation:	Approve with conditions
Finality of Decision:	<i>Appealable to City Council within 10 calendar days</i>
For Further Information:	Contact case planner Aubrey Rose, AICP at (510) 238-2071 or arose@oaklandnet.com

SUMMARY

The applicant proposes sale of distilled spirits/liquor for on-site consumption with meals at a full service restaurant maintaining its 10:00 PM closing time. The restaurant already possesses a Conditional Use Permit for sale of beer and wine. Staff recommends approval of this application subject to Conditions of Approval as described in this report.

CITY OF OAKLAND PLANNING COMMISSION



0 125 250 500 750 1,000 Feet



Case File: CM12-016
Applicant: Mr. Oswal Jimenez
Address: 4149 Foothill Boulevard
Zone: RU-5

PROJECT DESCRIPTION

The applicant proposes sale of distilled spirits/liquor for on-site consumption with meals at a full service restaurant, "Las Adelitas," located at 4142 Foothill Boulevard. The proposal would also require a license type 47 from the State of California Department of Alcoholic Beverages Control (ABC). This is an upgrade to the current Major Conditional Use Permit approval (#CM98123) that allows the sale of beer and wine at the restaurant (the restaurant currently possesses an active ABC license type 41). Should this application be approved, the restaurant would continue to sell beer and wine prior to the upgrade of the ABC license from a license type 41 for beer and wine to a 47 to sell distilled spirits.

SITE AND NEIGHBORHOOD DESCRIPTION

The property is a level lot measuring 3,042 square feet in area and situated at the corner of Foothill Boulevard and 42nd Street. The lot contains one one-story building with a restaurant and no parking lot. The restaurant measures 2,150 square feet in floor area. The business is located in an area of Foothill Boulevard that contains a mix of small scale commercial and residential uses. Next door to the restaurant is a nail salon. The establishment shares the intersection with a furniture store, a bridal store and another restaurant.

There is only one establishment offering sales of alcoholic beverages for on-site consumption within 1,000 feet of the restaurant, a restaurant selling beer and wine that is located approximately six hundred (600) feet to the north at 4032 Foothill Boulevard. A liquor store sells alcoholic beverages 200 feet from the site. Mi Pueblo, a grocery store located 900 feet from the site, also has a license to sell beer and wine.

The site is located in Census Tract 4072, which is considered an over-concentrated area for the sale of alcoholic beverages under the Oakland Planning Code. There are ten active ABC licenses and 6,746 people living within the census tract (one permit per 675 people). An area is considered over-concentrated if it contains more ABC licenses than the County median of one license per 1,221 residents. The ABC licenses in Census Tract 4072 are not clustered around the site.

The site is also located in Police Beat 23X, which is considered an over-concentrated area because its crime rate exceeds the City's median by more than twenty-percent. There were 1,716 reported crimes in the beat in 2011, approximately 30 percent more than the City's median crime rate. The crimes in Police Beat 23X are not clustered around the site. Crime is not high within one thousand (1,000) feet of the site (Attachment E).

POLICE DEPARTMENT RECOMMENDATION

On February 2, 2012, the Police Department's Alcoholic Beverages Action Team (ABAT) delivered a letter to the District Attorney regarding the ABC permit to sell alcoholic beverages at the site (Attachment G). This was due to the fact that the applicant applied "out-of-order" for their ABC license prior to their CUP. In that letter, ABAT stated that, should a CUP application be approved, they recommend specific conditions of approval be included with conditions of approval of the ABC license.

ZONING ANALYSIS

Staff believes that the proposal is consistent with the zoning ordinance as described in this section.

Under the Oakland Planning Code, full service restaurants are allowed to sell alcoholic beverages with no additional zoning approvals, similar to an accessory use; the exception is for such establishments located along "restricted" streets such as Foothill Boulevard. Under Oakland Municipal Code Sections 17.102.210 and 17.134.020, these establishments must obtain a Major Conditional Use Permit (CUP) to modify their previously approved permit (CM98123) to include on-sale of distilled spirits and liquor. To approve the CUP, special findings listed under OMC Sec. 17.102.210(A) relating to compatibility and potential adverse impacts in the area must be made. The following is a summary of the required findings that are relevant to the proposal and how the proposal meets these findings:

1. Desired function and character of the area;
2. Crime, loitering, traffic, and litter;
3. No adverse impacts to nearby places of worship, schools, and parks;
4. No adverse impacts to movement of people along the sidewalk;
5. No adverse impacts to sleeping quality of neighbors between the hours of 10:00 PM and 7:00 AM.

Regarding #1, the site is located in the RU-5 Zone, which is intended to:

Create, maintain, and enhance areas of the City that are appropriate for multi-unit, mid-rise, and high rise residential structures and ground floor neighborhood businesses on the City's major corridors.

The proposal would contribute to the success of a ground floor commercial use, a neighborhood restaurant, on one of the City's corridors.

Regarding #2, Conditions of Approval and separately, ABAT's own requirements, would ensure nuisances such as noise, loitering, and littering do not become an issue. Condition 13i contained in Attachment B states that such nuisances resulting from the project may result in a revocation of the approval. As mentioned, should the application be approved, ABAT recommends that its specific conditions of approval be included with conditions of approval of the ABC license (Attachment G).

Regarding #3, there is a church located within three hundred (300) feet of the site and a high school within six hundred (600) feet. The median along 42nd Avenue is designated as but not used as a park; the nearest usable park is located greater than 1,000 feet away from the site. Staff does not anticipate that this upgrade to its ABC license would have an adverse effect on the school or church due to the fact that the establishment is a full service restaurant that is not on the same block because these civic uses and restaurants are not known to be problematic.

Regarding #4, there is no parking on the site, so there would not be conflicts between additional traffic entering the site and pedestrians accessing the sidewalk.

Regarding #5, Condition 13e requires that the restaurant stop serving alcoholic beverages at 10:00 PM.

GENERAL PLAN ANALYSIS

Enhancing this full service restaurant by allowing liquor to be served with meals is consistent with the General Plan. The site is located in the Urban Residential General Plan designation. Mixed use buildings that house ground floor commercial uses of compatible character are encouraged. The proposal involves an existing, one story stand-alone restaurant and this use is consistent with area's designation. The proposal also conforms to the following Goals and Policies of the LUTE:

Industry and Commerce Goals

- Ensure that the Oakland community has access to a wide variety of goods and services, meeting daily and long term needs.

Policy I/C3.2 Enhancing Business Districts.

Retain and enhance clusters of similar types of commercial enterprises as the nucleus of distinctive business districts, such as the existing new and used automobile sales and related uses through urban design and business retention efforts.

Policy I/C3.4 Strengthened Vitality.

The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

ENVIRONMENTAL DETERMINATION

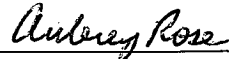
The California Environmental Quality Act (CEQA) Guidelines categorically exempts specific types of projects from environmental review. Section 15301 of the State CEQA Guidelines exempts project involving operation of existing private...facilities. The proposal to serve liquor at a full service restaurant located in a commercial district meets this description: the project would constitute operation of an existing private facility. The project is therefore exempt from Environmental Review.

KEY ISSUES AND IMPACTS

As conditioned, the upgraded permit would not impact the neighborhood in terms of crime, loitering, litter, or traffic. Staff supports the proposal because the upgrade in the permit to sell distilled spirits in a full service restaurant is consistent with the policies and regulations in the Planning Code and General Plan.

- RECOMMENDATIONS:**
1. Affirm staff's environmental determination.
 2. Approve the Major Conditional Use Permit subject to the attached Findings (Attachment A)

Prepared by:



AUBREY ROSE, AICP
Planner II

Approved by:



SCOTT MILLER
Zoning Manager

Approved for forwarding to the
City Planning Commission:



ERIC ANGSTADT
Director
Department of Planning, Building and Neighborhood Preservation

ATTACHMENTS:

- A. Findings for Approval
- B. Conditions of Approval
- C. Plans/photographs
- D. Menu
- E. OPD crime statistics (map/table)
- F. #CM98123 Conditions of Approval granted August 5, 1998
- G. ABAT letter to ABC dated February 2, 2012

Attachment A: Findings for Approval

This proposal meets the required findings under Conditional Use Permit Procedure/General Use Permit Criteria (OMC Sec. 17.134.050) and Special Regulations Applying To Certain Establishments Selling Alcoholic Beverages (OMC Sec. 17.102.210(A)) under the Planning Code (Title 17), as set forth below. Required findings are shown in bold type; explanations as to why these findings can be made are in normal type.

CONDITIONAL USE PERMIT PROCEDURE/GENERAL USE PERMIT CRITERIA (OMC SEC. 17.134.050)

A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.

The site is located in the RU-5 Urban Residential Zone – 5. The RU-5 Zone is intended to:

Create, maintain, and enhance areas of the City that are appropriate for multi-unit, mid-rise, and high rise residential structures and ground floor neighborhood businesses on the City's major corridors.

The proposal will contribute to the success of a ground floor commercial use, a neighborhood restaurant, on one of the city's corridors. No nuisances are expected especially due to Conditions of Approval. The proposal will therefore be compatible with the surrounding neighborhood.

B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.

The proposal will increase restaurant choices within the neighborhood.

C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.

The proposal will add to the business mix in the district.

D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.050.

This finding is not applicable; the proposal is not subject to Design Review.

E. That the proposal conforms in all significant respects with the Oakland Comprehensive Plan and with any other applicable plan or development control map which has been adopted by the City Council.

