

DATE ISSUED: September 28, 2010

REPORT NO. PC-10-084

ATTENTION: Planning Commission, Agenda of October 7, 2010

SUBJECT: STINGAREE – MANDATORY REVIEW OF CONDITIONAL USE
PERMIT NO. 2005-47A

**OWNER/
APPLICANT:** 6th & Island Investments, LLC

SUMMARY

Issue: Should the Planning Commission (“Commission”) find Stingaree, an eating and drinking establishment located at 454 Sixth Avenue in the Gaslamp Quarter Planned District (“Gaslamp Quarter”) of the Downtown Community Plan area, to be in conformance with Conditional Use Permit (CUP) 2005-47A approved by the Commission on November 5, 2009?

Staff Recommendation: That the Planning Commission take public testimony and, after careful consideration of the staff report and public testimony, find Stingaree to be in conformance with the conditions of CUP #2005-47A granted on November 5, 2009.

Community Planning Group Recommendation: None

Environmental Review: This project is Categorically Exempt from the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15301 (entitled Class 1 “Existing Facilities”). This exemption applies to the operation, permitting leasing or licensing of existing private structures involving negligible or no expansion of the existing use. The project consists of the review of an existing permit to ensure compliance with conditions of approval and therefore qualifies for the exemption. The application of a categorical exemption to this project is not precluded by any of the exceptions set forth in State CEQA Guidelines Section 15300.2.

Fiscal Impact Statement: None.

Code Enforcement Impact: On September 22, 2010, the Neighborhood Code Compliance Department (NCCD) reported that since the approval of CUP #2005-47A there have been no reported violations for the Stingaree to date. The NCCD letter has been included as Attachment 6.

Housing Impact Statement: None.

BACKGROUND

On November 5, 2009, the Planning Commission approved CUP #2005-47A for the Stingaree, a 22,000 square-foot tri-level restaurant/bar and event center with on-site consumption of alcoholic beverages in conjunction with live entertainment and dancing located at 454 Sixth Avenue in the Gaslamp Quarter. The CUP came before the Planning Commission on an appeal of the Centre City Development Corporation ("Corporation") Hearing Officer's decision to deny a CUP amendment requested by 6th Avenue Investments, LLC to allow expanded hours and days of live entertainment on the roof-top level.

At the hearing, the public voiced concerns with Stingaree's noise impacts on surrounding uses, compliance with the existing CUP and the request for an expansion of the days and hours of live entertainment on the roof-top level. After receiving the report and presentation by staff, and public testimony by the applicant and opponents, (including residents and business owners), the Planning Commission determined that the findings could be made and approved the amendment to CUP #2005-47A subject to conditions (Attachment 1). Conditions include, but are not limited to, Condition No.'s four, five, six and 16, which state the following:

4. The roof-top bar and lounge may include the following activities:
 - a. Ambient background music shall be allowed seven days a week until 1:30a.m.
 - b. A DJ without microphone is permitted on Thursdays until 1:00a.m.
 - c. A DJ is permitted on Friday and Saturday until 1:30a.m., with no microphone allowed after midnight.
 - d. A DJ is permitted on Sundays, only when the following Monday is recognized as a National or State Holiday, until 1:00a.m., with no microphones allowed after midnight.
 - e. Entertainers that do not produce sound (dancing, performing, etc.) are permitted.
 - f. No dance floor or dancing by patrons shall be allowed.

5. The sound system shall be operated with numerous small speakers as outlined in the October 25, 2009 report by Pro Systems Audio Visual Solutions and shall not be modified without prior approval by the Corporation, based on a determination that the modified system will not possess greater sound generation capabilities as documented by a professional sound and acoustic engineer. Any modifications to the sound system which could create greater levels of noise shall require an amendment to this CUP.
6. A four-foot high tempered glass windscreen shall be installed on top of the parapet at the northeast corner of the roof, approximately 20 feet in length, and extending up to the rows of cabanas as outlined in the roof plans on file at the Corporation.
16. A mandatory duly noticed public hearing shall occur within nine (9) months after the date of approval by the Planning Commission to ensure conformance with the conditions stated herein and to review if the expanded hours of live entertainment on the roof-top have created noise impacts to the surrounding neighborhood. This review shall be noticed to all interested parties identified in this application. The Planning Commission may, after considering a staff report and public testimony, approve modifications to, or revocation of, the expanded hours and days as provided for in this amendment.

DISCUSSION

Project Description:

Stingaree is located on the southwest corner of Sixth and Island avenues (454 Sixth Avenue) in the Gaslamp Quarter Planned District. The restaurant/bar and event center occupies a 22,000 square-foot tri-level building consisting of a ground-floor, mezzanine and rooftop. Stingaree restaurant hours are Tuesday through Friday from 5:00 p.m. to 10:00 p.m. and Saturday from 6:00 p.m. to 11:00 p.m. Nightclub hours are from 9:00 p.m. to 2:00 a.m. on Friday and Saturday. The establishment has a maximum occupancy of 1,259. Photos of the site and floor plans are included as Attachment 2.

The Gaslamp Quarter Planned District is a National Register designated historical district and is San Diego's premier entertainment destination. The district includes a variety of uses including restaurants and nightclubs, office, retail, and residential uses. Residential uses in the vicinity include the Alta Condominium located on the southeast corner of Sixth Avenue and Market Street, The Mark Condominium on the southeast corner of Eighth Avenue and Market Street, and Gaslamp City Square located on the block bounded by J Street and Third, Fourth and Island avenues. A vicinity map has been included as Attachment 3.

Mandatory Review:

Pursuant to condition No. 16 of the CUP; a mandatory review was to be conducted within nine months of approval. At the Planning Commission meeting, Commissioners determined it would be more appropriate to schedule the review hearing after the summer season ended as this is the time roof-top bars are most popular and operate at full capacity. On September 15, 2010, a notice of the review was sent to all interested parties, owners and occupants within a 300-foot radius, NCCD and the San Diego Police Department (SDPD) (Attachment 4). As of the date of this report, staff has received two e-mails from the public concerned about the noise generated from the roof-top bar compared to the 30 or more e-mails and letters received from the public in 2009 opposing the approval of the amendment. The SDPD reported five calls related to noise attributed to the roof-top bar since the approval of the amended CUP. The SDPD reported a reduction in the amount of noise related calls and supports the existing conditions of approval. NCCD reported no noise or other code violations since approval of the CUP for the Stingaree. Letters from SDPD and NCCD are included as Attachments 5 and 6.

On September 10, 2010, staff conducted a site inspection at the establishment. Staff confirmed that the establishment was maintaining 1) the four-foot high tempered glass windscreen, which had been installed after Commission approval, and 2) the redesigned speaker system as suggested by Pro Systems Audi Visual Solutions in 2009. In addition, although not part of the CUP conditions, but in an effort to be pro-active, Stingaree has implemented a "Good Neighbor Program." This program included conducting two "Good Neighbor Mixers" on March 24 and July 1. The purpose of the mixers involved reaching out to, and making management staff available to, surrounding neighbors in order to address any concerns with the expanded hours of operation on the roof-top (Attachment 7). Invitees to the mixers included SDPD, San Diego Fire Department (SDFD), The Mark/Alta HOA Boards and residents, and Hotel Solamar management. Approximately 25 people attended the March 24 mixer and 10 attended on July 1.

Conclusion:

The conditions of CUP #2005-47A have proven to be successful in mitigating the noise concerns related to the operations of the roof-top bar and lounge. The sound attenuation measures implemented on the roof-top, the hours of operation, and the continued commitment from the applicant to respond to surrounding neighbors are adequate and appropriate to allow the continued operations of Stingaree with the conditions outlined in CUP #2005-47A.

It is staff's determination that Stingaree is not creating a nuisance, which would warrant modification or revocation of the CUP's expanded hours for the roof-top level activities. Therefore, staff recommends that the Planning Commission find Stingaree to be in conformance with CUP #2005-47A.

Respectfully submitted,

Concurred by:



Lucy Contreras
Associate Planner



Frank J. Alessi
Executive Vice President & Chief Financial
Officer



Brad Richter
Assistant Vice President of Current
Planning

Attachments:

1. CUP 2005-47A
2. Floor Plans
3. Vicinity Map
4. Notice of Review Hearing
5. SDPD Letter dated September 27, 2010
6. NCCD Letter dated September 22, 2010
7. Materials Submitted by Stingaree
8. Public Correspondence
9. Planning Commission Staff Report - November 5, 2009

DOC # 2009-0658770



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OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
DAVID L. BUTLER, COUNTY RECORDER
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PAGES: 8



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RECORDING REQUESTED BY:
Centre City Development Corporation
401 B Street, Suite 400 **12729**
San Diego, CA 92101

WHEN RECORDED MAIL TO:
Centre City Development Corporation
401 B Street, Suite 400
San Diego, CA 92101
ATTN: Brad Richter

THIS SPACE FOR RECORDER'S USE ONLY

NOTE: COUNTY RECORDER, PLEASE
RECORD AS RESTRICTION USE OR
DEVELOPMENT OF REAL
PROPERTY AFFECTING THE TITLE
TO OR POSSESSION THEREOF

**GASLAMP QUARTER PLANNED DISTRICT
CONDITIONAL USE PERMIT 2005-47A
(AMENDMENT)**

**STINGAREE
454 Sixth Avenue**

Centre City
Development Corp.

FEB 17 2010

*Orig. To
Copy To*

12730

**DECISION OF THE PLANNING COMMISSION
OF THE CITY OF SAN DIEGO**

**GASLAMP QUARTER PLANNED DISTRICT
CONDITIONAL USE PERMIT 2005-47A FOR LIVE ENTERTAINMENT**

**Stingaree
454 Sixth Avenue**

WHEREAS, on August 2, 2005, Sixth and Island Investments, LLC., DBA Stingaree owner/applicant, filed an application for a Conditional Use Permit (CUP) to operate a 22,000 square foot tri-level restaurant/bar and event center with on-site consumption of alcoholic beverages and live entertainment located at 454 Sixth Avenue; more particularly described as Lots K and L in Block 113 of Horton's Addition in the City of San Diego, County of San Diego, State of California, according to the map thereof on file in the Office of the County Recorder of San Diego County, is located within the Gaslamp Quarter Planned District of the Centre City Community Plan Area;

WHEREAS, on October 18, 2005, the Centre City Development Corporation (CCDC) Hearing Officer held a duly noticed public hearing and approved Conditional Use Permit No. 2005-47, pursuant to Sections 126.0304, 126.0305, 103.1904, 103.1925 and 103.1919 of the Municipal Code of the City of San Diego;

WHEREAS, on May 22, 2009, Sixth and Island Investments, LLC., DBA Stingaree owner/applicant, filed an application for an amendment to CUP 2005-47 to allow expanded live entertainment activities in the roof-top bar and lounge of the establishment;

WHEREAS, on August 13, 2009, the CCDC Hearing Officer of CCDC held a duly noticed public hearing and, after considering a staff report and recommendation and public testimony, denied the amendment to CUP 2005-47 due to the inability to make the required findings for approval based on potential noise impacts the expanded hours and activities could create;

WHEREAS, on August 27, 2009, Sixth and Island Investments, LLC., DBA Stingaree owner/applicant, filed an appeal of this decision with CCDC; and,

WHEREAS, on November 5, 2009, the Planning Commission of the City of San Diego held a duly noticed public hearing and considered the record of the Hearing Officer action, the staff report and recommendation, and public testimony for the proposed amendment to CUP 2005-47.

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of San Diego:

- a. *That the proposed use or development will not adversely affect the applicable land use plan;*

- b. *That the proposed use or development will not be detrimental to the public health, safety, and welfare;*
- c. *That the proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code; and*
- d. *The proposed use is appropriate at the proposed location.*

BE IT FURTHER RESOLVED that, based on the Findings hereinbefore adopted by the Planning Commission, CUP 2005-47A is hereby GRANTED to Sixth and Island Investments, LLC.; DBA Stingaree subject the approved plans on file in the offices of CCDC and the following conditions:

1. The sale of alcoholic beverages shall be an accessory or secondary use to the primary use of the property in conformance with permitted uses as outlined in the Gaslamp Quarter Planned District Ordinance.
2. The business shall maintain a valid State Department of Alcohol and Beverage Control (ABC) Type 47 -“On-Sale Bona Fide Public Eating Place” alcoholic beverage license and be a bona-fide eating establishment, maintain an operational kitchen facility and make reasonable efforts to sell food products to the general public. The business shall be in compliance with all conditions of said license at all times. Food service shall be available during normal business hours.
3. Amplified music and live entertainment, including dancing, shall be permitted within the confines of the building (ground level and mezzanine) and shall commence no earlier than 11:00 a.m. and end no later than 2:00 a.m. seven days a week. All doors and windows shall remain closed whenever amplified live entertainment or music is played in the establishment. No musical equipment or sound reproduction devices shall be operated or used within the sidewalk café.
4. *The rooftop bar and lounge including the following activities:*
 - a. Ambient background music shall be allowed seven days a week until 1:30 a.m.
 - b. A DJ without microphone is permitted on Thursdays until 1:00 a.m.
 - c. A DJ is permitted on Friday and Saturday until 1:30 a.m., with no microphone allowed after midnight.
 - d. A DJ is permitted on Sundays, only when the following Monday is recognized as a National or State Holiday, until 1:00 a.m., with no microphones allowed after midnight.
 - e. Entertainers that do not produce sound (dancing, performing, etc.) are permitted.
 - f. No dance floor or dancing by patrons shall be allowed.
5. The sound system shall be operated with numerous small speakers as outlined in the October 25, 2009 report by Pro Systems Audio Visual Solutions and shall not be modified without prior approval by CCDC, based on a determination that the modified system will not possess greater sound generation capabilities as documented by a

professional sound and acoustic engineer. Any modification to the sound system which could create greater levels of noise shall require an amendment to this CUP.

6. A four-foot high tempered glass windscreen shall be installed on top of the parapet at the northeast corner of the roof, approximately 20 feet in length, and extending up to the rows of cabanas as outlined in the roof plans on file in the offices of CCDC.
7. All live entertainment must be pursuant to applicable San Diego Municipal Code permits and regulations and, if applicable, San Diego Police Department Regulatory Permits shall be obtained.
8. The Permittee shall be responsible for implementing the noise treatment measures recommended by the acoustical study submitted for this project dated June 25, 2005, including the installation of sound insulation materials within the interior of the building and exterior mitigations discussed within the study as necessary to comply with City of San Diego Noise Abatement requirements. The Permittee shall be in compliance with the City of San Diego Noise Ordinance at all times.
9. Sound and amplification equipment shall be monitored during and after business hours to ensure that audible noise remain at acceptable levels so as not to disturb surrounding neighbors. In the event that any noise and/or vibration complaints are received, CCDC shall evaluate the complaints and if it is determined that the business is potentially creating a nuisance for the neighborhood, a duly noticed public hearing shall be scheduled. After receiving public testimony, the Hearing Officer may revoke or modify the Permit.
10. During the hours of live entertainment and/or dancing the Permittee shall employ one security officer for every fifty (50) patrons in the premise. The security officers shall wear clothing that identifies them as security officers and shall be on duty from the time live entertainment and/or dancing begins until one-half hour after the live entertainment and/or dancing ceases. Their primary duty shall be to patrol the interior and the exterior of the premises in order to alleviate police problems, excessive noise, abusive behavior, disturbances, and any other violations of law that occur on or about the licensed premises.
11. Rope and stanchions shall be provided during the evening hours of operation and when events shall warrant. Any queuing of patrons outside of the establishment shall be maintained in an orderly manner and shall be so situated as to allow a clear pedestrian path of at least eight (8) feet along Island Avenue. Any queuing may not obstruct access to any other business.
12. Patrons awaiting entrance as well as those leaving the establishment shall be monitored as to not create a nuisance by obstructing the sidewalk in the area of the business or adjacent business or by being publicly inebriated, noisy, or rowdy.

13. No patron shall be permitted to remove a partially consumed bottle or drink of any type of alcoholic beverage from the premises, except for bottles of wine for patrons of the restaurant.
14. All servers, security and other Stingaree employees shall be trained and certified in responsible alcoholic beverage service policies and practices. This is to include: strong I.D checking procedures, not serving intoxicated patrons and responsible beverage pricing. The Permittee shall submit proof of compliance prior to commencement of operation of the establishment.
15. The service of promoters or other persons for the purpose of profit sharing shall not be permitted. The monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders, shall be the sole profit of the licensee.
16. A mandatory duly noticed public hearing shall occur approximately nine (9) months after the date of approval by the Planning Commission to ensure conformance with the conditions stated herein and to review if the expanded hours and days for live entertainment on the roof-top has created noise impacts to the surrounding neighborhood. This review shall be noticed to all interested parties identified in this application. The Planning Commission may, after considering a staff report and public testimony, approve modifications to, or revocation of, the expanded hours and days as provided for in this amendment.
17. Any change to the approved business shall be reviewed and approved by CCDC. Any change in operator of the establishment shall require notification to CCDC.
18. This Permit may be revoked by CCDC if there is a material breach or default in any of the conditions of this permit. If the business creates a nuisance to the surrounding neighborhood, based on a determination of the President of CCDC, this permit may be modified or revoked after the holding of a public hearing.
19. The owner or operator shall maintain the CUP and other business licenses in the establishment and shall make these documents available to anyone lawfully engaged in the inspections of the premises.
20. The owner or operator shall adhere to all Federal, State and local laws, ordinance and regulations at all times.
21. This Permit shall not become effective until:
 - a. The Permittee signs and returns the Permit to CCDC; and
 - b. The Permit is recorded in the Office of the County Recorder.


22. This Permit must be used within 36 months after the date of approval or the Permit shall be void.
23. After establishment of the business, the Property shall not be used for other uses unless:
- a. Authorized by CCDC; or
 - b. The uses are consistent with all zoning and development regulations of the Centre City Planned District Ordinance; or
 - c. This permit has been revoked by CCDC.
24. This Permit is a Covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

Passed and adopted by the Planning Commission on November 5, 2009.

ATTEST:

CENTRE CITY DEVELOPMENT
CORPORATION

PERMITTEE(S) SIGNATURE



Brad Richter
Asst. Vice-President
Current Planning

11/24/09
Date



James W. Brennan
Managing Member
Sixth and Island Investment, LLC

11/24/09
Date

12735

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of

SAN DIEGO

On

11/24/09

before me,

M. Betty Migliaccio, Notary

Here Insert Name and Title of the Officer

personally appeared

BRAD RICHTER

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

M. Betty Migliaccio

Signature of Notary Public

Place Notary Seal Above

**OPTIONAL**

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document:

Hingaree

Document Date:

11-24-09

Number of Pages:

10

Signer(s) Other Than Named Above:

James W. Brennan

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

Signer Is Representing: _____

 RIGHT THUMBPRINT
OF SIGNER
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Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner — ☐ Limited ☐ General
☐ Attorney in Fact
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☐ Other: _____

Signer Is Representing: _____

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California All Purpose Acknowledgement

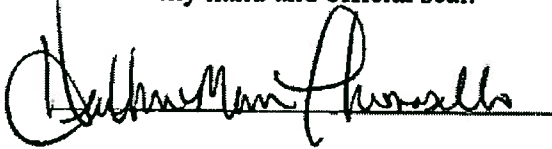
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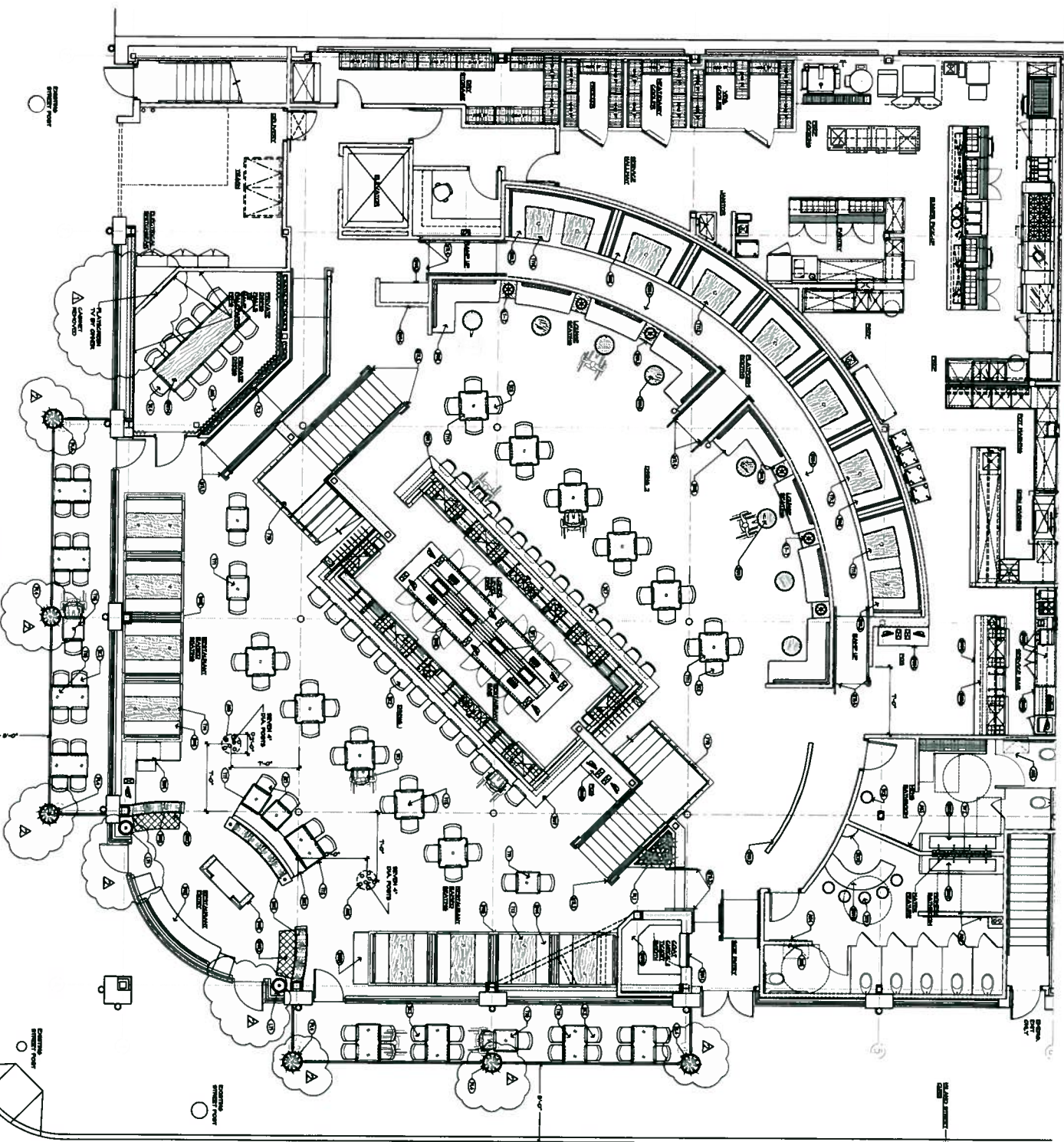
County of San Diego

On November 24, 2009, before me, Heather Marie Thomaselli, California Notary, personally appeared James W. Brennan, proved to me on the basis of satisfactory evidence to be the person ~~(s)~~ whose name ~~(s)~~ is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/~~they~~ executed the same in his/~~her~~/~~their~~ authorized capacity ~~(ies)~~, and that by his/~~her~~/~~their~~ signature ~~(s)~~ on the instrument the person ~~(s)~~, or the entity upon behalf of which the person ~~(s)~~ acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Witness my hand and official seal.





