



SAN FERNANDO

PLANNING AND PRESERVATION COMMISSION

REGULAR MEETING NOTICE AND AGENDA

MARCH 1, 2016 – 6:30 P.M.

COUNCIL CHAMBERS
117 MACNEIL STREET
SAN FERNANDO, CA 91340

CALL TO ORDER/ROLL CALL

Chair Theale E. Haupt
Vice-Chair Alvin Durham, Jr.
Commissioner Kevin Beaulieu
Commissioner David Bernal
Commissioner Yvonne G. Mejia

PLEDGE OF ALLEGIANCE

Chairperson Theale E. Haupt

APPROVAL OF AGENDA

March 1, 2016

PUBLIC STATEMENTS – WRITTEN/ORAL

There will be a three (3) minute limitation per each member of the audience who wishes to make comments relating to City Business. Anyone wishing to speak, please fill out a form located at the Council Chambers entrance and submit it to the Commission Chair. When addressing the Planning and Preservation Commission please speak into the microphone and voluntarily state your name and address.

CONSENT CALENDAR

Items on the Consent Calendar are considered routine and may be disposed of by a single motion to adopt staff recommendation. If the Planning and Preservation Commission wishes to discuss any item, it should first be removed from the Consent Calendar.

- 1) REQUEST TO APPROVE THE MINUTES OF FEBRUARY 2, 2016, PLANNING AND PRESERVATION COMMISSION MEETING.**

PLANNING AND PRESERVATION COMMISSION

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NEW BUSINESS

- 2) **SUBJECT:** **CONDITIONAL USE PERMIT 2015-009 (CUP 2015-009)**
- APPLICANT:** **EL CAMARON CAMPEON (C/O HANI MAMMO). 13737
FOOTHILL BLVD., SYLMAR, CA 91342**
- PROPOSAL:** **THE PROPOSED PROJECT IS A REQUEST FOR REVIEW AND
APPROVAL OF A CONDITIONAL USE PERMIT TO ALLOW
FOR THE ON-SITE CONSUMPTION OF BEER AND WINE
WITH LIVE ENTERTAINMENT AT AN EXISTING
RESTAURANT (ON-SALE BEER AND WINE FOR CONA FIDE
PUBLIC EATING PLACE, TYPE 41 LICENSE), AT THE
PROPERTY LOCATED AT 1161 N. MACLAY AVENUE. THE
EXISTING RESTAURANT OCCUPIES A TENANT SPACE OF
APPROXIMATELY 2,580 SQ. FT. WITHIN A MULTI-TENANT
COMMERCIAL BUILDING. THE SUBJECT PROPERTY IS
LOCATED ALONG THE WEST SIDE OF THE 1100 BLOCK OF
NORTH MACLAY AVENUE, BETWEEN KNOX STREET AND
EIGHTH STREET; WITHIN THE MACLAY DISTRICT
(NEIGHBORHOOD SERVICES OVERLAY AREAS) OF THE
SAN FERNANDO CORRIDORS SPECIFIC PLAN (SP-4) ZONE.**
- RECOMMENDATION:** **STAFF RECOMMENDS THAT THE PLANNING AND
PRESERVATION COMMISSION DENY THE REQUEST FOR
LIVE ENTERTAINMENT AND APPROVE THE CONDITIONAL
USE PERMIT 2015-009, TO ALLOW FOR THE ON-SITE
CONSUMPTION OF BEER AND WINE IN CONJUNCTION
WITH THE OPERATION OF “EL CAMARON CAMPEON
RESTAURANT” A BONA FIDE PUBLIC EATING PLACE,
EXCLUDING LIVE ENTERTAINMENT USE, LOCATED AT
1161 N. MACLAY AVENUE, PURSUANT TO PLANNING AND
PRESERVATION COMMISSION RESOLUTION 2016-003
AND THE CONDITIONS OF APPROVAL ATTACHED AS
EXHIBIT “A” TO THE RESOLUTION (ATTACHMENT NO. 1).**
- 3) **SUBJECT:** **ZONE TEXT AMENDMENT 2016-001 AND CITY
ORDINANCE**
- APPLICANT:** **CITY OF SAN FERNANDO, 117 MACNEIL STREET, SAN
FERNANDO, CA 91340**

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PROPOSAL: CONSIDERATION OF PROPOSED ZONE TEXT AMENDMENT 2016-001 AND CITY ORDINANCE TO EXPRESSLY PROHIBIT MEDICAL CANNABIS DISPENSARIES, CULTIVATION, DELIVERIES, AND ALL COMMERCIAL CANNABIS ACTIVITIES CITYWIDE.

RECOMMENDATION: STAFF RECOMMENDS THAT THE PLANNING AND PRESERVATION COMMISSION:

1. CONDUCT A PUBLIC HEARING; AND
2. SUBSEQUENT TO THE CONCLUSION OF COMMISSION DISCUSSION, ADOPT THE ATTACHED PLANNING AND PRESERVATION COMMISSION RESOLUTION 2016-004 (ATTACHMENT NO. 1) RECOMMENDING TO THE CITY COUNCIL ADOPTION OF THE ATTACHED ORDINANCE (EXHIBIT "A" TO ATTACHMENT NO. 1) APPROVING ZONE TEXT AMENDMENT 2016-001, AMENDING CHAPTER 106 (ZONING) AND, AMENDING CHAPTER 22 (BUSINESSES) TO EXPRESSLY PROHIBIT MEDICAL CANNABIS DISPENSARIES, MEDICAL CANNABIS CULTIVATION, MEDICAL CANNABIS DELIVERIES, AND ALL COMMERCIAL CANNABIS ACTIVITIES IN ALL AREAS OF THE CITY AND FINDING SUCH CODE AMENDMENTS TO BE EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) PURSUANT TO CEQA GUIDELINES SECTION 15030(B)(3).

If, in the future, you wish to challenge the items listed above in Court, you may be limited to raising only those issues you or someone else raised at the Public Hearing described in this notice or in written correspondence delivered to the City Planning and Preservation Commission at, or prior to, the Public Hearing. Decisions of Planning and Preservation Commission may be appealed to the City Council within 10 days following the final action.

CONTINUED BUSINESS

None

STAFF COMMUNICATIONS

PLANNING AND PRESERVATION COMMISSION

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COMMISSIONER COMMENTS

ADJOURNMENT

April 5, 2016

I hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted on the City Hall bulletin board not less than 72 hours prior to the meeting.

Fred Ramirez

Signed and Posted: (5:30 p.m.)

Agendas and complete Agenda Packets (including staff reports and exhibits related to each item) are posted on the City's Internet Web site (www.sfcity.org). These are also available for public reviewing prior to a meeting at the Community Development Department Public Counter. Any public writings distributed by the Planning and Preservation Commission to at least a majority of the Commissioners regarding any item on this regular meeting agenda will also be made available at the Community Development Department Public Counter located at 117 Macneil Street, San Fernando, CA, 91340 during normal business hours. In addition, the City may also post such documents on the City's Web Site at www.sfcity.org. In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification/accommodation to attend or participate in this meeting, including auxiliary aids or services please call the Community Development Department at (818) 898-1227 at least 48 hours prior to the meeting.



CITY OF SAN FERNANDO
PLANNING AND PRESERVATION COMMISSION

DRAFT MINUTES OF THE
FEBRAURY 2, 2016 MEETING
CITY HALL COUNCIL CHAMBER

THE FOLLOWING MINUTES ARE A SUMMARY OF ACTIONS TAKEN BY THE PLANNING COMMISSION. AUDIO OF THE ACTUAL MEETING ARE AVAILABLE FOR LISTENING AT:

<http://www.ci.san-fernando.ca.us/commissionandboardmeetings/#ppc>

CALL TO ORDER

The meeting was called to order by at 6:33 P.M.

PLEDGE OF ALLEGIANCE

Led by Theale Haupt

ROLL CALL

The following persons were recorded as present:

PRESENT:

Chairperson Theale Haupt, Vice-chair Alvin Durham, Commissioners Kevin Beaulieu, David Bernal and Yvonne Mejia

ABSENT

ALSO PRESENT

Community Development Director Fred Ramirez, Associate Planner Humberto Quintana, City Attorney Isabel Birrueta, and Community Development Secretary Michelle De Santiago

APPROVAL OF AGENDA

Vice-chair A. Durham moved to approve the agenda of the February 6, 2016 meeting. Seconded by Commissioner Y. Mejia, the motion carried with the following vote:

AYES:	A. Durham, Y. Mejia, K. Beaulieu, D. Bernal, and T. Haupt
NOES:	None
ABSENT:	None
ABSTAIN:	None

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CONSENT CALENDAR

Commissioner Y. Mejia moved to approve the minutes of the May 6, 2014 Planning and Preservation Commission Meeting. Seconded by Commissioner D. Bernal, the motion carried with the following vote:

AYES:	Y. Mejia, D. Bernal, K. Beaulieu, A. Durham, and T. Haupt
NOES:	None
ABSENT:	None
ABSTAIN:	None

UNFINISHED BUSINESS

None

PUBLIC HEARING:

CONDITIONAL USE PERMIT 2015-04 (CUP 2015-04) – MAGALY’S TAMALES RESTAURANT (C/O MAGALY COLELLI) 134 N. MACLAY AVENUE, SAN FERNANDO, CA 91340 - THE PROPOSED PROJECT IS A REQUEST FOR REVIEW AND APPROVAL OF A CONDITIONAL USE PERMIT, TO ALLOW FOR THE ON-SITE CONSUMPTION OF BEER, WINE, AND DISTILLED SPIRITS AT A PROPOSED RESTAURANT (ON-SALE GENERAL FOR CONA FIDE PUBLIC EATING PLACE; TYPE 47 LICENSE), AT THE PROPERTY LOCATED AT 134 N. MACLAY AVENUE. THE PROPOSED RESTAURANT WILL OCCUPY AN APPROXIMATELY 3,510 SQ. FT. COMMERCIAL BUILDING. THE SUBJECT PROPERTY IS LOCATED ALONG THE EAST SIDE OF THE 100 BLOCK OF NORTH MACLAY AVENUE, BETWEEN FIRST STREET AND SECOND STREET; WITHIN THE DOWNTOWN DISTRICT’S CITY CENTER SUB-DISTRICT OF THE SAN FERNANDO CORRIDORS SPECIFIC PLAN (SP-4) ZONE.

STAFF PRESENTATION

Associate Planner Humberto Quintana gave the staff presentation recommending that the Planning and Preservation Commission approve Conditional Use Permit 2015-04, to allow for the on-site consumption of alcoholic beverages in conjunction with the operation of “Magaly’s Tamales Restaurant” a bona fide public eating place located at 134 N. Maclay Avenue, pursuant to Planning and Preservation Commission Resolution 2016-002 and the conditions of approval attached as exhibit “A” to the Resolution (Attachment 1).

COMMISSION DISCUSSION

K. Beaulieu stated that it is nice to see this type of proposal come before the Commission, he stated he is happy to see the success of a small business expand to larger scale. He asked about second floor patio area and how you would access the staircase and if it will be exposed to the elements.

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F. Ramirez stated that he would have to inquire with Building and Safety with regards to the staircase and its details.

Magaly Colleli stated that there will be a glass storefront at the ground level and that there will be a glass area separating the patio from the restaurant. Additionally, she stated that the patio would be protected from the elements.

D. Bernal stated that he is excited about the proposal.

Y. Mejia stated that it is nice to see the expansion.

A. Durham stated that the city needs more sit-down restaurant and welcomes the change.

T. Haupt asked about the exterior walls and the arches.

M. Colleli stated that the arches will no longer be part of the exterior design.

Subsequent to discussion Commission D. Bernal moved to approved CUP 2015-04 and the conditions of approval. Seconded by Vice-chair A. Durham, the motion carried with the following vote:

AYES:	D. Bernal, A. Durham, K. Beaulieu, T. Haupt, and Y. Mejia
NOES:	None
ABSENT:	None
ABSTAIN:	None

STAFF COMMUNICATIONS

Fred Ramirez thanked those commissioners who participated in the 2016 Greater Los Angeles Homeless Count.

COMMISSION COMMENTS

Y. Mejia reminded the commission of the scholarship opportunities currently being offered through the City's Education Commission.

T. Haupt asked staff for an update on 650 Glenoaks Blvd.

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PUBLIC STATEMENTS

None

ADJOURNMENT: Vice-chair A. Durham moved to adjourn to March 1, 2016. Seconded by Commissioner D. Bernal, the motion carried with the following vote:

AYES:	A. Durham, D. Bernal, K. Beaulieu, T. Haupt, and Y. Mejia
NOES:	None
ABSENT:	None
ABSTAIN:	None

6:59 P.M.
Fred Ramirez
Planning Commission Secretary



MEETING DATE: FEBRUARY 2, 2016

PUBLIC HEARING:

1. CHAIRPERSON TO OPEN THE ITEM AND REQUEST STAFF REPORT
2. STAFF PRESENTS REPORT
3. COMMISSION QUESTIONS ON STAFF REPORT
4. OPEN THE PUBLIC HEARING
5. CLOSE THE PUBLIC HEARING
6. PLANNING AND PRESERVATION COMMISSION DISCUSSION
7. RECOMMENDED ACTION:
 - a) To Approve:

“I move to approve Conditional Use Permit 2015-04, to allow for the on-site consumption of alcoholic beverages in conjunction with the operation of “Magaly’s Tamales Restaurant” a bona fide public eating place located at 134 North Maclay Avenue, pursuant to Planning and Preservation Commission Resolution 2016-002 and the conditions of approval attached as Exhibit “A” to the resolution (attachment 1)...” (Roll Call Vote)
 - b) To Deny:

“I move to deny Conditional Use Permit 2015-04 based on the following...” (Roll Call Vote)
 - c) To Continue:

“I move to continue consideration Conditional Use Permit 2015-04 to a *specific date*...” (Roll Call Vote)

ITEM 2:

CONDITIONAL USE PERMIT 2015-04



AGENDA REPORT

To: Planning and Preservation Commission Chairperson Haupt and Commissioners

From: Fred Ramirez, Community Development Director
Prepared by: Humberto Quintana, Associate Planner

Date: March 1, 2016

Subject: **Conditional Use Permit 2015-09**
1161 North Maclay Avenue, Unit G, San Fernando, CA 91340
(Los Angeles County Assessor's Parcel No.: 2516-019-024)

Proposal: The proposed project is a request for review and approval of a conditional use permit to allow for the on-site consumption of beer and wine with live entertainment at an existing restaurant (On-Sale Beer and Wine for Bona Fide Public Eating Place, Type 41 License), at the property located at 1161 N. Maclay Avenue, Unit G. The existing restaurant occupies a tenant space of approximately 2,580 sq. ft. within a multi-tenant commercial building. The subject property is located along the west side of the 1100 block of North Maclay Avenue, between Knox Street and Eighth Street; within the Maclay District (Neighborhood Services Overlay Areas) of the San Fernando Corridors Specific Plan (SP-4) Zone.

APPLICANT: El Camaron Campeon (c/o Hani Mammo), 13737 Foothill Boulevard, Sylmar, CA 91342.

RECOMMENDATION:

Staff recommends that the Planning and Preservation Commission deny the request for live entertainment and approve Conditional Use Permit 2015-009, to allow for the on-site consumption of beer and wine in conjunction with the operation of "El Camaron Campeon Restaurant" a bona fide public eating place, excluding live entertainment use, located at 1161 North Maclay Avenue, Unit G, pursuant to Planning and Preservation Commission Resolution 2016-003 and the conditions of approval attached as Exhibit "A" to the resolution (Attachment No. 1).

PROJECT OVERVIEW:

On October 6, 2015, the City received an application (Attachment No. 2) for a Conditional Use Permit (CUP) that seeks City approval to allow for the on-site consumption of beer and wine (On-Sale Beer and Wine for Bona Fide Public Eating Place, Type 41 License), including limited

live entertainment on Fridays, Saturdays and Sundays, between 12pm. – 9pm., ancillary to the operation of El Camaron Campeon Restaurant, a bona fide public eating place located at 1161 North Maclay Avenue, Unit G. El Camaron Campeon Restaurant is an existing restaurant located at 1161 North Maclay Avenue, Unit G (Los Angeles County Assessor's Parcel No's.: 2516-019-024). The subject site is approximately 20,977.70 sq. ft. and is improved with an approximate 8,959 sq. ft. multi-tenant commercial building. The existing restaurant occupies a tenant space of approximately 2,580 sq. ft. within the multi-tenant commercial building and was previously operated as Tacos El Oso Restaurant. The subject property is located along the west side of the 1100 block of North Maclay Avenue, between Knox Street and Eighth Street; within the Maclay District (Neighborhood Services Overlay Areas) of the San Fernando Corridors Specific Plan (SP-4) Zone.

Parking for the subject site is provided by 44 off-street parking spaces. In addition, public parking accessible to the restaurant is located on-street north of the property located along Eighth Street, to the east of the property located on Maclay Avenue and to the south of the property located along Knox Street. In total, ten (10) on-street parking spaces are adjacent to the existing restaurant site (A site plan of the project site is provided as Attachment No. 6 to this staff report.)

The requested on-site consumption of alcohol in conjunction with the operation of a bona fide public eating place would be allowed with the City's Planning and Preservation Commission's approval of the requested CUP pursuant to City Code Sections 106-145 and 106-176, et al. Pursuant to Section 106-176, et al., alcoholic beverages are allowed subject to the review and approval of a conditional use permit by the Commission for on-site consumption ancillary to the operation of a sit-down restaurant with table service that is a "bona fide public eating place." A bona fide public eating place is defined as "a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on the premises and must comply with all the regulations of the local department of health." (City Code Section 106-177.)

Furthermore, the request for live entertainment in conjunction with the operation of a bona fide public eating place potentially could be allowed with the City's Planning and Preservation Commission's approval of the requested CUP pursuant to Section 2.2 D of the Development Standards of the Maclay District (Neighborhood Services Overlay Areas) of the San Fernando Corridors Specific Plan. Per Section 2.2 D, the Planning and Preservation Commission must deem the proposed live entertainment use similar and compatible to uses that meet the purpose and intent of the Maclay District and of the San Fernando Corridors Specific Plan.