Enhancing this full service restaurant by allowing liquor to be served with meals is consistent with the General Plan. The site is located in the Urban Residential General Plan designation. Mixed use buildings that house ground floor commercial uses of compatible character are encouraged. The proposal

involves an existing, one story stand-alone restaurant and is consistent with area's designation. The proposal also conforms to the following Goals and Policies of the LUTE:

Industry and Commerce Goals

- Ensure that the Oakland community has access to a wide variety of goods and services, meeting daily and long term needs.

Policy I/C3.2 Enhancing Business Districts.

Retain and enhance clusters of similar types of commercial enterprises as the nucleus of distinctive business districts, such as the existing new and used automobile sales and related uses through urban design and business retention efforts.

Policy I/C3.4 Strengthened Vitality.

The vitality of existing neighborhood mixed use and community commercial areas should be strengthened and preserved.

SPECIAL REGULATIONS APPLYING TO CERTAIN ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES (OMC SEC. 17.102.210(A))

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;

Restaurants serving alcoholic beverages are not known to be nuisances. Nonetheless, the proposal involves an existing restaurant already serving alcoholic beverages and not known to be problematic. Furthermore, there are no other restaurants that serve alcoholic beverages located within one thousand (1,000) feet of the establishment.

2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;

There is a church located within three hundred (300) feet of the site and a high school within six hundred (600) feet. The median along 42nd Avenue is designated as but not used as a park; the nearest usable park is located greater than 1,000 feet away from the site. Staff does not anticipate that this upgrade to its ABC license would have an adverse effect on the school or church due to the fact that the establishment is a full service restaurant that is not on the same block because these civic uses and restaurants are not known to be problematic.

3. That the proposal will not interfere with the movement of people along an important pedestrian street;

There is no parking on the site; therefore, the proposal will not result in conflicts between additional traffic entering the site and pedestrians accessing the sidewalk.

4. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;

This finding is not applicable; the proposal is not subject to Design Review.

5. That the design will avoid unduly large or obtrusive Signs, bleak unlandscaped parking areas, and an overall garish impression

This finding is not applicable; the proposal is not subject to Design Review.

6. That adequate litter receptacles will be provided where appropriate;

Conditions of approval and separately, ABAT's own requirements, will ensure nuisances such as noise, loitering, and littering does not become an issue. Such nuisances resulting from the project may result in a revocation of the approval.

7. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of ten (10) p.m. and seven (7) a.m. The same criteria shall apply to all conditional use permits required by subsection B of this section for sale of alcoholic beverages at full service restaurants.

Conditions of Approval stipulate that the restaurant stop serving alcoholic beverages at 10:00 PM.

8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant--Guidelines for Development and Evaluation" (OCPD 100-18).

This finding is not applicable; the proposal does not involve a fast food restaurant.

Attachment B: Conditions of Approval

1. **Approved Use**

Ongoing

a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, **staff report**, and the plans dated and submitted on **February 8, 2012**, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.

b) This action by the **City Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes:

- i) **Major Conditional Use Permit to allow a full service restaurant with a 10:00 PM closing time at 4149 Foothill Blvd. to sell liquor (distilled spirits) to patrons dining on site**

2. **Effective Date, Expiration, Extensions and Extinguishment**

Ongoing

Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

3. **Scope of This Approval; Major and Minor Changes**

Ongoing

The project is approved pursuant to the **Planning Code** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

4. **Conformance with other Requirements**

Prior to issuance of a demolition, grading, P-job, or other construction related permit

a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.

b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to

automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

5. **Conformance to Approved Plans; Modification of Conditions or Revocation**

Ongoing

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, **Conditions** or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these **Conditions** if it is found that there is violation of any of the **Conditions** or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

6. **Signed Copy of the Conditions**

With submittal of a demolition, grading, and building permit

A copy of the approval letter and **Conditions** shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

7. **Indemnification**

Ongoing

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

8. Compliance with Conditions of Approval

Ongoing

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

9. Severability

Ongoing

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions, and if one or more of such conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions consistent with achieving the same purpose and intent of such Approval.

10. Job Site Plans

Ongoing throughout demolition, grading, and/or construction

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval, shall be available for review at the job site at all times.

11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management

Prior to issuance of a demolition, grading, and/or construction permit

The project applicant may be required to pay for on-call third-party special inspector(s)/inspections as needed during the times of extensive or specialized plancheck review or construction. The project applicant may also be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

PROJECT SPECIFIC CONDITIONS

12. Prior Approvals

Ongoing

All conditions of approval under #CM98123 remain in effect with the exception of: restriction on sale of alcoholic beverages to beer and wine.

13. Sale of Alcoholic Beverages

Prior to commencing activity

a) Additional Permits Required

Necessary ABC permits (license type 47) must be obtained prior to commencement of activity; there shall be no cessation of beer and wine sales under an active ABC license type 41 prior to the upgrade.

Ongoing

b) Operation

The restaurant must operate with an open kitchen at all times alcoholic beverages are sold pursuant to Full Service Restaurant defined by the Planning Code (OMC Sec. 17.10)

c) Location and manner

Only on-sale (on-site consumption) is allowed; alcoholic beverages are intended for consumption with meals

d) Minors

Minors shall be admitted at all times

e) Hours of Alcoholic Beverage Sales

The proprietor shall limit hours of alcoholic beverage sales to no later than 10:00 PM or earlier if required by the ABC.

f) Alcoholic beverage sales display area

Sales display area of alcoholic beverages shall be located behind the staff counter.

g) Entry

Admission shall never be charged for events or otherwise

h) Future operators

Any future operators of any restaurant at these premises are subject to the requirements of this approval

i) Nuisances

Crime, litter, noise, or disorderliness conduct associated with alcoholic beverage sales at the establishment will result in a revocation of the Major Conditional Use Permit or a review to revoke.

j) Police Department

The operator shall register with the Police Department's Alcoholic Beverage Action Team and adhere to their regulations

14. Conformance with State Department of Alcoholic Beverage Control regulations

Ongoing

This use shall conform to all provisions of the State ABC license. The State license and State conditions shall be posted along with these Conditional Use Permit conditions in a place visible to the public. This use shall also conform to all State Retail Operating Standards, Section 25612.5 of the Business and Professions Code and local Performance Standards, Section 15210, where applicable including any future changes in the above regulations. The intent of these standards is to reduce nuisance, litter, loitering, and crime associated with alcoholic beverage sales outlets. The City Conditions of Approval shall be forwarded to the Department of Alcoholic Beverage Control.

15. Compliance with City of Oakland special regulations for Alcoholic Beverage Sales Commercial Activities

Ongoing

a) Signage

Within 30 days of the date of decision, at least one sign (one square foot maximum) shall be posted and maintained in a legible condition at each public entrance to the building prohibiting littering and loitering. Required signage prohibiting open containers and drinking in public shall also be maintained in legible condition near each public entrance to bar. The "No Open Container" signs are available from the cashier located on the second floor of 250 Frank H. Ogawa Plaza.

b) Graffiti

Graffiti shall be removed from the building within 72 hours (3 days) of application.

c) Loitering

The owner, manager, and employees of this establishment shall make appropriate efforts to discourage loitering from the public right-of-way front the premises including calling the police to ask that they remove loiterers who refuse to leave. Persons hanging around the exterior of the establishment with no apparent business for more than ten minutes shall be asked to leave. Techniques discussed in the manual entitled "Loitering: Business and Community Based Solutions" may be used and are recommended by the Alcoholic Beverage Action Team.

16. Trash and litter

Ongoing

The licensees/property owners shall clear the gutter and sidewalks along Foothill Boulevard and 42nd Avenue plus twenty feet beyond the property lines along this street of litter twice daily or as needed to control litter. In addition to the requirements of B&P Section 25612.5, (sweep or mechanically clean weekly) the licensee shall clean the sidewalk with steam or equivalent measures once per month.

17. Performance standards

Ongoing

The establishment shall adhere to performance standards for noise, odor, and all environmental effects of the restaurant activity as regulated under OMC Chapter 17.120.

18. Future modifications to floor plans

Ongoing

Should any changes to the dining room be proposed, including the addition of a bar within the dining room, plans must be reviewed and approved by the Zoning Division and ABAT.

19. Patio area

Ongoing

No use of the patio area by customers shall be permitted.

20. Sound amplification

Prior to commencement of activity and ongoing

No sound amplification shall be permitted on site. Any sound amplification equipment located on site shall be removed.