SIXTH STREET

ISLAND STREET

FIXTURE EQUIPMENT FLOOR PLAN - MAIN LEVEL

SHEET INDEX

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002.00	MECHANICAL EQUIPMENT FLOOR PLAN

STINGAREE

454 SIXTH AVE
SAN DIEGO, CA.

TOTAL

CONCEPT
DESIGNS

davis - ink

315 JERRY AVE, SUITE 100
SAN DIEGO, CA 92101
PHONE: (619) 594-0888
FAX: (619) 594-0889

ATTACHMENT 12, 2005
CONSTRUCTION SET

ID-1.1

ATTACHMENT 2

1

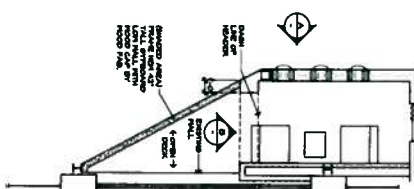
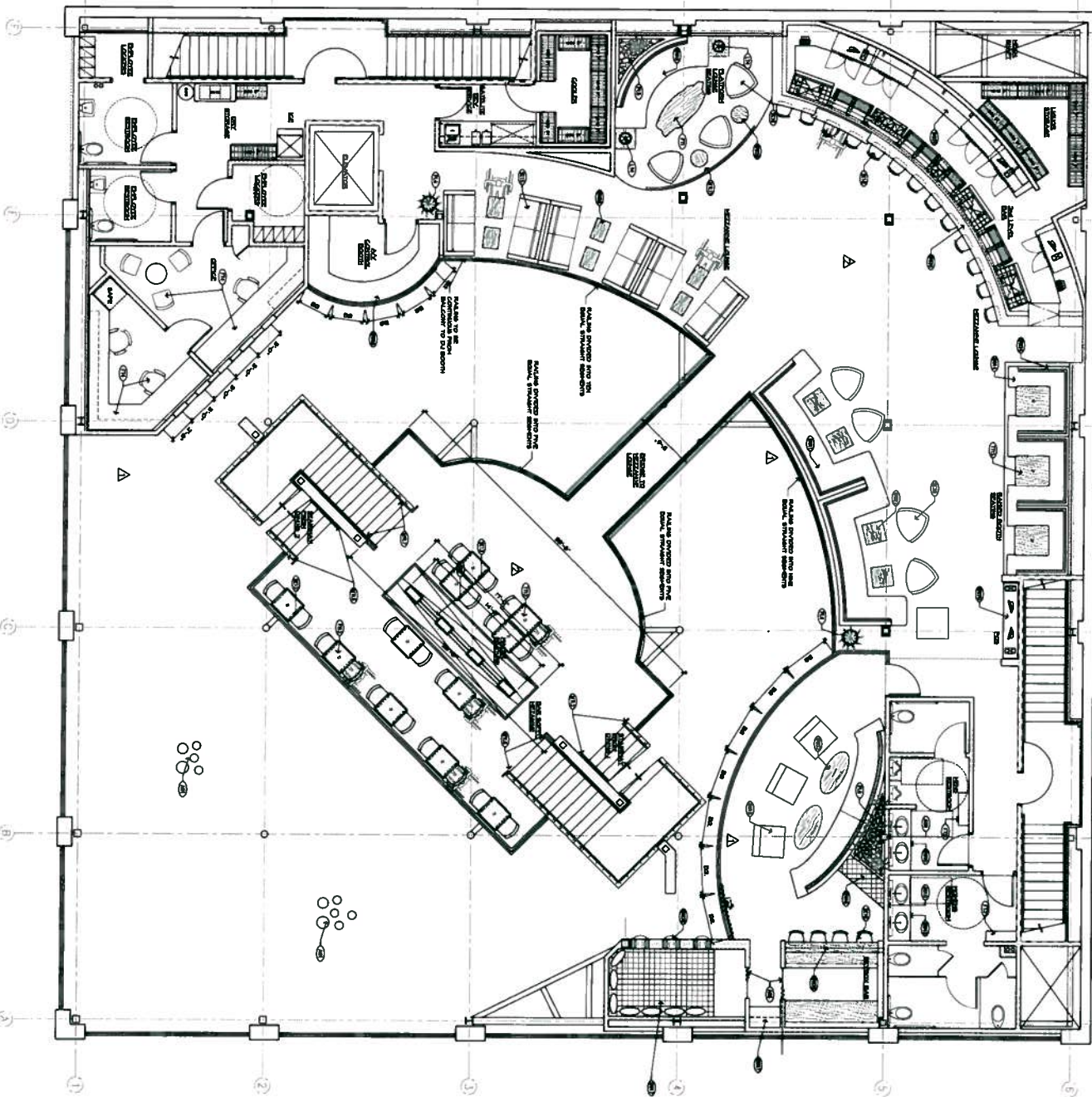


FIGURE EQUIPMENT FLOOR PLAN - MEZZANINE LEVEL

SCALE
1/8" = 1'-0"

1

STINGAREE

454 SIXTH AVE
SAN DIEGO, CA.

**TOTAL
CONCEPT
DESIGNS**



3011 Albany Ave., #2
Chapel Hill, NC 27514
PH: (704) 761-0000
FAX: (704) 761-0000



NO.	REVISION	DATE
1	ISSUED FOR PERMIT	01/12/00
2	REVISION	01/12/00
3	REVISION	01/12/00
4	REVISION	01/12/00
5	REVISION	01/12/00
6	REVISION	01/12/00
7	REVISION	01/12/00
8	REVISION	01/12/00
9	REVISION	01/12/00
10	REVISION	01/12/00

ID-1.2

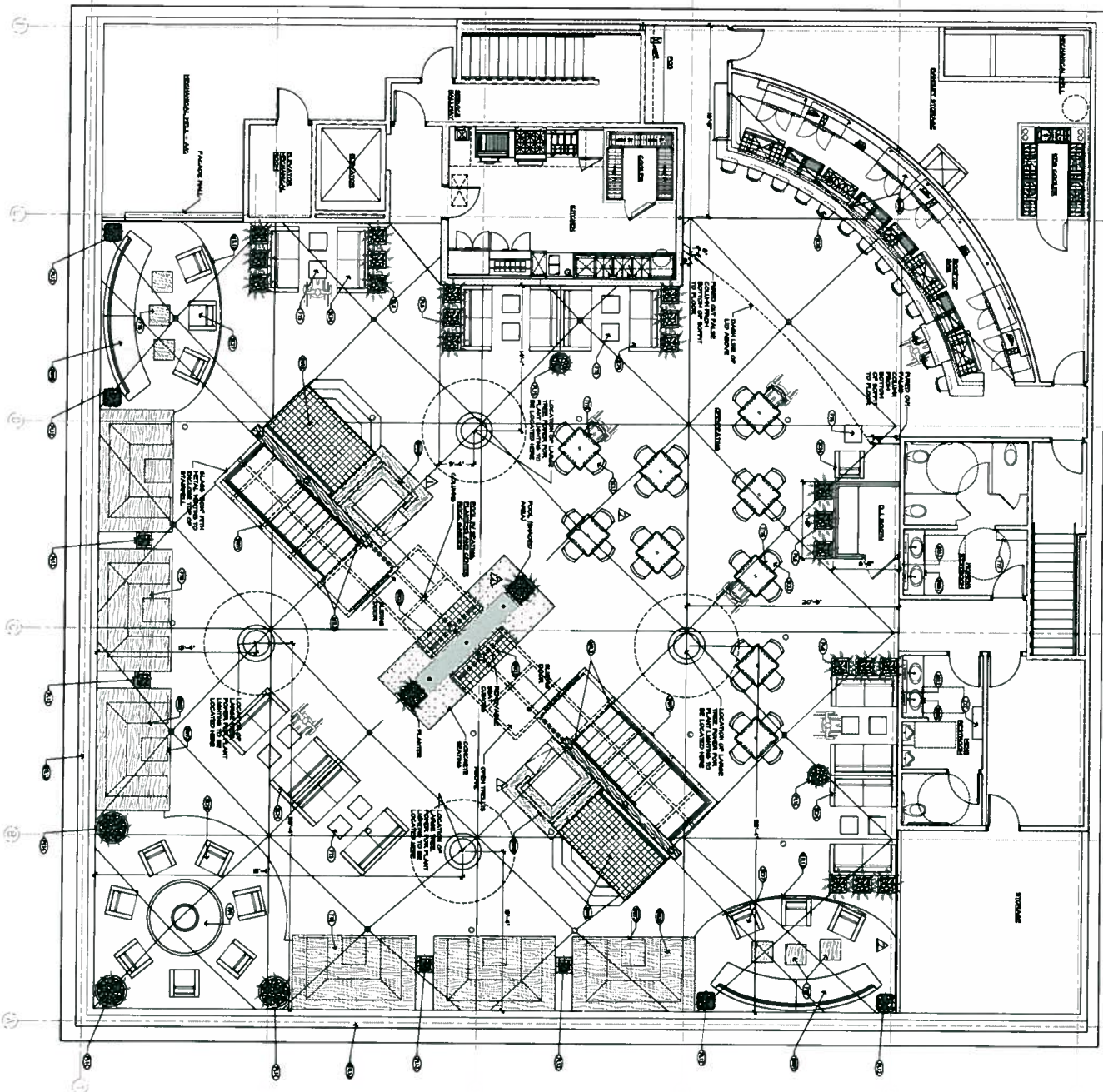


FIGURE EQUIPMENT FLOOR PLAN - ROOFTOP LEVEL

SCALE
AS SHOWN

ID-1.3

PROJECT: 12-10-03
CONSTRUCTION SET
DATE: 12-10-03
DRAWN BY: [illegible]
CHECKED BY: [illegible]
APPROVED BY: [illegible]

Notes:
1. All dimensions are in feet and inches.
2. All materials are to be specified by the architect.
3. All work is to be in accordance with the latest edition of the Building Code of the City of San Diego.
4. All work is to be in accordance with the latest edition of the International Building Code.
5. All work is to be in accordance with the latest edition of the International Mechanical Code.
6. All work is to be in accordance with the latest edition of the International Fire Code.
7. All work is to be in accordance with the latest edition of the International Electrical Code.
8. All work is to be in accordance with the latest edition of the International Plumbing Code.
9. All work is to be in accordance with the latest edition of the International Fuel Gas Code.
10. All work is to be in accordance with the latest edition of the International Energy Conservation Code.

STINGAREE

454 SIXTH AVE
SAN DIEGO, CA.

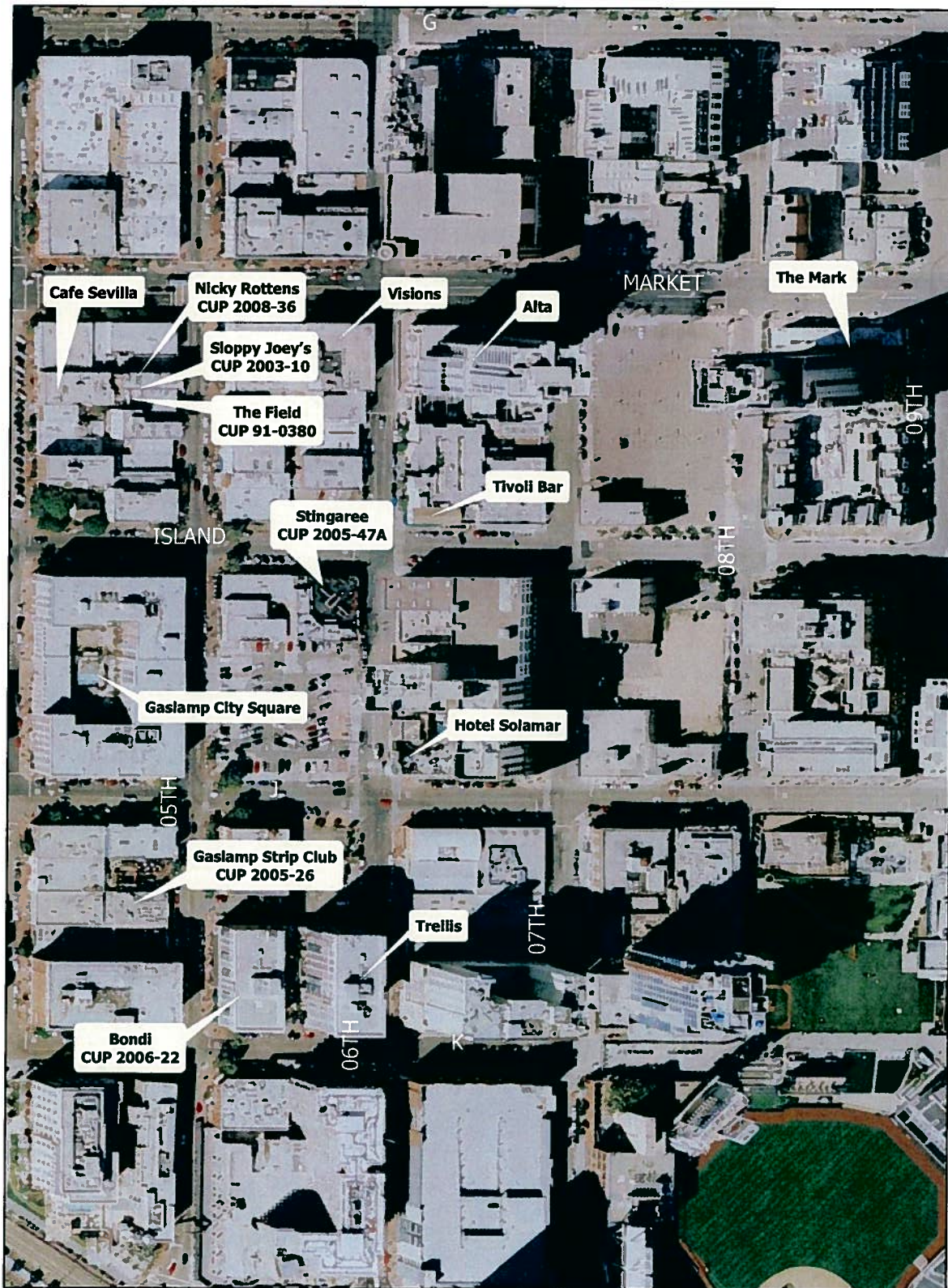
TOTAL
CONCEPT
DESIGNS



2010 Highway Ave. #2
San Diego, CA 92108
Phone: (619) 444-8888
Fax: (619) 444-8889



Stingaree Vicinity Map



September 15, 2010

NOTICE OF PLANNING COMMISSION PUBLIC HEARING

As a nearby property owner, tenant, or person who has requested notice, you should know that the City of San Diego Planning Commission will hold a public hearing for the review of Conditional Use Permit (CUP) 2005-47A issued on November 5, 2009 to **Stingaree**; an eating and drinking establishment with live entertainment located at **454 Sixth Avenue** in the Gaslamp Quarter Planned District of the Downtown Community Plan Area. CUP 2005-47A included approval of expanded hours and days of live entertainment on the roof-top with the condition of a mandatory review by Planning Commission to ensure conformance with the conditions of approval. The Planning Commission at the hearing may, after considering a staff report and public testimony approve modifications to, or revocation of, CUP 2005-47. **CCDC staff is seeking input from the public prior to the hearing. If you would like to submit any comments for inclusion in the staff report to Planning Commission please submit written comments to the Project Manager listed below by September 27, 2010.**

PROJECT NAME:	Review of CUP 2005-47A - Stingaree
PROJECT APPLICANT:	Sixth and Island Investments, LLC.
COMMUNITY PLAN AREA:	Downtown
COUNCIL DISTRICT:	District 2

PROJECT MANAGERS:	Lucy Contreras, Associate Planner
MAILING ADDRESS:	401 B Street, Suite 400 San Diego, CA 92101
PHONE NUMBER:	(619)533-7132
E-MAIL ADDRESS:	<u>contreras@ccdc.com</u>

DATE OF HEARING:	Thursday, October 7, 2010
TIME OF HEARING:	9:00 a.m. (please note that this is the time that the Planning Commission meeting starts, but there is no fixed time for this specific hearing).
LOCATION OF HEARING:	City Council Chambers, 12th Floor, City Administration Building, 202 C Street, San Diego, CA 92101

The public is invited to attend these meetings and express any comments to the review bodies, who will take the comments into consideration in their actions. If you have any questions after reviewing this notice, you can call the CCDC Project Planner listed above. Copies of the application for the project are available for public review in the offices of CCDC located at 401 B Street, Suite 400, San Diego, 92101.

The decision of the Planning Commission can be appealed to the City Council. An application for appeal must be filed within 10 business days of the Planning Commission's decision. In order to appeal any decision to the City Council, you must attend the hearing or express interest in writing to the Project Planner or Planning Commission prior to the decision date. Any appeals must be submitted to the City of San Diego City Clerk's Office, 202 "C" Street, 2nd Floor, San Diego, California, 92101.

If you wish to challenge the City's action on the above proceeding in court, you may be limited to addressing only those issues you or someone else have raised at the public hearings described in this notice, or written correspondence to CCDC or the City of San Diego at or before the public hearings.

This information will be made available in alternative formats upon request. To request an agenda in alternative format or to request a sign language or oral interpreter for the meeting, call the Disability Services Coordinator at 236-5979 at least five working days prior to the hearing to insure availability.

ATTACHMENT 4



THE CITY OF SAN DIEGO

September 27, 2010

San Diego Police Department
1401 Broadway
San Diego, CA 92101-5710

Lucy Contreras
Associate Planner
Centre City Development Corporation (CCDC)
401 B Street, Suite 400
San Diego, CA 92101

Re: Stingaree Conditional Use Permit
Notice of Hearing for Approval of Amendment
CUP No.: 2005-47A


Dear Ms. Contreras,

The San Diego Police Department is in support of the pending amendment of the Conditional Use Permit (CUP No. 2005-47A) for 6th & Island Investments, LLC dba Stingaree. Since the November 5, 2009 hearing and conditional approval of the Amended CUP, we feel that Stingaree has worked to comply with and has abided by the conditions set forth in the CUP.

Their efforts to open the lines of communication with law enforcement and neighboring businesses have been positive, and have reduced the amount of noise related calls for service surrounding their business. They have hosted two Good Neighbor Meetings on March 24th and July 1st of 2010, inviting the surrounding tenants to visit the venue and meet face to face with the owners, managers and staff of Stingaree to address any concerns or issues. Representatives from SDPD were present at both Good Neighbor Meetings.

Overall, Stingaree continues to be a concerned downtown business that positively impacts the Gaslamp environment. They have been open to feedback and continue to implement strategies to be an effective partner in the Gaslamp. We support them in their amendment of their existing Conditional Use Permit.

If you have any questions or concerns in regards to Stingaree's efforts, please feel free to contact me at any time.

Sincerely,

Guy Swanger
Captain, Investigations I





THE CITY OF SAN DIEGO

September 22, 2010

Lucy Contreras
Associate Planner
Centre City Development Corporation
401 B Street, Suite 400
San Diego, CA 92101

RE: Stingaree CUP Review

Lucy,

As you have inquired, Neighborhood Code Compliance Division has not received any noise complaints relative to Stingaree for the past several months.

Ernestine Sanchez
Senior Land Development Investigator
Neighborhood Code Compliance Division



Development Services Department
Neighborhood Code Compliance Division
1200 Third Avenue, 8th Floor, MS 51N • San Diego, CA 92101-4106
Tel (619) 236-5500 Fax (619) 236-5920

ATTACHMENT 6

List of improvements implemented to improve noise containment for Stingaree:

- Glass sound barriers were built to contain noise. – These contain the sound from drifting to buildings located higher than Stingaree's roof top.
- Eliminated multiple speakers on the rooftop.
- Programmed music to lower volume at 12am.
- Met with SDPD and Vice to work on noise complaints and issues.
- Stingaree Security has worked with pedicabs to lower the music volume when approaching and in front of the venue.
- Outside venue doors are closed after midnight.
- Conducted a noise analysis through an outside company, Troy Acoustics Corporation. Final reports are below.
- Held two "Good Neighbor Mixers" - March 24th and July 1st
 - o Invites were sent to SDPD, SDFD, the Mark/Alta HOA Boards, the Mark/Alta residents, and Hotel Solamar.
 - o Meet and greet with the owner and management team.
 - Contact information was provided to all guests in attendance.
- Ensured that all staff, including Sales Team, are aware of what we are allowed to do on the rooftop, on what days and until what time.

Katie Hill

From: James Brennan

Sent: Wednesday, March 17, 2010 3:07 PM

To: james.arnold.ca@gmail.com; john_gallup@johngallup.com; pete.cretu@gmail.com; drift_inc@msn.com; joshuah@ankaproperty.com; malonezone@cox.net; jeremy@storecare.com; aschorr@lrlaw.com; cheriealford@aol.com; lesleyguajardo@yahoo.com; judyannejudkins@yahoo.com; joyoforchidshell@yahoo.com; po9473@yahoo.com; johnmancuso@gmail.com; pmollen@ucsd.edu; mikegiglio@cox.net; andrade.ent@att.net; jimirish@cox.net; mabendix@aol.com; Stephanie Brown; heather_nietfeld@hotmail.com

Cc: Katie Hill (katie@endevllc.com); Heather Thomaselli; Terra

Subject: Good Neighbor Meeting

Dear Neighbors,

For those of you that I have not met, I would like to introduce myself, I am James Brennan owner of Stingaree. Upon opening Stingaree, we held a number of Good Neighbor Meetings and found these meetings to be a great opportunity to meet our neighbors, work through any issues or concerns they may have regarding our venue, and open lines of communication. With recent issues arising due to noise levels we feel that reviving these meetings will be very beneficial for all those involved.

Therefore, next **Wednesday, March 24th Stingaree will hold a Good Neighbor Mixer** for all neighboring residents and business owners. We hope to re-establish and create relationships with our long-time neighbors and new relationships in order to address any questions or concerns that you may have regarding Stingaree and our operation of the venue, and to again open the lines of communication so that our neighbors can feel comfortable coming directly to us with any issues or concerns.

The Mixer will include hosted appetizers and cocktails, and will be held from **6pm to 8pm on Wednesday, March 24th at Stingaree**. If you are able to attend, please RSVP by Monday, March 22nd to Katie@endevllc.com.

I look forward to seeing you there!

9/22/2010



**LET'S BE
NEIGHBORLY!**

JOIN US FOR
**THE GOOD NEIGHBOR
MIXER**

WEDNESDAY, 3/24/10
FROM 6-8PM

Hosted appetizers + cocktails
Meet + greet with staff + management

S

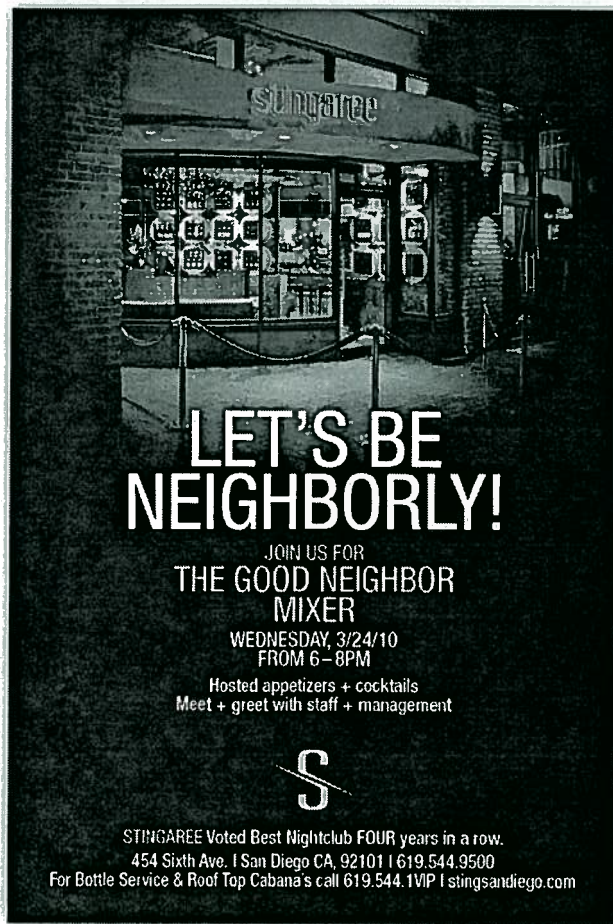
STINGAREE Voted Best Nightclub FOUR years in a row.
454 Sixth Ave. | San Diego CA, 92101 | 619.544.9500
For Bottle Service & Roof Top Cabana's call 619.544.1VIP | stingsandiego.com

Best,
James

JAMES W. BRENNAN
CEO / PARTNER
EnDev Enterprises LLC
404 14th Street San Diego CA 92101
m. 858.663.0598 | o. 619.238.1100 | f. 619.238.1102
Endevllc.com

9/22/2010

Good Neighbor Mixers



Event Date: Wednesday, March 24, 2010

Event Time: 6pm-8pm

Number of Attendees: 25

Good Neighbor Mixer - March 24, 2010		
Chuck Borso	+1	chuckb@sdtinc.com
David Bramzon		davidbramzon@hotmail.com
Doug Grant		fdgrant60@mac.com
James Arnold		james.arnold.ca@gmail.com
James Hsiao	+1	james_j_hsiao@yahoo.com
Joe Schlehner	+2	akdad24@sbcglobal.net
Joel Mahood	+3	joelmahood@gmail.com
Karin Erkkila		kerkkila@finsvcs.com
Kathy Cathey	+7	
Lesley Guajardo	+1	lesleyguajardo@yahoo.com
Mike Bendix		Mabendix@aol.com
Philip Ochoa		po9473@yahoo.com
Pravar Srivastava	+1	pravarsrivastava@gmail.com
Rahul Bauskar	+1	rahulbauskar@yahoo.com
Robert Brown	+2	rb833c@att.com

Katie Hill

From: Katie Hill
Sent: Tuesday, June 29, 2010 12:12 PM
To: James Brennan
Subject: Good Neighbor Mixer


Dear Neighbors,

I hope this email finds you all well! We would like you to join us this Thursday, July 1st for a Good Neighbor Mixer with drinks and appetizers. It has been a few months since our last mixer and we wanted to make sure that all of your questions and concerns have been addressed. We also wanted to give another opportunity to the neighbors who weren't able to make it out last time to come meet with our management team. We will have an open floor with James Brennan and the Sting Management Team for any questions or issues that have come up since our previous mixer. As we have said before, we want to make sure the lines of communications are open and you feel comfortable contacting management directly with any issues that may arise. Afterwards, we would like to invite all guests to join us for Stingaree Ritual Thursdays on the rooftop and check out our newly redesigned rooftop.

