



THE CITY OF SAN DIEGO

# REPORT TO THE PLANNING COMMISSION

**DATE ISSUED:** May 9, 2013 **REPORT NO. PC-13-034**

**ATTENTION:** Planning Commission, Agenda of May 16, 2013

**SUBJECT:** BLUE AGAVE  
PROJECT NO. 265866, PROCESS 4

**OWNER:** Addy Properties, LLC, Roger Wagner (Attachment 10)

**APPLICANT:** Samir Toma

## SUMMARY

**Issue(s):** Should the Planning Commission approve a Conditional Use Permit to allow for the conversion of a rear loading dock into a patio expansion of an existing bar/nightclub within the Navajo Community Plan Area?

**Staff Recommendation:** APPROVE Conditional Use Permit No. 237254.

**Community Planning Group Recommendation:** On October 15, 2012, the Navajo Community Planners, Inc. voted 14-1-0 to recommend approval of the Conditional Use Permit with suggested permit conditions (Attachment 5).

**Environmental Review:** This activity is Exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15303 (e) – new construction (accessory structures including garages, carports, patios, swimming pools, and fences), and the exceptions listed in CEQA section 15300.2 do not apply. On February 5, 2013, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15301(a) Existing Facilities, interior and exterior alterations, and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520.

**Fiscal Impact Statement:** All review and processing costs are covered by the applicant through a deposit account.

**Code Enforcement Impact:** Approval of the Conditional Use Permit would resolve the code enforcement issues related to the non-permitted conversion of the rear loading dock to a rear deck/patio area expanding the nightclub/bar.

**Housing Impact Statement:** None with this project.

## **BACKGROUND**

### **Project Description**

The project site is located at 6608 Mission Gorge Road in the Navajo Community Plan area, within the CV-1-3 Zone. A Conditional Use Permit is required pursuant to Land Development Code (LDC) Section 141.0614 for nightclubs and bars over 5,000 square feet.

The project would include expansion of the existing 4,821 square-foot bar/nightclub with a 709 square-foot outdoor patio space on an existing loading dock space. The combination of the indoor and outdoor spaces of the project exceeds 5,000 square feet (Attachment 7).

The patio expansion was originally constructed without permits and included an overhead canopy. A Civil Penalty Notice and Order was issued on July 18, 2006 (Attachment 9). The applicant subsequently removed the canopy. Following tenant improvements for the inside of the bar/nightclub, the canopy was re-installed without permits. The applicant has since removed the canopy a second time and it will not be allowed with any approval of this CUP.

The Blue Agave nightclub hosts live entertainment, Thursdays through Sundays until 4AM.

## **DISCUSSION**

The proposed outdoor patio conversion of the rear loading dock is consistent with the land use designation and with the underlying CC-1-3 zone. The site is designated Community Commercial which allows for nightclubs and bars as does the CC-1-3 zone. However, the existing bar/nightclub occupies 4,821 square feet and the expansion of outdoor patio space by 709 square feet results in a bar/nightclub over 5,000 square feet. LDC Section 141.0614 requires a Conditional Use Permit for bar/nightclubs over 5,000 square feet.

The project is located in the Community Plan Implementation Overlay Zone (CPIOZ Type A) and must comply with certain CPIOZ requirements. These include screening mechanical equipment, limiting the amount of reflective material on the outside of buildings, setbacks from the San Diego River, setbacks from Mission Gorge Road and building transparency. Section 141.0614 of the SDMC requires the project include a litter control plan, provide off street parking at a sufficient level to serve the facility without impacting adjacent or nearby property, and that the hours of operation should be limited so that the neighboring development is not

disturbed by noise and light. The proposed site plan (Attachment 7) shows four additional parking spaces, provided for the additional nightclub space, achieved through lot re-striping. Staff has reviewed this configuration and found it to be satisfactory.

The Navajo Community Planners, Inc. voted to recommend approval of the project and suggested 14 permit conditions (Attachment 6). Several of the suggested conditions recommended expiration dates for the project in both the near term and the long term. Projects receiving Conditional Use Permits for nightclubs over 5,000 square feet do not typically have these types of expiration dates. Therefore, staff did not propose an expiration date.

Suggested conditions 4, 8 and 16 are appropriate for this permit and have been added to the proposed CUP. All other recommended conditions from the Navajo Community Planners are already addressed in the San Diego Police Department entertainment permit (Attachment 11) or by the Alcoholic Beverage Control, and were not made part of this CUP.

### CONCLUSION

The project is consistent with the land use designation for the area, is consistent with the CC-1-3 zone, is an expansion of a nightclub in an existing shopping center, and permit conditions included in the Conditional Use Permit are intended to provide protections to the surrounding neighborhood. Therefore, staff recommends approval of Conditional Use Permit No. 237254.

### ALTERNATIVES

1. **Approve** Conditional Use Permit No. 237254, **with modifications.**
2. **Deny** Conditional Use Permit No. 237254.

Respectfully submitted,

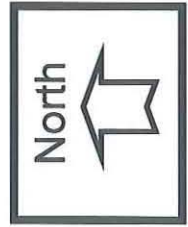
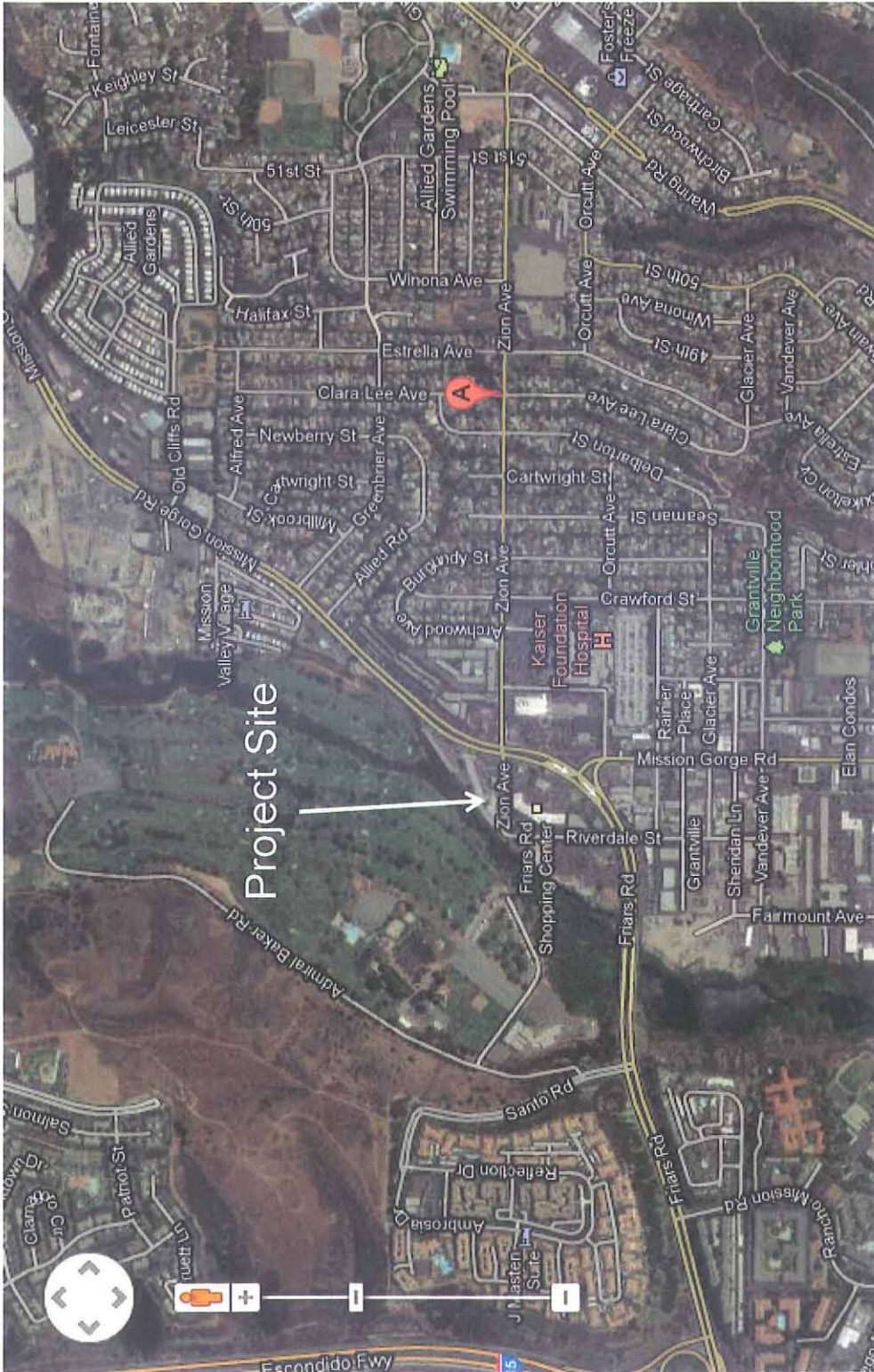
  
\_\_\_\_\_  
Mike Westlake  
Assistant Deputy Director  
Development Services Department

  
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Morris E. Dye  
Project Manager  
Development Services Department

Attachments:

1. Aerial Map
2. Community Land Use Map
3. Location Map
4. Draft Permit Resolution with Findings
5. Draft Permit with Conditions
6. Navajo Community Planners, Inc., Recommendation

7. Project Site Plan
8. Notice of Exemption
9. Civil Penalty Notice and Order
10. Ownership Disclosure Statement
11. Entertainment Permits



## Location Aerial Photo

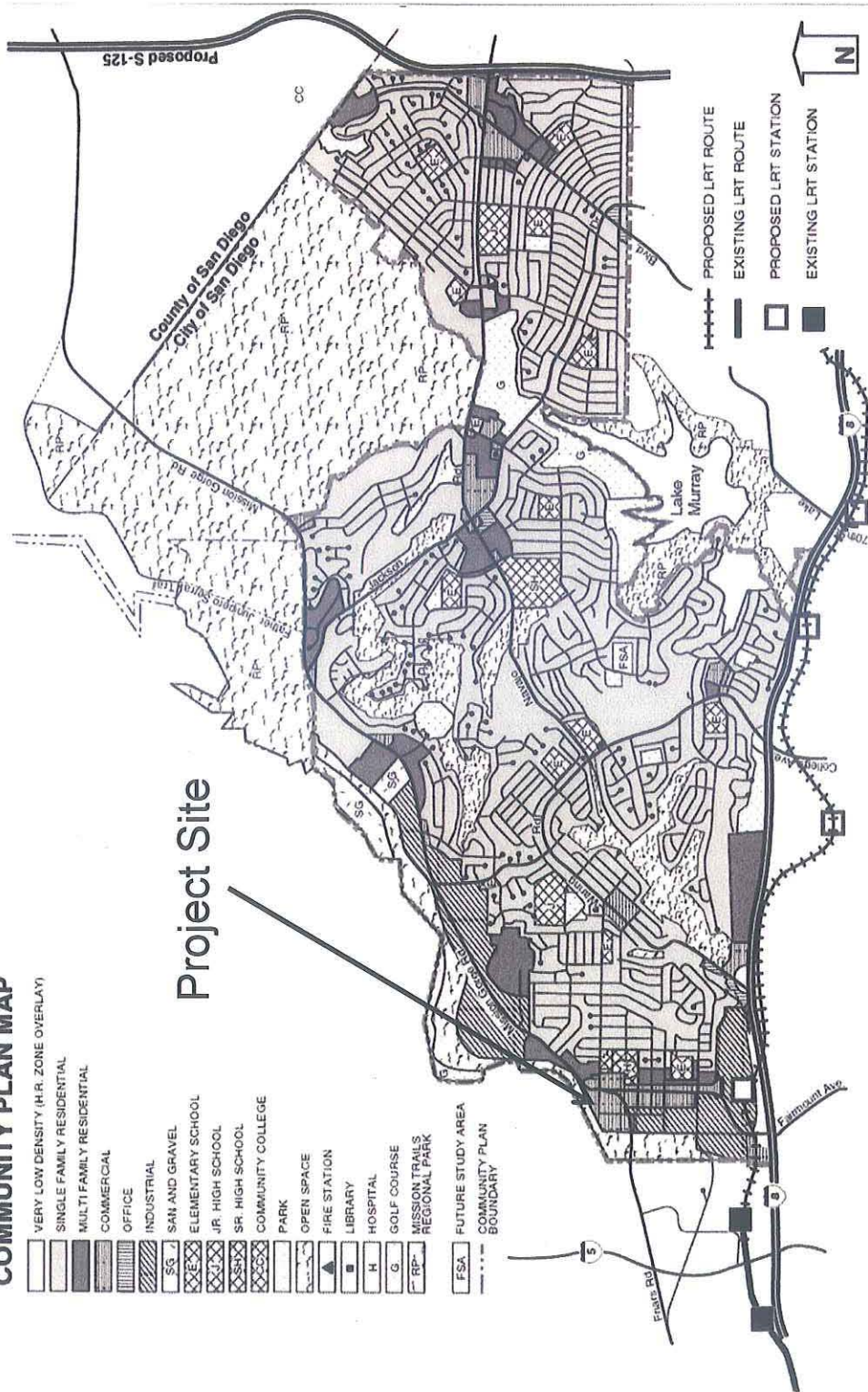
Blue Agave  
PROJECT NO. 265866



**COMMUNITY PLAN MAP**

- VERY LOW DENSITY (H.R. ZONE OVERLAY)
- SINGLE FAMILY RESIDENTIAL
- MULTI FAMILY RESIDENTIAL
- COMMERCIAL
- OFFICE
- INDUSTRIAL
- SAN AND GRAVEL
- ELEMENTARY SCHOOL
- JR. HIGH SCHOOL
- SR. HIGH SCHOOL
- COMMUNITY COLLEGE
- PARK
- OPEN SPACE
- FIRE STATION
- LIBRARY
- HOSPITAL
- GOLF COURSE
- MISSION TRAILS REGIONAL PARK
- RP
- FSA
- COMMUNITY PLAN BOUNDARY

