

PLANNING COMMISSION

Agenda Item No.: G.1
Date: June 14, 2011

CASE NUMBER: PHG 11-0021

APPLICANT: Vinz Wine Bar and Deli

LOCATION: On the southeastern corner of E. Grand Avenue and Kalmia Street, addressed as 201 E. Grand Avenue (APN 233-082-24).

TYPE OF PROJECT: Modification to a Conditional Use Permit

PROJECT DESCRIPTION: A Modification to a previously approved Conditional Use Permit for Vinz Wine Bar and Deli to allow amplified entertainment and dancing (cabaret permit); allow the sale of alcoholic spirits in addition to the currently allowed beer and wine; and allow future expansion into an adjacent approximately 600 SF suite.

STAFF RECOMMENDATION: Approval

GENERAL PLAN DESIGNATION/TIER: SPA 9 (Downtown Specific Plan) Central Neighborhood- Tier 1

ZONING: (Historic Downtown – Retail Core)

BACKGROUND/SUMMARY OF ISSUES:

A Conditional Use Permit was approved in 2005 (City File No. 2005-53- CUP) to operate a wine bar in a separate 800 SF suite (Vinz Wine Bar) as part of an expansion to the existing Continental Deli. The ABC license also was modified to expand the hours of operations to 1:00 a.m., and allow the service of alcohol to the new outdoor dining areas. Restaurants with the incidental sale of alcohol (including types with outdoor dining) are a permitted use within the Downtown Retail District of the Downtown Specific Plan Area. However, restaurants with a separate bar area require a Conditional Use Permit. Limited live entertainment as an incidental use within a restaurant also is permitted. Entertainment that includes amplified music and dancing requires a Conditional Use Permit (Cabaret Permit). Since the original CUP was approved, the wine bar and deli operate as a single restaurant business under a single business license, ABC permit and health permit (Vinz Wine Bar and Deli). The existing CUP contains a condition that limits the business to the sale of beer and wine only. The applicant is requesting to modify the CUP and ABC license to allow the sale of alcoholic spirits in conjunction with beer and wine. The request also would allow amplified entertainment and dancing within an 800 SF indoor area that currently is used for restaurant seating and limited live entertainment. The restaurant/wine bar would continue to operate until 1:00 a.m., but entertainment and dancing would be required to conclude by 12:00 p.m. An adjacent suite also has become available, and the applicant is proposing to utilize this small area to expand the restaurant/bar seating in the future.

Staff has not identified any issues with this request.

REASON FOR STAFF RECOMMENDATION:

1. The Police Department has reviewed the request and recommends approval, with specific operational conditions and security requirements. Staff feels that approving the modification to the CUP to allow live amplified entertainment and dancing, along with the sale of alcoholic spirits is appropriate since alcohol sales would be part of a full-service restaurant; the current operation has not created any problems for the downtown area; and the conditions of approval and architectural layout of the building would mitigate and potential noise issues to adjacent business or residents. The request also is supported by the Downtown Business Association.