The Mixer will include hosted appetizers and cocktails, and will be held from 8pm to 9pm on Thursday, July 1st at Stingaree followed by Ritual Thursdays on the rooftop. If you are able to attend, please RSVP by Thursday, July 1st to vip@stingsandiego.com.

I look forward to seeing you there!

9/22/2010



—

LET'S BE NEIGHBORLY!

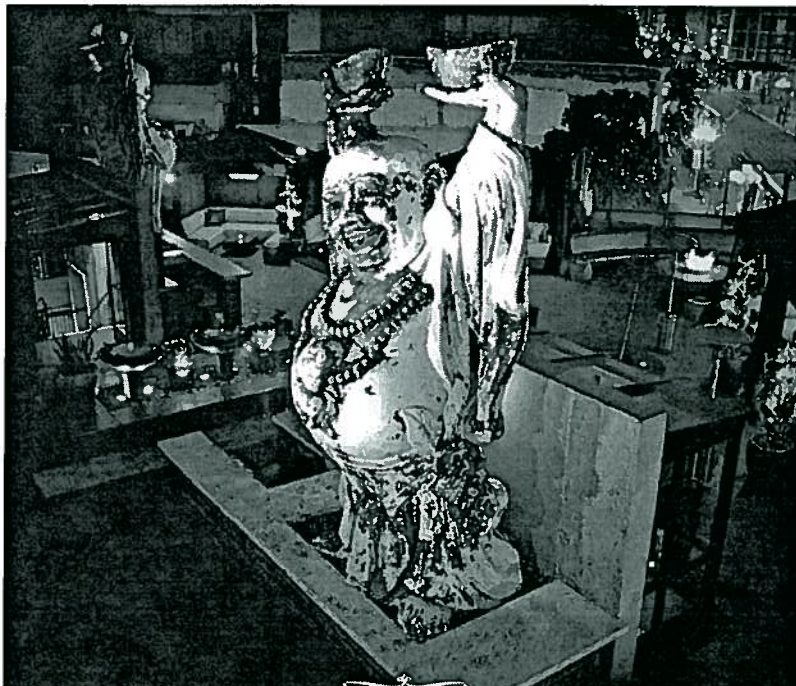
THE GOOD NEIGHBOR
HAPPY HOUR THURSDAY,
7/1/10 FROM 8-9PM

—

AFTERWARDS STAY FOR
RITUAL

THURSDAYS ON THE ALL NEW
ROOFTOP AT STINGAREE
HOSTED APPETIZERS + COCKTAILS
MEET + GREET WITH STAFF + MANAGEMENT

—



LET'S BE
NEIGHBORLY!

THE GOOD NEIGHBOR.
HAPPY HOUR THURSDAY.
7/1/10 FROM 8-9PM

AFTERWARDS STAY FOR
RITUAL

THURSDAYS ON THE ALL NEW
ROOFTOP AT STINGAREE
HOSTED APPETIZERS + COCKTAILS
MEET + GREET WITH STAFF + MANAGEMENT

S

STINGAREE VOTED BEST NIGHTCLUB FOUR YEARS IN A ROW.
454 SIXTH AVE. | SAN DIEGO CA. 92101 | 619.544.9500
FOR BOTTLE SERVICE & ROOFTOP CABANA'S CALL
619.544.1V1P | STINGSANDIEGO.COM

Event Date: Thursday, July 1, 2010

Event Time: 8pm-9pm

Number of Attendees: 10 people

Lucy Contreras

From: Jeremy Briggs [jeremy@civa.com]
Sent: Monday, September 27, 2010 5:27 PM
To: Lucy Contreras
Subject: CUP 2005-47A - Stingaree

Dear Lucy,

I am a resident and owner at the Alta building and am writing in regards to the Notice of Planning Commission Public Hearing I received for review of CUP 2005-47A - Stingaree. I am not sure if I will make it to the hearing as there is no fixed time so I wanted to write this letter to let you know that in the past year Stingaree has reached out to my neighbors and I multiple times to arrange and hold meetings. They want to make sure that the sound levels are reasonable and ask if there is anything we request they do to make things better. They gave cell phone numbers should music be too loud, but I have never needed to call. I do remember quite some time ago Thursday nights were a little loud (way less than the sirens and trains etc) but the music on the roof is much more quiet now and has not been an issue once - I only hear it if my door is wide open and fan is off.

Please let me know if you have any questions or if I can elaborate in any way. To summarize I am happy with Stinagree as a neighbor, happy with the sound levels, and happy to have somewhere near my house to enjoy dinner and drinks with friends and neighbors.

Best Regards,

Jeremy Briggs

Lucy Contreras

From: Mark Dibella [Mark.Dibella@hotelsolamar.com]
Sent: Monday, September 27, 2010 10:07 AM
To: Lucy Contreras
Subject: Stingaree

Hi Lucy Just wanted to let you know that James and his team have stepped up to be much better neighbors. Let me know if you need anything.

Mark Dibella, GM

Sent from my iPhone

Lucy Contreras

From: Stephanie Brown [s.brown.24@hotmail.com]
Sent: Sunday, September 26, 2010 9:45 PM
To: Lucy Contreras
Subject: Hello From Stephanie Brown, resident at Alta

Lucy:

I just wanted to write to say that as a resident at Alta I am well aware of the hearing that will take place with Stingaree in the beginning of October. I wanted to comment positively with the changes and effort the management team at Stingaree has done to make certain that the residents and surrounding neighborhood is in good standing with the club. I personally believe that the management has gone out of their way to accomodate the needs of the community and better understand our concerns. I view this as a means of partnership and I am very impressed with how Sting has responded and taken immediate action. It is nice to know that the management team is interested in hearing our thoughts and opinions as well as working hard to implement the necessary changes. I view this as a positive, continuous relationship that will continue now and in to the future.

If you have any further questions please feel free to call me at 480-570-9289.

I look forward to speaking with you soon.

Best,

Stephanie

Lucy Contreras

From: Michael Andrade [mla39@ymail.com]
Sent: Friday, September 24, 2010 3:56 PM
To: Lucy Contreras
Subject: Stingaree Review Oct. 7th

The rooftop entertainment has been far louder than described in the permit. We own a residence at The Mark which faces South and is on the 27th floor. When there is entertainment at the Stingaree it is sometimes so loud that it prohibits us from sleeping even though we have double pain windows. as you know sound carries up. it seems as though the permit conditions are not being followed or they need to be altered to allow residents in close proximity to be able to have the quiet enjoyment of their home.

This solution should not interfere with the enjoyment of the customers. In fact if the volume were lowered it would enhance their experience and allow them to hear one another when they have a conversation.

We respectfully request that those making the decision place themselves in the place of us and our neighbors. You would not want to live in a home where you cannot sleep due to noise that can be controlled but is not.

Thank you for your consideration.

Mike and Sherry Andrade

Lucy Contreras

From: Gary J.E. Smith [us020280@mindspring.com]
Sent: Tuesday, September 21, 2010 1:19 PM
To: Lucy Contreras
Subject: Re: Stingaree

Hi Lucy, according to my violations log I had one call from a resident of the Mark, 20th something floor, in mid june, a tuesday night about noise around midnight which he attributed to the Stingaree. But that is the only one all summer.

Gary

On Sep 21, 2010, at 11:00 AM, Lucy Contreras wrote:

> Gary,

>

> Did you have any comments to provide regarding Stingaree's review?? You should have gotten the notice of public hearing. Please let me know if you did not. I am in the process of preparing the staff report and have not received any public comment. Code Enforcement did not have anything and SDPD had a few calls for service but other than that I have not received any feedback.

>

> Lucy Contreras, Associate Planner

> Centre City Development Corp.

> 401 B Street, Suite 400

> San Diego, CA 92101

> Tel: (619) 533-7132

> Fax: (619) 236-9148

>

>

>

>

>

> Please Note: Correspondents should assume that all communication to or from this address is recorded and may be reviewed by third parties.

Lucy Contreras

Subject: FW: Stingaree CUP 2005-47A Review Hearing

From: John Gallup [mailto:john_gallup@johngallup.com]

Sent: Wednesday, September 15, 2010 9:11 PM

To: Lucy Contreras

Subject: RE: Stingaree CUP 2005-47A Review Hearing

Ms Contreras:

This evening (Wednesday 15 September) Stingaree has a live band, with drummer, guitars and a singer, on the roof. I believe this is in violation of the CUP, which only allows "ambient music" on the roof. I've reported this to the police.

I'm sorry to see this sort of lawless behavior return. There had been a period during which the noise levels generated by this public nuisance were nearly bearable at night. Apparently this period has ended, and the proprietors again believe they are above the law. I hope they can be made to see that this is not the case. Unless it is.

Regards,

John Gallup

575 6th Ave

619 227 7656

DATE ISSUED: October 1, 2009

REPORT NO. PC-09-080

ATTENTION: Planning Commission, Agenda of October 8, 2009

SUBJECT: STINGAREE – APPEAL OF CCDC HEARING OFFICER’S DECISION
TO DENY THE AMENDMENT TO CONDITIONAL USE PERMIT NO.
2005-47 – PROCESS THREE

**OWNER/
APPLICANT:** 6th & Island Investments, LLC

SUMMARY

Issue: Should the Planning Commission approve an appeal by 6th & Island Investments, LLC of the Centre City Development Corporation (CCDC) Hearing Officer’s denial of the amendment to Conditional Use Permit (CUP) 2005-47 for Stingaree, establishment located at 454 Sixth Avenue within the Gaslamp Quarter of the Downtown Community Plan area?

Staff Recommendation: That the Planning Commission deny the appeal by 6th & Island Investments, LLC, of the Hearing Officer’s decision to deny the Amendment to CUP 2005-47 for Stingaree, an existing restaurant/bar and event center, located at 454 Sixth Avenue in the Gaslamp Quarter Planned District.

Community Planning Group Recommendation: On September 9, 2009, the appeal of the Hearing Officer’s denial of the amendment request was presented to the Centre City Advisory Committee (“CCAC”) for an official recommendation (the CCAC had originally considered the application prior to the Hearing Officer action but could not take an action as they had lost a quorum prior to the item being heard). After considering public testimony, the CCAC voted 10-7, five recusals and one abstention, to recommend that the Planning Commission approve the appeal filed by 6th & Island Investments, LLC to amend CUP 2005-47, finding that the business was located within an entertainment district and that the uses were appropriate for the district.

Environmental Review: This proposal is Categorically Exempt from review under CEQA under Class1 Existing Facilities pursuant to Section 15301 of the State CEQA Guidelines.

Fiscal Impact Statement: None.

Code Enforcement Impact: On May 14, 2009, Neighborhood Code Compliance Department (NCCD) conducted an inspection at the Stingaree establishment. In a letter dated May 20, 2009, NCCD reported that the Stingaree was operating with a number of violations including a violation to their CUP by hosting rooftop events on Thursday nights, which is not permitted. The NCCD letter has been included as Attachment 6.

Housing Impact Statement: None.

BACKGROUND

The Gaslamp Quarter Planned District is a designated National Register historic district and is downtown's main entertainment destination. The district includes mixed-uses such as commercial, office, retail, restaurant, nightclub and residential uses. Restaurants in the vicinity include Mangu, Royal Thai Cuisine, Gaslamp Pizza, Red Pearl Kitchen, Fred's Mexican Café and Blue Point Coastal Cuisine, among others. Live entertainment venues include Nicky Rottens, Bondi, The Field, Gaslamp Strip Club and Sloppy Joey's. A vicinity map has been included as Attachment 2. Recent residential additions within the Gaslamp Quarter include the Trellis condominium project located along the north side of K Street between Fifth and Sixth Avenues and the Gaslamp Square condominium project located on the full block bounded by J Street and Fourth, Fifth and Island avenues. The Gaslamp Quarter is bordered on the east by the East Village district which has seen significant redevelopment over the past years, including the construction of numerous condominium and apartment projects. Such projects include the Alta condominium project located on the south side of Market Street between Sixth and Seventh avenues and The Mark condominium project located on the south side of Market Street between Eighth and Ninth avenues.

DISCUSSION

Project Description:

Stingaree is located at 454 Sixth Avenue on the southwest corner of Sixth and Island avenues in the Gaslamp Quarter. The restaurant/nightclub occupies 22,000 square feet within an existing tri-level building consisting of a ground-floor, mezzanine and rooftop. On October 18, 2005, CUP 2005-47 was approved for on-site consumption of alcoholic beverages in conjunction with live entertainment and dancing. CUP 2005-47 currently allows the establishment to have amplified music and live entertainment, including dancing, within the confines of the building from 11 a.m. to 2 a.m. seven days a week. Ambient recorded music is permitted on the roof-top until 1:30 a.m. seven days a week, and a disc jockey (DJ) is allowed until midnight on Friday and Saturday nights only. No dancing is allowed on the roof-top. Stingaree restaurant hours are Tuesday through Friday from 5

p.m. to 10 p.m. and Saturday from 6 p.m. to 11 p.m. The establishment has a maximum occupancy of 1,259. CUP 2005-47 has been included as Attachment 1 to this report, and photos of the site and floor plans are included as Attachment 3.

The applicant has an approved Department of Alcoholic Beverage Control (ABC) Type 47 liquor license (On Sale General – Eating Place) that authorizes the sale of beer, wine and distilled spirits for on-site consumption. The Type 47 ABC liquor license requires Stingaree to operate and maintain the licensed premises as a bona fide eating place, maintain suitable kitchen facilities, and make substantial sales of meals for consumption on the premises. Under the Alcoholic Beverage Control Act, liquor license conditions include quarterly gross sales of alcoholic beverages not to exceed gross sales of food during the same period; strictly prohibits sales of alcoholic beverages for off-site consumption; and sales, service, and consumption of alcoholic beverages are not permitted past midnight within the sidewalk café area. The current ABC liquor license already allows live entertainment on the premises. A copy of the Type 47 ABC liquor license is included as Attachment 4.

On May 14, 2009, Neighborhood Code Compliance Division (NCCD) conducted an inspection of the Stingaree premises and issued a citation on May 20, 2009 citing numerous building code violations and a violation of CUP 2005-47 with respect to Stingaree having DJ operations on the roof on Thursday nights, which is not permitted under the current CUP. The Stingaree is currently working on correcting the building code violations. In addition, James W. Brennan, on behalf of 6th & Island Investments, LLC, submitted an application to amend CUP 2005-47 to expand the roof-top activities to include additional nights and hours in which a DJ could operate and to allow dancing. The applicant originally requested an amendment to allow live entertainment and dancing on the roof-top until 1:30 a.m. Thursday through Sunday.

Project-Related Issues:

Pursuant to Section 157.0303 of the Gaslamp Quarter Planned District Ordinance (PDO), a restaurant is a use permitted by right, while establishments serving alcohol in conjunction with live entertainment must obtain a CUP through a Process Three application. Process Three CUPs are decided by a Hearing Officer at a noticed public hearing, and amendments to CUPs are processed in the same manner as the original CUP. The decision of the Hearing Officer may be appealed to the Planning Commission. The CUP procedures establish a review process for uses that may be desirable under appropriate circumstances but are not permitted by right. The intent of these procedures is to review these uses on a case by case basis to determine whether and under what conditions such a use may be approved at a given site.

As mentioned earlier, the Gaslamp Quarter is an entertainment district for the City's residents as well as tourists, especially given its proximity to the Convention Center and downtown's numerous hotels. As such, there are numerous nightclubs that operate in the area, including some that were established prior to the requirement for obtaining CUPs. The following is a listing of the nightclubs within approximately one block radius of Stingaree, all of which conduct their live entertainment and dancing activities entirely within an enclosed building.

<u>CUP # Name</u>	<u>Location</u>	<u>Live entertainment time restrictions</u>
91-0380 The Field	544 Fifth Avenue	None
2003-10 Sloppy Joey's	548-552 Fifth Avenue	5 p.m. – 1:30 a.m., seven days a week
2005-26 Gaslamp Strip Club	340 Fifth Avenue	8 p.m. – 1 a.m., seven days a week
2006-22 Bondi	333 Fifth Avenue	None
2008-36 Nicky Rottens	560 Fifth Avenue	5 p.m. – 1 a.m., seven days a week

As the CUP amendment was being processed, staff met with the applicant and indicated that it could not support the proposed expansion of the roof-top activities, including live entertainment and dancing, from Friday and Saturday nights (up to midnight) to Thursday through Sunday nights to 1:30 a.m. due to increased potential noise impacts from the open roof-top area. While most entertainment venues are allowed to operate in the district until 1:30 a.m. within enclosed building areas, an outdoor venue such as Stingaree's roof-top warrants more restrictive hours due to the potential for noise to carry and disrupt surrounding businesses and residents. The ABC requires that restaurant and nightclubs within the District cease the serving and consumption of alcoholic beverages within sidewalk cafes at midnight to reduce potential noise impacts. Given the Gaslamp Quarter's status as an entertainment district and the attractiveness of roof-top bars downtown given San Diego's mild climate, staff considered allowing some expansion of the operating hours for the roof-top and made a recommendation to the Hearing Officer that the business be allowed the following:

Thursday: DJ permitted without a microphone until 1 a.m.
Friday: DJ permitted until 1:30, with no microphone after midnight..
Saturday: DJ permitted until 1:30, with no microphone after midnight.
Sunday: DJ permitted until 1:30, with no microphone after midnight.
(Sundays only permitted when preceding a National or State holiday)

In proposing these conditions, staff was attempting to consider a variety of issues including the intent of the Gaslamp Quarter as an entertainment destination, the provisions of adequate measures to protect surrounding land uses, and potential concerns of increased noise impacts from neighbors of the business. The downtown environment, especially near the Gaslamp Quarter, exhibits higher levels of noise than most areas of the City. The ambient noise levels in the evening hours, due to

traffic, railway, airline, pedestrian and business activities, typically range near or above the typical accepted levels for residential development. Typical construction techniques in residential projects, such as dual pane windows and air conditioning, mitigate these levels to a level acceptable under the Uniform Building Code. People moving downtown expect a certain level of noise, but also have expectations that noise generated from a single source will be required to observe all applicable noise regulations. The City's Municipal Code Section 59.5.0501(a) states "It shall be unlawful for any person to make, continue, or cause to be made or continued, within the limits of said City, any disturbing, excessive, or offensive noise which causes discomfort or annoyance to any reasonable person of normal sensitiveness residing in the area". Section 59.5.0502(b)(2) further states "Any of the following shall constitute evidence of a prima facie violation of this section: (A) The operation of any such sound production or reproduction device, radio receiving set, musical instrument, drum, phonograph, television set, machine, loud speaker and sound amplifier or similar machine or device between the hours of 10:00 p.m. and 8:00 a.m. in such a manner as to be plainly audible at a distance of fifty feet from the building, structure, or vehicle in which it is located."

Roof-top venues have become increasingly popular, and there are several located downtown at the W Hotel, Hard Rock Hotel, Ivy Hotel, Gaslamp Marriott Hotel and Hotel Solamar. NCCD and CCDC staff are working with several of these businesses to ensure that they are operating under all applicable regulations and are complying with requirements for obtaining discretionary permits, if needed. In 2006, the Centre City PDO was amended to include a requirement for businesses to obtain a Process Two Neighborhood Use Permit for "outdoor use areas," and a similar amendment is being proposed for the Gaslamp Quarter PDO. This requirement is similar to the requirement for sidewalk cafes (where surrounding property owners and tenants are notified and conditions can be applied) in an attempt to regulate outdoor areas to ensure land use compatibility with surrounding properties.

However, businesses that offer live entertainment, either indoors or outdoors, have been required to obtain a CUP since 1992. Live entertainment includes DJs, bands, performers and/or dancing. All of these uses typically generate more noise than pre-recorded music played at an ambient level, as the intent is often to create a livelier atmosphere. While there is no guarantee that pre-recorded music could not become a nuisance if played at certain levels, there is often a noise level difference between a roof-top bar with background ambient music and a venue that hires and advertises a DJ or other live entertainment. The conditions originally recommended by staff, and agreed to by the applicant, restricted the use of a microphone by the DJ during certain time periods, as the use of a microphone creates potential for greater noise impacts, with the DJ attempting to be heard above the music and potentially eliciting responses from the patrons.

As part of the CUP review process, staff sought input from the San Diego Police Department (SDPD). Due to the fact that the establishment already had an ABC liquor license that allowed live entertainment and an SDPD Entertainment Permit, SDPD recommended approval of the CUP and recommended maintaining the conditions of approval for the liquor license and the Entertainment Permit. The SDPD's CUP recommendation is included as Attachment 5. Throughout the application process, public correspondence has been received in opposition to the amendment from various neighbors, primarily Alta and The Mark Condominium residents, due to noise complaints. Public correspondence has been included as Attachment 8.

HEARING OFFICER DECISION:

On August 13, 2009, the Hearing Officer held a duly noticed public hearing and heard testimony from the applicant's representative, nearby residents including the Alta and Mark condominium projects, and a representative from Hotel Solamar located across Sixth Avenue. The residents cited existing noise impacts from the Stingaree roof-top and the fact that the business had been cited for violations of the existing CUP. The Hotel Solamar representative stated that due to noise impacts from the Stingaree roof-top, many guests of the hotel who occupied rooms facing Sixth Avenue had complained and were given reduced room rates, thereby impacting the success of the hotel. It should be noted that Hotel Solamar has operated a roof-top bar adjacent to its swimming pool (J6 Lounge, formerly the J-Bar), and temporarily offered but then terminated the use of a DJ due to noise impacts to the neighborhood and its guests.

The Hearing Officer determined that he was unable to make one of the findings required for approval, specifically Finding #2 below based on the testimony provided the proposed expansion of the roof-top live entertainment could be detrimental to the public health, safety, and welfare. The Hearing Officer believed that the business had violated the existing conditions of the CUP in the past by operating on Thursday nights, and that further investigation was needed to determine if the City's Noise Ordinance was being violated. Therefore, the Hearing Officer denied the proposed amendment to the CUP. Furthermore, the Hearing Officer requested that CCDC staff monitor the business for three months and, if it was found to be creating a nuisance to the surrounding neighborhood, that a public hearing be scheduled to consider additional conditions to be placed on, or revocation of, the CUP.

On August 27, 2009, an appeal application was filed by 6th & Island Investments, LLC. The appeal application is included as Attachment 7. The appellant filed an appeal based on the following grounds:

1. Factual Error: That assertions made by neighboring residents about Stingaree violating the terms and conditions of their existing CUP are untrue.

2. Conflict: The Hearing Officer's denial of the Amendment to the existing CUP conflicts with the purpose and goals of the San Diego Municipal Code and Gaslamp Quarter PDO.
3. Findings Not Supported: That the findings cannot be made to support denying the amendment.
4. New Information: The establishment has been cooperative with the various agencies and demonstrated their willingness to address neighboring concerns by installing improvements to provide noise buffering.

It should be noted that the appellant filed additional information (included in Attachment 7) just prior to this report being finalized which staff did not have an opportunity to review. Staff will comment on the additional material at the hearing.

Conditional Use Permit Findings

In order to approve a CUP, pursuant to Section 126.0305 of the San Diego Municipal Code, the following four findings must be made:

1. *The proposed use or development will not adversely affect the applicable land use plan;*

Stingaree will not adversely affect the applicable land use plan in that a restaurant and nightclub use is consistent with the Gaslamp Quarter PDO, subject to obtaining approval of a CUP. The Gaslamp Quarter is intended to provide a variety of entertainment facilities for residents and tourists within the downtown area. Its status as a historic district adds to the charm and attraction that the district has become. Roof-top venues provide an additional attraction that takes advantage of San Diego's temperate climate, and can be an asset to the City when operated properly, especially with respect to noise levels..

