

**CITY OF BELMONT
MEMORANDUM**



TO: Planning Commission

FROM: Damon DiDonato, Senior Planner

VIA: Carlos de Melo, Community Development Director

SUBJECT: February 15, 2011 Planning Commission Meeting – Agenda Item 5B
Design Review, Conditional Use Permit & Variance – Shalizaar Restaurant - 300
El Camino Real; PA# 2010-0031

SUMMARY

The applicant requests Design Review for a 5,129 sq. ft. banquet room addition, and a Conditional Use Permit to allow extended hours and live entertainment until 2:00 a.m. at the Shalizaar Restaurant. The applicant requests a Variance from the requirement to provide parking for the proposed banquet room.

RECOMMENDATION

Staff recommends that the Planning Commission **approve** the Design Review, Conditional Use Permit and Variance subject to the findings and conditions of approval contained in the attached draft resolution¹.

BACKGROUND

City records indicate that the building on site was constructed in 1976, and has mostly been used recently as a restaurant. Planning files indicate that Design Review permits were issued for a wall sign and pole sign in 1978, and a façade upgrade and rebate was completed in 1995.

In May of 2006, the Planning Commission approved a Design Review Permit to allow renovation of the exterior façade of the existing restaurant building, construction of a new trash enclosure, and upgrade of the landscaping.

In August of 2007, the Planning Commission approved a Conditional Use Permit allowing live entertainment within the restaurant and extended hours of operation. Conditions of project approval permitted live entertainment on Fridays and Saturdays from 11:00 a.m. until 11:30 p.m. with restaurant closure by midnight. In addition, live entertainment was permitted on 12

¹ Please note: This recommendation is made in advance of completion of all public testimony or Commission discussion of the project. At the public hearing, these two factors, in conjunction with the staff analysis, will be considered by the Commission in rendering a decision on the project.

“floating days” per year (Sunday through Thursday) with live entertainment occurring from 5:00 p.m. to 10:00 p.m., and restaurant closure by 11:00 p.m.

The Planning Commission reviewed this project at their January 18, 2011 meeting. No recommendation was provided at the meeting. Instead, staff requested that the Commission continue the matter and provide direction for further evaluation and/or preparation of a Resolution on the directed Commission action for the project. The Commission generally indicated that the design of the proposed addition was appropriate, but requested additional information and clarifications with respect to the CUP and Variance entitlements (see attached minutes). Subsequent to the meeting, staff received additional questions from the Commission. The Planning Commission's comments/concerns and staff and the applicant's responses are listed below.

DISCUSSION

As previously noted, at the January 18, 2011 meeting, the Planning Commission continued this item to allow the applicant and staff to address the specific comments/concerns listed below:

1. The applicant should secure a reciprocal off-street parking agreement with a business in the vicinity of the restaurant in order to reduce the on-street parking impacts of the Variance request.

Response. The applicant/owners report contacting and/or discussing a parking agreement with the owners of businesses located at 120, 210, 380, 390, 490, and 516 El Camino Real. The Variance request is for forty parking spaces. The applicant is currently in negotiations with Wheel Works for a parking agreement for twenty-five parking spaces (stacked within the parking area), which would reduce the impacts of the Variance request. Wheel Works is located approximately one block north of the subject property on the northwest corner of Ruth Avenue and El Camino Real (120 El Camino Real). Wheel Works is open weekdays 7:00am-6:00pm, Saturday 7:30am-5:00pm, and Sunday 9:00am-4:00pm. Staff is recommending a condition of project approval that would require the applicant to submit a written parking agreement for review and approval of Community Development Director in consultation with the City Attorney. Said agreement would be required to be signed and executed, prior to issuance of a building permit.

2. The applicant should limit days and hours of operation consistent with the business needs of the establishment. The Commission seemed generally receptive to allowing extended hours until 2:00 am on Fridays and Saturdays with a number of floating days throughout the year provided that the number of floating days could be justified by the business needs of the establishment.

Response. The applicant's business plan includes use of the banquet room with extended hours on weekends (Fridays and Saturdays). Fifty floating days per year are also requested (Monday through Thursday) in order to make the banquet room available on national holidays, birthdays, office parties, anniversaries, and cultural events (i.e., Persian holidays, Chinese

New Year, etc.). The applicant has modified the proposed operational aspects for the restaurant/banquet room as indicated below:

Hours of operation:

- Lunch: seven days/week - 11:00 a.m. to 5:00 p.m.
- Dinner: seven days/week - 5:00 p.m. to 11:00 p.m.
- Live Entertainment: Friday, Saturdays, and fifty floating days per year (live entertainment in banquet room only)
- Extended hours until 2:00 a.m. Friday, Saturdays, and fifty floating days per year

Entertainment:

Entertainment would generally include but not be limited to live musicians (acoustic or amplified) and/or dancers within the Banquet room only, at the times identified above. No stage area has been identified for live entertainment. However, any tables and chairs that may occupy the entertainment area would be moved to the kitchen storage area when entertainment occurs, and a clear path of travel to all exits will be required to be maintained consistent with the requirements of the Belmont-San Carlos Fire Department (or subsequent fire prevention authority).

3. Staff should provide information on businesses that have approved Conditional Use Permits for extended hours and/or live entertainment, and businesses that have Variances from parking requirements.

Response. This information is provided in a table included as an attachment to this report.

4. Staff should investigate the status of Belmont Avenue (public or private) and the accident history for the intersection of Belmont Avenue and El Camino Real.

Response. The Department of Public Works has confirmed that Belmont Avenue is a private road. The Police Department has indicated that there have been two accidents within the last three years at or near this intersection.

5. Staff should investigate if the existing painted crosswalk on El Camino Real located north of Ruth Road could be replaced with a crosswalk with flashing lights or a traffic signal.

Response. El Camino Real (State Highway 82) is under the jurisdiction of the California Transportation Department (Caltrans), District Four. Staff has inquired with the Caltrans about the potential to replace the painted crosswalk with a crosswalk with flashing lights and/or a traffic signal. Staff has had no response from Caltrans as of the writing of this report. Given the safety concerns identified by the Police Department in crossing the street, staff does not recommend using the east side of El Camino Real for project parking. However, staff will continue to work with Caltrans on the possibility of converting the existing crosswalk into a signalized cross walk.

6. Do we know of any establishments that offer live entertainment nightly, and if so, can we get input from their city planning department on how it is going?

Response. There are numerous establishments in San Francisco, San Jose, and Oakland that offer nightly entertainment. However, in order to provide a more valid comparison, staff requested a response from Peninsula cities that have restaurants with ancillary entertainment uses (i.e., San Mateo, Brisbane, Redwood City, San Carlos, etc.).

Staff has received responses from the City of Brisbane and Redwood City. Brisbane has two establishments with legal-nonconforming live entertainment uses. The Brisbane Planner indicated that their code does not include provisions for live entertainment; he was not aware of any issues with the existing non-conforming entertainment uses. Redwood City requires a Conditional Use Permit (CUP) for entertainment uses/extended hours. Redwood City Planning staff indicates that they have had issues with these uses in the past, and try to condition new projects to avoid any foreseeable problems. Review of recent Redwood City CUP approvals for live entertainment/extended hours reveal conditions of approval substantially similar to conditions of approval required for the same types of projects in the City of Belmont.

7. There is a provision in the Municipal Code that requires permits for public dancing. Does Shalizaar allow patron dancing or just the entertainers? If patrons are dancing are we requiring a permit?

Response. Shalizaar has not reported any patron dancing as part of their current approval. Staff believes that the subject Municipal Code provision is intended to regulate public dancing in public places, not private (invitation only) events in public places (i.e., dancing in a banquet room at a wedding reception).

8. Does the city have an ability to permit entertainment associated with only live catered-type events, as opposed to events that would include entertainment provided by the restaurant (i.e., a house band or disc jockey with dancing)?

Response. After previous consultation with the City Attorney, staff recommends that it would be appropriate for the Commission to focus its attention on the time, place and manner that live entertainment would occur. Appropriate criteria would include: when and where the entertainers perform (inside or outside, daytime or nighttime), and the effect of the entertainment to surrounding property (noise, glare, vibration, parking, traffic). With these criteria in mind, staff believes that it would be appropriate to amend the CUP if the nature of the use changed from an ancillary banquet facility with generally catered-type events to an open club-type facility, as there would be more control on the number of prospective patrons and their behavior (i.e., invitations with directions on use of the valet service, expectations of behavior, noise control, etc.) for an ancillary banquet use. Staff would note that this type of approval would also be consistent with the applicants stated intentions for the project.

SITE CONDITIONS

The project site consists of two parcels: 1) a 25,559 sq. ft. parcel that is developed with a 4,050 sq. ft. Mediterranean style restaurant building, a parking area for 35 vehicles, trash enclosure, lighting, signage and landscaping; and 2) a 3,996 sq. ft. parcel that is vacant. The developed parcel is located at the southwest corner of El Camino Real and Anita Avenue. The vacant parcel is immediately adjacent and south of the developed parcel.

The existing restaurant is served by El Camino Real (a main arterial) to the east and Anita Avenue (a local street) to the north. The surrounding uses are:

North – Commercial retail/office uses
South – Commercial retail/office uses
East – Railroad tracks
West – Vacant property and residential uses

Exterior Design/Materials/Colors

The proposed banquet room would be Mediterranean in style and would utilize the same exterior materials and colors as the existing restaurant (i.e., cement plaster finish for exterior walls, wood trim, wood doors, wood framed windows, and clay tile roofing).

The proposed exterior materials and color palette would include:

Roof: Clay tile, (dark orange)
Windows/doors: wood (dark brown)
Fascia/trim: Wood (dark brown)
Exterior Walls: Cement plaster (beige)
Columns: Marble (beige)

Tree Removal / Landscaping

No protected or regulated trees are proposed for removal, and none would need to be removed for the project. The landscape plan includes the following:

- Retaining all the existing landscaping on the restaurant site
- Planting new shrubs (Gazania Mitsuwa, Pittosporum Tenuifolium, Arbutus Compacta, and Dietes Vegeta) in front of the banquet room

Floor Plans

The floor plans for the existing restaurant would not change as part of the project. The floor plans for the banquet room are proposed as follows:

Site Floor Area Summary	
Proposed Square Footage	Proposed Modifications/Additions
First Floor – 4,050 Sq. Ft. (Existing Restaurant)	<u>Existing</u> : Dining room, bar, kitchen, storage, and bathrooms.
First Floor – 4,090 Sq. Ft. (Addition)	<u>Proposed</u> : Foyer/wet bar, banquet room, bathrooms and kitchen.
Second Floor – 1,039 Sq. Ft. (Addition)	<u>Proposed</u> : Storage
Total for Merged Site = 9,179 Sq. Ft.	

The applicant has modified the proposal to expand the hours of operation and live entertainment for the Shalizaar restaurant and the banquet room. As noted earlier, the applicant proposes the following operational aspects for the restaurant/banquet room:

Hours of operation:

- Lunch: seven days/week - 11:00 a.m. to 5:00 p.m.
- Dinner: seven days/week - 5:00 p.m. to 11:00 p.m.
- Live Entertainment: Friday, Saturdays, and fifty floating days per year (live entertainment in banquet room only)
- Extended hours until 2:00 a.m. Friday, Saturdays, and fifty floating days per year

Entertainment:

Entertainment would generally include but not be limited to live musicians (acoustic or amplified) and/or dancers within the Banquet room only, at the times identified above. No stage area has been identified for live entertainment. However, any tables and chairs that may occupy the entertainment area would be moved to the kitchen storage area when entertainment occurs, and a clear path of travel to all exits will be required to be maintained consistent with the requirements of the Belmont-San Carlos Fire Department (or subsequent fire prevention authority).

PROJECT DATA

As noted above, the applicants propose a banquet room addition to the existing restaurant. The proposed addition would occur on the adjacent property and the two parcels would be merged.

<u>Criteria</u>	Existing/Approved	Proposed	Required or Max. Allowed
Lot Size	25,559 sq. ft.	29,555 sq. ft.	N/A
Slope	Level	No Change	N/A
FAR	0.16	0.31	1.5
Square Footage	4,050 sq. ft.	9,179 sq. ft.	44,333 sq. ft.
Parking Spaces¹	35	No Change	75
Landscape Area	6,085 sq. ft. (24%)	6,255 sq. ft. (21%)	4,433 sq. ft. (15%)
Setbacks:			
Front	0 ft.	0 ft.	0 ft.
Side (south)	6 ft.	0 ft.	0 ft.
Side (north)	NA	NA	0 ft.
Rear²	5 ft.	6 ft.	6 ft.
Height	29 ft.	29 ft.	40 ft.
¹ The existing restaurant use requires 35 parking spaces, and the banquet room requires 40 parking spaces. The applicant requests a Variance from the requirement to provide additional parking spaces for the proposed banquet room on site, but would obtain a parking agreement for 25 parking spaces. See discussion of Variance application below. ² A six foot rear yard setback from the adjacent property line is required pursuant to Section 9.7.5 (Transitional yards) of the Zoning Ordinance.			

NEIGHBORHOOD OUTREACH STRATEGY

The applicant reports performing neighborhood outreach as previously described in the January 18, 2011 report. The applicant notified neighbors within 300 feet of the property and held an informational meeting at the existing restaurant in July 2010. The applicant reports that one member of the public attended the meeting (the owner of apartments to the rear of the site), but this individual reportedly did not have any objections to the project.

Prior to the January 18, 2011 meeting, one nearby property/business owner contacted city staff to voice concerns with the project. This individual indicated that the proposed CUP for extended hours and the Variance for forty parking spaces would not be compatible with the surrounding area. This individual noted the potential for noise impacts to occupants of the motel, and concerns regarding potential limited use of the valet service creating unsafe traffic conditions on El Camino Real, and Anita and Belmont Avenues.

At the January 18, 2011 meeting, a few members of the public spoke and/or submitted letters regarding the project. Notice was sent to all property owners within 300 feet of the project site, and all people who spoke at the meetings and/or submitted written correspondence. It appears that the neighborhood outreach strategy has been satisfied.

ENVIRONMENTAL CLEARANCE (CEQA)

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act because it qualifies under Section 15303(c) and 15301(e) as follows:

“...stores, motels offices restaurants or similar structures not involving the use of significant amounts of hazardous substances....not exceeding 10,000 sq. ft. in urbanized areas.”

“Additions of 10,000 sq. ft., if the project is in an area where all public services and facilities are available for the maximum development permissible under the General Plan....the area in which the project is located is not environmentally sensitive.

The project meets the requirements of the environmental exemption as: 1) The existing restaurant is located within an urbanized area as defined by Section 21071 of the California Environmental Quality Act; 2) the proposed expansion would not use a significant amount of hazardous substances; 3) all public services are currently available to the proposed project; and 4) the project area is not environmentally sensitive (i.e., there are no wetlands or sensitive species on site).

GENERAL PLAN CONFORMANCE

The Belmont General Plan currently designates the project site as “Commercial/Highway”. General Plan Policy 2029 describes the Commercial/Highway designation as appropriate for commercial businesses that depend on automobile traffic for customers, such as service stations, motels, retail uses and restaurants, etc. General Plan Policy 2025 promotes the establishment of commercial uses, which meet the needs for local residents, and Policy 2026 encourages locating commercial uses on or near major thoroughfares, in order to discourage traffic in residential neighborhoods and prevent disruption of traffic flow on major streets. The proposed banquet room would be located adjacent to an existing restaurant on a major thoroughfare (El Camino Real), which would be consistent with the General Plan policies discussed above.

ZONING CONFORMANCE

The Belmont Zoning Ordinance (BZO) defines in Section 2.33.1, “a restaurant, tavern or lounge which provides live musical entertainment on the premises” as a “cabaret”. Pursuant to Section 5.4.2.a, a cabaret is a conditional use in the C-3 District. The BZO also requires a Conditional Use Permit (CUP) be acquired to conduct business uses before 7:00 a.m. or after 11:00 p.m. As discussed previously, the existing restaurant currently has an approved CUP for extended hours and a cabaret use. The proposed project would modify these approvals to allow restaurant operation and live entertainment until 2:00 a.m. on Fridays, Saturdays, and fifty floating days per year (Sunday through Thursday). All live entertainment is proposed to occur in the new banquet room.

Parking

Section 8.4.2.c of the BZO requires, “*establishments dispensing food or beverage for consumption on the premises provide 1/60 square feet of customer area plus 1/600 square feet of kitchen and storage area.*” Based upon these requirements the existing restaurant was required to provide thirty-five off-street parking spaces. The proposed banquet room addition, kitchen, and storage area would require an additional forty off-street parking spaces. The applicant has arranged an off-site parking agreement for twenty-five parking spaces at a nearby business. The applicant has requested a Variance from the parking requirements for parking for the proposed project, in accordance with Sections 8.1.3, 14.5.1 and 14.5.2 of the Zoning Ordinance.

The assessment of the required findings for a Variance are discussed in detail on pages fifteen to nineteen of this report. Key review criteria for approval of the proposed Variance include the physical suitability of the site for development with required parking, and whether adequate on-street parking exists for the proposed use. Traffic safety is another important consideration.

Physical Suitability of the Site

The 3,996 sq. ft. parcel is located between two developed properties, and includes frontage on El Camino Real. This small commercial property has limited utility as a stand alone parcel, and would not be developable as a stand-alone parcel with conforming parking (a Variance would typically be required for parking). For example, a small two-story commercial building of 2,000 sq. ft. could be located on the property that would require eight parking spaces. However, the parcel’s narrow forty-foot width would not allow perpendicular parking (90 degrees to the entrance of the lot) to allow vehicles to turn around before leaving the site (Section 8.3.1(d) of the Zoning Ordinance requires a minimum of forty six feet in width for one-way perpendicular parking). Any vehicles parking on the subject lot would be required to back out onto El Camino Real, creating an unsafe condition. In addition, the parking area would need to be at the front of the site in order to access the street, with the building set back approximately forty feet towards the rear of the site, eliminating any potential retail visibility.

Development of the property under the above scenario would likely lead to the construction of a small commercial office building, which would also require a parking Variance. There is currently no shortage of available commercial office space within the City of Belmont or the Bay Area region. Staff believes that site would have limited practical use because of its size, resulting in either the building being vacant, or underutilized with rents below those prevailing in the area. This then limits the resources available to the property owner for building maintenance. Staff believes that these conditions represent practical difficulty and unnecessary hardship, and believes that this site would be far more suitable for development as part of the adjacent restaurant parcel.

On-Street Parking

As previously discussed, the proposed banquet room addition, kitchen, and storage area would require an additional forty off-street parking spaces. The applicant has arranged an off-site parking agreement for twenty-five parking spaces at a nearby business, which reduces the impact of the project on adjacent on-street parking on El Camino Real. The applicant has requested a Variance from the parking requirements for the proposed project.

Staff conducted a parking study of available on-street parking in the vicinity of Shalizaar Restaurant. The parking study indicated that there were a total of forty-three parking spaces located on the west side of El Camino Real from North Avenue to Davy Glen Drive. The study found that, on average, there were twenty four parking spaces available on weekday afternoons, thirty spaces available on weekday evenings, and thirty-one spaces available on weekend evenings. While conducting the study, staff noted that the parking lot of the restaurant is rarely full (the lot averaged ten available parking spaces on weekday afternoons, seven on weekday evenings and four to five on weekend evenings). In addition, competition for on-street parking along El Camino Real is very limited after 7:00 p.m. (when the restaurant is most busy), as most of the surrounding businesses are closed. Bay Area Boxing, at 220 El Camino Real, has classes until 9:30 p.m. on weekdays, but maintains a large parking lot that typically has ten or more vacant spaces. Lastly, not all patrons of the restaurant arrive at the same time and not all patrons stay until closing; there is turnover of restaurant patrons, such that all of the parking spaces do not need to be used at the same time.