Based on the review of the requested CUP, it is staff's assessment that the proposed restaurant would qualify for the Commission's consideration of a CUP to allow for the ancillary sale and on-site consumption of alcoholic beverages, excluding live entertainment use. Per City Code Section 106-179(c)(1), bona fide public eating places like the subject restaurant are exempted from distance separation requirements from any other on-sale or off-sale outlets. Additional discussion regarding the proposed CUP and the required finding for approval of the project is provided in the Analysis Section of this report.

BACKGROUND:

1. General Plan Land Use and Zoning Designation: The project site at 1161 North Maclay Avenue is within the Maclay District (Neighborhood Services Overlay) of the SP-4 (Corridors Specific Plan). The subject site has a City General Plan SP-4 land use designation of SP-4 and a zoning designation of SP-4 (Corridors Specific Plan).
2. Site Location and Description: El Camaron Campeon Restaurant is an approximately 2,580-square-foot restaurant located at 1161 North Maclay Avenue. The subject site is located on the easterly portion of the 1100 block of North Maclay Avenue, between Knox Street and Eighth Street (Los Angeles County Assessor's Parcel No.: 2516-019-024). Parking for the restaurant is provided by 44 off-street parking spaces. In addition, additional parking is provided through on-street spaces north of the property located along Eighth Street, to the east of the property located on Maclay Avenue and to the south of the property located along Knox Street. In total, ten (10) on-street parking spaces are adjacent to the existing restaurant.
3. Environmental Review: This project has been reviewed by the City for compliance with the California Environmental Quality Act (CEQA). Based on the City's environmental assessment, it is the Planning and Preservation Commission's assessment that this project proposal qualifies for a Categorical Exemption under Class 1 (Existing Facilities) of San Fernando's CEQA Guidelines in that the proposed approval of a conditional use permit for the on-site sale and consumption of alcoholic beverages in conjunction with the ongoing operation of an existing restaurant (El Camaron Campeon Restaurant) will involve minor interior alterations (i.e., tenant improvement work) and minor exterior alterations (i.e., new signage, painting, window tinting) to an existing private commercial facility.
4. Legal Notification: On February 17, 2016, the public hearing notice was posted at two City Hall bulletins and notices of this hearing were mailed to all property owners of record within 500 feet of the subject site. A notice was also published in the February 18, 2016, print and online legal advertisement section of the Los Angeles Daily News (Attachment 3). In addition, public notices were posted at the library and the subject site.

5. Public Comments: As of the date of preparation of this staff report, no comments were received from the public regarding this conditional use permit request. Any comments received after the distribution of this report shall be read into the record at the public hearing.

ANALYSIS:

1. General Plan Consistency. The requested CUP to allow for the on-site consumption of alcohol ancillary to the operation of a bona fide public eating place is consistent with the following goals and objectives of the San Fernando General Plan Land Use Element by:

- ✓ Retaining the small town character of San Fernando;
- ✓ Promoting economic viability of commercial areas;
- ✓ Maintaining an identity that is distinct from surrounding communities; and,
- ✓ Attracting new commercial activities, particularly within the downtown area.

(San Fernando General Plan Land Use Element Goals I-IV, Pg. IV-6)

The requested CUP to allow for the on-site consumption of alcohol in conjunction with the operation of El Camaron Campeon Restaurant, a bona fide public eating place at 1161 N. Maclay Avenue, Unit G, would allow for a customary service to be provided to patrons with meals, promoting the economic viability of the district and enhancing the dining experience. Permitting the ability for a restaurant to expand its business through the sale and on-site consumption of alcoholic beverages served alongside meals helps foster growth and goes toward creating a lively environment for within the City, helping to create and maintain identity within the district that is distinct from surrounding communities.

2. Zoning Consistency. Pursuant to City Section 106-176, et al. the requested CUP for the on-site consumption of alcohol ancillary to the operation of a bona fide public eating establishment is a conditionally permitted use. The provisions in the Maclay District note that on-site sale of alcoholic beverages at the subject site is subject to the Commission's review and approval of a CUP for on-site consumption ancillary to the operation of a sit-down restaurant with table service that is a "bona fide public eating place."

Pursuant to City Code Section 106-177, a bona fide public eating place is defined as "a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods which may be required for ordinary meals, the kitchen of which must be kept in a sanitary condition with the proper amount of refrigeration for keeping of food on the premises and must comply with all the regulations of the local department of health."

As provided for in Section 1 (Purpose) of the development standards for the Maclay District, the purpose of the City's Neighborhood Serving Overlay is to "provide convenience shopping and services for neighborhoods." The requested CUP to allow the on-site consumption of alcoholic beverages ancillary to the operation of a proposed bona fide public eating place would allow for El Camaron Campeon Restaurant to provide services customary of other similar eating establishments. Permitting the ability for a restaurant in the Maclay District to expand its business through the sale and on-site consumption of alcoholic beverages served alongside meals helps foster growth and goes toward creating a lively environment. Based on the foregoing, it is staff's assessment that the CUP request excluding the approval of live entertainment is consistent with all applicable development standards for the Maclay District.

3. Distance Separation Requirements. As previously noted, City Code Section 106-179(c)(1) grants bona fide public eating places like the subject restaurant an exemption from distance separation requirements that would otherwise apply to businesses seeking a CUP for either the on-site sale or off-site sale of alcoholic beverages.
4. State Provisions for Issuance of Alcohol Licenses. Pursuant to Business and Professions Code Section 23958, State law requires the California Department of Alcohol Beverage Control ("ABC") to deny an alcohol license application if the proposed site is located within a census tract that has an "undue concentration" of licenses, unless certain exceptions apply. Undue concentration exists when:
 - a) The site is located in a crime reporting district that has a 20% greater number of reported crimes than the average number of reported crimes as compiled by the local Police Department during the most recent year;
 - b) As to "on-sale" retail license applications (for on-site consumption of alcoholic beverages): when the ratio of on-sale retail licenses to population in the census tract in which the proposed site is located exceeds the ratio of on-sale retail licenses to population in Los Angeles County; or
 - c) As to "off-sale" retail license applications (for off-site consumption of alcoholic beverages): when the ratio of off-sale retail licenses to population in the census tract in which the proposed site is located exceeds the ratio of off-sale retail licenses to population in Los Angeles County. (Business and Professions Code Section 23958.4(a)(1)-(3)).

Notwithstanding the existence of an undue concentration of alcohol licenses, ABC may issue an alcohol license in the following instances:

- a) For a retail on-sale bona fide public eating place license (or a retail license issued for a hotel, motel, or other lodging establishment, or a nonretail license): if the applicant shows that public convenience or necessity would be served by the issuance of the license.
- b) For any other license: if the City Council or its designated subordinate officer or body determines that public convenience or necessity would be served by the issuance of the license. (Business and Professions Code Section 23958.4(b)(1)-(2)).

The existing restaurant is located within Census Tract No. 3201 and has a published total population of 7,144 residents as of the 2010 United States Census. There are a total of six (6) alcohol licenses consisting of three (3) on-sale and three (3) off-sale alcohol licenses within the census tract.

A review of City and ABC records indicates that there are three (3) on-sale alcohol outlets (one (1) on-sale alcohol outlet for every 2,381 residents) within Census Tract No. 3201. The population in Los Angeles County is 9,818,605, with ABC records showing that a total of 11,839 on-sale alcohol licenses are active countywide. The ratio of on-sale licenses to population in Los Angeles County is one license for every 829.34 residents. The addition of one additional alcohol license to Census Tract 3201 would result in one license for every 1,786 residents. Even with the inclusion of a new on-sale license for El Camaron Campeon Restaurant, the ratio of on-sale licenses within Census Tract No. 3201 will still be less than the ratio for Los Angeles County. Therefore, Census Tract No. 3201 does not have an undue concentration of on-sale licenses and would therefore qualify for the issuance of an alcohol permit with ABC.

5. Conditional Use Permit Findings. As the name implies, a Conditional Use Permit (CUP) allows the City of San Fernando the ability to consider specified uses that might not otherwise be allowed as a principally permitted use, provided the landowner or applicant meets certain conditions of approval. The basic goal of the CUP is to allow the full range of land uses required for the community to function, while still giving the community some control over individual situations that could result in land use conflicts and/or negative environmental impacts. CUPs are important to land use planning because it allows the Planning and Preservation Commission (the Commission) to review the potential impacts associated with the discretionary review of the proposed development.

A CUP is subject to discretionary review by the Commission. Discretionary review is a process that permits the Commission to review individual cases for proposed uses of the land and approve a project subject to specific conditions or deny the CUP request. Conditions of project approval imposed on the applicant through the discretionary review process may call for any measures that are reasonably related to preventing potential adverse land use and/or environmental impacts that might be associated with the project.

The approval or denial of a CUP is based on the Commission's ability to be reasonably satisfied with the project and that it possesses certain characteristics that are identified in the form of 10 findings of fact, as required per City Code Section 106-145. All findings must be justified and upheld in the affirmative for approval of the CUP; a negative determination on any single finding is grounds for a denial of the CUP.

It is City Planning Staff's assessment that the findings for approval of the CUP can be made in this instance based on the aforementioned discussion, and as explained below for each of the required findings of fact.

a) The proposed use is one conditionally permitted within the subject zone and complies with all applicable sections of the zoning ordinance.

The requested conditional use permit to allow the on-site consumption of alcoholic beverages ancillary to the operation of a bona fide public eating place, excluding live entertainment use, is a use that is conditionally permitted within the Maclay District (City Center Sub-District) of the SP-4 (Corridors Specific Plan) zone. Pursuant to City Section 106.176 et seq., alcoholic beverages may be served through the review and approval of a conditional use permit for on-site consumption ancillary to the operation of a sit-down restaurant with table service that is a bona fide public eating place.

The live entertainment use is not a listed conditionally permitted use. Pursuant to Section 2.2(D), the Planning and Preservation Commission must deem the proposed live entertainment use similar and compatible to uses that meet the purpose and intent of the Maclay District and of the San Fernando Corridors Specific Plan. The approval of the live entertainment component would detract from the intent and purpose of the Maclay District in that the live entertainment would not be a complimentary use to other commercial and residential uses that lie in the Maclay District and the surrounding residential neighborhood and would not be compatible with the overall intent and purpose of the Maclay District.

El Camaron Campeon Restaurant, is a bona fide public eating place that provides direct table service to patrons of the establishment. The approval of the requested CUP would allow for the restaurant to offer alcoholic beverages with meals, as is customary with other similar types of bona fide public eating place. Additionally, the site would not trigger any specific distance separation requirements from any other on-sale or off-sale alcohol outlets, as exempted for bona fide public eating places pursuant to City Code 106-179(c)(1). Therefore, it is staff's assessment that the proposed CUP for the ancillary sale and consumption of alcoholic beverages use, excluding live entertainment use, is conditionally permitted within the subject zone and complies with all applicable sections of the City Zoning Ordinance. Thus, it is staff's assessment that this finding can be made in this case.

b) The proposed use would not impair the integrity and character of the zone in which it is to be located.

El Camaron Campeon Restaurant is an established restaurant that is a permitted use within the Maclay District (Neighborhood Services Overlay Areas) of the SP-4 (Corridors Specific Plan) Zone. The restaurant is occupying an approximate 2,580-square-foot tenant space located at 1161 North Maclay Avenue, Unit G, within the City's Corridors Specific Plan Maclay District. As provided for in Section 1 (Purpose) of the development standards for the Maclay District of the SP-4 (Corridors Specific Plan) zone, the purpose of the City's commercial corridors including the Neighborhood Services Overlay Areas is to allow for a mixture of commercial uses that "provide convenience shopping and services for neighborhoods."

The requested CUP to allow the on-site consumption of alcoholic beverages ancillary to operation of a bona fide public eating place, excluding live entertainment use, would allow for El Camaron Campeon Restaurant to provide services customary of other similar eating establishments. Permitting the ability for an established restaurant in the Maclay District to expand its business through the sale and on-site consumption of alcoholic beverages served alongside meals helps foster growth and goes toward creating a lively environment within the Maclay District.

Furthermore, in order to ensure the protection and preservation of surrounding neighborhoods, while fostering and promoting commercial growth in the City's Corridors Specific Plan Maclay District, the City's standard conditions for establishments requesting alcohol permits adequately prevent issues associated with loitering, noise, off-site consumption of alcohol, trash and debris, and other public nuisance conditions, pursuant to City Code Section 106-182 (b) and (c). The project's conditions of approval ensure that any noncompliance would require corrective action from the business owner or potentially lead to revocation of its CUP. Therefore, the proposed on-site consumption of alcohol to complement the restaurant, excluding live entertainment use, would not impair the integrity and character of the City's Corridors Specific Plan Maclay District or the intent and purpose of the Maclay District. Thus, it is staff's assessment that this finding can be made

c) The subject site is physically suitable for the type of land use being proposed.

The existing 2,580 square foot restaurant is located within an existing 8,959-square-foot multi-tenant commercial building located within the Maclay District (Neighborhood Services Overlay Areas) of the SP-4 (Corridors Specific Plan) Zone. The project site is currently surrounded with similar commercial uses, including but not limited to: retail shops, professional offices and other service commercial uses. The range of uses established in and around the project site and permitted by the

development standards of the Maclay District encourages the establishment of a mixture of uses that promote an environment that “provide convenience shopping and services for neighborhoods.”

The project site is physically suitable for the requested CUP for sale and on-site consumption of alcoholic beverage, excluding live entertainment use that would be served along with meals to patrons. The sale and consumption of alcoholic beverages would be completely self-contained within the restaurant to prevent persons from consuming alcohol outside of the premises. Thus, it is staff’s assessment that this finding can be made.

d) The proposed use is compatible with land uses presently on the subject property.

The proposed CUP to allow for the ancillary sale and on-site consumption of alcohol with the operation of a bona fide public eating place at 1161 N. Maclay Avenue, Unit G, excluding live entertainment use, would be compatible with those services offered to patron of similar restaurants within the City of San Fernando. Additionally, the mixes of uses that are in close proximity to the restaurant site create an inviting environment for patrons that promote dining and entertainment type use in the district. Thus, it is staff’s assessment that this finding can be made.

e) The proposed use would be compatible with the existing and future land uses within the zone and the general area in which the proposed use is to be located.

With the adoption of the *San Fernando Corridors Specific Plan* (the “Specific Plan”) in 2005, the City adopted policies and strategies to help transform the City’s main corridors (San Fernando Road, Truman Street, and Maclay Avenue) into attractive, livable, and economically vital districts. Within the Maclay District (Neighborhood Services Overlay Areas) of the Specific Plan, the establishment of retail stores, business and personal service shops, restaurants and other similar eating establishments are principally permitted and envisioned as the types of uses to be established in the future for all applicable properties. As provided above, these uses are permitted pursuant to Sections 2.1 and 2.2 of the development standards for the Maclay District (Neighborhood Services Overlay Areas) of the SP-4 (Corridors Specific Plan) Zone.

The proposed on-sale alcohol use in conjunction with the operation of a bona fide public eating place, excluding live entertainment use, is compatible with future land uses because it promotes and implements the purposes and intent of the Specific Plan described above. The request to allow for the on-site consumption of alcoholic beverages, excluding live entertainment use, would further augment the services the existing restaurant offers, while providing the opportunity to remain competitive with other similar dining establishments that offer alcoholic beverages along with meals.

Within the Neighborhood Services Overlay Areas of the Maclay District, the types of permitted uses (including restaurants) are those that typically generate a significant amount of foot traffic.

The proposed on-sale alcohol use in conjunction with the operation of a bona fide public eating place, excluding live entertainment use, is compatible with existing land uses of the subject site and the surrounding area. The Maclay District where the existing restaurant is relocated, is in close proximity to established retail, and service commercial uses that meet the purpose of the district by helping to allow a mixture of commercial uses that “provide convenience shopping and services for neighborhoods.” (Section 1 (Purpose) of the development standards for the Maclay District, Page 94). Therefore, the requested CUP to allow for the on-site consumption of alcoholic beverages ancillary to the operation of a bona fide public eating place, excluding live entertainment use, would be compatible with the existing and future land uses within the Maclay District (Neighborhood Services Overlay Areas) of the SP-4 (Corridors Specific Plan) Zone and the general area in which the proposed use is to be located. Thus, it is staff’s assessment that this finding can be made in this case.

- f) There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.**

The existing restaurant will continue to be adequately served by water, sanitation and public utilities. The on-site sale and consumption of beer and wine as an ancillary use in conjunction with a bona fide public eating establishment use will not adversely affect the water, sanitation and public utilities already serving the existing multi-tenant commercial building that houses the subject restaurant use. Thus, it is staff’s assessment that this finding can be made.

- g) There would be adequate provisions for public access to serve the subject proposal.**

El Camaron Campeon Restaurant, has adequate provisions for public access through the primary entrance along North Maclay Avenue. Patrons seeking to dine at the restaurant and compliment their meals with an alcoholic beverage have the ability to enter the restaurant from the primary entrance along North Maclay Avenue. Off-street parking is accessible off of North Maclay Avenue and off of Knox Street and Eighth Street through the public alley located to the west of the subject site. On-street public parking is located along North Maclay Avenue, Knox Street and Eighth Street. Thus, it is staff’s assessment that this finding can be made in this case.

- h) The proposed use would be appropriate in light of an established need for the use at the proposed location.**

Within the Maclay District (Neighborhood Services Overlay Areas) of the SP-4 zone, restaurants and similar eating establishments are permitted, with the ancillary sale and on-site consumption of alcohol beverages permitted subject to the Commission's review and approval of a conditional use permit. The requested CUP for the on-site consumption of alcoholic beverages ancillary to the operation of a bona fide public eating place, excluding live entertainment use, is an appropriate and compatible use for the types of currently established and potentially permitted uses the districts allows. Approval of the CUP for on-site sale and consumption of alcoholic beverages as an ancillary use to a bona fide public eating establishment helps to encourage future commercial development. CUP approval at the subject site facilitates the expansion of services provided by restaurants in the Maclay District's Neighborhood Services Overlay Areas in a manner that helps draw new visitors to the area, create a lively commercial district of the City and further revitalize the district itself.