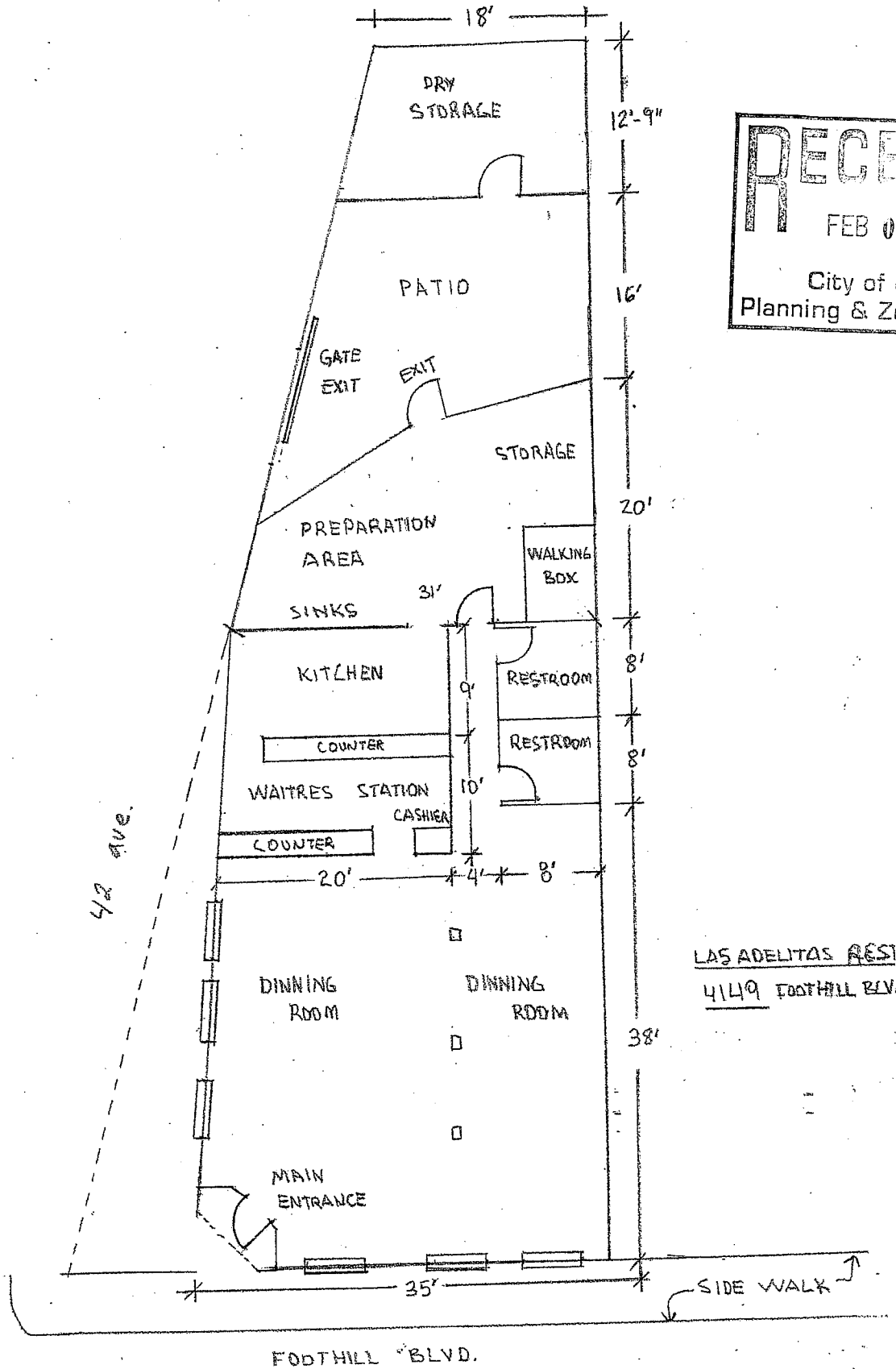
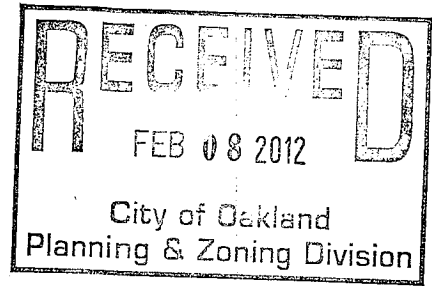
21. Donation box

Prior to commencement of activity and ongoing

The clothing donation box shall be removed from the exterior of the premises.

APPROVED BY:

City Planning Commission: _____ (date) _____ (vote)



LAS ADELITAS REST
4149 FOOTHILL BLV.