2. *The proposed use or development will not be detrimental to the public health, safety, and welfare;*

The additional live entertainment proposed at Stingaree could be detrimental to the public health, safety and welfare of the community as the proposed expanded days and hours create the potential for noise impacts, as residents and a nearby business have testified to noise impacts from the existing hours of operation. Under the City's Noise Ordinance, any business is not allowed to create noise that is audible from 50 feet away. Testimony has been given that the business has violated this ordinance with respect to Hotel Solamar (100 feet away), the Alta condominium project (250 feet away), and The Mark condominium project (650 feet away). Enforcement of the City's Noise Ordinance in late evening hours, when the Stingaree operates, is conducted by the Police Department and is difficult due to the many demands on the Police Department during those hours. In addition,

noise impacts from a roof-top venue upon residents in surrounding residential towers is difficult to determine by a police officer on the adjacent sidewalk to the business with a noise meter, as sound travels up from such a location. The opponents have submitted a record of complaints filed with the Police Department and NCCD. Unfortunately, due to these enforcement constraints it is ultimately the responsibility of any business to operate in accordance with the City regulations and conduct its operations so it does not impact surrounding properties. Due to the testimony at the Hearing Officer public hearing and the record of noise complaints, staff cannot support additional hours of live entertainment until it can be assured that potential noise impacts can be fully mitigated. It should be noted that the business can continue to operate its roof-top lounge with ambient music seven days a week until 1:30 a.m. In addition, it may utilize a DJ on Fridays and Saturdays until midnight consistent with restrictions on sidewalk cafes in the district.

3. *The proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code and Gaslamp Quarter PDO;*

Stingaree is applying for an amendment to their existing CUP for live entertainment as required by the Gaslamp Quarter PDO and is being processed in accordance with Land Development Code procedures. The approval of a CUP with appropriate conditions would bring the business into compliance with those regulations.

4. *The proposed use is appropriate at the proposed location.*

The establishment is located within the Gaslamp Quarter where restaurants and live entertainment venues are encouraged. A live entertainment venue is appropriate at the existing location; however, the proposed additional days and hours of live entertainment on the roof-top is not appropriate given the proximity of residential buildings and evidence of noise complaints. The roof-top is appropriately restricted to functioning as a roof-top lounge with ambient music except for Friday and Saturday nights up to midnight (consistent with restrictions on sidewalk cafes), and entertainment should be restricted to the indoor areas as permitted by the current CUP.

CONCLUSION

Staff is recommending that the Planning Commission deny the appeal by 6th & Island Investments, LLC, of the Hearing Officer's decision to deny the Amendment to CUP 2005-47 for Stingaree, an existing restaurant/bar and event center, located at 454 Sixth Avenue in the Gaslamp Quarter Planned District.

ALTERNATIVES

Grant the appeal by 6th and Island Investments, LLC and approve an Amendment to CUP 2005-47 subject to specific hours and conditions (similar to the original staff recommendation or as determined appropriate by the Commission after considering public testimony).

Respectfully submitted,



Lorena Cordova
Junior Planner
Centre City Development Corporation



Brad Richter
Assistant Vice-President, Current Planning
Centre City Development Corporation

ATTACHMENTS:

1. CUP 2005-47
2. Vicinity Map
3. Stingaree Photos and Plans
4. ABC Liquor License
5. SDPD CUP Recommendation
6. NCCD Letter dated May 20, 2009
7. Appeal Application
8. Public Correspondence
9. Ownership Disclosure Statement

DOC # 2005-0937105



OCT 28, 2005 10:14 AM

OFFICIAL RECORDS
SAN DIEGO COUNTY RECORDER'S OFFICE
GREGORY J. SMITH, COUNTY RECORDER
FEES: 32.00
PAGES: 9



2005-0937105

RECORDING REQUESTED BY:

Centre City Development Corporation
225 Broadway, Suite 1100
San Diego, CA 92101

AND WHEN RECORDED MAIL TO:

Centre City Development Corporation
225 Broadway, Suite 1100
San Diego, CA 92101

THIS SPACE FOR RECORDER'S USE ONLY

NOTE: COUNTY RECORDER, PLEASE RECORD AS
RESTRICTION ON USE OR DEVELOPMENT
OF REAL PROPERTY AFFECTING THE TITLE
TO OR POSSESSION THEREOF

8497

GASLAMP QUARTER CONDITIONAL USE PERMIT NO. 2005-47

STINGAREE
454 SIXTH AVENUE

**DECISION OF THE PRESIDENT OF
CENTRE CITY DEVELOPMENT CORPORATION**

**CONDITIONAL USE PERMIT NO. 2005-47
GASLAMP QUARTER ALCOHOL SALES PERMIT**

WHEREAS, on August 2, 2005, Sixth and Island Investments, LLC., DBA Stingaree owner/applicant, filed an application for a Conditional Use Permit (CUP) to operate a 22,000 square foot tri-level restaurant/bar and event center with on-site consumption of alcoholic beverages and live entertainment located at 454 Sixth Avenue; more particularly described as Lots K and L in Block 113 of Horton's Addition in the City of San Diego, County of San Diego, State of California, according to the map thereof on file in the Office of the County Recorder of San Diego County, is located within the Gaslamp Quarter Planned District of the Centre City Community Plan Area; and,

WHEREAS, on October 18, 2005, the Designated Hearing Officer of the President of Centre City Development Corporation (CCDC) held a duly noticed public hearing and considered Conditional Use Permit No. 2005-47, including a staff report and recommendation and public testimony, pursuant to Sections 126.0304, 126.0305, 103.1904, 103.1925 and 103.1919 of the Municipal Code of the City of San Diego; and,

NOW, THEREFORE, BE IT RESOLVED by the CCDC Hearing Officer as follows:

- a. *That the proposed use or development will not adversely affect the applicable land use plan;*
- b. *That the proposed use or development will not be detrimental to the public health, safety, and welfare;*
- c. *That the proposed use or development will comply to the maximum extent feasible with the regulations of the Land Development Code; and*
- d. *The proposed use is appropriate at the proposed location.*

BE IT FURTHER RESOLVED that, based on the Findings hereinbefore adopted by the Hearing Officer Conditional Use Permit No. 2005-47 is hereby GRANTED to Sixth and Island Investments, LLC.; DBA Stingaree subject the approved plans shown in Attachment A and the following conditions:

1. The sale of alcoholic beverages shall be an accessory or secondary use to the primary use of the property in conformance with permitted uses as outlined in the Gaslamp Quarter Planned District Ordinance.

2. The business shall maintain a valid State Department of Alcohol and Beverage Control (ABC) Type 47 -"On-Sale Bona Fide Public Eating Place" alcoholic beverage license and be a bona-fide eating establishment, maintain an operational kitchen facility and make reasonable efforts to sell food products to the general public. The business shall be in compliance with all conditions of said license at all times. Food service shall be available during normal business hours.
3. Amplified music and live entertainment, including dancing, shall be permitted only within the confines of the building (ground level & mezzanine only.) and shall commence no earlier than 11:00 a.m. and end no later than 2:00 a.m. seven days a week. Ambient recorded music shall be permitted throughout the roof top level ending no later than 1:30 a.m. A dj shall be permitted on the rooftop only on Friday and Saturday and shall commence no earlier than 11:00 a.m. and end no later than 12:00 a.m. All doors and windows shall remain closed whenever amplified live entertainment or music is played in the establishment. No musical equipment or sound reproduction devices shall be operated or used within the sidewalk café. Dancing shall not be permitted on the roof top level of the establishment.
4. All live entertainment must be pursuant to applicable San Diego Municipal Code permits and regulations and, if applicable, San Diego Police Department Regulatory Permits shall be obtained.
5. The Permittee shall be responsible for implementing the noise treatment measures recommended by the acoustical study submitted for this project dated June 25, 2005, including the installation of sound insulation materials within the interior of the building and exterior mitigations discussed within the study as necessary to comply with City of San Diego Noise Abatement requirements. The Permittee shall be in compliance with the City of San Diego Noise Ordinance at all times.
6. Sound and amplification equipment shall be monitored during and after business hours to ensure that audible noise remain at acceptable levels so as not to disturb surrounding neighbors. In the event that any noise and/or vibration complaints are received, CCDC shall evaluate the complaints and if it is determined that the business is potentially creating a nuisance for the neighborhood, a duly noticed public hearing shall be scheduled. After receiving public testimony, the Hearing Officer may revoke or modify the Permit.
7. During the hours of live entertainment and/or dancing the Permittee shall employ one security officer for every fifty (50) patrons in the premise. The security officers shall wear clothing that identifies them as security officers and shall be on duty from the time live entertainment and/or dancing begins until one-half hour after the live entertainment and/or dancing ceases. Their primary duty shall be to patrol the interior and the exterior of the premises in order to alleviate police

- problems, excessive noise, abusive behavior, disturbances, and any other violations of law that occur on or about the licensed premises.
8. Rope and stanchions shall be provided during the evening hours of operation and when events shall warrant. Any queuing of patrons outside of the establishment shall be maintained in an orderly manner and shall be so situated as to allow a clear pedestrian path of at least eight (8) feet along Island Avenue. Any queuing may not obstruct access to any other business.
 9. Patrons awaiting entrance as well as those leaving the establishment shall be monitored as to not create a nuisance by obstructing the sidewalk in the area of the business or adjacent business or by being publicly inebriated, noisy, or rowdy.
 10. No patron shall be permitted to remove a partially consumed bottle or drink of any type of alcoholic beverage from the premises, except for bottles of wine for patrons of the restaurant.
 11. All servers, security and other Stingaree employees shall be trained and certified in responsible alcoholic beverage service policies and practices. This is to include: strong I.D checking procedures, not serving intoxicated patrons and responsible beverage pricing. The Permittee shall submit proof of compliance prior to commencement of operation of the establishment.
 12. The service of promoters or other persons for the purpose of profit sharing shall not be permitted. The monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders, shall be the sole profit of the licensee.
 13. An administrative review shall occur within six (6) months of the date of commencement of operation to ensure conformance with the conditions stated herein. This review shall be noticed to all interested parties identified in this application. At that time staff will determine if a formal duly noticed public hearing is required, at which time modifications to, or revocation of the CUP may be considered.
 14. Any change to the approved business shall be reviewed and approved the by CCDC. Any change in operator of the establishment shall require notification to CCDC.
 15. This Permit may be revoked by CCDC if there is a material breach or default in any of the conditions of this permit. If the business creates a nuisance to the surrounding neighborhood, based on a determination of the President of CCDC, this permit may be revoked after the holding of a public hearing.

16. The owner or operator shall maintain the CUP and other business licenses in the establishment and shall make these documents available to anyone lawfully engaged in the inspections of the premises.
17. The owner or operator shall adhere to all Federal, State and local laws, ordinance and regulations at all times.
18. This Permit shall not become effective until:
 - a. The Permittee signs and returns the Permit to CCDC; and
 - b. The Permit is recorded in the Office of the County Recorder.
19. This Permit must be used within 36 months after the date of approval or the Permit shall be void.
20. After establishment of the business, the Property shall not be used for other uses unless:
 - a. Authorized by CCDC; or
 - b. The uses are consistent with all zoning and development regulations of the Centre City Planned District Ordinance; or
 - c. This permit has been revoked by CCDC.
21. This Permit is a Covenant running with the lands and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this permit and all referenced documents.

Passed and adopted by the President of CCDC on October 18, 2005

ATTEST:

CENTRE CITY DEVELOPMENT
CORPORATION


Lucy Contreras
Assistant Planner

PERMITTEE(S) SIGNATURE


James W. Brennan, Managing Member
Sixth and Island Investment, LLC.

State of California

County of San Diego

On October 19, 2005 before me, Evelia Castellanos, Notary Public
Date Name, Title of Officer

personally appeared James W. Brennan
Name(s) of Signer(s)

_____ personally known to me - OR -

☒ proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he she they executed the same in his her their authorized capacity(ies); and that by his her their signature(s) on the instrument the person(s); or the entity upon behalf of which the person(s) acted, executed the instrument.

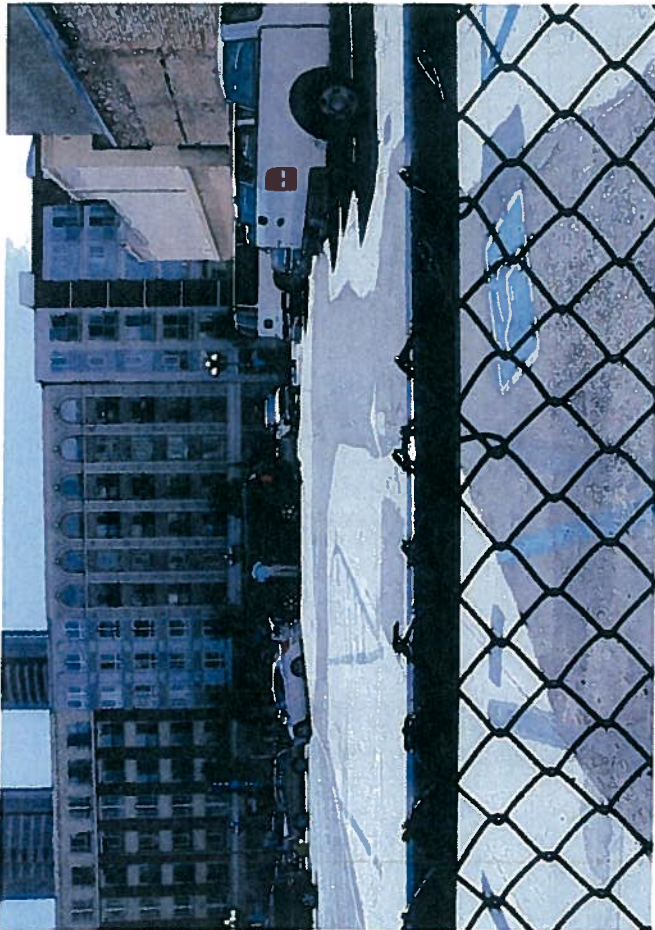
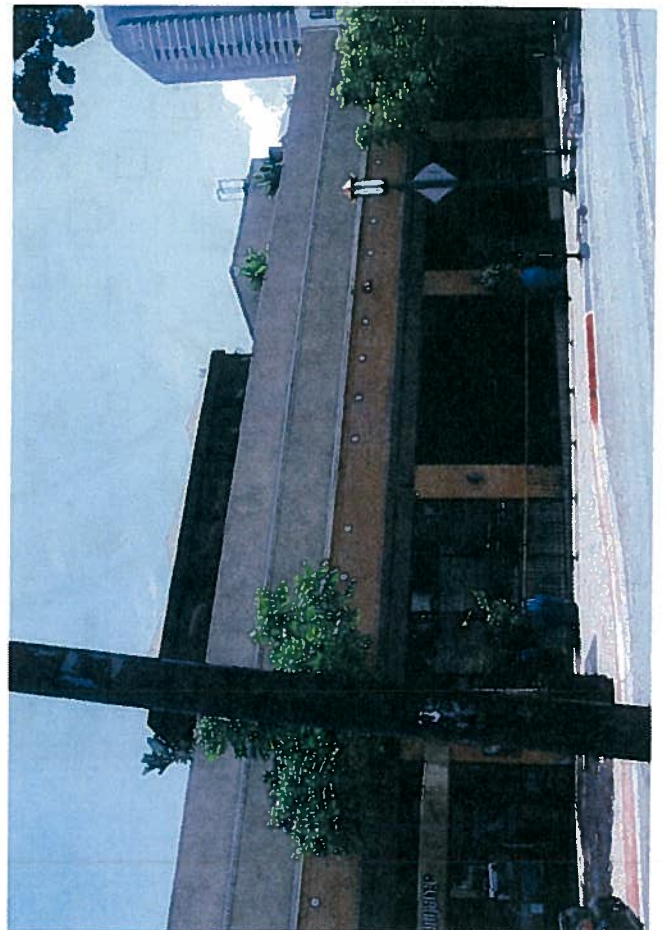
WITNESS my hand and official seal.



Evelia Castellanos
Signature of Notary

Stingaree Vicinity Map







davis-ink

1440 BROADWAY
SUITE 100
SAN FRANCISCO, CA 94103
415.774.1100
WWW.DAVIS-INK.COM



TOTAL
CONCEPT
DESIGNS

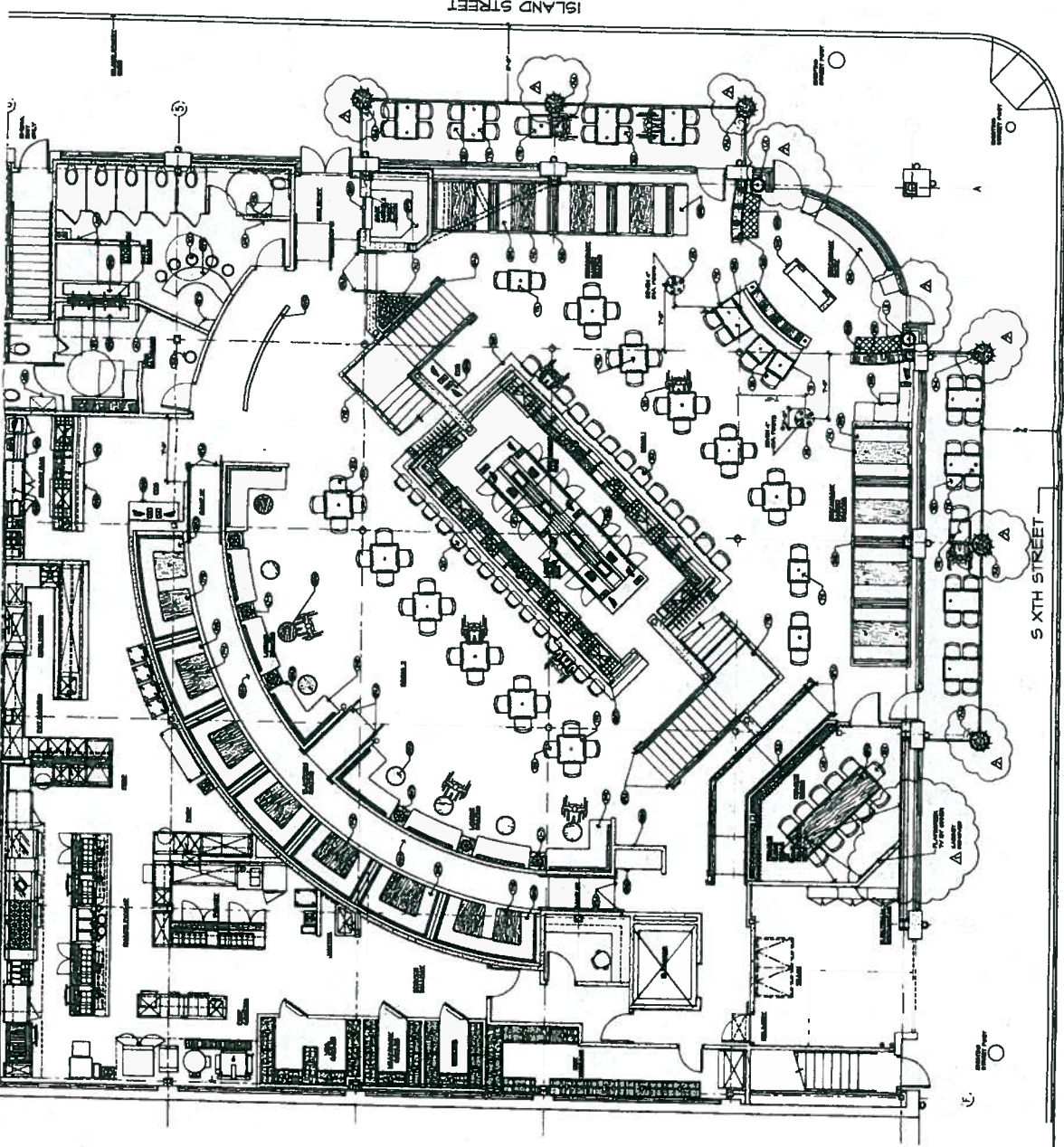
STINGAREE
454 SIXTH AVE
SAN DIEGO, CA

PROJECT NO. 05-001
DATE: 05/01/05
DRAWN BY: J. HARRIS
CHECKED BY: J. HARRIS
APPROVED BY: J. HARRIS
PROJECT NO. 05-001
DATE: 05/01/05
DRAWN BY: J. HARRIS
CHECKED BY: J. HARRIS
APPROVED BY: J. HARRIS

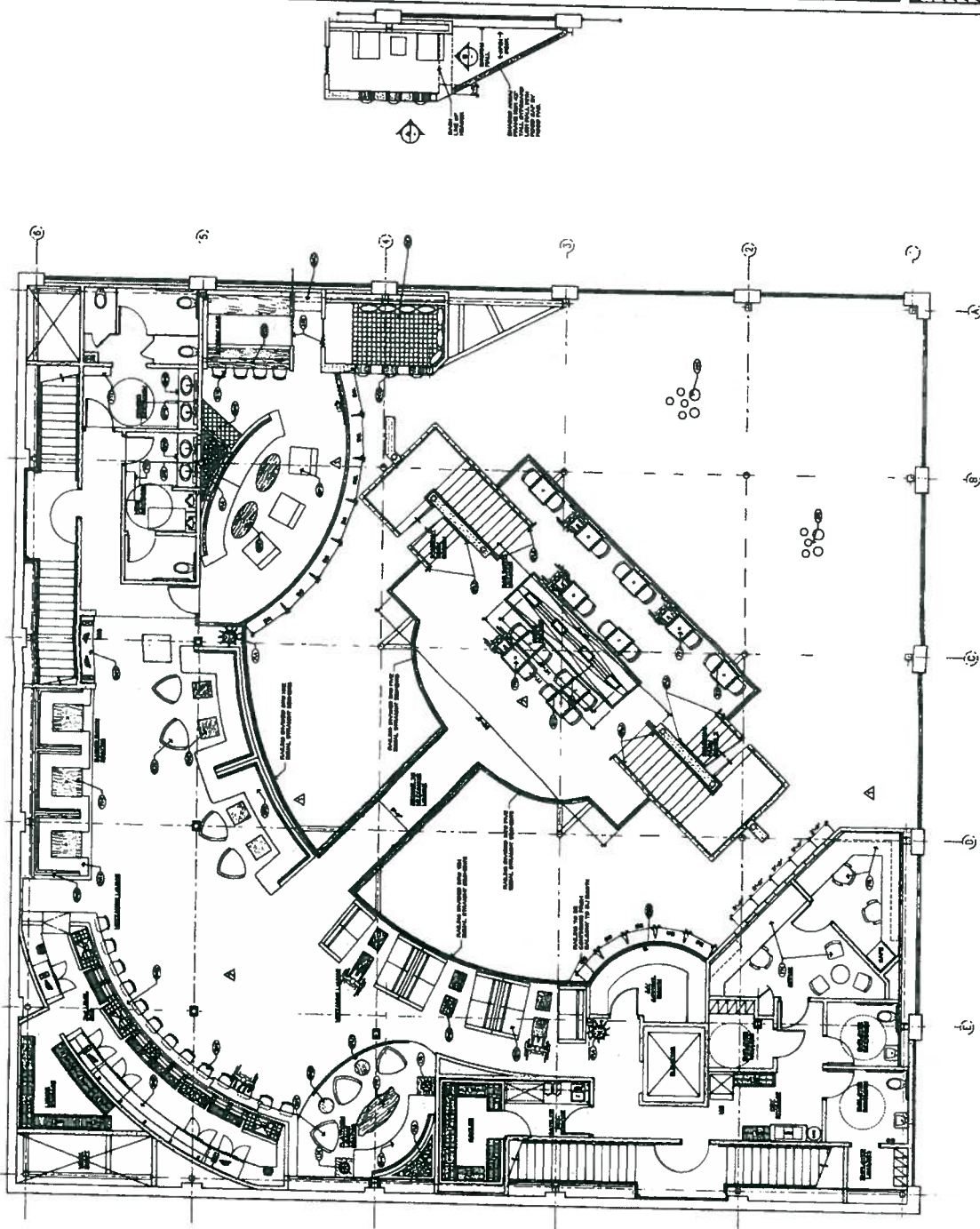
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DATE: 05/01/05
DRAWN BY: J. HARRIS
CHECKED BY: J. HARRIS
APPROVED BY: J. HARRIS

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REVISION INDEX
NO. DATE DESCRIPTION
1 05/01/05 INITIAL DESIGN
2 05/01/05 REVISED DESIGN
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4 05/01/05 REVISED DESIGN
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FIXTURE EQUIPMENT FLOOR PLAN - MAIN LEVEL