The requested CUP for alcoholic beverages, excluding live entertainment use, would allow for El Camaron Campeon Restaurant to augment its services by providing interested patrons the ability to order alcoholic beverages with their meal. The sale and on-site consumption of alcoholic beverages is a customary service offered by similar bona fide public eating places both within and outside the City. Fostering the growth of these types of establishment through the approval of a CUP for the additional service promotes investment in the City and has the potential to encourage future redevelopment of other properties with uses that meet the purpose and intent of the *San Fernando Corridors Specific Plan* and the Maclay District's Neighborhood Services Overlay Areas. Therefore, the proposed CUP for the on-site consumption of alcoholic beverages ancillary to the operation of a bona fide public eating place, excluding live entertainment use, at 1161 N. Maclay Avenue, Unit G, would be appropriate in light of an established need for the use at the subject site. Thus, it is staff's assessment that this finding can be made in this case.

- i) The proposed use is consistent with the objectives, policies, general land uses and programs of the City's general plan.**

The *San Fernando Corridors Specific Plan* is a component of the City's General Plan. The proposed use is consistent with the Specific Plan objective to transform the City's main corridors into attractive, livable, and economically vital districts. Within the Maclay District (Neighborhood Services Overlay Areas) of the Specific Plan, the establishment of retail stores, business and personal service shops, restaurants and other similar eating establishments are principally permitted and envisioned as desired uses. El

Camaron Campeon is a restaurant, and is thus consistent with City's General Plan objectives.

The requested permit to allow for the sale and on-site consumption of alcohol in conjunction with the operation of El Camaron Campeon Restaurant, a bona fide public eating place, excluding live entertainment use, would allow for a customary service to be provided to patrons with meals that enhances their dining experience while promoting the economic viability of the district. Permitting the ability for a restaurant in the City's commercial and mixed-use districts to expand its business through the sale and on-site consumption of alcoholic beverages served alongside meals helps foster growth and goes toward creating a lively environment within the city helping to maintain an identity within the area that is distinct from surrounding communities.

Furthermore, approval of the requested CUP, excluding live entertainment use, would help support existing dining and entertainment uses that reduce potential commercial vacancies and "attract new commercial activities." (San Fernando General Plan Land Use Element Goals and Objectives, Pg. IV-6.) Thus, it is staff's assessment that this finding can be made in this case.

j) The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.

The requested CUP to allow for the on-site consumption of alcoholic beverages ancillary to the operation of the bona fide public eating place, excluding live entertainment use, would allow for the ongoing viability of a restaurant within the City. With the adoption of the recommended conditions of approval for the requested alcohol CUP, El Camaron Campeon Restaurant would be required to provide sufficient safeguards to deter public nuisance issues and protect public interest, health, safety, convenience or welfare. Noncompliance with the conditions of approval for an approved CUP for alcohol would require corrective action on behalf of the business owner and may result in revocation of the CUP. Thus, it is staff's assessment that this finding can be made in this case.

6. Supplemental Findings for On-sale CUPs. In addition to those findings set forth in City Code Section 106-145, as discussed in Section 5 of this report, applications for conditional use permits involving any use that involves the sale, serving, and/or consumption of alcoholic beverages shall require the Planning and Preservation Commission to make the following findings:

- a) That the existing or proposed use does not or will not encourage or intensify crime within the reporting district that it is located;**

In review of reporting data from the City of San Fernando Police Department for the subject property, there were a total of nineteen (19) calls for service to 1161 North Maclay Avenue, between January 1, 2013 and February 23, 2016. Of the nineteen (19) calls for service, eight (8) calls were for audible burglary alarm or burglary report, four (4) calls were for disturbances, two (2) calls were for theft, two (2) calls were for fire incidents, one (1) call was for battery (that occurred outside the city limits), one (1) call was for a parking enforcement issue and one (1) call was a follow up call for service. No calls for service from the subject property were alcohol related.

The requested conditional use permit to allow for the sale and on-site consumption of alcoholic beverages as an ancillary use to the bona fide public eating place, excluding live entertainment use, with the adoption of the recommended conditions of approval, would not encourage or intensify crime within its located reporting district. The recommended conditions of approval would address potential public nuisance issues attributed to crime, noise, loitering and other disturbances that may be associated with the sale of alcohol at the subject property located at 1161 North Maclay Avenue. Furthermore, noncompliance with the conditions of approval for the requested CUP would require enforcement action from the City to abate any public nuisance, with repeated noncompliance leading to potential revocation of the CUP. Thus, it is staff's assessment that this finding can be made.

- b) That the existing or proposed use does not or will not adversely impact any residential use, church, hospital, educational institution, day care facility, park, or library within the surrounding area.**

As proposed, El Camaron Campeon Restaurant, a bona fide public eating place, would augment the services they provide by offering the sale and on-site consumption of alcoholic beverages as an ancillary use to the restaurant. Alcoholic beverages would be offered for sale to patrons of the establishment to accompany the purchase of a meal. All business activity would be limited to the confines of the existing 2,580-square-foot commercial building. Failure to address public nuisances issues associated with sale, purchase, and/or consumption of alcoholic beverages would result in City abatement action, including possible revocation of the CUP for repeated noncompliance. As part of the project, no outdoor dining area would be established or is being proposed outside.

Therefore, it is staff's assessment that the conditions of approval provide sufficient safeguards for the ongoing operation of a bona fide public eating place as part of its relocation to a newly remodeled facility that includes ancillary alcoholic beverage sales

that will not adversely impact any residential use, commercial, and/or institutional uses located in the surrounding area. Thus, it is staff's assessment that this finding can be made.

c) That the distance separation requirements in section 106-179 are met.

Pursuant to City Code Section 106-179(c)(1), bona fide public eating places like El Camaron Campeon Restaurant are exempt from distance separation requirements that would otherwise apply to businesses seeking a CUP for either the on-site sale or off-sale of alcoholic beverages. Thus, it is staff's assessment that this finding can be made in this case.

d) If required by City Code Section 106-180, that the existing or proposed use will serve a public convenience or necessity, as defined in section 106-180.

El Camaron Campeon Restaurant is located within Census Tract No. 3201 and has a total population of 7,144 residents as noted in the 2010 United States Census. Approval of an on-sale general Type 41 license for alcohol at the subject site would result in a total of seven (7) licenses in Census Tract including four (4) on-sale and three (3) off-sale alcohol licenses within the Census Tract 3201. A review of City of San Fernando and the California Department of Alcoholic Beverage Control records indicates that there are currently three (3) on-sale alcohol outlets (one (1) on-sale alcohol outlet for every 2,381 residents) within Census Tract No. 3201.

The population in Los Angeles County is 9,818,605, with ABC records showing that a total of 11,839 on-sale alcohol licenses are active countywide. The ratio of on-sale licenses to population in Los Angeles County is one license for every 829.34 residents. The addition of one (1) additional alcohol license to Census Tract 3201 would result in one license for every 1,786 residents. Even with the inclusion of a new on-sale license for El Camaron Campeon Restaurant, the ratio of on-sale licenses within Census Tract No. 3201 will still be less than the ratio for Los Angeles County. Since the ratio of on-sale licenses within Census Tract No. 3201 is less than the ratio for Los Angeles County, Census Tract No. 3201 does not have an undue concentration of on-sale licenses.

Pursuant to California Business and Professions Code Section 23958, an undue concentration also exists when the site is located in a crime reporting district that has a 20% greater number of reported crimes than the average number of reported crimes as compiled by the local police department during the most recent year. Data from the San Fernando Police Department groups the information available for United States Census Tract 3201 as one complete reporting area, referred to as San Fernando Police Department Track 1. Track 1 encompasses an area bounded by Hubbard Avenue to the west, Eighth Street and Foothill Boulevard to the north, Arroyo Avenue to the east and

Glenoaks Boulevard to the south. Based on the reporting data available from the San Fernando Police Department, from January 1, 2015 to February 23, 2016, 31.5 percent of all incidents reported were generated from Track 1. Based on the data, Track 1 does not have an undue concentration as it pertains to a greater number of reported crimes.

It is staff's assessment that the requested conditional use permit to allow for the sale and on-site consumption of alcoholic beverages as an ancillary use to the proposed restaurant will not be requiring a public convenience and necessity statement. Thus, it is staff's assessment that this finding can be made in this case.

CONCLUSION:

In light of the forgoing analysis, it is City Planning Staff's assessment that the Planning and Preservation Commission's approval of the CUP for on-site consumption of alcoholic beverage ancillary to the operation of El Camaron Campeon Restaurant, a bona fide public eating establishment, excluding live entertainment use, is warranted. Commission approval of the requested CUP for an On-sale Beer and Wine, Type 41 License for El Camaron Campeon Restaurant to operate at 1161 North Maclay Avenue, Unit G, would facilitate the long term viability of the restaurant while enhancing the dining experience of customers. Commission approval of the CUP would also facilitate new services that seek to draw visitors and residents to the Maclay District in a manner consistent with the General Plan's goals and objectives and the development standards and design guidelines for the Maclay District (Neighborhood Services Overlay Areas) of the SP-4 (Corridors Specific Plan) Zone.

Based on the above findings, City Planning Staff recommends that the Planning and Preservation Commission approve Conditional Use Permit 2015-009, to allow for the ancillary sale and on-site consumption of alcoholic beverages in conjunction with the operation of El Camaron Campeon Restaurant, a bona fide public eating place, excluding live entertainment use, pursuant to Planning and Preservation Commission Resolution 2016-003 and the Conditions of Approval attached as Exhibit "A" to the resolution (Attachment No. 1).

ATTACHMENTS:

1. Planning and Preservation Commission Resolution 2016-003 and Exhibit "A": Conditions of Approval
2. Conditional Use Permit Application – CUP 2015-09
3. Notice of Public Hearing Published in the *Los Angeles Daily News*
4. Zoning & Vicinity Map
5. Project Site Photos
6. Site Plan and Floor Plans

RESOLUTION NO. 2016-003

A RESOLUTION OF THE PLANNING AND PRESERVATION COMMISSION OF THE CITY OF SAN FERNANDO DENYING THE REQUEST FOR LIVE ENTERTAINMENT AND APPROVING CONDITIONAL USE PERMIT 2015-04 TO ALLOW FOR THE ON-SITE CONSUMPTION OF ALCOHOLIC BEVERAGES IN CONJUNCTION WITH THE OPERATION OF “EL CAMARON CAMPEON” A BONA FIDE PUBLIC EATING PLACE, EXCLUDING LIVE ENTERTAINMENT USE, LOCATED AT 1161 NORTH MACLAY AVENUE, UNIT G.

WHEREAS, on October, 6, 2015, an application has been filed by Hani Mammo to request review and approval of a conditional use permit to allow for the on-site consumption of alcoholic beverages with live entertainment, ancillary to the operation of “El Camaron Campeon Restaurant”, a bona fide public eating place at 1161 North Maclay Avenue, Unit G. The restaurant will occupy an approximately 2,580 sq. ft. tenant space within a multi-tenant commercial building located at 1161 North Maclay Avenue, Unit G, within the Maclay District (Neighborhood Services Overlay Areas) of the SP-4 (Corridors Specific Plan) Zone;

WHEREAS, the applicant has requested approval of a conditional use permit pursuant to City Section 106-176 et al. to allow for the sale and on-site consumption of alcoholic beverages (Type 41 License – Beer and Wine) as an ancillary use to the bona fide public eating place;

WHEREAS, the applicant has also requested approval of the requested consideration of a conditional use permit pursuant Section 2.2 D of the Development Standards of the Maclay District (Neighborhood Services Overlay Area) of the *San Fernando Corridors Specific Plan* to allow for live entertainment as an ancillary use to the bona fide public eating place;

WHEREAS, the Planning and Preservation Commission has considered all of the evidence presented in connection with the project, written and oral at the public hearing held on the 1st day of March 2016.

NOW, THEREFORE, BE IT RESOLVED that the Planning and Preservation Commission finds as follows:

SECTION 1: This project has been reviewed by the City for compliance with the California Environmental Quality Act (CEQA). Based on the City’s environmental assessment, it is the Planning and Preservation Commission’s assessment that this project proposal qualifies for a Categorical Exemption under Class 1 (Existing Facilities) of San Fernando’s CEQA Guidelines in that the proposed approval of a conditional use permit for the on-site sale and consumption of alcoholic beverages in conjunction with the ongoing operation of an existing restaurant (El Camaron Campeon Restaurant) will involve minor interior alterations (i.e., tenant improvement work) and minor exterior alterations (i.e., new signage, painting, window tinting) to an existing private commercial facility;

SECTION 2: The proposed project is consistent with the objectives, policies, and general land uses and programs provided in the City's General Plan and the development standards of the *San Fernando Corridors Specific Plan*; and

SECTION 3: Pursuant to City Code Section 106-145, the Planning and Preservation Commission finds that the following findings for Conditional Use Permit 2015-09 have been justified and upheld in the affirmative because of the recommended conditions of approval regarding operating procedures governing the sale and on-site consumption of alcoholic beverages. The Planning and Preservation Commission findings are as followed:

1. The proposed use is one conditionally permitted within the subject zone and complies with all applicable sections of the zoning ordinance.

The requested conditional use permit to allow the on-site consumption of alcoholic beverages ancillary to the operation of a bona fide public eating place, excluding live entertainment use, is a use that is conditionally permitted within the Maclay District (City Center Sub-District) of the SP-4 (Corridors Specific Plan) zone. Pursuant to City Section 106.176 et seq., alcoholic beverages may be served through the review and approval of a conditional use permit for on-site consumption ancillary to the operation of a sit-down restaurant with table service that is a bona fide public eating place.

The live entertainment use is not a listed conditionally permitted use. Pursuant to Section 2.2(D), the Planning and Preservation Commission must deem the proposed live entertainment use similar and compatible to uses that meet the purpose and intent of the Maclay District and of the San Fernando Corridors Specific Plan. The approval of the live entertainment component would detract from the intent and purpose of the Maclay District in that the live entertainment would not be a complimentary use to other commercial and residential uses that lie in the Maclay District and the surrounding residential neighborhood and would not be compatible with the overall intent and purpose of the Maclay District.

El Camaron Campeon Restaurant, is a bona fide public eating place that provides direct table service to patrons of the establishment. The approval of the requested CUP would allow for the restaurant to offer alcoholic beverages with meals, as is customary with other similar types of bona fide public eating place. Additionally, the site would not trigger any specific distance separation requirements from any other on-sale or off-sale alcohol outlets, as exempted for bona fide public eating places pursuant to City Code 106-179(c)(1). Therefore, the Planning and Preservation Commission concurs with staff's assessment that the proposed CUP for the ancillary sale and consumption of alcoholic beverages use, excluding live entertainment use, is conditionally permitted within the subject zone and complies with all applicable sections of the City Zoning Ordinance. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made in this case.

2. The proposed use would not impair the integrity and character of the zone in which it is to be located.

El Camaron Campeon Restaurant is an established restaurant that is a permitted use within the

Maclay District (Neighborhood Services Overlay Areas) of the SP-4 (Corridors Specific Plan) Zone. The restaurant is occupying an approximate 2,580-square-foot tenant space located at 1161 North Maclay Avenue, within the City's Corridors Specific Plan Maclay District. As provided for in Section 1 (Purpose) of the development standards for the Maclay District of the SP-4 (Corridors Specific Plan) zone, the purpose of the City's commercial corridors including the Neighborhood Services Overlay Area is to allow for a mixture of commercial uses that "provide convenience shopping and services for neighborhoods."

The requested CUP to allow the on-site consumption of alcoholic beverages ancillary to operation of a bona fide public eating place, excluding live entertainment use, would allow for El Camaron Campeon Restaurant to provide services customary of other similar eating establishments. Permitting the ability for an established restaurant in the Maclay District to expand its business through the sale and on-site consumption of alcoholic beverages served alongside meals helps foster growth and goes toward creating a lively environment within the Maclay District.

Furthermore, in order to ensure the protection and preservation of surrounding neighborhoods, while fostering and promoting commercial growth in the City's Corridors Specific Plan Maclay District, the City's standard conditions for establishments requesting alcohol permits adequately prevent issues associated with loitering, noise, off-site consumption of alcohol, trash and debris, and other public nuisance conditions, pursuant to City Code Section 106-182 (b) and (c). The project's conditions of approval ensure that any noncompliance would require corrective action from the business owner or potentially lead to revocation of its CUP. Therefore, the proposed on-site consumption of alcohol to complement the restaurant, excluding live entertainment use, would not impair the integrity and character of the City's Corridors Specific Plan Maclay District or the intent and purpose of the Maclay District. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made.

3. The subject site is physically suitable for the type of land use being proposed.

The existing 2,580 square foot restaurant is located within an existing 8,959-square-foot multi-tenant commercial building located within the Maclay District (Neighborhood Services Overlay Area) of the SP-4 (Corridors Specific Plan) Zone. The project site is currently surrounded with similar commercial uses, including but not limited to: retail shops, professional offices and other service commercial uses. The range of uses established in and around the project site and permitted by the development standards of the Maclay District encourages the establishment of a mixture of uses that promote an environment that "provide convenience shopping and services for neighborhoods."

The project site is physically suitable for the requested CUP for sale and on-site consumption of alcoholic beverage, excluding live entertainment use that would be served along with meals to patrons. The sale and consumption of alcoholic beverages would be completely self-contained within the restaurant to prevent persons from consuming alcohol outside of the premises. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made.

4. The proposed use is compatible with land uses presently on the subject property.

The proposed CUP to allow for the ancillary sale and on-site consumption of alcohol with the operation of a bona fide public eating place at 1161 N. Maclay Avenue, Unit G, excluding live entertainment use, would be compatible with those services offered to patron of similar restaurants within the City of San Fernando. Additionally, the mixes of uses that are in close proximity to the restaurant site create an inviting environment for patrons that promote dining and entertainment type use in the district. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made.

5. The proposed use would be compatible with the existing future land uses within the zone and the general area in which the proposed use is to be located.

With the adoption of the *San Fernando Corridors Specific Plan* (the "Specific Plan") in 2005, the City adopted policies and strategies to help transform the City's main corridors (San Fernando Road, Truman Street, and Maclay Avenue) into attractive, livable, and economically vital districts. Within the Maclay District (Neighborhood Services Overlay Areas) of the Specific Plan, the establishment of retail stores, business and personal service shops, restaurants and other similar eating establishments are principally permitted and envisioned as the types of uses to be established in the future for all applicable properties. As provided above, these uses are permitted pursuant to Sections 2.1 and 2.2 of the development standards for the Maclay District (Neighborhood Services Overlay Areas) of the SP-4 (Corridors Specific Plan) Zone.