The study was undertaken with the assumption that valet parking would be necessary in conjunction with the banquet room operation (the applicant is in agreement with this condition). Valet service would be required at any time when the banquet room is in use (typically after 7:00 p.m.). Vehicles would enter the restaurant's parking lot from the entrance on Anita Avenue and drive toward the front entrance. A valet would then take the vehicle at the front entrance and park it in the parking lot at Wheel Works, or legally on El Camino Real. The vehicle would be brought back to the front entrance when the patron was ready to leave. A condition of approval would require the applicant to instruct the valet service to use El Camino Real for circulation of vehicles to and from Wheel Works and on-street parking spaces as opposed to using local residential streets.

Given the parking agreement, the use of the valet service, and the availability of street parking, staff believes that, as proposed and conditioned, there would be more than adequate on-street parking to support the proposed banquet room use.

Traffic Safety

The subject site is currently served by El Camino Real (a main arterial) and Anita Avenue (a local street) to the north. Though the subject site is located along a busy street, the hours of peak demand for the restaurant are not in conflict with commute traffic. The establishment opens for lunch at 11:00 a.m., after the morning commute and the evening peak dining room demand is 7:00 p.m., after the evening commute. The proposed modification in hours would extend the

period in which entertainment is allowed until 2:00 a.m., and the additional traffic generated by the banquet use would be managed via the valet service (a condition would require the valet service to operate at all times when the banquet facility is in use). Thus, as proposed and conditioned, the proposed project would generally not result in an unsafe traffic condition.

Noise

The General Plan states in Section 3013 that:

“As a local government, the City of Belmont has limited control over the sources of noise affecting the community. Its primary role is to ensure that land uses and occupancies are compatible with the noise environment and that building regulations provide for adequate insulation or other measures to maintain acceptable levels of interior noise and that changes in land use or occupancy do not unreasonably increase existing noise exposure.”

Section 15-102 of the Noise Ordinance (July 2006), establishes maximum noise levels for non-residential properties. The maximum permitted during nighttime hours is 55 dBA, and the maximum noise level permitted during daytime hours is 65 dBA. The restaurant will be required to operate in compliance with the recently adopted Noise Ordinance.

Developed and undeveloped residential properties abut the project site to the west. However, the proposed banquet room where live music and other entertainment would occur is close to the street (El Camino Real), such that the adjacent residential uses would be buffered by the existing restaurant dining area, kitchen and restroom areas and a retaining wall along the rear of the property; the closest developed residential property would be more than 100 feet away. In addition, the banquet room would include a foyer area at the front door and heating and air conditioning system (HVAC), in compliance with current California's Energy Efficiency Standards. Staff would note that HVAC system would eliminate any need to open windows for ventilation and would act to attenuate sound. Lastly, while staff believes that compliance with the City's Noise Ordinance would not be difficult, a condition of project approval is recommended that would require periodic testing of noise levels to ensure no significant impacts occur to adjacent residential properties.

Egress/ Safety

The Building Official has reviewed the project proposal and has determined that the number, type, and location of exit doors would comply with the maximum occupancy established, pursuant to the California Building Code. The Fire Department has also included conditions of approval that would require an operational sprinkler system throughout the addition, panic hardware on all exit doors, the establishment of minimum aisle widths, and the installation of a special fire extinguisher system in the kitchen areas. The Planning Division and Police Department are recommending conditions that would require that the total occupancy (as established by the Belmont - San Carlos Fire Department) be continually monitored by restaurant

management so as not to exceed the established maximum, and that live entertainment be discontinued at 1:30 am in order to prepare for a 2:00 a.m. closure.

DESIGN REVIEW ANALYSIS

The proposed addition is required to meet the Design Review Principles set forth in Section 13.5.3 of the Belmont Zoning Ordinance. These principles to be followed identify aesthetic and site plan consideration for design review, which shall include, but not necessarily be limited to, the following:

- a) *Review of buildings or structures for scale, mass, proportion, use of materials, relationship to adjacent elements and relationship to the community as a whole.*

The applicant proposes a 5,129 sq. ft. banquet room addition to the existing restaurant. The banquet room would be located on the adjacent property south of the restaurant, and the properties would be merged. The proposed banquet room would be Mediterranean in style and would utilize the same architectural features, exterior materials and colors as the existing restaurant (i.e., cement plaster finish for exterior walls, wood trim, wood doors, wood framed windows, and clay tile roofing). The new addition would be the same height as the existing restaurant and would be well designed and articulated so as not to appear bulky. This principle is met.

- b) *Review of proposed exterior color and material application with relationship to adjacent architectural of natural elements. The intent with respect to review of color is to avoid the use of extreme color.*

The exterior color and materials of the addition would match the existing restaurant building on site. The proposed earth tone colors (brown, beige and dark orange) and natural materials (wood, cement plaster) would be consistent with the site and surrounding area. This principle is met.

- c) *Review the proposed location, height, and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations or other surfacing to prevent dust erosion.*

No new storage areas or utility installations are proposed. Best Management Practices (BMPs) for grading will be required as a condition of project approval to prevent erosion and sedimentation impacts. This principle is met.

- d) *Review of location, size, height, lighting and landscaping of signs as specified in the Sign Ordinance, in relation to traffic hazards and the appearance of harmony with the environment. The intent with respect to review of color is to avoid the use of extreme color.*

This project does not include any new signs. This principle is met.

- e) *Review of site layout considering the orientation and location of buildings and open spaces in relation to the physical characteristics of the site, the character of the neighborhood, the appearance and harmony of the buildings with adjacent development and the surrounding landscape.*

The proposed banquet room addition is oriented towards El Camino Real, in keeping with the physical characteristics of the site (property frontage), and the character of the neighborhood. The addition also includes an arched entry way and pillars along the street frontage, which improves the site's street presence, and overall sense of entry. The banquet room would also incorporate the existing restaurant building's Mediterranean architecture, colors, materials and landscaping. This principle is met.

- f) *Review of the layout of the site with respect to locations and dimension of vehicular and pedestrian entrances, exits, drives and walkways.*

Existing parking areas and pathways have been reviewed and approved by the Building Division and the Department of Public Works under previously approved Design Review Conditional Use Permit applications. The proposed project would include no additional vehicular entry or exit points. A small walkway from the sidewalk to the new front entry of the banquet room would be provided, and a secondary exit at the rear of the banquet room has been reviewed and approved by the Building Division and the Fire Marshal. This principle is met.

- g) *Review of site landscaping including adequacy of irrigation plans, size and location of plant materials, and protection of existing plant materials.*

No trees would be removed for the project. The existing restaurant site is fully landscaped, irrigated, and very well maintained. The project proposes to extend the existing landscaping to planters proposed in front of the banquet room. The properties would be merged as part of the project and so the total on site landscaping would be 21% where 15% is the minimum required. An irrigation plan has not been submitted. Staff recommends that an irrigation plan be required as part of the building permit submittal. Said plan would be reviewed and approved by the Community Development Department, prior to issuance of building permits. Existing landscaping will be maintained with this proposal and staff has included a condition of approval that would require that a picture inventory of existing landscaping be submitted prior to building permit issuance.

Staff has considered the applicant's request for Design Review and finds that the project meets the Principles for Design Review in Chapter 13.5.3 in that the proposed banquet room is designed to be compatible with the existing character and design of the existing restaurant. In addition, the proposed use is not expected to impact any vehicular or

pedestrian circulation of the site or substantially reduce overall site landscaping. This finding can therefore be made in the affirmative.

CONDITIONAL USE PERMIT ANALYSIS

In order to grant a Conditional Use Permit, the Planning Commission must make the following findings pursuant to Section 11.5.1 (a-d) of the City of Belmont Zoning:

- a) The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.*

The applicant has requested a Conditional Use Permit (CUP) to extend the hours of operation for the existing restaurant and new banquet room and allow live entertainment until 2:00 a.m. on Friday and Saturday and on fifty floating days (Sunday through Thursday) throughout the year. The live entertainment would occur within the new banquet room only, and would be ancillary and complementary to the existing restaurant use. The establishment opens for lunch at 11:00 a.m., after the morning commute, and the evening peak dining room demand is 7:00 p.m., after the evening commute. Existing utilities already service the restaurant use, which is permitted by right within the C-3 zone.

Noise from the project site would be mitigated by the location of the banquet room (adjacent to the street) and by project design (a foyer space is proposed upon entering the banquet facility to keep noise from escaping when the doors are opened, and an HVAC system would eliminate the need to open doors or windows for ventilation. In addition, the existing restaurant space, kitchens, bathrooms and a retaining wall at the back of the project site will buffer noise from nearby residential uses. The existing restaurant includes a large parking area, and a valet service would utilize an off-site parking area and abundant on-street parking along El Camino Real in order to prevent parking impacts to nearby residential streets.

Thus, staff believes that the modification in hours and the inclusion of live entertainment would not place an undue burden on parking, traffic circulation, or utilities serving the neighborhood. This finding can be made in the affirmative.

- b) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this ordinance.*

The existing restaurant conforms to the total floor area, height, setbacks, and parking requirements of the Zoning Ordinance. The proposed banquet room addition would also comply with all applicable Building, Fire and Zoning Ordinance requirements, with the exception of parking. However an accompanying Variance application for parking has been submitted, and site landscaping (existing and proposed) fully conforms to City standards. Therefore, this finding can be made in the affirmative

- c) *The site will be served by streets of a capacity sufficient to carry the traffic generated by the proposed use.*

The subject site is currently served by El Camino Real (a main arterial) and Anita Avenue (a local street) to the north. Both roads are of sufficient capacity to serve this project site. As noted in Finding (a), above, the hours of peak demand for the restaurant are not in conflict with commute traffic along El Camino Real and thus no significant traffic interruption is anticipated from the project. Therefore, this finding can be made in the affirmative

- d) *The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.*

All City departments have reviewed the proposal and provided draft conditions of approval that should ensure that the extended hours and live entertainment will not adversely affect the general welfare of the City. Conditions of approval have been included from the Police Department and the Planning Division that would require the monitoring of total occupancy, the discontinuance of live entertainment at 1:30 a.m. in anticipation for a 2:00 a.m. closure, and conformance with the Belmont Noise Ordinance; a condition requiring a six-month review has also been included. In addition, the Fire Department has included conditions that limit total occupancy, and require an operational sprinkler system throughout the restaurant, panic hardware on all exit doors, the establishment of minimum aisle widths, and the installation of a special fire extinguisher system in the kitchen areas. Lastly, the Building Official has reviewed the project proposal and has determined that the number, type, and location of exit doors would comply with the maximum occupancy established, pursuant to the California Building Code. With incorporation of and adherence to the above stated conditions of approval, staff believes that this finding can be made in the affirmative.

VARIANCE ANALYSIS

In order to grant a variance for parking, findings pursuant to three sections of the Zoning Ordinance are required. These are set out in the following section.

Section 8.1.3 of Off-Street Parking and Loading

Zoning Ordinance Section 8.1.3 provides that if the parking standards are physically impossible to attain, the Planning Commission may grant a variance when the following conditions exist:

- (a) *There appears to be adequate on-street parking available in the immediate vicinity of the proposed use.*

Staff conducted a parking study of available on-street parking in the vicinity of Shalizaar Restaurant. The parking study encompassed the area from North Avenue to Davy Glen Drive. The study was undertaken with the assumption that valet parking would be necessary to make on-street parking work for the business operation (the applicant is in agreement with this condition). Valet service would be required at any time when the banquet room is in use

(typically after 7:00 p.m.). Vehicles would enter the restaurant's parking lot from the entrance on Anita Avenue and drive toward the front entrance. A valet would then take the vehicle at the front entrance and park it at the agreed upon off-street location or legally on El Camino Real. The vehicle would be brought back to the front entrance when the patron was ready to leave.

The parking study revealed that there are forty-three parking spaces on the west side of El Camino Real from North Avenue to Davy Glen Drive. On average, twenty-four parking spaces were available on weekday afternoons, thirty parking spaces were available on weekday evenings, and thirty-one parking spaces were available on weekend evenings. Forty spaces are required for the proposed banquet room expansion. A parking agreement would provide twenty-five off-street parking spaces at a nearby business, and fifteen would be provided along El Camino Real, which has ample available parking. In addition, staff found that the restaurant parking lot is rarely full (the lot averaged ten available parking spaces on weekday afternoons, seven on weekday evenings and four to five on weekend evenings), and that competition for on-street parking along El Camino Real is very limited after 7:00 p.m. (when the restaurant is most busy), as most of the surrounding businesses are closed. Lastly, not all patrons of the restaurant arrive at the same time and not all patrons stay until closing; there is turnover of restaurant patrons, and so it is expected that not all of the parking spaces would be used at the same time. Thus, as proposed and existing, there would be more than adequate on-street parking available in the immediate vicinity of the proposed use.

b) No physically feasible method appears available for the applicant to meet the standards in the vicinity of the proposed use.

The project site consists of two parcels: 1) a 25,559 sq. ft. parcel that is developed with a 4,050 sq. ft. Mediterranean style restaurant building, a parking area for thirty-seven vehicles, trash enclosure, lighting, signage and landscaping; and 2) a 3,996 sq. ft. parcel that is vacant. The developed parcel is located at the southwest corner of El Camino Real and Anita Avenue. The vacant parcel is immediately adjacent and south of the developed parcel.

The existing restaurant use is completely developed and has conforming parking. There is no room on the restaurant site for more parking. The vacant parcel's narrow forty-foot width would not allow perpendicular parking (90 degrees to the entrance of the lot) to allow vehicles to turn around before leaving the site (Section 8.3.1(d) of the Zoning Ordinance requires a minimum of forty six feet in width for one-way perpendicular parking). Thus, any vehicles parking on the vacant parcel would be required to back out onto El Camino Real, creating an unsafe condition. Thus, there is no physically feasible method available for the applicant to meet the standards for parking on site. This finding can be made in the affirmative.

(c) The Commission finds that the proposed use is compatible with the surrounding area and would enhance development in the vicinity.

The proposed expansion of the restaurant would contribute to its long term commercial viability and would eliminate a small commercial property that has limited utility in today's market. This finding can be made in the affirmative.

Section 14.5.1 Variance Findings

- a) *The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Zoning Plan.*

The expansion of the restaurant into the adjacent property requires the provision of an additional forty parking spaces. The existing site is fully developed and there is no opportunity to increase the number of on-site parking spaces. There is no reconfiguration that would provide more parking on the restaurant parcel. There is no nearby vacant commercial property which could be acquired and reasonably developed for parking.

The small vacant commercial property has limited utility as a stand-alone parcel, and would be not be capable of development with conforming parking. For example, a small two-story commercial building of 2,000 sq. ft. could be located on the property that would require eight parking spaces. However, the parcel's narrow forty-foot width would not allow perpendicular parking (90 degrees to the entrance of the lot) to allow vehicles to turn around before leaving the site (Section 8.3.1(d) of the Zoning Ordinance requires a minimum of forty six feet in width for one-way perpendicular parking). Any vehicles parking on the subject lot would be required to back out onto El Camino Real, creating an unsafe condition (a Variance would be required for parking). In addition, the parking area would need to be at the front of the site in order to access the street, with the building set back approximately forty feet towards the rear of the site, eliminating any potential retail visibility.

Development of the property under the above scenario would likely lead to the construction of a small commercial office building. There is currently no shortage of available commercial office space within the City of Belmont or the Bay Area region. Staff believes that site would have limited practical use because of its size, resulting in either the building being vacant, or underutilized with rents below those prevailing in the area. This then limits the resources available to the property owner for building maintenance. Staff believes that these conditions represent practical difficulty and unnecessary hardship; this assessment rationalizes that this site would be far more suitable for development as part of the adjacent restaurant parcel.

- b. *There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.*

The restaurant property is developed with parking conforming to its use. Surrounding commercial properties (Bay Area Boxing, Pilgrims Kitchen, Workplace Innovations, the adjacent office building, etc.) either have conforming parking, or are legal non-conforming with respect to parking. The subject vacant commercial property has an unusually narrow frontage (forty feet) where surrounding properties either have multiple frontages or are eighty to one hundred feet in width, allowing for the development of onsite parking areas with adequate back up room. There is no opportunity to add parking to the site. Staff surveyed the other commercial properties within the C-3 District and found that this was the only site so constrained by parking.

If there is no flexibility in meeting the parking requirements for the proposed expansion, then the property owner would only be able to add 120 sq. ft. of dining area or 1,200 sq. ft. of storage area to the vacant property (using the two additional parking spaces on the restaurant site). As a stand-alone parcel, the property could not be developed without some level of Parking Variance. Given its small size, it may not be suitable or viable for the permitted retail uses such as personal services or retail goods. This would result in the space being hard to rent for retail use as preferred by General Plan policies, or underutilized. This finding can be made in the affirmative.

c. The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.

The other commercial development in the vicinity is not generally constrained by narrow roadway frontages and single points of access, and thus may be used for the full range of uses permitted in the C-3 District.

There are commercial properties within the City of Belmont C-1 and C-2 Zoning Districts that are similarly limited in on-site parking. These include the commercial building at 1020 Sixth Street where Caprino's Italian Restaurant and several other commercial tenants are located, and the building at 1910 Ralston Avenue where Vivace is located. The property at 1020 Sixth Avenue has approximately four on-site parking spaces. The building at 945 Ralston Avenue, where Sushi Monster and several other commercial tenants are located, has five on-site parking spaces. These developments are located in a different zoning district than the project site, but indicate that there are other examples of commercially-zoned properties with constrained off-street parking which contain restaurants.

If there is no flexibility in the parking requirements for this site, then the existing commercial property would be limited in its utility and may be underused, vacant, or rented at a rate below prevailing rates in the vicinity. This would deprive the owner of the privilege owners of other commercial properties enjoy, which is the ability to rent the existing space on a competitive basis in the marketplace. There is available on street parking on El Camino Real that could support the proposed banquet room. The strict or literal enforcement would not provide public benefit, but would deprive the applicant of the opportunity to use the C-3 zoned property for uses which have been permitted elsewhere for older commercial buildings without complying off-street parking. This finding can be made in the affirmative.

d. The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

The granting of the variance will allow the owner to utilize a commercial property by combining it with the adjacent restaurant parcel. The Variance would not allow any expansion of the restaurant in a way that would not conform to the regulations for use, floor area, landscaping, setbacks or height. The commercial property would be combined with the adjacent restaurant parcel, making it more useful and viable. This findings can be made in the affirmative.

- e. *The granting of the Variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

Granting this Variance will allow the expansion of an existing restaurant use which is compatible with the neighborhood and provides desired services to community residents. The banquet room would predominately be used for evening events, which would not conflict with available private off-street parking where the applicant has secured a parking agreement. In addition, the time of heaviest use of the restaurant is in the evening when other businesses are not operating, so the on-street parking would provide sufficient parking for this use. This finding can be made in the affirmative.

Section 14.5.2 Limitations: Parking and Loading

Section 14.5.2 provides:

The Commission may grant a Variance to a regulation prescribed by this Ordinance with respect to off-street parking facilities or off-street loading facilities, as the Variance was applied for or in modified form if, on the basis of the application and the evidence submitted, the Commission makes the findings prescribed in paragraphs (a) through (e) of Section 14.5.1 and if, on the basis of the Commission's investigation, it makes the following additional findings:

- a) *That neither present nor anticipated future traffic volumes generated by the use of the site, or the uses of sites in the vicinity, reasonably require strict or literal interpretation and enforcement of the specified regulation.*

This existing neighborhood is built-out and is therefore unlikely to generate significant new traffic volumes or parking demand in the future. The expanded restaurant would continue to do business primarily around the middle of the day (lunch time) and then again in the evening for dinner. Peak use of the property is outside of the morning and evening rush hours. The existing parking on public streets is available to serve this neighborhood. Therefore, there is nothing about future use of this project site, nor sites in the vicinity, which would dramatically increase parking demand. This finding can be made in the affirmative.