2000 AVENUE 10
SAN DIEGO, CA 92108
TEL: 619 594-8888
FAX: 619 594-8889

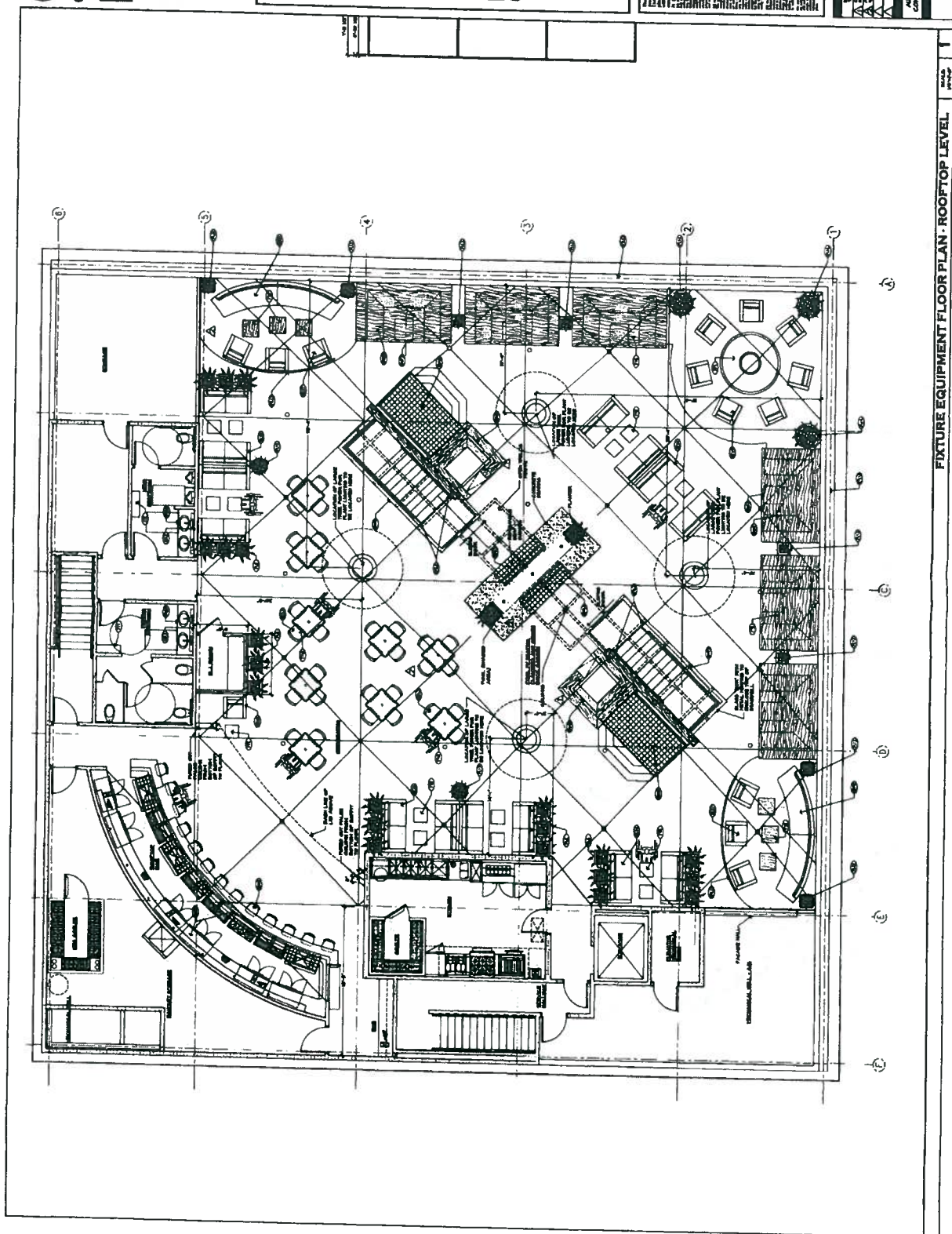


TOTAL
CONCEPT
DESIGNS

STINGAREE
454 SIXTH AVE
SAN DIEGO, CA

NOTES:
1. SEE ARCHITECT'S DRAWINGS FOR ALL DIMENSIONS AND FINISHES.
2. SEE MECHANICAL DRAWINGS FOR ALL MECHANICAL EQUIPMENT AND VENTILATION.
3. SEE ELECTRICAL DRAWINGS FOR ALL ELECTRICAL EQUIPMENT AND WIRING.
4. SEE PLUMBING DRAWINGS FOR ALL PLUMBING EQUIPMENT AND PIPING.
5. SEE STRUCTURAL DRAWINGS FOR ALL STRUCTURAL ELEMENTS AND LOADS.
6. SEE LANDSCAPE ARCHITECT'S DRAWINGS FOR ALL LANDSCAPE ELEMENTS AND PLANTING.
7. SEE CIVIL ENGINEER'S DRAWINGS FOR ALL CIVIL ENGINEERING ELEMENTS AND UTILITIES.
8. SEE ALL OTHER RELEVANT DRAWINGS FOR COMPLETE INFORMATION.

PROJECT: STINGAREE
DATE: 12/15/2000
DRAWN BY: J. DAVIS
CHECKED BY: J. DAVIS
APPROVED BY: J. DAVIS
ID-1.3



FIXTURE EQUIPMENT FLOOR PLAN - ROOFTOP LEVEL

STATE OF CALIFORNIA
DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL
ALCOHOLIC BEVERAGE LICENSE
ON-SALE GENERAL EATING PLACE

VALID FROM

NOV 01, 2008

6TH & ISLAND INVESTMENTS LLC
DBA: STINGAREE
454 6TH AVE
SAN DIEGO, CA 92101

EXPIRES

OCT 31, 2009

TYPE NUMBER DUP47-422455 -3710-10

AREA CODE

RENEWAL

BUSINESS ADDRESS
(IF DIFFERENT)

OWNERS:

6TH & ISLAND INVESTMENTS LLC

CONDITIONS

7

**IMPORTANT INFORMATION**

EFFECTIVE PERIOD This license is effective only for the operating period shown above. A new license will be sent to you within 30 days of the expiration date on your license if payment is timely.

POSTING Cover this license with glass or other transparent material and post it on premises in a conspicuous place

RENEWAL NOTICES Renewal notices are sent to premises address unless a specific mailing address is requested. If a notice is not received 30 days before expiration date shown above, contact the nearest ABC office. To assure receipt of notices, advise your local ABC office of any change in address.

RENEWAL DATES It is the licensee's responsibility to pay the required renewal fee by the expiration date shown above. A penalty is charged for late renewal and the license can be automatically revoked for failure to pay.

SEASONAL LICENSES It is the licensee's responsibility to pay the required renewal fee prior to the next operating period.

CONDITIONS A copy of all applicable conditions must be kept on premises

LICENSEE NAME Only 10 names will be printed on each license. If there are more names associated with the license, they will be indicated by "ET AL". All names are on file and available upon request from your local ABC office.

DBA If you change your business name please notify your local ABC office

If you have any questions regarding this license, contact your local ABC office.

NOTE: CONTACT YOUR LOCAL ABC OFFICE IF YOUR LICENSED PREMISES WILL BE TEMPORARILY CLOSED FOR MORE THAN 15 DAYS OR WILL BE PERMANENTLY CLOSED.

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

In the Matter of the Application of:

6TH & ISLAND INVESTMENTS, LLC
Dba: Stingaree
454 Sixth Ave.
San Diego, CA 92101

File: 47-422455

Reg:

PETITION FOR
CONDITIONAL
LICENSE

For issuance of an On Sale General Eating Place License

Under the Alcoholic Beverage Control Act

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

WHEREAS, pursuant to Section 23958 of the Business and Professions Code, the Department may deny an application for a license where issuance would result in or add to an undue concentration of licenses; and,

WHEREAS, the proposed premises are located in Census Tract 0054, where presently exists an undue concentration of licenses as defined by Section 23958.4 of the Business and Professions Code; and,

WHEREAS, the proposed premises are located in a crime reporting district that has a 20% greater number of reported crimes, as defined in subdivision (c) of Section 23958.4, than the average number of reported crimes as determined from all crime reporting districts with the jurisdiction of the local law enforcement agency; and,

WHEREAS, the petitioner(s) stipulate(s) that by reason of the aforementioned high crime and over concentration of licenses, grounds exist for denial of the applied-for license(s); and,

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

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

WHEREAS, the San Diego Police Department has protested the issuance of the applied-for license; and,

WHEREAS, the protest(s) deals with the proposed operation of the applied-for premises; and,

MAR 21 2005

Dep. Alcoholic Beverage Control
San Diego

WHEREAS, 10% or more interest in the applicant is held by another entity(s) or person(s); and,

WHEREAS, the petitioner/applicant is not exempt under Section 23405, 23405.1 and 23405.2 of the Business and Professions Code; and,

WHEREAS, a change in the other entity(s) or person(s) without notification to the Department of Alcoholic Beverage Control could cause the true party of interest in the petitioner to become unknown; and,

WHEREAS, the issuance of an unrestricted license would be contrary to public welfare and morals as defined in Section 22 of Article XX of the California Constitution;

NOW, THEREFORE, the undersigned petitioner(s) do/does hereby petition for a conditional license as follows, to-wit: The applicant/petitioner shall report to the Department in writing within 30 days of any of the applicable changes below:

1. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect separately the gross sale of food and the gross sales of alcoholic beverages of the licensed business. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the Department on demand.
2. On days when there is live entertainment and/or dancing in the licensed premises, the licensee shall employ one State Department of Consumer Affairs licensed security officer for every 50 patrons in the licensed premises as depicted on the ABC-257 Diagram of Licensed Premises dated 1-18-05. The security officers shall wear clothing that identifies them as security officers and shall be on duty from the time that the live entertainment and/or dancing begins until one-half hour after the live entertainment and/or dancing ceases. Their primary duty shall be to patrol the interior and the exterior of the licensed premises in order to alleviate police problems, excessive noise, abusive behavior, disturbances, and other violations of law to occur on or about the licensed premises.
3. The sale of alcoholic beverages for consumption off the premises is prohibited.
4. Petitioner shall not share any profits, or pay any percentage or commission to a promoter or any other person, based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
5. Sales, service and consumption of alcoholic beverages shall be permitted in the patio area only between the hours of 8:00 AM and 12:00 Midnight.
6. Any changes in directors, officers, and/or the issuance or transfer of shares of stock in a corporation which results in a person or entity not previously approved owning 10% or more of the stock in a corporation having direct or indirect ownership in applicant/petitioner.

7. Any changes in limited partners of a limited partnership which results in a person or entity not previously approved owning 10% or more interest or any change in general partner in a limited partnership having direct or indirect ownership in the applicant/petitioner.
8. Any change in the manager(s) and/or member(s) of a LLC which results in a person or entity not previously approved owning 10% or more of its membership interest in a LLC having direct or indirect ownership in the applicant/petitioner.

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

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

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

DATED THIS 22 DAY OF March, 2005.

6TH & ISLAND INVESTMENTS, LLC

By: Vernier Farrell
Applicant/Petitioner

Managing Member
Title

SAN DIEGO POLICE DEPARTMENT CONDITIONAL USE PERMIT RECOMMENDATION

PREMISE ADDRESS: 454 6th Avenue

TYPE OF BUSINESS: Type 47 On-Sale General Eating Place
Stingaree

FEDERAL CENSUS TRACT: 0054.00

NUMBER OF ALCOHOL LICENSES ALLOWED: 4

NUMBER OF ALCOHOL LICENSES EXISTING: 96 exist, 12 pending (Over Concentrated)

CRIME RATE IN THIS CENSUS TRACT: 350.3 % (High Crime)
(Note: Considered High Crime If Exceeds 120% of City-wide Average)

THREE OR MORE REPORTED CRIMES AT THIS PREMISE WITHIN PAST YEAR ☒ YES ☐ NO

IS THE PREMISE WITHIN 600 FEET OF INCOMPATIBLE FACILITY ☐ YES ☒ NO

IS THE PREMISE WITHIN 100 FEET OF RESIDENTIALLY ZONED PROPERTY ☒ YES ☐ NO

ABC LICENSE REVOKED AT THIS PREMISE WITHIN PAST YEAR ☐ YES ☒ NO

HAS APPLICANT BEEN CONVICTED OF ANY FELONY ☐ YES ☒ NO

WILL THIS BUSINESS BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY,
AND WELFARE OF THE COMMUNITY AND CITY ☐ YES ☒ NO

COMMENTS/OTHER FACTORS CONSIDERED: The licensee requests to add Thursday nights to existing roof top operations.

SUGGESTED CONDITIONS: Maintain existing ABC conditions and Entertainment Permit conditions related to the sound from any live entertainment assuring it not be audible outside the premises.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE *[Signature]*

DENY _____

Sergeant Dan R. Plein
Name of SDPD Vice Sergeant (Print)

(619) 531-2349
Telephone Number

[Signature]
Signature of SDPD Vice Sergeant

6/23/09
Date of Review



THE CITY OF SAN DIEGO

May 20, 2009

Mellos Family Trust
Karen Mellos, Trustee
2830 Willow Glen Drive
El Cajon CA 92019

Centre City
Development Corp.

6th and Island Investments, LLC
James W. Brennan, Agent for Service
404 14th Street
San Diego CA 92101

MAY 26 2009

Orig. To:
Copy To:

LOPEZ

Re: Stingaree, 454 6th Avenue, San Diego, CA 92101

This letter serves as an official notice that your establishment, known as Stingaree located at 454 6th Avenue, San Diego, CA, 92101, is in violation of San Diego Municipal Code (SDMC). An inspection of the property was conducted on May 14, 2009. It was observed that a rooftop event was being hosted which included the following violations: There has been the construction of; two hard top seating areas, one set of stairs that allow access to the roof top (one next to the kitchen area and one next to the restrooms), a DJ booth also next to the restrooms, two portable raised platforms, three large screens attached to the structure, and two fire pits all of which are not on the city stamped approved plans. All of these items were constructed without city approval, permits or required inspections. We also observed amplified music, dancing, live entertainment, excessive noise with the event ending in the early morning hours. These actions are in violation of your approved CUP/Alcohol Sales Permit.

To comply with the law you shall immediately; cease the use of the hard top seating areas, DJ booth and raised platforms for live entertainment, remove the stairs, and stop use of the unpermitted gas fired appliances (fire pits). All of these are life fire safety issues which create an unsafe and dangerous condition and can only be corrected by getting them properly permitted or by their removal. The Thursday night events must also cease until such time as all permits and approvals are obtained.

You are in violation of San Diego Municipal Code (SDMC), Sections 121.0302(a)(b), 129.0111, 129.0202, 129.0302, 129.0314, 129.0402, 129.0415, and 57.0204(A), violation of Conditional Use Permit (CUP)/Gaslamp Quarter Alcohol Sales Permit No. 2005-47, by the hosting of rooftop events at the Stingaree restaurant on Thursday nights which is prohibited.

Development Services Department
Neighborhood Code Compliance Division

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

Tel (619) 236-5500 Fax (619) 236-5920



Stingaree, 454 6th Avenue
May 20, 2009
Page 2

Immediately submit an application and required plans to the Centre City Development Corporation, 400 B Street, Suite 400, San Diego, CA 92101 to request an amendment to CCDC/CUP 2005-47. Upon approval, proceed to Development Services Department, 1200 Third Ave. 3rd Fl, San Diego, CA 92101, to obtain all required building permits and final approvals.

This letter is not inclusive of all land use violations observed. A comprehensive enforcement notice will be forthcoming to address all zoning and building code violations.

Should you have any questions regarding this letter, you may contact **Samuel J. Lindsey, Structural Building Inspector II** at (619) 236-6731 or **George Andrade** at (619) 533-6139.

A handwritten signature in black ink, appearing to read 'S. Lindsey', with a long horizontal line extending to the right.

Samuel J. Lindsey
Structural Building Inspector II

cc: Lorena Cordova, Junior Planner, CCDC, MS 51D
Jennifer Hill, Supervising Investigator, Dept. of Alcohol Beverage Control
Sgt. Dan Plein, Sgt., SDPD, MS 742
File

NC# 119628

AUG 27 2009

Centre City
Development
Corporation

APPEAL APPLICATION

Orig. To: Lorena
Copy To:

1. Type of Appeal: <input type="checkbox"/> Process Two Decision – Appeal to the CCDC Board <input checked="" type="checkbox"/> Process Three Decision – Appeal to the CCDC Board <input type="checkbox"/> Appeal of a Hearing Officer Decision to revoke a permit			
2. Appellant Name: <u>6th & Island Investments, LLC dba. Stingaree</u> Address: <u>454 6th Ave</u> City: <u>San Diego</u> State: <u>CA</u> Zip Code: <u>92101</u> Telephone: <u>(619) 704-1707</u>			
3. Applicant Name (As shown on the Permit/Approval being appealed). Complete if different from appellant. <u>Stingaree</u>			
4. Project Information Permit & Permit/Document No.: <u>Amendment CUP 2005-47</u> Date of Decision: <u>8-13-09</u> Project Manager: <u>Lorena Cordova</u> Decision (describe the permit/approval decision): <u>Amendment to CUP 2005-47 was denied by the Hearing Officer</u>			
5. Grounds for Appeal (Please check all that apply) <input checked="" type="checkbox"/> Factual Error <input checked="" type="checkbox"/> Conflict With Other Matters <input checked="" type="checkbox"/> Findings Not Supported <input checked="" type="checkbox"/> New Information Description of Grounds for Appeal (Please relate your description to the allowable reasons for appeal as more fully described in Chapter 11, Article 2 Division 5 of the San Diego Municipal Code. Attach additional sheets if necessary.) <u>Please see Attached.</u>			
6. Appellant's Signature: I certify under penalty of perjury that the foregoing, including all names and addresses, is true and correct. Signature: <u>[Signature]</u> Date: <u>8-27-09</u> Note: Faxed appeals are not accepted.			

The Appellant wishes to appeal the CCDC Hearing Officer's decision to deny 6th & Island Investments, LLC dba Stingaree's Amendment to their existing Conditional Use Permit (CUP 2005-47) on the following grounds: (1) Factual Error: certain statements relied upon by the Hearing Officer were not accurate; (2) Conflicts: the Hearing Officer's decision conflicts with the purpose and goals of the San Diego Municipal Code and Gaslamp Quarter Planned District Ordinance and CCDC Staff and the San Diego Police Department have worked closely with Stingaree and both support and recommend approval of the amendment; (3) Findings Not Supported: the findings to deny the amendment are not supported by the evidence; and (4) New Information: new information is available.

Appellant's establishment, Stingaree, is located within the Gaslamp Quarter Planned District. Stingaree, as part of the Gaslamp Quarter Redevelopment Project Area, has for the past 3 ½ years played an important role in promoting the economic and social welfare of the region, and more specifically the growth of the Gaslamp Quarter Area. As one of a number of the first establishments in the Gaslamp Quarter Redevelopment Project Area, Stingaree has made its mark on the Gaslamp Quarter and has helped to make that area and the surrounding areas more acceptable and comfortable for local visitors, tourists and eventually residents. It is Appellant's main goal to continue to contribute to the economic and social welfare of the region and to compete on a level playing field to maintain economic viability with other entertainment establishments within the Gaslamp Quarter.

In the denial of Stingaree's Amendment to the existing Conditional Use Permit, the Hearing Officer found that the expansion of operational hours for live entertainment on the roof top would be detrimental to the public health, safety, and welfare. Appellant feels the decisions of the Hearing Officer was based solely on a number of complaints received by owners and residents in neighboring condominium units, and did not take into consideration the overall purpose and goals of the San Diego Municipal Code or Gaslamp Quarter Planned District Ordinance. As noted in the August 6, 2009, CCDC staff report, staff and the applicant met and discussed the proposed recommendations to formulate an array of types of activities and hours to promote Stingaree's unique outdoor ambiance

Appellant strongly disagrees with the denial of the Amendment to the CUP and asks the Planning Commission to grant the appeal and approve CCDC Staff and the Police Department's recommendation to approve the amendment which is supported by all of the factors set forth in the staff report including the substantial development over the recent years of the Gaslamp Quarter and surrounding areas.

(1) Factual Error:

The first grounds for appeal, factual error, speaks to the numerous assertions made by neighboring residents that Stingaree violated the terms and conditions of their existing CUP. It is our position that assertions made by neighboring residents have not proven to be violations.

Stingaree opened its doors in December of 2005, and has operated under the existing CUP for the past three and one half (3 ½) years with a minimal amount of complaints. Specifically, on record there are a total of forty-five (45) complaints. At first glance this number may seem like an excessive amount, however if you look more closely at each complaint you will notice that twenty-six (26) of those complaints came from the same individual. In addition, we must keep in mind that a complaint does not mean there has been a violation. The issue first arose after the opening of Stingaree in December 2005; the complaining individual in all 26 of these complaints was a nearby resident who consistently called the San Diego Police Department with noise complaints arising from what he believed was the music coming from Stingaree's rooftop deck. After numerous discussions with the SDPD and the complaining party, a sound check was scheduled to be performed with the complaining party, the management staff

at Stingaree, a member of SDPD, and Stingaree's sound technician present. All parties met at the complaining parties' residence on a Friday evening between 11:30pm and 12:00am when the general noise levels in the Gaslamp Quarter tend to increase and Stingaree has almost reached its busiest operating capacity. At the same time our sound technician who stayed behind at Stingaree made adjustment to the volume levels of the rooftop music. It was found at the time of the sound check that even at the highest volume level which we internally allow the music to be turned up to on the roof top, the noise disturbing this resident could not be attributed to the music from the Stingaree rooftop. However, in order to demonstrate our willingness to be a good neighbor, with all parties present, Stingaree's management staff agreed to mark the volume level for the roof top music that was acceptable to the complaining resident and the SDPD to ensure that the volume would not be able to exceed this level on any night that Stingaree was open for operation. There was never a determination that Stingaree was in violation of the CUP at that time. After this initial noise issue was resolved, Stingaree went for almost 2 years without a single noise complaint, from September 2006 to May 2008.

It was not until the summer of 2008 that the noise complaints started to return. It is unclear if the noise complaints have been consistently attributed directly to the Stingaree rooftop. Stingaree was unique in the fact that it was the first entertainment establishment to incorporate a roof top patio as part of their overall floor plan, however, in the past 2 years a number of other entertainment establishments have also opened roof top patios upon which live entertainment is present. Appellant asks that the Planning Commission not overlook this fact and the fact that for the past two years, the Gaslamp Quarter Planned District and the surrounding areas have seen substantial growth with the opening of Petco Park, the Ivy Hotel, Hard Rock Hotel, Fleetwood, Basic, Bondi, East Village Tavern, and many more entertainment establishments, as well as a number of new residential projects.

It is Appellant's position that with the substantial growth of the Gaslamp Quarter Planned District the general noise levels in the Gaslamp Quarter and surrounding areas have increased significantly, and that this was a foreseeable result of the Gaslamp Quarter Redevelopment Project. As is the common circumstance where an area experiences rapid and substantial growth; the businesses, residents and patrons of that area also experience new opportunities and challenges. Since 2008 there have been 3 new venues in addition to Stingaree that have opened with roof top patios that were not required to obtain Conditional Use Permits and are not limited in regards to their permitted hours for live entertainment on their roof tops, as well as a handful of venues that have existing CUPs for live entertainment who are allowed to keep their exterior windows and doors open while amplified music is being played. Furthermore, since May/June 2007 two major residential projects situated on the border of the Gaslamp Quarter have opened for residency. As stated above, Stingaree was clean of any noise complaints for a period of almost 2 years prior to the completion and opening of these new entertainment venues and occupancy of the residential projects. In looking at the opening dates of the new entertainment establishments, the new occupancy of residential projects in the area, and the correlation with noise complaints received in regards to Stingaree before and after, it is hard to maintain from the facts that Stingaree should be deemed the main contributing factor or that Stingaree's proposed use and development under the requested amendment to their existing CUP should be deemed detrimental to the public health, safety and welfare. Indeed, with the amendment as recommended by staff, Stingaree's operations will still be subject to more conditions and more restrictions than other Gaslamp Quarter entertainment venues.

(2) Conflict:

Appellant's second ground for appeal is that the Hearing Officer's denial of the Amendment to the existing Conditional Use Permit conflicts with the purpose and goals of the San Diego Municipal Code and Gaslamp Quarter Planned District Ordinance.