The proposed on-sale alcohol use in conjunction with the operation of a bona fide public eating place, excluding live entertainment use, is compatible with future land uses because it promotes and implements the purposes and intent of the Specific Plan described above. The request to allow for the on-site consumption of alcoholic beverages, excluding live entertainment use, would further augment the services the existing restaurant offers, while providing the opportunity to remain competitive with other similar dining establishments that offer alcoholic beverages along with meals. Within the Neighborhood Services Overlay Areas of the Maclay District, the types of permitted uses (including restaurants) are those that typically generate a significant amount of foot traffic.

The proposed on-sale alcohol use in conjunction with the operation of a bona fide public eating place, excluding live entertainment use, is compatible with existing land uses of the subject site and the surrounding area. The Maclay District where the existing restaurant is relocated, is in close proximity to established retail, and service commercial uses that meet the purpose of the district by helping to allow a mixture of commercial uses that "provide convenience shopping and services for neighborhoods." (Section 1 (Purpose) of the development standards for the Maclay District, Page 94). Therefore, the requested CUP to allow for the on-site consumption of alcoholic beverages ancillary to the operation of a bona fide public eating place, excluding live entertainment use, would be compatible with the existing and future land uses within the Maclay District (Neighborhood Services Overlay Areas) of the SP-4 (Corridors Specific Plan) Zone and the general area in which the proposed use is to be located. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made in this case.

6. There would be adequate provisions for water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety.

The existing restaurant will continue to be adequately served by water, sanitation and public utilities. The on-site sale and consumption of beer and wine as an ancillary use in conjunction with a bona fide public eating establishment use will not adversely affect the water, sanitation and public utilities already serving the existing multi-tenant commercial building that houses the subject restaurant use. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made.

7. There would be adequate provisions for public access to serve the subject proposal.

El Camaron Campeon Restaurant, has adequate provisions for public access through the primary entrance along North Maclay Avenue. Patrons seeking to dine at the restaurant and compliment their meals with an alcoholic beverage have the ability to enter the restaurant from the primary entrance along North Maclay Avenue. Off-street parking is accessible off of North Maclay Avenue and off of Knox Street and Eighth Street through the public alley located to the west of the subject site. On-street public parking is located along North Maclay Avenue, Knox Street and Eighth Street. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made in this case.

8. The proposed use would be appropriate in light of an established need for the use at the proposed location.

Within the Maclay District (Neighborhood Services Overlay Areas) of the SP-4 zone, restaurants and similar eating establishments are permitted, with the ancillary sale and on-site consumption of alcohol beverages permitted subject to the Commission's review and approval of a conditional use permit. The requested CUP for the on-site consumption of alcoholic beverages ancillary to the operation of a bona fide public eating place, excluding live entertainment use, is an appropriate and compatible use for the types of currently established and potentially permitted uses the districts allows. Approval of the CUP for on-site sale and consumption of alcoholic beverages as an ancillary use to a bona fide public eating establishment helps to encourage future commercial development. CUP approval at the subject site facilitates the expansion of services provided by restaurants in the Maclay District's Neighborhood Services Overlay Areas in a manner that helps draw new visitors to the area, create a lively commercial district of the City and further revitalize the district itself.

The requested CUP for alcoholic beverages, excluding live entertainment use, would allow for El Camaron Campeon Restaurant to augment its services by providing interested patrons the ability to order alcoholic beverages with their meal. The sale and on-site consumption of alcoholic beverages is a customary service offered by similar bona fide public eating places both within and outside the City. Fostering the growth of these types of establishment through the approval of a CUP for the additional service promotes investment in the City and has the potential to encourage future redevelopment of other properties with uses that meet the purpose and intent of the *San Fernando Corridors Specific Plan* and the Maclay District's Neighborhood Services Overlay Areas. Therefore, the proposed CUP for the on-site consumption of alcoholic

beverages ancillary to the operation of a bona fide public eating place, excluding live entertainment use, at 1161 N. Maclay Avenue, Unit G, would be appropriate in light of an established need for the use at the subject site. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made in this case.

9. The proposed use is consistent with the objectives, policies, general land uses and programs of the City's general plan.

The *San Fernando Corridors Specific Plan* is a component of the City's General Plan. The proposed use is consistent with the Specific Plan objective to transform the City's main corridors into attractive, livable, and economically vital districts. Within the Maclay District (Neighborhood Services Overlay Areas) of the Specific Plan, the establishment of retail stores, business and personal service shops, restaurants and other similar eating establishments are principally permitted and envisioned as desired uses. El Camaron Campeon is a restaurant, and is thus consistent with City's General Plan objectives.

The requested permit to allow for the sale and on-site consumption of alcohol in conjunction with the operation of El Camaron Campeon Restaurant, a bona fide public eating place, excluding live entertainment use, would allow for a customary service to be provided to patrons with meals that enhances their dining experience while promoting the economic viability of the district. Permitting the ability for a restaurant in the City's commercial and mixed-use districts to expand its business through the sale and on-site consumption of alcoholic beverages served alongside meals helps foster growth and goes toward creating a lively environment within the city helping to maintain an identity within the area that is distinct from surrounding communities.

Furthermore, approval of the requested CUP, excluding live entertainment use, would help support existing dining and entertainment uses that reduce potential commercial vacancies and "attract new commercial activities." (San Fernando General Plan Land Use Element Goals and Objectives, Pg. IV-6.) Thus, it is the Planning and Preservation Commission's assessment that this finding can be made in this case.

10. The proposed use would not be detrimental to the public interest, health, safety, convenience or welfare.

The requested CUP to allow for the on-site consumption of alcoholic beverages ancillary to the operation of the bona fide public eating place, excluding live entertainment use, would allow for the ongoing viability of a restaurant within the City. With the adoption of the recommended conditions of approval for the requested alcohol CUP, El Camaron Campeon Restaurant would be required to provide sufficient safeguards to deter public nuisance issues and protect public interest, health, safety, convenience or welfare. Noncompliance with the conditions of approval for an approved CUP for alcohol would require corrective action on behalf of the business owner and may result in revocation of the CUP. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made in this case.

SECTION 4: In addition to those findings set forth in City Code Section 106-145, applications for conditional use permits involving any use that involves the sale, serving, and/or consumption of alcoholic beverages shall require the Planning and Preservation Commission to make the following findings, pursuant to City Code Section 106-178(a)(1-4):

1. That the existing or proposed use does not or will not encourage or intensify crime within the reporting district that it is located.

In review of reporting data from the City of San Fernando Police Department for the subject property, there were a total of nineteen (19) calls for service to 1161 North Maclay Avenue between January 1, 2013 and February 23, 2016. Of the nineteen (19) calls for service, eight (8) calls were for audible burglary alarm or burglary report, four (4) calls were for disturbances, two (2) calls were for theft, two (2) calls were for fire incidents, one (1) call was for battery (that occurred outside the city limits), one (1) call was for a parking enforcement issue and one (1) call was a follow up call for service. No calls for service from the subject property were alcohol related.

The requested conditional use permit to allow for the sale and on-site consumption of alcoholic beverages as an ancillary use to the bona fide public eating place, excluding live entertainment use, with the adoption of the recommended conditions of approval, would not encourage or intensify crime within its located reporting district. The recommended conditions of approval would address potential public nuisance issues attributed to crime, noise, loitering and other disturbances that may be associated with the sale of alcohol at the subject property located at 1161 North Maclay Avenue. Furthermore, noncompliance with the conditions of approval for the requested CUP would require enforcement action from the City to abate any public nuisance, with repeated noncompliance leading to potential revocation of the CUP. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made.

2. That the existing or proposed use does not or will not adversely impact any residential use, church, hospital, educational institution, day care facility, park, or library within the surrounding area.

As proposed, El Camaron Campeon Restaurant, a bona fide public eating place, would augment the services they provide by offering the sale and on-site consumption of alcoholic beverages as an ancillary use to the restaurant. Alcoholic beverages would be offered for sale to patrons of the establishment to accompany the purchase of a meal. All business activity would be limited to the confines of the existing 2,580-square-foot commercial building. Failure to address public nuisances issues associated with sale, purchase, and/or consumption of alcoholic beverages would result in City abatement action, including possible revocation of the CUP for repeated noncompliance. As part of the project, no outdoor dining area would be established or is being proposed outside.

Therefore, the Planning and Preservation Commission concurs with staff's assessment that the conditions of approval provide sufficient safeguards for the ongoing operation of a bona fide public eating place as part of its relocation to a newly remodeled facility that includes ancillary alcoholic beverage sales that will not adversely impact any residential use, commercial, and/or

institutional uses located in the surrounding area. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made.

3. That the distance separation requirements in section 106-179 are met.

Pursuant to City Code Section 106-179(c)(1), bona fide public eating places like El Camaron Campeon Restaurant are exempt from distance separation requirements that would otherwise apply to businesses seeking a CUP for either the on-site sale or off-sale of alcoholic beverages. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made in this case.

4. If required by City Code Section 106-180, that the existing or proposed use will serve a public convenience or necessity, as defined in section 106-180.

El Camaron Campeon Restaurant is located within Census Tract No. 3201 and has a total population of 7,144 residents as noted in the 2010 United States Census. Approval of an on-sale general Type 41 license for alcohol at the subject site would result in a total of seven (7) licenses in Census Tract including four (4) on-sale and three (3) off-sale alcohol licenses within the Census Tract 3201. A review of City of San Fernando and the California Department of Alcoholic Beverage Control records indicates that there are currently three (3) on-sale alcohol outlets (one (1) on-sale alcohol outlet for every 2,381 residents) within Census Tract No. 3201.

The population in Los Angeles County is 9,818,605, with ABC records showing that a total of 11,839 on-sale alcohol licenses are active countywide. The ratio of on-sale licenses to population in Los Angeles County is one license for every 829.34 residents. The addition of one (1) additional alcohol license to Census Tract 3201 would result in one license for every 1,786 residents. Even with the inclusion of a new on-sale license for El Camaron Campeon Restaurant, the ratio of on-sale licenses within Census Tract No. 3201 will still be less than the ratio for Los Angeles County. Since the ratio of on-sale licenses within Census Tract No. 3201 is less than the ratio for Los Angeles County, Census Tract No. 3201 does not have an undue concentration of on-sale licenses.

Pursuant to California Business and Professions Code Section 23958, an undue concentration also exists when the site is located in a crime reporting district that has a 20% greater number of reported crimes than the average number of reported crimes as compiled by the local police department during the most recent year. Data from the San Fernando Police Department groups the information available for United States Census Tract 3201 as one complete reporting area, referred to as San Fernando Police Department Track 1. Track 1 encompasses an area bounded by Hubbard Avenue to the west, Eighth Street and Foothill Boulevard to the north, Arroyo Avenue to the east and Glenoaks Boulevard to the south. Based on the reporting data available from the San Fernando Police Department, from January 1, 2015 to February 23, 2016, 31.5 percent of all incidents reported were generated from Track 1. Based on the data, Track 1 does not have an undue concentration as it pertains to a greater number of reported crimes.

The Planning and Preservation Commission concurs with staff's assessment that the requested conditional use permit to allow for the sale and on-site consumption of alcoholic beverages as an

ancillary use to the proposed restaurant will not be requiring a public convenience and necessity statement. Thus, it is the Planning and Preservation Commission's assessment that this finding can be made in this case.

BE IT FURTHER RESOLVED that based upon the foregoing, the Planning and Preservation Commission hereby approves Conditional Use Permit 2015-009, subject to the conditions of approval attached as Exhibit "A".

PASSED, APPROVED AND ADOPTED this 1st day of March 2016.

THEALE E. HAUPT, CHAIRPERSON

ATTEST:

FRED RAMIREZ, SECRETARY TO THE PLANNING
AND PRESERVATION COMMISSION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF SAN FERNANDO)

I, FRED RAMIREZ, Secretary to the Planning and Preservation Commission of the City of San Fernando, do hereby certify that the foregoing Resolution was duly adopted by the Planning and Preservation Commission and signed by the Chairperson of said City at a meeting held on the 1st day of March 2016; and that the same was passed by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

FRED RAMIREZ, SECRETARY TO THE PLANNING AND
PRESERVATION COMMISSION

EXHIBIT “A”
CONDITIONS OF APPROVAL

PROJECT NO. : **Conditional Use Permit 2015-09**

PROJECT ADDRESS : 1161 North Maclay Avenue, Unit G, San Fernando, CA 91340
Los Angeles County Assessor’s Parcel No’s.: 2516-019-024

PROJECT DESCRIPTION : The proposed project is a request for review and approval of a Conditional Use Permit, to allow for the on-site consumption of alcoholic beverages (“on-sale beer and wine Type 41 license”) ancillary to the operation of “El Camaron Campeon,” a bona fide public eating place, excluding live entertainment, located at 1161 North Maclay Avenue, Unit G. The restaurant occupies an approximately 2,580 sq. ft. tenant space of a multi-tenant commercial building located at 1161 North Maclay Avenue, Unit G. The subject property is located along the east side of the 1100 block of North Maclay Avenue, between Knox Street and Eighth Street; within the Maclay District (Neighborhood Services Overlay Area) of the San Fernando Corridors Specific Plan (SP-4) Zone.

The following conditions shall be made a part of the approval of the project, and shall be complied with in their entirety, as determined by the Community Development Department:

1. Conditional Use Permit Entitlement. The conditional use permit is granted for the land described in this application and any attachments thereto, as reviewed by the Planning and Preservation Commission on March 1, 2016, except as herein modified to comply with these Conditions of Approval.
2. Incidental Use. The conditional use permit is granted for the “incidental” on-site sale, purchase, and/or consumption of alcoholic beverages. The sale of alcoholic beverages shall be “incidental to the sale of other products” as defined in City Code Section 106-177 (Definitions). Proof satisfactory to the chief planning official shall be annually submitted to show that the sale of alcohol has remained incidental to sale of other products. The applicant shall comply with all requirements of the California Department of Alcoholic Beverage Control (ABC).
3. Licensing. The Planning and Preservation Commission’s approval of this conditional use permit shall permit the applicant to apply for a “Type 41 License” (On-Sale Beer and Wine– Eating Place (Restaurant)) with ABC. A Type 41 License shall authorize the sale of beer and wine for consumption on the premises where sold. Additionally, the business is required to operate and maintain the licensed premises as a bona fide public eating place, with suitable kitchen facilities, and must make actual and substantial sales of meals for consumption on the premises.
4. Alcoholic Consumption Limitation. The operator of the restaurant shall comply with all the applicable city provisions for the on-site sale and consumption of alcoholic beverages in conjunction with a bona fide public eating place pursuant to City Code Sections 106-176 through 106-183. All on-site sale and consumption of alcoholic beverages shall be limited to the confines of the building

and the within the second-story dining area. Alcoholic beverages shall not be permitted to be consumed in the parking area or other exterior areas of the premises. Alcoholic beverages shall not be sold for consumption off the premises. In addition, loitering in the public right-of-way area, parking area, and/or in front of adjacent properties is prohibited.

5. Minimum Age to Serve Alcohol. Employees of the restaurant that are 21 years of age or older are permitted to serve alcoholic beverages to patrons dining at the establishment. No employee that is less than 21 years of age shall engage in the preparation or service of alcoholic beverages.
6. Standard Conditions for On-Sale Alcohol Establishments. In addition to those conditions of approval which the Planning and Preservation Commission may otherwise impose, all on-sale conditional use permits for alcoholic beverage sales shall be subject to the following standard conditions, as required by City Code Section 106-182:
 - a. Alcoholic beverages shall not be permitted to be consumed in parking areas or other exterior areas of the premises;
 - b. Alcoholic beverages shall not be sold for consumption off the premises;
 - c. The hours of operation, including deliveries to the proposed establishment, shall be reviewed and approved by the Planning and Preservation Commission as part of the CUP application in order to ensure compatibility with the surrounding area;
 - d. All employees who serve or sell alcoholic beverages shall successfully complete a responsible beverage service training program that meets the requirements of ABC. Records of such training shall be maintained on the premises and made available to the police department personnel upon request;
 - e. Loitering in the public right-of-way, parking area and in front of adjacent properties is prohibited. For purposes of this entitlement, loitering shall mean the act of an individual or group of individuals of remaining in a particular place within the vicinity of the business for a protracted time, without directly conducting any business activity and causing the disruption of peace and enjoyment of the public at the site.
 - f. The following signs shall be conspicuously posted onsite:
 - i. Exterior signs referencing Penal Code Section 602.1. Such signs shall be clearly visible from the establishment's parking area and shall include the police department's phone number.
 - ii. An interior sign in English and Spanish stating: "We ID everyone under 26 years of age for alcohol sales" with minimum dimensions of eight inches by 11 inches.
 - h. Exterior public telephones that permit incoming calls shall not be located on the premises;
 - i. Electronic games, including video games, shall not be located on the premises;

- j. Exterior lighting of the parking area shall provide adequate lighting for patrons while not producing glare or light spillover disturbing surrounding residential or commercial areas;
 - k. A security camera system approved by the police department shall be installed on the premises and shall be maintained in proper working order at all times. The security camera system shall be subject to inspection by the police department. The system must be capable of producing retrievable images on film or tape that can be made a permanent record and that can be enlarged through projection or other means. The video or digital recordings generated by the system shall be maintained for a period of 30 days;
 - l. The establishment shall implement preventive architectural design features as approved by the chief of police and the chief planning official in order to maintain a secure site by controlling access to the facility, open sight lines, adequate lighting levels, ambient noise levels and circulation patterns;
 - m. Special security measures such as security guards, door monitors, and burglar alarms systems may be required as a condition of approval with final determination made by the chief of police and the chief planning official on a case-by-case basis;
 - n. Litter and trash receptacles shall be located at convenient locations both inside and outside the establishment, and trash and debris shall be removed on a daily basis;
 - o. The exterior of the establishment, including all signs, accessory buildings and structures shall be maintained free of litter and graffiti at all times. All graffiti shall comply with city regulations and shall be removed from the premises within 24 hours of its discovery;
 - p. With regard to those conditional use permit applications that are approved based in part upon the fact that alcohol sales on the premises are incidental to the sale of other products, proof satisfactory to the chief planning official shall be annually submitted to show that the sale of alcohol has remained incidental to the sale of other products;
 - q. Within 30 days of approval of this conditional use permit, the applicant shall certify his or her acceptance of the conditions placed on the approval by signing a statement that he or she accepts and shall be bound by all of the conditions;
 - r. Violation of, or noncompliance with, any of the conditions of approval shall constitute grounds for revocation of this conditional use permit;
 - s. Expansion or enlargement of the business premises over the life of the structure or the use shall be subject to review by the Community Development Department as part of the conditional use permit approval process.
7. Hours of Operation. The sale of alcoholic beverages can only be sold during hours of 10:00 A.M. to 11:00 P.M. Sunday through Thursday and between 10:00 A.M. and 12:00 A.M. on Friday and Saturday. The business is allowed to open at earlier start times on a daily basis in order to serve meals so long as no alcoholic beverages are sold prior to the hour of 10 A.M. The operator of the restaurant will be responsible for requiring that there be no loitering on the site at any time and that

all customers shall leave the site no later than 30 minutes after closing. The doors to the establishment shall remain closed except upon entering and exiting the business. Changes in the hours of operation to allow for the sale and on-site consumption of alcoholic beverages beyond the hours provided above shall be subject to review and approval by the Planning and Preservation Commission.