Respectfully submitted,


Jay Paul
Associate Planner

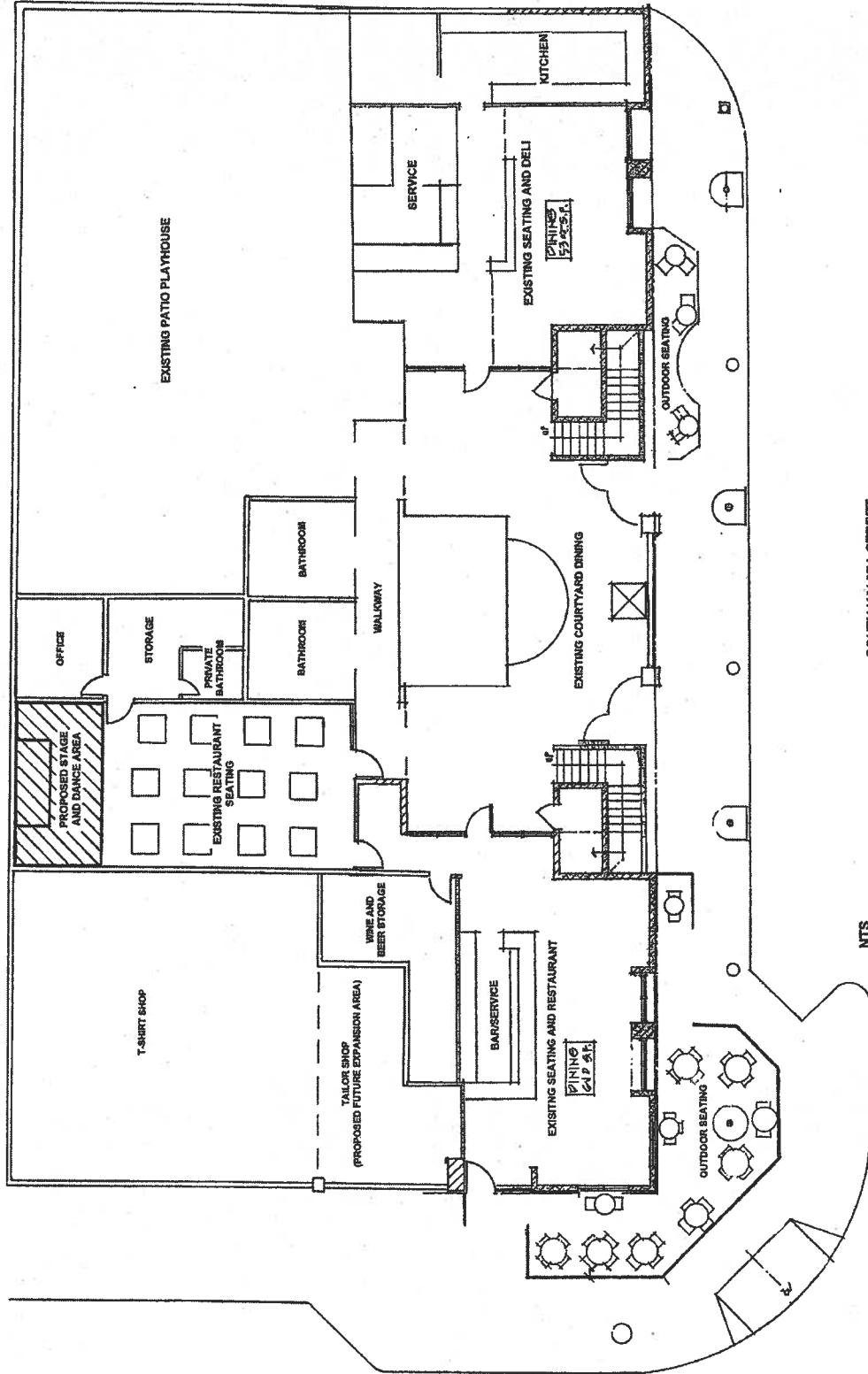


Portions of this DERIVED PRODUCT contains geographic information copyrighted by SanGis. All rights reserved.