- b) *That the granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.*

The applicant has secured twenty-five parking spaces via a private off-street parking agreement. In addition, the west side of El Camino Real from North Avenue to Davey Glen Drive is improved with standard curb and gutter and well lit. The roadway includes two wide lanes in southbound direction, and vehicles can parallel park safely without obstructing the free flow of traffic. Lastly, as mentioned earlier, a valet will be employed at all times when the banquet room is in use, and the time of greatest demand for the restaurant/banquet room would be in the

evenings, when many of the other businesses in the immediate area will be closed. This finding can be made in the affirmative.

- c) *That the granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of the Zoning Plan.*

The Variance from providing the additional parking on site will neither create a safety hazard nor any other condition inconsistent with the objectives of the Zoning Plan. It will provide for the effective use of an existing small property by combining it with the adjacent restaurant, thereby maintaining viable restaurant use, consistent with the intent of the C-3 District. This finding can be made in the affirmative.

CONCLUSION

The proposed Design Review, Conditional Use Permit and Variance applications to allow the addition of a banquet room, extended hours, and live entertainment and a Variance for fifteen parking spaces for the banquet room at the Shalazaar restaurant would meet the objectives of the General Plan and, as proposed and conditioned, would be consistent with the Zoning Ordinance. Based on the foregoing analysis of the required findings, staff recommends **approval** of the applications subject to the conditions of approval in attachment II.

ACTION ALTERNATIVES

1. Continue the matter to a date certain to allow subsequent review of an alternative proposal.
2. Deny the Design Review, Conditional Use Permit and Variance applications. The Commission will identify specific facts to support a denial, and a resolution would be returned to the Commission for final action.

ATTACHMENTS

- I. Resolution approving the Design Review, Conditional Use Permit and Variance applications
- II. Conditions of Approval
- III. Correspondence from Neighbors
- IV. Parking Study Table
- V. Extended Hours and Parking Variance table
- VI. Draft Minutes from Planning Commission meeting, dated January 18, 2011
- VII. Planning Commission Staff Report, dated January 18, 2011

RESOLUTION NO. 2011 -

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF BELMONT
APPROVING DESIGN REVIEW FOR A 5,129 SQ. FT. BANQUET ROOM ADDITION, A
CONDITIONAL USE PERMIT TO ALLOW EXTENDED HOURS WITH LIVE
ENTERTAINMENT, AND A PARKING VARIANCE AT SHALIZAAR RESTAURANT
LOCATED AT 300 EL CAMINO REAL AND THE ADJACENT VACANT PARCEL
(APN: 044-173-200) (APPL.NO. PA 2010-0031)

WHEREAS, Saeed and Narges Ayagh, applicants and owners for Shalizaar Restaurant request Design Review for a 5,129 sq. ft. banquet room addition, a Conditional Use Permit to allow extended hours with live entertainment, and a Parking Variance for the Shalizaar Restaurant located at 300 El Camino Real; and,

WHEREAS, public hearings were duly noticed, held, and closed on January 18, 2011, and February 15, 2011; and,

WHEREAS, the Planning Commission of the City of Belmont finds the project to be categorically exempt pursuant to the California Environmental Quality Act, Section 15301 and 15303; and,

WHEREAS, the Planning Commission hereby adopts the staff reports dated January 18, 2011 and February 15, 2011, and the facts contained therein as its own findings of facts; and,

WHEREAS, the Planning Commission has considered the request for a Design Review Permit for the proposed project and finds that it meets required principles as set forth in Section 13.5.3 of the Zoning Ordinance as follows:

- a) *Review of buildings or structures for scale, mass, proportion, use of materials, relationship to adjacent elements and relationship to the community as a whole.*

The applicant proposes a 5,129 sq. ft. banquet room addition to the existing restaurant. The banquet room would be located on the adjacent property south of the restaurant, and the properties would be merged. The proposed banquet room would be Mediterranean in style and would utilize the same architectural features, exterior materials and colors as the existing restaurant (i.e., cement plaster finish for exterior walls, wood trim, wood doors, wood framed windows, and clay tile roofing). The new addition would be the same height as the existing restaurant and would be well designed and articulated so as not to appear bulky. This principle is met.

- b) *Review of proposed exterior color and material application with relationship to adjacent architectural of natural elements. The intent with respect to review of color is to avoid the use of extreme color.*

The exterior color and materials of the addition would match the existing restaurant building on site. The proposed earth tone colors (brown, beige and dark orange) and natural materials (wood, cement plaster) would be consistent with the site and surrounding area. This principle is met.

- c) *Review the proposed location, height, and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations or other surfacing to prevent dust erosion.*

No new storage areas or utility installations are proposed. Best Management Practices (BMPs) for grading will be required as a condition of project approval to prevent erosion and sedimentation impacts. This principle is met.

- d) *Review of location, size, height, lighting and landscaping of signs as specified in the Sign Ordinance, in relation to traffic hazards and the appearance of harmony with the environment. The intent with respect to review of color is to avoid the use of extreme color.*

This project does not include any new signs. This principle is met.

- e) *Review of site layout considering the orientation and location of buildings and open spaces in relation to the physical characteristics of the site, the character of the neighborhood, the appearance and harmony of the buildings with adjacent development and the surrounding landscape.*

The proposed banquet room addition is oriented towards El Camino Real, in keeping with the physical characteristics of the site (property frontage), and the character of the neighborhood. The addition also includes an arched entry way and pillars along the street frontage, which improves the site's street presence, and overall sense of entry. The banquet room would also incorporate the existing restaurant building's Mediterranean architecture, colors, materials and landscaping. This principle is met.

- f) *Review of the layout of the site with respect to locations and dimension of vehicular and pedestrian entrances, exits, drives and walkways.*

Existing parking areas and pathways have been reviewed and approved by the Building Division and the Department of Public Works under previously approved Design Review Conditional Use Permit applications. The proposed project would include no additional vehicular entry or exit points. A small walkway from the sidewalk to the new front entry of the banquet room would be provided, and a secondary exit at the rear of the banquet room has been reviewed and approved by the Building Division and the Fire Marshal. This principle is met.

- g) *Review of site landscaping including adequacy of irrigation plans, size and location of plant materials, and protection of existing plant materials.*

No trees would be removed for the project. The existing restaurant site is fully landscaped, irrigated, and very well maintained. The project proposes to extend the existing landscaping to planters proposed in front of the banquet room. The properties would be merged as part of the project and so the total on site landscaping would be 21% where 15% is the minimum required. An irrigation plan has not been submitted, but is required as part of the building permit submittal. Said plan would be reviewed and approved by the Community Development Department, prior to issuance of building permits. Existing landscaping will be maintained with this proposal and a condition of approval would require that a picture inventory of existing landscaping be submitted prior to building permit issuance. This principle is met.

The Planning Commission has considered the applicant's request for Design Review and finds that the project meets the Principles for Design Review in Chapter 13.5.3 in that the proposed banquet room is designed to be compatible with the existing character and design of the existing restaurant. In addition, the proposed use will not impact any vehicular or pedestrian circulation of the site or substantially reduce overall site landscaping. This finding can therefore be made in the affirmative.

WHEREAS, the Planning Commission has considered the applicant's request for a Conditional Use Permit to allow extended hours of operation, and live entertainment for the Shalizaar Restaurant, located at 300 El Camino Real, and adjacent vacant parcel (APN: 044-173-200), and finds that it meets required findings as set forth in Section 11.5.1 of the Zoning Ordinance as follows:

- a) *The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.*

The applicant has requested a Conditional Use Permit (CUP) to extend the hours of operation for the existing restaurant and new banquet room and allow live entertainment until 2:00 a.m. on Friday and Saturday and on fifty floating days (Sunday through Thursday) throughout the year. The live entertainment would occur within the new banquet room only, and would be ancillary and complementary to the existing restaurant use. The establishment opens for lunch at 11:00 a.m., after the morning commute, and the evening peak dining room demand is 7:00 p.m., after the evening commute. Existing utilities already service the restaurant use, which is permitted by right within the C-3 zone.

Noise from the project site would be mitigated by the location of the banquet room (adjacent to the street) and by project design (a foyer space is proposed upon entering the banquet facility to keep noise from escaping when the doors are opened, and an HVAC system would eliminate the need to

open doors or windows for ventilation. In addition, the existing restaurant space, kitchens, bathrooms and a retaining wall at the back of the project site will buffer noise from nearby residential uses. The existing restaurant includes a large parking area, and a valet service would utilize an off-site parking area and abundant on-street parking along El Camino Real in order to prevent parking impacts to nearby residential streets.

Thus, the modification in hours and the inclusion of live entertainment would not place an undue burden on traffic, parking, circulation, or utilities serving the neighborhood. This finding is affirmed.

b) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this ordinance.

The existing restaurant conforms to the total floor area, height, setbacks, and parking requirements of the Zoning Ordinance. The proposed banquet room addition would also comply with all applicable Building, Fire and Zoning Ordinance requirements, with the exception of parking. However an accompanying Variance application for parking has been submitted, and site landscaping (existing and proposed) fully conforms to City standards. This finding is affirmed.

c) The site will be served by streets of a capacity sufficient to carry the traffic generated by the proposed use.

The subject site is currently served by El Camino Real (a main arterial) and Anita Avenue (a local street) to the north. Both roads are of sufficient capacity to serve this project site. As noted in Finding (a), above, the hours of peak demand for the restaurant are not in conflict with commute traffic along El Camino Real and thus no significant traffic interruption is anticipated from the project. This finding is affirmed.

d) The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.

All City departments have reviewed the proposal and provided conditions of approval that should ensure that the extended hours and live entertainment will not adversely affect the general welfare of the City. Conditions of approval have been included from the Police Department and the Planning Division that would require the monitoring of total occupancy, the discontinuance of live entertainment at 1:30a.m. in anticipation for a 2:00am closure, and conformance with the Belmont Noise Ordinance; a condition requiring a six-month review has also been included. In addition, the Fire Department has included conditions that limit total occupancy, and require an operational sprinkler system throughout the restaurant, panic hardware on all exit doors, the establishment of minimum aisle widths, and the installation of a special fire extinguisher system in the kitchen areas. Lastly, the Building Official has reviewed the project proposal and has determined that the number, type, and location of exit doors would comply with the maximum occupancy established, pursuant to

the California Building Code.

With incorporation of and adherence to the above stated conditions of approval, the Planning Commission believes that this finding is affirmed.

WHEREAS, the Planning Commission finds the required Variance Findings, Sections 8.1.3 (A-C), 14.5.1(A-E), and 14.5.2 (A-C) are made in the affirmative as follows:

Section 8.1.3 of Off-Street Parking and Loading

Zoning Ordinance Section 8.1.3 provides that if the parking standards are physically impossible to attain, the Planning Commission may grant a variance when the following conditions exist:

- (a) *There appears to be adequate on-street parking available in the immediate vicinity of the proposed use.*

A parking study was conducted of available on-street parking in the vicinity of Shalizaar Restaurant. The parking study revealed that there are forty three parking spaces on the west side of El Camino Real from North Avenue to Davy Glen Drive. On average, twenty-four parking spaces were available on weekday afternoons, thirty parking spaces were available on weekday evenings, and thirty-one parking spaces were available on weekend evenings. Forty spaces are required for the proposed banquet room expansion. Twenty-five off-street parking spaces would be provided at a nearby business, and fifteen would be provided along El Camino Real, which has ample available parking. In addition, the restaurant parking lot is rarely full (the lot averaged ten available parking spaces on weekday afternoons, seven on weekday evenings and four to five on weekend evenings), and competition for on-street parking along El Camino Real is very limited after 7:00 p.m. (when the restaurant is most busy), as most of the surrounding businesses are closed. Lastly, not all patrons of the restaurant arrive at the same time and not all patrons stay until closing; there is turnover of restaurant patrons, and so it is expected that not all of the parking spaces would need to be used at the same time. Thus, as proposed and existing, there would be more than adequate on-street parking available in the immediate vicinity of the proposed use. This finding is affirmed.

- b) *No physically feasible method appears available for the applicant to meet the standards in the vicinity of the proposed use.*

The project site consists of two parcels: 1) a 25,559 sq. ft. parcel that is developed with a 4,050 sq. ft. Mediterranean style restaurant building, a parking area for 35 vehicles, trash enclosure, lighting, signage and landscaping; and 2) a 3,996 sq. ft. parcel that is vacant. The developed parcel is located at the southwest corner of El Camino Real and Anita Avenue. The vacant parcel is immediately adjacent and south of the developed parcel.

The existing restaurant use is completely developed and has conforming parking. There is no room on the restaurant site for more parking. The vacant parcel's narrow forty-foot width would not allow

perpendicular parking (90 degrees to the entrance of the lot) to allow vehicles to turn around before leaving the site (Section 8.3.1(d) of the Zoning Ordinance requires a minimum of forty six feet in width for one-way perpendicular parking). Thus, any vehicles parking on the vacant parcel would be required to back out onto El Camino Real, creating an unsafe condition. Therefore, there is no physically feasible method available for the applicant to meet the standards for parking on site. This finding is affirmed.

(c) *The Commission finds that the proposed use is compatible with the surrounding area and would enhance development in the vicinity.*

The proposed expansion of the restaurant would contribute to its long term commercial viability and would eliminate a small commercial property that has limited utility in today's market. This finding is affirmed.

Section 14.5.1 Variance Findings

a) *The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Zoning Plan.*

The expansion of the restaurant into the adjacent property requires the provision of an additional forty parking spaces. The existing site is fully developed and there is no opportunity to increase the number of on-site parking spaces. There is no reconfiguration that would provide more parking on the restaurant parcel. There is no nearby vacant commercial property which could be acquired and reasonably developed for parking.

The small vacant commercial property has limited utility as a stand-alone parcel, and could not be developed with conforming parking. The parcel's narrow forty-foot width would not allow perpendicular parking (90 degrees to the entrance of the lot) to allow vehicles to turn around before leaving the site (Section 8.3.1(d) of the Zoning Ordinance requires a minimum of forty six feet in width for one-way perpendicular parking). Thus, any vehicles parking on the subject lot would be required to back out onto El Camino Real, creating an unsafe condition. In addition, the parking area would need to be at the front of the site in order to access the street, with the building set back approximately forty feet towards the rear of the site, eliminating any potential retail visibility. This finding is affirmed.

b. *There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.*

The restaurant property is developed with parking conforming to its use. Surrounding commercial properties (Bay Area Boxing, Pilgrims Pies, Workplace Innovations, the adjacent office building, etc.) either have conforming parking, or are legal non-conforming with respect to parking. The

subject vacant commercial property has an unusually narrow frontage (forty feet) where surrounding properties either have multiple frontages or are eighty to one hundred feet in width, allowing for the development of onsite parking areas with adequate back up room. There is no opportunity to add parking to the site. A survey of other commercial properties within the C-3 District found that this was the only site so constrained by parking.

If there is no flexibility in meeting the parking requirements for the proposed expansion, then the property owner would only be able to add 120 sq. ft. of dining area or 1,200 sq. ft. of storage area to the vacant property (using the two additional parking spaces on the restaurant site). As a stand-alone parcel, the property could not be developed without some level of Parking Variance. Given its small size, it may not be suitable or viable for the permitted retail uses such as personal services or retail goods. This would result in the space being hard to rent for retail use as preferred by General Plan policies, or underutilized. This finding is affirmed.

- c. *The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.*

The other commercial development in the vicinity is not generally constrained by narrow roadway frontages and single points of access, and thus may be used for the full range of uses permitted in the C-3 District.

There are commercial properties within the City of Belmont C-1 and C-2 Zoning Districts that are similarly limited in on-site parking. These include the commercial building at 1020 Sixth Street where Caprino's Italian Restaurant and several other commercial tenants are located, and the building at 1910 Ralston Avenue where Vivace is located. The property at 1020 Sixth Avenue has approximately four on-site parking spaces. The building at 945 Ralston Avenue, where Sushi Monster and several other commercial tenants are located, has five on-site parking spaces. These commercial developments are located in a different zoning district than the project site, but show that there are other examples of properties with constrained off-street parking which contain restaurants.

If there is no flexibility in the parking requirements for this site, then the existing commercial property would be limited in its utility and may be underused, vacant, or rented at a rate below prevailing rates in the vicinity. This would deprive the owner of the privilege owners of other commercial properties enjoy, which is the ability to rent the existing space on a competitive basis in the marketplace. There is available on street parking on El Camino Real that could support the proposed banquet room. The strict or literal enforcement would not provide public benefit, but would deprive the applicant of the opportunity to use the C-3 zoned property for uses which have been permitted elsewhere for older commercial buildings without complying off-street parking. This finding is affirmed.

- d. *The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.*

The granting of the variance will allow the owner to utilize a commercial property by combining it with the adjacent restaurant parcel. The Variance would not allow any expansion of the restaurant in a way that would not conform to the regulations for use, floor area, landscaping, setbacks or height. The commercial property would be combined with the adjacent restaurant parcel, making it more useful and viable. This finding is affirmed.

- e. *The granting of the Variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.*

Granting this variance will allow the expansion of an existing restaurant use which is compatible with the neighborhood and provides desired services to community residents. The time of heaviest use of the restaurant is in the evening when other businesses are not operating, so the on-street parking would provide sufficient parking for this use. This finding is affirmed.

Section 14.5.2 Limitations: Parking and Loading

Section 14.5.2 provides:

The Commission may grant a Variance to a regulation prescribed by this Ordinance with respect to off-street parking facilities or off-street loading facilities, as the Variance was applied for or in modified form if, on the basis of the application and the evidence submitted, the Commission makes the findings prescribed in paragraphs (a) through (e) of Section 14.5.1 and if, on the basis of the Commission's investigation, it makes the following additional findings:

- a) *That neither present nor anticipated future traffic volumes generated by the use of the site, or the uses of sites in the vicinity, reasonably require strict or literal interpretation and enforcement of the specified regulation.*

This existing neighborhood is built-out and is therefore unlikely to generate significant new traffic volumes or parking demand in the future. The expanded restaurant would continue to do business primarily around the middle of the day (lunch time) and then again in the evening for dinner. Peak use of the property is outside of the morning and evening rush hours. The existing parking on public streets is available to serve this neighborhood. Therefore, there is nothing about future use of this project site, nor sites in the vicinity, which would dramatically increase parking demand. Therefore, the strict or literal interpretation for the provision of parking is not required. This finding is affirmed.

- b) *That the granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.*

The applicant has secured twenty-five parking spaces via a private off-street parking agreement. In addition, the west side of El Camino Real from North Avenue to Davey Glen Drive is improved with standard curb and gutter and well lit. The roadway includes two wide lanes in southbound direction, and vehicles can parallel park safely without obstructing the free flow of traffic. Lastly, as mentioned earlier, a valet will be employed at all times when the banquet room is in use, and the time of greatest demand for the restaurant/banquet room would be in the evenings, when many of the other businesses in the immediate area will be closed. This finding is affirmed.

c) *That the granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of the Zoning Plan.*

The Variance from providing the additional parking on site will neither create a safety hazard nor any other condition inconsistent with the objectives of the Zoning Plan. It will provide for the effective use of an existing small property by combining it with the adjacent restaurant, thereby maintaining viable restaurant use, consistent with the intent of the C-3 District. This finding is affirmed.

WHEREAS, the Planning Commission did hear and use their independent judgment and considered all said reports, recommendations and testimony herein above set forth.

NOW, THEREFORE, BE IT RESOLVED the Planning Commission approves the Design Review for a 5,129 sq. ft. banquet room addition, a Conditional Use Permit to allow extended hours with live entertainment, and a Parking Variance for the Shalizaar Restaurant located at 300 El Camino Real and the adjacent vacant parcel (APN: 044-173-200), subject to the conditions attached as Exhibit "A".