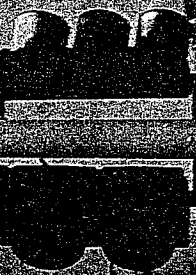
CENTRO BOTANERO & RESTAURANTE



The Best Mexican Food & Salsa in Town

CATERING

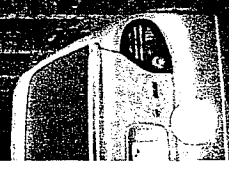
JOS PERALES
MEXICAN

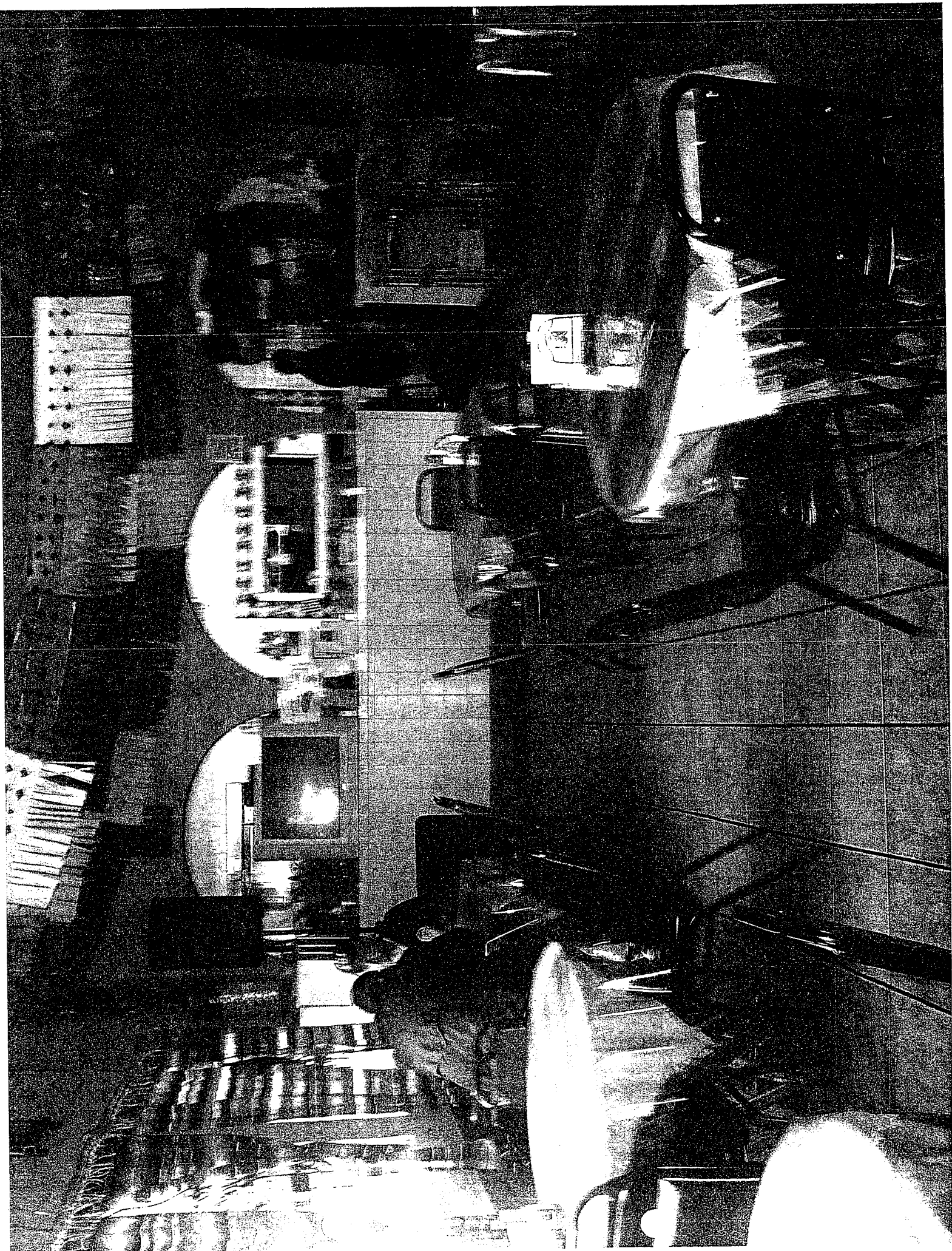


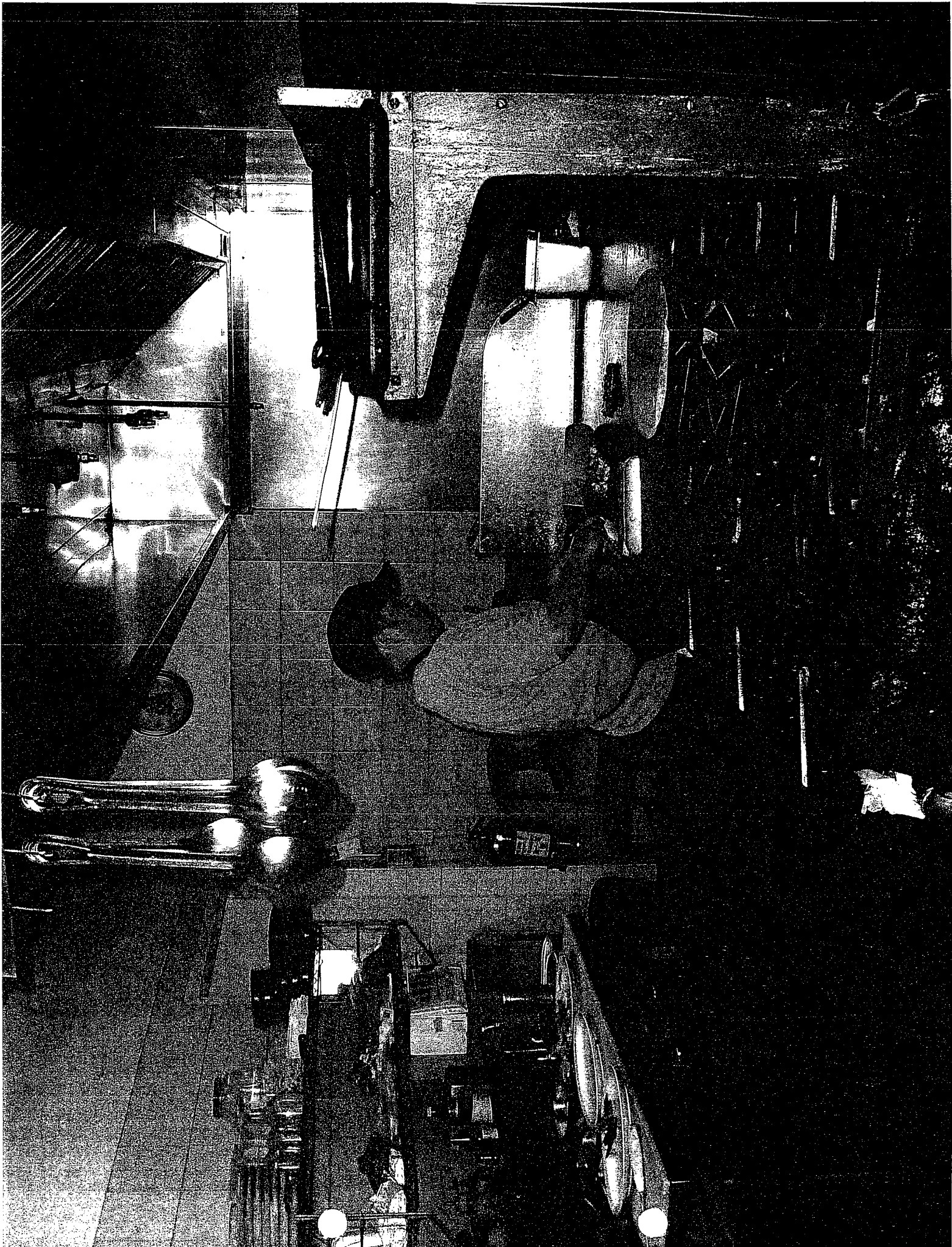
LA S ADELITA'S

TACO WEDNESDAY
\$1.00
MIRROLES DE TACOS

Clothes
Shoes







WELCOME/BIENVENIDOS

Las Adelitas



**Centro Botanero
&
Restaurant**

6142 Foothill Blvd Oak CA 94601

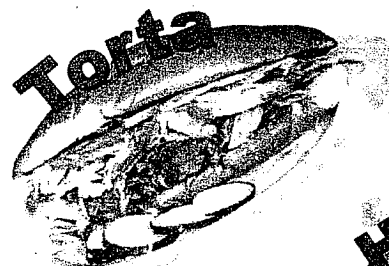
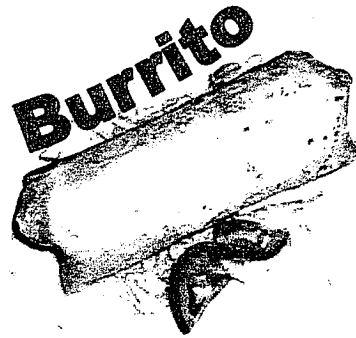
(510) 261-6600

ATTACHMENT D

**FOOD TO GO & CATERING
COMIDA PARA FIESTAS**

**OPEN 7 DAYS
M-F 10-10:00 PM**

BBQ RIBS



Adelitas Specialties

ADELITAS PLATE # 1.....	\$ 12.99
(2) Flautas, Quesadillas, Sope, Tostadas	
ADELITAS PLATE # 2.....	\$ 12.99
Wings, Quesadilla, Fries & Onions Rings	
NACHOS, QUESO Y FRIJOLES.....	\$ 4.95
Beans & Cheese Nachos	
SUPER NACHOS	\$ 7.99
(Carne, Frijol, Crema, Guac, Jalapeño y Verdura)	
(Meat, Beans, Sour Cream, Guac, Jalapeño & Vegetables)	
ORIGINAL WINGS /BUFFALO (8).....	\$ 7.25
GUACAMOLE.....Sm.\$3.95.....Lg. \$	6.50
FRENCH FRIES.....	\$ 2.95
PEPINO Y NARANJA.....	\$ 4.95
Cucumber & Orange	
CAMARON, PEPINO & NARANJA.....	\$ 10.95
Shrimp, Cucumber & Orange	

Ensaladas / Salads

VERDE (Green).....Sm....	\$ 3.99	...Lg....	\$ 5.99
CON CARNE (W/ Meat)	\$ 8.99		
CON CAMARON (W/ Shrimp).....	\$ 10.99		

Queso Fundido / Grill Cheese

QUESO (Chesse).....	\$ 6.99
CON CHORIZO (W/Mex.Sausage).....	\$ 8.99
C/CHAMPIÑONES(W/Mushroom).....	\$ 8.99
COMBINADO (Mixed)	\$ 9.99

Botanas de 1 Lb.

ADELITAS ESPECIAL (2 per).....	\$ 19.99
(Costillas, Azada, Pollo, Carnitas & Mexicana)	
(Bbq. Ribs, Grill Steak, Chicken & Mex. Salad)	
BOTANA AZTECA.....	\$ 16.99
(Carne Azada con Cebolla y Chiles Tostados)	
(Grill Steak w/Seasoned Onions & Grill Peppers)	
CARNE AZADA Y CAMARONES.....	\$ 17.99
Grilled Steak and Shrimp Any Style	
DE CAMARON (Shrimp).....	\$ 18.99
(A la: Diabla, Agua chile, Plancha & Ajo)	
(Hot Sauce, Limon Juice, Grilled & Garlic Sauce)	
DE CARNITAS (Deep fried Pork).....	\$ 14.99
DE BUCHE (Pork Stomache)	\$ 14.99
DE CUERITOS EN VINAGRE	\$ 8.99
TIRITAS DE PESCADO FRITO.....	\$ 9.99
(This Fillet Strips Ensenada Style)	
CALAMAR FRITO (Fried Calamary).....	\$ 9.99
CALAMAR Y PESCADO FRITOS	\$ 9.99
(Fried Calamary & Fhis)	

House Specialties

(Sevidas c/Arroz , Frijoles Ensalada y Tortillas a Mano)
(Served w/Rice, Beans, Salad and Hand Made Tortillas)

POLLO ENTERO AL CARBON.....	\$ 16.99
Whole B.B.Q. Grill Chicken	
1/2 POLLO (1/2 Grill Chicken).....	\$ 7.99
COMBINACION ADELITAS.....	\$ 9.99
1/4 de Pollo & 1/4 Lb. Carnitas	
1/4 Chicken & 1/4 Lb. Deep Fried Pork	
COSTILLAS de PUERCO .BBQ (3).....	\$ 9.99
BBQ. Grill Pork Ribs (3)	
(1/4) POLLO Y (2) COSTILLAS.....	\$ 9.99
1/4 Chicken + 2 BBQ. Ribs	
CARNE AZADA (Grill Steak)	\$ 13.99
CARNE AZADA c/Papas, Ensal & Guac...\$	13.99
Grill Steak W/Fries, Beans, Salad & Guac.	
CARNE AZADA Y POLLO AZADO.....	\$ 10.99
Grill Steak & 1/4 BBQ Chicken	
CARNE AZADA CON CAMRONES.....	\$ 14.99
Grill Steak & Shrimp	
FILETE DE POLLO EMPANIZADO.....	\$ 10.99
Breaded Chicken Fillet	
POLLO ALA PLANCHA.....	\$ 10.99
Grill Chicken	
BISTEK RANCHERO.....	\$ 13.99
Steak in Ranchero Sauce	
CARNITAS (Deep Fried Pork).....	\$ 10.99
CARNITAS CON BUCHE.....	\$ 10.99
BIRRIA de CHIVO (Goat in Self Sauce)...\$	10.99
BARBACOA de RES (Beef in Self Sauce).\$	10.99

TACO SALAD VEGGIE.....	\$ 6.99
TACO SALAD W/MEAT.....	\$ 7.99

Caldos / Soups

Servido con Arroz y Tortillas / Served W/Rice & Tortillas

POLLO (Chicken).....Sm. 7.95.....Lg. \$	8.99
TLALPEÑO.....	\$ 9.49
Spicy Chicken Soup	
BARBACOA DE RES.....	\$ 9.95
Beef in Self Sauce	
BIRRIA DE CHIVO.....	\$ 9.95
Goat in Self Sauce	
POZOLE (Hommeny Pork Stew).....	\$ 8.49
MENUDO (Beef tripe)	\$ 8.49

DISFRUTAME EN CASA !!! / TO GO

1/2 POLLO AZADO AL CARBON\$ 8.99 (BBQ GRILL CHICKEN)	
1/2 POLLO AZADO.....\$ 5.50 (1/2 GRILL CHICKEN)	
COSTILLAS DE PUERCO\$ 16.99 (BBQ PORK RIBS)	
CARNITAS 1 Lb.(Deep Fried Pork).....\$ 7.99	
ORDEN DE ARROZ O FRIJOLES.....\$ 3.50 (ORDER OF RICE AND/OR BEANS)	
ENSALADA MEXICANA (Ch).....\$ 3.50 (ORDER OF MEXICAN SALAD, Small)	
ORDEN DE NOPALES C/MEX.....\$ 4.50 (ORDER OF CACTUS W/MEX.SALAD)	
CHIPS & SALSA.....\$ 1.75	
TORTILLAS A MANO (3)\$ 1.50 (HAND MADE CORN TORTILLAS)	

QUITAME EL HAMBRE !!!