While Appellant understands and appreciates the concerns of the neighboring residents regarding the amendment to the live entertainment hours of the existing CUP, we do not feel complaints by some neighbors should be the sole factor in denying the Amendment. Stingaree is located within the Gaslamp Quarter Planned District, where restaurants and entertainment uses are promoted and encouraged. The Gaslamp Quarter Planned District continues to be an entertainment district, and has been prior to the opening of Stingaree, prior to the development of other entertainment venues and prior to the development and occupancy of a number of new residential projects in the area. All new and existing business as well as new and existing residents are assumed to be aware of this fact and to have understood the special circumstances that go along with living, working and operating a business within and on the border of an entertainment district.

The Centre City Community Plan and The Gaslamp Quarter Planned District Ordinance promote and supports unique one of a kind businesses, eating and entertainment establishments, like Stingaree. Additionally, the Centre City Community Plan and the Gaslamp Quarter Planned District Ordinance call for a wide range of commercial, office, retail and residential uses, with daytime and nighttime dining and entertainment uses focused primarily in the Gaslamp Quarter. Therefore, the owners of Stingaree assert that the district was intended to provide for a variety of uses that support business, professional and personal needs and provide employment at various types and levels. And that it was further intended for these varied uses to benefit from one another and coexist within the Gaslamp District and surrounding areas.

(3) Findings Not Supported:

Appellant's third ground for appeal is that the findings cannot be made to support denying the amendment. Appellant therefore agrees with CCDC Staff that all findings to approve the amendment as modified in the staff report can be made.

Under Section 126.0305 of the San Diego Municipal Code, in order for an amendment to a Conditional Use Permit to be approved four findings must be found.

In the August 9, 2009, CCDC Staff Recommendation of approval, staff found that the facts and evidence supported all the findings as follows:

1. The proposed use or development will not adversely affect the applicable land use plan;

Stingaree will not adversely affect the applicable land use plan, as the business adheres to the Gaslamp Quarter Planned District Ordinance regulations and is consistent with the goals of the Downtown Community Plan by providing a variety of entertainment options to create a vibrant downtown. In addition, the proposed restrictions on activities and hours will allow for a successful entertainment district while recognizing its adjacency to residential and other uses.

2. The proposed use or development will not be detrimental to the public health, safety and welfare;

The live entertainment proposed by Stingaree will not be detrimental to the public health, safety and welfare of the community when operated within the recommended conditions of approval, which include complying with the City's noise ordinance, limiting hours and activities, providing adequate security and ensuring adequate employee training for these types of uses.

3. The proposed use or development will comply with the maximum extent feasible with the regulations of the Land Development Code and Centre City PDO;

Stingaree is applying for an amendment to their existing Conditional Use Permit for live entertainment as required by the Gaslamp Quarter Planned District Ordinance and is being processed in accordance with the Land Development Code procedures. Having obtained approvals from ABC and SDPD, Stingaree will be required to comply with those approvals in addition to their Conditional Use Permit, in order to continue to operate a live entertainment venue.

4. The proposed use is appropriate at the proposed location.

The establishment is located on the block bounded by J Street and Fifth, Sixth and Island avenues within the Gaslamp Quarter. A live entertainment venue at the existing location is appropriate as there are other similar live entertainment venues throughout this entertainment district.

Appellant agrees with the findings and Staff recommendation that the Amendment to the existing Conditional Use permit should be approved subject to conditions and will voluntarily agree to a 6 month public hearing. In addition, at the Planning Commission we intend to present additional evidence that will confirm that all finding to approve the amendment can be made.

(4) New Information:

Appellant's final ground for appeal is based on the findings of new information.

Appellant wishes to work with CCDC, the Planning Commission and the residents and concerned business owners to coexist in the Gaslamp Quarter and surrounding areas as good neighbors. To that end Stingaree is attempting to establish a positive dialogue with other owners and businesses in the Gaslamp Quarter.

When the City Neighborhood Code Compliance Division issued the notice of violation of the current conditions of the existing Conditional Use Permit and Neighbor Code Compliance, we immediately ceased any activities that were restricted by the conditions of the CUP, corrected any stated violations, provided written confirmation that the violations were corrected, and filed an application to amend our existing CUP. We have maintained open lines of communication with CCDC, Neighborhood Code Compliance and the SDPD in order to complete the necessary and proper channels to amend the CUP and to address any issues or complaints as they may arise. Stingaree has also made attempts to contact the Home Owners Associations of the nearby residential projects that have expressed the most concern regarding the amendment and intend to invite each resident to an Open Forum Meet & Greet at Stingaree to discuss the concerns of the neighbors and any available remedies or solutions that can be reached in order for us to coexist and work together.

To further demonstrate Stingaree's concern and willingness to work through the concerns surrounding noise attributed to Stingaree's roof top, Appellate has spent approximately Three-thousand (\$3,000.00)

dollars on new sound equipment and speaker to be placed on the rooftop. The addition of this new equipment will help to more evenly distribute the music throughout the roof top patio. In turn, the music will be amplified at lower volumes while still being clearly audible to those guests on the roof top patio. The new equipment, which contains a number of floor-speakers, will help to contain the music within the area of the roof top patio and eliminate the potential for the music carry off of the rooftop and disturb neighboring businesses and residents. This is in addition to such sound mitigation efforts as a 42" in height acoustically engineered barrier wall and Cabana walls that have barrier heights of 7.5', which were included in the initial construction of the roof top patio.

Lastly, prior to opening the venue in June of 2005, Stingaree paid for an approved sound technician to perform a sound study to determine the ambient levels at this location and the adjacent business and to determine the maximum sound level of the then proposed roof top outdoor patio area for Stingaree that would violate the San Diego noise ordinances. The findings of this study were as follows: Ambient sound levels included street traffic created by vehicles, pedestrian traffic, emergency vehicles, air-traffic fly over, and music from an entertainment establishment directly across the street, Tivoli Bar. Sound levels actually increase at approximately 10PM to 65-66dBA with a slight dip at approximately midnight to 60-61dBA, increasing back to 63dBA at 1AM. This ambient level could be directly contributed to the dining and entertainment establishments in the immediate area. It was further concluded that under the proposed operations for the roof top patio the sound levels associated with the roof top patio would not exceed the ambient sound level of the immediate area. To once again determine all contributing noise factors in and around 6th & Island, Stingaree, has scheduled a similar sound test be performed to determine the noise levels that can be attributed to Stingaree, to the ambient sound levels on the street and the sound level that can be attributed to adjacent businesses. Appellant plans to provide the findings of this study to the Planning Commission to prove that each noise complaint made cannot be directly attributed to Stingaree.

Conclusion:

Appellant does not wish to disrespect any individual's right to quiet enjoyment or disregard the concerns of the Hearing Officer and concerned residents with this appeal. As stated above and demonstrated through our previous actions when faced with issues involving our neighbors, Stingaree strives to be a good neighbor and citizen of this City. We believe we are implementing the spirit and intent of the Gaslamp Quarter Planned District Ordinance by providing a variety of types of entertainment in the exciting mixed use area of downtown while providing employment opportunities and revenue to the City.

ADDITIONAL INFORMATION

SUBMITTED BY APPELLANT

SEPTEMBER 29, 2009



Centre City Development
Lorena Cordova, Junior Planner
401 B Street, Suite 400
San Diego, CA 92101

RE: Stingaree CUP 2005-47
CUP Amendment Appeal Application
Supporting Documents

Lorena,

Enclosed are the following items to be submitted as additional support to the Stingaree CUP Amendment Appeal application.

Ownership Disclosure Statement (Original to follow in Mail)
Troy Acoustics Sound Study of Stingaree
Letter regarding upgraded Sound Equipment from Sound Technician
Letter in regards to Code Enforcement Issues
PR Case Study and examples of awards and press received by Stingaree

If you have any questions please feel free to contact me directly. Thank you for your assistance with this matter.

Best,

Heather Thomaselli
Enclosures

TROY



ACOUSTICS

Stingerace Restaurant

August 2009

www.troysoundwalls.com



Troy Acoustics Corporation

26330 Diamond Place,
Suite 150
Santa Clarita, CA 91350

[p] 800.987.3306
[p] 818.376.8490
[w] troyacoustics.com

Executive Summary

Study Objectives

At the request of the management of the Stingaree restaurant, on August 29, 2009 Troy Acoustics conducted an acoustical survey related to sound levels resulting from traffic, pedestrians and music on 6th Street and Island, specifically 454 6th Avenue. Previously, in June of 2005, in connection with the original application for the Conditional Use Permit, Troy Acoustics conducted a noise analysis, a copy of which is attached. The 2005 study concluded that the measured ambient sound levels from four (4) locations on or around 6th and Island exceeded the maximum ambient sound levels established by the San Diego Municipal Code. However, we developed various types of noise mitigation and concluded that the Stingaree rooftop area would not increase the ambient noise level. The City accepted our report, included the noise mitigation in the Conditional Use Permit and approved the original Condition Use Permit. The objectives of the current work were to:

1. Determine the ambient level and the max level at this location during night peak hours.
2. Determine the ambient sound levels of the adjacent areas including the 21 story condominium building located on 6th Street.

Noise Criteria

The current City of San Diego Municipal Code Noise Ordnnances identifies specific sound levels, which would be in violation of the municipal code. The commercially zoned area for which this location is established per Article 9.5 of Chapter 5 (Public Safety, Morals & Welfare), specifically §59.5.0401, which states that all commercial zones from 10 PM to 7 AM one hour averaged sound level shall not exceed 60dBA.

Ambient Noise

Samples were taken on Saturday night August 29, 2009. Temperatures that night were 84°, with the wind less than 1.5 mph. Overall conditions were a very nice, warm summer evening.

**The world's highest acoustical rating.
The industry's only guaranteed solution.**



Troy Acoustics Corporation

26330 Diamond Place,
Suite 150
Santa Clarita, CA 91350

[p] 800.987.3306
[p] 818.376.8490

[w] troyacoustics.com

Ambient sound levels were sampled and recorded at three different locations on 6th Street and Island and on the roof top of the 21 story condominium building on 6th street. The ambient noise was measured over a 3 hour period on a Saturday night from 10PM-1:30AM. The vehicle traffic was moderate to heavy on the night of this sampling. Pedestrian traffic was also heavy. Ambient sound levels included street traffic created by vehicles, pedestrian traffic, emergency vehicles, air-traffic fly over, and music very noticeable from the establishment directly across the street from Stingaree, Tivoli Bar. The microphone for sound level measurement was located 4' off street level at curb location, see attached sheet.

6th & Island Nighttime Data												
Frequency in Hz	31.5	63	125	250	500	1K	2K	4K	8K	10K	dBA	Time
LEQ of NW corner of 6th & Island	61.8	66.4	62.1	55	54.1	52.7	49.3	43.3	47	41.1	62.2	10:48PM
LEQ on rooftop of Stingaree	58.3	67	74.4	68	68.4	71.5	66.3	68.9	64.8	62.6	80	11:29PM
LEQ of SE corner of 6th & Island	62.5	64.1	62.8	56.9	57.1	54.7	50.2	45.6	40.7	44.4	64.3	12:50PM
LEQ on rooftop of 21 story building on Island	59.7	63.4	60.4	54.7	53.6	52.6	48.8	44.1	43.9	41.2	61.3	1:24PM

The sound levels from the previous survey conducted in 2005, before Stingaree was constructed sampled between 62 and 67dBA during the same hours for these locations. As the above chart shows, the sound levels for these locations before and after the Stringaree restaurant was constructed, have not changed. The sources of the ambient sound levels have not significantly changed. The pedestrian vehicle and traffic is still high. The audible sounds from these surrounding sources have not changed.

The measured ambient sound levels emanating from the locations on 6th & Island exceed current ambient levels set forth by the San Diego Municipal Code, but not by a greater degree than in 2005 when the City approved the Conditional Use Permit. The dominate factor in the ambient noise level being the Tivoli Bar and vehicle traffic from 6th Street. The dining establishments in the immediate area do not have sufficient parking for any of their patrons, therefore pedestrian traffic is moderate and vehicle traffic is heavy on 5th & 6th Streets and Island.

These audible sounds are heard from the top of the 21 story condominium building on 6th street. However at this location there are also audible sounds from 5th Street due

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to the line of sight on the upper floors of the building. Any floor above the 4th has a line of sight to 5th Street, 6th & Island and the baseball field. All these locations produce sound levels that are audible to the condominiums. These sound levels are within the parameters set forth by the City of San Diego Municipal Code.

Conclusions

The Stingaree rooftop dining at its loudest sound level can only produce a sound level of 80dBA at the roof top location. This is limited due to the equipment in place. The management increased the sound level to its absolute loudest level for these samples. The ambient sound levels on the street corners of 6th and Island did not change from the samples recorded in September 2005, when Stingaree had not yet been constructed. The 21 story condominium building, which was not built in 2005, is approximately 350 feet away at its closest point. The sound levels sampled at the roof top of the 21 story building recorded sound levels of 61dBA, which is within acceptable levels of the current noise code. It must be noted that the sound level on the roof top is also sampling sound levels from 5th Street, which have more vehicle & pedestrian traffic and live music. The recordings at any of the locations sampled; do not show any indication of higher sound levels due to the operation of the Stingaree restaurant. The ambient sound levels for the area during the time of the samplings have not changed from the 2005 samples.

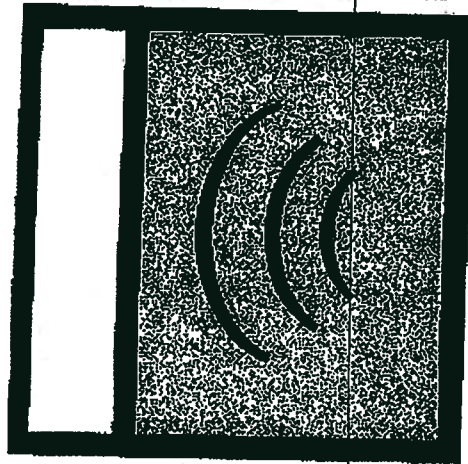
Prepared by:

Bill Bergiadis

Troy Acoustics

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TROY



ACOUSTICS

6th & Island
Sound Level Survey

www.troysoundwalls.com

The measured ambient sound levels emanating from four locations on 6th & Island exceed current ambient levels set forth by the San Diego Municipal Code. The dominate factor being the Tivoli Bar and vehicle traffic from 6th Street. The dining establishments in the immediate area do not have sufficient parking for any of there patrons, therefore pedestrian traffic is moderate and vehicle traffic is heavy on 5th & 6th Streets and Island.

Dining Area Sound Levels

Under the proposed operations of the outdoor rooftop dining area the sound levels associated with the roof top dining area of 454 6th Ave. will not exceed the ambient sound level of the immediate area. The Tivoli Bar, which is located directly across the street diagonally, is the dominate sound level factor in this immediate area. Across the street to the east is a four story concrete masonry structure used for storage. This structure will not be a consideration for any intrusive sound level considerations. The property to the north is a vacant lot. This also will not be a consideration for an intrusive sound level consideration. The building to the south is vacant and it is understood that this site is approved for a future hotel. This location will also not be considered for intrusive sound level considerations. The business to the west is a single story commercial operation, selling furniture during the daytime hours. This business was not in operation during sound level samplings, and will not be affected acoustically when the restaurant is in operation. There was also a lower income housing complex located on 5th Ave. This structure is taken into consideration for noise reduction requirements of the roof top dining area.

There is another outdoor roof top dining area located at the Solamar Hotel. This location is some 350 feet away. The ambient sound level measurements taken at the SE location were not affected by the operations of this roof top dining area. This roof top dining area does not contribute to the ambient sound level of the immediate area.

Noise Reduction Requirements

To further insure that any future sound levels will not contribute to an increase in the ambient sound level of 6th & Island the constructions documents have included sound mitigation efforts. A roof top an acoustically engineered barrier wall is to be part of the construction. This wall, at 42" in height will border 6th Avenue and Island Street. Cabana walls are to have barrier heights of 7.5'. Acoustically engineered full height walls on the north and west sides are also to be a part of these documents. Since the rooftop dining area is at a higher elevation than the adjacent structures there is no reflection of sound level. The acoustically engineered barrier will isolate sound transmission to the north where the low income house complex is located. This acoustically engineered barrier in addition to the storage room along this wall

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creates a buffer zone of the rooftop dining area to the low income housing complex. The current ambient sound levels of the area will likely be heard on the rooftop dining area. To mask this sound level, small outdoor speakers have been included in the construction documents. These speakers are design to provide low level ambient background music for the dining patrons of the rooftop dining area. The speaker layout will be engineered and positioned to face the patron dining on the rooftop area and not towards adjacent structures or businesses. This establishment, as the other dining establishments will not have parking and therefore will not contribute to the vehicle traffic in the immediate area, thus not increasing the ambient level in this category. Pedestrian traffic should increase, however will not exceed the sound level emitting from the Tivoli Bar. No other controls are necessary for this establishment to operate under normal conditions.

Conclusions

The rooftop dining area does not represent a large enough occupancy level (450 patrons) under normal conditions to generate enough acoustical energy that would increase the ambient level of the immediate area that would be distinguished above the current sound levels. There are currently no adjacent structures that are higher in elevation resulting in the elimination of reflective sound levels. The only business that might be affected by any sound level transmission is the boutique furniture store which closes before there would be an increase in sound level of the dining area establishment. The other roof top dining area located some 350 feet away has been documented as not contributing to the ambient sound level of the immediate area.

The traffic sound level and patrons from Tivoli Bar are the dominate factors emanating from 6th Street that will be intrusive to the rooftop dining area. The sound levels from the dining area will not be intrusive to the surrounding areas or any adjacent structures or businesses.

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6TH & ISLAND AMBIENT

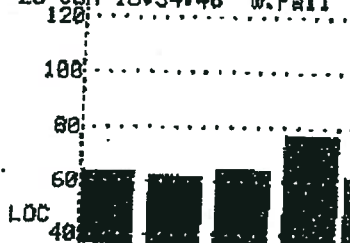
3000 RTA 6.06

Date and Time: 25 JUN 05 15:34

Data Type: SPL spectra

Recalled from file: 6TH_ISLA, record: 4

25 JUN 15:34:46 W.Fall B.AVE B.MAX B.SUM



KEEP

Note: AMBIENT 12:20PM @ 6
SPL 790.4850

Input 1
RESET 18 JUN 05 00:32:26

A-WEIGHT
FAST = 61.6
Min = 54.9 Max = 101.8
*recall data

6TH_ISLA DELETE

Data Type: SPL spectra

Recalled from file: 6TH_ISLA, record: 4

Note: AMBIENT 12:20PM @ 6TH & ISLAND

CHANNEL		1			
SLOW	=	62.7	Min	=	56.0
FAST	=	61.6	Min	=	54.9
IMPULSE	=	63.9	Min	=	55.6
LEQ	=	76.2	SEL	=	105.1
					Peak C =
					112.5

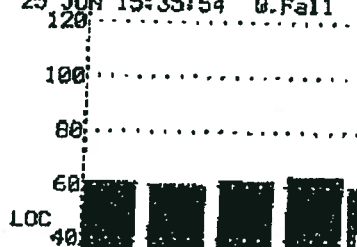
6TH & ISLAND AMBIENT
3000 RTA 6.06

Date and Time: 25 JUN 05 15:35

Data Type: SPL spectra

Recalled from file: 6TH_ISLA, record: 5

25 JUN 15:35:54 W.Fall B.AVE B.MAX B.SUM



KEEP

Note: AMBIENT MON. NIGHT
SPL 1230.4175

Input 1
RESET 28 JUN 05 22:08:00

A-WEIGHT
FAST = 53.4 Max = 59.7 +N
*recall data

6TH_ISLA DELETE

Data Type: SPL spectra

Recalled from file: 6TH_ISLA, record: 5

Note: AMBIENT MON. NIGHT ON ISLAND ACROSS FROM SITE

CHANNEL	1				
SLOW =	60.7	Min =	54.1	Max =	84.1
FAST =	59.7	Min =	53.4	Max =	87.0
IMPULSE =	61.1	Min =	53.9	Max =	88.0
LEQ =	62.8	SEL =	93.7	Peak C =	104.1

6TH & ISLAND AMBIENT 3000 RTA 6.06

Date and Time: 25 JUN 05 15:35
 Data Type: SPL spectra
 Recalled from file: 6TH_ISLA, record: 6

25 JUN 15:35:09 W.Fall B.AVE B.MAX B.SUM



6TH_ISLA DELETE

KEEP
 Note: AMBIENT MON. NIGHT
 SPL 1223.7925
 Input 1
 RESET 20 JUN 05 22:40:57

A-WEIGHT
 FAST = 58.9 Max = 64.3
 Min = 58.9 Max = 78.3
 *recall data

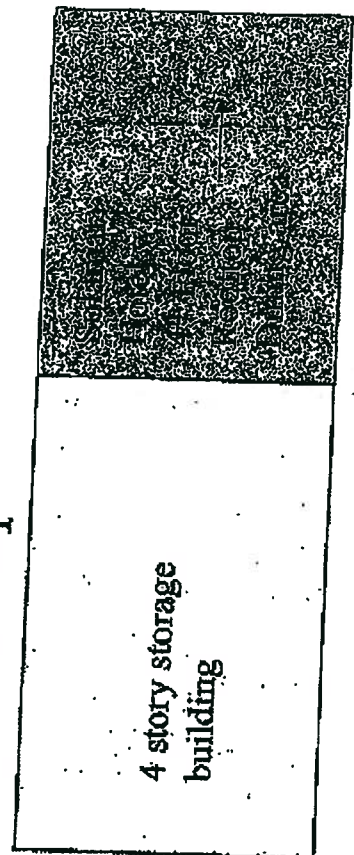
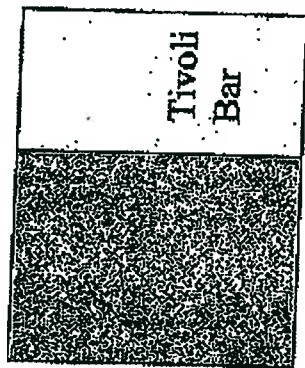
Data Type: SPL spectra

Recalled from file: 6TH_ISLA, record: 6
 Note: AMBIENT MON. NIGHT ON 6TH ACROSS FROM TIVOLI

CHANNEL	1
SLOW =	65.6 Min = 60.4 Max = 75.7
FAST =	64.3 Min = 58.9 Max = 78.3
IMPULSE=	66.0 Min = 60.4 Max = 81.7
LEQ =	66.8 SEL = 97.6 Peak C = 102.0



6TH & Island Sound Level Survey Locations Map

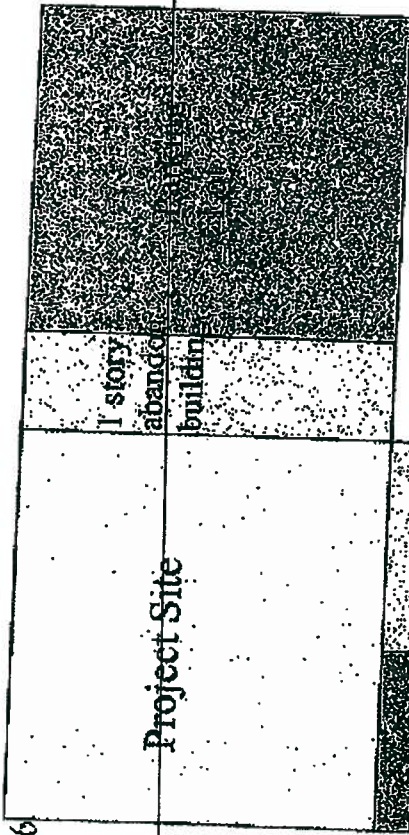
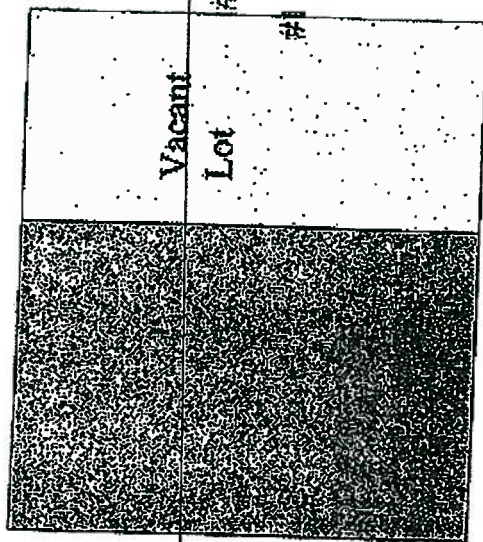


6TH Street

#2

#4

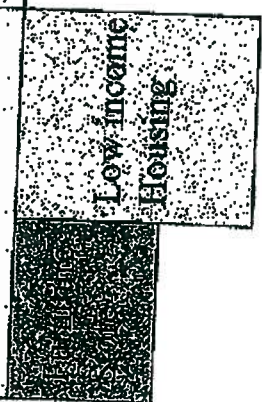
#6



Island St.