8. Signage. Windows shall comply with the city's sign regulations in order to provide clear and unobstructed view of the cash register and sales area from the public right-of-way; windows shall be free of any tint and/or opaque window treatment.
9. Entertainment. No live entertainment or dancing shall be allowed within the establishment; jukebox music and televisions are permitted. Electronic games, including video games shall not be located on the premises.
10. Revocation. Violation of, or noncompliance with, any of these conditions of approval shall constitute grounds for revocation this conditional use permit, as provided below:
 - a. Upon the issuance of, and conviction for, three zoning violation citations;
 - b. Upon the revocation of the alcoholic license by ABC;
 - c. Upon any two disciplinary actions by ABC in the form of a fine or suspension of the alcoholic license, during the term of the CUP; or
 - d. Where conditions and activities on and/or adjacent to an off-sale or on-sale outlet, as defined herein, interfere with the quiet enjoyment of life and property in the neighborhood, or are or tend to be, injurious to health and safety of persons in the neighborhood. These include, but are not limited to the following:
 - i. Excessive noise, noxious smells or fumes, loitering, littering, curfew violations, disturbing the peace, illegal drug activity, public drunkenness, drinking in public, public urination, public vandalism, graffiti, lewd conduct, gambling, harassment of passersby, prostitution, sale of stolen merchandise, illegal parking, traffic violations, theft, assaults, batteries;
 - ii. Illegal sale, manufacture, storing, possession, distribution of alcoholic beverages; or,
 - iii. Police detention, citation, and/or arrests for these or any other unlawful activity attributed to the sale and/or consumption of alcoholic beverages declared by the city to be a public nuisance.

This conditional use permit may also be revoked as provided in City Code Sections 106-148 and 106-183. If at any time the operation of the business and/or the sale of alcoholic beverages in conjunction therewith becomes a nuisance, is detrimental to the public health, safety, or welfare, or results in undesirable activities creating an increased demand for law enforcement activities including an above normal rate of calls for service to the police department, the Planning and Preservation Commission, after a public hearing, as hereinafter provided, may revoke the conditional use permit herein granted or may modify and amend the same in such manner as it may determine necessary to abate the

nuisance or preclude the undesirable activities or behaviors which have generated the increased demand for law enforcement services.

11. Color Palette. The multi-tenant commercial building located at the subject site shall be painted with a consistent scheme in accordance with the approved color palette of the Maclay District – Design Guidelines.
12. Property Maintenance. The subject site and its immediate surrounding area shall be maintained in a clean, neat and orderly manner at all times and shall comply with the property maintenance standards as set forth in the San Fernando City Code.
13. Site Inspections. The community development department shall inspect the site to assure compliance with these conditions of approval. The restaurant operator and all successors shall grant the right of access to authorized agents of the City of San Fernando to conduct periodic inspections of the property.
14. Modifications. Unless the chief planning official deems a proposed change to the approved plans and operation a minor modification, any and all other modifications to the development plan, including these conditions of approval, shall require review and approval by the Planning and Preservation Commission. Expansion or enlargement of the business premises over the life of the structure or the use shall be subject to the CUP modification approval process.
15. Acceptance. Within thirty (30) days of approval of this conditional use permit, the restaurant operator(s) or their duly authorized representatives shall certify the acceptance of the conditions of approval by signing a statement using an acceptance affidavit form provided by the City of San Fernando that acknowledges acceptance of and commitment to adhere to all of the conditions of approval.
16. Recordation. The applicant shall provide the community development department with proof that the conditions of approval have been recorded with the Los Angeles Registrar Recorder/County Clerk's Office.
17. Public Review of Conditions of Approval. A copy of these conditions of approval shall be retained on-site at all times during the hours of operation of the restaurant and shall be made available for viewing upon public request or upon request by any city official and representative of ABC. Employees of the restaurant shall not prohibit a request of the public to view the conditions of approval for this entitlement.
18. Expiration. This conditional use permit shall become null and void unless exercised by initiating substantive action to implement the operation permitted by this entitlement within twelve (12) months of final approval; or until such additional time as may be granted by the community development department upon receipt of a request for an extension received prior to such expiration date. Subsequent failure to obtain and exercise an active business occupancy permit shall also cause expiration of the conditional use permit.

FERNANDO

CONDITIONAL USE PERMIT APPLICATION

PROJECT INFORMATION

SITE ADDRESS(ES)

1161 N. MacLay St #B SAN FERNANDO CA 91340

ASSESSORS PARCEL NUMBER(S) "APN"

2516-019-024

LOT SIZE

2,500 SQ Foot

EXISTING BUILDING (SQUARE FOOTAGE)

5,600 SQ Foot

PROPOSED ADDITION (SQUARE FOOTAGE)

NA

TOTAL PARKING SPACES (ON-SITE/OFF-SITE)

45

PROPOSED USE(S)

Beer & Wine sea food

LANDSCAPING (SQUARE FOOTAGE)

300 sq foot

PROJECT DESCRIPTION/TYPE OF CONDITIONAL USE PERMIT REQUEST Include any additional information on separate sheet and attach to the back of this application

Beer & Wine & live entertainment
sea food

Restaurant Beer & Wine license

APPLICANT INFORMATION

APPLICANT NAME

Hani Mammoo

PHONE NUMBER

(818) 642-2411

MAILING ADDRESS

13737 Foothill Blvd Sylmar CA 91342

FAX NUMBER

EMAIL ADDRESS

Hani.Mammoo@yahoo

SIGNATURE

PROPERTY OWNER INFORMATION

PROPERTY OWNER NAME

DANIEL ROMO

PHONE NUMBER

818 4069413

MAILING ADDRESS

DANIEL ROMO 904 VALLEY CREST ST
LA CANADA CA 91011

FAX NUMBER

EMAIL ADDRESS

SIGNATURE

FOR OFFICE USE ONLY

CUP APPLICATION

\$ 3,005.00

ZONE

Neighborhood serving
SP4 - MacLay Dist

GENERAL PLAN AREA

FILE NUMBER

AIMS SURCHARGE

\$ 300.50

ENVIRONMENTAL

\$ 204.00

NOTIFICATION

\$ 120.00

PUBLISHING

\$ 600.00

TOTAL FEE

\$4,229.50

DATE FILED

10/6/15

ACCEPTED BY

HC

CUP NO.

CUP 2015-009

AIMS NO.

COMMENTS

CROSS REFERENCE

SPR NO.

VAR NO.

OTHER

**PROOF OF PUBLICATION AFFIDAVIT
(2015.5 C.C.P.)**

**STATE OF CALIFORNIA,
County of Los Angeles,**

I am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the printer of the

Daily News


a newspaper of general circulation published 7 times weekly in the County of Los Angeles, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of Los Angeles, State of California, under the date of May 26, 1983, Case Number Adjudication #C349217; that the notice, of which the annexed is a printed copy (set in type not smaller than nonpareil) has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following dates, to wit: February 18,

all in the year 20 16.....

I certify (or declare) under penalty of perjury that the forgoing is true and correct.

Dated at Woodland Hills,

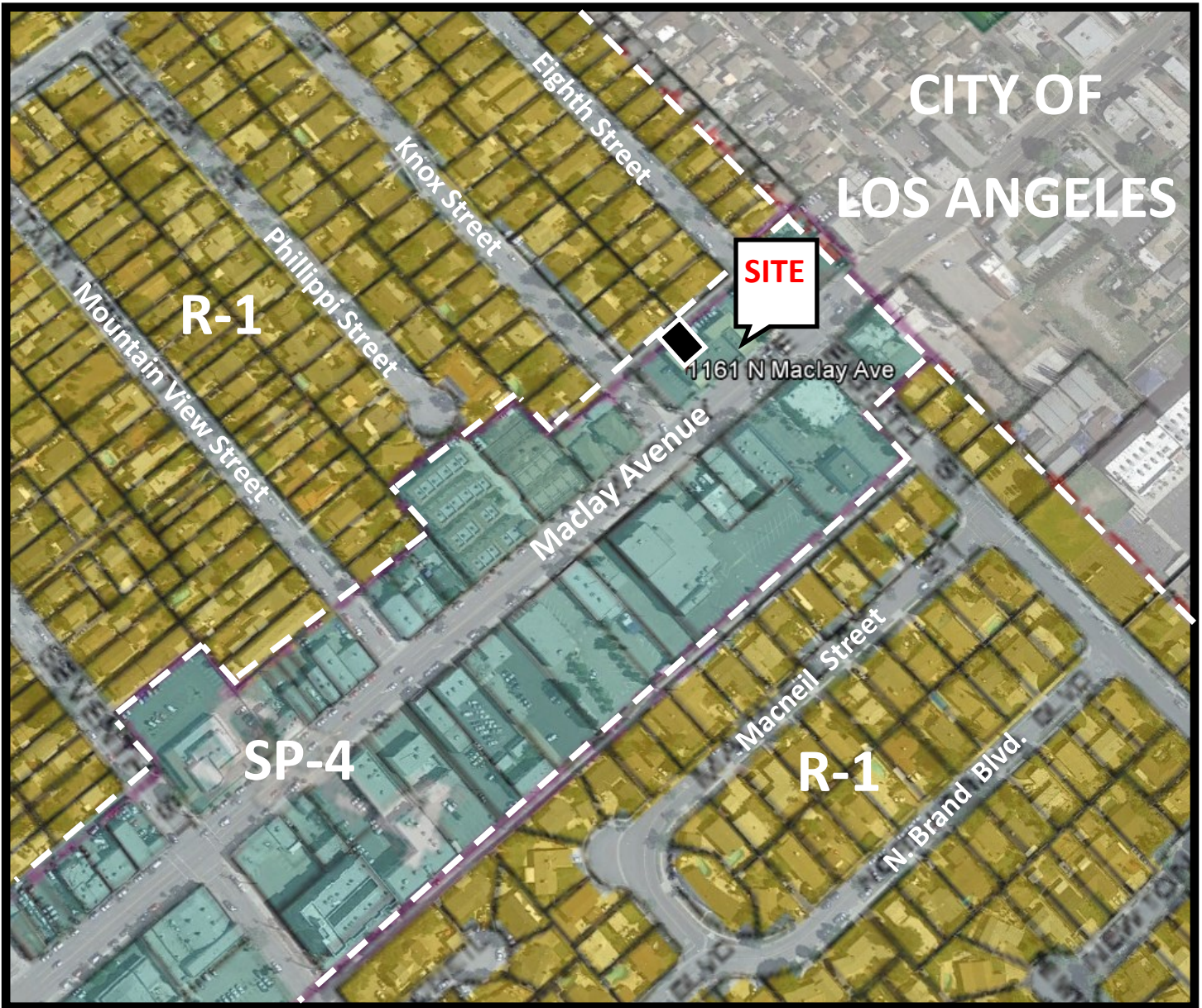
California, this 18th day of Feb., 2016.....


Signature

Proof of Publication of

Notice of A Public Hearing

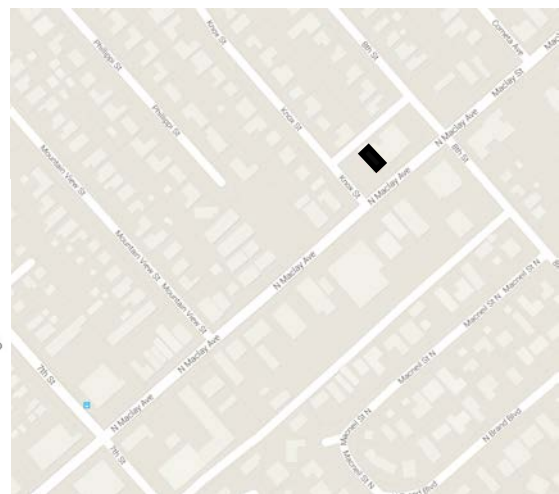
(DAILY NEWS)
**NOTICE OF A PUBLIC HEARING
THE CITY OF SAN FERNANDO PLANNING
AND PRESERVATION COMMISSION**
A public hearing on this matter and associated potential environmental impacts, if any, will be conducted by the City of San Fernando Planning and Preservation Commission on:
DATE: Tuesday, March 1, 2016
TIME: 6:30 p.m.
HEARING LOCATION:
City Hall Council Chambers, 117 Macneil Street, San Fernando, CA 91340
PROJECT LOCATION: 1161 N. Maclay Avenue, San Fernando, CA 91340 (Los Angeles County Assessor's Parcel No.: 2519-002-009)
APPLICATION: Conditional Use Permit 2015-009
PROJECT PROPONENT: El Camaron Campeon "c/o Hani Mammo", 1161 N. Maclay Avenue, San Fernando, CA 91340
PROJECT DESCRIPTION:
The Project is a request for the approval of a conditional use permit to allow for the on-site consumption of beer and wine and live entertainment at an existing restaurant (On-Sale Beer and Wine for Bona Fide Public Eating Place, Type 41 License), at the property located at 1161 N. Maclay Avenue. The subject property is located along the west side of the 1100 block of North Maclay Avenue, between Knox Street and Eighth Street; within the Maclay District (Neighborhood Serving Overlay) of the San Fernando Corridors Specific Plan (SP-4) Zone.
This project has been reviewed for compliance with the California Environmental Quality Act (CEQA). Based on that assessment, the project has been determined to be Categorically Exempt under Class 1 (Existing Facilities) of the City's adopted local CEQA Guidelines.
If you wish to challenge the action taken on this matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of San Fernando at, or prior to, the public hearing.
For further information regarding this proposal, please contact Community Development Director Fred Ramirez at (818) 898-1227 or by written correspondence to: City of San Fernando, Community Development Department, 117 Macneil Street, San Fernando, CA 91340-2993.
/s/ **FRED RAMIREZ**
Community Development Director
Publish February 18, 2016



Zoning & Vicinity Map

CASE NO: CUP 2015-09

ADDRESS: 1161 N. Maclay Avenue



Scale: NTS



View of Subject site looking west from Maclay Avenue.



View of Subject site looking north from Knox Street.



Subject Site Photos

CASE NO: CUP 2015-09

ADDRESS: 1161 N. Maclay Avenue



View looking Northeast from subject site on Maclay Avenue.



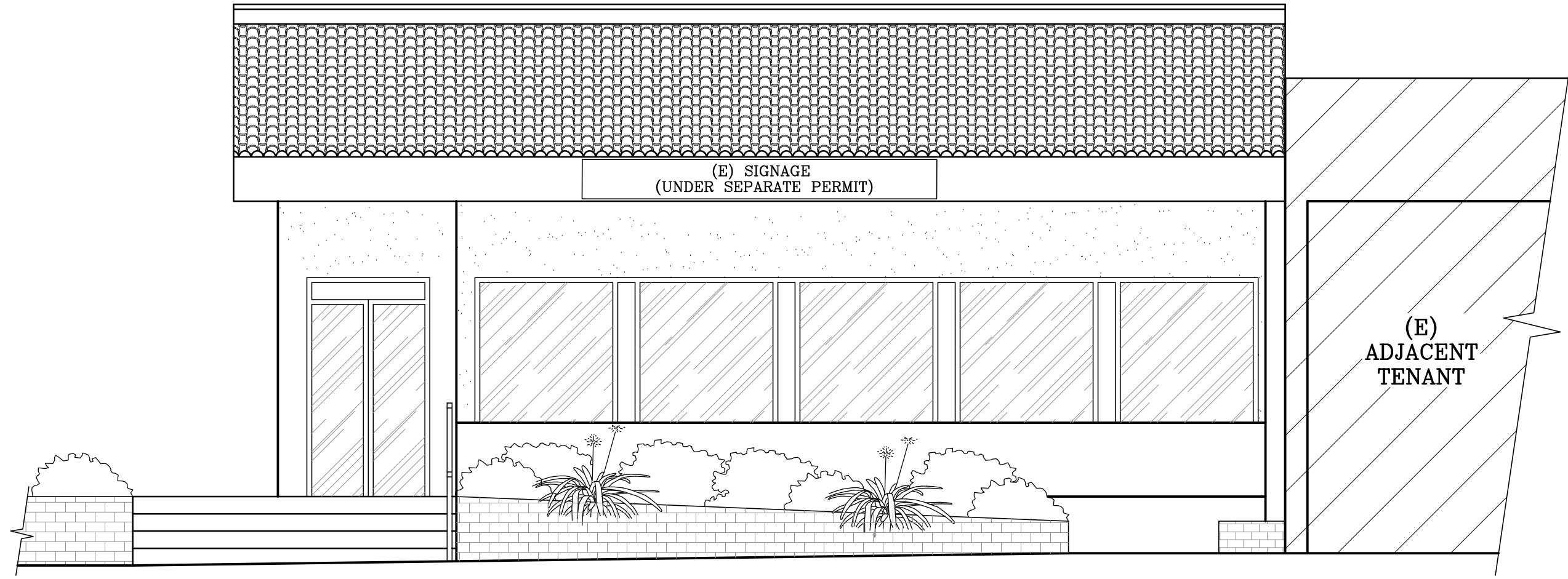
View looking south from subject site on Knox Street.