**PROPOSED PROJECT
PHG 11-0021**



ALLEY

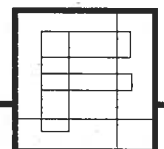


SOUTH KALUMBA STREET

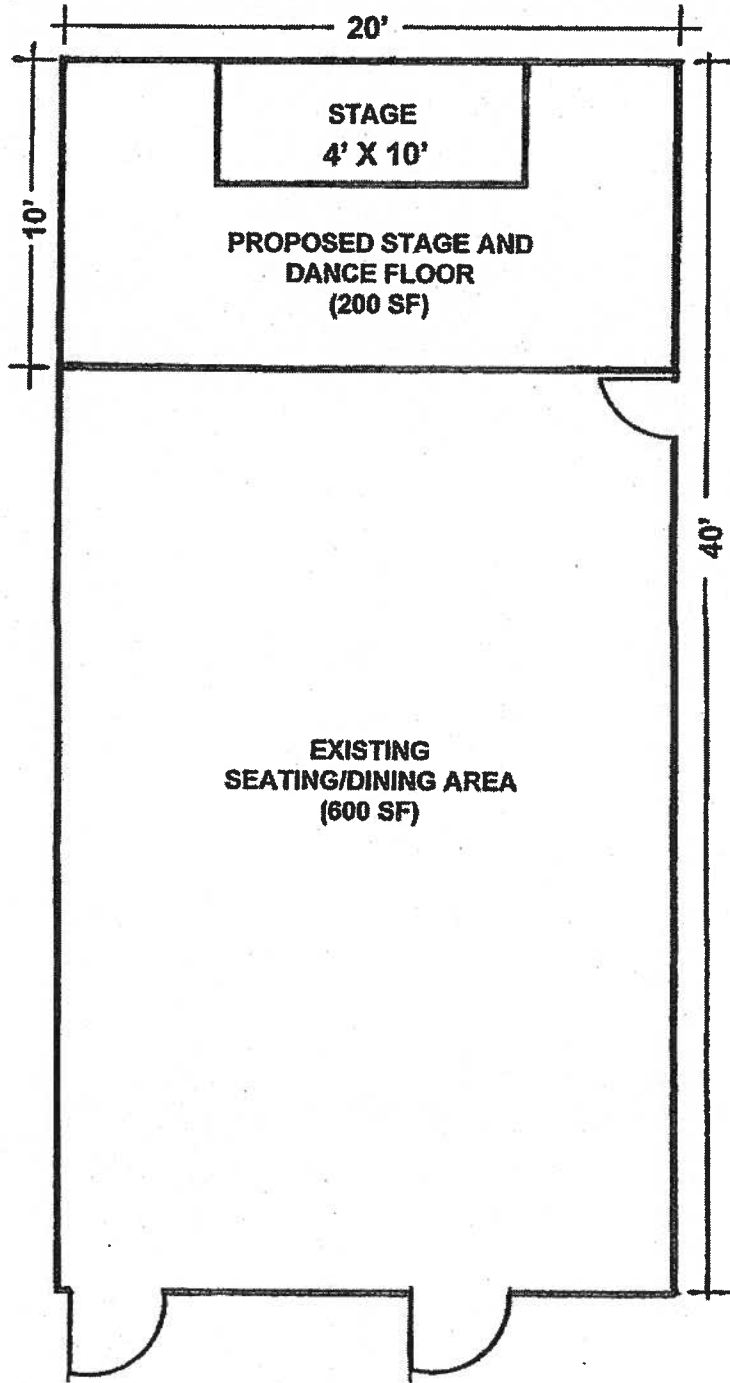
NTS

EAST GRAND AVENUE

PROPOSED PROJECT



FLOOR PLAN



ENLARGED SITE PLAN

**PROPOSED PROJECT
PHG 11-0021**



SITE PLAN

ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

NORTH – Downtown Specific Planning Area (Downtown Retail) District / Retail commercial buildings and uses are located north of the project site across Grand Avenue. Grand Avenue is classified as a Collector Road (100' R-O-W).

SOUTH – Downtown Specific Planning Area (Downtown Retail) District / Retail commercial buildings and uses are located immediately south along Kalmia Street. Kalmia Street is a non-circulation element commercial street (80' R-O-W). Public parking lots 4 and 6 are located south of the site. A two-story multi-family residential building is located approx. 70 south of the deli (northeastern corner of 2nd Ave and Kalmia). Existing two-story commercial buildings located between the deli and residential building provide a visual and noise buffer between the two uses.

EAST - Downtown Specific Planning Area (Downtown Retail) District / Retail commercial buildings and uses are located to the east along Grand Avenue.

WEST - Downtown Specific Planning Area (Downtown Retail) District / Retail commercial buildings and uses are located to the west across Kalmia Street.

B. ENVIRONMENTAL STATUS

The proposal is exempt from the California Environmental Quality Act (CEQA) in accordance with CEQA Section 15301, "Existing Facilities," and a Statement of Exemption was prepared for the proposed project. In staff's opinion, the request does not have the potential for causing a significant effect on the environment.

C. PROJECT ANALYSIS

General Plan

The General Plan land-use designation on the site is SPA 9 (Specific Planning Area No. 9 – Downtown Revitalization Area Specific Plan). The overall goal for the Area Plan is to create a dynamic "Downtown" commercial center that is attractive and of high quality, unifies community design image, compliments the Civic Center's identity, and provides an economically viable setting for a balanced mixture of commercial, administrative/professional, and residential uses with safe and efficient circulation and access. The Downtown Retail Core area of the Historic Downtown District is intended to be a pedestrian-oriented traditional "main street" with active retail and restaurant uses in the ground floor storefront. Sidewalk cafes are permitted within certain areas of Downtown in order to promote pedestrian activity and public interest by contributing to an active and attractive pedestrian environment.