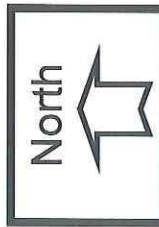
**Project Site**

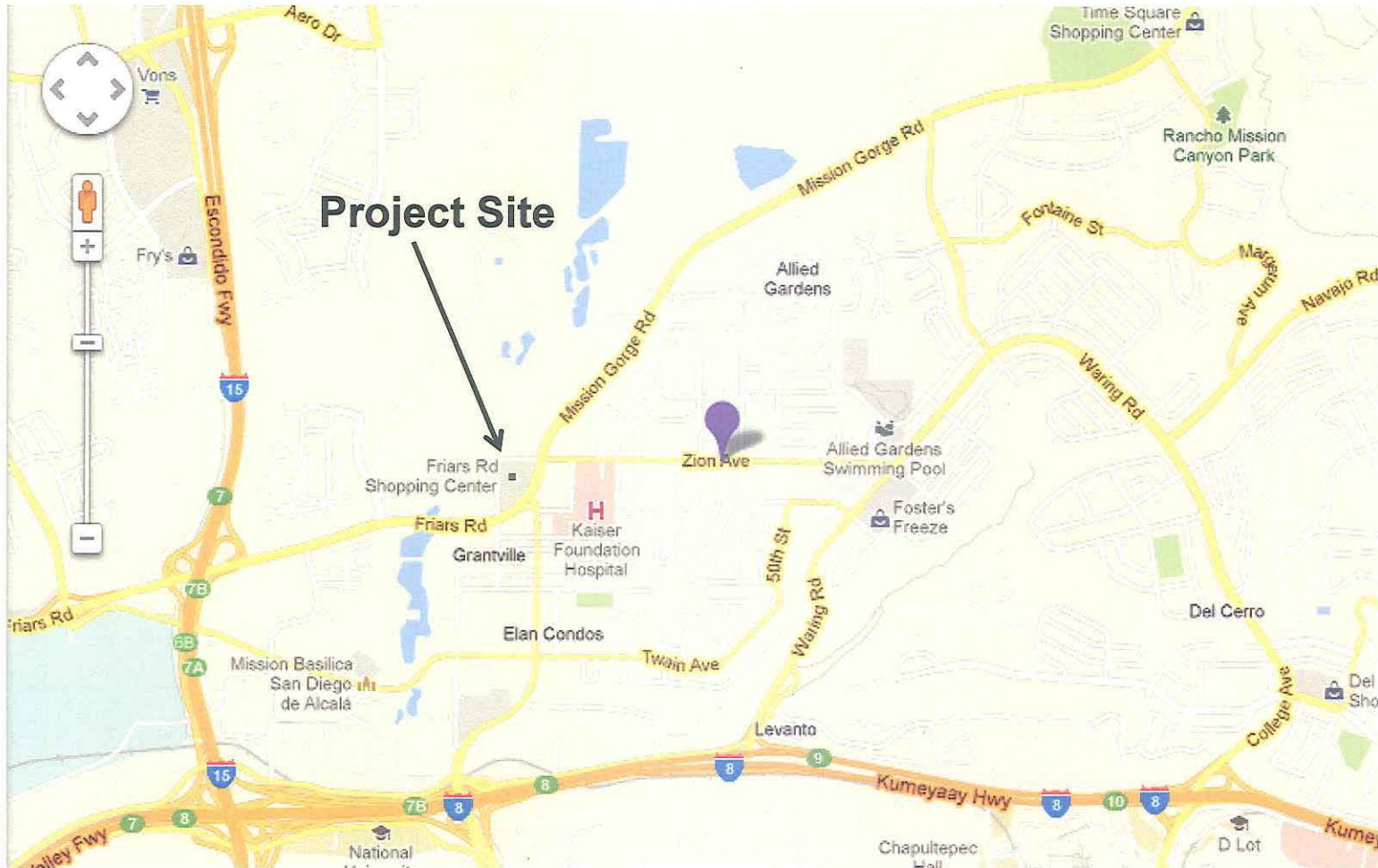


**Land Use Map**

**Blue Agave – 6608 Mission Gorge Road**

**PROJECT NO. 265866**





## Project Location Map

Blue Agave – 6608 Mission Gorge Road

PROJECT NO. 265866



PLANNING COMMISSION  
RESOLUTION NO.  
CONDITIONAL USE PERMIT NO. 237254  
**BLUE AGAVE PROJECT NO. 265866**

WHEREAS, Addy Properties, LLC, Owner and Samir Toma, Permittee, filed an application with the City of San Diego for a Conditional Use Permit to add a 709 square-foot existing patio to an existing 4,821 square-foot night club resulting in a 5,530 square-foot nightclub (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Conditional Use Permit No. 237254) on portions of a 0.13-acre site; and

WHEREAS, the project site is located at 6608 Mission Gorge Road in the CC-1-3 Zone and CPIOZ-Type A of the Navajo Community Plan Area; and

WHEREAS, the project site is legally described as Parcel 2 of Parcel Map No. 11978, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, March 5, 1982; and

WHEREAS, on May 16, 2013, the Planning Commission of the City of San Diego considered Conditional Use Permit No. 237254 pursuant to the Land Development Code of the City of San Diego; and

WHEREAS, on February 5, 2013, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15301(a) Existing Facilities, interior and exterior alterations, and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520; NOW, THEREFORE,

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings, dated May 16, 2013.

FINDINGS:

**(a) The proposed development will not adversely affect the applicable land use Plan.**

The proposed project would expand a bar/nightclub by adding an outdoor patio of approximately 709 square feet resulting in more than 5,000 square feet located at 6608 Mission Gorge Road at Zion Avenue in the Navajo Community Plan Area. Bars/Nightclubs over 5,000 square feet require approval of a Conditional Use Permit.

The Navajo Community Plan designates the site for Commercial development. The Blue Agave bar and nightclub is a commercial use and is, therefore, an allowable use within that designation. The addition of the adjoining outdoor patio is also commercial related and consistent with the land use designation in the plan. Therefore, the proposed project would not adversely affect the applicable land use plan.



**(b) The proposed development will not be detrimental to the public health, safety, and welfare.**

The proposed project would expand a bar/nightclub by adding an outdoor patio of approximately 709 square feet resulting in more than 5,000 square feet located at 6608 Mission Gorge Road at Zion Avenue in the Navajo Community Plan Area. Bars/Nightclubs over 5,000 square feet require approval of a Conditional Use Permit.

The proposal site is located in an area designated for commercial development and is zoned CC-1-3 Community Commercial. The project is a use that is consistent with both the community plan and the zone. Permit conditions have been included to ensure compliance with the San Diego Municipal Code (SDMC). SDMC section 141.0614 requires that off street parking be provided at a sufficient level to serve the facility without impacting adjacent or nearby property. Hours of operation should be limited so that the neighboring development is not disturbed by noise and lights. Also the SDMC requires a litter control plan be implemented to keep the facility and adjacent property free of litter. The 709 square-foot patio project would require an additional four off-street parking spaces and the applicant has included four additional parking spaces in the proposal by re-striping the shopping <sup>center</sup> parking lot. The proposal includes a litter control plan as shown on Exhibit A. The proposed patio hours of operation propose closing the patio at 4 AM, matching the indoor hours of operation. However, no live or amplified music would be allowed on the rear patio space. All signs and fences would be required to comply with regulations in the Land Development Code. Lastly, through permit conditions the applicant would be required to construct two Americans with Disabilities Act (ADA)-compliant transition sidewalks around the two existing driveways on Zion Avenue adjacent to the project. Therefore, the proposed development will not be detrimental to the public health, safety and welfare.

**(c) The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.**

The proposed project would expand a bar/nightclub by adding an outdoor patio of approximately 709 square feet resulting in more than 5,000 square feet located at 6608 Mission Gorge Road at Zion Avenue in the Navajo Community Plan Area. Bars/Nightclubs over 5,000 square feet require approval of a Conditional Use Permit.

The project is requesting no deviations to the Land Development Code. The patio space is existing and complies with all setback requirements and access regulations. Therefore, the proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

**(d) The proposed use is appropriate at the proposed location.**

The proposed project would expand a bar/nightclub by adding an outdoor patio of approximately 709 square feet resulting in more than 5,000 square feet located at 6608 Mission Gorge Road at Zion Avenue in the Navajo Community Plan Area. Bars/Nightclubs over 5,000 square feet require approval of a Conditional Use Permit.

The proposed use is an expansion of an existing bar/nightclub and the patio space is existing. The use is consistent with the Commercial land use designation and with the underlying CC-1-3 zone. The project is located in an existing shopping center with similar surrounding uses. Therefore, the proposed use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission, Conditional Use Permit No. 237254 is hereby GRANTED by the Planning Commission to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Conditional Use Permit No. 237254, a copy of which is attached hereto and made a part hereof.

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Morris E. Dye  
Development Project Manager  
Development Services

Adopted on: May 16, 2013  
Job Order No. 24002384

**RECORDING REQUESTED BY**  
 CITY OF SAN DIEGO  
 DEVELOPMENT SERVICES  
 PERMIT INTAKE, MAIL STATION 501

**WHEN RECORDED MAIL TO**  
**PROJECT MANAGEMENT**  
**PERMIT CLERK**  
**MAIL STATION 501**

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24002384

**CONDITIONAL USE PERMIT NO. 237254**  
**BLUE AGAVE PROJECT NO. 265866**  
**PLANNING COMMISSION**

This Conditional Use Permit No. 237254 is granted by the Planning Commission of the City of San Diego to Addy Properties, Owner, and Samir Toma, Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0614. The 0.13-acre site is located at 6608 Mission Gorge Road in the CC-1-3 zone and CPIOZ-Type A of the Navajo Community Plan Area. The project site is legally described as Parcel 2 of Parcel Map No. 11978, in the City of San Diego, County of San Diego, State of California, filed in the Office of the County Recorder of San Diego County, March 5, 1982.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to expand an existing 4,821 square-foot bar/nightclub with a 709 square-foot outdoor patio described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated May 16, 2013, on file in the Development Services Department.

The project shall include:

- a. A 709 square-foot outdoor patio for an existing 4,821 square-foot bar/nightclub for a total of 5,530 square feet;
- b. Off-street parking;
- c. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

**STANDARD REQUIREMENTS:**

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by May 30, 2016.
2. The utilization of this CUP is contingent upon the approval of a license to sell alcohol at this location by the California Department of Alcoholic Beverage Control [ABC]. The issuance of this CUP does not guarantee that the ABC will grant an alcoholic beverage license for this location.
3. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder.
4. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
5. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
6. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
7. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
8. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

9. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

10. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

11. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

#### **ENGINEERING REQUIREMENTS:**

12. Once the Conditional Use Permit (CUP) is recorded the applicant shall provide documentation to the Development Services Project Manager that the existing patio cover has been removed and the ADA compliant 2:1 transition sidewalks around the existing two driveways on Zion Road have been constructed, to the satisfaction of the City Engineer. If this work is not completed within 60 days of the public hearing final approval of the CUP the Permittee shall be deemed to be out of compliance with the Conditional Use Permit, and all applicable penalties and processes of the San Diego Municipal Code would apply.

13. Any party, on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within 90 days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code 66020.

**PLANNING/DESIGN REQUIREMENTS:**

14. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as condition of approval of this permit. Where there is a conflict between a condition (including exhibits) of this permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations.

15. Any future requested amendment to this permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

16. All signs shall comply with the San Diego Municipal Code Chapter 14, Article 2, Division 12, "Sign Regulations

17. All fences and retaining walls shall comply with the San Diego Municipal Code Section 142.0301.

18. The hours of operation of the facility shall be between 8:00 P.M. and 4:00 A.M Thursday through Sunday.

19. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

20. No live or amplified entertainment is permitted on the patio at any time.

21. Exterior advertising of alcoholic beverages, or interior advertising of alcoholic beverages that is visible from the exterior of the premises is prohibited.

22. Entertainment shall be located in the area specified on the floor plans stamped Exhibit "A" with Development Services Department.

23. Security lighting shall be in place along the perimeter and parking area to protect patrons and their vehicles from vandals and other types of crime as mutually agreed upon by the San Diego Police Department. Any new and existing exterior lighting shall be fully shielded.

**TRANSPORTATION REQUIREMENTS**

24. A minimum of four (4) additional off-street parking spaces to the existing number of 97 spaces shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A." Further, all on-site parking stalls and aisle widths shall be in

compliance with requirements of the City of San Diego Municipal Code, and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing by the Development Services Department Director.

**INFORMATION ONLY:**

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Planning Commission the City of San Diego on May 16, 2013 and Approved Resolution Number \_\_\_\_\_.