Vicinity Photos

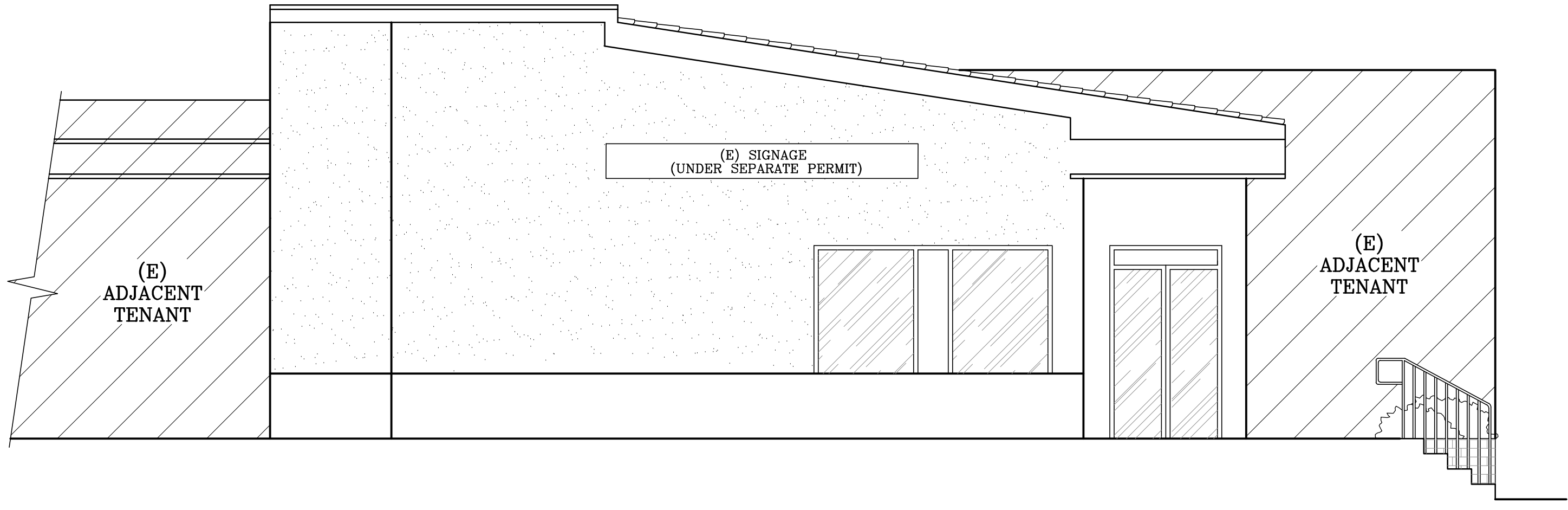
CASE NO: CUP 2015-09

ADDRESS: 1161 N. Maclay Avenue



EXISTING FRONT ELEVATION (MACLAY AVENUE)

1/4" = 1'-0"



EXISTING SIDE ELEVATION (KNOX STREET)

1/4" = 1'-0"

PROJECT DESCRIPTION:

PROJECT ADDRESS: 1161 N MacLay Avenue
San Fernando, CA 91340

LEGAL DESCRIPTION: Tract 14658 Lot 25-29

ZONE: C-1

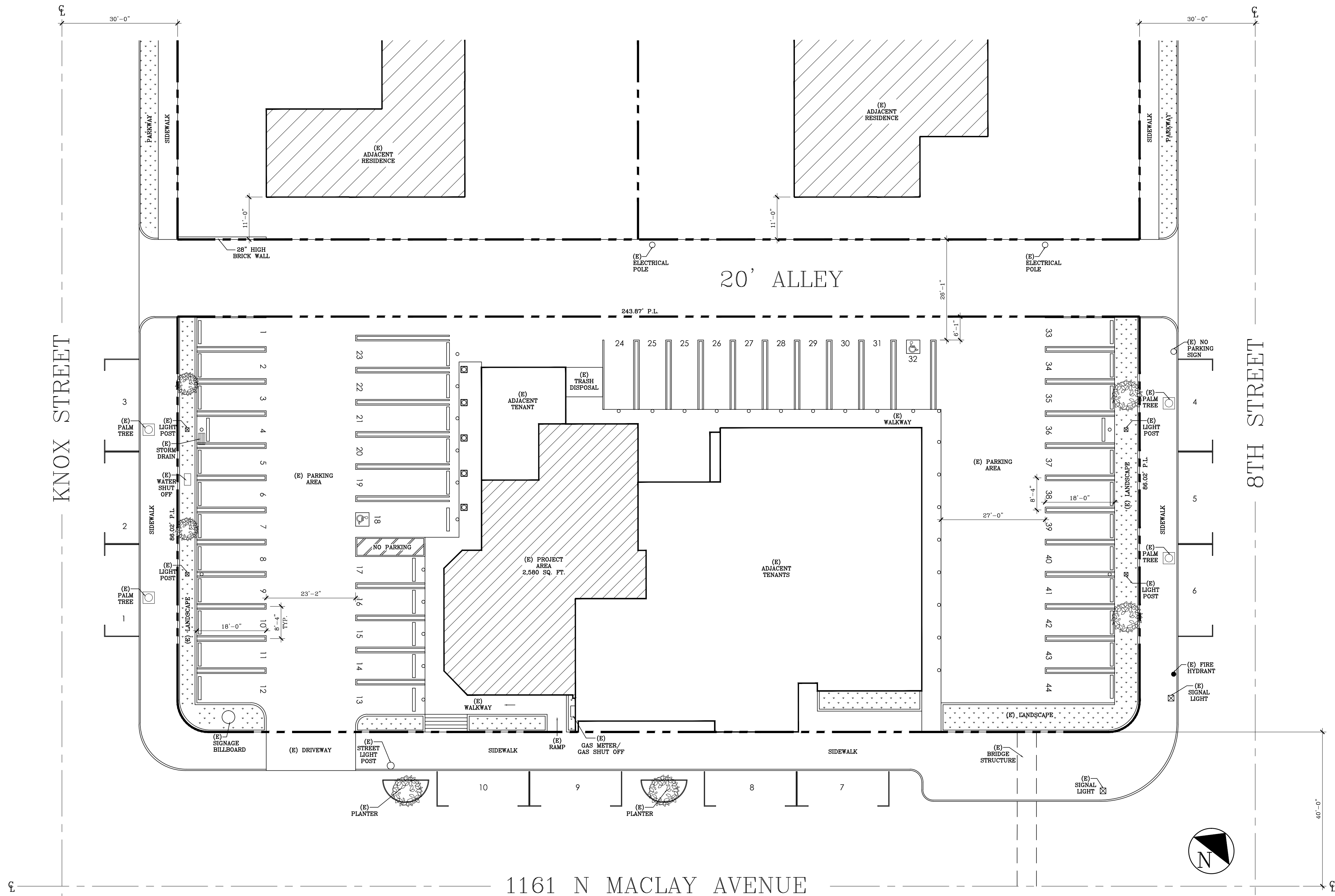
LOT SIZE: 20,977.70 sq. ft.

PROJECT AREA: 2,580 sq. ft.

PARKING SPACES PROVIDED:
ON-SITE: 44
OFF-SITE: 10

SCOPE OF WORK: CONDITIONAL USE PERMIT
FOR LIQUOR LICENSE AT
"CAMARON CAMPEON"

APN: 2516-019-024



SITE PLAN

1/16" = 1'-0"

REVISIONS

DESIGN
LAURA SALDANA
PACOMA, CA 91331
TEL: (818) 634-5300

SITE PLAN &
EXTERIOR ELEVATIONS

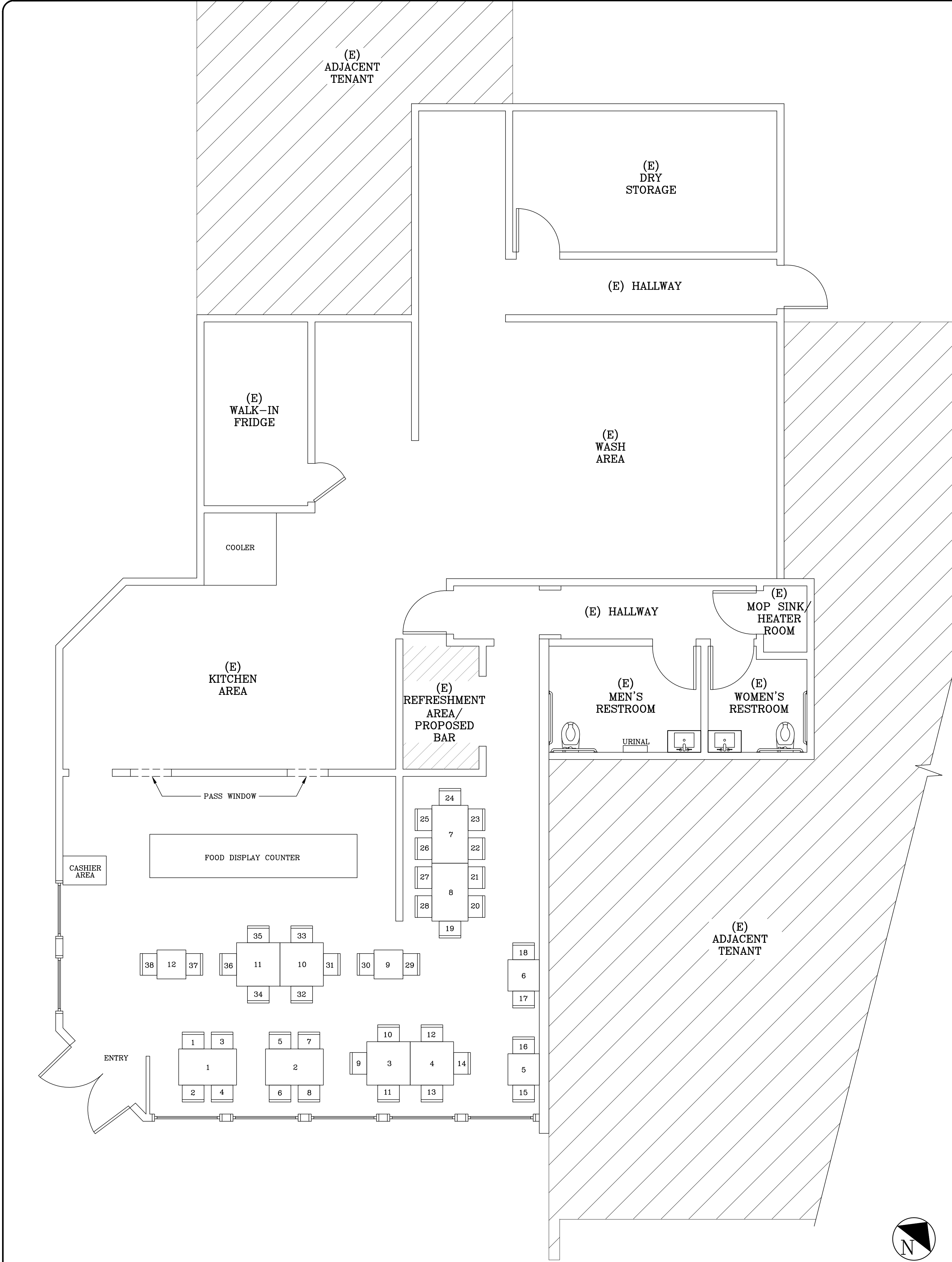
EL CAMARON CAMPEON
LIQUOR LICENSE PERMIT
1161 N MACLAY AVENUE
SAN FERNANDO, CA 91340

PERMIT #:

SIGNATURE
DATE
01/12/16
SCALE
AS NOTED
DRAWN BY
D.G./L.S.

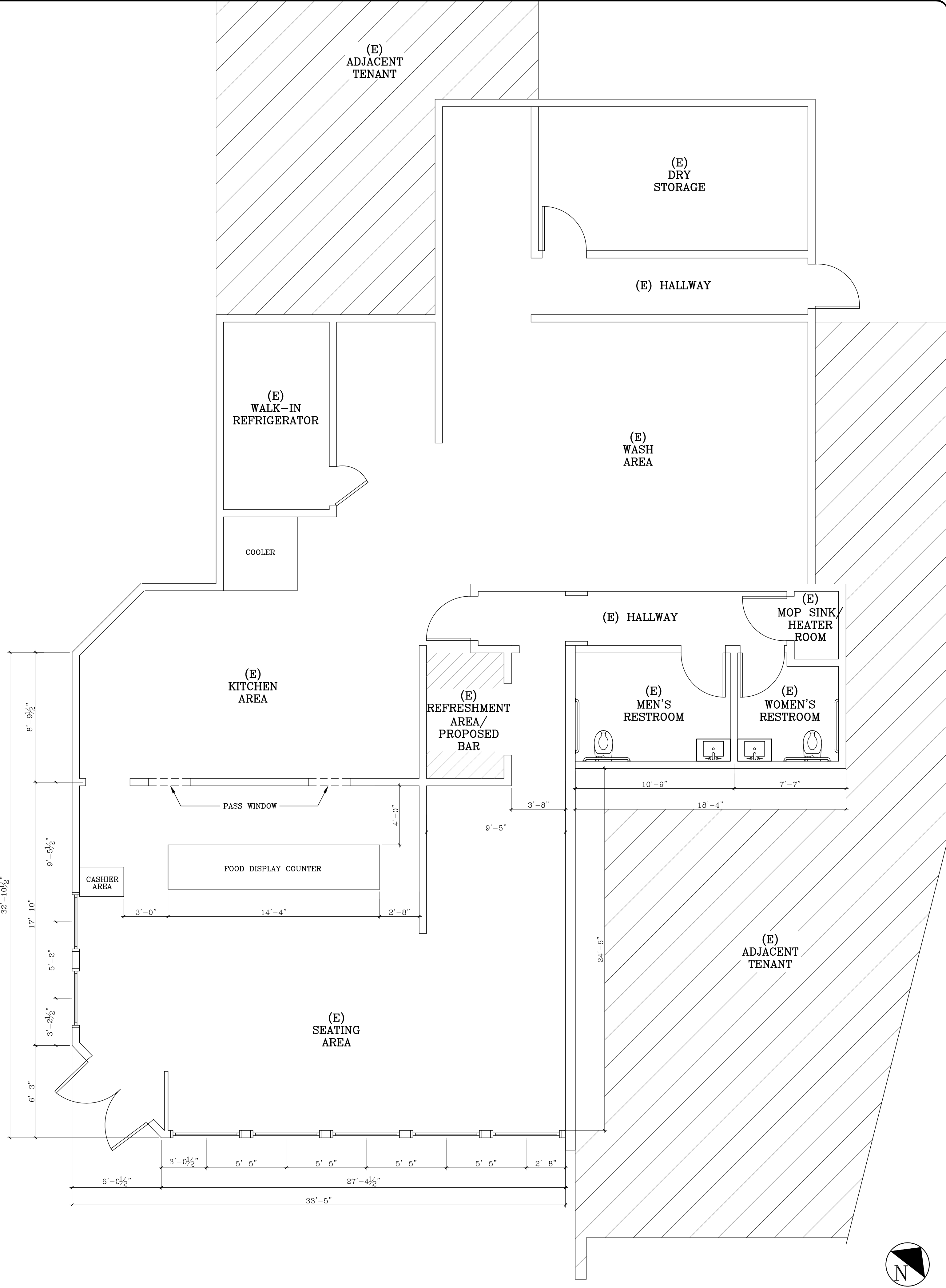
SHEET NO.

A1
1 OF 1 SHEETS



SEATING LAYOUT PLAN

1/4" = 1'-0"



FLOOR PLAN

1/4" = 1'-0"

REVISIONS		

IS DESIGN

LAURA SALDANA
PACOMA, CA 91331
TEL: (818) 634-5300

FLOOR PLAN &
SEATING LAYOUT PLAN

EL CAMARON CAMPEON
LIQUOR LICENSE PERMIT

1161 N MACLAY AVENUE
SAN FERNANDO, CA 91340

PERMIT #:

SIGNATURE

DATE
01/12/16

SCALE
AS NOTED

DRAWN BY
D.G./L.S.

SHEET NO.

A2

1 OF 2 SHEETS



MEETING DATE: March 1, 2016

PUBLIC HEARING:

1. CHAIRPERSON TO OPEN THE ITEM AND REQUEST STAFF REPORT
2. STAFF PRESENTS REPORT
3. COMMISSION QUESTIONS ON STAFF REPORT
4. OPEN THE PUBLIC HEARING
5. CLOSE THE PUBLIC HEARING
6. PLANNING AND PRESERVATION COMMISSION DISCUSSION
7. RECOMMENDED ACTION:
 - a) To Approve:

“I move to adopt Planning and Preservation Commission Resolution 2016-004 recommending to the City Council adoption of attached Ordinance approving Zone Text Amendment 2016-001, amending Chapter 106 (Zoning) and, amending Chapter 22 (Businesses) to expressly prohibit medical cannabis dispensaries, medical cannabis cultivation, medical cannabis deliveries, and all commercial cannabis activities in all areas of the city and finding such code amendments to be exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA guidelines section 15030(B)(3)...” (Roll Call Vote)
 - b) To Deny:

“I move to deny adoption of Planning and Preservation Commission Resolution 2016-004, based on the following...” (Roll Call Vote)
 - c) To Continue:

“I move to continue consideration of Planning and Preservation Commission Resolution 2016-004 to a *specific date*...” (Roll Call Vote)

ITEM 3:

ZONE TEXT AMENDMENT 2016-001



AGENDA REPORT

To: Planning and Preservation Commission Chairperson Haupt and Commissioners

From: Fred Ramirez, Community Development Director

Date: March 1, 2016

Subject: Consideration of Proposed Zone Text Amendment 2016-001 and City Ordinance to Expressly Prohibit Medical Cannabis Dispensaries, Cultivation, Deliveries, and All Commercial Cannabis Activities Citywide

RECOMMENDATION:

It is recommended that subsequent to staff's presentation that the Planning and Preservation Commission:

- 1) Conduct a public hearing;
- 2) Close the public hearing; and
- 3) Subsequent to the conclusion of commission discussion, adopt the attached Planning and Preservation Commission Resolution 2016-004 (Attachment No. 1) recommending to the City Council adoption of the attached Ordinance (Exhibit "A" to Attachment No. 1) Approving Zone Text Amendment 2016-001, Amending Chapter 106 (Zoning) and associated Code Amendments, Amending Chapter 22 (Businesses) to expressly prohibit Medical Cannabis Dispensaries, Medical Cannabis Cultivation, Medical Cannabis Deliveries, and all Commercial Cannabis Activities in all areas of the City and finding such code amendments to be exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(B)(3).