Whether the Proposal for Amplified Music and Dancing would Create Problems in the Downtown Area

The property is located within the Historic District (Retail Core) of the Downtown Specific Plan. Dining establishments in the Historic District may offer amplified entertainment and dancing only upon approval of a Conditional Use Permit. The applicant has requested to allow amplified music and dancing until 1:00 a.m., generally on Fridays and Saturday evenings, but may expand to other days as demand increases. An existing 800 SF ground-floor suite within the U-shape building would be designated for dancing and amplified entertainment, along with restaurant seating. This area would contain a small stage and dance area (approx. 200 SF). The suite currently is used for additional restaurant seating, special events and limited entertainment activities.

Staff review of amplified entertainment and dancing requests generally focus on two primary issues, which includes the potential for noise and additional calls for Police service. The Police Department reviews each proposal on a case-by-case basis to determine whether additional conditions, such as on-site security or limits on the hours of operation should be required. The Police Department does not object to the proposed request for amplified music and dancing, or the sale of alcoholic beverages subject to the implementation of a number of conditions designed to control on-site activities and minimize the potential for disturbances. Noise generally is controlled by limiting the hours amplified music can be played and requiring doors to be closed during the hours when music is occurring, and the Police Department has recommended that all entertainment and dancing end at 12:00 a.m., and the applicant does not object to this requirement.

Because most adjacent businesses generally would be closed during the majority of hours when entertainment activities would occur, staff feels the addition of amplified music and dancing to the dining experience would not create problems for neighboring commercial properties. There is an existing multi-family residential building located approximately 70 feet south of the restaurant along Kalmia Street. However, the architectural layout of the existing building and adjacent two-story commercial buildings would buffer/mitigate any potential noise issues to the residences to the south. No known noise complaints have been generated by the previous entertainment activities at the restaurant. All requirements of the Noise Ordinance will continue to remain in effect and a standard condition has been included allowing the Planning Commission to consider modification or revocation of the CUP in the event significant problems arise or there is a failure to comply with the terms of the permit. The DBA also has expressed support in their attached letter for the applicant's proposal to offer music and dancing, in addition to modifying the ABC license to allow alcoholic spirits to the existing service of beer and wine.

SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST

A. PHYSICAL CHARACTERISTICS

The project site is an existing two-story commercial building with a fenced courtyard area. Landscaping is limited to street trees along the project frontages, and minor ornamental plantings within a small landscape area. The project site fronts onto Kalmia Street and Second Avenue. On-street parking is provided along each street.

B. SUPPLEMENTAL DETAILS OF REQUEST

1. Property Size: 10,500 SF parcel within the Downtown Retail Core
2. Existing Deli-Kitchen Area: 1,370 SF (includes approx. 530 SF seating/dining area)
Restaurant/Wine Bar Area: 870 SF (includes dining area and bar)
Existing Courtyard Seating: Approx. 1,000 SF, up to 7 small tables or benches placed throughout this area depending on the weather, demand or event.
Outdoor Fenced Seating Areas: Approx. 650 SF within three separate-fenced area (wrought iron).
Proposed Cabaret Area: Approx. 800 SF separate enclosed suite (approx. 20' x 40'). This area would include tables for existing restaurant service, and a 200 SF stage/dance area. Access is provided from the restaurant and outside courtyard area from separate doors.
Office/Storage: Various other areas used for office and storage uses
3. Proposed Expansion: Approx. 600 SF vacant suite to be used for future expansion of the restaurant/bar area. A portion of this suite currently is used for restaurant storage.
4. Hours of Operation: Monday – Sunday 8:00 a.m. – 1:00 a.m.
Deli typically operates from 8:00 a.m. to 6:00 p.m.
Restaurant/Wine Bar typically operates as follows:
Mon-Thurs: 11:30 a.m. – 10:00 p.m.
Fri – Sat: 11:30 a.m. – 1:00 p.m.
Sun: 11:30 a.m. – 8:00 p.m.
Deli, Restaurant/Wine Bar days and hours may vary are necessary
5. Number of Employees: Approx. 30
6. Entertainment: Live bands, DJ's, singers, karaoke, comedy, public speakers, etc. Dancing would also be permitted. Amplified entertainment and dancing must occur within the designated indoor areas and the exterior doors must be closed during performances.
7. Alcohol License
Existing: On Sale Beer and Wine for Bona Fide Public Eating Place (Type 41)
Proposed: On-Sale General for Bona Fide Public Eating Place (Type 47)