* * * * *

Passed and adopted at a regular meeting of the Planning Commission of the City of Belmont held on February 15, 2011 by the following vote:

AYES,
COMMISSIONERS: _____
NOES,
COMMISSIONERS: _____
ABSENT,
COMMISSIONERS: _____
ABSTAIN,
COMMISSIONERS: _____
RECUSED,
COMMISSIONERS: _____

Carlos de Melo
Planning Commission Secretary

EXHIBIT "A"

CONDITIONS OF PROJECT APPROVAL CONDITIONAL USE PERMIT 300 EL CAMINO REAL (APPL. NO. 2010-0031)

I. COMPLY WITH THE FOLLOWING CONDITIONS OF THE COMMUNITY DEVELOPMENT DEPARTMENT:

- A. The following conditions shall be shown on plans submitted for a building permit and/or site development permit or otherwise met prior to issuance of the first building permit (i.e., foundation permit) and shall be completed and/or installed prior to occupancy and remain in place at all times that the use occupies the premises except as otherwise specified in the conditions:

Planning Division

1. Plans submitted for building permit and all construction shall conform to the plans on file in the Planning Division for Appl. No. 2010-0031. The Director of Community Development may approve minor modifications to the plans. The areas shown for kitchen and storage shall not be converted to dining area without further approval from the City of Belmont because dining use requires more parking than storage, and kitchen area uses.
2. In accordance with the Belmont Zoning Ordinance, the Design Review and Conditional Use Permits granted by this approval shall expire one (1) year from the date of approval, with said approval date indicated on the accompanying Planning Commission resolution. Any request for extension of the expiration date shall be made in accordance with the applicable provisions of the Belmont Zoning Ordinance.
3. The Variance entitlement granted as part of the project shall be deemed null and void upon a finding by the Planning Commission that the property for which such Variance has been granted is in violation of any applicable provision of this Ordinance, or that there has been failure to comply with any condition or conditions imposed in the granting of the Variance, as per Section 14.8 of the Belmont Zoning Ordinance.
4. The thirty-five existing parking spaces on the restaurant site shall be maintained.
5. An off-street parking agreement for twenty five parking spaces shall be submitted for review and approval of the Community Development Director, in consultation with the City Attorney. Said agreement shall be signed and executed, prior to issuance of a building permit.
6. Within 30 days of this approval, the property owner shall file with the Director of Community Development, on forms provided by the City, an acknowledgment that he/ she has read, understands and agrees to these conditions of approval.
7. In the event that this approval is challenged by a third party, the property owner and all assignees will be responsible for defending against this challenge, and agrees to accept responsibility for defense at the request of the City. The property owner and all assignees agree to defend, indemnify and hold harmless the City of Belmont and all officials, staff,

- consultants and agents from any costs, claims or liabilities arising from the approval, including without limitation, any award of attorneys fees that might result from the third party challenge.
8. No new signage has been approved as part of this project. All signage shall be provided in accordance with Section 23 of the Belmont Zoning Ordinance.
 9. The hours of operation shall be as follows: Lunch: seven days/week - 7:00 a.m. to 5:00 p.m.; Dinner: seven days/week - 5:00 p.m. to 11:00 p.m.; Live Entertainment: Friday, Saturdays, and fifty floating days per year until 2:00 a.m. (live entertainment in banquet room only); extended hours until 2:00 am, Fridays, Saturdays and fifty floating days per year.
 - 10 Hours of operation and phone numbers shall be posted outside the building for questions and complaints.
 - 11 The restaurant and the live entertainment use shall operate in compliance with the standards established in Section 15-102(c) of the Belmont Noise Ordinance (Maximum 65 dBA for daytime hours [8:00 AM to dusk], Maximum 55 dBA for nighttime hours [dusk to 8:00 AM]).
 - 12 This Conditional Use Permit shall be reviewed by the Planning Commission after six months time and after one years time to assure that the noise emissions from the live entertainment and related exterior noise from departing patrons remain reasonable for the neighboring uses and properties. At the six month and one year reviews, staff shall present the Planning Commission with the results of two scheduled and two unscheduled noise emission tests that shall be taken in accordance with the guidelines set forth for such tests in Section 15-102(a) of the Belmont Noise Ordinance. The six-month and one-year reviews shall be noticed to all property owners and residents within 300 feet, and any interested parties that have commented on the project or who request notification.
 - 13 The applicant shall post these Conditions of Approval governing the operation of the live entertainment “cabaret use” at the subject location such that they are permanently and clearly visible to all restaurant personnel.
 - 14 Restaurant management and/or security personnel shall continually monitor the parking lot area for noise, and shall discourage loud conversations and loitering within the parking lot. A sign shall be placed on or near all exit doors informing restaurant patrons that they are adjacent to a residential area, and that they should make every effort to please be quiet.
 - 15 Prior to the issuance of building permits for the project, the applicant shall provide a restaurant parking management plan to the City which includes but is not limited to addressing:
 - Establishment of a complimentary valet service for the restaurant during all times when the banquet room is in use. Said plan shall limit the parking of vehicles to the agreed upon off-street location and the west side of El Camino Real. The valet attendants shall pick up and drop off vehicle within the exiting parking lot of the restaurant, and shall use El Camino Real (not local residential streets) for the circulation of vehicles.

- Outreach efforts on the part of the restaurant to inform patrons of the banquet room that valet parking is to be used when the restaurant parking lot is full. Such outreach by restaurant employees shall strongly discourage the use of adjacent residential streets for the parking of vehicles.
- 16 Staff shall review the subject entitlements six months and one year after operation of the banquet room use to formally assess on/off-street and adjacent property parking effects. The results of the study shall be reported to the Planning Commission.
 - 17 The 25,559 sq. ft. restaurant property (APN: 044-173-180) and the adjacent vacant 3,996 sq. ft. property (APN: 044-173-200) shall be merged prior to issuance of a building permit.
 - 18 A Conditional Use permit Amendment shall be required for modifications to the approved use from an ancillary banquet facility with generally catered-type events to an open club-type facility. Invitations to these events shall include directions on use of the valet service, and expectations of behavior and noise control.
 - 19 The applicant shall be responsible to notify the Community Development Department, Planning Division, prior to use of floating days. Staff shall track the use of floating days throughout the year.

Building Division

- A. The following conditions shall be shown on plans submitted for a building permit and/or site development permit or otherwise met prior to issuance of the first building permit (i.e., foundation permit) and shall be completed and/or installed prior to occupancy and remain in place at all times that the use occupies the premises except as otherwise specified in the conditions.
 1. Plans shall conform to approved project plans.
- B. The following conditions shall be met prior to the issuance of the first building permit (i.e., foundation permit) and/or site development permits except as otherwise specified in the conditions.
 1. Prior to any construction, the applicant or a designated representative shall obtain all of the required building permits for the project.
 2. Pursuant to the Belmont–San Carlos Fire Department Ordinance #2006-21, Section 1003.2.9.2(A), the building will receive a fire sprinkler system and the plan will be a deferred submittal.
 3. The City of Belmont is located in a region once inhabited by Native Americans. A significant archaeological site has been formally identified at the Northeast quadrant of the City. Human remains and artifacts have been discovered elsewhere within the city limits. Consequently, please amend the cover sheet of the plans to state in the event human

remains are discovered work will be stopped and the County Coroner will be contacted immediately. In addition, it is a violation of Public Resources Code 5097.99 to retain any Native American Artifacts. Health and Safety Code 7050.5.

4. Engineered retaining wall design requirement.
5. The City of Belmont Municipal Code requires a soils and engineering geology report for all new or substantially altered foundations. Provide such a report and a letter from the geotechnical engineer confirming that the foundation plan has been reviewed and that it has been determined that the recommendations in the soils report are properly incorporated into the plans. BMC 7-12, IBC 106.1 & 1804.3.
6. Provide a record of survey.
7. Amend the plans to show the location of all transformers, fire standpipes, and back flow preventers.
8. All construction and related activities which require a City permit shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday and 10:00 a.m. to 5:00 p.m., Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and the following holidays: New Year's Day, President's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. All gasoline powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
9. Post hours of operation and phone numbers for noise complaints.
10. Provide space for recycling containers.
11. Provide list of construction and demolition recycling service providers.
12. Require contractors and subcontractors to make good faith effort to contact construction and demolition recycling providers.
13. Notify all contractors and subcontractors of Belmont expectations of maximizing diversion of solid waste.
14. Investigate opportunities for salvaging material for reuse.
15. Specify that the 2006 IBC, 2006 UPC, 2006 UMC and 2005 NBC as amended by the State of California and all applicable City of Belmont ordinances will be employed during this project.

II. COMPLY WITH THE FOLLOWING CONDITIONS OF THE PUBLIC WORKS DEPARTMENT:

- A. The following conditions shall be shown on plans submitted for a building permit and/or site development permit or otherwise met prior to issuance of the first building permit (i.e., foundation permit) and shall be completed and/or installed prior to occupancy and remain in place at all times that the use occupies the premises except as otherwise specified in the conditions.
1. Streets, sidewalks and curbs in need of repair within and bordering the project shall be repaired and/or removed and replaced in accordance with the Department of Public Works approved standards. Photographs or video of before condition are recommended.
 2. Roof leaders and site drainage shall be directed to the City stormwater drainage system. A dissipator box or other energy reduction method shall be used.
 3. Roof downspout systems shall be designed to drain into designated, effective infiltration areas or structures (refer to the Bay Area Stormwater Management Agencies Association (BASMAA) Start at the Source Design Guidance Manual for Stormwater Quality Protection [available from BASMAA @ 510-622-2465]).
 4. Food service facilities (including restaurants and grocery stores) shall have a sink or other floor mat, container, and equipment cleaning area, which is connected to a grease interceptor prior to discharging to the sanitary sewer system. The cleaning area shall be large enough to clean the largest mat or piece of equipment to be cleaned. The cleaning area shall be indoors or in a roofed area outdoors; both areas must be plumbed to the sanitary sewer. Outdoor cleaning areas shall be designed to prevent stormwater run-on from entering the sanitary sewer and to prevent stormwater run-off from carrying pollutants to the storm drain. Signs shall be posted indicating that all food service equipment washing activities shall be conducted in this area. Regular maintenance and cleaning of the grease interceptor is required and may be subject to periodic inspections conducted by municipal staff.
 5. New buildings such as food service facilities and/or multi-family residential complexes or subdivisions shall provide a roofed and enclosed area for dumpsters and recycling containers. The area shall be designed to prevent water run-on to the area and runoff from the area and to contain litter and trash, so that it is not dispersed by the wind or runoff during waste removal.
 6. Runoff from trash enclosures, recycling areas, and/or food compactor enclosures, or similar facilities shall not discharge to the storm drain system. Trash enclosure areas shall be designed to avoid run-on to the trash enclosure area. If any drains are installed in or beneath dumpsters, compactors, and tallow bin areas serving food service facilities, the drains shall be connected to a grease removal device and/or treatment devices prior to discharging to the sanitary sewer.
- B. The following conditions shall be met prior to the issuance of the first building permit (i.e., foundation permit) and/or site development permits except as otherwise specified in the conditions.
1. The property owner/applicant shall apply for and obtain temporary encroachment permits from the Department of Public Works for work in the City public right-of-way, easements or property in which the City holds an interest, including driveway, sidewalk, sewer connections, sewer clean-outs, curb drains, storm drain connections, placement of a debris box.

2. Property owner/applicant shall apply for and obtain a grading permit from the Department of Public Works. The grading permit fee is based on the total amount of earth moved including cut and fill.
3. Verify location of utility meters, valves, back flow preventers, and hydrants with appropriate utility company. Show relationship of each to site improvements, such as retaining walls.
4. The owner/applicant shall submit a dust control plan for approval by the Department of Public Works. To reduce dust levels, exposed earth surfaces shall be watered as necessary. The application of water shall be monitored to prevent runoff into the storm drain system. Spillage resulting from hauling operations along or across any public or private property shall be removed immediately. Dust nuisances originating from the contractor's operations, either inside or outside of the right-of-way shall be controlled.
5. The proposed development may add or replace the impervious surface area of the property. The applicant shall provide calculations showing the total impervious area of the completed project with the building permit application. Calculations shall be submitted to the Department of Public Works for review and approval.
6. The owner/applicant shall perform a video inspection of the sewer lateral from the house/building to the sewer main, submit the inspection to the Department of Public Works for review and make any necessary repairs to the lateral.
7. Sanitary sewer to include a back flow prevention device.
8. The applicant shall submit an erosion and sedimentation control plan describing Best Management Practices (BMPs) to be used to prevent soil, dirt, and debris from entering the storm drain system. The plan shall include the following items:
 - a) A site plan showing the property lines, existing and proposed topography, and slopes; areas to be disturbed, locations of cut/fill and soil storage/disposal area; areas with existing vegetation to be protected; existing and proposed drainage patterns and structures; watercourses or sensitive areas on-site or immediately downstream of project; and designated construction access routes, staging areas and washout areas.
 - b) Erosion and sediment controls to be used during construction, selected as appropriate from the California Regional Water Quality Control Board, San Francisco Bay Region Erosion and Sedimentation Control Field Manual (available from: Friends of the San Francisco Estuary, P.O. Box 791, Oakland, CA 94604-0791).
 - c) Methods and procedures to stabilize denuded areas and install and maintain temporary erosion and sediment control continuously until permanent erosion controls have been established.
 - d) Provision for preventing erosion and trapping sediment on-site, such as sediment basins or traps, earthen dikes or berms, fiber rolls, silt fence, check dams, storm drain inlet protection, soil blankets or mats, covers for soil stock piles and/or other measures.
 - e) Provisions for installing vegetative cover in disturbed areas, including areas to be seeded, planted, and/or mulched, and types of vegetation proposed.
 - f) Provision for diverting on-site runoff around exposed areas and diverting off-site runoff around the project site (e.g., swales and dikes).

- g) Notes, specifications, and/or attachments describing the construction, operation and maintenance of erosion and sediment control measures, including inspection frequency; methods and schedule for grading, excavation, filling clearing of vegetation and storage and disposal of excavated or cleared material; types of vegetative cover and mulch, including methods and schedules for planting and fertilization; and provisions for temporary and permanent irrigation.
9. All plans shall conform to the requirements of the City NPDES stormwater discharge permit and the San Mateo Stormwater Pollution Prevention Plan (STOPPP). The project plans shall include permanent storm water quality protection measures. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses to be conducted on-site to effectively prohibit the discharge of pollutants with storm water run-off. A Maintenance and Operation Agreement shall be prepared by applicant incorporating the conditions of this section.
 10. Restaurants and kitchens shall be designed with contained areas for cleaning and outdoor wash down connected to the sanitary sewer. Areas designated for grease storage for recycle or disposal pickup shall be contained.
- C. The following conditions shall be met prior to occupancy except as otherwise specified in the conditions.
1. After the City permits are approved but before beginning construction, the owner/applicant shall hold a preconstruction conference with Building and Public Works Department staff and other interested parties. The developer shall arrange for the attendance of the construction manager, contractor, and all subcontractors who are responsible for grading and erosion and sedimentation protection controls.
 2. Failure to comply with any permit condition may result in a “Stop Work” order or other penalty.
 3. Grading shall be performed in accordance with the City Grading Ordinance, Chapter 9 of the City Code. Soil or other construction materials shall not be stockpiled in the public right-of-way unless an encroachment permit is obtained from the Department of Public Works. Grading shall neither be initiated nor continued between November 15 and April 15. Grading shall be done between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday unless otherwise specifically authorized by the Director of Public Works. The Stormwater Pollution Prevention Program Best Management Practices (BMPs) for construction shall be implemented to protect water quality.
 4. The owner/applicant shall ensure that all construction personnel follow standard BMPs for stormwater quality protection during construction of project. These includes, but are not limited to, the following:
 - a. Store, handle and dispose of construction materials and wastes properly, so as to prevent their contact with stormwater.
 - b. Control and prevent the discharge of all potential pollutants, including solid wastes, paints, concrete, petroleum products, chemicals, washwater or sediment, and non-stormwater discharges to storm drains and watercourses.
 - c. Use sediment controls, filtration, or settling to remove sediment from dewatering effluent.

- d. Do not clean, fuel, or maintain vehicles on-site, except in a designated area in which runoff is contained and treated.
 - e. Delineate clearing limits, easements, setbacks, sensitive or critical areas, buffer zones, trees, and drainage courses with field markers or fencing.
 - f. Protect adjacent properties and undisturbed areas from construction impacts using vegetative buffer strips, sediment barriers or filters, dikes, mulching or other measures as appropriate.
 - g. Perform clearing and earth moving activities only during dry weather (April 15 through November 14).
 - h. Limit and time applications of pesticides and fertilizers to prevent polluted runoff.
 - i. Limit construction access routes and stabilize designated access points.
 - j. Do not track dirt or other materials off-site; clean off-site paved areas and sidewalks using dry sweeping methods.
5. If construction is not complete by the start of the wet season (November 15 through April 15), prior to November 15 the developer shall implement a winterization program to minimize the potential for erosion and sedimentation. As appropriate to the site and status of construction, winterization requirements shall include inspecting/maintaining/cleaning all soil erosion and sedimentation controls prior to, during, and immediately after each storm event; stabilizing disturbed soils through temporary or permanent seeding, mulching, matting, tarping or other physical means; rocking unpaved vehicle access to limit dispersion of mud onto public right-of-way; covering/tarping stored construction materials, fuels, and other chemicals. Plans to include proposed measures to prevent erosion and polluted runoff from all site conditions. As site conditions warrant, the Department of Public Works may direct the developer to implement additional winterization requirements.

III. COMPLY WITH THE FOLLOWING CONDITIONS OF THE POLICE DEPARTMENT:

1. "Entertainment" covered by this Conditional Use Permit shall include any live acts, demonstrations or exhibitions, including, but not limited to music acts, plays, karaoke, disc jockeys, burlesque shows, fashion shows, reviews, song or dance, modeling, or any act or performance participated in by one or more persons for the purpose of holding the attention and interest of such guests in any place open to the public, or place open to public view.
2. Restaurant management and/or security personnel shall continually monitor admission to the building and occupancy and take appropriate action to assure that the occupancy load set by the Fire Marshall and Building Division is not exceeded.
3. All entertainment shall cease one half hour prior to restaurant closure to allow patrons time to exit the restaurant.
4. All activities shall be subject to the requirements of the Belmont Noise Ordinance

5. A staff person shall be stationed at the main building entrance any time the business is operating between the hours of 11:00 p.m. and 2:00 a.m. The staff person shall:
 - a. Assure that the occupancy load set by the Fire Marshall and Building Division is not exceeded.
 - b. Direct outside smoking customers to move 25 feet away from all doors/windows as per State regulations.
 - c. Keep doors and windows of the business closed so as to minimize noise impacts of the restaurant/live musical entertainment use.

6. The CUP shall be subject to the specific terms and conditions imposed by the City of Belmont and to the following general rules and regulations for which failure to comply will constitute grounds for penal action or for suspension or revocation of the permit:
 - a. No entertainment shall be permitted in the establishment between the hours of 1:30 a.m. and 10:00 a.m.
 - b. All parking areas utilized by the business and grounds contiguous to the site shall be posted with appropriate signage to discourage trespassers, loitering, and consumption of alcoholic beverages. The coordination and monitoring of patron parking shall be the responsibility of the permitted business and or designee such as security personnel.
 - c. Management and security personnel shall continually monitor admission to the building and occupancy and take appropriate action to assure that the occupancy load set by the Fire Marshall and Building Division is not exceeded.
 - d. All patrons must be out of the building by 2:00 a.m.
 - e. Any incident requiring a multi-agency response or riotous situation response may be charged for police services as established by current department policy.