#5

#1



← N



AUDIO VISUAL SOLUTIONS

8145 Ronson Rd. #C
San Diego, CA 92111
858-430-0330
858-430-0331 fax

August 25, 2009

To whom it may concern:

We have recently been retained by the owners of Stingaree to analyze and take steps to reduce the volume of the speaker system on the Stingaree rooftop. A total of four high powered speakers (450 watts each) were removed. To ensure that the remaining speaker system will operate at an audible volume level, we added very small, low wattage loudspeakers in select areas of the rooftop. This upgraded, more sophisticated system will allow Stingaree to provide good audio coverage to their guests while reducing the overall sound level outside the building. It is widely recognized in the industry that using a larger number of speakers lower in wattage provides adequate coverage to an area, while being able to control sound from traveling outside the premises.

Sincerely,

Brad Donaldson

Pro Systems

ARCHITECTS RICHARD BUNDY & DAVID THOMPSON

September 25, 2009

Demien Farrell
ENDEV
404 Fourteenth Street
San Diego, California 92101

re: Stingaree
Code Enforcement issues

Demien:

The drawings for Permit approval of the items noted in by the City's Code Enforcement Department were submitted to the City for approval on Wednesday, September 23, 2009. We understand that these drawings should be approved, stamped, punched, and incorporated into the City's Permit Record Set for the original construction within the next few days.

Respectfully,

A handwritten signature in black ink, appearing to read "Richard S. Bundy". The signature is stylized with a large, looped "R" and a cursive "Bundy".

Richard S. Bundy, FAIA
C5975

Heather Thomaselli

From: Jamie Sigler [jamie@jpublicrelations.com]
Sent: Monday, September 28, 2009 12:23 PM
To: James Brennan; Karen M. ZoBell; Demien Farrell; Heather Thomaselli
Subject: PR STUFF - CUP

Hi there -

Here is the case study which I included awards in - I will send over some examples of the awards / press clippings in a separate email.

Thanks!

When Stingaree opened in 2005 it became the largest and most exclusive restaurant and nightlife destination to ever open in San Diego's Gaslamp Quarter — helping to lead an overall transformation of San Diego into a destination on par with other major metropolitan areas. Stingaree is not just another nightclub.

The multi-million dollar venue has elevated the status of San Diego's nightlife and entertainment scene and become the hot spot to catch a glimpse of A-list celebrities, professional athletes and San Diego's most stylish crowd.

Four years after opening, Stingaree continues to draw crowds from around not only just the country but the world and its popularity is fueled in part by continued prominent placements in top tier national media outlets, including *Maxim*, *People*, *US Weekly*, *Los Angeles Times*, *The Miami Herald*, *New York Times* and *Travel + Leisure*. Almost every media outlet has been enthralled with the chill vibe on Stingaree's rooftop oasis overlooking the San Diego Skyline.

Accolades for Stingaree include prominent placement on the coveted *Condé Nast Traveler* Hot List in 2007. Also, Stingaree received an impressive #5 ranking on the Top-10 Hot New Bars in America poll by MSN.com. In that poll Stingaree was placed alongside leading nightlife venues in Los Angeles, New York, Miami and Las Vegas – which demonstrates that San Diego is no longer a sleepy beach town. In addition Stingaree has been named best nightclub in the Gaslamp since opening by *944 Magazine* and one of the top 15 restaurants in the nation by the *CITY Magazine*.

Stingaree continues to be recognized by meeting planners and event professionals for having one of the best outdoor spaces for meetings and special events, accolades have been given by *Smart Meetings*, *Meetings West* and *BizBash Magazine*.



jamie lynn sigler
partner

www.jpublicrelations.com
1125 west olive street suite c, san diego, ca 92103
office 619.255.7069 x25 fax 619.255.1364 cell 858.395.5264

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Heather Thomaselli

From: Jamie Sigler [jamie@jpublicrelations.com]
Sent: Monday, September 28, 2009 12:34 PM
To: Heather Thomaselli; James Brennan; Demien Farrell; Karen M. ZoBell
Subject: Conde Nast Scan

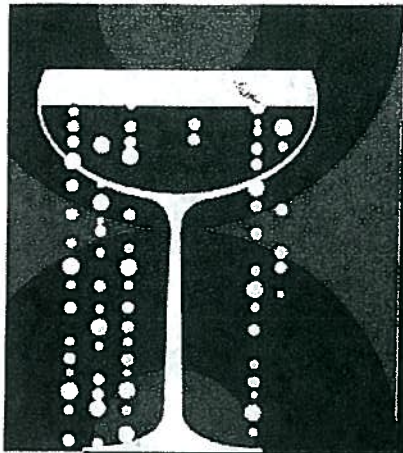


jamie lynn sigler
partner

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2007

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138 hotels*

*including



Stingaree

San Diego, California

Taking its name from San Diego's Wild West-era red-light district, Stingaree brings a little bling to the booming Petco ballpark area. On Friday and Saturday nights, an A-list crowd (think Fergie and Kanye West) fill the three-story club, which includes a mezzanine with a VIP penthouse and a breezy rooftop garden with fire pits and private cabanas. The moddish '60s aesthetic includes translucent plastic bar chairs, funky starburst chandeliers, and stairways that could double as go-go cages. Although known for its bottle service (a rarity in San Diego), the club has a tasty tequila Stingareeta and a Get Fresh mojito made with Bacardi, mint, and three types of berries (cover, \$20).

Address: 454 Sixth Ave.

Tel: 619-544-9500

stinasandiego.com

Top 10

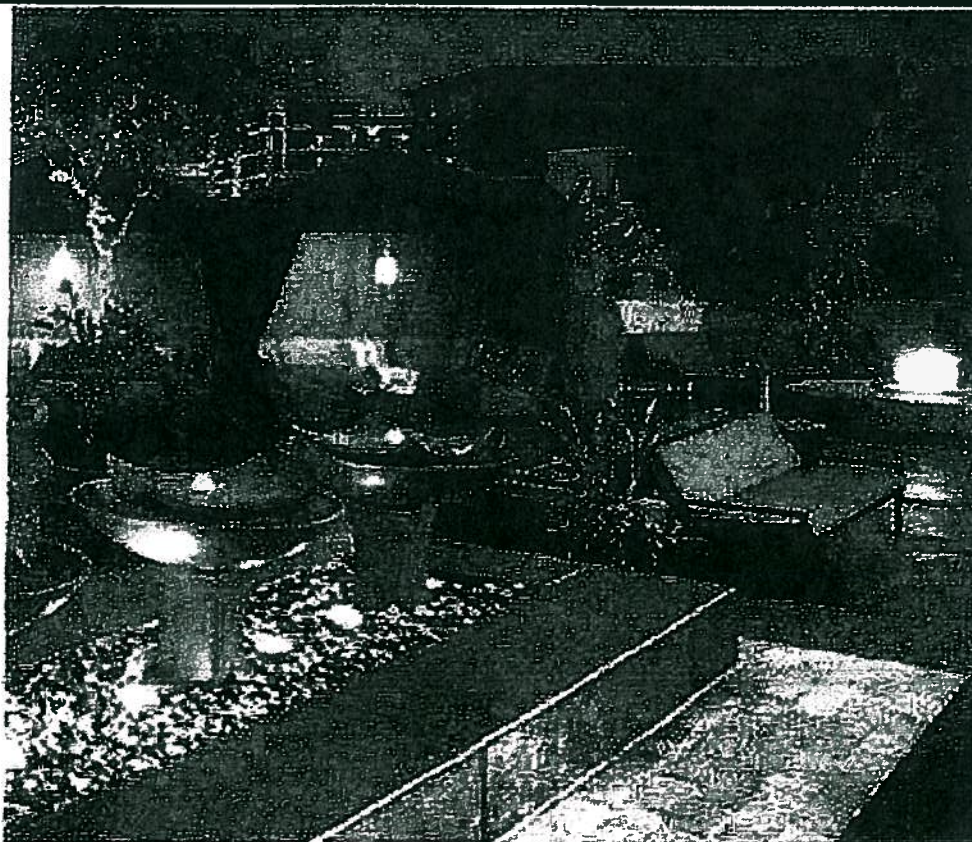
NEW BARS of 2006

New bars open all the time, but only the best will make it to our list of 10 for 2006. From New York to San Francisco, from Chicago to San Diego, we've selected the best bars that opened in 2006.



SLIDESHOW:

Our editors rank the top 10 in the U.S.



5. **Stingaree: San Diego**

Rooftop cabanas with fire pits keep San Diego A-listers buzzing about the Gaslamp's hottest new club.

Photo courtesy of Stingaree

Select a city:

Atlanta

Austin

Boston

Chicago

Dallas

Denver

Houston

Las Vegas

Los Angeles

Miami

Minneapolis-S

Nashville

New York

Philadelphia

Portland

Raleigh-Durham

San Diego

San Francisco

Seattle

Lorena Cordova

From: John Kerr [drift_inc@msn.com]
Sent: Monday, June 22, 2009 8:55 AM
To: Lorena Cordova; 'Josh Hanna'

Ms. Cordova, We as owners of a condo in the Alta @ 575 6th Greatly oppose the project for the Stingaree at the 6th and island address. We have lived there for 2 years and have been kept awake by the Stingaree for nights on end. If they are able to add to the days and time for live entertainment there will be no sleep for anyone in that area. We are presently out of town and unable to attend your meeting but I want my voice heard.

Thank You

Loreali and John Kerr
575 6th ave # 1006

Insert movie times and more without leaving Hotmail®. [See how.](#)

Lorena Cordova

From: Joshua Hanna [joshuah@ankaproperty.com]
Sent: Monday, June 15, 2009 1:17 PM
To: Lorena Cordova
Subject: Stingaree - CUP 2005-47

Lorena,

I received a Notice of Application for Stingaree's request to amend their Use Permit, for rooftop live entertainment and DJ/Dancing on Thursdays through Sundays. As a resident of the Alta high-rise building at 575 Sixth Ave., I would like to protest such a revision. Stingaree has continually violated their current CUP having very loud events from the rooftops on Thursday nights. This week they violated their CUP on Thursday night and Sunday night. As a part of the original CUP, the applicant was required to, *"implement(ing) the noise treatment measures recommended by the acoustical study submitted for this project dated June 25, 2005, including the installation of sound insulation materials with the interior of the building and exterior mitigations discussed within the study as necessary to comply with City of San Diego Noise Abatement requirements."* (Condition #5, CUP 2005-47) I believe it is important for CCDC to review, and make available, the acoustical in reference to see what "exterior mitigations" were discussed in the report.

See Condition #6, where it states that, *"Sound and amplification equipment shall be monitored during and after business hours to ensure that audible noise remain at acceptable levels so as not to disturb surrounding neighbors."* The audible levels from Stingaree on Thursday and Sunday nights has been outrageous and not acceptable, especially considering they are not permitted to be operating amplified music on these nights. Even if they were permitted to operate on these nights the decibel levels are extremely high, especially the low level bass.

Please advise how I may make my opposition formal.

Also, please contact the City of San Diego's Neighborhood Code Compliance Department (George at 619-533-6139) to get a history of the "Request for Investigations" that have been recorded against Stingaree.

Thank you,

Joshua Hanna - Anka Developments, Inc.

SAN DIEGO: 625 Broadway, Suite 625, San Diego, CA, 92101
Ph: 619 234 6050 Fax: 619 234 6057
Email: joshuah@ankaproperty.com
Web: www.ankaproperty.com

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Lorena Cordova

From: James Arnold [james.arnold.ca@gmail.com]
Sent: Friday, July 10, 2009 3:58 PM
To: Lorena Cordova
Subject: Re: CUP 2005-47A: Stingaree

Lorena,

I would like to place a vote of "NO" for the Stingaree plan to add Thurs & Sun nites. However, I cannot make the scheduled meeting.

Sent from my iPhone

On Jul 10, 2009, at 3:24 PM, Lorena Cordova <cordova@ccdc.com> wrote:

To whom it may concern:

Next week is the meeting of the Centre City Advisory Committee (CCAC), the official downtown community planning group, that will take place on Wednesday, July 15th at 5:15 p.m. The CCAC, comprised of elected officials that represent downtown property owners, business owners and residents, will be asked to make a recommendation to the Hearing Officer. Below is the link to access the agenda, staff report and attachments for this meeting.

<http://www.ccdc.com/index.cfm?eventID=1125&CurntDate=07/10/2009&FuseAction=events.ShowEvent&eventCategoryID=0>

Also, the link for this particular item is below:

<http://www.ccdc.com/events/resources/Item%2017.pdf>

Please rest assured that you will also be notified when this item is scheduled for a public hearing.

Good day,

Lorena Cordova, Junior Planner

Centre City Development Corporation | 401 B Street, Suite 400 | San Diego, CA 92101 | P:619.533.7171 | F:619.236.9148

Lorena Cordova

From: John Gallup [john_gallup@johngallup.com]
Sent: Wednesday, June 17, 2009 12:59 AM
To: Lorena Cordova
Cc: Fred J. Maas; kevinfaulconer@sandiego.gov

Ms Cordova,

I *strongly* object to the proposed conditional use permit amendment for Stingaree, the "night club" at Sixth and Island. As a resident of Alta (575 6th Avenue) I already find it impossible to sleep on Friday and Saturday nights due to the loud music, noise, taxi traffic, shouting, light displays, and prevailing air of lawlessness at this facility.

Stingaree was already a public nuisance on Friday and Saturday nights, but was also in place when I moved in. Extending the period of disturbance by 100 percent, solely to enrich the financially distressed owners of this entity, seems to me exactly the sort of thing that CCDC should *not* be doing, if it is still interested in building a viable, livable downtown for San Diego.

Your cooperation will be greatly appreciated.

John Gallup, President
John Gallup & Associates
625 Broadway, Suite 1201
San Diego CA 92101
Tel 619 234 0063
Fax 619 234 6735
johngallup.com

Lorena Cordova

From: Pete Cretu [pete.cretu@gmail.com]
Sent: Wednesday, June 17, 2009 9:53 AM
To: Lorena Cordova
Subject: Stingaree application

Good morning Ms. Cordova,

My name is Pete Cretu and I am a resident in the Alta complex off 6th and Market. I would like to voice my opposition to the proposed amendment of Stingaree's Conditional Use Permit. While I have some issues with the noise levels on Friday and Saturday nights, this was something expected when I purchased of my unit. I believe that this amendment would severely impact the quality of life in the surrounding locations, including my complex. One of the reasons I have made a purchase downtown was to have easy access to nightlife and entertainment however, I feel that this amendment goes beyond what one can expect living downtown.

Thank you for your attention to this matter. Please feel free to contact me if you have any questions.

Best,

Pete Cretu
714 803 8138

Lorena Cordova

From: gayle malone [malonezone@cox.net]
Sent: Wednesday, June 17, 2009 4:24 PM
To: Lorena Cordova
Subject: stingaree

I would like you to know that I would not like Stingaree to operate a rooftop club. The noise is intrusive at it is.

Thank you,
Gayle Malone
575 6th Ave
San Diego
619 993 8150

Lorena Cordova

From: Jeremy Briggs [jeremy@storecare.com]
Sent: Thursday, June 18, 2009 11:27 AM
To: Lorena Cordova
Subject: Alta - Stingaree

Dear Lorena,

The Alta HOA ask that I email with comments regarding noise from 5th avenue and various venues on 6th.

I am on the 10th floor south side of the building facing Stingaree. I moved to Alta because it is very close to the gaslamp district. I want to live close to the gaslamp district because of the entertainment it offers. Please do everything in your power to make sure 4th, 5th, and 6th avenues remain as entertaining as possible. San Diego is a very large county with lots of options for living quarters without entertainment, even downtown. Please assist in making Gaslamp appealing to residents like myself.

A quick note on the difference between entertainment on 5th and 6th avenue... I do not go to 5th avenue night clubs because they are packed with tourists. Every time I go out on 6th avenue (stingaree, side bar, ivy hotel) I see friends that live in San Diego year round. In my opinion one street of night life is not enough to support the tourists and locals in downtown San Diego.

Thanks for your time, and please feel free to forward any questions you may have over to me.

Best Regards,

Jeremy Briggs

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Lorena Cordova

From: Schorr, Andrew [ASchorr@LRLaw.com]
Sent: Thursday, June 18, 2009 2:02 PM
To: Lorena Cordova
Cc: trisandy2@cox.net
Subject: Stingaree Application to Amend CUP 2005-47
Attachments: ASchorr@lrlaw.com.vcf

Madam,

We are owners of Unit 410 at ALTA, 575 6th Ave. and want to express our opposition to any amendment to the Stingaree CUP that would allow outside dancing or music any day of the week after 11pm and to outside dancing or music at any time on Sunday evenings. Please pass our opposition on to the CCDC Hearing Officer.

Thanks.

Andrew D. Schorr
One S. Church Ave., Ste. 700
Tucson, AZ 85701-1611
Tel: 520.629.4414
Fax: 520.879.4718
E-mail: ASchorr@LRLaw.com

For more information about Lewis and Roca LLP, please go to
www.lewisandroca.com.

Phoenix (602) 262-5311
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Lorena Cordova

From: cheriealford@aol.com
Sent: Tuesday, June 23, 2009 6:51 AM
To: Lorena Cordova
Subject: Amendment to Stingaree Conditional Use Permit

Dear Ms. Cordova,

My family are residents at 575 6th Avenue, San Diego (ALTA) and would like to object to a change in the permit allowing live entertainment and rooftop dancing at Stingaree on Thursdays and Sundays. The noise, lights and traffic congestion are already unbearable on Friday and Saturday night and affect our quality of life in our home.

Even after the bar closes at 2 a.m., the streets are filled with noisy Stingaree patrons, police and other law enforcement as many "overserved" find their cars and drive away. Our concern is public safety and peace of mind for those of us who require a decent night's sleep to go to work the next morning. You are welcome to come to our home on a Friday or Saturday night and experience this first hand.

There must be another acceptable avenue the owners of Stingaree can pursue that will produce extra profits and not at the expense of residents in the area. Approving the Amendment to the Conditional Use Permit is just not acceptable to the neighborhood.

Thank you,

Larry & Cherie Eyer

A Good Credit Score is 700 or Above. See yours in just 2 easy steps!

Lorena Cordova

From: John Steffey [jwsteffey@yahoo.com]
Sent: Wednesday, June 17, 2009 9:17 PM
To: Lorena Cordova
Cc: John Steffey
Subject: RE: Notice of Application - Stingaree

Dear Ms. Cordova,

I writing in response to the Notice of Application I received from CCDC for the amendment to the Stingaree's Conditional Use Permit 2006-47. It is my understanding that the Stingaree is requesting to be able to have live bands play on their rooftop Thursday through Sunday until 1 AM.
As a resident of Alta condominiums at 575 6th Avenue I want to register my strong objection to the Stingaree's request for a change to their Conditional Use Permit.

The Stingaree is currently allowed to have a live band inside their establishment. Having a live band on the rooftop until 1 AM four nights a week will result in excessive noise in our neighborhood. Alta is already affected by the loud music that is played at Stingaree and Alta residents have filed formal noise complaints in the past. Allowing the Stingaree to have live bands play on their open-air rooftop will result in additional noise in our neighborhood.

I ask that the Stingarees's request for a change to their Conditional Use Permit be denied and that they be required to abide by the noise ordinances that have been established by the City of San Diego.

Respectfully,

John Steffey
Owner, and CFO of Alta Condominium Association
575 6th Avenue, #811
San Diego, CA 92101

--- On Fri, 6/12/09, Lorena Cordova <cordova@ccdc.com> wrote:

> From: Lorena Cordova <cordova@ccdc.com>
 > Subject: RE: Notice of Application - Stingaree
 > To: "John Steffey" <John.Steffey@uboc.com>
 > Cc: "jwsteffey@yahoo.com" <jwsteffey@yahoo.com>, "Dawn Braddy"
 > <DMB@nnj.com>
 > Date: Friday, June 12, 2009, 7:47 PM

>

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> John,
 > Thank you for your
 > email.

Alta Owners Association

9610 Waples Street
San Diego, Ca 92121-2992
WWW.NNJ.COM

(858) 550-7900
(800) 448-7601
FAX (858) 550-7929

June 30, 2009

Lorna Cordova
Centre City Development Corporation
401 B Street, Fourth Floor
San Diego, CA 92101

Re: Permit to change Stingaree's Conditional Use Permit 2005-47 to allow live entertainment on their roof top Thursday through Sunday

Dear Ms. Cordova:

This letter is written at the direction of the Alta Homeowners Association's Board of Directors for the condominium building located at 575 6th Ave., San Diego, CA 92101.

It has come to the Board's attention that Stingaree has put in an application to change their Conditional Use Permit 2005-47 as follows:

- Allow live entertainment on the rooftop Thursday through Sunday until 1 am (currently they may have a DJ on the rooftop on Fridays and Saturdays from 11 am until 12 am).

Given that ALTA is a residential high-rise near Stingaree (less than one block); ALTA is already subjected to substantial noise and sounds that emanate from Stingaree. In fact, Owners have made individual complaints to the CCDC and City regarding the fact that Stingaree has had excessive noise and also has allowed entertainment noise to occur outside their currently approved Conditional Use Permit parameters.

The community understands the required balance of commercial and residential elements in Downtown San Diego and looks forward to these elements mixing nicely together. However, allowing a commercial space to implement outside entertainment that would create an "imbalance" in the community is unjust. Further, since Stingaree has not followed the terms of their existing Conditional Use Permit, it should not be enhanced to allow them to potentially create additional noise issues in the community.

Therefore, the Alta Board of Directors requests that you deny the application of change to Stingaree's existing Conditional Use Permit that would allow them to have live entertainment on the rooftop Thursdays through Sundays 11 a.m. until 1 a.m. Furthermore, we request that the terms of their existing Conditional Use Permit be enforced.

Respectfully,


Dawn Braddy, CCAM, CMCA
For the ALTA Board of Directors

Centre City
Development Corp.

JUL 06 2009

Orig. To:
Copy To:

Lorena Cordova

From: Lesley Guajardo [lesleyguajardo@yahoo.com]
Sent: Monday, July 06, 2009 11:42 AM
To: Lorena Cordova
Cc: cball@pd.sandiego.gov
Subject: Re: CUP 2005-47: Stingaree

Dear Lorena,

Thank you for hearing my concerns regarding the NOTICE OF APPLICATION about the Stingaree Restaurant and Night Club requesting to amend their Conditional Use Permit (2005-47). My family is COMPLETELY OPPOSED to allowing the Stingaree to amend their Use Permit. We do not want them to be able to add any additional days (Thursdays and Sundays) for a live DJ, and we do not want them to be able to allow live dancing on their roof top. We live in the condominium building Alta and already deal with the sounds of their night club vibrating through our home as it is.

To be frank, the Stingaree is NOT following the guidelines of their Conditional Use Permit as it is now:
ITEM No. 3 in their Use Permit states that "Applicant must..."

ITEM No. 3 in their Use Permit states that "Amplified music and live entertainment including dancing, shall be permitted only within the confines of the building (ground level & mezzanine only.) and not on the rooftop... the Stingaree plays amplified music so loud on the roof top that there are times when I can't even hear my own television at night with my windows closed!!! I understand that they are allowed to play "AMBIENT RECORDED MUSIC" on the roof top but this music is way louder than what is allowed AND there have been several times where they have had a DJ other than their restricted days of Friday and Saturday nights. For example, on either Tuesday, June 16 or Tuesday, June 23, there was a DJ on the roof top yelling into his microphone and playing "Beattles" music. I could hear what he said verbatim inside my condo.

ITEM No. 6 states that "Sound and amplification equipment shall be monitored during and after business hours to ensure that audible noise remain at acceptable levels so as not to disturb surrounding neighbors." ...

This is definitely NOT happening. The sound needs to be monitored to levels that are acceptable. Not being able to hear my own television is unacceptable and waking up my young child is unacceptable. Can you believe that we play soothing water-fall background music in his room to try to drown out the nightclub music and yelling noise of the dj's, and he still wakes up...

Thank you for reviewing this request and NOT amend the original Conditional Use Permit for the Stingaree. I would also ask that the original amendment be revisited and followed. The noise levels of the music played on the rooftop need to be monitored. We all live with the noises that living downtown brings. We have lived downtown for 8 years now and love it. The sounds of the Stingaree Night Club are excessive and need immediate attention.