EXHIBIT "A"
FINDINGS OF FACT
PHG 11-0021

Conditional Use Permit

1. Granting the Conditional Use Permit for the proposed use would be based on sound principles of land use and in response to services required by the community, since the site is zoned for commercial uses, including a restaurant, and the restaurant would provide sales of beer, wine and alcoholic spirits to complement the food service. Appropriate parking is available to accommodate the proposed uses. Adequate area is provided for the outdoor seating with appropriate public access around the seating areas. The proposed use would be consistent with the General Plan goals for Downtown since the Downtown Retail District is intended to be a pedestrian-oriented traditional "main street" with active retail and restaurant uses in the ground floor storefront. Sidewalk cafes are permitted within certain areas of Downtown in order to promote pedestrian activity and public interest by contributing to an active and attractive pedestrian environment. All potential noise issues will be controlled through the conditions of approval and enforcement of the Noise Ordinance.
2. Granting the Conditional Use Permit will not cause deterioration of bordering land uses or create special problems for the area since the site is zoned for commercial uses within the downtown retail core; the commercial building and restaurant are existing uses; and the conditions relating to alcohol sales and service applied through the ABC license would eliminate any potential alcohol-related problems. In addition, potential noise issues will be minimized by the restaurant staff keeping the amplified music indoors and exterior doors closed during the hours music/entertainment occurs as required by the conditions of approval. The conditions include a prohibition on outside promoters and cover charges, a requirement to keep the kitchen open and serving food during all hours of operation, and a requirement to provide a minimum number of security personnel during entertainment hours.
3. The proposed Conditional Use Permit has been considered in relationship to its effect on the community and the neighborhood and would not result in a negative impact to the surrounding neighborhood, since the property is zoned commercial, the restaurant is existing, and conditions applied to the CUP and ABC license would prohibit any activities which could create problems in conjunction with live entertainment activities or the sales of alcoholic beverages. Because most adjacent businesses generally would be closed during the majority of hours when entertainment activities would occur, the addition of amplified music and dancing to the dining experience would not create problems for neighboring commercial properties. The existing U-shaped architectural layout of the existing building and adjacent two-story commercial buildings would buffer/mitigate any potential noise issues to the residences to the south.
4. The proposal is exempt from the requirements of the California Environmental Quality Act in conformance with CEQA Section 15301, "Existing Facilities," and a Statement of Exemption was prepared for the proposed project. In staff's opinion, the request does not have the potential for causing a significant effect on the environment.

EXHIBIT "B"