Meat Choice

Azada	Steak	Al Pastor	Spice Pork
Pollo	Chicken	Chorizo	Mex. Sausage
Carnitas	Pork	Barbacoa	Beef in Sauce

Tacos

SUAVE (Soft) Chico (Small).....\$ 1.75	
Grande (Big).....\$ 2.75	
DORADO (Hard Shell).....\$ 2.75	
PESCADO (Fish).....\$ 2.99	
CAMARON (Shrimp).....\$ 3.25	

Tortas

TORTA REGULAR.....\$ 4.95	
TORTA W/FRIES.....\$ 6.95	
TORTA DE MILANEZA.....\$ 5.95 (Breaded Steak or Chicken)	
TORTA AHOGADA (In Hot Sauce).....\$ 5.49	

Quesadillas

QUESO (CHEESE).....\$ 5.49	
CARNE o JAMON (MEAT or Pork Ham)....\$ 7.49	
CAMARON (SHRIMP).....\$ 8.99	
VEG. (Cheese,Bell Pepper,Onions,Musroom)...\$ 7.49	

Burritos

FRIJOL Y QUESO(Beans & Cheese)...\$ 3.49	
REGULAR (Arroz,Frijol y Queso).....\$ 4.25 (Beans,Rice & Cheese)	
REGULAR CON HUEVO (W/Eggs)....\$ 5.49	
REGULAR CON CARNE (W/Meat)....\$ 5.49	
"BURRRITO"\$ 5.99 Carne,Arroz,Frijol,Queso y Crema (Meat,Rice,Beans,Sour Cream & Cheese)	
BURRITO MOJADO (Wet Burrito).....\$ 7.99	
SUPER BURRITO (Super Burrito).....\$ 9.99	
VEGETARIANO (Veggie).....\$ 5.99 (Rice,Beans,Sour Cream,chesse ,Guac.& lettuce)	
SUPER VEGET. (Super Veggie).....\$ 9.49	
CAMARON O PESCADO.....\$ 8.99 (Shrimp or Fish)	
SUPER SHRIMP OR FISH.....\$ 13.99	
BURRITO SHRIMP & STEAK.....\$ 10.15	
FAJITAS (w/Sour Cream&Cheese).....\$ 9.99	

BUENOS DIAS / BREAKFAST

Served All Day, W/Rice,Beans & Hand Made Tortillas
Servidos Todo el Dia C/Arroz,Frijol y Tortillas a Mano

Huevos (Eggs)

RANCHEROS (Rancher Style).....\$ 6.49	
CON JAMON (W/Ham).....\$ 6.49	
CON CHORIZO (W/Mex.Sausage)....\$ 6.49	
CON NOPALES (W/Cactus).....\$ 6.49	
A LA MEXICANA (Mex.Style).....\$ 6.49 (W/ Tomato,onions & Bell Peppers)	
HUEVOS CON CARNE (W/Steak).....\$ 9.99	

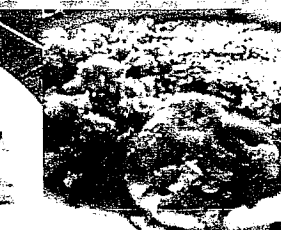
Chilaquiles

ROJOS/ VERDES (green/red).....\$ 6.99	
CON HUEVO (W/Eggs)\$ 7.99	
CON CARNE (W/Steak)\$ 9.99	

Omelettes

Served W/Toast & Hash Brown

DE QUESO (W/Cheese).....\$ 6.49	
DE JAMON (W/Ham).....\$ 7.49	
DE CHORIZO (Mex.Sausage).....\$ 7.49	
DE CHAMPINON (Mushroom).....\$ 7.49	
DE NOPALES (W/cactus).....\$ 7.49	
2 COMBINATIONS.....\$ 8.49	





Chereler Oysters



**Tostada
de Camaron**



Mojarra Zarandeada



PARRILLADA



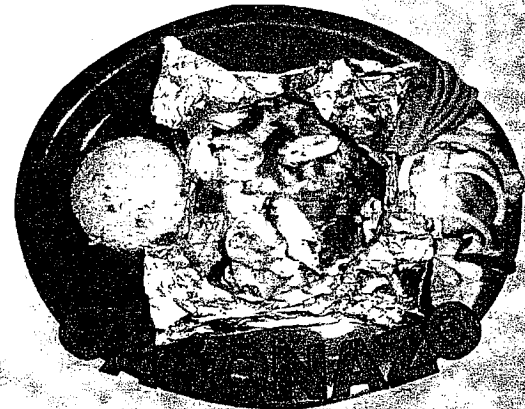
**Molcajete
de Mariscos**



7 MARES



Cocktail



Escamoteado



Camarones Momia



Tilapia Frita



FAJITAS

DEL MAR / SEA FOOD !!!

Camarones y Filete / Shrimp & Fillet

Servidos C/ Arroz, Frijoles, Ensalada y Tortillas a Mano
Served W/ Rice, Beans, Salad & Hand Made Tortillas

- (A LA DIABLA (In Hot Sauce)\$ 13.99
- AL MOJO DE AJO (In Garlic Sauce)\$ 13.99
- A LA PLANCHA (Grilled)\$ 13.99
- EMPANIZADOS (Breaded)\$ 13.99
- RANCHEROS. (Ranchero Style).....\$ 13.99
- ZARANDEADOS (Grill BBQ Shrimp)\$ 13.99
- MOJARRA FRITA (Fried Tilapia)\$ 11.99
- (MOJARRA ZARANDEADA.....\$ 12.99
- Grill BBQ Tilapia (Spice)

Del comal / From The Grill

PARRILLADA DE MARISCOS.....\$ 18.99

Grilled Combo Sea Food

TILAPIA A LA OAXAQUEÑA STYLE.....\$ 14.99

Envuelta en Hoja de Platano con Verduras al Vapor
W/Vegetables Wrapped In Banana Leaves & foiled

CAMARONES MOMIA.....\$ 16.99

(Rellenos de Queso y Envueltos en Tocino)

Shrimp w/Cheese Stuffed & Wrapped in Bacon

CAÑONAZO ADELITAS.....\$ 16.99

filete de Pescado, Camarones y Pulpo C/Pimiento verde
Champifiones, Naranja y Cebolla envueltos en Aluminio

Fillet, Shrimp & Octopus W/Bell Pepper, Orange

Mushroom, Onions & Tomatoes, Wrapped in Foil

ADELITAS EN LA BAHIA.....\$ 17.99

Filete de Pescado, Camarones y Pulpo al Gusto

Fish Fillet, Shrimps & Octopuas any Style

PIÑA RELLENA CANTAMAR.....\$ 17.99

1/2 Piña ala Parrilla ccon Camaron, Pulpo, Filete e

Imitacion. Jaiva c/Salsa de la Casa y Queso Gratinado

1/2 Grill Pineapple W/Shrimp, Octopus, Fillet &

Imit. Crab W/House Sauce & Melted Cheese

COCKTAILS

CAMARON (Shrimp).....\$ 11.99

CAMARON Y PULPO (Shrim & Octopus)...\$ 14.99

VUELVE A LA VIDA.....\$ 15.99

Camaron, Pulpo y Ostiones

Shrimp, Octopus & Oysters

TOSTADAS

CAMARON (Shrimp).....\$ 3.99

CEVICHE DE CAMARON\$ 3.99

Shrimp in Juice Lime

CEVICHE DE PESCADO (Fish in Juice).....\$ 3.99

CAMARON Y PULPO (Shrimp & Fish).....\$ 4.99

Ostiones / Oysters

1/2 Dzn 1 Dzn

EN SU CONCHA (In Shell)....\$ 8.99...\$ 13.99

AZADOS (Grilled).....\$ 8.99...\$ 13.99

CORITAS (Nayarit Style)....\$ 11.99...\$ 17.99

Oyster w/Octopus & Shrimp in Juice Lime

ROCKEFELER.....\$ 12.99

C/Pimiento, Jamon, Tocino y Queso gratinado

w/Green Pepper, Ham, Bacon & Melted Cheese

Caldo's / Soups !!!