Permit Type/PTS Approval No.:  
Date of Approval:

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES  
DEPARTMENT

\_\_\_\_\_  
NAME  
Development Project Manager

**NOTE: Notary acknowledgment  
must be attached per Civil Code  
section 1189 et seq.**

\_\_\_\_\_  
**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of  
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

**[NAME OF COMPANY]**  
Owner/Permittee

By \_\_\_\_\_  
NAME  
TITLE

**[NAME OF COMPANY]**  
Owner/Permittee

By \_\_\_\_\_  
NAME  
TITLE

**NOTE: Notary acknowledgments  
must be attached per Civil Code  
section 1189 et seq.**





City of San Diego  
 Development Services  
 1222 First Ave., MS-302  
 San Diego, CA 92101  
 (619) 446-5210

**Community Planning  
 Committee  
 Distribution Form Part 2**

<b>Project Name :</b> BLUE AGAVE		<b>Project Number</b> 265866	<b>Distribution Date</b> 1/10/12		
<b>Project Scope :</b> NAVAJO (PROCESS 3) Conditional Use Permit to include 709 sq ft existing patio to an existing 4,821 sq ft bar/nightclub at 6608 Mission Gorge Rd in the CC-1-3 Zone within the Navajo Community Plan, Airport Influence Area, FAA Part 77, Community Plan Implementation Overlay Area A. Council District 7. Notice Cards=3.					
<b>Project Location</b>					
<b>Applicant Name:</b> Elizabeth Young			<b>Applicant Phone No.</b> 619-203-9251		
<b>Related Projects</b>					
<b>Project Manager</b> <del>Sandra Teasley</del> Morris Dye		<b>Phone Number</b> 446-5271	<b>Fax Number</b> (619) 446-5245	<b>E-mail Address</b> STeasley@sandiego.gov	
<b>Community Plan</b>		<b>Council District</b>			
<b>Existing Zone</b>	<b>Proposed Zone</b>	<b>Building Height</b>	<b>Number of Stories</b>	<b>FAR</b>	
<b>Committee Recommendations (To be completed for Initial Review):</b>					
<input type="checkbox"/> Vote to Approve		<b>Members Yes</b>	<b>Members No</b>	<b>Members Abstain</b>	
<input checked="" type="checkbox"/> Vote to Approve With Conditions Listed Below		<b>Members Yes</b> 14	<b>Members No</b> 1	<b>Members Abstain</b> 0	
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below		<b>Members Yes</b>	<b>Members No</b>	<b>Members Abstain</b>	
<input type="checkbox"/> Vote to Deny		<b>Members Yes</b>	<b>Members No</b>	<b>Members Abstain</b>	
<b>Agenda Date:</b>		<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)		<input type="checkbox"/> Continued	
<b>CONDITIONS:</b> see attachment					
<b>NAME</b> Allen Jones			<b>TITLE</b> Chair, Navajo Community Planners, Inc.		
<b>SIGNATURE</b> <i>Allen Jones</i>			<b>DATE</b> October 15, 2012		
<p><i>Attach Additional Pages If Necessary.</i></p> <p>Please Return Within 30 Days of Distribution of Project Plans To:                  Project Management Division                  City Of San Diego                  Development Services Department                  1222 First Avenue, MS 302                  San Diego, CA 92101</p>					

**Dye, Morris**

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**From:** Allen Jones [allen@hgfenton.com]  
**Sent:** Wednesday, October 17, 2012 12:00 PM  
**To:** Dye, Morris  
**Subject:** Blue Agave (Proj No 265866)  
**Attachments:** Blue Agave with conditions.pdf

Hello, Morris:

On October 15 the Navajo Community Planners recommended approval of the Blue Agave CUP subject to certain conditions, which are attached.

Regards,

Allen Jones, Chair  
Navajo Community Planners, Inc.

**CONDITIONS FOR BLUE AGAVE ARE AS FOLLOWS:**

- 1.) This Conditional Use Permit [CUP] and corresponding use of this site shall expire on December 31st, 2016.
- 2.) Upon first renewal, this CUP shall expire every (7) seven years into perpetuity.
- 3.) Upon expiration of this Permit, the facilities and improvements described herein shall be revalued to ensure that the expansion does not disproportionately contribute to nuisance or criminal activity that could spike emergency calls for service and denigrate community character. Nuisance or criminal activity is further defined as: disturbance of the peace, illegal drug activity, public drunkenness, drinking in public, harassment of passersby, gambling, prostitution, sale of stolen goods, public urination, theft, assaults, batteries, acts of vandalism, excessive littering, loitering, graffiti, illegal parking, excessive loud noises, especially in the late night or early morning hours, traffic violations, curfew violations, lewd conduct, or police detentions and arrests;
- 4.) Exterior advertising of alcoholic beverages, or interior advertising of alcoholic beverages that is visible from the exterior of the premises is prohibited.
- 5.) Bar servers may not serve nor sell alcohol until management and bar service staff complete a responsible beverage service training course. "Responsible beverage service training course (RBS)" means a training program recognized by the California Department of Alcoholic Beverage Control for on-sale management and on-sale professional services.
- 6.) Every manager and bar service individual must complete a responsible beverage service training course within one hundred eighty (180) ninety days of: granting this CUP, or hire of a new employee.
- 7.) A list of all persons who have completed the training required by the above RBS section shall be maintained on the premises of the Blue Agave and, together with the proof of such completion, shall be provided to any police or other enforcement officer for inspection and copying immediately upon request.
- 8.) Entertainment shall be located in the area specified on floor plans stamped with Development Services Department.
- 9.) Entertainment shall be limited to the types of entertainment indicated in the project description.
- 10.) Live and/or amplified entertainment, above the level that meets the City's definition of ambient outside the premise, shall not be performed outside the hours of 9:00 p.m. to close, and limited to certain nights of the week pursuant to determination of San Diego Vice.

- 15.) The video shall be of a quality suitable for later identification of customers and staff. It will be recorded in a manner that may be retrieved and provided to police immediately upon demand.
- 16.) Security lighting shall be in place along the exterior perimeter and parking area to protect patrons and their vehicles from vandals and other types of crime as mutually agreed upon by the San Diego Police Department. Any new and existing exterior lighting shall be fully shielded.
- 17.) Security officers, in a number satisfactory to the San Diego Police Department, shall be on duty.
- 18.) Security personnel shall be visibly marked with boldly colored attire and large "Security" or "Staff" nameplates.

### ACCESSIBILITY REQUIREMENTS

FOR EXISTING BUILDINGS / PORTIONS

1. I AM THE DESIGNER/OWNER IN RESPONSIBLE CHARGE OF THIS ADDITIONAL/ALTERATION PROJECT; I HAVE INSPECTED THE SITE/PREMISES AND DETERMINED THAT EXISTING CONDITIONS:

ARE  
 AS IMPROVED PER THESE PLANS, WILL BE  
 IN FULL COMPLIANCE WITH CURRENT SITE ACCESSIBILITY REQUIREMENTS TO THE EXTENT REQUIRED BY LAW.

NAME (PRINT) \_\_\_\_\_ SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_ DESIGNER/OWNER

2. I AM THE DESIGNER/OWNER IN RESPONSIBLE CHARGE OF THIS ADDITION / ALTERATION PROJECT; I HAVE INSPECTED THE SITE/PREMISES AND DETERMINED THAT EXISTING RESTROOM(S) SERVING AREA(S) OF ALTERATION:

ARE  
 AS IMPROVED PER THESE PLANS, WILL BE  
 FULLY ACCESSIBLE ACCORDING TO CURRENT REQUIREMENTS.

NAME (PRINT) \_\_\_\_\_ SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_ DESIGNER/OWNER

3. IF THE BUILDING INSPECTOR DETERMINES NONCOMPLIANCE WITH ANY CURRENT ACCESSIBILITY PROVISIONS OF THE LAW, HE/SHE SHALL REQUIRE SUBMITTAL OF COMPLETE AND DETAILED PLANS TO THE BUILDING DEVELOPMENT REVIEW DIVISION OF THE DEVELOPMENT SERVICES DEPARTMENT FOR FURTHER REVIEW. PLANS MUST CLEARLY SHOW ALL EXISTING NON-COMPLYING CONDITIONS AFFECTED BY THE REMODEL (INCLUDING SITE PLAN, FLOOR PLAN, DETAILS, ETC.) AND PROPOSED MODIFICATIONS OF DEFICIENCIES TO MEET CURRENT ACCESSIBILITY PROVISIONS. THE PLANS MUST BE STAMPED BY THE FIELD INSPECTOR PRIOR TO SUBMITTAL FOR PLAN REVIEW.

### GENERAL NOTES

1. HOURS OF OPERATION:  
 Thursday (occasionally) 8pm - 4am  
 Friday 8pm - 4am  
 Saturday 8pm - 4am  
 Sunday 8pm - 4am  
 Closed Monday - Wednesday

2. LITTER CONTROL PLAN:  
 Nightclub:  
 TWICE DAILY ON DAYS OPEN FOR BUSINESS:  
 -Prior to Opening  
 -Post Closing  
 a. Sweeping of sidewalks, patios and parking areas to keep all soil, dust, leaves on site.  
 b. Trash areas to be swept clean, covered lid locked at all times to prevent trash removal. THREE TIMES DAILY ON DAYS OPEN FOR BUSINESS:  
 -Prior to Opening  
 -Mid shift  
 -Post Closing  
 c. Litter pick up around property and adjacent property.

### ADDITIONAL INFORMATION

CHECK EACH APPLICABLE OVERLAY ZONE

AIRPORT APPROACH  
 AIRPORT INFLUENCE AREA  
 FAA PART 77  
 AIRPORT ENVIRONS  
 COASTAL (CITY-APPEALABLE)  
 COASTAL HEIGHT LIMIT  
 SENSITIVE COASTAL  
 MOBILE HOME PARK  
 PARKING IMPACT  
 RESIDENTIAL TANDEM PARKING  
 TRANSIT AREA  
 URBAN VILLAGE  
 MISSION TRAILS DESIGN DISTRICT  
 CLAIREMONT MESA HEIGHT LIMIT  
 COMMUNITY PLAN IMPLEMENTATION - AREA A

CHECK IF PROPOSED SITE IS ON OR ADJACENT TO ...

SENSITIVE BIOLOGICAL RESOURCES  
 STEEP HILLSIDES  
 COASTAL BEACHES  
 SENSITIVE COASTAL BLUFFS  
 100 YEAR FLOODPLAIN  
 FIRST PUBLIC ROADWAY

### PROJECT TEAM

OWNER: ADDY PROPERTIES  
 C/O ERNIE CONO  
 4820 MOUNT HELIX DRIVE  
 SAN DIEGO CA 91941

ARCHITECT: FRONTIS + YOUNG ARCHITECTURE  
 ELIZABETH YOUNG  
 830 MISSOURI ST #2  
 SAN DIEGO, CA 92109  
 619-488-4164

TENANT: BLUE AGAVE  
 SAMIR TOMA  
 6608 MISSION GORGE ROAD  
 SAN DIEGO CA 92120

### SHEET INDEX

SHEET No.	SHEET TITLE
A1.0	COVER SHEET/ OVERALL SITE PLAN
A1.1	SITE PLAN
A2.1	FLOOR PLAN
A3.1	ROOF PLAN
A4.1	ELEVATIONS

### DETAILED SCOPE OF WORK

USE OF EXISTING REAR LOADING AREA AS 709 S.F. PATIO.  
 PROPOSED 137 SF ADDITION OF NEW RESTROOM / EMPLOYEE LOCKER ROOM.  
 CONDITIONAL USE PERMIT FOR BARS / NIGHTCLUBS OVER 5,000 S.F. TOTAL S.F. = 5,667

### BUILDING CODE DATA

TYPE OF CONSTRUCTION: TYPE VA SPRINKLERED:  YES  NO

OCCUPANCY CLASSIFICATION(S): A-2

NUMBER OF STORIES: 1

BUILDING HEIGHT: 25'-8"