EXECUTIVE SUMMARY:

In September 2015, the California State Legislature enacted, and Governor Brown signed into law three bills: Assembly Bill 243, Assembly Bill 266, and Senate Bill 643, which together comprise the Medical Marijuana Regulation and Safety Act (the "MMRSA"); MMRSA became effective January 1, 2016. MMRSA sets up a dual State and local licensing system for all "commercial cannabis activities". MMRSA generally protects a city's ability to regulate or even ban cannabis related uses, either expressly or through the principles of permissive zoning. The City of San Fernando has adopted a permissive zoning code, which does not list any marijuana/cannabis related uses (i.e., medical marijuana dispensaries, cultivation, deliveries, and all commercial cannabis activities) as a permitted use in any of the City's zoning districts.

In light of the State legislative changes and with the ongoing inquiries to establish medical marijuana and cannabis uses in the City of San Fernando, City staff has been working with the City Attorney to draft regulations that ensure the City retains local jurisdiction over marijuana/cannabis related activities. Therefore, the City Attorney has prepared the attached

Draft Ordinance (Exhibit “A” to Attachment No. 1) for consideration by the Planning and Preservation Commission and subsequently the City Council, that if adopted, expressly prohibit medical cannabis dispensaries, medical cannabis cultivation, medical cannabis deliveries, and all commercial cannabis activities in all areas and zoning districts of the City.

BACKGROUND:

1. The Federal Controlled Substances Act (21 U.S. C., § 801 et seq.) classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, has no currently accepted medical use treatment in the United States, and that has not been accepted as safe for use under medical supervision, and makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute, or dispense marijuana.
2. In 1987, the City of San Fernando adopted Ordinance No. 1305 the last comprehensive amendment of the City’s zoning regulations. Included as part of that zone text amendment, each of the designated zoning districts includes language noting that “All uses are prohibited except those expressly permitted by the provisions of this section [‘section’ as noted herein refers to individual sections of the zoning code for each designated zoning district]”; this language is still part of the City’s zoning ordinance for each of the designated zoning districts.
3. In 1996, the California Legislature approved Proposition 215, also known as the Compassionate Use Act (the “CUA”), which was codified under Health and Safety Code Section 11262.5 et sec. and was intended to enable persons who are in need of medical marijuana for specified medical purposes, such as cancer, anorexia, AIDS, chronic pain, glaucoma and arthritis, to obtain and use marijuana under limited circumstances and where recommended by a physician.
4. The CUA provides that “nothing in this section shall be construed or supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes”.
5. On August 29, 2013, the United States Department of Justice issued a letter stating that, notwithstanding the Federal classification of marijuana as a schedule 1 controlled substance, one can reasonably expect the federal government to stand down and defer to State and local marijuana regulations that are strict and robust.
6. In 2004, the California Legislature enacted the Medical Marijuana Program Act (Health & Saf. Code, § 11362.7 et seq.)(the “MMP”), which clarified the scope of the CUA, created a

state-approved voluntary medical marijuana identification card program, and authorized cities to adopt and enforce rules and regulations consistent with the MMP.

7. Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the MMP to expressly recognize the authority of counties and cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances.
8. The California courts have found that neither the CUA nor the MMP provide medical marijuana patients with an unfettered right to obtain, cultivate, or dispense marijuana for medical purposes.
9. On January 18, 2011, the City Council adopted City Ordinance No. 1603, “An Ordinance of the City of San Fernando Amending Section 22-64 of Division 1 of Article II of Chapter 22 of the City Code Relating to the Conduct of Unlawful Businesses”. Based on the City Ordinance No. 1603, Section 22-64 (“Unlawful business not authorized”) of Division 1 (“Generally”) of Article II (“Licensing”) of Chapter 22 (“Businesses”) of the San Fernando City Code was amended to read as follows:

“Sec. 22-64. – Unlawful business not authorized.

No license issued under this article shall be construed as authorizing the conduct or continuance of any illegal or unlawful business or the provision or sale of any service or product that is illegal under the laws of the United States or the State of California, or any ordinance of the city. Notwithstanding any provision of this Code to the contrary, any use of land, operation, or business that is in violation of state and/or federal law shall be prohibited in all planning areas, districts, or zones within the city.”

(Source: https://www.municode.com/library/ca/san_fernando/codes/code_of_ordinances.)

10. In 2013, the California Supreme Court in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center* (2013) 56 Cal.4th 729, found the CUA and MMP do not preempt a city’s local regulatory authority and confirmed a city’s ability to prohibit medical marijuana dispensaries within its boundaries.
11. In 2013, the California Third District Appellate Court held that state law does “not preempt a city’s police power to prohibit the cultivation of all marijuana within the city”.
12. In September 2015, the California State Legislature enacted, and Governor Brown signed into law three bills – Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 – which together comprise the Medical Marijuana Regulation and Safety Act (the “MMRSA”). The

MMRSA creates a comprehensive dual state licensing system for the cultivation, manufacture, retail, sale, transport, distribution, delivery, and testing of medical cannabis. The MMRSA contains new statutory provisions that:

- a. Allow local government to enact ordinances expressing of their intent to prohibit the cultivation of marijuana and not administer a conditional use permit program pursuant to Health and Safety Code Section 11362.777 for the cultivation of marijuana (Health & Saf. Code, § 11362.777(c)(4));
 - b. Expressly provide that the Act does not supersede or limit local authority for local law enforcement activity, enforcement of local ordinances, or enforcement of local permit or licensing requirements regarding marijuana (Bus. & Prof. Code, § 19315(a));
 - c. Expressly provide that the Act does not limit the authority or remedies of a local government under any provision of law regarding marijuana, including, but not limited to, a local government's right to make and enforce within its limits all police regulations not in conflict with its general laws (Bus. & Prof. Code, § 19316(c)); and
 - d. Require a local government that wishes to prevent marijuana delivery activity (as defined in Business and Professions Code Section 19300.5(m)) from operating within the local government's boundaries to enact an ordinance affirmatively banning such delivery activity (Bus. & Prof. Code, § 19340(a)).
13. Pursuant to California Constitution Article XI, Section 7, the City of San Fernando (the "City") has the authority to enact local planning and land use regulations to protect the public health, safety, and welfare of the City's residents through its police power.
14. The Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime. In addition, the strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery. (Source: http://www.counties.org/sites/main/files/file-attachments/medi_marijuana_cpc white_paper.pdf.)

Furthermore, City Police Department and City Community Development Department building and safety and code enforcement personnel have had personal experience in investigating illegal indoor cultivations. These indoor cultivation of marijuana have in some instances resulted in un-permitted structural alterations to buildings that have resulted in adverse effects to the structural integrity of the building. The indoor cultivation has also resulted in illegal modification of electrical transmission wires to un-permitted indoor cultivation sites that have used high wattage grow lights and excessive use of electricity that

collectively increased the risk of fire that presents a clear and present danger to the building, its occupants and nearby businesses and residences.

15. Several California cities have reported negative impacts of marijuana (cannabis) dispensaries, cultivation, deliveries, and commercial cannabis activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests. (Source: http://www.counties.org/sites/main/files/file-attachments/medi_marijuana_cpca_white_paper.pdf.)

ANALYSIS:

The City of San Fernando Zoning Ordinance, City Code Chapter 106 (Zoning) currently has a provision in each of the City's zoning districts, which states "All uses are prohibited except those expressly permitted by the provisions of this section ['section' as noted herein refers to individual sections of the zoning code for each designated zoning district]". Historically, the City of San Fernando has not permitted medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide pursuant to the City's permissive zoning provisions. Under the City's permissive zoning provisions, the City has prohibited land uses that are not expressly identified in the City Code as permitted or conditionally permitted primary and/or accessory land uses.

Medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities are not listed uses, either as permitted or conditionally permitted uses. The City's position to not allow medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities as well as other non-identified land uses is established through the City's police powers pursuant to California Constitution Article XI, Section 7.

Changes to State legislation on medical marijuana and cannabis uses inclusive of MMRSA as well as ongoing requests to establish medical marijuana dispensaries and most recently inquiries regarding medical marijuana cultivation facilities have made it necessary for the City to consider expressly prohibiting medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide. As a result, the City Attorney has prepared the attached Draft Ordinance (Exhibit A to Attachment No. 1).

In addition, the City of San Fernando currently has a provision in City Code Section 22-64 (Unlawful businesses not authorized), which states "*No license issued under this article shall be construed as authorizing the conduct or continuance of any illegal or unlawful business or the provision or sale of any service or product that is illegal under the laws of the United States or the State of California, or any ordinance of the city. Notwithstanding any provision of this [City]*

Code to the contrary, any use of land, operation, or business that is in violation of state and/or federal law shall be prohibited in all planning areas, districts, or zones within the city.” Based on this City Code provision, the City has not allowed any medical marijuana businesses to be established in City of San Fernando because federal law does not allow it. Therefore, this new Ordinance would not have any effect on any existing businesses in the City.

Zone Text Amendment Required Findings.

Pursuant to City Code Section 106-19 Subsections (c)(1) and (c)(2), City Planning Staff has determined and seeks the Planning and Preservation’s concurrence that the proposed zoning text amendment is consistent with the following findings of fact as discussed below:

- **The proposed zone text amendment is consistent with the objectives, policies, general land uses and programs of the City’s General Plan.**

The proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide are consistent with the General Plan, zoning regulations, and development policies. The General Plan’s goals, objectives, and policies do not permit or contemplate the establishment or operation of medical marijuana/cannabis dispensaries, medical marijuana/cannabis cultivation, medical marijuana/cannabis deliveries, and commercial cannabis activities.

Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment prohibiting medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide do not create new law, but rather clarify the City’s existing prohibitions on medical marijuana/cannabis dispensaries, medical marijuana/cannabis cultivation, medical marijuana/cannabis deliveries, and commercial cannabis activities. Collectively, the proposed city code amendments banning medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide is consistent with the City of San Fernando General Plan Land Use Element Goals, which seek to “retain the small town character of San Fernando”, “promote the economic viability of commercial areas”, and “maintain an identity that is distinct from surrounding communities” while also meeting the City General Plan Land Use Element Objectives that seek to conserve single family neighborhoods and attract new commercial activities to the downtown areas. (Source: City General Plan Land Use Element Goals and Objectives; Page IV-6.)

The banned cannabis activities noted as part of the proposed Zone Text Amendment 2016-001 and associated Ordinance would help meet the aforementioned General Plan goals and objectives by reducing the potential for: un-permitted structural modifications to buildings; excessive demands on water and electrical utilities resulting from indoor cannabis

cultivation activities; and public nuisance and crime activities resulting from loitering and potential crime against businesses that store product and large deposit of monies from sales, which make them potential targets of burglaries.

- **The adoption of the proposed zone text amendment would not be detrimental to the public interest, health, safety, convenience or welfare.**

The proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide will also promote the purpose of Title 106 (Zoning) of the San Fernando Municipal Code, which is to serve the public health, safety, comfort, convenience and general welfare by making the City's proscription of cannabis dispensaries, cannabis cultivation, cannabis deliveries, and commercial cannabis activities clear and unambiguous. The proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide will ensure that all properties in the City remain free of the deleterious impacts associated with cannabis-related uses

The proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide authorizes no change to the environment and thus will add nothing potentially detrimental to the public interest, health, safety, convenience or welfare.

Environmental Review.

This project has been reviewed for compliance with CEQA. In accordance with the provisions of the CEQA Guidelines, the City of San Fernando as the "Lead Agency" has determined that adoption and implementation of the proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide does not have the potential to cause significant effects on the environment and is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Section 15061(b)(3), because it amends the San Fernando Municipal Code to make clear that on cannabis dispensaries, cannabis cultivation, cannabis deliveries, and commercial cannabis activities are not permitted in the City. Therefore, based on the evaluation of adverse impacts, it can be seen with certainty that there is no possibility that the establishment of bans on cannabis-related activities will have a significant effect on the environment. If the Planning and Preservation Commission concurs with City Planning Staff's assessment and recommends City Council adoption of the draft Ordinance as presented, then no further environmental assessment is necessary.

CONCLUSION:

It is staff's assessment that Zone Text Amendment 2016-001 is warranted in order to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide in order to preserve community character and protect the public health, safety, and general welfare of the community in a manner consistent with City General Plan goals and objectives.

Therefore, it is staff's recommendation that the Planning and Preservation Commission adopt Resolution 2016-004 (Attachment No. 1), recommending to the City Council adoption of the attached Ordinance (Exhibit "A" to Attachment No. 1) including approval of Zone Text Amendment 2016-001 and related City Code Amendments.

The proposed Ordinance will amend Chapter 106 (Zoning) and amend Chapter 22 (Businesses) to expressly prohibit Medical Cannabis Dispensaries, Medical Cannabis Cultivation, Medical Cannabis Deliveries, and all Commercial Cannabis Activities in all areas of the City and finds such code amendments to be exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(B)(3).

ATTACHMENTS:

1. Planning and Preservation Commission Resolution 2016-004 and Exhibit "A" (Draft Ordinance)

RESOLUTION NO. 2016-004

RESOLUTION OF THE SAN FERNANDO PLANNING AND PRESERVATION COMMISSION RECOMMENDING TO THE CITY COUNCIL APPROVAL OF ZONE CODE AMENDMENT 2016-001 AMENDING CHAPTER 106 (ZONING) AND AMENDING CHAPTER 22 (BUSINESSES) TO EXPRESSLY PROHIBIT MEDICAL CANNABIS DISPENSARIES, MEDICAL CANNABIS CULTIVATION, MEDICAL CANNABIS DELIVERIES, AND ALL COMMERCIAL CANNABIS ACTIVITIES IN ALL AREAS OF THE CITY AND FINDING SUCH CODE AMENDMENT TO BE EXEMPT FROM CEQA PURSUANT TO CEQA GUIDELINES SECTION 15061(B)(3)

WHEREAS, the Federal Controlled Substances Act (21 U.S. C., § 801 et seq.) classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, has no currently accepted medical use treatment in the United States, and that has not been accepted as safe for use under medical supervision, and makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute, or dispense marijuana; and

WHEREAS, on August 29, 2013, the United States Department of Justice issued a letter stating that, notwithstanding the federal classification of marijuana as a schedule 1 controlled substance, one can reasonably expect the federal government to stand down and defer to state and local marijuana regulations that are strict and robust; and

WHEREAS, in 1996, the California Legislature approved Proposition 215, also known as the Compassionate Use Act (the “CUA”), which was codified under Health and Safety Code Section 11262.5 et sec. and was intended to enable persons who are in need of medical marijuana for specified medical purposes, such as cancer, anorexia, AIDS, chronic pain, glaucoma and arthritis, to obtain and use marijuana under limited circumstances and where recommended by a physician; and

WHEREAS, the CUA provides that “nothing in this section shall be construed or supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes”; and

WHEREAS, in 2004, the California Legislature enacted the Medical Marijuana Program Act (Health & Saf. Code, § 11362.7 et seq.)(the “MMP”), which clarified the scope of the CUA, created a state-approved voluntary medical marijuana identification card program, and authorized cities to adopt and enforce rules and regulations consistent with the MMP; and

WHEREAS, Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the MMP to expressly recognize the authority of counties and cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances; and

WHEREAS, California courts have found that neither the CUA nor the MMP provide medical marijuana patients with an unfettered right to obtain, cultivate, or dispense marijuana for medical purposes; and

WHEREAS, in 2013, the California Supreme Court in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center* (2013) 56 Cal.4th 729, found the CUA and MMP do not preempt a city's local regulatory authority and confirmed a city's ability to prohibit medical marijuana dispensaries within its boundaries; and

WHEREAS, in 2013, the California Third District Appellate Court held that state law does "not preempt a city's police power to prohibit the cultivation of all marijuana within the city."; and

WHEREAS, in September 2015, the California State Legislature enacted, and Governor Brown signed into law three bills – Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 – which together comprise the Medical Marijuana Regulation and Safety Act (the "MMRSA"); and

WHEREAS, the MMRSA creates a comprehensive dual state licensing system for the cultivation, manufacture, retail, sale, transport, distribution, delivery, and testing of medical cannabis; and

WHEREAS, the MMRSA contains new statutory provisions that:

- Allow local government to enact ordinances expressing of their intent to prohibit the cultivation of marijuana and not administer a conditional use permit program pursuant to Health and Safety Code Section 11362.777 for the cultivation of marijuana (Health & Saf. Code, § 11362.777(c)(4));
- Expressly provide that the Act does not supersede or limit local authority for local law enforcement activity, enforcement of local ordinances, or enforcement of local permit or licensing requirements regarding marijuana (Bus. & Prof. Code, § 19315(a));
- Expressly provide that the Act does not limit the authority or remedies of a local government under any provision of law regarding marijuana, including, but not limited to, a local government's right to make and enforce within its limits all police regulations not in conflict with its general laws (Bus. & Prof. Code, § 19316(c)); and
- Require a local government that wishes to prevent marijuana delivery activity (as defined in Business and Professions Code Section 19300.5(m)) from operating within the local government's boundaries to enact an ordinance affirmatively banning such delivery activity (Bus. & Prof. Code, § 19340(a)); and

WHEREAS, pursuant to California Constitution Article XI, Section 7, the City of San Fernando (the "City") has the authority to enact local planning and land use regulations to protect the public health, safety, and welfare of the City's residents through its police power; and

WHEREAS, the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as loitering or crime; and

WHEREAS, the strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery; and

WHEREAS, the indoor cultivation of marijuana has potential adverse effects to the structural integrity of the building, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire which presents a clear and present danger to the building and its occupants; and

WHEREAS, several California cities have reported negative impacts of marijuana (cannabis) dispensaries, cultivation, deliveries, and commercial cannabis activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests; and

WHEREAS, the Planning and Preservation Commission finds that based on the experiences of other cities, these negative effects on the public health, safety, and welfare are likely to occur in the City if marijuana (cannabis) dispensaries, cultivation, deliveries, and commercial cannabis activities are permitted; and

WHEREAS, the Planning and Preservation Commission finds that the limited immunity from specified state marijuana laws provided by the CUA, MMP, and MMRSA do not confer a land use right or the right to create or maintain a public nuisance; and

WHEREAS, the Planning and Preservation Commission finds that, although cannabis dispensaries, cannabis cultivation, cannabis deliveries, and commercial cannabis activities are prohibited in the City, pursuant to the tenets of permissive zoning, it is prudent to explicitly proscribe such activities in order to preclude ambiguity in the City's prohibition of such actions; and

WHEREAS, the Planning and Preservation Commission conducted a duly noticed public hearing on March 1, 2016 concerning the prospective recommendation set forth herein at which evidence, both written and oral, was presented.