 - f. The Chief of Police or designee, or the Fire Authority shall temporarily suspend any entertainment pending a Planning Commission hearing on the permanent CUP suspension or revocation of the permit if the Police Chief or designee finds that there is an impending significant threat to the public health or safety relating to the use of the site for entertainment. Except with the agreement of the permittee, no emergency suspension shall remain in effect for more that 15 calendar days.

IV. COMPLY WITH THE FOLLOWING CONDITIONS OF THE BELMONT/SAN CARLOS FIRE DEPARTMENT:

Fire Department

1. Prior to operation of the proposed extended hours of operation/live entertainment use, the applicant shall post the maximum occupancy sign for the establishments in accordance with the requirements of the Fire Marshall. The maximum occupancy shall be inclusive of patrons, employees, performers, etc.

2. An approved automatic fire sprinkler meeting the requirements of the Belmont-San Carlos Fire Department shall be provided.

3. The property address shall be illuminated on the restaurant building.
4. The minimum clear aisle width shall be 36 inches where seats, tables, counters, furnishings, displays and similar fixtures or equipment are placed on both sides of the aisle.
5. The total number of performers (5) as proposed is permitted. Any increase in the number of performers shall be reviewed and approved by the Fire Department.
6. Dancing for patrons shall not be allowed unless the tables and chairs occupying the designated dance floor are removed and exit pathways and exit doors are unobstructed. Tables and chairs that normally occupy the area where entertainment and/or dancing will occur shall be stored in the kitchen storage area.
7. The use of candles is prohibited unless approved by the Belmont-San Carlos Fire Department.
8. Panic hardware shall be installed on required exit doors.
9. A kitchen hood fire extinguishing system shall be installed
10. A sign above the entrance door shall be installed and shall state the following: “These Doors Shall Remain Unlocked While Occupied”.
11. One 2A-10B:C fire extinguisher shall be installed for every 75 feet of travel.
12. Illuminated exit signs shall be installed.

Certification of Approved Final Conditions:

Damon DiDonato, Senior Planner

Date

ATTACHMENT III

**CORRESPONDENCE FROM
NEIGHBORS**

January 12, 2011

Dear Planning Commission Board,

I have received a letter of intent about a design review for Shalizar Restaurant. The restaurant at full capacity now leaves no spaces empty either in their parking lot or El Camino west side or Anita Ave. With an extra 5,000 sq. ft. added, where will the other 50 cars or more park?

Belmont Ave. where you will find our motel is already filled with cars. The line of sight to see for a left turn from Belmont Ave. on to El Camino is already almost impossible to read.

We are a motel known for rooms with a view and a quiet sleeping experience. With the extra noise that will be involved, the acoustics will make it impossible to get any rest on a busy night.

We appreciate your time and consideration of this problem.
Thank you very much.

Sincerely,

Lloyd DeMartini

Lenore Griffin

ATTACHMENT IV
PARKING STUDY TABLE

Shalizaar Parking Study

	Weekday 12:15PM -1:15PM		Weekday 6:00PM -8:00PM		Weekend 6:00PM -8:00PM	
	Spaces	Available	Spaces	Available	Spaces	Available
West side ECR North to Ruth	7	1	7	5	7	1
East side ECR North to Ruth	7	3	7	5	7	5
West side ECR Ruth to Anita	9	5	9	3	9	9
East side ECR Ruth to Anita	15	15	15	10	15	12
West side ECR Anita to Belmont Avenue	11	7	11	11	11	9
East side ECR Anita to Belmont Avenue	18	16	18	16	18	17
West side ECR Belmont Avenue to Davy Glen	12	9	12	8	12	10
East side ECR Belmont Avenue to Davy Glen	23	23	23	23	23	23
North side Davy Glen Corner to Driveway	4	2	4	3	4	2
TOTALS	106	81	106	84	106	88

Notes: Parking availability is an average of counts that were taken from July to November 2010, at the times referenced above. There was no precipitation and the temperature was between 50 and 80 degrees. Where parking spaces were not located within a lot or specifically marked, staff measured potential parking spaces based upon a conservative 20-foot standard length, in keeping with suburban expectations for parallel parking. Staff noted that the parking lot of the restaurant was rarely full; the lot averaged ten available parking spaces on weekday afternoons, seven on weekday evenings and four to five on weekend evenings.

ATTACHMENT V

**EXTENDED HOURS AND PARKING
VARIANCE TABLE**

Extended Hours -Live Entertainment- Parking Variance

Restaurants / Bars

Caprino's Restaurant – 1000 Sixth Avenue – C-2 (General Commercial)

Lunch: Monday – Friday 11:30 a.m. to 2 p.m.

Dinner: seven days a week 5 p.m. to 11 p.m.

Live Musical Entertainment 11 p.m. to 1:30 a.m. (establishment closes at 2 a.m.)

Variance from the requirement to provide 11 parking spaces with an agreement from the adjacent Wells Fargo Bank to utilize their parking lot after 6:00 P.M.

Hola's Restaurant - 1015 Alameda de las Pulgas - C-1 (Neighborhood Commercial) - Live musical entertainment between the hours of 11:00 AM and 11:00 PM, on Friday and Saturday. Also - ten additional “floating” days per calendar year from 11:00 AM to 9:00 PM with prior notice to the City prior to utilization of floating days.

Van's Restaurant – 815 Belmont Avenue - C-2 (General Commercial)

Lunch: Monday – Friday 11:30 a.m. to 3 p.m.

Dinner: Saturday - Thursday 4 p.m. to 11 p.m.; Friday 4 p.m. to Midnight

The Lariat Tavern – 1428 El Camino Real - C-3 (Highway Commercial) – Open everyday from 11:00 am to 2:00 am – no live entertainment due to apartments above (juke box and pool tables).

Ausiolo's Tavern – 864 El Camino Real - C-3 (Highway Commercial) – Open

Tuesday – Sunday 11:30 am to 11:30 pm; Monday 4:00 pm to 11:30 pm.

Iron Gate - 1360 El Camino Real - C-2 (General Commercial) - legal non-conforming-entertainment use and hours – Fridays and Saturday entertainment from 9:30pm to Midnight.

Vivace – 1910 Ralston Avenue – C-1 (Neighborhood Commercial) Open 11:30 am to 10:00pm; Variance for 11 parking spaces - operating agreement with Citibank (1888 Ralston Avenue – located east of site) to allow use of their off-street parking (10-20 spaces) during evening hours (after 6PM) when the bank is closed.

Divino – 968 Ralston Avenue - C-2 (General Commercial) Open 11:30 am to 9:30 PM; Variance for parking for five additional parking spaces a proposed restaurant expansion into an adjacent 958 square foot commercial space, with a parking agreement for exclusive use of a rear parking area after 7:00pm.

St. James Gate – 1410 Old County Road- C-4 (Highway Commercial) CUP for outdoor use of patio; legal non-conforming- entertainment use and hours – Wednesday through Saturday entertainment from 9:30pm to 1:30am; No on-site parking.

Convenience / Fast Food

McDonalds Restaurant – 522 El Camino Real - C-3 (Highway Commercial) – Extended hours of operation – dine-in: 5:30 am to 11:00 pm; drive through: during the winter months (September through May) from 5:30 AM to 11:00 PM on Sunday through Thursday, and from 5:30 AM to midnight on Friday and Saturday, and during the summer months (June through August) from 5:30 AM to midnight, seven days per week.

Chuck's Donuts – 641 Ralston Avenue - C-3 (Highway Commercial) – 24 hours

7-Eleven – 400 El Camino Real - C-2 (General Commercial) – 24 hours

Grocery Stores

Safeway – 2100 Ralston Avenue – C-1 (Neighborhood Commercial) - 24 hours

Safeway – 1100 El Camino Real – C-2 (General Commercial) - 24 hours

Service Stations

Unocal Service Station – 699 Ralston Avenue - C-3 (Highway Commercial) – 24 hours

ATTACHMENT VI

**DRAFT MINUTES FROM PLANNING
COMMISSION MEETING**

JANUARY 18, 2011

CITY OF BELMONT
PLANNING COMMISSION
SUMMARY MINUTES

TUESDAY, JANUARY 18, 2011, 7:00 PM

DRAFT

5B. PUBLIC HEARING – 300 El Camino Real & Adjacent Vacant Parcel (044-173-200)

To consider a Design Review for a 5,129 sq.ft. banquet room addition, a Conditional Use Permit to allow extended hours, and a Parking Variance for Shalizaar Restaurant (Appl. No. PA2010-0031)

APNs: 044-173-180 & 044-173-200; ZONING: C-3 (Highway Commercial)

CEQA Status: Categorical Exemption per Sections 15303 and 15301

APPLICANTS/OWNERS: Saeed and Narges Ayagh

PROJECT PLANNER: Damon DiDonato, (650) 637-2908

SP DiDonato summarized the Staff Report, noting that staff did not make a recommendation but asked for Commission direction and confirmation of the findings in the report. He mentioned that a letter in opposition to the project had been placed on the dais and answered questions from the Commissioners.

Ed Hemmett, designer of the restaurant, thanked Commissioners and staff, noting that the current restaurant has been a great success. He responded to questions from the Commission about the proposed second door on El Camino, configuration of the bar and doors to the banquet room, parking arrangements, overflow when banquet room is not booked, anticipated number of events involving live entertainment, proposed hours of operation, and number of proposed employees for the approximately 300 additional customers. He concluded by saying that the applicant hopes to continue to invest in the community and continue the relationship.

Chair Frautschi opened the Public Hearing.

Mary Morrissey Parden, Belmont resident, expressed her concern that encouraging parking on the east side of El Camino Real is a dangerous situation. She also questioned the need for a 1,039 sq.ft. storage area, felt that live entertainment would encourage more traffic, suggested that outdoor seating be considered, and that additional studies be conducted on the existing valet parking venues.

Lenore Griffin, Belmont resident and business owner, stated that, when Shalizaar is full, all parking spaces in the area are filled up, even when there is valet parking, and

that it is impossible to make a left turn from Belmont Avenue onto El Camino Real because the line of sight is blocked by parked cars. She mentioned that there have been several accidents at this intersection. She believes there would be 40 or more additional parking spaces that need a Variance. Noise is also an issue and stated that anything after 11:00 p.m. would disturb the customers at her motel.

Adele Della Santana, Belmont residence, stated her concern that doubling the square footage with no additional parking would be setting a precedent; other restaurants would want to expand as well. The Commission should think in terms of leveling the playing field.

MOTION: By Commissioner Parsons, seconded by Commissioner Mayer, to close the Public Hearing. Motion carried 6/0 by a show of hands.

Commissioners commented as follows:

Commissioner Mercer:

- Could make the finding that the lot is too small for anything but expansion of an adjacent business.
- More than doubling the capacity of the restaurant and not adding a single parking space is asking for trouble. She would need documented proof of a legally agreed to parking agreement somewhere that would accommodate a large majority of the extra volume of parking spaces.
- The extended hours would set a precedent of being open longer than most anything else in Belmont, particularly with live entertainment, did not see the need or appropriateness of having the extended hours seven days a week, would confine it to two or three days a week with midnight the latest acceptable hour because of the adjacent residences.
- Would like staff to prepare a detailed list of all other establishments that offer live entertainment in the C-1, C-2 and C-3 districts for comparison purposes to assure that the playing field is level.
- Agreed that two entrances would be asking for trouble.

Commissioner Mayer:

- Could not go along with micromanaging the entire concept.
- Parking is the central problem. The Police Department has said parking is legal on the east side; those spaces should be taken into account. Agreement with other businesses in the area that will allow for specialized valet parking might also help to address the parking issue.
- No problem with the extension of hours to 2:00 a.m. There have been no complaints to speak of with the existing arrangement.
- Shalazaar is a successful business in one of the most impressive buildings in Belmont and should be welcomed and encouraged to expand. He could support the project with attention primarily to the parking issue.

Commissioner Parsons:

- Initially concerned that it was going to be too large and that the bar area in front is excessive, but that is an interior design issue and he could approve it the way it is.
- Other restaurants have locked front safety doors that are near main doors.
- Outdoor dining would aggravate any noise situation; not practical in Belmont at night.
- Moving the live music out of the main dining room and into the banquet room that has a two-story buffer and no windows on the sides and back will mitigate any noise issues.
- The 2:00 a.m. closing time 7 days a week is excessive. Suggested considering attaching a condition to review it after a year to see if there is a problem.
- Parking could be worked out with several places.
- To encourage more business along El Camino, the City should consider a blinking, lighted crosswalk across El Camino.
- Concerned about the noise ordinance issue since a Variance goes with the property and a bar with loud music could one day occupy the building. CA Zafferano confirmed that a Conditional Use Permit runs with the land; it does not run with the type of business.

Commissioner Horton:

- Concurred with Commissioner Mayer that businesses should be supported in their efforts to expand.
- No issue with the entry – it is pleasant and complements what is there now. Similar to entries at Vivache and Divinos.
- Proposed set-up is common for banquet areas.
- Storage is needed for dry storage in a restaurant.
- Concerns similar to Commissioner Parsons regarding hours; may need to compromise and limit the days of the week that they are open until 2:00 a.m. Have granted late hours to other restaurants in C-1 or C-2 districts that are not as busy as the C-3 district.
- Every single restaurant that has come before the Commission has been allowed a parking Variance and she could see no reason to deny this one. She prefers to see parking on the streets than having parking lots spread all over the City.

Commissioner Reed:

- Lives close to this C-3 area and people who buy homes on Ruth or Anita Avenues realize that they will hear noise from the train, El Camino, and the associated businesses, and that they will be living on a feeder street.
- He remembered the eyesore that was on the lot before Shalizaar and believes it is now the nicest property on El Camino Real.
- Granting a license to expand an already excellent facility did not seem like a stretch to him.

- The door in the front is a good idea. He did not like the idea of a wedding party going through the main restaurant while dining there.
- Parking is not a huge issue though he was concerned about customers parking on Anita and Belmont Avenues. He suggested that a possible solution would be issuance of some kind of parking permit.
- Did not see a noise issue as long as the noise ordinance is not exceeded.
- Believed that 2:00 a.m. 7 days a week is excessive, especially on Sunday.
- Felt that this is an outstanding use of an otherwise unusable piece of property.

Commissioner Frautschi:

- Liked the project and that they are continuing the current style. A goal of the City is to encourage the merger of small lots.
- No concerns about noise. History shows there has not been a problem but it could be dealt with if there is a problem.
- Concurred that the real problem is parking. Disagreed with Commissioner Horton in that every single property they've given a Variance there's always been an obligation to the Variance; applicants were required to come up with a parking agreement at another site. It was his understanding that the Police Department recommends that the Commission not count the parking in the east side of El Camino. He would like staff to explore what it would take to get a cross walk.
- Staff called out the problem of letting people off on El Camino and he believed if the door is there people will use it. In other restaurants with banquet rooms, they lock the door except for exiting.
- Insured that the huge storage area is required for food and storing tables when there is dancing.
- Had no problem with Finding 4, the design analysis. He only brought up the question about the entrance because of the abuse that could happen to it.
- Regarding parking, the Variance is available because the City wants to help properties that could not do something if it wasn't available, and he believed the Variance could work in this situation. Would like to see a written agreement for where they will actually park the cars. A creative solution is needed that deals with the safety issues and producing a contract for people using the banquet room that would spell out the requirements.
- Not convinced that they need the extra hours. He suggested that they build the banquet room, come up with parking agreements, and operate it within the current hours to see how it goes. There are four other restaurants that have banquet facilities and that do not stay open till 2:00.
- Would like to see information from the Police Department about accidents that have occurred from Belmont Road onto El Camino.

Since there was not a consensus on the hours of operation, it was agreed that the item would be continued so that staff could come back with alternatives, investigate the other questions raised by the Commission, and have the applicant investigate an off-site parking agreement.

MOTION: By Commissioner Parsons, seconded by Commissioner Mayer, to continue this item to a date uncertain. Motion passed 6/0 by a show of hands.

ATTACHMENT VII

**PLANNING COMMISSION STAFF
REPORT**

JANUARY 18, 2011



MEETING OF JANUARY 18, 2011

AGENDA ITEM NO. 5B

Application I.D.: PA2010-0031
Application Type: Design Review, Conditional Use Permit & Variance
Location: 300 El Camino Real
Applicant/Owners: Saeed and Narges Ayagh
APN: 044-173-180 & 044-173-200
Zoning: C-3 (Highway Commercial)
General Plan Designation: C/H, Commercial/Highway District
Environmental Determination: Categorically Exempt, Section 15303 & 15301, Class 1

PROJECT DESCRIPTION

The applicant requests Design Review for a 5,129 sq. ft. banquet room addition, and a Conditional Use Permit to allow extended hours and live entertainment until 2:00 a.m. at the Shalizaar Restaurant. In addition, the applicant requests a Variance from the requirement to provide additional parking spaces for the proposed banquet room.

RECOMMENDATION

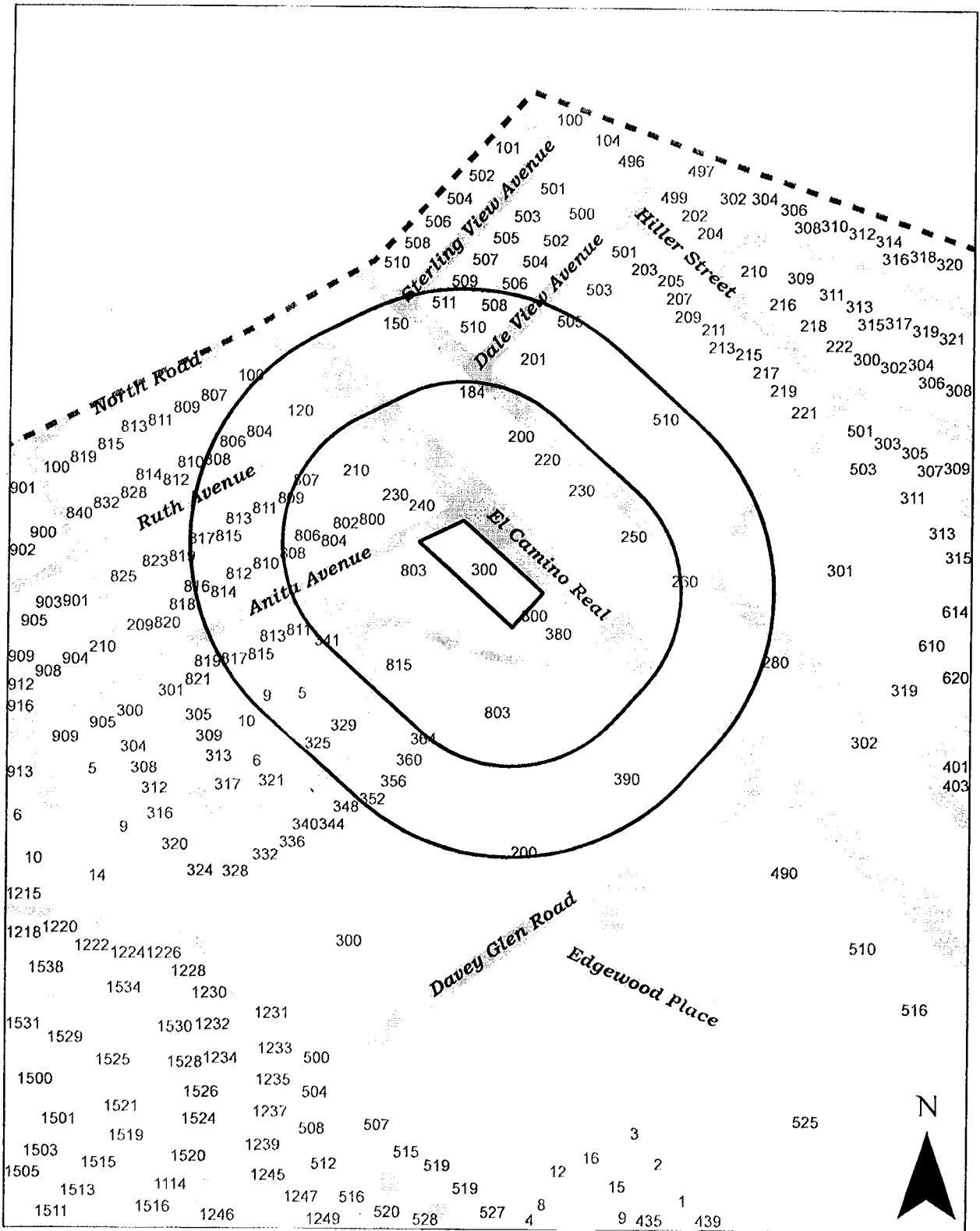
No recommendation is being forwarded as part of this report¹. Staff has evaluated the associated findings for the required entitlements and is seeking Commission direction/confirmation to affirm the findings for the project. Based on Commission discussion, staff would either continue the matter for further evaluation or prepare a resolution on the directed Commission action.