GOVERNING CODES: 2010 CBC, CEC, CFC, CFC, CMC, 2010 EES; TITLE 24/ ADA

SQUARE FOOTAGE OF TENANT SPACE(S): 4,821

### FLOOR AREA ANALYSIS

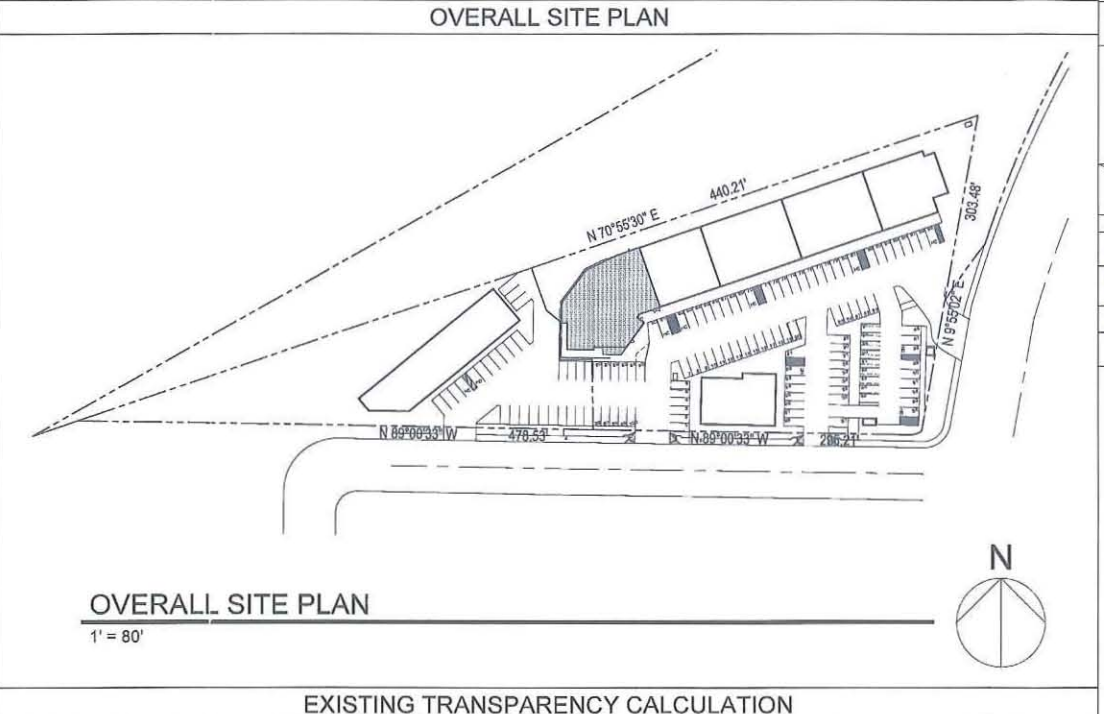
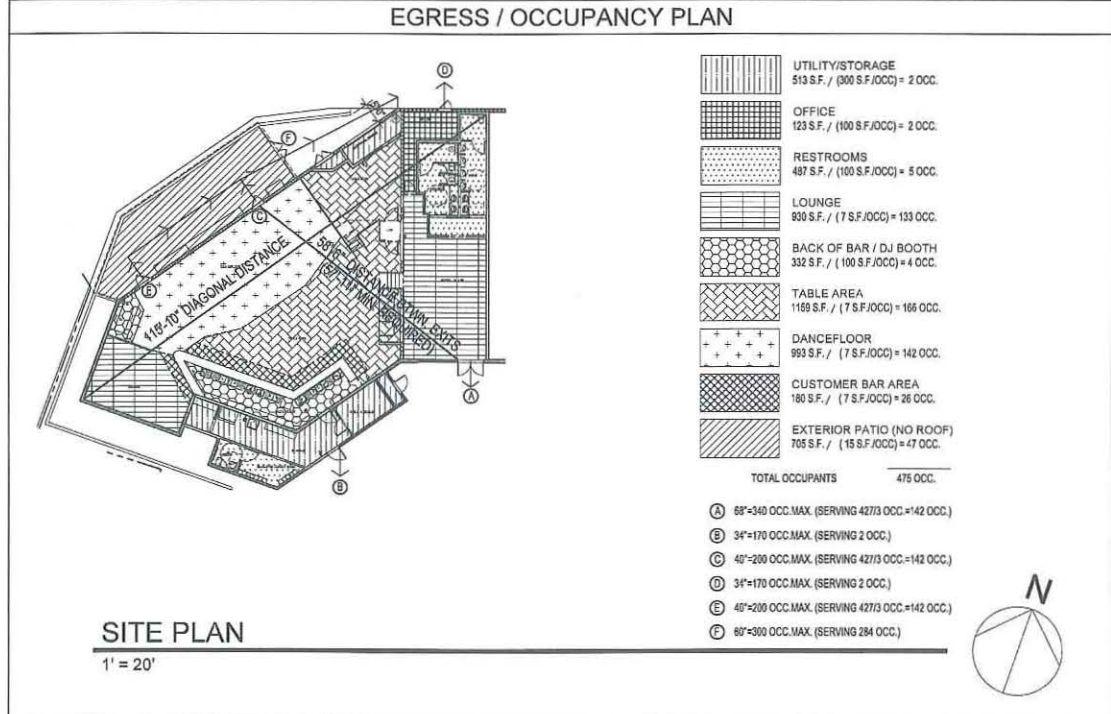
OPEN SPACE: ALL EXTERIOR SIDES, MIN. WIDTH 30 FT., 68% INCREASE

NOTE: OPEN SPACE USED FOR FLOOR AREA INCREASE SHALL BE MAINTAINED THROUGHOUT THE LIFE OF THE BUILDING.

OCCUPANCIES	A-2
BASIC AREA, ft <sup>2</sup> (a)	6,000
STREET FRONTAGE INCREASE EQUATION (IF SF > 2,250) (b)	0.68*68% IF SF > 2,250
ALLOWABLE AREA (a)+(b)	10,080

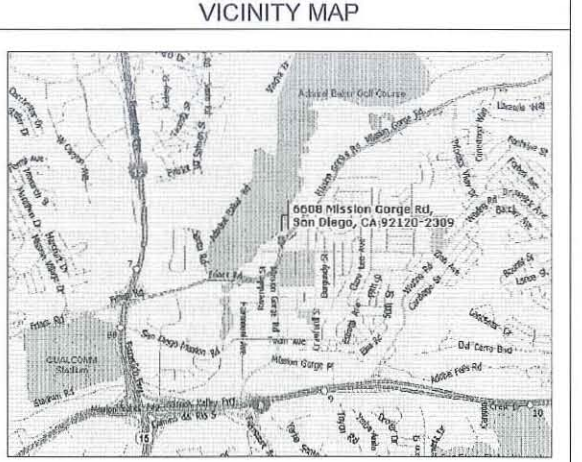
LOT AREA: 81,998 S.F.  
 ALLOWABLE FAR: .75  
 ACTUAL FAR: .31

SQUARE FOOTAGE CALCS  
 FIRST FLOOR EXISTING: 4,821  
 NEW RESTROOM/ LOCKER ROOM: 137  
 REAR PATIO: 709  
 TOTAL: 5,667



### FLOOR AREAS PER OCCUPANCY:

OCCUPANCIES	A
FLOORS	ft <sup>2</sup>
1st	4,958
SUM / OCCUPANCY	4,958
RATIO: AREA/ALLOWABLE	.49



### PROJECT DATA

PROJECT NAME: BLUE AGAVE - BAR REMODEL

PROJECT ADDRESS: 6608 MISSION GORGE ROAD  
 SAN DIEGO CA 92120

HISTORIC:  YES  NO U.R.M.:  YES  NO

SUBMITTAL DATE: 12/07/11

ZONE: CC-1-3

OWNER: ADDY PROPERTIES  
 C/O ERNIE CONO  
 4820 MOUNT HELIX DRIVE  
 SAN DIEGO CA 91941

TENANT: BLUE AGAVE  
 SAMIR TOMA  
 6608 MISSION GORGE ROAD  
 SAN DIEGO CA 92120

MAP NUMBER: PM1 1978

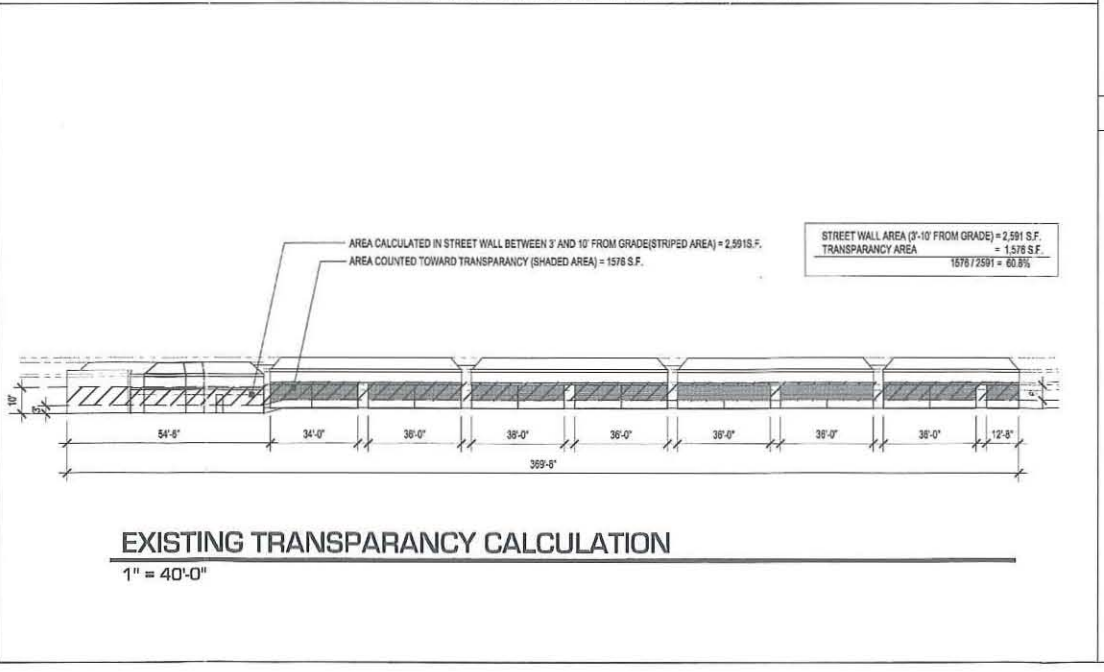
LOT NUMBER: PAR 1

A.P.N.: 458-161-21

LEGAL DESCRIPTION: Map Ref: PM11978 Abbreviated Description: PAR 1

PERMIT NO(S):

Date: 12.7.2011  
 Job: 1112  
 Title:  
 COVER SHEET  
 OVERALL SITE PLAN  
 Sheet:  
**A1.0**



DATE	REVISIONS

FRONTIS + YOUNG  
 architecture

6500 Mission Street, #5  
 San Diego, CA 92121  
 P: 619.545.4164  
 www.frontisyang.com



BLUE AGAVE REAR PATIO

6608 Mission Gorge Road  
 San Diego, Ca

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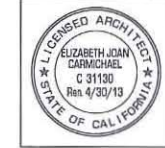
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Date: 12.7.2011  
 Job: 1112  
 Title:  
 COVER SHEET  
 OVERALL SITE PLAN  
 Sheet:  
**A1.0**

REVISIONS	DATE

FRONTIS + YOUNG  
architecture

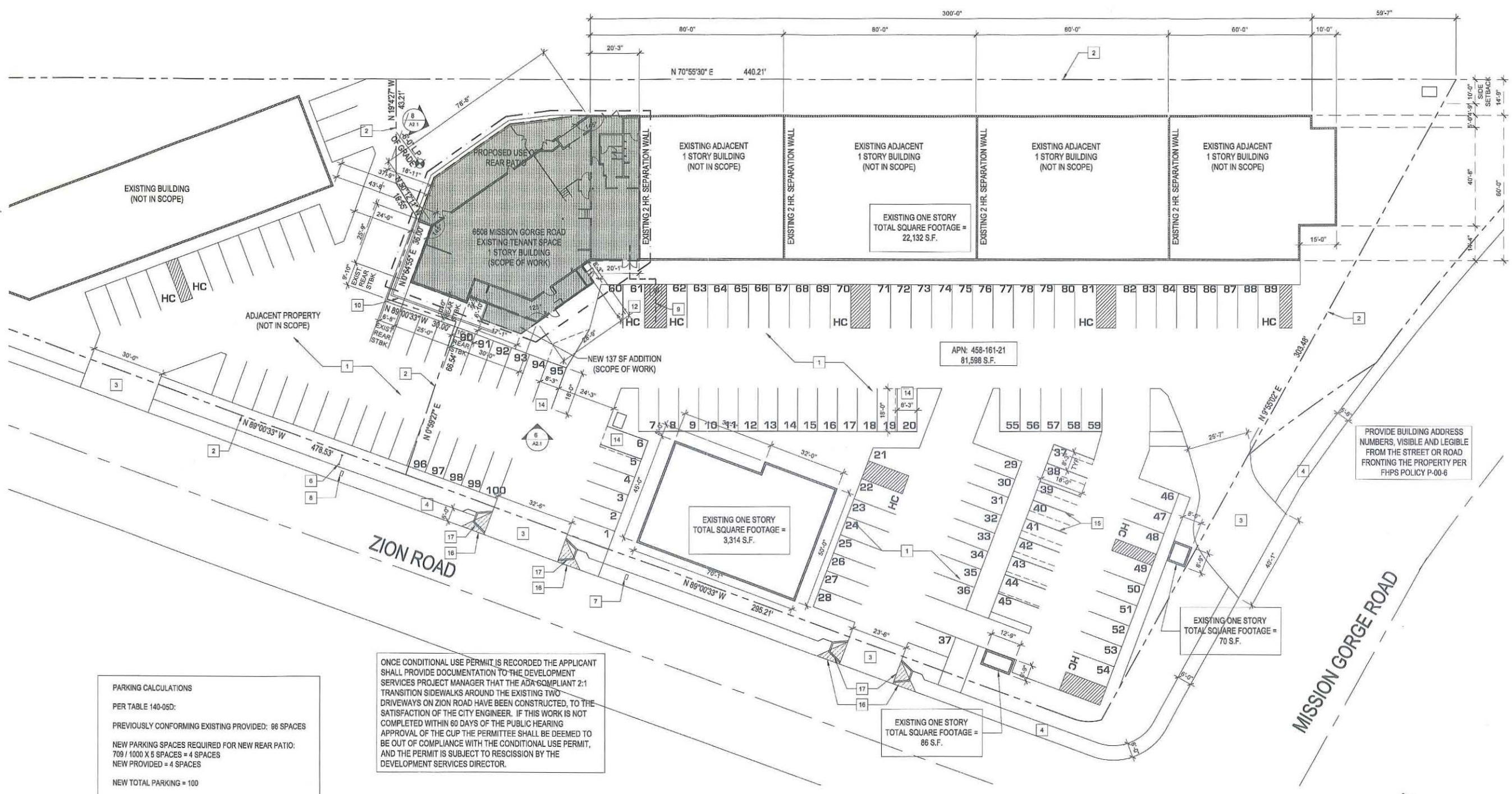
8330 Missouri Street #2  
San Diego, CA 92105  
P. 616.468.4164  
www.frontisyoung.com



**BLUE AGAVE REAR PATIO**  
6608 Mission Gorge Road  
San Diego, Ca

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Date:	12.7.2011
Job:	1112
Title:	SITE PLAN
Sheet:	A1.1



**PARKING CALCULATIONS**  
PER TABLE 140-05D:  
PREVIOUSLY CONFORMING EXISTING PROVIDED: 86 SPACES  
NEW PARKING SPACES REQUIRED FOR NEW REAR PATIO:  
709 / 1000 X 5 SPACES = 4 SPACES  
NEW PROVIDED = 4 SPACES  
NEW TOTAL PARKING = 100

ONCE CONDITIONAL USE PERMIT IS RECORDED THE APPLICANT SHALL PROVIDE DOCUMENTATION TO THE DEVELOPMENT SERVICES PROJECT MANAGER THAT THE ADA-COMPLIANT 2:1 TRANSITION SIDEWALKS AROUND THE EXISTING TWO DRIVEWAYS ON ZION ROAD HAVE BEEN CONSTRUCTED, TO THE SATISFACTION OF THE CITY ENGINEER. IF THIS WORK IS NOT COMPLETED WITHIN 60 DAYS OF THE PUBLIC HEARING APPROVAL OF THE CUP THE PERMITTEE SHALL BE DEEMED TO BE OUT OF COMPLIANCE WITH THE CONDITIONAL USE PERMIT, AND THE PERMIT IS SUBJECT TO RESCISSION BY THE DEVELOPMENT SERVICES DIRECTOR.