Sincerely,

Enrique and Lesley Guajardo
Alta residents

<u></u> -

From: Lorena Cordova <cordova@ccdc.com>
To: Lesley Guajardo <lesleyguajardo@yahoo.com>
Sent: Monday, June 15, 2009 10:02:20 AM
Subject: FW: CUP 2005-47: Stingaree

Lesley,
As discussed, please see attached.



June 25, 2009

Ms. Lorena Cordova, Junior Planner
Centre City Development Corporation
401 B Street, Suite 400
San Diego, CA 92101

RE: Stingaree Application for Extended Entertainment

Dear Lorena,

Thank you for providing Hotel Solamar and our owner, La Salle Hotel Properties, with the opportunity to address our concerns regarding the recent application by the Stingaree for extended entertainment on their roof deck. As a business bordering the Gaslamp Quarter and East Village/Ballpark districts we are very in tune with the dynamics of this major entertainment district and the impact of its many businesses and special events which have gained the area its reputation.

The Hotel Solamar is a 235-room upscale boutique hotel which opened in 2005 as part of the JMI ballpark redevelopment project, a project supported and endorsed by CCDC. We believe the property has excelled at contributing to a positive image for the neighborhood and has been successful in the original redevelopment intent for this area. As the neighborhood has grown and matured, so have the dynamics of its many local organizations. We are now at a crossroad considering the impact that some of our local neighbor's practices have on our business as well as others in the neighborhood.

In late March of this year, Mark Dibella, our Director of Sales and Marketing, contacted the General Manager of Stingaree in an effort to address the ongoing and increasing complaints from our guests regarding the noise from the nightclub. In a meeting with Mr. Dave Renzella, Stingaree's General Manager, and Mr. James Thorp, its Assistant General Manager, Mr. Dibella conveyed our growing concern regarding our guest's hospitality experience, our image and our financial repercussions from repeated noise complaints we were receiving from our guests. Please note that our facility design has our premium suites and many of our guestrooms facing 6th Avenue with its western views. As such, guests in these suites and guestrooms receive the brunt of the noise generated by Stingaree's operation. Both gentleman were gracious in their appreciation of facilitating a meeting and hearing the information and acknowledged in a follow-up the many of the areas of concern that were likely accelerating noise levels along with their action plans. Please see the attached email referencing this issue.

Centre City
Development Corp.

JUN 26 2009

Orig. To:
Copy To:

The hotel maintains a Manager on Duty (MOD) Log in which our third shift personnel document any guest issues overnight. Our MOD Log for Fridays and Saturdays over the years documents the continual complaints stemming from Stingaree's rooftop nightclub

Hotel Solamar / CCDC / Stingaree Permit
June 24, 2009

operation in addition to the noise created at closing due to the mass exodus of customers as well the post-closing noise from their refuse clean up.

Although our overnight staff has repeatedly reached out to Stingaree personnel since the March meeting, the intensity of noise remains unabated as previously described. This will likely escalate with the approach of summer. The hotel continues to suffer financial losses from customer demanding room rate adjustments as well as our efforts to provide complimentary food and beverage credits to mitigate guest complaints from the noise. The ongoing damage to our reputation due to complaint letters and postings on social media sites such as Trip Advisor continues to impact us. We can provide our MOD reports noting these complaints and corresponding revenue adjustments to further document and support our losses as well as customer complaint letters should you so request.

At this time, the Hotel Solamar and its owner cannot lend our support to any approval for a permit application which extends the hours of rooftop operation on Fridays and Saturdays or provides for the expansion of these operations on Thursdays and Sundays. Quite frankly, it is bad enough as it is being limited to Fridays and Saturdays. We believe their operations often violate local noise ordinances which are often overlooked and seldom enforced and they do nothing in creating neighborhood good will with other area residences and business. In addition, Hotel Solamar cannot support any CCDC approval for a permit application to add rooftop entertainment operations on Thursdays and Sundays as this would further impact our business operations and cause us additional financial impact for two more days each week. We also believe that these concerns will be acknowledged and supported by other nearby neighbors including the homeowners associations for Alta, Gaslamp Square and the Terraces.

We are prepared to participate in any Public Hearings relative to this process and appreciate your assistance in providing us with information as this application process proceeds. Please do not hesitate to contact me if you have any questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jim Gross', with a large, stylized initial 'J' and a long horizontal stroke extending to the right.

Jim Gross, Hotel Solamar General Manager

CC: LaSalle Hotel Properties

Lorena Cordova

From: Nicholas Brennan [nick@themarkhoa.com]
Sent: Tuesday, July 14, 2009 8:23 AM
To: Lorena Cordova; judyannejudkins@yahoo.com
Cc: kevinfaulconer@sandiego.gov; Brandon Nichols; Fred J. Maas; courtney@themarkhoa.com
Subject: RE: Stingaree (proposed amendment)

Ms. Cordova,

My name is Nicholas Brennan and I am the General Manager of The Mark COA, in which Mr. and Mrs. Judkins reside. I can assure you that many of our homeowners echo the statements made by Mr. and Mrs. Judkins.

As the Judkins stated, Luck D's sent notices to all the physical addresses at The Mark, which allowed the homeowners to sign a petition (with well over 100 signatures) to apposed the amendment to the permit. If Stinagree had given due notice to homeowners at The Mark, I can assure you that there would have been similar results. I think that at the very least, all residential properties that are affected by the noise level at Stingaree should be noticed and given the chance to voice their concern.

Furthermore, SDPD and city code compliance, rarely take any action when excessive noise levels have been reported. East Village residents should be given notice as to how report and have action taken when Stingaree is not in compliance with its current permits.

At the very least, all East Village residents should be given due notice in order to either attend the hearing or voice concerns via a signed petition.

I hope that CCDC will take the concerns of East Village residents seriously and delay action on this item until ALL persons that are to be affected have the ability to voice their concerns.

I thank you for forwarding this e-mail to all the appropriate parties. Please contact me if you have any questions.

Best regards,

Nicholas Brennan
General Manager
The Mark Condominiums Owner Association
nick@themarkhoa.com
(619) 696-9260

This message contains information which may be confidential and/or legally privileged. Unless you are the intended addressee you may not use, copy or disclose to anybody the message or any information contained in the message. If you received this message in error, please notify me by reply e-mail, and delete the e-mail and all copies. If you need to discuss this e-mail please send me a reply by return email or call me at 619-696-9260. Thank you

From: Lorena Cordova [mailto:cordova@ccdc.com]
Sent: Monday, July 13, 2009 6:08 PM
To: 'judyannejudkins@yahoo.com'
Cc: kevinfaulconer@sandiego.gov; Brandon Nichols; Fred J. Maas; nick@themarkhoa.com; courtney@themarkhoa.com
Subject: RE: Stingaree (proposed amendment)

Mr. and Mrs. Judkins,

Thank you for taking the time to e-mail me about the Stingaree's CUP amendment application. I will forward this information to the applicant so that they are aware; provide a copy of this e-mail to the Centre City Advisory Committee (CCAC) the day of the meeting; and include the e-mail in the staff report presented to the Hearing Officer. As I'm sure you're aware, the CCAC meeting will take place this Wednesday, July 15th at 5:15 p.m. here at CCDC (401 B Street, Suite 400) and you are more than welcome to attend. For more information, you may click on the link below: <http://www.ccdc.com/index.cfm?eventID=1125&CurrtDate=07/13/2009&FuseAction=events.ShowEvent&eventCategoryID=0>

As required with any CUP application, the Stingaree is being processed in accordance with the Land Development Code procedures for a Process Three pursuant to citywide regulations. The regulations require notification to all property owners and occupants within a 300-foot radius of the subject establishment be notified and staff has verified the package is complete. Establishments not located within the 300-foot radius, such as The Mark and Park Lofts condominium projects, are more than welcome to state/voice their position for an application in writing or by attending any of the public meetings we hold where this item is being discussed. Also, I can certainly add you to the list of interested parties as we continue to go through the CUP process. However, we will not postpone this application based on this request as the notification requirements are being met.

As far as the denial of this application or revocation of the existing permit, we will bring this item forward to the Hearing Officer to make a determination on the application. Pursuant to citywide regulations, a CUP decision is made by a Hearing Officer, not by staff, and this application will not be any different. However, although staff has made a recommendation, the public input is equally taken into consideration by the Hearing Officer. Therefore, your comments will be taking into consideration when making a decision on this application.

With regards to your recommendation for the CUP conditions, within the city limits everyone is subject to the same noise ordinance. Therefore, Neighborhood Code Compliance Department (NCCD) monitors compliance and San Diego Police Department (SDPD) issues Entertainment Permits that are subject to the same noise regulations referenced in our use permits. We have been working with NCCD to rectify this situation and hopefully achieve that in this process. However, to report violations to an existing CUP, the best outlet to formalize such a complaint would be to contact NCCD, so that they may further investigate the activity on the premise. NCCD will collaborate with CCDC to monitor the compliance of the establishment to take into account for future reviews and/or public hearings. However, you may also contact CCDC directly. For NCCD, you may contact Senior Land Investigator Tina Sanchez via email at tsanchez@sandiego.gov or by calling her at 619.533.6134. Here at CCDC, you may call us at 619.235.2200 and ask for me, Lorena Cordova. It should be noted that it was due to complaints and an NCCD investigation that the Stingaree was directed to CCDC to apply for a CUP amendment in order to address certain violations that included violating their CUP.

Again, thank you for taking the time to e-mail me. As mentioned, I will forward this information along to the applicant and the Hearing Officer.

Good day,

Lorena Cordova, Junior Planner

Centre City Development Corporation | 401 B Street, Suite 400 | San Diego, CA 92101 | P:619.533.7171 | F:619.236.9148

From: judyannejudkins@yahoo.com [mailto:judyannjudkins@yahoo.com]

Sent: Sunday, July 12, 2009 7:22 PM

To: Lorena Cordova

Cc: kevinfaulconer@sandiego.gov; Brandon Nichols; Fred J. Maas; nick@themarkhoa.com; courtney@themarkhoa.com

Subject: Stingaree (proposed amendment)

Dear Ms. Cordova,

We reside at The Mark Condominiums, 800 The Mark Lane, Unit 1601. This email is in response to the

proposed Amendment to Conditional Use Permit 2005-47 for Stingaree (454 Sixth Avenue).

This Matter Should Be Postponed until All Directly Affected Residents are Notified.

We respectfully request that consideration of Stingaree's request to approve an amendment to its conditional use permit be postponed until all residents directly affected by its excessive noise, repeated violations and the proposed amendment are notified, including residents of The Mark Condominiums and Park Loft Condominiums.

We recently received a notice regarding another matter (Lucky D's request for an amendment to its conditional use permit) and, when we reviewed CCDC's web site for more information, were astonished to find that this Stingaree application is also pending and in fact a hearing has been scheduled and CCDC staff has recommended approval. Your report indicates that most of the objections received were from residents of the ALTA Condominiums. With respect, if CCDC had provided notice of this proposed action to residents of all of the nearby condominium projects from whom complaints had been received by either the San Diego Police Department or Neighborhood Code Compliance, rather than just those within a limited radius, the objections would have been much more numerous and broadly based.

Frankly, the very problem with Stingaree has been such a blatant disregard for both its existing CUP conditions and the noise ordinance that residents substantially outside of a 500' radius have been significantly affected. It seems only fair and reasonable to us that all directly affected residents be notified of the proposed action that will undoubtedly lead to more violations and painful nights. We believe if you inform residents of The Mark and Park Loft, you will be inundated with further objections.

The Proposed Application Should Be Denied.

If you are not inclined to postpone the hearing and notify additional affected residents, then we request that Stingaree's application be denied.

Stingaree has abused its current permit with no apparent repercussions. The current CUP permits Stingaree to have "ambient recorded music" on the rooftop. The Webster definition of ambient music is "music intended to serve as an unobtrusive accompaniment to other activities, background music;" presumably, this would mean (and was undoubtedly intended) to mean unobtrusive to those actually on the rooftop, much less to residents located two or three block away. Stingaree has repeatedly and deliberately violated this restriction; based on personal experience, we would be surprised if a single weekend in the summer of 2008 passed without at least two nights of violations of this restriction – they repeatedly had live music and greatly amplified music (often with DJs) from the rooftop; the music at times shook our windows. We were forced to call the SDPD on numerous occasions, and also contacted Neighborhood Code Compliance, to no apparent avail; only the return of colder weather provided mostly peaceful weekend evenings.

We are astounded that CCDC would consider expanding the music allowed at this facility when the operator so blatantly and habitually violates the existing permit conditions (not to mention building permit requirements and noise ordinances). Expanding Stingaree's rights and imposing additional conditions will undoubtedly be just a one way street – they will take advantage of the expanded rights and continue to disregard the conditions, both new and old.

Stingaree's Existing CUP Should be Revoked.

Section 15 of the existing CUP provides that it can be revoked "if there is a material breach or default in any of the conditions of this permit." Just based on our personal experience and the experience of others who have written to you, it is clear that Stingaree has materially breached the CUP conditions. We know that CCDC only provides a limited number of live entertainment permits. To provide the "downtown" experience that both guests and residents deserve, this permit should be given to an operator with the integrity to comply with the permit conditions and respect for its neighbors.

Please Provide Residence a Practical Remedy for Future Violations.

Assuming CCDC is not inclined to revoke the existing CUP (and based on the staff recommendation that seems the likely result), we strongly request that CCDC take the following steps to help assure future compliance by Stingaree and to help residents address non-compliance:

- 1) **Notify the SDPD and Neighborhood Code Compliance that neither the existing CUP nor the proposed amendment allows violation of the noise ordinance.** (When we contacted code compliance last year, the first response we received from a staff employee was that she wasn't sure the noise ordinance "really makes sense" for downtown businesses like Stingaree;" thankfully, future interaction was more productive. And, as recently as three weekends ago, in response to a noise complaint to the SDPD, we were informed that Stingaree "now has a permit for amplified music until 2am seven days a week;" aside from being inaccurate, this does not apply to the rooftop and also does not exempt Stingaree from compliance with the noise ordinance.
- 2) **Provide a single point of contact with both CCDC and Neighborhood Code Compliance, for residents to report violations,** and designate a person to visit the facility in "real time" in response to complaints, to confirm whether conditions are being violated.

We love living in East Village ; it is our neighborhood. We want to be good neighbors; however, we expect the local retail establishments to do the same. Thankfully, all but one of the local businesses seem to share this goal. We hope you will help the East Village residents satisfactorily address this issue. Please postpone any decision on this matter until all affected neighbors have been informed. If you are not willing to postpone consideration of the proposed amendment, then please help us protect our neighborhood by denying the application and by providing residents the practical mechanisms to addressing future non-compliance with the permit conditions.

Sincerely,

Greg and Judy Judkins

P.S. We are happy to invite you and any CCAC or CCDC member to our home on an evening when Stingaree in playing "ambient" music from the rooftop that can be heard more than two blocks away; just send us your telephone number and be prepared to shout in order to be heard!

Please Note: Correspondents should assume that all communication to or from this address is recorded and may be reviewed by third parties.

Checked by AVG - www.avg.com

Version: 8.5.375 / Virus Database: 270.13.13/2236 - Release Date: 07/13/09 17:57:00

Lorena Cordova

From: joy sunyata [joyoforchidshell@yahoo.com]
Sent: Tuesday, July 14, 2009 3:49 PM
To: Lorena Cordova
Cc: KevinFaulconer@sandiego.gov
Subject: Action Item #17 CCAC Meeting Agenda 7/15/09 STINGAREE

Lorena,

Here is my request regarding above action:

No rooftop entertainment on Thursdays.

It is my understanding that rooftop entertainment is growing in popularity; yet, please remember that to honor the City of Villages plan, do we really want loud music blaring from more and more open air rooftops Downtown?

How to balance all the components of Urban Living Downtown, certainly is challenging; yet, quality of life for all residents must be at the forefront of all decisions.

I would appreciate a response by 7/21/09, if possible. Thank you.

joy sunyata
Citizen Activist
District 2 Downtown Resident.

Lorena Cordova

From: Philip Ochoa [po9473@yahoo.com]
Sent: Tuesday, June 16, 2009 7:15 PM
To: Lorena Cordova

Dear Ms. Cordova,

I am a resident of ALTA, a high-rise residential building near the Stingaree. While I enjoy the nightlife that downtown San Diego has to offer, I am opposed to the Stingaree being allowed to have rooftop music and parties as has been requested. Already the noise levels coming from there are excessive, especially on the weekends. Should you allow them to proceed, it should be contingent upon their providing noise barriers that would isolate the noise to their building and not spill over to the surrounding buildings.....Thank you.

Phil Ochoa
619-696-9228

Centre City
Development Corp.

JUL 10 2009

Orig. To:
Copy To:

575 6th Ave #405
San Diego, CA. 92101

July 9, 2009

Attention: Lorena Cordova, Junior Planner
401 B St. Suite 400
San Diego, CA. 92101

Dear Lorena:

I live between 7th + 6th Ave + Market St. in a high rise called ATTA. My condo faces south toward Petco Park and is almost to 7th Ave. This Month I will have celebrated two years as a downtown resident although I have lived in San Diego county for thirty years.

In the year and a half of downtown living, I have enjoyed it immensely. Then, approximately three-four months ago, beginning on a Thursday night, the air was filled with boisterous noise from the rooftop terrace of the Sturgance. The noise was so loud that with my double pane windows closed, the music blared into my small condo. It was deafening noise. I could not believe it since I had not heard such awful noise

from that establishment in previous months.

The D.J. was screaming, music was blasting, movies were being shown. I do not know if there was dancing on the rooftop since I cannot see onto the rooftop terrace. The music continued past 12:10 AM. I called the police because I wanted the music to be lowered. I needed to sleep since I work as a school nurse in a high school, and I had to go to work the next day.

The police did go to the Stargame and the music eventually became softer; however, it was 2:00 AM when the music totally stopped. I could not get sleep. I was very tired in the morning and I was tired at work. For a nurse being tired on the job is impossible.

Since that Thursday night, Stargame has put the exact same performance on other Thursday nights without any regard for community well being and awareness. "Let's just Party" is ~~their~~ their slogan.

Please, do not allow Stuyvesant to feel as though they have absolute control in the downtown area. The management of Stuyvesant feels that they can have obnoxious loud D.J. music, dancing, movies, etc whenever they want. They have been non-compliant, and now they want less restrictions on their permit even though they are currently in code violation!

The other factor in my case against this terrible loud music is that I need my sleep during the night because I have a serious health condition (Hx of breast cancer and recent breast cancer). I do not want to worsen my health.

Thank you so much for your attention in this matter. Please consider individual / community needs in your decision.

Sincerely,
Judy Koplan
ATA Resident

TO: LORENA CORDOVA, JUNIOR PLANNER
FROM: OWEN AND MARILYN O'BRIEN
RE: NOTICE OF PUBLIC HEARING, PROJECT NAME: STINGAREE

Dear Ms. Cordova,

We live at 575 6th Avenue, which is the ALTA building . When we are on our balcony we actually look down on the Stingaree building. It seems to be a very successful nightclub but the noise is extremely loud, especially when there is live entertainment and dancing on the rooftop. For those who cannot get into the place they wait outside in a line that sometimes interferes with foot traffic on Island. The people in this line also bear loud noise.

What is the right solution? We do not know. We understand young people want to have fun but somehow the noise level needs to be controlled, especially when one cannot get to sleep late at night. The limos delivering guests to this place also cause a parking problem when they double park on 6th Avenue.

We are concerned and we hope the right solution to this problem can be enforced.

Thank you,



Owen and Marilyn O'Brien

Luther W. Horton
Kimberly S. Oberrecht
Cheryl A. Kirkpatrick
Richard H. Martha
Jacob R. Felderman
Emily D. Wallace
Russell L. Bolin
Daniel S. Klein
Nathaniel J. Michels
Erin E. Schroeder
Gabrielle J. Anderson-Thompson
Ashley V. LaFontaine
Fang-Chung Li
Sharla N. Hilburn
Jill E. Klemann
Alice S. Lee
Armita Radjabian
Jessica M. Gard

HORTON, OBERRECHT, KIRKPATRICK & MARTHA

ATTORNEYS AT LAW
A PROFESSIONAL CORPORATION
225 BROADWAY, SUITE 2200
SAN DIEGO, CALIFORNIA 92101
TELEPHONE (619) 232-1183
FACSIMILE (619) 696-5719

RIVERSIDE OFFICE
3847 TWELFTH STREET
RIVERSIDE, CALIFORNIA 92501

ORANGE COUNTY OFFICE
2030 MAIN STREET, SUITE 240
IRVINE, CALIFORNIA 92614
TELEPHONE (949) 251-5100
FACSIMILE (949) 251-5104

NORTHERN CALIFORNIA OFFICE
800 NINTH STREET, 16TH FLOOR
SACRAMENTO, CALIFORNIA 95814
TELEPHONE (916) 449-9950
FACSIMILE (916) 449-9507

JUN 25 2009

Orig. To:
Copy To:

PARALEGALS

Tina Hill
Yvette Hopson
Elvia Ramos

OFFICE ADMINISTRATOR
Mary Martin

June 23, 2009

Lorena Cordova
CENTRE CITY DEVELOPMENT
CORPORATION
401 B Street, Suite 400
San Diego, CA 92101-4298
cordova@ccdc.com

VIA E-MAIL & U.S. MAIL

Dear Ms. Cordova:

I live in a residential unit very near Stingaree, Alta, 575 Sixth Avenue. I received one of your letters.

I would like to object to any additional noise coming from the rooftop of Stingaree. On Friday and Saturday nights, the loud music coming from the rooftop of Stingaree invades the privacy of many residents of Alta. I have a two-bedroom unit on the southwest corner on Floor 17. The loud bass music from Stingaree has caused me to move my master bedroom from facing south to facing east. I have heard other residents at Alta complain that the music from Stingaree on Friday and Saturday nights gets so loud that they cannot even hear their own television.

The City of San Diego is encouraging people to live in Downtown San Diego. The loud music from Stingaree discourages people from wanting to live Downtown. It has also affected my property values because of the loud noise.

Please do not allow Stingaree to change their Conditional Use Permit unless it involves putting a restriction on the noise that they can generate through this music.

Very truly yours,

Luther W. Horton

Lorena Cordova

From: John Mancuso [johnmancuso@gmail.com]
Sent: Monday, August 10, 2009 5:07 PM
To: tsanchez@sandiego.gov; Lorena Cordova
Subject: Stingaree Amendment to CUP 2005-47

Dear Ms Sanchez and Ms Cordova,

I am a resident of The Mark in downtown San Diego. I am writing you this note to implore you to reconsider the amendment allowing Stingaree to host live entertainment on Thursdays and Sundays before a national holiday. As it stands now, I am exposed to the loud and inappropriate music that comes from the roofdeck every Friday and Saturday night until 1am. The current permit allows for "ambient" music at night, though the music that is played each weekend is well in excess of what any rational person would consider "ambient". I am afraid that with additional latitude, the abuses that Stingaree currently is allowed will only get worse and more frequent.

As a resident of downtown, I understand that I live in an urban area where the overall level of noise is somewhat higher than that of other residential areas. However, the noise produced by Stingaree every weekend is simply unacceptable for a residential area under any standards. The proposed expansion to Thursdays and Sundays will only make things worse for downtown residents.

Please let me know if there is anything else I can do to express my concern about this issue.

John Mancuso

August 10, 2009

Ms. Lorena Cordova
Junior Planner
Centre City Development Corporation
401 B Street Suite 400
San Diego, Ca 92101-4298

Re: NOTICE OF PUBLIC HEARING
STINGAREE
Conditional Use Permit 2005-47

Dear Ms. Cordova:

As the Owner of the Island Hotel, located at 461 Fifth Avenue, my concern is with the noise level on the rooftop while dancing and extended live entertainment times are taking place.

I have several rooms that do look out towards the wall that they will be holding their rooftop dancing and live entertainment.

Please convey my concerns to the CCDC Hearing Officer.

Sincerely,

Alan Y. Wong
Owner
Island Hotel
461 Fifth Avenue
San Diego, CA 92101

Lorena Cordova

From: Peggy Mollen [pmollen@ucsd.edu]
Sent: Monday, August 10, 2009 3:29 PM
To: TSanchez@sandiego.gov
Cc: Lorena Cordova
Subject: Notice of Public Hearing - Stingaree

Tina,

As a resident of The Mark my husband and I would strongly disagree with allowing additional nights of loud music on the roof top of Stingaree.

Most of the neighboring residents all live in glass buildings and the noise factor would be simply unfair to many. As well as our household pets who hear much better than we do.

We find this application extremely unfair to the many families that would be affected.

Peggy and Jeff Bailey
The Mark unit 2801