CONDITIONS OF APPROVAL PHG 11-0021 Vinz Wine Bar & Deli

General

1. All construction shall comply with all applicable requirements of the Escondido Zoning Code and requirements of the Planning Department, Director of Building, and the Fire Chief.
2. The legal description attached to the application has been provided by the applicant and neither the City of Escondido nor any of its employees assume responsibility for the accuracy of said legal description.
3. Prior to or concurrent with the issuance of building permits, the appropriate development fees and Citywide Facility fees shall be paid in accordance with the prevailing fee schedule in effect at the time of building permit issuance, to the satisfaction of the Director of Planning and Building.
4. As proposed, the design and materials of the proposed facilities shall be in accordance the staff report, exhibits and the project's Details of Request, to the satisfaction of the Planning Division.
5. All project generated noise shall conform to the City's Noise Ordinance (Ordinance 90-08).
6. All uses shall be consistent with the Details of Request and conditions of approval contained within this report, to the satisfaction of the Director of Community Development. Minor modifications to the conditions and operational details may be approved by the Director of Community Development and/or Police Chief without requiring a modification to the use permit, as determined by the Director of Community Development.
7. The hours of operation of the restaurant/deli/bar shall be limited from 8:00 a.m. to 1:00 a.m. Entertainment (amplified or non-amplified) and dancing shall end by 12:00 a.m., to the satisfaction of the Director of Community Development, Police Department and as may be restricted by the Department of Alcoholic Beverage Control. For the purposes of this CUP, entertainment (amplified or non-amplified) does not include televisions, juke box, radio/stereo systems, etc., as determined by the Director of Community Development. Any outdoor entertainment shall not create any excessive noise beyond the property boundaries, as may be restricted by the City's Noise Ordinance, Police Department and Alcoholic Beverage Control (ABC).
8. All ABC requirements shall be adhered to at all times.
9. The rear doors of the premises shall be equipped on the inside with an automatic locking device and shall be closed at all times, and shall not be used as a means of access by patrons to and from the licensed premises. Temporary use of these doors for delivery of supplies does not constitute a violation.
10. The applicant shall provide appropriate security, numbering no less than two, when dancing and entertainment are held. Security personnel will be dedicated solely for security purposes. The Escondido Police Department may at anytime raise or lower the number of required security personnel. The change of required personnel would be made in writing and delivered to a managing agent of the premises.
11. The sale of alcoholic beverages for consumption off the premises is strictly prohibited, unless authorized by the Department of Alcoholic Beverage Control (ABC).
12. The applicant shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
13. The applicant shall police the area under the control in an effort to prevent the loitering of persons drinking outside the premises.

14. Peace officers, as listed in Section 830.1 of the California Penal Code, and the Director and other persons employed by the Department of Alcoholic Beverage Control for the administration and enforcement of the Alcoholic Beverage Control Act are hereby authorized to visit and inspect the proposed premises, at any time the undersigned is exercising the privileges authorized by their ABC license on such premises.
15. No obstructions shall be attached, fastened or connected to either the partitions or ceiling to separate the booths/dining areas within the interior space of the licensed premises.
16. Partitions separating the booths/dining areas shall not exceed 52" in height.
17. The licensee(s) shall not maintain or construct any type of enclosed room intended for use by patrons or customers for any purpose, unless specifically authorized by this use permit and/or the Police Department.
18. The licensee shall not permit "Taxi Dancing" to occur on the licensed premises wherein partners are provided for dancing or social purposes. Social purposes include but are not limited to the soliciting or accepting of any alcoholic beverages from any customers while in the premises.
19. No employee or agent shall be permitted to accept money or any other thing of value from a customer for the purpose of sitting or otherwise spending time with customers while in the premises, nor shall the licensee(s) provide or permit, or make available either gratuitous or for compensation, male or female persons who act as escorts, or guests of and for the customers. No employee or agent shall solicit or accept any alcoholic or non-alcoholic beverage from any customer while in the premises.
20. No distilled spirits shall be sold by the bottle.
21. No other laws shall be violated. Any violation of this Conditional Use Permit or additional conditions set forth in the premise license issued by the Department of Alcoholic Beverage Control may result in a suspension or revocation of this CUP.
22. Amplified music/entertainment, loudspeakers and dancing shall be restricted to the designated interior spaces, to the satisfaction of the Director of Planning and Building and Police Department, and as may be restricted by ABC requirements. All doors for the designated indoor entertainment area(s) shall remain closed during hours when amplified music/entertainment is ongoing.
23. All events and entertainment shall be booked directly with the restaurant owners/employees. No outside promoters shall be allowed to book events at this restaurant.
24. The primary use of the operation shall remain a restaurant with the kitchen open and serving food during all hours of operation.
25. This CUP shall become null and void unless utilized within twelve months of the effective date of approval
26. The maximum occupant load for the existing 800 SF suite shall not exceed 49, unless approved by the Building Official and Fire Department.
27. This item may be referred back to the Planning Commission upon recommendation of the Director of Community Development for review and possible revocation or modification of the Conditional Use Permit upon receipt of nuisance complaints regarding the facility or non-compliance with the Conditions of Approval.
28. The City of Escondido hereby notifies the applicant that the County Clerk's office requires a documentary handling fee of \$50.00 in order to file a Notice of Exemption for the project (environmental determination for the project). In order to file the Notice of Exemption with the County Clerk, in conformance with the California Environmental Quality Act (CEQA) Section 15062, the applicant should remit to the City of Escondido Planning Division, within two working days of the final approval of the project (the final approval being the hearing date of the Planning Commission or City Council, if applicable), a certified check payable to the "County Clerk" in the amount of \$50.00. The filing of a Notice of Exemption and the posting with the County Clerk starts a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. Failure to submit the required fee within the specific time noted above will result in the Notice of Exemption not being filed with the County Clerk, and a 180 day statute of limitations will apply.