**STORM WATER QUALITY NOTES**  
CONSTRUCTION BMP'S

THIS PROJECT SHALL COMPLY WITH ALL REQUIREMENTS OF THE STATE PERMIT; CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN DIEGO REGION ORDER NO. 2001-91, NPDES NO. CAS0108758.  
(AVAILABLE AT: [http://www.swreb.ca.gov/nrqeb9/programs/sd\\_stormwater.html](http://www.swreb.ca.gov/nrqeb9/programs/sd_stormwater.html))  
NOTES 1-6 BELOW REPRESENT KEY MINIMUM REQUIREMENTS FOR CONSTRUCTION BMP'S  
1. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CLEANUP OF ALL SILT AND MUD ON ADJACENT STREET(S) DUE TO CONSTRUCTION VEHICLES OR ANY OTHER CONSTRUCTION ACTIVITY, AT THE END OF EACH OF EACH WORK DAY, OR AFTER A STORM EVENT THAT CAUSES A BREACH IN INSTALLED CONSTRUCTION BMP'S WHICH MAY COMPROMISE STORM WATER QUALITY WITHIN ANY STREET(S). A STABILIZED CONSTRUCTION EXIT MAY BE REQUIRED TO PREVENT CONSTRUCTION VEHICLES OR EQUIPMENT FROM TRACKING MUD OR SILT ONTO THE STREET.  
2. ALL STOCKPILES OF SOIL AND/OR BUILDING MATERIALS THAT ARE INTENDED TO BE LEFT FOR A PERIOD GREATER THAN SEVEN CALENDER DAYS ARE TO COVERED. ALL REMOVABLE BMP DEVICES SHALL BE IN PLACE AT THE END OF EACH WORKING DAY WHEN THE FIVE DAY RAIN PROBABILITY FORECAST EXCEEDS 40%.  
3. A CONCRETE WASHOUT SHALL BE PROVIDED ON ALL PROJECTS WHICH PROPOSE THE CONSTRUCTION OF ANY CONCRETE IMPROVEMENTS WHICH ARE TO BE POURED IN PLACE ON SITE.  
4. THE CONTRACTOR SHALL RESTORE ALL EROSION/SEDIMENT CONTROL DEVICES TO WORKING ORDER ATER EACH RUN-OFF PRODUCTION RAINFALL OR AFTER ANY MATERIAL BREACH IN EFFECTIVENESS.  
5. ALL SLOPES THAT ARE CREATED OR DISTURBED BY CONSTRUCTION ACTIVITY MUST BE PROTECTED AGAINST EROSION AND SEDIMENT TRANSPORT AT ALL TIMES.  
6. THE STORAGE OF ALL CONSTRUCTION MATERIALS AND EQUIPMENT MUST BE PROTECTED AGAINST ANY POTENTIAL RELEASE OF POLLUTANTS INTO THE ENVIRONMENT.

**SITE PLAN**  
1" = 20'

**SITE PLAN NOTES:**








- 1 EXISTING PARKING LOT TO REMAIN
- 2 PROPERTY LINE
- 3 EXISTING DRIVEWAY TO REMAIN.
- 4 EXISTING SIDEWALK TO REMAIN.
- 5 EXISTING CURB AND GUTTER TO REMAIN.
- 6 EXISTING BACKFLOW DEVICE TO REMAIN. 1 1/2" WILKINS 975XL, 175psi
- 7 EXISTING 1 1/2" WATER METER LOCATION, 6624 MISSION GORGE, VERIFY EXISTING LOCATION.
- 8 EXISTING 1 1/2" WATER METER TO REMAIN. 6626 MISSION GORGE, VERIFY EXISTING LOCATION.
- 9 ACCESSIBLE PATH OF TRAVEL
- 10 EXISTING PLANTER.
- 11 NOT USED
- 12 EXISTING ACCESSIBLE VAN PARKING
- 13 EXISTING ACCESSIBLE PARKING
- 14 NEW PARKING SPACE
- 15 RE-STRIPE AISLE TO PROVIDE ADDITIONAL PARKING SPACE
- 16 VISIBILITY AREA TRIANGULAR AREA FORMED FROM LINES: 10' FROM DRIVEWAY AND 10' FROM STREET. NO OBSTRUCTIONS INCLUDING LANDSCAPING OR WALLS IN THE VISIBILITY AREA SHALL BE 3 FEET IN HEIGHT.
- 17 ADA COMPLIANT 2:1 TRANSITION SIDEWALKS PER CITY STANDARD SDG-135 TYPE D.

PROVIDE BUILDING ADDRESS NUMBERS, VISIBLE AND LEGIBLE FROM THE STREET OR ROAD FACING THE PROPERTY PER FHPS POLICY P-00-6

**SITE PLAN**

PREPARED BY:  
FRONTIS+YOUNG ARCHITECTURE  
830 MISSOURI STREET, #2  
SAN DIEGO CA 92109  
858-488-4164  
LEGAL DESCRIPTION:  
PARCEL 1, MAP PM119778  
IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO,  
STATE OF CALIFORNIA  
APN:  
458-161-21  
PROJECT NAME:  
BLUE AGAVE REAR PATIO  
SHEET TITLE:  
SITE PLAN  
SHEET COUNT:  
1 OF 5  
PTS#:

LEGEND:

-  EXISTING WOOD STUD WALL
-  EXISTING 8" CONCRETE MASONRY WALL
-  EXISTING 10" BRICK WALL
-  EXISTING 4" TUBE STEEL COLUMN
-  OFFICE 121 ROOM NAME ROOM NUMBER
-  EXIT SIGN- APPROVED SELF-ILLUMINOUS EXIT SIGN WITH THE WORD "EXIT" IN 6" HIGH LETTERS THAT PROVIDE CONTINUOUS ILLUMINATION INDEPENDENT OF EXTERNAL POWER SOURCE.
-  ACCESSIBLE PATH OF TRAVEL

EGRESS NOTES

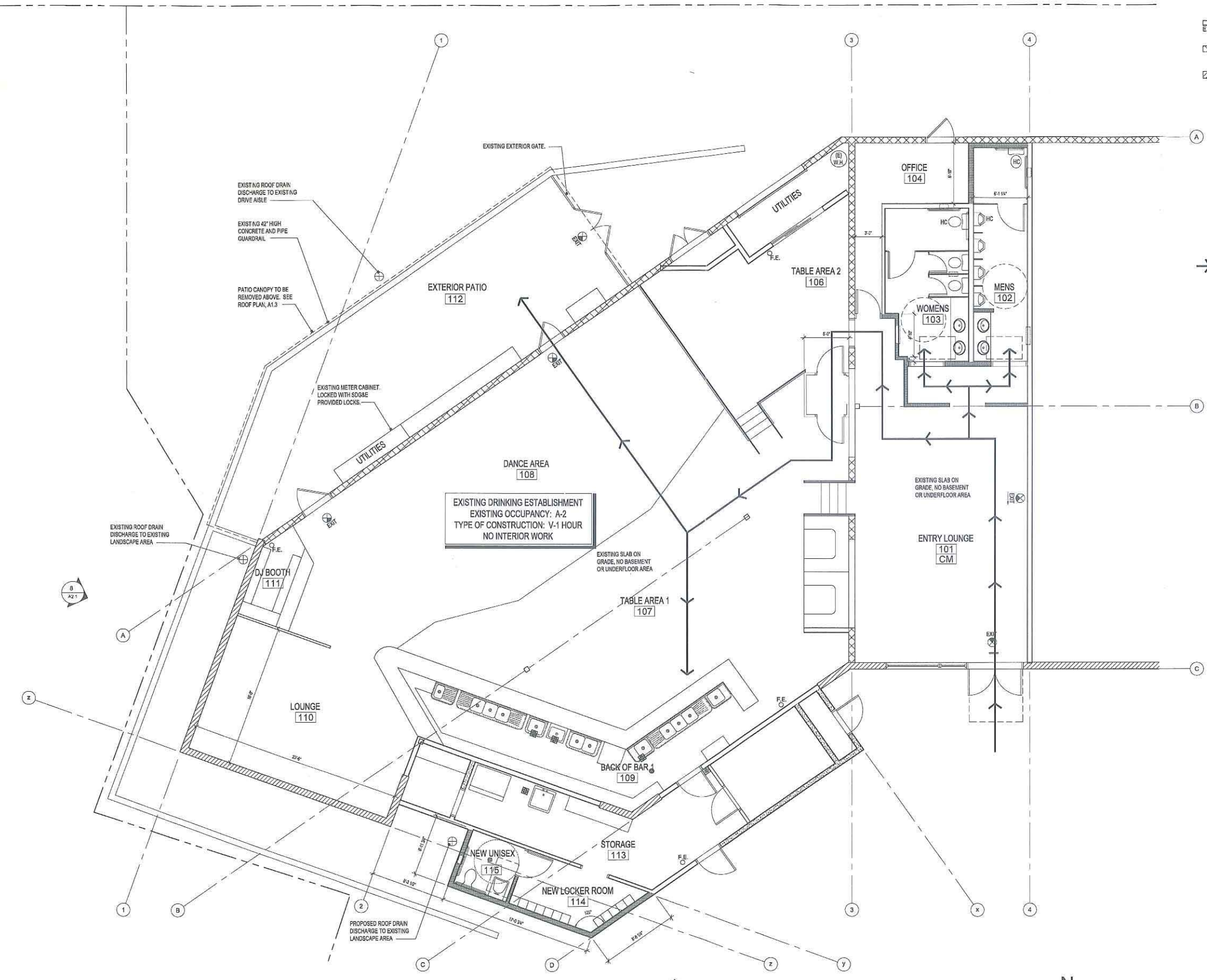
1. THE MINIMUM CLEAR AISLE WIDTH SHALL BE 36" WHERE SEATS, TABLES, FURNISHINGS, DISPLAYS AND SIMILAR FIXTURES OR EQUIPMENT ARE PLACED ON ONLY ONE SIDE OF THE AISLE AND 44" WHERE SUCH FIXTURES OR EQUIPMENT ARE PLACED ON BOTH SIDES OF THE AISLE.
2. ALL EXIT DOORS SHALL BE OPENABLE FROM THE INSIDE WITHOUT THE USE OF KEY OR SPECIAL KNOWLEDGE OR EFFORT.

OCCUPANCY:

A-2.1 PER 303.1.

TYPE OF CONSTRUCTION:

1 HOUR  
EXISTING 1 STORY - 1-HOUR



FLOOR PLAN  
3/16" = 1'-0"

DATE	REVISIONS

FRONTIS + YOUNG  
architecture

6800 Mission Street #2  
San Diego, CA 92106  
P. 619.462.4164  
www.frontisyang.com

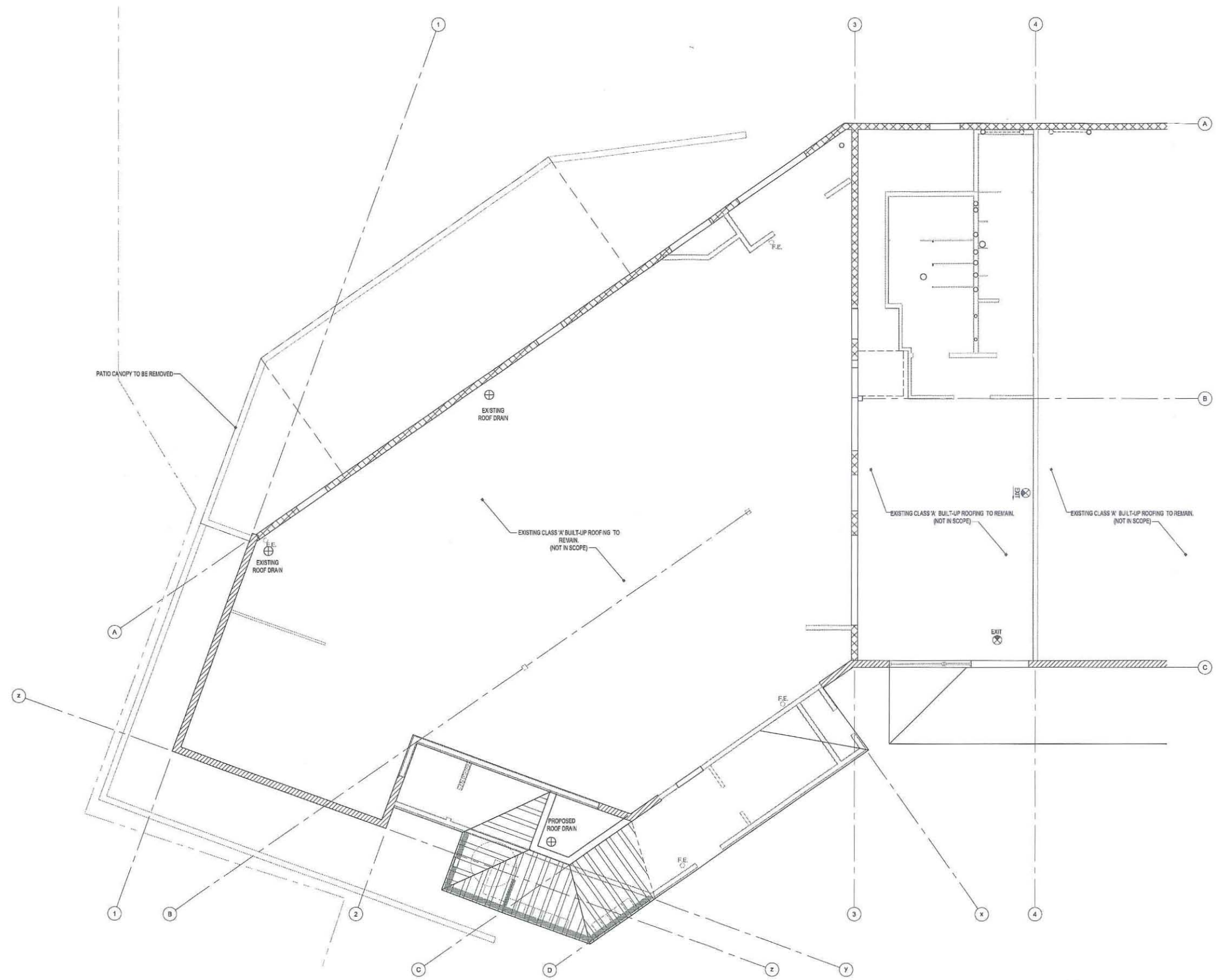


BLUE AGAVE REAR PATIO

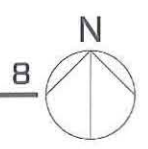
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San Diego, Ca