ZONING/GENERAL PLAN DESIGNATION

The subject site is located within the C-3 (Highway Commercial) zone, and the proposed restaurant is a permitted use within this district. However, a Conditional Use Permit is required pursuant to Section 5.4.2.a of the Zoning Ordinance to provide live entertainment in the restaurant and to operate after 11 p.m.² The Belmont General Plan currently designates the project site as “Commercial/Highway”. Under this designation, restaurant uses are compatible.

¹ Please note: This assessment is made in advance of public testimony or Commission discussion of the project. At the public hearing, these two factors, in conjunction with the staff analysis, will be considered by the Commission in rendering a decision on the project.

² Section 5.4.2.a refers to conditionally permitted uses in the C-2 and C-1 zone, including “cabaret” and hours after 11 p.m.; the BZO Section 5.2.2. k and l.



1 inch = 312.503125 feet

PRIOR ACTIONS

City records indicate that the building on site was constructed in 1976, and has mostly been used recently as a restaurant. Planning files indicate that Design Review permits were issued for a wall sign and pole sign in 1978, and a façade upgrade and rebate was completed in 1995.

In May of 2006, the Planning Commission approved a Design Review Permit to allow renovation of the exterior façade of the existing restaurant building, construction of a new trash enclosure, and upgrade of the landscaping.

In August of 2007, the Planning Commission approved a Conditional Use Permit allowing live entertainment within the restaurant and extended hours of operation. Conditions of project approval permitted live entertainment on Fridays and Saturdays from 11:00 a.m. until 11:30 p.m. with restaurant closure by midnight. In addition, live entertainment was permitted on 12 “floating days” per year (Sunday through Thursday) with live entertainment occurring from 5:00 p.m. to 10:00 p.m., and restaurant closure by 11:00 p.m.

SITE CONDITIONS

The project site consists of two parcels: 1) a 25,559 sq. ft. parcel that is developed with a 4,050 sq. ft. Mediterranean style restaurant building, a parking area for 37 vehicles, trash enclosure, lighting, signage and landscaping; and 2) a 3,996 sq. ft. parcel that is vacant. The developed parcel is located at the southwest corner of El Camino Real and Anita Avenue. The vacant parcel is immediately adjacent and south of the developed parcel.

The existing restaurant is served by El Camino Real (a main arterial) to the east and Anita Avenue (a local street) to the north. The surrounding uses are:

North -- Commercial retail/office uses

South - Commercial retail/office uses

East -- Railroad tracks

West – Vacant property and residential uses

PROJECT ANALYSIS

The applicant proposes a 5,129 sq. ft. banquet room addition to the existing restaurant. The banquet room would be located on the adjacent property south of the restaurant, and the properties would be merged. The applicant has also requested a Conditional Use Permit to extend the hours of operation until 2:00 a.m., and a Variance from the requirement to provide additional parking spaces for the proposed banquet room.

Exterior Design/Materials/Colors

The proposed banquet room would be Mediterranean in style and would utilize the same exterior materials and colors as the existing restaurant (i.e., cement plaster finish for exterior walls, wood trim, wood doors, wood framed windows, and clay tile roofing).

The proposed exterior materials and color palette would include:

Roof: Clay tile, (dark orange)

Windows/doors: wood (dark brown)

Fascia/trim: Wood (dark brown)

Exterior Walls: Cement plaster (beige)

Columns: Marble (beige)

Tree Removal / Landscaping

No protected or regulated trees are proposed for removal, and none would need to be removed for the project. The landscape plan includes the following:

- Retaining all the existing landscaping on the restaurant site
- Planting new shrubs (Gazania Mitsuwa, Pittosporum Tenuifolium, Arbutus Compacta, and Diets Vegeta) in front of the banquet room

Floor Plans

The floor plans for the existing restaurant would not change as part of the project. The floor plans for the banquet room are proposed as follows:

Site Floor Area Summary	
Proposed Square Footage	Proposed Modifications/Additions
First Floor - 4,050 Sq. Ft. (Existing Restaurant)	<u>Existing:</u> Dining room, bar, kitchen, storage, and bathrooms.
First Floor - 4,090 Sq. Ft. (Addition)	<u>Proposed:</u> Foyer/wet bar, banquet room, bathrooms and kitchen.
Second Floor - 1,039 Sq. Ft. (Addition)	<u>Proposed:</u> Storage
Total for Merged Site = 9,179 Sq. Ft.	

The applicant proposes to expand the hours of operation and live entertainment for the Shalizaar restaurant and the banquet room. The applicant proposes the following operational aspects for the restaurant/banquet room:

Hours of operation:

- Lunch: seven days/week - 11:00 a.m. to 5:00 p.m.
- Dinner: seven days/week - 5:00 p.m. to 11:00 p.m.
- Live Entertainment: seven days/week - 5:00 p.m. to 2:00 a.m. (live entertainment in banquet room only - establishment closes at 2:00 a.m.)

Entertainment:

Entertainment would generally include but not be limited to live musicians (acoustic or amplified) and/or dancers within the Banquet room only, at the times identified above. No stage area has been identified for live entertainment. However, any tables and chairs that may occupy the entertainment area would be moved to the kitchen storage area when entertainment occurs, and a clear path of travel to all exits will be required to be maintained consistent with the requirements of the Belmont-San Carlos Fire Department (or subsequent fire prevention authority).

PROJECT DATA

As noted above, the applicants propose a banquet room addition to the existing restaurant. The proposed addition would occur on the adjacent property and the two parcels would be merged.

<u>Criteria</u>	Existing/Approved	Proposed	Required or Max. Allowed
Lot Size	25,559 sq. ft.	29,555 sq. ft.	N/A
Slope	Level	No Change	N/A
FAR	0.16	0.31	1.5
Square Footage	4,050 sq. ft.	9,179 sq. ft.	44,333 sq. ft.
Parking Spaces¹	37	No Change	75
Landscape Area	6,085 sq. ft. (24%)	6,255 sq. ft. (21%)	4,433 sq. ft. (15%)
Setbacks:			
Front	0 ft.	0 ft.	0 ft.
Side (south)	6 ft.	0 ft.	0 ft.
Side (north)	NA	NA	0 ft.
Rear²	5 ft.	6 ft.	6 ft.
Height	29 ft.	29 ft.	40 ft.

¹The existing restaurant use requires 35 parking spaces, and the banquet room requires 40 parking spaces. The applicant requests a Variance from the requirement to provide additional parking spaces for the proposed banquet room. See discussion of Variance application below.

²A six foot rear yard setback from the adjacent property line is required pursuant to Section 9.7.5 (Transitional yards) of the Zoning Ordinance.

NEIGHBORHOOD OUTREACH STRATEGY

The applicant reports performing neighborhood outreach as detailed in Attachment IV. The applicant notified neighbors within 300 feet of the property and held an informational meeting at the existing restaurant in July 2010. The applicant reports that one member of the public attended the meeting (the owner of apartments to the rear of the site), but this individual reportedly did not have any objections to the project.

One nearby property/business owner contacted city staff to voice concerns with the project. This individual indicated that the proposed CUP for extended hours and the Variance for forty parking spaces would not be compatible with the surrounding area. This individual noted the potential for noise impacts to occupants of the motel, and concerns regarding potential limited use of the valet service creating unsafe traffic conditions on El Camino Real, and Anita and Belmont Avenues.

Staff has received no other inquiries regarding the project. The applicant appears to have achieved the goals of the outreach strategy tasks.

ENVIRONMENTAL CLEARANCE (CEQA)

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act because it qualifies under Section 15303(c) and 15301(e) as follows:

"...stores, motels offices restaurants or similar structures not involving the use of significant amounts of hazardous substances....not exceeding 10,000 sq. ft. in urbanized areas."

"Additions of 10,000 sq. ft., if the project is in an area where all public services and facilities are available for the maximum development permissible under the General Plan....the area in which the project is located is not environmentally sensitive."

The project meets the requirements of the environmental exemption as: 1) The existing restaurant is located within an urbanized area as defined by Section 21071 of the California Environmental Quality Act; 2) the proposed expansion would not use a significant amount of hazardous substances; 3) all public services are currently available to the proposed project; and 4) the project area is not environmentally sensitive (i.e., there are no wetlands or sensitive species on site).

GENERAL PLAN CONFORMANCE

The Belmont General Plan currently designates the project site as "Commercial/Highway". General Plan Policy 2029 describes the Commercial/Highway designation as appropriate for commercial businesses that depend on automobile traffic for customers, such as service stations, motels, retail uses and restaurants, etc. General Plan Policy 2025 promotes the establishment of commercial uses, which meet the needs for local residents, and Policy 2026 encourages locating

commercial uses on or near major thoroughfares, in order to discourage traffic in residential neighborhoods and prevent disruption of traffic flow on major streets. The proposed banquet room would be located adjacent to an existing restaurant on a major thoroughfare (El Camino Real), which would be consistent with the General Plan policies discussed above.

ZONING CONFORMANCE

The Belmont Zoning Ordinance (BZO) defines in Section 2.33.1, “a restaurant, tavern or lounge which provides live musical entertainment on the premises” as a “cabaret”. Pursuant to Section 5.4.2.a, a cabaret is a conditional use in the C-3 District. The BZO also requires a Conditional Use Permit (CUP) be acquired to conduct business uses before 7:00 a.m. or after 11:00 p.m. As discussed previously, the existing restaurant currently has an approved CUP for extended hours and a cabaret use. The proposed project would modify these approvals to allow restaurant operation and live entertainment until 2:00 a.m. All live entertainment is proposed to occur in the new banquet room.

Parking

Section 8.4.2.c of the BZO requires, “*establishments dispensing food or beverage for consumption on the premises provide 1/60 square feet of customer area plus 1/600 square feet of kitchen and storage area.*” Based upon these requirements the existing restaurant was required to provide thirty-five off-street parking spaces (thirty-seven were provided). The proposed banquet room addition, kitchen, and storage area would require an additional forty off-street parking spaces. The applicant has requested a variance from the parking requirements for the proposed project, in accordance with Sections 8.1.3, 14.5.1 and 14.5.2 of the Zoning Ordinance.

The assessment of the required findings for a Variance are discussed in detail on pages fourteen to eighteen of this report. Key review criteria for approval of the proposed Variance include the physical suitability of the site for development with required parking, and whether adequate on-street parking exists for the proposed use. Traffic safety is another important consideration.

Physical Suitability of the Site

The 3,996 sq. ft. parcel is located between two developed properties, and includes frontage on El Camino Real. This small commercial property has limited utility as a stand alone parcel, and would not be developable as a stand-alone parcel with conforming parking (a Variance would typically be required for parking). For example, a small two-story commercial building of 2,000 sq. ft. could be located on the property that would require eight parking spaces. However, the parcel’s narrow forty-foot width would not allow perpendicular parking (90 degrees to the entrance of the lot) to allow vehicles to turn around before leaving the site (Section 8.3.1(d) of the Zoning Ordinance requires a minimum of forty six feet in width for one-way perpendicular parking). Any vehicles parking on the subject lot would be required to back out onto El Camino Real, creating an unsafe condition. In addition, the parking area would need to be at the front of the site in order to access the street, with the building set back approximately forty feet towards the rear of the site, eliminating any potential retail visibility.

Development of the property under the above scenario would likely lead to the construction of a small commercial office building, which would require a parking Variance. There is currently no shortage of available commercial office space within the City of Belmont or the Bay Area region. Staff believes that site would have limited practical use because of its size, resulting in either the building being vacant, or underutilized with rents below those prevailing in the area. This then limits the resources available to the property owner for building maintenance. Staff believes that these conditions represent practical difficulty and unnecessary hardship, and believes that this site would be far more suitable for development as part of the adjacent restaurant parcel.

On-Street Parking

Staff conducted a parking study of available on-street parking in the vicinity of Shalizaar Restaurant. The results of the study are provided in the table below.

Shalizaar Parking Study

	Weekday 12:15PM -1:15PM		Weekday 6:00PM -8:00PM		Weekend 6:00PM -8:00PM	
	Spaces	Available	Spaces	Available	Spaces	Available
West side ECR North to Ruth	7	1	7	5	7	1
East side ECR North to Ruth	7	3	7	5	7	5
West side ECR Ruth to Anita	9	5	9	3	9	9
East side ECR Ruth to Anita	15	15	15	10	15	12
West side ECR Anita to Belmont Avenue	11	7	11	11	11	9
East side ECR Anita to Belmont Avenue	18	16	18	16	18	17
West side ECR Belmont Avenue to Davy Glen	12	9	12	8	12	10
East side ECR Belmont Avenue to Davy Glen	23	23	23	23	23	23
North side Davy Glen Corner to Driveway	4	2	4	3	4	2
TOTALS	106	81	106	84	106	88

Notes: Parking availability is an average of counts that were taken from July to November 2010, at the times referenced above. There was no precipitation and the temperature was between 50 and 80 degrees. Where parking spaces were not located within a lot or specifically marked, staff measured potential parking spaces based upon a conservative 20-foot standard length, in keeping with suburban expectations for parallel parking. Staff noted that the parking lot of the restaurant was rarely full; the lot averaged ten available parking spaces on weekday afternoons, seven on weekday evenings and four to five on weekend evenings.

The parking study above encompassed the area from North Avenue to Davy Glen Drive. The study was undertaken with the assumption that valet parking would be necessary to make on-street parking work (the applicant is in agreement with this condition). Otherwise, patrons of the restaurant/banquet room would be more likely to park within the neighborhood adjacent to the restaurant rather than along El Camino Real.

Valet service would be required at any time when the banquet room is in use (typically after 7:00 p.m.). Vehicles would enter the restaurant's parking lot from the entrance on Anita Avenue and drive toward the front entrance. A valet would then take the vehicle at the front entrance and park it legally on El Camino Real. The vehicle would be brought back to the front entrance when the patron was ready to leave.

The on-street parking study was reviewed by police officers on the City of Belmont Traffic Safety Committee. The officers expressed concerns about the safety of using the east side of El Camino Real for parking, as it is unimproved and poorly lit. They also indicated that the road to the north of the Pilgrim Kitchen Restaurant should not be used, because it is highly likely that valets will run across the road to retrieve cars instead of using the crosswalk. Based upon the officer's comments, staff is not recommending the use of the east side of El Camino Real in the assessment of available project parking.

The west side of El Camino Real from North Avenue to Davy Glen Drive includes a total of forty-three parking spaces. On average, twenty-four parking spaces were available on weekday afternoons, thirty parking spaces were available on weekday evenings, and thirty-one parking spaces were available on weekend evenings. Forty spaces are required for the proposed banquet room expansion; however, as indicated in the table above, the parking lot of the restaurant is rarely full (the lot averaged ten available parking spaces on weekday afternoons, seven on weekday evenings and four to five on weekend evenings). In addition, competition for on-street parking along El Camino Real is very limited after 7:00 p.m. (when the restaurant is most busy), as most of the surrounding businesses are closed. Bay Area Boxing, at 220 El Camino Real, has classes until 9:30 p.m. on weekdays, but has as a large parking lot that typically has ten or more vacant spaces. Lastly, not all patrons of the restaurant arrive at the same time and not all patrons stay until closing; there is turnover of restaurant patrons, and so all of the parking spaces do not need to be used at the same time. Therefore, as proposed and conditioned, staff believes that there may be more than adequate on-street parking to support the proposed banquet room use.

Traffic Safety

The subject site is currently served by El Camino Real (a main arterial) and Anita Avenue (a local street) to the north. Though the subject site is located along a busy street, the hours of peak demand for the restaurant are not in conflict with commute traffic. The establishment opens for lunch at 11:00 a.m., after the morning commute and the evening peak dining room demand is 7:00 p.m., after the evening commute. The proposed modification in hours would extend the period in which entertainment is allowed until 2:00 a.m., and the additional traffic generated by the banquet use would be managed via the valet service (a condition would require the valet service to operate at all times when the banquet facility is in use). Thus, as proposed and conditioned, the proposed project would generally not result in an unsafe traffic condition.

Noise

The General Plan states in Section 3013 that:

“As a local government, the City of Belmont has limited control over the sources of noise affecting the community. Its primary role is to ensure that land uses and occupancies are compatible with the noise environment and that building regulations provide for adequate insulation or other measures to maintain acceptable levels of interior noise and that changes in land use or occupancy do not unreasonably increase existing noise exposure.”

Section 15-102 of the Noise Ordinance (July 2006), establishes maximum noise levels for non-residential properties. The maximum permitted during nighttime hours is 55 dBA, and the maximum noise level permitted during daytime hours is 65 dBA. The restaurant will be required to operate in compliance with the recently adopted Noise Ordinance.

Developed and undeveloped residential properties abut the project site to the west. However, the proposed banquet room where live music and other entertainment would occur is close to the street (El Camino Real), and so the adjacent residential uses would be buffered by the existing restaurant dining area, kitchen and restroom areas and a retaining wall along the rear of the property; the closest developed residential property would be more than 100 feet away. In addition, the banquet room would include a foyer area at the front door and heating and air conditioning system (HVAC), in compliance with current California's Energy Efficiency Standards. Staff would note that HVAC system would eliminate any need to open windows for ventilation and would act to attenuate sound. Lastly, while staff believes that compliance with the City's Noise Ordinance would not be difficult, a condition of project approval is recommended that would require periodic testing of noise levels to ensure no significant impacts occur to adjacent residential properties.

Egress/ Safety

The Building Official has reviewed the project proposal and has determined that the number, type, and location of exit doors would comply with the maximum occupancy established, pursuant to the California Building Code. The Fire Department has also included conditions of approval that would require an operational sprinkler system throughout the addition, panic hardware on all exit doors, the establishment of minimum aisle widths, and the installation of a special fire extinguisher system in the kitchen areas. The Planning Division and Police Department are recommending conditions that would require that the total occupancy (as established by the Belmont - San Carlos Fire Department) be continually monitored by restaurant management so as not to exceed the established maximum, and that live entertainment be discontinued at 1:30 am in order to prepare for a 2:00 a.m. closure.

DESIGN REVIEW ANALYSIS

The proposed addition is required to meet the Design Review Principles set forth in Section 13.5.3 of the Belmont Zoning Ordinance. These principles to be followed identify aesthetic and site plan consideration for design review, which shall include, but not necessarily be limited to, the following:

- a) *Review of buildings or structures for scale, mass, proportion, use of materials, relationship to adjacent elements and relationship to the community as a whole.*

The applicant proposes a 5,129 sq. ft. banquet room addition to the existing restaurant. The banquet room would be located on the adjacent property south of the restaurant, and the properties would be merged. The proposed banquet room would be Mediterranean in style and would utilize the same architectural features, exterior materials and colors as the existing restaurant (i.e., cement plaster finish for exterior walls, wood trim, wood doors, wood framed windows, and clay tile roofing). The new addition would be the same height as the existing restaurant and would be well designed and articulated so as not to appear bulky. This principle is met.