CITY OF ESCONDIDO
 PLANNING DIVISION
 201 NORTH BROADWAY
 ESCONDIDO, CA 92025-2798
 (760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
 Attn: Linda Kesian
 P.O. Box 121750
 San Diego, CA 92112-1750

From: City of Escondido
 201 North Broadway
 Escondido, CA 92025

Project Title/Case No.: PHG 11-0021

Project Location - Specific: Vinz Wine Bar and Deli is located on the southeastern corner of E. Grand Avenue and Kalmia Street, addressed as 201 E. Grand Avenue (APN 233-082-24).

Project Location - City: Escondido, **Project Location - County:** San Diego

Description of Project: A Modification to a previously approved Conditional Use Permit for Vinz Wine Bar and Deli to allow live entertainment and dancing (cabaret permit); allow the sale of alcoholic spirits in addition to the currently allowed beer and wine; and allow future expansion into an adjacent approximately 600 SF suite.

Name of Public Agency Approving Project City of Escondido

Name of Person or Agency Carrying Out Project

Name Vincent Griffin (Vinz Wine Bar and Deli) Telephone (760) 743-8466

Address 2723 Malibu Place, Escondido, CA 92027

Private entity School district Local public agency State agency Other special district

Exempt Status: Categorical Exemption. Section 15301 "Existing Facilities."

Reasons why project is exempt:

1. The project only involves a Conditional Use Permit to modify the existing ABC license; allow live entertainment; and to expand into an existing suite. No physical expansion of the site or buildings is proposed. No additional parking is required.
2. The site is in an area where all public services and facilities are available to allow for the proposed use.
3. The project site is not in an area that is environmentally sensitive, and would have no impact to fish and wildlife.
4. The project would not create any significant increase in vehicle trips, nor impact vehicular circulation on or around the site. Appropriate parking is provided on the site to accommodate all uses. The project is located within a commercial zone and is surrounded by a variety of commercial uses. The project would not generate any significant noise impacts to adjacent uses through the project design and compliance with the project Conditions of Approval. The project would not result in the destruction of desirable natural features, nor be visibly obtrusive or disharmonious with surrounding areas.

Lead Agency Contact Person: Jay Paul, Planning Division Area Code/Telephone/Extension (760) 839-4537

Signature:  May 26, 2011
 Jay Paul, Associate Planner Date

Signed by Lead Agency Date received for filing at OPR: N/A



May 20, 2011

MEMO

TO: Jay Paul, Planning Dept.
City of Escondido

Re: 201 E. Grand modification of previously approved CUP to allow live entertainment and dancing, the sale of alcoholic spirits (in addition to beer and wine) and the future expansion into adjacent vacant space. VINZ Wine Bar and Deli

The Design Advisory Committee is in complete support of proposals #1 - #3, of this modification to the previously approved CUP for this location.

1. Cabaret Permit to allow for live entertainment and dancing within an existing 800 sq. ft. enclosed area, currently used for restaurant seating.
2. Modify existing Condition of Approval for previous CUP that restricts the facility to beer and wine only. This request would also permit alcoholic spirits.
3. Allow for the potential future restaurant/bar expansion into an adjacent space previously used as a tailor shop.

Other comments:

1. If there are restrictions that are placed on these types of establishments by the state or Fed, they should be known and integrated.
2. Is there a sound level restriction included with the modification of the CUP?
3. DAC looks forward to reviewing exterior modifications, if proposed in support of the changes.

The DBA believes this type of use will help to satisfy the need for live entertainment venues and dancing within the city limits, and particularly in the downtown.

The DBA Design Advisory Committee's goal is to advise, support and advocate for business members and developers whose projects are moving through the permitting and design process as required by the Planning Department of the City of Escondido. It is hoped that through thoughtful design discussion with the design-professional volunteer members of the Committee, that proposed plans may more effectively achieve the visual and/or economic impact desired, as well as contributing to a sense of place and visual interest in the downtown.