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Date:	12.7.2011
Job:	1112
Title:	FLOOR PLAN
Sheet:	A-1.2



**ROOF PLAN**  
3/16" = 1'-0"



REVISIONS	DATE

**FRONTIS + YOUNG**  
architecture

8220 Miramar Street #2  
San Diego, CA 92126  
P. 619.554.4188 F. 619.554.4164  
www.frontisyoung.com



**BLUE AGAVE REAR PATIO**

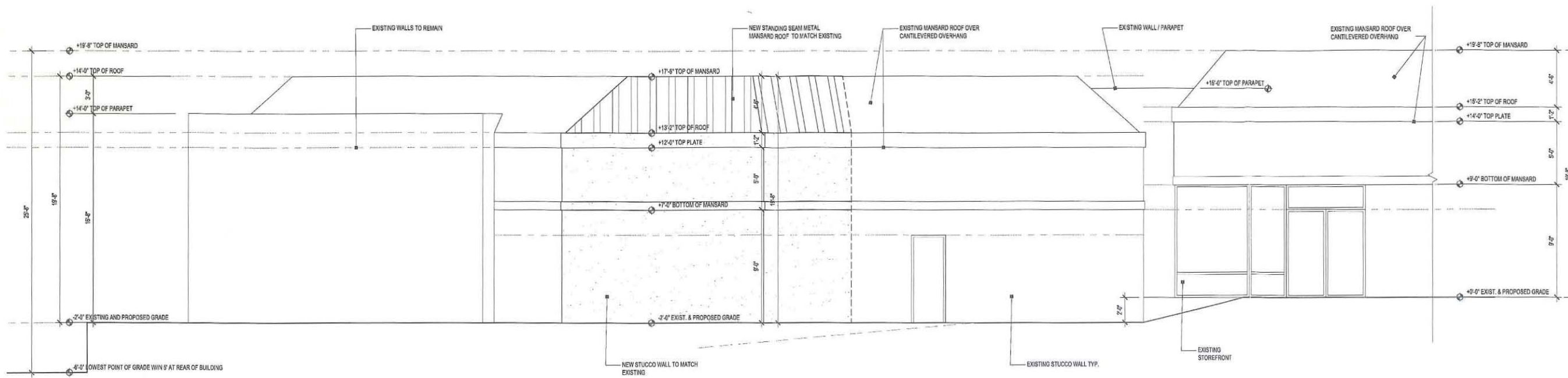
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San Diego, Ca

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Date:	12.7.2011
Job:	1112
Title:	ROOF PLAN

Sheet:  
**A-1.3**

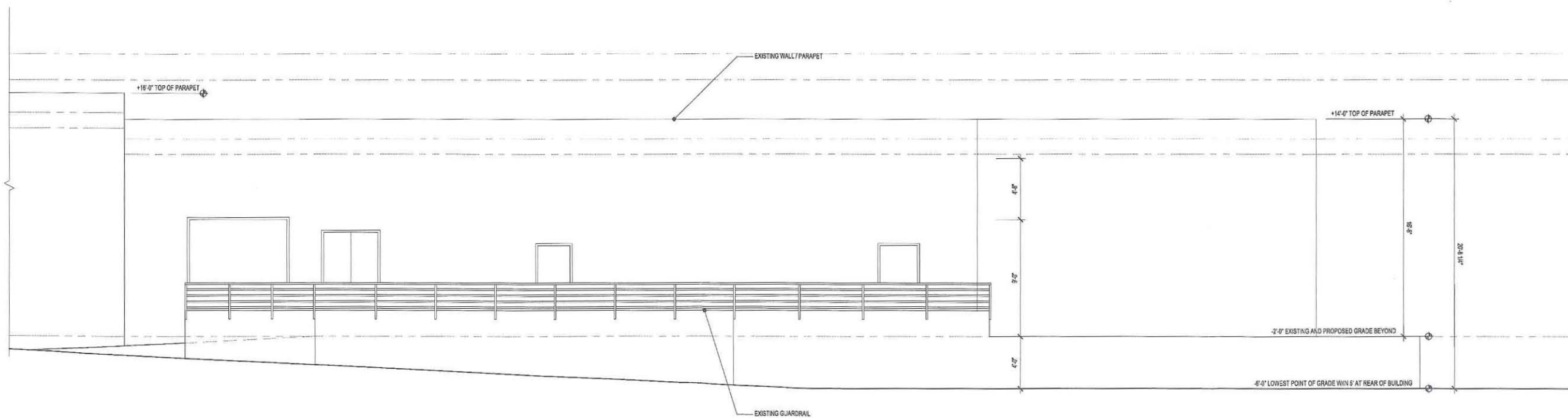




**SOUTH ELEVATION**

1/4" = 1'-0"

6



**NORTH ELEVATION**

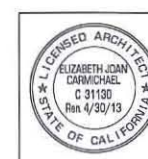
1/4" = 1'-0"

8

REVISIONS	DATE

8500 Mission Street #2  
San Diego, CA 92105  
P. 858.489.4164  
www.frontisyoung.com

**FRONTIS + YOUNG**  
architecture



**BLUE AGAVE REAR PATIO**  
6608 Mission Gorge Road  
San Diego, Ca

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Date: 12.7.2011  
Job: 1112

SOUTH ELEVATION

Sheet:

A2.1

## NOTICE OF EXEMPTION

(Check one or both)

TO:  RECORDER/COUNTY CLERK  
 P.O. BOX 1750, MS A-33  
 1600 PACIFIC HWY, ROOM 260  
 SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO  
 DEVELOPMENT SERVICES DEPARTMENT  
 1222 FIRST AVENUE, MS 501  
 SAN DIEGO, CA 92101

OFFICE OF PLANNING AND RESEARCH  
 1400 TENTH STREET, ROOM 121  
 SACRAMENTO, CA 95814

PROJECT NO.: 265866

PROJECT TITLE: Blue Agave

PROJECT LOCATION-SPECIFIC: 6608 Mission Gorge Road, San Diego, CA 92120 (Parcel 1 of Map PM1 1978)

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: Conditional Use Permit (CUP) to add the existing 709 square-foot patio area to be used in addition to the existing 4,821 square-foot bar/nightclub located at 6608 Mission Gorge Rd in the CC-1-3 Zone within the Airport Influence Area, Federal Aviation Administration Part 77 Noticing Area, and Community Plan Implementation Overlay Area A within the Navajo Community Plan area.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Sam Toma  
 6608 Mission Gorge Road  
 San Diego, CA 92120  
 619-227-1125

## EXEMPT STATUS: (CHECK ONE)

- MINISTERIAL (SEC. 21080(b)(1); 15268);  
 DECLARED EMERGENCY (SEC. 21080(b)(3); 15269(a));  
 EMERGENCY PROJECT (SEC. 21080(b)(4); 15269 (b)(c))  
 CATEGORICAL EXEMPTION: Section 15301 (a) – existing facilities, interior or exterior alterations  
 STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT This project is exempt because only the use of existing facilities would change and no physical changes would occur and as a result no environmental impacts would occur. In addition the project is exempt because it meets the criteria set forth in CEQA section 15301(b) – existing facilities, public or private utilities and where the exceptions listed in CEQA section 15300.2 would not apply.

LEAD AGENCY CONTACT PERSON: Lizzi

TELEPHONE: (619) 446-5159

IF FILED BY APPLICANT:

1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?  
 YES  NO

IT IS HEREBY CERTIFIED THAT THE CITY OF SAN DIEGO HAS DETERMINED THE ABOVE ACTIVITY TO BE EXEMPT FROM CEQA

Jeff E. Gwin / SENIOR PLANNER  
 SIGNATURE/TITLE

2/5/2013  
 DATE

CHECK ONE:

 SIGNED BY LEAD AGENCY

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:

 SIGNED BY APPLICANT



THE CITY OF SAN DIEGO

MAILED

JUL 18 2006

July 18, 2006

NEIGHBORHOOD CODE COMPLIANCE

# CIVIL PENALTY NOTICE AND ORDER

**Location:** 6602 Mission Gorge Road  
(6602-6608 Mission Gorge Road/The Blue Agave)

**APN NO.:** 458-161-21-00

**Responsible Person(s):** Roger and Pamela Wagner  
ADDY Properties LLC  
4820 Mount Helix Drive  
La Mesa, CA 91941

Ernie Cono  
Real Net Property Management  
4575 Palm Avenue  
La Mesa, CA 91941

Samir Y. Toma, President  
J. Par Inc.  
14559 Rancho Jamul Drive  
Jamul, CA 91935

**Zone:** CC-1-3 (Prior CA)

You are hereby notified that the property at 6608 Mission Gorge Road (Blue Agave) is in violation of the San Diego Municipal Code (SDMC) and you are subject to civil penalties pursuant to San Diego Municipal Code Section 12.0801 through 12.0810.

Civil Penalties for violations of the Municipal Code may be assessed at a daily rate not to exceed \$2,500 per day per violation; not to exceed a total maximum of \$250,000 per parcel or structure for any related series of violation(s).

Penalties may be assessed for each individual code section violated. These penalties may accrue daily for as long as the violations exist.

You are violating the law by:

1. Maintaining Fire and Safety Hazard Violations.

## Neighborhood Code Compliance

1200 Third Avenue, 8th Floor, MS 51N • San Diego, CA 92101-4106

Tel (619) 236-5500 Fax (619) 533-6142



Civil Penalty Notice and Order  
 6602 Mission Gorge Road (Blue Agave)  
 July 18, 2006  
 Page 2

2. The non-permitted addition of a storage/refrigeration area located in front of the structure. This area has plumbing, electrical and mechanical modifications.
3. The non-permitted addition of a rear deck/patio area. This area has non-permitted electrical installation and extension cords used to provide electrical lighting.
4. The non-permitted alteration of a masonry wall located between the upper and lower bar areas. Here is an elevation change of several feet between the two sides of the space. It appears to have been built as two separate spaces with the masonry wall between the two. There are now two large openings cut into this wall in order to make one space. These openings could significantly reduce the structural integrity of the wall.
5. The non-permitted change of occupancy to A-2.1.
6. Operating a Nightclub/Bar over 5,000 sq. ft. without the required discretionary permit (CUP).

On June 8, 2005 and June 21, 2006 the property was observed to be in violation of the following section(s) of the SDMC.

<u>SDMC Sec.</u>	<u>Violation Description &amp; Location</u>
131.0522 (Table 131-05 B)	A Conditional Use Permit (CUP) is required for Nightclubs and Bars over 5,000 square feet located in a Commercial Zone.
129.0202	Failure to obtain the required building permit for structural work.
129.0111	Failure to obtain the required building inspections and approvals.
CBC, Section 3405	No change shall be made in the character of occupancies or use of any building which would place the building in a different division of the same group of occupancy or in a different group of occupancies, unless such building is made to comply with the requirements of this code for such division or group of occupancy.
129.0302	Failure to obtain the required electrical permit for electrical work.
129.0314	Failure to obtain the required electrical inspections and approvals.
147.0103	Plumbing Code Adoption. The Plumbing Code of the City of San Diego consists of the 1998 California Plumbing Code.
129.0402(a)	Failure to obtain the required plumbing permit for plumbing work.
129.0405(e)	Failure to obtain the required plumbing inspections and approvals for plumbing and/or mechanical work.
129.0402(b)	Failure to obtain the required refrigeration permit for mechanical work.

Civil Penalty Notice and Order  
 6602 Mission Gorge Road (Blue Agave)  
 July 18, 2006  
 Page 3

126.0306	Violations of a Conditional Use Permit.  It is unlawful for any person to maintain, use or develop any premise without a Conditional Use Permit if such a permit is required for that use or development.
121.0302(a)	Required Compliance with the Land Development Code.  It is unlawful for any person to maintain or use any premise in violation of any provisions of the Land Development Code, without a required permit, contrary to permit conditions or without a required variance.
UFC, Section 1212.5	Provide egress illumination exit pathway. Must be illuminated to the public way.
UFC, Section 1212.4	Provide back-up batteries for the exit. Exit signs must be illuminated at all times.
UFC, Section 2501.5	Curtains are decorative materials. Must be flame proofed. Provide proof or remove.
UFC, Section 8506.1	Label circuits on electrical panel.
UFC, Section 8506.1	Extension cords shall not be substituted for permanent wiring. Use only approved power strips.
UFC, Section 2501.16.1	Provide accurate occupant load from the Development Services Department.