- b) *Review of proposed exterior color and material application with relationship to adjacent architectural or natural elements. The intent with respect to review of color is to avoid the use of extreme color.*

The exterior color and materials of the addition would match the existing restaurant building on site. The proposed earth tone colors (brown, beige and dark orange) and natural materials (wood, cement plaster) would be consistent with the site and surrounding area. This principle is met.

- c) *Review the proposed location, height, and materials of walls, fences, hedges and screen plantings to insure harmony with adjacent development or to conceal storage areas, utility installations or other surfacing to prevent dust erosion.*

No new storage areas or utility installations are proposed. Best Management Practices (BMPs) for grading will be required as a condition of project approval to prevent erosion and sedimentation impacts. This principle is met.

- d) *Review of location, size, height, lighting and landscaping of signs as specified in the Sign Ordinance, in relation to traffic hazards and the appearance of harmony with the environment. The intent with respect to review of color is to avoid the use of extreme color.*

This project does not include any new signs. This principle is met.

- e) *Review of site layout considering the orientation and location of buildings and open spaces in relation to the physical characteristics of the site, the character of the neighborhood, the appearance and harmony of the buildings with adjacent development and the surrounding landscape.*

The proposed banquet room addition is oriented towards El Camino Real, in keeping with the physical characteristics of the site (property frontage), and the character of the neighborhood. The addition also includes an arched entry way and pillars along the street frontage, which improves the site's street presence, and overall sense of entry. The banquet room would also incorporate the existing restaurant building's Mediterranean architecture, colors, materials and landscaping. This principle is met.

- f) *Review of the layout of the site with respect to locations and dimension of vehicular and pedestrian entrances, exits, drives and walkways.*

Existing parking areas and pathways have been reviewed and approved by the Building Division and the Department of Public Works under previously approved Design Review Conditional Use Permit applications. The proposed project would include no more vehicular entry or exit points. A small walkway from the sidewalk to the new front entry of the banquet room would be provided, and a secondary exit at the rear of the banquet room has been reviewed and approved by the Building Division and the Fire Marshal. This principle is met.

- g) *Review of site landscaping including adequacy of irrigation plans, size and location of plant materials, and protection of existing plant materials.*

No trees would be removed for the project. The existing restaurant site is fully landscaped, irrigated, and very well maintained. The project proposes to extend the existing landscaping to planters proposed in front of the banquet room. The properties would be merged as part of the project and so the total on site landscaping would be 21% where 15% is the minimum required. An irrigation plan has not been submitted. Staff recommends that an irrigation plan be required as part of the building permit submittal. Said plan would be reviewed and approved by the Community Development Department, prior to issuance of building permits. Existing landscaping will be maintained with this proposal and staff has included a condition of approval that would require that a picture inventory of existing landscaping be submitted prior to building permit issuance.

Staff has considered the applicant's request for Design Review and finds that the project meets the Principles for Design Review in Chapter 13.5.3 in that the proposed banquet room is designed to be compatible with the existing character and design of the existing restaurant. In addition, the proposed use will not impact any vehicular or pedestrian circulation of the site or substantially reduce overall site landscaping. This finding can therefore be made in the affirmative.

CONDITIONAL USE PERMIT ANALYSIS

In order to grant a Conditional Use Permit, the Planning Commission must make the following findings pursuant to Section 11.5.1 (a-d) of the City of Belmont Zoning:

a) The location of the proposed use is compatible to other land uses in the general neighborhood area and does not place an undue burden on existing transportation, utilities and service facilities in the vicinity.

The applicant has requested a Conditional Use Permit (CUP) to extend the hours of operation for the existing restaurant and new banquet room and allow live entertainment until 2:00 a.m. The live entertainment would occur within the new banquet room only, and would be ancillary and complementary to the existing restaurant use. The establishment opens for lunch at 11:00 a.m., after the morning commute and the evening peak dining room demand is 7:00 p.m., after the evening commute. Existing utilities already service the restaurant use, which is permitted by right within the C-3 zone.

Noise from the project site would be mitigated by the location of the banquet room (adjacent to the street) and by project design (a foyer space is proposed upon entering the banquet facility to keep noise from escaping when the doors are opened, and an HVAC system would eliminate the need to open doors or windows for ventilation. In addition, the existing restaurant space, kitchens, bathrooms and a retaining wall at the back of the project site will buffer noise from nearby residential uses. The existing restaurant includes a large parking area, and a valet service would utilize abundant on-street parking along El Camino Real in order to prevent parking impacts to nearby residential streets.

b) The site is of sufficient size to accommodate the proposed use together with all yards, open spaces, walls and fences, parking and loading facilities, landscaping and such other provisions required by this ordinance.

The existing restaurant conforms to the total floor area, height, setbacks, and parking requirements of the Zoning Ordinance. The proposed banquet room addition would also comply with all applicable Building, Fire and Zoning Ordinance requirements, with the exception of parking. However an accompanying Variance application for parking has been submitted, and site landscaping (existing and proposed) fully conforms to City standards.

c) The site will be served by streets of a capacity sufficient to carry the traffic generated by the proposed use.

The subject site is currently served by El Camino Real (a main arterial) and Anita Avenue (a local street) to the north. Both roads are of sufficient capacity to serve this project site. As noted in Finding (a), above, the hours of peak demand for the restaurant are not in conflict with commute traffic along El Camino Real and thus no significant traffic interruption is anticipated from the project.

- d) The proposed use, if it complies with all conditions upon which approval is made contingent, will not adversely affect other property in the vicinity or the general welfare of the City.*

All City departments have reviewed the proposal and provided draft conditions of approval that should ensure that the extended hours and live entertainment, will not adversely affect the general welfare of the City. Should the Commission direct staff to provide a resolution of approval for the subject entitlements, draft conditions of approval have been included from the Police Department and the Planning Division that would require the monitoring of total occupancy, the discontinuance of live entertainment at 1:30 a.m. in anticipation for a 2:00 a.m. closure, and conformance with the Belmont Noise Ordinance; a condition requiring a six-month review has also been included. In addition, the Fire Department has included conditions that limit total occupancy, and require an operational sprinkler system throughout the restaurant, panic hardware on all exit doors, the establishment of minimum aisle widths, and the installation of a special fire extinguisher system in the kitchen areas. Lastly, the Building Official has reviewed the project proposal and has determined that the number, type, and location of exit doors would comply with the maximum occupancy established, pursuant to the California Building Code.

VARIANCE ANALYSIS

In order to grant a variance for parking, findings pursuant to three sections of the Zoning Ordinance are required. These are set out in the following section.

Section 8.1.3 of Off-Street Parking and Loading

Zoning Ordinance Section 8.1.3 provides that if the parking standards are physically impossible to attain, the Planning Commission may grant a variance when the following conditions exist:

- (a) There appears to be adequate on-street parking available in the immediate vicinity of the proposed use.*

Staff conducted a parking study of available on-street parking in the vicinity of Shalizaar Restaurant. The parking study encompassed the area from North Avenue to Davy Glen Drive. The study was undertaken with the assumption that valet parking would be necessary to make on-street parking work (the applicant is in agreement with this condition). Valet service would be required at any time when the banquet room is in use (typically after 7:00 p.m.). Vehicles would enter the restaurant's parking lot from the entrance on Anita Avenue and drive toward the front entrance. A valet would then take the vehicle at the front entrance and park it legally on El Camino Real. The vehicle would be brought back to the front entrance when the patron was ready to leave.

The parking study revealed that there are forty-three parking spaces on the west side of El Camino Real from North Avenue to Davy Glen Drive. On average, twenty-four parking spaces were available on weekday afternoons, thirty parking spaces were available on weekday evenings, and thirty-one parking spaces were available on weekend evenings. Forty spaces are required for the proposed banquet room expansion. However, staff found that the restaurant parking lot is rarely full (the lot averaged ten available parking spaces on weekday afternoons,

seven on weekday evenings and four to five on weekend evenings). In addition, competition for on-street parking along El Camino Real is very limited after 7:00 p.m. (when the restaurant is most busy), as most of the surrounding businesses are closed. Lastly, not all patrons of the restaurant arrive at the same time and not all patrons stay until closing; there is turnover of restaurant patrons, and so all of the parking spaces do not need to be used at the same time.

- b) *No physically feasible method appears available for the applicant to meet the standards in the vicinity of the proposed use.*

The project site consists of two parcels: 1) a 25,559 sq. ft. parcel that is developed with a 4,050 sq. ft. Mediterranean style restaurant building, a parking area for thirty-seven vehicles, trash enclosure, lighting, signage and landscaping; and 2) a 3,996 sq. ft. parcel that is vacant. The developed parcel is located at the southwest corner of El Camino Real and Anita Avenue. The vacant parcel is immediately adjacent and south of the developed parcel.

The existing restaurant use is completely developed and has conforming parking. There is no room on the restaurant site for more parking. The vacant parcel's narrow forty-foot width would not allow perpendicular parking (90 degrees to the entrance of the lot) to allow vehicles to turn around before leaving the site (Section 8.3.1(d) of the Zoning Ordinance requires a minimum of forty six feet in width for one-way perpendicular parking). Thus, any vehicles parking on the vacant parcel would be required to back out onto El Camino Real, creating an unsafe condition. Thus, there is no physically feasible method available for the applicant to meet the standards for parking on site.

- (c) *The Commission finds that the proposed use is compatible with the surrounding area and would enhance development in the vicinity.*

The proposed expansion of the restaurant would contribute to its long term commercial viability and would eliminate a small commercial property that has limited utility in today's market.

Section 14.5.1 Variance Findings

- a) *The strict or literal interpretation and enforcement of the specified regulation would result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Zoning Plan.*

The expansion of the restaurant into the adjacent property requires the provision of an additional forty parking spaces. The existing site is fully developed and there is no opportunity to increase the number of on-site parking spaces. There is no reconfiguration that would provide more parking on the restaurant parcel. There is no nearby vacant commercial property which could be acquired and reasonably developed for parking.

The small vacant commercial property has limited utility as a stand-alone parcel, and would be not be capable of development with conforming parking. For example, a small two-story commercial building of 2,000 sq. ft. could be located on the property that would require eight parking spaces. However, the parcel's narrow forty-foot width would not allow perpendicular

parking (90 degrees to the entrance of the lot) to allow vehicles to turn around before leaving the site (Section 8.3.1(d) of the Zoning Ordinance requires a minimum of forty six feet in width for one-way perpendicular parking). Any vehicles parking on the subject lot would be required to back out onto El Camino Real, creating an unsafe condition (a Variance would be required for parking). In addition, the parking area would need to be at the front of the site in order to access the street, with the building set back approximately forty feet towards the rear of the site, eliminating any potential retail visibility.

Development of the property under the above scenario would likely lead to the construction of a small commercial office building. There is currently no shortage of available commercial office space within the City of Belmont or the Bay Area region. Staff believes that site would have limited practical use because of its size, resulting in either the building being vacant, or underutilized with rents below those prevailing in the area. This then limits the resources available to the property owner for building maintenance. Staff believes that these conditions represent practical difficulty and unnecessary hardship; this assessment rationalizes that this site would be far more suitable for development as part of the adjacent restaurant parcel.

b. *There are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property which do not apply generally to other properties classified in the same zoning district.*

The restaurant property is developed with parking conforming to its use. Surrounding commercial properties (Bay Area Boxing, Pilgrims Kitchen, Workplace Innovations, the adjacent office building, etc.) either have conforming parking, or are legal non-conforming with respect to parking. The subject vacant commercial property has an unusually narrow frontage (forty feet) where surrounding either have multiple frontage or are eighty to one hundred feet in width, allowing for the development of onsite parking areas with adequate back up room. There is no opportunity to add parking to the site. Staff surveyed the other commercial properties within the C-3 District and found that this was the only site so constrained by parking.

If there is no flexibility in meeting the parking requirements for the proposed expansion, then the property owner would only be able to add 120 sq. ft. of dining area or 1,200 sq. ft. of storage area to the vacant property (using the two additional parking spaces on the restaurant site). As a stand-alone parcel, the property could not be developed without some sort of parking Variance. Given its small size, it may not be suitable or viable for the permitted retail uses such as personal services or retail goods. This would result in the space being hard to rent for retail use as preferred by General Plan policies, or underutilized.

c. *The strict or literal interpretation and enforcement of the specified regulation would deprive the applicant of privileges enjoyed by the owners of other properties classified in the same zoning district.*

The other commercial development in the vicinity is not generally constrained by narrow roadway frontages and single points of access, and thus may be used for the full range of uses permitted in the C-3 District.

There are commercial properties within the City of Belmont C-2 Zoning District that are similarly limited in on-site parking. These include the commercial building at 1020 Sixth Street where Caprino's Italian Restaurant and several other commercial tenants are located. This property has approximately four on-site parking spaces. The building at 945 Ralston Avenue, where Sushi Monster and several other commercial tenants are located, has five on-site parking spaces. These developments are located in a different zoning district than the project site, but indicate that there are other examples of commercially-zoned properties with constrained off-street parking which contain restaurants.

If there is no flexibility in the parking requirements for this site, then the existing commercial property would be limited in its utility and may be underused, vacant, or rented at a rate below prevailing rates in the vicinity. This would deprive the owner of the privilege owners of other commercial properties enjoy, which is the ability to rent the existing space on a competitive basis in the marketplace. There is available on street parking on El Camino Real that could support the proposed banquet room. The strict or literal enforcement would not provide public benefit, but would deprive the applicant of the opportunity to use the C-3 zoned property for uses which have been permitted elsewhere for older commercial buildings without complying off-street parking.

d. The granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties classified in the same zoning district.

The granting of the variance will allow the owner to utilize a commercial property by combining it with the adjacent restaurant parcel. The Variance would not allow any expansion of the restaurant in a way that would not conform to the regulations for use, floor area, landscaping, setbacks or height. The commercial property would be combined with the adjacent restaurant parcel, making it more useful and viable.

e. The granting of the Variance will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

Granting this variance will allow the expansion of an existing restaurant use which is compatible with the neighborhood and provides desired services to community residents. The time of heaviest use of the restaurant is in the evening when other businesses are not operating, so the on-street parking would provide sufficient parking for this use.

Section 14.5.2 Limitations: Parking and Loading

Section 14.5.2 provides:

The Commission may grant a Variance to a regulation prescribed by this Ordinance with respect to off-street parking facilities or off-street loading facilities, as the Variance was applied for or in modified form if, on the basis of the application and the evidence submitted, the Commission makes the findings prescribed in paragraphs (a) through (e) of Section 14.5.1 and if, on the basis of the Commission's investigation, it makes the following additional findings:

- a) *That neither present nor anticipated future traffic volumes generated by the use of the site, or the uses of sites in the vicinity, reasonably require strict or literal interpretation and enforcement of the specified regulation.*

This existing neighborhood is built-out and is therefore unlikely to generate significant new traffic volumes or parking demand in the future. The expanded restaurant would continue to do business primarily around the middle of the day (lunch time) and then again in the evening for dinner. Peak use of the property is outside of the morning and evening rush hours. The existing parking on public streets is available to serve this neighborhood. Therefore, there is nothing about future use of this project site, nor sites in the vicinity, which would dramatically increase parking demand.

- b) *That the granting of the Variance will not result in the parking or loading of vehicles on public streets in such a manner as to interfere with the free flow of traffic on the streets.*

The west side of El Camino Real from North Avenue to Davey Glen Drive is improved with standard curb and gutter and well lit. The roadway includes two wide lanes in southbound direction, and vehicles can parallel park safely without obstructing the free flow of traffic. Additionally, as mentioned earlier, a valet will be employed at all times when the banquet room is in use, and the time of greatest demand for the restaurant/banquet room would be in the evenings, when many of the other businesses in the immediate area will be closed.

- c) *That the granting of the Variance will not create a safety hazard or any other condition inconsistent with the objectives of the Zoning Plan.*

The Variance from providing the additional parking on site will neither create a safety hazard nor any other condition inconsistent with the objectives of the Zoning Plan. It will provide for the effective use of an existing small property by combining it with the adjacent restaurant, thereby maintaining viable restaurant use, consistent with the intent of the C-3 District.

CONCLUSION

Staff has evaluated the associated findings for the required entitlements and is seeking Commission direction with respect to the action alternatives provided below. Based on Commission discussion and public testimony, staff would either continue the matter for further evaluation or prepare a resolution on the directed Commission action.

ACTION ALTERNATIVES

1. Continue the matter to a date certain to allow subsequent review of an alternative proposal.
2. Provide direction on the preparation of a resolution to approve the Design Review, Conditional Use Permit, and Variance applications. The Commission will identify specific facts to support an approval, and a resolution would be returned to the Commission for final action.

3. Provide direction on the preparation of a resolution to deny the Design Review, Conditional Use Permit, and Variance applications. The Commission will identify specific facts to support a denial, and a resolution would be returned to the Commission for final action.

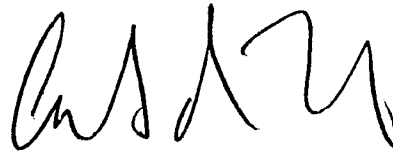
ATTACHMENTS

- I. 500 foot radius map of project site (Page 2 of report)
- II. Draft Conditions of Approval
- III. Neighborhood Outreach Materials
- IV. Project plans and submittal materials (Commission only)

Respectfully submitted,



Damon DiDonato
Senior Planner



Carlos de Melo
Community Development Director

EXHIBIT "A"

DRAFT
CONDITIONS OF PROJECT APPROVAL,
CONDITIONAL USE PERMIT
300 EL CAMINO REAL (APPL. NO. 2010-0031)

- I. COMPLY WITH THE FOLLOWING CONDITIONS OF THE COMMUNITY DEVELOPMENT DEPARTMENT:
 - A. The following conditions shall be shown on plans submitted for a building permit and/or site development permit or otherwise met prior to issuance of the first building permit (i.e., foundation permit) and shall be completed and/or installed prior to occupancy and remain in place at all times that the use occupies the premises except as otherwise specified in the conditions:

Planning Division

1. Plans submitted for building permit and all construction shall conform to the plans on file in the Planning Division for Appl. No. 2010-0031. The Director of Community Development may approve minor modifications to the plans. The areas shown for kitchen and storage shall not be converted to dining area without further approval from the City of Belmont because dining use requires more parking than storage, and kitchen area uses.
2. In accordance with the Belmont Zoning Ordinance, the Design Review and Conditional Use Permits granted by this approval shall expire one (1) year from the date of approval, with said approval date indicated on the accompanying Planning Commission resolution. Any request for extension of the expiration date shall be made in accordance with the applicable provisions of the Belmont Zoning Ordinance.
3. The Variance entitlement granted as part of the project shall be deemed null and void upon a finding by the Planning Commission that the property for which such Variance has been granted is in violation of any applicable provision of this Ordinance, or that there has been failure to comply with any condition or conditions imposed in the granting of the Variance, as per Section 14.8 of the Belmont Zoning Ordinance.
4. The thirty-seven existing parking spaces on the restaurant site shall be maintained.
5. Within 30 days of this approval, the property owner shall file with the Director of Community Development, on forms provided by the City, an acknowledgment that he/ she has read, understands and agrees to these conditions of approval.
6. In the event that this approval is challenged by a third party, the property owner and all assignees will be responsible for defending against this challenge, and agrees to accept responsibility for defense at the request of the City. The property owner and all assignees agree to defend, indemnify and hold harmless the City of Belmont and all officials, staff, consultants and agents from any costs, claims or liabilities arising from the approval, including without limitation, any award of attorneys fees that might result from the third party challenge.