DE PESCADO (Fish).....\$ 11.99

DE CAMARON (Shrimp).....\$ 12.99

PESCADO Y CAMARON (Combo)....\$ 13.99

7 MARES (7 Sea's Soup).....\$ 15.99

Molcajete's

MOLCAJETE de MARISCOS.....\$ 18.99

Camarones, Pulpo, Mejillones y Pescado

C/ Salsa de la Casa y Queso Gratinado

Shrimp, Octopus, Musseles & Fillet

W/House Sauce & Melted Cheese

MOLCAJETE de CARNES.....\$ 18.99

Azada, Pollo, Carnitas, Chorizo, Tocino

y Frijoles Cocidos c/ Queso Gratinado

Steak, Chicken, Carnitas, Mex. Sausage

Bacon & Whole Beans w/ Melted Cheese

Fajitas

Servidos c/ Arroz, Frijoles, Ensalada y Guacamole

Served w/ Rice, Beans, Salad & Guacamole

AZADA (Steak).....\$ 13.99

POLLO (Chicken).....\$ 13.99

CAMARON (Shrimp).....\$ 14.99

ADELITAS.....\$ 15.99

Azada, Pollo y Camaron

Steak, chicken & Shrimp

Hamburger's

Servidas con Papas / Served W/ Fries

REGULAR 1/4 LB.....\$ 5.49

CHEESE\$ 5.99

BACON & CHEESE.....\$ 6.99

HAM & CHEESE.....\$ 6.99

FRENCH FRIES.....\$ 2.99



Bistek Ranchero



Caldo de Pollo



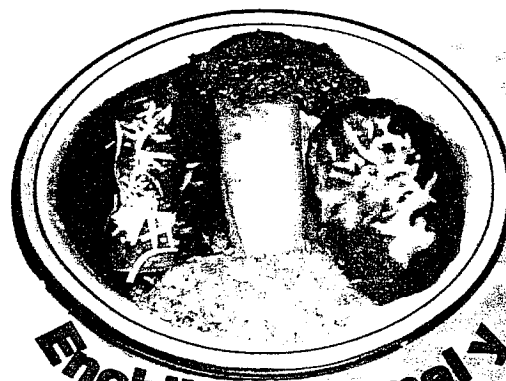
**Molcajete
de Carnes**



Hamburget



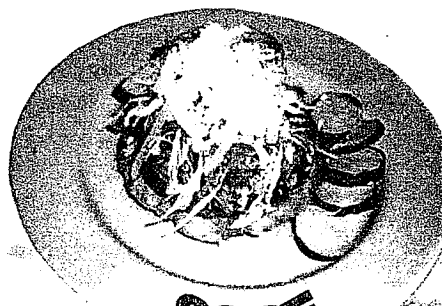
Pozole



**Enchilada, Tamal y
Chile Relleno**



Camarones ala Diabla



SOPE



**Tacos de
Barbacoa**



MICHELADA



**Cubeta
Coronita
Extra**



Margarita

Antojitos la mexicana / Especial Dinners

Servidos con Arroz y Frijol / Served with Rice & Beans

No. 1 ENCHILADA, TACAL Y	
TACO (Hard or Soft).....	\$ 10.49
No. 2 CHILE RELLENO, TACO Y	
ENCHILADA.....	\$ 10.49
No. 3 CHILE RELLENO, TACO Y	
TAMAL.....	\$ 10.49
No. 4 TACO, FLAUTA Y	
ENCHILADA.....	\$ 10.49
No. 5 CHILE RELLENO Y	
ENCHILADA.....	\$ 8.49
No. 6 CHILE RELLENO Y TAMAL.....	\$ 8.49
No. 7 CHILE RELLENO Y TACO.....	\$ 8.49
No. 8 TAMAL Y ENCHILADA.....	\$ 7.99
No. 9 ENCHILADA Y TACO.....	\$ 7.99

No. 10 (3) ENCHILADAS.....	\$ 9.99
Verdes o Rojas (Red or Green)	
No. 11 (3) FLAUTAS Sour Cream & Guac.....	\$ 9.99
No. 12 (2) ENCHILADAS	\$ 7.99
No. 12 (2) FLAUTAS Sour Crem & Guac.....	\$ 7.99
No. 13 (2) SOPEs.....	\$ 7.99
No. 14 (2) TAMALES.....	\$ 7.99
No. 15 (2) CHILES RELLENOS.....	\$ 9.99
No. 16 (1) TAMAL.....	\$ 4.99
No. 17 (1) TACO.....	\$ 4.99
No. 18 (1) ENCHILADA.....	\$ 4.99
No. 19 (1) SOPE.....	\$ 4.99
No. 20 (1) TOSTADA.....	\$ 4.99
No. 21 (1) CHILE RELLENO.....	\$ 5.49

A LA CARTA

ENCHILADA RED/GREEN.....	\$ 2.99
ENCHILADA de CAMARON/PESCADO ..	\$ 3.75
Enchilada (Fhis or Shrimp)	
SOPE.....	\$ 2.99
TAMAL Pork or Chicken.....	\$ 2.99
(Served w/Green or Red Sauce & Cheese)	

CHILE RELLENO.....	\$ 3.50
FLAUTA or Hard Shell Taco (2).....	\$ 4.99
(Sour Cream & Guacamole)	
TOSTADA	\$ 3.50
Azada, Carnitas, Pollo, Cueritos, Pata, Jamon,	
Steak, Deep Fried Pork, Chicken & Ham	

Bebidas / Beverages

JUGO DE NARANJA.....	\$ 3.50
Fresh Natural Orange Juice	
CAFÉ (Coffe).....	\$ 1.75
MEXICAN CHOCOLATE.....	\$ 2.50
TE (Hot Tea).....	\$ 1.75
LECHE (Milk).....	\$ 1.75
AGUAS FRESCAS.....	\$ 1.75
Fresh Flavored Water	
CLAMATO.....	\$ 3.00
SODAS MEXICANAS.....	\$ 2.00
Mexican Sodas	
COKE, SPRITE.....	\$ 1.50

IMPORTED BEER ... \$ 3.75

CORONA, MODELO, MODELO ESPECIAL	
NEGRA MODELO, PACIFICO, TECATE	
CORONITA 7 OZ.....	\$ 2.75
CUBETA DE 8 CORONITAS.....	\$ 20.00
CUBETA DE 6 CORONAS (12 Oz).....	\$ 22.00

DOMESTIC BEER ... \$ 2.99

BUDWEISER BUDLIGHT

MARGARITAS ... \$ 4.99

FRESA, LIMON, MANGO Y PINA COLADA
Strawberry, Lime, Mango & Pina Colada

HOUSE WINE'S ... \$ 3.95

WHITE CHARDONAY
BERINGER WHITE ZIFANDEL
BURGANDY

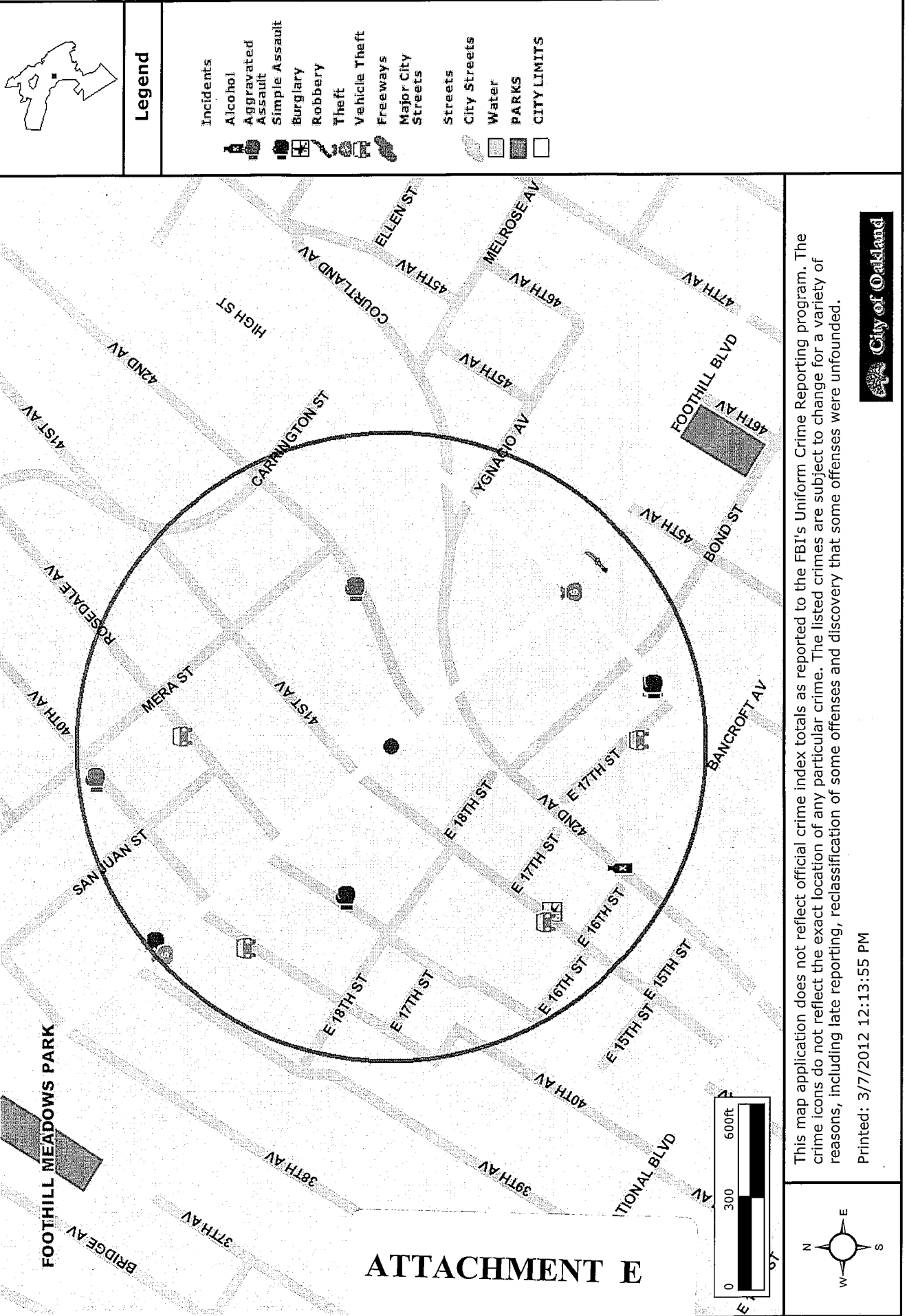
POSTRES / DESERT

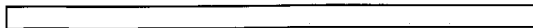
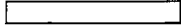
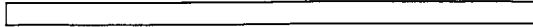
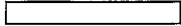
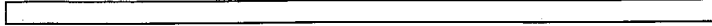
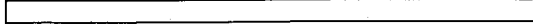
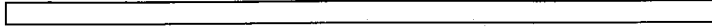
FLAN NAPOLITANO,	\$ 2.99
CHEESE CAKE.....	\$ 2.99