NOW, THEREFORE, BE IT RESOLVED THAT THE PLANNING AND PRESERVATION COMMISSION FINDS AS FOLLOWS:

SECTION 1. The facts set forth in the recitals above are true and correct and incorporated herein by this reference.

SECTION 2. This Resolution constitutes the required written recommendation by the Planning and Preservation Commission to the City Council required for this matter, in accordance with Government Code Section 65855.

SECTION 3. The proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide are consistent with the General Plan, zoning regulations, and development policies. The General Plan's goals, objectives, and policies do not permit or contemplate the establishment or operation of medical marijuana/cannabis dispensaries, medical marijuana/cannabis cultivation, medical marijuana/cannabis deliveries, and commercial cannabis activities.

Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment prohibiting medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide do not create new law, but rather clarify the City's existing prohibitions on medical marijuana/cannabis dispensaries, medical marijuana/cannabis cultivation, medical marijuana/cannabis deliveries, and commercial cannabis activities. Collectively, the proposed city code amendments banning medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide is consistent with the City of San Fernando General Plan Land Use Element Goals, which seek to "retain the small town character of San Fernando", "promote the economic viability of commercial areas", and "maintain an identity that is distinct from surrounding communities" while also meeting the City General Plan Land Use Element Objectives that seek to conserve single family neighborhoods and attract new commercial activities

to the downtown areas. (Source: City General Plan Land Use Element Goals and Objectives; Page IV-6.)

The banned cannabis activities noted as part of the proposed Zone Text Amendment 2016-001 and associated Ordinance would help meet the aforementioned General Plan goals and objectives by reducing the potential for: un-permitted structural modifications to buildings; excessive demands on water and electrical utilities resulting from indoor cannabis cultivation activities; and public nuisance and crime activities resulting from loitering and potential crime against businesses that store product and large deposit of monies from sales, which make them potential targets of burglaries.

The proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide will also promote the purpose of Title 106 (Zoning) of the San Fernando Municipal Code, which is to serve the public health, safety, comfort, convenience and general welfare by making the City's proscription of cannabis dispensaries, cannabis cultivation, cannabis deliveries, and commercial cannabis activities clear and unambiguous. The proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide will ensure that all properties in the City remain free of the deleterious impacts associated with cannabis-related uses

The proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide authorizes no change to the environment and thus will add nothing potentially detrimental to the public interest, health, safety, convenience or welfare.

SECTION 4. The Planning and Preservation Commission finds that the proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide does not have the potential to cause significant effects on the environment and is exempt from the California Environmental Quality Act ("CEQA"), pursuant to CEQA Guidelines Section 15061(b)(3), because it amends the San Fernando Municipal Code to make clear that on cannabis dispensaries, cannabis cultivation, cannabis deliveries, and commercial cannabis activities are not permitted in the City. Therefore, based on the evaluation of adverse impacts, it can be seen with certainty that there is no possibility that the establishment of bans on cannabis-related activities will have a significant effect on the environment.

SECTION 5. This Resolution constitutes the required written recommendation to the City Council required for this matter, in accordance with Government Code Section 65855.

SECTION 6. Based upon the conclusions in the recitals and findings set forth above, the Planning and Preservation Commission recommends that the City Council approve proposed Zone Text Amendment Code Amendment 2016-001 and associated City Code Amendment to expressly prohibit medical marijuana (cannabis) dispensaries, cultivation, deliveries, and all commercial cannabis activities citywide attached hereto as **Exhibit "A."**

SECTION 7. This Resolution shall become effective immediately upon adoption and the Secretary of the Planning and Preservation Commission of the City of San Fernando, California, shall certify to the adoption of this Resolution and shall cause a copy of the same to be forwarded to the City Council.

PASSED, APPROVED AND ADOPTED this 1st day of March 2016.

THEALE E. HAUPT, CHAIRPERSON

ATTEST:

FRED RAMIREZ, SECRETARY TO THE
PLANNING AND PRESERVATION COMMISSION

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF SAN FERNANDO)

I, FRED RAMIREZ, Secretary to the Planning and Preservation Commission of the City of San Fernando, do hereby certify that the foregoing Resolution was duly adopted by the Planning and Preservation Commission and signed by the Chairperson of said Planning and Preservation Commission at a meeting held on the 1st day of March 2016; and that the same was passed by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

FRED RAMIREZ, SECRETARY TO THE
PLANNING AND PRESERVATION COMMISSION

**EXHIBIT “A”:
DRAFT ORDINANCE**

(Provided Under Separate Cover)

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY
OF SAN FERNANDO AMENDING CHAPTER 22
(BUSINESSES) AND CHAPTER 106 (ZONING) TO
EXPRESSLY PROHIBIT MEDICAL CANNABIS
DISPENSARIES, MEDICAL CANNABIS CULTIVATION,
MEDICAL CANNABIS DELIVERIES, AND ALL
COMMERCIAL CANNABIS ACTIVITIES IN ALL AREAS
OF THE CITY**

WHEREAS, the Federal Controlled Substances Act (21 U.S. C., § 801 et seq.) classifies marijuana as a Schedule 1 Drug, which is defined as a drug or other substance that has a high potential for abuse, has no currently accepted medical use treatment in the United States, and that has not been accepted as safe for use under medical supervision, and makes it unlawful under federal law for any person to cultivate, manufacture, distribute or dispense, or possess with intent to manufacture, distribute, or dispense marijuana; and

WHEREAS, in 1996, the California Legislature approved Proposition 215, also known as the Compassionate Use Act (the “CUA”), which was codified under Health and Safety Code Section 11262.5 et seq. and was intended to enable persons who are in need of medical marijuana for specified medical purposes, such as cancer, anorexia, AIDS, chronic pain, glaucoma and arthritis, to obtain and use marijuana under limited circumstances and where recommended by a physician; and

WHEREAS, the CUA provides that “nothing in this section shall be construed or supersede legislation prohibiting persons from engaging in conduct that endangers others, or to condone the diversion of marijuana for non-medical purposes.”; and

WHEREAS, in 2004, the California Legislature enacted the Medical Marijuana Program Act (Health & Saf. Code, § 11362.7 et seq.)(the “MMP”), which clarified the scope of the CUA, created a state-approved voluntary medical marijuana identification card program, and authorized cities to adopt and enforce rules and regulations consistent with the MMP; and

WHEREAS, Assembly Bill 2650 (2010) and Assembly Bill 1300 (2011) amended the MMP to expressly recognize the authority of counties and cities to “[a]dopt local ordinances that regulate the location, operation, or establishment of a medical marijuana cooperative or collective” and to civilly and criminally enforce such ordinances; and

WHEREAS, California courts have found that neither the CUA nor the MMP provide medical marijuana patients with an unfettered right to obtain, cultivate, or dispense marijuana for medical purposes; and

WHEREAS, in 2013, the California Supreme Court in the case of *City of Riverside v. Inland Empire Patients Health and Wellness Center* (2013) 56 Cal.4th 729, found the CUA and

MMP do not preempt a city's local regulatory authority and confirmed a city's ability to prohibit medical marijuana dispensaries within its boundaries; and

WHEREAS, in 2013, the California Third District Appellate Court held that state law does "not preempt a city's police power to prohibit the cultivation of all marijuana within the city."; and

WHEREAS, on August 29, 2013, the United States Department of Justice issued a letter stating that, notwithstanding the federal classification of marijuana as a schedule 1 controlled substance, one can reasonably expect the federal government to stand down and defer to state and local marijuana regulations that are strict and robust; and

WHEREAS, in September 2015, the California State Legislature enacted, and Governor Brown signed into law three bills – Assembly Bill 243, Assembly Bill 266, and Senate Bill 643 – which together comprise the Medical Marijuana Regulation and Safety Act (the "MMRSA"); and

WHEREAS, the MMRSA creates a comprehensive dual state licensing system for the cultivation, manufacture, retail, sale, transport, distribution, delivery, and testing of medical cannabis; and

WHEREAS, the MMRSA contains new statutory provisions that:

- Allow local government to enact ordinances expressing of their intent to prohibit the cultivation of marijuana and not administer a conditional use permit program pursuant to Health and Safety Code Section 11362.777 for the cultivation of marijuana (Health & Saf. Code, § 11362.777(c)(4));
- Expressly provide that the Act does not supersede or limit local authority for local law enforcement activity, enforcement of local ordinances, or enforcement of local permit or licensing requirements regarding marijuana (Bus. & Prof. Code, § 19315(a)); and
- Expressly provide that the Act does not limit the authority or remedies of a local government under any provision of law regarding marijuana, including, but not limited to, a local government's right to make and enforce within its limits all police regulations not in conflict with its general laws (Bus. & Prof. Code, § 19316(c));
- Require a local government that wishes to prevent marijuana delivery activity (as defined in Business and Professions Code Section 19300.5(m)) from operating within the local government's boundaries to enact an ordinance affirmatively banning such delivery activity (Bus. & Prof. Code, § 19340(a)); and

WHEREAS, pursuant to California Constitution Article XI, Section 7, the City of San Fernando (the "City") has the authority to enact local planning and land use regulations to protect the public health, safety, and welfare of the City's residents through its police power; and

WHEREAS, the Attorney General's August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use recognizes that the cultivation or other concentration of marijuana in any location or premises without adequate security increases the risk that nearby homes or businesses may be negatively impacted by nuisance activity such as

loitering or crime; and

WHEREAS, the strong smell of marijuana creates an attractive nuisance, alerting persons to the location of the valuable plants, and creating a risk of burglary, robbery or armed robbery; and

WHEREAS, the indoor cultivation of marijuana has potential adverse effects to the structural integrity of the building, and the use of high wattage grow lights and excessive use of electricity increases the risk of fire which presents a clear and present danger to the building and its occupants; and

WHEREAS, several California cities have reported negative impacts of marijuana (cannabis) dispensaries, cultivation, deliveries, and commercial cannabis activities, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests; and

WHEREAS, the City Council finds that based on the experiences of other cities, these negative effects on the public health, safety, and welfare are likely to occur in the City if marijuana (cannabis) dispensaries, cultivation, deliveries, and commercial cannabis activities are permitted; and

WHEREAS, the City Council finds that the limited immunity from specified state marijuana laws provided by the CUA, MMP, and MMRSA do not confer a land use right or the right to create or maintain a public nuisance; and

WHEREAS, the City Council finds that, although cannabis dispensaries, cannabis cultivation, cannabis deliveries, and commercial cannabis activities are prohibited in the City, pursuant to the tenets of permissive zoning, it is prudent to explicitly proscribe such activities in order to preclude ambiguity in the City's prohibition of such actions; and

WHEREAS, the Planning and Preservation Commission conducted a duly noticed public hearing on March 1, 2016 concerning the prospective recommendation set forth herein at which evidence, both written and oral, was presented; and

WHEREAS, the City Council public hearing was noticed in accordance with the requirements set forth in Government Code sections 65090 and 65091.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN FERNANDO, CALIFORNIA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The facts set forth in the recitals above are true and correct.

SECTION 2. Section 22-64 (Unlawful business not authorized) of Division 1 (Generally) of Article II (Licensing) of Chapter 22 (Businesses) of the San Fernando Municipal Code is amended in its entirety to read as follows:

Sec. 22-64 Unlawful business not authorized.

- (a) No license issued under this article shall be construed as authorizing the conduct or continuance of any illegal or unlawful business or the provision or sale of any service or product that is illegal under the laws of the United States or the State of California, or any ordinance of the city. Notwithstanding any provision of this Code to the contrary, no business license shall be issued for any use of land, operation, or business in all planning areas, districts, or zones within the city that is in violation of local, state and/or federal law.
- (b) No license shall be issued under this article relating to the establishment and/or operation of any business or the provision or sale of any service or product relating to cannabis dispensaries, cannabis cultivation, cannabis deliveries, and commercial cannabis activities, as such terms are defined in Section 106-1493.

SECTION 3. Article VI (General Regulations) of Chapter 106 (Zoning) of the San Fernando City Code is amended by the addition of Division 18 (Medical Marijuana/Cannabis Prohibitions), which shall read as follows:

Division 18 – Medical Marijuana/Cannabis Prohibitions

Sec. 106-1493 Definitions.

“Cannabis” shall have the same meaning as set forth in California Business and Professions Code Section 19300.5(f), as the same may be amended from time to time.

“Caregiver” or “primary caregiver” shall have the same meaning as set forth in California Business and Professions Code Section 11362.7, as may be amended from time to time.

“Commercial cannabis activity” shall have the same meaning as set forth in California Business and Professions Code Section 19300.5(k), as the same may be amended from time to time, and shall include, but not be limited to the cultivation, possession, manufacture, processing, storing, laboratory testing, labeling, transporting, distribution, or sale of medical cannabis or a medical cannabis product.

“Cooperative” or “collective” shall mean two or more persons collectively or cooperatively cultivating, using, transporting, possessing, administering, delivering, or making available cannabis, with or without compensation.

“Cultivation” or “Cultivate” shall have the same meaning as set forth in California Business and Professions Code Section 19300.5(l), as the same may be amended from time to time.

“Delivery” shall have the same meaning as set forth in California Business and Professions Code Section 19300.5(m), as the same may be amended from time to time.

“Dispensary” shall have the same meaning as set forth in California Business and Professions Code Section 19300.5(n), as may be amended from time to time. For purposes of this Division 18, and Section 22-64, “dispensary” shall also include a cooperative/collective.

“Distribution” shall have the same meaning as set forth in California Business and Professions Code Section 19300.5(p), as may be amended from time to time.

“Manufacturing” shall mean and refer to the activities of “manufacturers” at “manufacturing sites,” as such terms are defined in California Business and Professions Code Section 19300.5(y) and 19300.5(af), respectively.

“Medical cannabis,” “medical cannabis product,” and “cannabis product” shall have the same meaning as set forth in California Business and Professions Code Section 19300.5(ag), as may be amended from time to time.

“Medical Marijuana Regulation and Safety Act” or “MMRSA” shall mean and refer to California Assembly Bill 243, California Assembly Bill 266, and California Senate Bill 643, as may be amended from time to time.

“Qualifying patient” or “qualified patient” shall have the same meaning as set forth in California Business and Professions Code Section 11362.7, as may be amended from time to time.

Sec. 106-1494 Prohibitions.

- (a) Cannabis dispensaries, cannabis cultivation, cannabis deliveries, and commercial cannabis activities are expressly prohibited in all zones throughout the City.
- (b) The prohibitions set forth in this Section 106-1494 shall apply to all activities for which a State of California license is required pursuant to the MMRSA, which shall preclude the City’s provision or issuance of any permit, license, entitlement, and/or approval for any activity is required under the MMRSA.
- (c) To any extent not prohibited under Subsection (a) of this Section 106-1494, no person shall conduct, carry out, or facilitate cannabis deliveries, which either originate or terminate within the City.
- (d) To any extent not prohibited under Subsection (a) of this Section 106-1494, cultivation by a qualified patient and/or a primary caregiver, is expressly prohibited in all zones in the City. No person, including a qualified patient and/or a primary caregiver, shall cultivate any amount of cannabis in the City, even for medical purposes.

Sec. 106-1495 Nuisance.

Any use or condition caused, or permitted to exist, in violation of any provision of this Division 18 shall be, and is hereby declared to be, a public nuisance and may be summarily abated by the City pursuant to California Code of Civil Procedure Section 731, Article V (Nuisances) of

Chapter 1 (General Provisions and Penalties) of the San Fernando City Code, and/or any other remedy available at law, including, but not limited to.

Sec. 106-1496 Civil Penalties.

In addition to any other enforcement remedies available under the San Fernando City Code, the City Attorney may bring a civil action for injunctive relief and civil penalties against any person who violates any provision of this Division 18. In any civil action that is brought pursuant to this Division 18, a court of competent jurisdiction may award civil penalties and costs to the prevailing party.

SECTION 4. CEQA. As determined by the Planning and Preservation Commission on March 1, 2016 through Resolution No. 2016-004, the proposed Ordinance does not have the potential to cause significant effects on the environment and is exempt from the California Environmental Quality Act (“CEQA”), pursuant to CEQA Guidelines Section 15061(b)(3), because it amends the San Fernando City Code to make clear that on cannabis dispensaries, cannabis cultivation, cannabis deliveries, and commercial cannabis activities are not permitted in the City. Therefore, based on the evaluation of adverse impacts, it can be seen with certainty that there is no possibility that the establishment of bans on cannabis-related activities will have a significant effect on the environment.

SECTION 5. Inconsistent Provisions. Any provision of the San Fernando City Code or appendices thereto that conflicts with the provisions of this Ordinance, to the extent of such conflict and no further, is hereby repealed or modified to the extent necessary to affect the provisions of this Ordinance.

SECTION 6. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or any part thereof is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more section, subsection, subdivision, paragraph, sentence, clause or phrase would be subsequently declared invalid or unconstitutional.

SECTION 7. Publication. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within fifteen (15) days after its adoption. This Ordinance shall become effective thirty (30) days after adoption.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of San Fernando at its regular meeting on this _____ of _____, 2016.

Mayor of the City of San Fernando

ATTEST:

Elena Chavez
City Clerk of the City of San Fernando

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SAN FERNANDO)

I, Elena Chavez, City Clerk of the City of San Fernando, do hereby certify that the above and foregoing Ordinance No. _____ was introduced at the regular meeting of the City Council held on _____ day of _____ 2016, and thereafter at the regular meeting of said City Council, duly held on the _____ day of _____ 2016, was passed and adopted by the following votes to wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

Elena Chavez,
City Clerk of the City of San Fernando