**You are hereby ordered to correct the violations by completing the following actions set forth below:**

**Immediately correct all Fire and Safety Hazard violations.**

Prepare Architectural Plans to include the entire scope of the completed project and submit an application for a Conditional Use Permit for a Nightclub/Bar over 5,000 sq. ft. and have the application deemed complete by **September 30, 2006**. If the application for a Conditional Use Permit is granted initiate construction and obtain the initial inspection within (30) thirty days from the date of the issuance of the permit. Obtain all final inspections and approvals within 180 days. If application is denied restore site to its original conditions within (30) thirty days.

**Or**

Submit architectural plans to include the entire scope of the project reducing the nightclub to less than 5,000 sq. ft.

Civil Penalty Notice and Order  
6602 Mission Gorge Road (Blue Agave)  
July 18, 2006  
Page 4

Obtain an initial inspection within (15) fifteen days from the date of the issuance of the permit and initiate corrective work or modifications immediately.

Obtain all inspections and the final approval within (180) days.

Or restore the sites to their original approved configuration by **September 30, 2006.**

### **Failure to Comply with Notice and Order**

Failure to comply with this Notice and Order will result in the ongoing assessment of Civil Penalties:

#### **1. Civil Penalties Hearing**

This Notice and Order may cause a date, time, and place to be set for a hearing regarding the existing violations and confirmation of assessed civil penalties.

Written notice of the time and place of the hearing will be served on you at least ten days prior to the date of the hearing.

At the hearing, you, your agent or any other interested person may present testimony or evidence concerning the existence of the violations and the means and time frames for correcting the violations. Testimony or evidence may also be presented relating to the duration, frequency of recurrences, nature and seriousness, and history of the violations; whether the offense impacted environmentally sensitive lands or historical resources the willfulness of the responsible person's misconduct, after issuance of the Notice and Order; the good faith effort by the responsible person to comply; the economic impact of the penalty on the responsible person; the impact of the violation upon community; and/or any other factor which justice may require.

Failure to attend the hearing shall constitute a waiver of your rights to an administrative hearing and administrative adjudication of the Notice and Order.

#### **2. Assessment of Penalties**

Any person violating any provision of the Municipal Code or applicable State Codes is subject to assessment of Civil Penalties.

Civil penalty amounts are established by the Deputy Director of the Neighborhood Code Compliance. The following factors were used in determining the amount: Case history and lack of good faith effort towards compliance.

The penalty rate for the above listed violation(s) has/have been established at **\$500.00** per day and shall be an ongoing assessment of penalties at the daily rate until the violations are corrected in accordance with Municipal Code Sections 12.0801 et seq.

Civil Penalty Notice and Order  
6602 Mission Gorge Road (Blue Agave)  
July 18, 2006  
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Pursuant to SDMC Section 12.0805(a), in determining the date on which civil penalties shall begin to accrue and the duration, the Deputy Director may consider a date when Neighborhood Code Compliance first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.

### Administrative Costs

The Director or Hearing Officer is authorized to assess administrative costs. Administrative cost may include scheduling and processing of the hearing and all subsequent actions.

### Waiver

Failure to attend the hearing shall constitute a waiver of your rights to an administrative hearing and adjudication of the Notice and Order or any portion thereof.

If you fail, neglect or refuse to obey an order to correct the violations, civil penalties will continue to accrue on a daily basis until the violation is corrected, except that such amount shall not exceed \$250,000.

If you fail, neglect or refuse to obey an order to pay civil penalties, the unpaid amount shall constitute a personal obligation and/or a lien upon the real property. Failure to pay a personal obligation will cause the Deputy Director to refer the obligation to the City Attorney to file a court action to recover these costs. Failure to pay a lien will cause the Deputy Director to refer the lien to the County Auditor for collection in the same manner that ordinary municipal taxes are collected.

If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, please contact Reneé, Combination Building Inspector II at (619) 236-7390.



Melody Negrete  
Code Enforcement Coordinator

MN/RKG/lm

cc: Kenneth So, Deputy City Attorney  
Leona DePaepe, Deputy Fire Marshall  
Ravin Glovinsky, LLP, Attorney for the Property Owners  
Gastone Bebi, Attorney for the Tenant  
David Neagley, Architect for J. Par Inc.  
File

NC# 108114

This information will be made available in alternative formats upon request.



# Ownership Disclosure Statement

**Approval Type:** Check appropriate box for type of approval (s) requested:  Neighborhood Use Permit  Coastal Development Permit  
 Neighborhood Development Permit  Site Development Permit  Planned Development Permit  Conditional Use Permit  
 Variance  Tentative Map  Vesting Tentative Map  Map Waiver  Land Use Plan Amendment •  Other \_\_\_\_\_

**Project Title** \_\_\_\_\_ **Project No. For City Use Only** \_\_\_\_\_

BLUE ANAHE BEAR PATIO

**Project Address:**  
6608 MISSION GORGE ROAD

**Part I - To be completed when property is held by individual(s)**

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached  Yes  No

Name of Individual (type or print):  
ROGER WAGNER  
 Owner  Tenant/Lessee  Redevelopment Agency  
ADDY PROPERTIES  
 Street Address:  
3835 AVENUE BLVD #220  
 City/State/Zip:  
SAN DIEGO CA 92116  
 Phone No: 619-521-3194 Fax No:  
 Signature: \_\_\_\_\_ Date: 12.8.11

Name of Individual (type or print):  
SAM TOMA  
 Owner  Tenant/Lessee  Redevelopment Agency  
 Street Address:  
6608 MISSION GORGE ROAD  
 City/State/Zip:  
SAN DIEGO CA 92120  
 Phone No: \_\_\_\_\_ Fax No:  
 Signature: [Signature] Date: \_\_\_\_\_  
619-227-1105 12.8.11

Name of Individual (type or print):  
 Owner  Tenant/Lessee  Redevelopment Agency  
 Street Address:  
 City/State/Zip:  
 Phone No: \_\_\_\_\_ Fax No:  
 Signature: \_\_\_\_\_ Date:

Name of Individual (type or print):  
 Owner  Tenant/Lessee  Redevelopment Agency  
 Street Address:  
 City/State/Zip:  
 Phone No: \_\_\_\_\_ Fax No:  
 Signature: \_\_\_\_\_ Date:





### POLICE REGULATED BUSINESS PERMIT

Permit # 2004002687

Expires 01/31/2014

THIS PERMIT IS ISSUED PURSUANT TO THE SAN DIEGO MUNICIPAL CODE IN ADDITION TO ANY OTHER LICENSE OR PERMIT THAT MAY BE REQUIRED. THIS PERMIT IS VALID ONLY AT THE LOCATION SHOWN.

**MAILING ADDRESS**  
6608 MISSION GORGE RD  
SAN DIEGO, CA 92120-2309

THIS LICENSE IS NOT TRANSFERABLE, AND MUST BE VISIBLY DISPLAYED ON THE BUSINESS PREMISE

**VALID FROM**  
03/27/2013

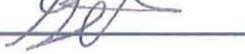
**EXPIRES**  
01/31/2014

**BUSINESS TYPE:** AFTER HOURS ON-GOING

**BUSINESS NAME:** BLUE AGAVE NITE CLUB  
**BUSINESS LOCATION:** 6608 MISSION GORGE RD SAN DIEGO, CA 92120

ISSUED BY POLICE PERMITS AND LICENSES

CONDITIONS

SIGNATURE OF ISSUING OFFICER \_\_\_\_\_ 

#### CONDITIONS

\*\*\*\*\*SEE ATTACHED CONDITIONS AND KEEP WITH PERMIT AT ALL TIMES\*\*\*\*\*

**CITY OF SAN DIEGO – ENTERTAINMENT PERMIT CONDITIONS –  
ABC TYPE 48 (ON- SALE GENERAL PUBLIC PREMISES-21 YEARS & UP)**

**IN THE MATTER OF: BLUE AGAVE NITE CLUB LOCATED AT 6608 MISSION  
GORGE RD.**

**CITY OF SAN DIEGO-ENTERTAINMENT PERMIT CONDITIONS AFTER HOURS ON-  
GOING (NO ALCOHOL SERVED OR CONSUMED)**

**POLICE PERMIT: 2004002687**

THESE CONDITIONS ARE MADE PURSUANT TO PROVISIONS OF SAN DIEGO MUNICIPAL CODE (SDMC) SECTIONS 33.1513 AND 33.0816. PERMITEE MUST RETAIN A COPY OF THESE CONDITIONS ALONG WITH POLICE PERMIT FOR ENTERTAINMENT AND BE PREPARED TO PROVIDE THEM TO ANY LAW ENFORCEMENT OFFICER UPON REQUEST. ANY VIOLATIONS OF THE FOLLOWING CONDITIONS SHALL BE GROUNDS FOR SUSPENSION OR REVOCATION OF POLICE PERMIT. IMPOSITION, SUSPENSION OR REVOCATION OF ANY PARTICULAR CONDITION IS APPEALABLE THROUGH PROCEDURES SET FORTH IN (SDMC) CHAPTER III, ARTICLE 3, DIVISION 5. IS POLICE PERMIT FOR ENTERTAINMENT IS CONDITIONED AS FOLLOWS:

MUST COMPLY WITH SDMC CHAPTER III, ARTICLE 3, DIVISION 15 AND CHAPTER III ARTICLE 3 DIVISION 8 AND THE FOLLOWING CONDITIONS:

MUST COMPLY WITH SDMC CHAPTER III, ARTICLE 3, DIVISION 15 AND THE FOLLOWING CONDITIONS:

- (1) ENTERTAINMENT MAY BE PROVIDED ON A DAILY BASIS FROM 2:00 AM UNTIL 4:00 AM. BLUE AGAVE MUST COMPLY WITH ALL ABC CONDITIONS, REGULATIONS AND RESTRICTIONS.
- (2) IN ADDITION TO CONDITIONS REGARDING SECURITY REQUIREMENTS LISTED ON ENTERTAINMENT PERMIT, BETWEEN THE HOURS OF 2:00 AM THRU 4:00 AM, A MINIMUM OF TWO (2) LICENSED SECURITY GUARDS MUST BE PRESENT OUTSIDE TO PATROL THE PARKING AREA AND AREAS WITHIN 100 FEET OF THE LICENSED PREMISE.
- (3) NO PERSONS UNDER THE AGE OF TWENTY-ONE (21) WILL BE ADMITTED ON OR AROUND THE PREMISES DURING AFTER HOURS OPERATIONS.
- (4) CONDITIONS CURRENTLY PLACED ON THE ENTERTAINMENT PERMIT FOR BLUE AGAVE ARE TO REMAIN IN EFFECT DURING THE AFTER HOURS VENUE.

**POLICE PERMIT: 2004002687 AFTER HOURS**

- (5) WHEN PROVIDING ENTERTAINMENT, **BLUE AGAVE** SHALL EMPLOY STATE OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS LICENSED SECURITY GUARD PERSONNEL, AT A RATIO OF ONE (1) FOR EVERY FIFTY (50) OR FEWER PATRONS. SECURITY PERSONNEL SHALL BE IN UNIFORM COMPANY ATTIRE AS TO BE EASILY IDENTIFIABLE, WITH THE WORD "SECURITY" IN 3 INCH LETTERING ON BACK OF THE UNIFORM SHIRT/JACKET.
- (6) SPECIFIC DUTIES OF SECURITY SHALL BE TO PATROL INTERIOR AND EXTERIOR OF PREMISES AND UP TO 100 FEET OF THE ESTABLISHMENT'S PROPERTY LINE IN ORDER TO ALLEVIATE POLICE PROBLEMS, EXCESSIVE NOISE, ABUSIVE BEHAVIOR, DISTURBANCES AND ANY OTHER VIOLATIONS OF THE LAW THAT MAY OCCUR ON OR OR ABOUT THE LICENSED PREMISES.
- (7) WHEN PROVIDING ENTERTAINMENT, A MINIMUM OF ONE (1) STATE OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS LICENSED SECURITY GUARD SHALL BE REQUIRED FOR EVERY EXIT AND ENTRANCE TO THAT PORTION OF THE PREMISES DESIGNATED FOR ENTERTAINMENT.
- (8) SECURITY GUARDS MUST BE ON DUTY FROM THE TIME THAT LIVE ENTERTAINMENT AND/OR DANCING BEGINS UNTIL ONE-HALF HOUR AFTER LIVE ENTERTAINMENT AND/OR DANCING CEASES.
- (9) ENTERTAINMENT PROVIDED AND NOISE GENERATED BY **BLUE AGAVE** PATRONS SHALL NOT BE AUDIBLE BEYOND AREA UNDER CONTROL OF LICENSEE SO AS NOT TO DISTURB NEARBY RESIDENTS.
- (10) WHILE PROVIDING ENTERTAINMENT, ALL DOORS AND WINDOWS MUST BE CLOSED EXCEPT FOR NORMAL INGRESS AND EGRESS AND IN CASE OF EMERGENCY.
- (11) SOUND AMPLIFICATION EQUIPMENT SHALL BE MONITORED DURING BUSINESS HOURS TO ENSURE THAT AUDIBLE NOISE REMAINS AT ACCEPTABLE LEVELS, NOISE LEVELS SHALL BE IN CONFORMANCE WITH THE NOISE ABATEMENT STANDARDS OF SAN DIEGO MUNICIPAL CODE SECTIONS 59.5.0401, 59.5.0502. AND 59.5.0501. IN THE EVENT OF NOISE COMPLAINTS, OWNER SHALL BE RESPONSIBLE FOR HIRING AN ACOUSTICAL ENGINEER TO EVALUATE AND GIVES SUGGESTIONS ON NOISE ATTENUATION.

