



DATE: May 21, 2015
TO: Planning Commissioners
FROM: Glen Markegard, Planning Manager
RE: Case 8926D-15 – CUP for Restaurant with Rooftop Seats

Based on discussions with the applicant's representative, staff recommends modifying proposed Conditions 5 and 6 from:

- 5) No outdoor or rooftop music or amplification is allowed after 10:00 p.m.
- 6) No indoor music or amplification is allowed after 10:00 p.m. when the windows are open.

to:

- 5) If three or more complaints regarding noise at the restaurant after 10:00 p.m. are received in any calendar year from nearby residents, the following noise related conditions go into effect permanently:
 - a. No outdoor or rooftop music or amplification is allowed after 10:00 p.m.
 - b. No indoor music or amplification is allowed after 10:00 p.m. when the windows are open.

The subsequent conditions would be renumbered accordingly.

The applicant would like the ability to play soft "mood music" after 10:00 p.m. both on the rooftop deck and inside with the windows open. The revised condition would place the responsibility on the restaurant management to manage the music in a manner that avoids noise complaints. In the event that noise complaints from nearby residents are received, the 10:00 p.m. conditions would then take effect.

In addition to potential CUP limits, the restaurant will be subject to the citywide noise limits set in the City Code (Section 10.29.02 (b)):

In the event that the property on which an industrial, freeway development, business, commercial- recreational, or institutional noise source is located across a street, road or railroad track from, or abuts residentially zoned and residentially use property, the noise source in question shall not exceed an L10 noise level of 60 dBA in the daytime (7:00

A.M. to 10:00 P.M.) and an L10 noise level of 50 dBA in the nighttime (10:00 P.M. to 7:00 A.M.) as measured on the property line of the source.