VISA, MC. ACCEPTED—NO CHECKS ACCEPTED. 15% GRATUITY ADDED TO PARTIES OF 8 OR MORE PERSONS.
WE RESERVE THE RIGHT TO REFUSE SERVICE TO ANYONE. WE ARE NOT RESPONSIBLE FOR LOST OR STOLEN
ARTICLES. ALL FOOD IS AVAILABLE TO GO. CHIPS AND SALSA NOT INCLUDED ON TO GO ORDERS.
ALL PRICES ARE PLUS TAX

4149 FOOTHILL BLVD

1000 FT / 30 DAYS ending 3-7-12



Incident Summary Report		
LEGEND	Total	Chart
AGGRAVATED ASSAULT	3	
ALCOHOL	1	
BURGLARY	3	
ROBBERY	1	
SIMPLE ASSAULT	4	
THEFT	3	
VEHICLE THEFT	4	
Grand Total	19	

CITY OF OAKLAND

Oakland, California 94612

Telephone: 238-3911

ZONING REPORT

 City Planning Department
 X City Planning Commission

CASE FILE: CM98-123

DATE: July 15, 1998

APPLICANT: OSWAL, Jimenez

 Owner Buyer X Lessee Agent

FILING DATE: 6/18/98

LOCATION: 4149 Foothill Blvd.

LAST DATE FOR
CONSIDERATION: 8/17/98

PLANNING AREA: Central East Oakland

APPLICATION: Major Conditional Use Permit

PROPOSAL: To establish a new
 full service restaurant
 Selling beer and wine.

APPLICABLE ZONING
REGULATIONS: Sec.
17.04.040, 17.10.300,
17.102.210, and 17.134.050.

SUPPORT: Petition signed by 18 residents, business owners, and a
representative of Fremont High school.

OPPOSITION: None.

STAFF RECOMMENDATION: Approve
 X Conditions Attached

COMMISSION ACTION: Approved
Vote: 6 ayes, 0 noes - to
 approve
Date: August 5, 1998

GENERAL PLAN DESIGNATION: Urban Residential

ZONING: C-30 District Thoroughfare Commercial Zone.

ENVIRONMENTAL DETERMINATION:

 EIR Negative Declaration X Exempt; Section 15301, State
CEQA Guidelines; minor additions to existing structures

PROJECT DESCRIPTION: The applicant proposes to relocate his
existing restaurant, which is located across the street, and to

(See Reverse Side)

ATTACHMENT F

July 15, 1998

convert a vacant building into a full service family style restaurant serving breakfast lunch and dinner daily from 8:00 am to 10:00 PM. The menu will feature a variety of Mexican food, beer and wine. No entertainment is proposed. The existing wood exterior walls will be covered with beige stucco. Three new arched windows will be added to the Foothill Blvd. elevation. All of the windows will be trimmed with common red brick. A new sign will be installed above the door.

PROPERTY DESCRIPTION: The site is located on the southwest corner of Foothill Blvd. and 42nd Avenue. This is the former location of a club that was shut down by the City of Oakland in 1997 due to ongoing problems with nuisance and crime. The building has since remained vacant.

GENERAL PLAN ANALYSIS: The location is designated as Urban Residential on the Land Use Diagram dated March 24, 1998. The General Plan is silent with regards to Alcoholic Beverage Sales Commercial Activities, in the Urban Residential land use area. The intent of the land use classification is to create and enhance areas of the City that are appropriate for multi-unit residential structures with good access to transportation and other services. The proposed activity compliments multiple residential development, existing services and commercial activities, and is accessible to the surrounding community. Therefore, the proposed activity meets the intent of the land use classification thereby conforming to the General Plan.

ZONING ANALYSIS: Normally, the sales of alcohol is classified as an Alcoholic Beverage Sales Commercial Activity, per Section 17.10.300 (Section 2363). Because this use will be located within a full service restaurant, a Major Variance is not required per Section 17.102.210 (Section 7023(b)1b), however, since this establishment is located on a street which is defined as a "problem street", a Major Conditional Use Permit is required per Section 17.102.210 (Section 7023(b)2. The site is located in an "Alcoholic License Overconcentrated Area" as defined by Section 17.04.040, (Section 2110(h)) therefore, findings of "public convenience and necessity" must be made pursuant to Section 17.102.210 (Section 7023(b)3 Special Restrictions on establishments Selling Alcoholic Beverages).

In addition to the use permit criteria required under Section 17.134.050 (Section 9204), General Use Permit Criteria, the special Use Permit criteria of Section 17.102.210 (Section 7023) must be made to permit this use. Design Review is not in this

July 15, 1998

zone.

ENVIRONMENTAL DETERMINATION: The California Environmental Quality Act (CEQA) Guidelines lists projects which are categorically exempt from environmental review. Section 15301 exempts facilities which consist of minor alterations of existing structures, involving negligible or no expansion of use beyond that previously existing, including interior or exterior alterations. This project consists of alterations that do not significantly expand the existing structure or use. This project consists of alterations to the facade of an existing retail space and adding three windows. Therefore, this project is considered categorically exempt from the provisions of CEQA pursuant to Sections 15301 of the State CEQA Guidelines.

DISCUSSION: In general, the proposed use would enhance the area. The police do not report any significant nuisance or crime associated with the operation of the applicants existing business and the applicant has submitted a petition signed by 18 people in favor of the project. A full service restaurant that serves beer and wine, with proper conditions, should produce few, if any adverse impacts such as loitering and crime, in addition, the applicant has proposed a 10:00 PM closing time reducing the problems associated with loitering noise and traffic.

Therefore, this project meets all the findings pursuant to Sections 17.102.210 and 17.134.050 which are attached herein and are hereby incorporated into and made part of this report.

RECOMMENDATIONS:

1. Affirm staff's environmental determination.
2. Approve the Major Conditional Use Permit based on the attached findings and subject to the attached conditions.

Prepared by:

CHRIS CANDELL
Planner II

City Planning Commission
Case File No. CM98-123
Page 4

July 15, 1998

Approved:

WILLIE YEE
Zoning Administrator

Approved for forwarding to the
City Planning Commission:

ANDREW ALTMAN
Chief of Planning

ATTACHMENTS: A. Location Map
 B. Plans and photos

1C98123R.DOC

July 15, 1998

FINDINGS ATTACHED TO AND MADE A PART OF ZONING CASE NO. CM98-123:

This proposal meets the required findings and criteria under Section 17.102.210 and 17.134.050 as set forth below:

Section 17.44.210, (3) Findings of Public Convenience and Necessity:

- c. That the proposed use will further the City's economic development goals and will not place burdensome demands on existing public services, particularly public-safety related services. The use will generate revenue for the City. The use as designed and with specific conditions imposed, will not encourage loitering, nuisance, or crime. The use will conform to the retail operating standards, Section 25612.5 of the Business & Professions Code and local performance standards of Section 15210.

Section 17.134.050, (Section 9204), General Use Permit Criteria:

- A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development. The development will be compatible with the development of abutting properties. The proposed hours and conditions of approval will minimize offsite impacts. Utilities and civic services are existing. The façade improvements will enhance the appearance of the area.
- B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, and shopping, or civic environment, and will be as attractive as

July 15, 1998

the nature of the use and it's location and setting warrant. The activity will provide a convenient environment for dining and will be as attractive as the use, location, and setting warrant.

- C. That the proposed development will enhance the successful operation of the surrounding area and its basic community functions, or will provide an essential service to the community or region. The proposed activity will provide a larger dining service within the neighborhood.
- D. That the proposal conforms to all applicable design review criteria set forth in the DESIGN REVIEW PROCEDURE at Section 17.136.070. Design review is not required in this zone.
- E. That the proposal will conform in all significant respects with the Oakland General Plan and with any other applicable plan or development control map which has been adopted by the City Council. The proposal conforms in all significant respects with the Oakland General Plan and the Zoning Regulations.

July 15, 1998

CONDITIONS OF APPROVAL ATTACHED TO AND MADE A PART OF ZONING CASE NO. CM98-123: (Modifications to the Conditions of Approval as directed by the City Planning Commission at the **August 5, 1998** meeting are indicated in **bold print** for additions and ~~cross-out~~ type for deletions.)