**POLICE PERMIT: 2004002687 AFTER HOURS**

- (12) SERVICES OF PROMOTERS/DJ OR OTHER PERSONS FOR THE PURPOSE OF PROFIT SHARING SHALL NOT BE UTILIZED. MONIES COLLECTED AS A DOOR CHARGE, OR ANY OTHER FORM OF ADMISSION CHARGE, INCLUDING MINIMUM DRINK ORDERS, SHALL BE SOLE PROFIT OF THE LICENSEE. IF SERVICES OF A PROMOTER/DJ ARE TO BE USED, PROMOTER/DJ SHALL BE LICENSED WITH THE SAN DIEGO POLICE DEPARTMENT.
- (13) **BLUE AGAVE** SHALL ENFORCE AND MONITOR OCCUPANCY LEVELS ESTABLISHED FOR THE ENTIRE PREMISES SET BY THE FIRE MARSHAL (300). ANY MODIFICATION OF THE BUSINESS CONFIGURATION OR OCCUPANCY LEVELS MUST BE REPORTED TO THE SAN DIEGO POLICE DEPARTMENT AND ABC. ALL MODIFICATIONS MUST HAVE PRIOR FIRE MARSHAL APPROVAL.
- (14) **BLUE AGAVE** EMPLOYEES SHALL ACTIVELY ATTEMPT TO CONTACT A TAXI SERVICE FOR ANY PATRON WHO APPEARS TO BE IN NEED OF OR REQUESTS SUCH SERVICE. **BLUE AGAVE** SHALL ACTIVELY PROMOTE AND MAINTAIN A DESIGNATED DRIVER PROGRAM FOR THEIR PATRONS.
- (15) **BLUE AGAVE** SHALL REQUIRE THAT ALL SECURITY GUARD PERSONNEL BE REGISTERED WITH THE DEPARTMENT OF CONSUMER AFFAIRS IN ACCORDANCE WITH THE CALIFORNIA BUSINESS & PROFESSIONS CODE SECTION 7574.10, WHICH READS:
- NO PERSON SHALL ENGAGE IN THE BUSINESS OF A PROPRIETARY PRIVATE SECURITY OFFICER UNLESS REGISTERED WITH THE DEPARTMENT PURSUANT TO THIS CHAPTER. ....A PERSON MAY WORK AS A PROPRIETY PRIVATE SECURITY OFFICER PENDING RECEIPT OF THE REGISTRATION CARD IF HE OR SHE HAS BEEN APPROVED BY THE DIRECTOR AND CARRIES ON HIS OR HER PERSON A HARD COPY PRINTOUT OF THE BUREAU'S APPROVAL FROM THE BUREAU'S INTERNET WEB SITE AND VALID IDENTIFICATION.*
- (16) NO PERSON SHALL ENGAGE IN THE BUSINESS OF PROPRIETARY PRIVATE SECURITY EMPLOYER UNLESS REGISTERED WITH THE DEPARTMENT OF CONSUMER AFFAIRS PURSUANT TO BUSINESS & PROFESSIONS CODE SECTION 7574.12.
- (17) THESE CONDITIONS ARE SUBJECT TO REVIEW IN ANY 90 DAY PERIOD TO ALLOW FOR NECESSARY CHANGES ASSISTING WITH COMMUNITY AND POLICE-REGULATED ISSUES.

**POLICE PERMIT: 2004002687 AFTER HOURS**

- (18) SECURITY SURVEILLANCE VIDEO OR SIMILAR FOOTAGE MUST BE MADE AVAILABLE TO LAW ENFORCEMENT TO AID IN A CRIMINAL INVESTIGATIONS UPON REQUEST.
  
- (19) **BLUE AGAVE** SHALL REQUIRE THAT EVERY SERVICE, BAR AND SECURITY EMPLOYEE ATTEND AN ABC L.E.A.D (LICENSEE EDUCATION ON ALCOHOL AND DRUGS) OR EQUIVALENT TRAINING CLASS.



# POLICE REGULATED BUSINESS PERMIT

Permit # 2004002687

Expires 02/28/2014

THIS PERMIT IS ISSUED PURSUANT TO THE SAN DIEGO MUNICIPAL CODE IN ADDITION TO ANY OTHER LICENSE OR PERMIT THAT MAY BE REQUIRED. THIS PERMIT IS VALID ONLY AT THE LOCATION SHOWN.

**MAILING ADDRESS**  
6608 MISSION GORGE RD  
SAN DIEGO, CA 92120-2309

THIS LICENSE IS NOT TRANSFERABLE, AND MUST BE VISIBLY DISPLAYED ON THE BUSINESS PREMISE

VALID FROM  
03/14/2013

EXPIRES  
02/28/2014

**BUSINESS TYPE:** ENTERTAIN ALC OR DANCE 400+

**BUSINESS NAME:** BLUE AGAVE NITE CLUB  
**BUSINESS LOCATION:** 6608 MISSION GORGE RD SAN DIEGO 92120

ISSUED BY POLICE PERMITS AND LICENSES

CONDITIONS

SIGNATURE OF ISSUING OFFICER \_\_\_\_\_

## CONDITIONS

\*\*\*\*\*SEE ATTACHED CONDITIONS AND KEEP WITH PERMIT AT ALL TIMES\*\*\*\*\*

**CITY OF SAN DIEGO – ENTERTAINMENT PERMIT CONDITIONS –  
ABC TYPE 48 (ON- SALE GENERAL PUBLIC PREMISES-21 YEARS & UP)**

**IN THE MATTER OF: BLUE AGAVE LOCATED AT 6608 MISION GORGE RD.**

**POLICE PERMIT # 2004002687**

THESE CONDITIONS ARE MADE PURSUANT TO PROVISIONS OF SAN DIEGO MUNICIPAL CODE (SDMC) SECTION 33.1513. PERMITEE MUST RETAIN A COPY OF THESE CONDITIONS ALONG WITH POLICE PERMIT FOR ENTERTAINMENT AND BE PREPARED TO PROVIDE THEM TO ANY LAW ENFORCEMENT OFFICER UPON REQUEST. ANY VIOLATIONS OF THE FOLLOWING CONDITIONS SHALL BE GROUNDS FOR SUSPENSION OR REVOCATION OF POLICE PERMIT. IMPOSITION, SUSPENSION OR REVOCATION OF ANY PARTICULAR CONDITION IS APPEALABLE THROUGH PROCEDURES SET FORTH IN (SDMC) CHAPTER III, ARTICLE 3, DIVISION 5. THIS POLICE PERMIT FOR ENTERTAINMENT IS CONDITIONED AS FOLLOWS.

**MUST COMPLY WITH SDMC CHAPTER III, ARTICLE 3, DIVISION 15 AND THE FOLLOWING CONDITIONS:**

- (1) ENTERTAINMENT MAY BE PROVIDED ON A DAILY BASIS PURSUANT TO ALL ABC CONDITIONS, REGULATIONS AND RESTRICTIONS.
- (2) NO PERSON UNDER THE AGE OF TWENTY-ONE (21) SHALL BE ALLOWED ON THE PREMISES OR THE SURROUNDING AREA.
- (3) WHEN PROVIDING ENTERTAINMENT, BLUE AGAVE SHALL EMPLOY STATE OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS LICENSED SECURITY GUARD PERSONNEL, AT A RATIO OF ONE (1) FOR EVERY FIFTY (50) OR FEWER PATRONS. SECURITY PERSONNEL SHALL BE IN UNIFORM COMPANY ATTIRE AS TO BE EASILY IDENTIFIABLE, WITH THE WORD "SECURITY" IN 3 INCH LETTERING ON THE BACK OF THE UNIFORM SHIRT/JACKET.
- (4) SPECIFIC DUTIES OF SECURITY SHALL BE TO PATROL INTERIOR AND EXTERIOR OF PREMISES AND UP TO 100 FEET OF THE ESTABLISHMENT'S PROPERTY LINE IN ORDER TO ALLEVIATE POLICE PROBLEMS, EXCESSIVE NOISE, ABUSIVE BEHAVIOR, DISTURBANCES AND ANY OTHER VIOLATIONS OF THE LAW THAT MAY OCCUR ON OR OR ABOUT THE LICENSED PREMISES.
- (5) WHEN PROVIDING ENTERTAINMENT, A MINIMUM OF ONE (1) STATE OF CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS LICENSED SECURITY GUARD SHALL BE REQUIRED FOR EVERY EXIT AND ENTRANCE TO THAT PORTION OF THE PREMISES DESIGNATED FOR

POLICE PERMIT # 2004002687

ENTERTAINMENT.

- (6) SECURITY GUARDS MUST BE ON DUTY ONE-HALF HOUR BEFORE LIVE ENTERTAINMENT BEGINS UNTIL ONE-HALF HOUR AFTER LIVE ENTERTAINMENT CEASES.
- (7) ENTERTAINMENT PROVIDED AND NOISE GENERATED BY BLUE AGAVE PATRONS SHALL NOT BE AUDIBLE BEYOND AREA UNDER CONTROL OF LICENSEE SO AS NOT TO DISTURB NEARBY RESIDENTS.
- (8) WHILE PROVIDING ENTERTAINMENT, ALL DOORS AND WINDOWS MUST BE CLOSED EXCEPT FOR NORMAL INGRESS AND EGRESS AND IN CASE OF EMERGENCY.
- (9) SOUND AMPLIFICATION EQUIPMENT SHALL BE MONITORED DURING BUSINESS HOURS TO ENSURE THAT AUDIBLE NOISE REMAINS AT ACCEPTABLE LEVELS, NOISE LEVELS SHALL BE IN CONFORMANCE WITH THE NOISE ABATEMENT STANDARDS OF SAN DIEGO MUNICIPAL CODE SECTIONS 59.5.0401, 59.5.0502. AND 59.5.0501 IN THE EVENT OF NOISE COMPLAINTS, OWNER SHALL BE RESPONSIBLE FOR HIRING AN ACOUSTICAL ENGINEER TO EVALUATE AND GIVES SUGGESTIONS ON NOISE ATTENUATION.
- (10) SERVICES OF PROMOTERS/DJ OR OTHER PERSONS FOR THE PURPOSE OF PROFIT SHARING SHALL NOT BE UTILIZED. MONIES COLLECTED AS A DOOR CHARGE, OR ANY OTHER FORM OF ADMISSION CHARGE, INCLUDING MINIMUM DRINK ORDERS, SHALL BE SOLE PROFIT OF THE LICENSEE. IF SERVICES OF A PROMOTER/DJ ARE TO BE USED, PROMOTER/DJ SHALL BE LICENSED WITH THE SAN DIEGO POLICE DEPARTMENT.
- (11) BLUE AGAVE SHALL ENFORCE AND MONITOR OCCUPANCY LEVELS ESTABLISHED FOR THE ENTIRE PREMISES SET BY THE FIRE MARSHAL. ANY MODIFICATION OF THE BUSINESS CONFIGURATION OR OCCUPANCY LEVELS MUST BE REPORTED TO THE SAN DIEGO POLICE DEPARTMENT AND ABC. ALL MODIFICATIONS MUST HAVE PRIOR FIRE MARSHAL APPROVAL.
- (12) BLUE AGAVE EMPLOYEES SHALL ACTIVELY ATTEMPT TO CONTACT A TAXI SERVICE FOR ANY PATRON WHO APPEARS TO BE IN NEED OF OR REQUESTS SUCH SERVICE. BLUE AGAVE SHALL ACTIVELY PROMOTE AND MAINTAIN A DESIGNATED DRIVER PROGRAM FOR THEIR PATRONS.



POLICE PERMIT # 2004002687

- (13) IF APPLICABLE, **BLUE AGAVE** SHALL REQUIRE THAT ALL SECURITY GUARD PERSONNEL BE REGISTERED WITH THE DEPARTMENT OF CONSUMER AFFAIRS IN ACCORDANCE WITH THE CALIFORNIA BUSINESS & PROFESSIONS CODE SECTION 7574.10, WHICH READS:

*NO PERSON SHALL ENGAGE IN THE BUSINESS OF A PROPRIETARY PRIVATE SECURITY OFFICER UNLESS REGISTERED WITH THE DEPARTMENT PURSUANT TO THIS CHAPTER.....A PERSON MAY WORK AS A PROPRIETY PRIVATE SECURITY OFFICER PENDING RECEIPT OF THE REGISTRATION CARD IF HE OR SHE HAS BEEN APPROVED BY THE DIRECTOR AND CARRIES ON HIS OR HER PERSON A HARD COPY PRINTOUT OF THE BUREAU'S APPROVAL FROM THE BUREAU'S INTERNET WEB SITE AND VALID IDENTIFICATION.*

- (14) NO PERSON SHALL ENGAGE IN THE BUSINESS OF PROPRIETARY PRIVATE SECURITY EMPLOYER UNLESS REGISTERED WITH THE DEPARTMENT OF CONSUMER AFFAIRS PURSUANT TO BUSINESS & PROFESSIONS CODE SECTION 7574.12.
- (15) ALCOHOL CONSUMPTION AND POSSESSION IS TO REMAIN WITHIN THE CONFINES OF THE LICENSED PREMISES AT ALL TIMES.
- (16) THESE CONDITIONS ARE SUBJECT TO REVIEW IN ANY 90 DAY PERIOD TO ALLOW FOR NECESSARY CHANGES ASSISTING WITH COMMUNITY AND POLICE-REGULATED ISSUES.
- (17) SECURITY SURVEILLANCE VIDEO OR SIMILAR FOOTAGE MUST BE MADE AVAILABLE TO LAW ENFORCEMENT TO AID IN A CRIMINAL INVESTIGATIONS UPON REQUEST.
- (18) **BLUE AGAVE** SHALL REQUIRE THAT EVERY SERVICE, BAR AND SECURITY EMPLOYEE ATTEND AN ABC L.E.A.D (LICENSEE EDUCATION ON ALCOHOL AND DRUGS) OR EQUIVALENT TRAINING CLASS.