7. No new signage has been approved as part of this project. All signage shall be provided in accordance with Section 23 of the Belmont Zoning Ordinance.
8. The restaurant and banquet room may be open to the public from 7:00 a.m. to 2:00 a.m., seven days per week. Live entertainment shall be permitted within the banquet room only. Live entertainment may occur seven days per week and shall cease by 1:30 a.m., to allow time for patrons to vacate the premises prior to the 2:00 a.m. closure.
9. Hours of operation and phone numbers shall be posted outside the building for questions and complaints.
10. The restaurant and the live entertainment use shall operate in compliance with the standards established in Section 15-102(c) of the Belmont Noise Ordinance (Maximum 65 dBA for daytime hours [8:00 AM to dusk], Maximum 55 dBA for nighttime hours [dusk to 8:00 AM]).
11. This Conditional Use Permit shall be reviewed by the Planning Commission after six months time and after one years time to assure that the noise emissions from the live entertainment and related exterior noise from departing patrons remain reasonable for the neighboring uses and properties. At the six month and one year reviews, staff shall present the Planning Commission with the results of two scheduled and two unscheduled noise emission tests that shall be taken in accordance with the guidelines set forth for such tests in Section 15-102(a) of the Belmont Noise Ordinance. The six-month and one-year reviews shall be noticed to all property owners and residents within 300 feet, and any interested parties that have commented on the project or who request notification.
12. The applicant shall post these Conditions of Approval governing the operation of the live entertainment "cabaret use" at the subject location such that they are permanently and clearly visible to all restaurant personnel.
13. Restaurant management and/or security personnel shall continually monitor the parking lot area for noise, and shall discourage loud conversations and loitering within the parking lot. A sign shall be placed on or near all exit doors informing restaurant patrons that they are adjacent to a residential area, and that they should make every effort to please be quiet.
14. Prior to the issuance of building permits for the project, the applicant shall provide a restaurant parking management plan to the City which includes but is not limited to addressing:
15. Establishment of a complimentary valet service for the restaurant during all times when the banquet room is in use. Said plan shall limit the parking of vehicles to the west side of Ralston Avenue. The valet attendants shall pick up and drop off vehicle within the exiting parking lot of the restaurant.
16. Outreach efforts on the part of the restaurant to inform patrons of the banquet room that valet parking is to be used when the restaurant parking lot is full. Such outreach by restaurant employees shall strongly discourage the use of adjacent residential streets for the parking of vehicles.

17. Staff shall review the subject entitlements six months and one year after operation of the banquet room use to formally assess on/off-street and adjacent property parking effects. The results of the study shall be reported to the Planning Commission.
18. The 25,559 sq. ft. restaurant property (APN: 044-173-180) and the adjacent vacant 3,996 sq. ft. property (APN: 044-173-200) shall be merged prior to issuance of a building permit.

Building Division

- A. The following conditions shall be shown on plans submitted for a building permit and/or site development permit or otherwise met prior to issuance of the first building permit (i.e., foundation permit) and shall be completed and/or installed prior to occupancy and remain in place at all times that the use occupies the premises except as otherwise specified in the conditions.
 1. Plans shall conform to approved project plans.
- B. The following conditions shall be met prior to the issuance of the first building permit (i.e., foundation permit) and/or site development permits except as otherwise specified in the conditions.
 1. Prior to any construction, the applicant or a designated representative shall obtain all of the required building permits for the project.
 2. Pursuant to the Belmont-San Carlos Fire Department Ordinance #2006-21, Section 1003.2.9.2(A), the building will receive a fire sprinkler system and the plan will be a deferred submittal.
 3. The City of Belmont is located in a region once inhabited by Native Americans. A significant archaeological site has been formally identified at the Northeast quadrant of the City. Human remains and artifacts have been discovered elsewhere within the city limits. Consequently, please amend the cover sheet of the plans to state in the event human remains are discovered work will be stopped and the County Coroner will be contacted immediately. In addition, it is a violation of Public Resources Code 5097.99 to retain any Native American Artifacts. Health and Safety Code 7050.5
 4. Engineered retaining wall design requirement
 5. The City of Belmont Municipal Code requires a soils and engineering geology report for all new or substantially altered foundations. Provide such a report and a letter from the geotechnical engineer confirming that the foundation plan has been reviewed and that it has been determined that the recommendations in the soils report are properly incorporated into the plans. BMC 7-12, IBC 106.1 & 1804.3
 6. Provide a record of survey

7. Amend the plans to show the location of all transformers, fire standpipes, and back flow preventers
8. All construction and related activities which require a City permit shall be allowed only during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday and 10:00 a.m. to 5:00 p.m., Saturdays. No construction activity or related activities shall be allowed outside of the aforementioned hours or on Sundays and the following holidays: New Year's Day, President's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. All gasoline powered construction equipment shall be equipped with an operating muffler or baffling system as originally provided by the manufacturer, and no modification to these systems is permitted.
9. Post hours of operation and phone numbers for noise complaints
10. Provide space for recycling containers
11. Provide list of construction and demolition recycling service providers
12. Require contractors and subcontractors to make good faith effort to contact construction and demolition recycling providers
13. Notify all contractors and subcontractors of Belmont expectations of maximizing diversion of solid waste
14. Investigate opportunities for salvaging material for reuse
15. Specify that the 2006 IBC, 2006 UPC, 2006 UMC and 2005 NRC as amended by the State of California and all applicable City of Belmont ordinances will be employed during this project.

II. COMPLY WITH THE FOLLOWING CONDITIONS OF THE PUBLIC WORKS DEPARTMENT:

- A. The following conditions shall be shown on plans submitted for a building permit and/or site development permit or otherwise met prior to issuance of the first building permit (i.e., foundation permit) and shall be completed and/or installed prior to occupancy and remain in place at all times that the use occupies the premises except as otherwise specified in the conditions.
 1. Streets, sidewalks and curbs in need of repair within and bordering the project shall be repaired and/or removed and replaced in accordance with the Department of Public Works approved standards. Photographs or video of before condition are recommended.
 2. Roof leaders and site drainage shall be directed to the City stormwater drainage system. A dissipator box or other energy reduction method shall be used.
 3. Roof downspout systems shall be designed to drain into designated, effective infiltration areas or structures (refer to the Bay Area Stormwater Management Agencies Association (BASMAA) Start

at the Source Design Guidance Manual for Stormwater Quality Protection [available from BASMAA @ 510-622-2465]).

4. Food service facilities (including restaurants and grocery stores) shall have a sink or other floor mat, container, and equipment cleaning area, which is connected to a grease interceptor prior to discharging to the sanitary sewer system. The cleaning area shall be large enough to clean the largest mat or piece of equipment to be cleaned. The cleaning area shall be indoors or in a roofed area outdoors; both areas must be plumbed to the sanitary sewer. Outdoor cleaning areas shall be designed to prevent stormwater run-on from entering the sanitary sewer and to prevent stormwater run-off from carrying pollutants to the storm drain. Signs shall be posted indicating that all food service equipment washing activities shall be conducted in this area. Regular maintenance and cleaning of the grease interceptor is required and may be subject to periodic inspections conducted by municipal staff.
 5. New buildings such as food service facilities and/or multi-family residential complexes or subdivisions shall provide a roofed and enclosed area for dumpsters and recycling containers. The area shall be designed to prevent water run-on to the area and runoff from the area and to contain litter and trash, so that it is not dispersed by the wind or runoff during waste removal.
 6. Runoff from trash enclosures, recycling areas, and/or food compactor enclosures, or similar facilities shall not discharge to the storm drain system. Trash enclosure areas shall be designed to avoid run-on to the trash enclosure area. If any drains are installed in or beneath dumpsters, compactors, and tallow bin areas serving food service facilities, the drains shall be connected to a grease removal device and/or treatment devices prior to discharging to the sanitary sewer.
- B. The following conditions shall be met prior to the issuance of the first building permit (i.e., foundation permit) and/or site development permits except as otherwise specified in the conditions.
1. The property owner/applicant shall apply for and obtain temporary encroachment permits from the Department of Public Works for work in the City public right-of-way, easements or property in which the City holds an interest, including driveway, sidewalk, sewer connections, sewer clean-outs, curb drains, storm drain connections, placement of a debris box.
 2. Property owner/applicant shall apply for and obtain a grading permit from the Department of Public Works. The grading permit fee is based on the total amount of earth moved including cut and fill.
 3. Verify location of utility meters, valves, back flow preventers, and hydrants with appropriate utility company. Show relationship of each to site improvements, such as retaining walls.
 4. The owner/applicant shall submit a dust control plan for approval by the Department of Public Works. To reduce dust levels, exposed earth surfaces shall be watered as necessary. The application of water shall be monitored to prevent runoff into the storm drain system. Spillage resulting from hauling operations along or across any public or private property shall be removed immediately. Dust nuisances originating from the contractor's operations, either inside or outside of the right-of-way shall be controlled.

5. The proposed development may add or replace the impervious surface area of the property. The applicant shall provide calculations showing the total impervious area of the completed project with the building permit application. Calculations shall be submitted to the Department of Public Works for review and approval.
6. The owner/applicant shall perform a video inspection of the sewer lateral from the house/building to the sewer main, submit the inspection to the Department of Public Works for review and make any necessary repairs to the lateral.
7. Sanitary sewer to include a back flow prevention device.
8. The applicant shall submit an erosion and sedimentation control plan describing Best Management Practices (BMPs) to be used to prevent soil, dirt, and debris from entering the storm drain system. The plan shall include the following items:
 - a) A site plan showing the property lines, existing and proposed topography, and slopes; areas to be disturbed, locations of cut/fill and soil storage/disposal area; areas with existing vegetation to be protected; existing and proposed drainage patterns and structures; watercourses or sensitive areas on-site or immediately downstream of project; and designated construction access routes, staging areas and washout areas.
 - b) Erosion and sediment controls to be used during construction, selected as appropriate from the California Regional Water Quality Control Board, San Francisco Bay Region Erosion and Sedimentation Control Field Manual (available from: Friends of the San Francisco Estuary, P.O. Box 791, Oakland, CA 94604-0791).
 - c) Methods and procedures to stabilize denuded areas and install and maintain temporary erosion and sediment control continuously until permanent erosion controls have been established.
 - d) Provision for preventing erosion and trapping sediment on-site, such as sediment basins or traps, earthen dikes or berms, fiber rolls, silt fence, check dams, storm drain inlet protection, soil blankets or mats, covers for soil stock piles and/or other measures.
 - e) Provisions for installing vegetative cover in disturbed areas, including areas to be seeded, planted, and/or mulched, and types of vegetation proposed.
 - f) Provision for diverting on-site runoff around exposed areas and diverting off-site runoff around the project site (e.g., swales and dikes).
 - g) Notes, specifications, and/or attachments describing the construction, operation and maintenance of erosion and sediment control measures, including inspection frequency; methods and schedule for grading, excavation, filling clearing of vegetation and storage and disposal of excavated or cleared material; types of vegetative cover and mulch, including methods and schedules for planting and fertilization; and provisions for temporary and permanent irrigation.
9. All plans shall conform to the requirements of the City NPDES stormwater discharge permit and the San Mateo Stormwater Pollution Prevention Plan (STOPPP). The project plans shall include permanent storm water quality protection measures. The project plans shall identify Best Management Practices (BMPs) appropriate to the uses to be conducted on-site to effectively prohibit the discharge of pollutants with storm water run-off. A Maintenance and Operation Agreement shall be prepared by applicant incorporating the conditions of this section.

10. Restaurants and kitchens shall be designed with contained areas for cleaning and outdoor wash down connected to the sanitary sewer. Areas designated for grease storage for recycle or disposal pickup shall be contained.

C. The following conditions shall be met prior to occupancy except as otherwise specified in the conditions.

1. After the City permits are approved but before beginning construction, the owner/applicant shall hold a preconstruction conference with Building and Public Works Department staff and other interested parties. The developer shall arrange for the attendance of the construction manager, contractor, and all subcontractors who are responsible for grading and erosion and sedimentation protection controls.

2. Failure to comply with any permit condition may result in a "Stop Work" order or other penalty.

3. Grading shall be performed in accordance with the City Grading Ordinance, Chapter 9 of the City Code. Soil or other construction materials shall not be stockpiled in the public right-of-way unless an encroachment permit is obtained from the Department of Public Works. Grading shall neither be initiated nor continued between November 15 and April 15. Grading shall be done between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday unless otherwise specifically authorized by the Director of Public Works. The Stormwater Pollution Prevention Program Best Management Practices (BMPs) for construction shall be implemented to protect water quality.

4. The owner/applicant shall ensure that all construction personnel follow standard BMPs for stormwater quality protection during construction of project. These includes, but are not limited to, the following:

a. Store, handle and dispose of construction materials and wastes properly, so as to prevent their contact with stormwater.

b. Control and prevent the discharge of all potential pollutants, including solid wastes, paints, concrete, petroleum products, chemicals, washwater or sediment, and non-stormwater discharges to storm drains and watercourses.

c. Use sediment controls, filtration, or settling to remove sediment from dewatering effluent.

d. Do not clean, fuel, or maintain vehicles on-site, except in a designated area in which runoff is contained and treated.

e. Delineate clearing limits, easements, setbacks, sensitive or critical areas, buffer zones, trees, and drainage courses with field markers or fencing.

f. Protect adjacent properties and undisturbed areas from construction impacts using vegetative buffer strips, sediment barriers or filters, dikes, mulching or other measures as appropriate.

g. Perform clearing and earth moving activities only during dry weather (April 15 through November 14).

h. Limit and time applications of pesticides and fertilizers to prevent polluted runoff.

i. Limit construction access routes and stabilize designated access points.

- j. Do not track dirt or other materials off-site; clean off-site paved areas and sidewalks using dry sweeping methods.
5. If construction is not complete by the start of the wet season (November 15 through April 15), prior to November 15 the developer shall implement a winterization program to minimize the potential for erosion and sedimentation. As appropriate to the site and status of construction, winterization requirements shall include inspecting/maintaining/cleaning all soil erosion and sedimentation controls prior to, during, and immediately after each storm event; stabilizing disturbed soils through temporary or permanent seeding, mulching, matting, tarping or other physical means; rocking unpaved vehicle access to limit dispersion of mud onto public right-of-way; covering/tarping stored construction materials, fuels, and other chemicals. Plans to include proposed measures to prevent erosion and polluted runoff from all site conditions. As site conditions warrant, the Department of Public Works may direct the developer to implement additional winterization requirements.

III. COMPLY WITH THE FOLLOWING CONDITIONS OF THE POLICE DEPARTMENT:

1. Restaurant management and/or security personnel shall continually monitor admission to the building and occupancy and take appropriate action to assure that the occupancy load set by the Fire Marshall and Building Division (135 persons) is not exceeded.
2. All entertainment shall cease one half hour prior to restaurant to allow patrons time to exit the restaurant.
3. All activities shall be subject to the requirements of the Belmont Noise Ordinance

IV. COMPLY WITH THE FOLLOWING CONDITIONS OF THE BELMONT/SAN CARLOS FIRE DEPARTMENT:

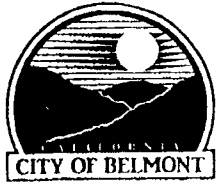
Fire Department

1. Prior to operation of the proposed extended hours of operation/live entertainment use, the applicant shall post the maximum occupancy sign for the establishments in accordance with the requirements of the Fire Marshall. The maximum occupancy shall be inclusive of patrons, employees, performers, etc.
2. An approved automatic fire sprinkler meeting the requirements of the Belmont-San Carlos Fire Department shall be provided.
3. The property address shall be illuminated on the restaurant building.
4. The minimum clear aisle width shall be 36 inches where seats, tables, counters, furnishings, displays and similar fixtures or equipment are placed on both sides of the aisle.
5. The total number of performers (5) as proposed is permitted. Any increase in the number of performers shall be reviewed and approved by the Fire Department.

6. Dancing for patrons shall not be allowed unless the tables and chairs occupying the designated dance floor are removed and exit pathways and exit doors are unobstructed. Tables and chairs that normally occupy the area where entertainment and/or dancing will occur shall be stored in the kitchen storage area.
7. The use of candles is prohibited unless approved by the Belmont-San Carlos Fire Department.
8. Panic hardware shall be installed on required exit doors.
9. A kitchen hood fire extinguishing system shall be installed
10. A sign above the entrance door shall be installed and shall state the following: "These Doors Shall Remain Unlocked While Occupied".
11. One 2A-10B:C fire extinguisher shall be installed for every 75 feet of travel.
12. Illuminated exit signs shall be installed.

Certification of Approved Final Conditions:	
Damon DiDonato, Senior Planner	Date

NEIGHBORHOOD OUTREACH STRATEGY



Belmont Permit Center APPLICANT'S GUIDE AND FORM

I. INTRODUCTION

The City of Belmont is committed to an open process of development review, and requires that applicants take a proactive approach to neighborhood outreach. Therefore, every development request which is decided by the Planning Commission or City Council in a public hearing must include a Neighborhood Outreach Strategy, submitted with the application. The strategy must include your proposal for contacting your neighbors, informing them of your proposed project and receiving their feedback in advance of the City's review. This form is provided to assist you in preparing your Neighborhood Outreach Strategy

II. OUTREACH STRATEGY

In order to provide an effective Neighborhood Outreach Strategy, you must address these issues:

- A. *Contacting Your Neighbors* – Since you will be providing the City with labels for all property owners and tenants within 300 feet of your property, it is strongly suggested that you notify these same people of your neighborhood outreach efforts. You can mail your own notices to them, post bulletins, make telephone calls or go door-to-door, if you wish. (Please note that these options do not give you the right to trespass or conduct any other activities which are contrary to the law.)
- B. *Informing Your Neighbors of the Project* – This can be accomplished a variety of ways, but is most easily accomplished by a scheduled meeting or open house on the property. At the meeting, you are encouraged to have your project plans available, as well as your architect, engineer or other consultants as necessary to explain and answer questions about the project. The more convenient the meeting date, time and arrangements, the more success you will have in establishing a positive atmosphere for the dialogue. You may choose other means for informing your neighbors, such as mailing a project information packet.
- C. *Receiving Neighbor Feedback* – If you host a neighborhood meeting, you will be able to receive immediate feedback on your proposal. You are urged to take notes on the comments you receive, as well as who attends. If you mail information, some means of communication must be established to allow neighbors to contact you and leave their comments.
- D. *A Schedule for Action* – Your strategy must also include a schedule for achieving the above tasks prior to the first public hearing conducted by the City. While the City acknowledges that schedules may change, you must identify the approximate timing of the three steps described above.

III. YOUR NEIGHBORHOOD OUTREACH STRATEGY

Please submit a written description of your Neighborhood Outreach Strategy on the attached sheet, addressing the four points described above. You are required to implement the Strategy prior to the public hearing on your project. You may be asked by the Planning Commission or City Council about the results of your efforts. Failure to implement the strategy prior to the public hearing on your application may result in the hearing being continued to a later date.

Continued on Page 2

1. I will contact my neighbors by: JULY 14 2010

HARD DELIVERED INVITATION TO
EACH NEIGHBORS

2. I will inform my neighbors of the project by: JULY 21, 2010

3. I will gather feedback from my neighbors by: JULY 26, 2010

4. Here is the schedule for my outreach strategy:

A. Contact: 7/14/2010

B. Informing 7/21/2010

C. Feedback 7/26/2010

5. As property owner, I, Saeed Ayagh (print property owner's name), hereby acknowledge that I will make every reasonable effort to obtain neighbor comments on my project prior to presenting my request to the Planning Commission or City Council in public hearing. I understand that the purpose of the Neighborhood Outreach Strategy is to foster a positive and constructive dialogue regarding my project and its possible effects on surrounding homeowners and tenants.

[Signature]
Property Owner's Signature

7/8/2010
Date