1. That the project shall be constructed and operated in accordance with the authorized use as described in this staff report, and according to the floor plans, provided further, that the project incorporate the revisions listed below as conditions of approval.
2. These conditions of approval shall be reproduced on page one of any plans submitted for a building permit for this project. Conditions must be reviewed and approved by planning staff prior to commencing the use.
3. The business authorized by this Conditional Use Permit shall be on-site sale of beer and wine in conjunction with a full service restaurant limited to the days and times specified below. If, at any time, the activity fails to be conducted in a manner consistent with a full service restaurant as defined in the Oakland Zoning Regulations, this conditional use permit shall be revoked after notice and hearing by the Oakland Planning Commission. Beer and Wine may only be served during hours that food is served. This Conditional Use Permit shall not permit any entertainment or the establishment of a bar without review and approval by the Planning Commission and other applicable agencies.
4. The restaurant shall be open 8:00 AM to 10:00 PM daily: these days and hours may be changed after review by the City Planning Commission at a noticed public hearing.
5. This activity shall be subject to the regulations and fees of the Deemed Approved program.
6. Any trash containers shall not be allowed on the sidewalk or in the City right-of-way except as necessary for collection. **Garbage dumpsters shall be stored and screened from public view. Garbage pick-up service shall be sufficient to prevent offensive odors and the accumulation of overflow trash.** Sidewalks adjacent to the business shall be kept clear of litter and debris. **All litter and rubbish that builds up during daily operations shall be swept up as frequently as is needed to maintain a pleasant appearance at all times.** The sidewalks shall be swept ~~once~~ at least twice per day or as needed to control litter. One of these times shall be immediately after the walk-up window service closes. The establishment shall be kept free of unpleasant odors by hosing down trash areas, and maintaining trash receptacle

July 15, 1998

- areas and sidewalks, at the time of closing every night.**
7. The applicant shall monitor excessive noise or lighting and shall work with neighbors to resolve any noise or lighting complaints. Lighting in the rear yard shall be shielded to prevent glare offsite. Lighting shall be required at the entrance on Foothill Blvd. and shall be sufficient to allow police to identify persons standing in front of the building. The sound level shall be limited to that allowable under the by Section 17.120.050 Performance Standards, Noise (Section 7710).
 8. This use shall conform to all provisions of the State ABC license. The state license and state conditions shall be posted along with these conditions in a place visible to the public. This use shall also conform to the State Retail Operating Standards, Section 25612.5 of the Business and Professions Code and local Performance Standards, Section 15210 the intent of which is to reduce nuisance and crime associated with alcohol outlets.
 9. No external pay phones are permitted.
 10. The applicant shall discourage loiterers **and criminal activity**. Persons loitering shall be asked to leave. Techniques discussed in the manual entitled "Loitering: Business and Community Based Solutions" may be used and are recommended by the Alcoholic Beverage Action Team.
 11. Graffiti shall be removed from the premises within 72 hours, (3 days) of application. **The exterior of the building shall be appropriately maintained to preserve an aesthetically pleasing appearance, including upkeep of paint and signs, and repair of broken windows and doors.**
 12. The project is approved pursuant to the Planning Code only and shall comply with all other applicable codes and requirements imposed by other affected departments. Minor changes to approved plans may be approved administratively by the Zoning Administrator; major changes shall be subject to review and approval at a new public hearing by the City Planning Commission.
 13. The applicant shall defend, indemnify, and hold harmless the City of Oakland, its agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Oakland, its agents, officers or employees to attack, set aside, void or annul, an approval by the City of Oakland, the Office of Planning and Building, Planning Commission, or City Council. The City shall promptly notify the applicant of any claim, action or proceeding and the City shall cooperate fully in such

July 15, 1998

- defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.
14. The City Planning Commission reserves the right, after notice and public hearing, to alter Conditions of Approval or revoke this conditional use permit if it is found that the approved activity is violating any of the Conditions of Approval or the provisions of the Zoning Regulations or is causing a public nuisance.
 15. This permit shall become effective upon satisfactory compliance with the above conditions. Any additional uses other than those approved with this permit will require a separate application and approval. Failure to exercise this approval by July 15, 1999, shall invalidate this approval, provided further, that upon written request the Zoning Administrator may grant a one year extension of this date, with additional extensions subject to approval by the City Planning Commission.
 16. Weeds and vegetation overgrowth shall be cleared from the storefront at least once every two weeks.
 17. No parking shall be permitted on sidewalks, in crosswalks, or in any other location where it may discourage pedestrian activity or place pedestrians in an unsafe walking environment.
 18. The walk-up window shall be limited to use Monday through Friday only from the hours of 11:30 a.m. to 2:00 p.m.
 19. There shall be no advertising or display of alcoholic beverages or liquor brand names in windows or on the exterior of the building.

APPROVED BY:

City Planning Commission: August 5, 1998 (date) 6 ayes, 0 noes to approve
(vote)
City Council: _____ (date)
(vote)

CITY OF OAKLAND



POLICE ADMINISTRATION BUILDING • 455 - 7TH STREET • OAKLAND, CALIFORNIA 94607-3985

Police Department

Telephone Device for the Deaf (510) 238-7629
Patrol Desk (510) 238-3455
Fax (510) 238-2251

February 2, 2012

Department of Alcoholic Beverage Control
1515 Clay Street, Suite 2208
Oakland, CA 94612

RE: **LETTER OF PROTEST**
4149 Foothill Bl. Oakland, Alameda County
DBA: Las Adelitas Restaurant
Petitioner(s): Jimenez, Elia & Oswal
ABC License #47-478214, pending original

To District Administrator David Bailey:

The Oakland Police Department, Alcohol Beverage Action Team has reviewed the ABC 211 Application for Alcoholic Beverage License for the above listed location which was mailed out on January 11, 2012.

Upon review, it has been determined that this location does not have a Conditional Use Permit for Distilled Spirits. The current C.U.P authorizes the sales/service of beer and wine beverages only. Due to the zoning restrictions at this location, the Oakland Police Department recommends **DENIAL** of this application.

It shall be noted that if a Conditional Use Permit allowing the sales/service of distilled spirits is obtained, the Oakland Police Department would be prepared to modify the protest from **Denial** to **Denial of Unconditional Use** with the following conditions recommended.

Please direct your response or questions regarding this protest to Sergeant Pedro Espinoza (510-777-8525), Supervisor of the Oakland Police Department's Alcohol Beverage Action Team (ABAT).

Respectfully,

J. Blankinship 8767
Officer Justin Blankinship
Oakland Police Department
Alcohol Beverage Action Team -Area 2

CC: Sgt. P. Espinoza, Oakland Police Department (ABAT)
Elias Ferran, City Attorney's Office
Arturo Sanchez, City Administrator's Office
Aubrey Rose, Oakland Planning Department

ATTACHMENT G

Under City of Oakland Ordinance 11624, the City of Oakland has determined that the public nuisance problems, such as litter, loitering, drug transactions, public urination and public drunkenness are strongly associated with the operation of alcoholic beverage sale establishments. Therefore, the Oakland Police Department appreciates the opportunity that the Department of Alcoholic Beverage Control is now providing to recommend conditions for attachment to alcoholic beverage licenses when such licenses are being transferred.

We hereby request that the existing, signed (24May09) conditions #'s 1 through 6, carry forward along with the following additional recommendations;

(C4) There shall be no bar or lounge area upon the licensed premises maintained for the purpose of sales, service or consumption of alcoholic beverages directly to patrons for consumption

(C33) The subject alcoholic beverage license shall not be exchanged for a public premises type license nor operated as a public premise.

(C17) There will be no dancing allowed on the premise.

(C24) No pool or billiards tables may be maintained on the premise.

(C8) Graffiti painted or marked upon the premise or any area under the control of the licensee(s) shall be removed, covered or concealed within 48 hours.

(C16) The monthly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period.

Officer J. Blankinship 8787
Oakland Police Department
Alcohol Beverage Action Team, Area 2

**BEFORE THE
CALIFORNIA DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL**

IN THE MATTER OF THE APPLICATION OF

Elia Veronica Jimenez
Oswal Jimenez
Las Adelitas Restaurant
4149 Foothill Blvd.
Oakland, CA 94601-4240

FILE 41-478214

For Issuance of an On-Sale Beer and Wine Eating Place License
Under the Alcoholic Beverage Control Act

**PETITION FOR CONDITIONAL
LICENSE**

WHEREAS, petitioner(s) has/have filed an application for the issuance of the above referenced license(s) for the above mentioned premises; and,

WHEREAS, the proposed premises and/or parking lot operated in conjunction therewith are located within 100 feet of residence(s); and,

WHEREAS, the issuance of the subject license without the below described conditions would interfere with the quiet enjoyment of the property by nearby residents and constitute grounds for denial of the application under the provisions of Rule 61.4, Chapter 1, Title 4 of the California Code of Regulations; and,

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare or morals;

NOW, THEREFORE, the undersigned do/does hereby petition for a conditional license as follows, to-wit:

1. Sales, service and consumption of alcoholic beverages shall be permitted no later than 11 p.m. daily.
2. There shall be no live entertainment of any type, including live music, disc jockey, karaoke, topless entertainment, male or female performers or fashion shows.
3. A single jukebox or stereo may be maintained upon the premises, however, the music shall not be audible outside the premises.
4. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
5. Petitioner(s) shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, as depicted on the ABC-253 dated April 27, 2009.
6. Petitioner(s) shall regularly police the area under their control in an effort to prevent the loitering of persons about the premises.

This petition for conditional license is made pursuant to the provisions of Sections 23800 through 23805 of the Business and Professions Code and will be carried forward in any transfer at the applicant-premises.

Petitioner(s) agree(s) to retain a copy of this petition on the premises at all times and will be prepared to produce it immediately upon the request of any peace officer.

RECEIVED

MAY 28 2009

ABC-172 (5/94)

Dept. of Alcoholic Beverage Control
Oakland Office


Page 1 of 2

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ABC-OAKLAND

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The petitioner(s) understand(s) that any violation of the foregoing condition(s) shall be grounds for the suspension or revocation of the license(s).


Applicant/Petitioner



5/24/09
DATE

RECEIVED

MAY 28 2009

Dept. of Alcoholic Beverage Control
Oakland Office

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