

AGENDA ITEM: 6.

DATE: 10-18-10

**STAFF REPORT**

**CONDITIONAL USE PERMIT NO. 10-21**

DATE: October 18, 2010

TO: Lancaster Planning Commission

FROM: Planning Department

APPLICANT: Korea Kitchen, Inc.

LOCATION: 44810 Valley Central Way

REQUEST: A Conditional Use Permit for entertainment uses and to change an existing Alcoholic Beverage Control Type 41 license (on-sale beer and wine for a bona fide restaurant) to an ABC Type 47 license (on-sale general for a bona fide restaurant) within Korea Kitchen, an existing restaurant located in the CPD (Commercial Planned Development) Zone

RECOMMENDATION: Adopt Resolution No. 10-44 approving Conditional Use Permit No. 10-21.

BACKGROUND: There have been no prior hearings before either the City Council or the Planning Commission concerning this property.

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE: The subject location is designated C (Commercial) by the General Plan and is zoned CPD (Commercial Planned Development), and is currently an 8,000± square-foot restaurant. The General Plan designation, zoning, and land use of the surrounding properties are as follows:

	<u>GENERAL PLAN</u>	<u>ZONING</u>	<u>LAND USE</u>
NORTH	C	CPD	Retail
EAST	O	O	Armargosa Creek
SOUTH	C	CPD	Retail
WEST	C	CPD	Gas station/car wash/fast food

**PUBLIC IMPROVEMENTS:** The site is bounded to the west by Valley Central Way, and to the south by Lancaster Boulevard, both streets are improved with two lanes of traffic in each direction. All utilities are available to serve the site.

**ENVIRONMENTAL REVIEW:** The proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3), which states that “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”. As the proposed project is a use permit for the sale of alcohol at an existing facility, no impacts on environmental resources would be expected to occur.

**LEGAL NOTICE:** Notice of Public Hearing was mailed to all property owners within a 500-foot radius of the project, posted in three places, posted on the subject property, and noticed in a newspaper of general circulation per prescribed procedure.

**ANALYSIS:** The applicant, Korea Kitchen, Inc., is seeking approval of a Conditional Use Permit to conduct entertainment uses and to modify an existing Alcohol Beverage Control Type 41 license (on-sale beer and wine for a bona fide restaurant) to an ABC Type 47 license (on-sale general for a bona fide restaurant). A conditional use permit is required to operate the entertainment use portion of the business per Lancaster Municipal Code Section 17.12.080C and is required for a change in an ABC license type per Lancaster Municipal Code Section 17.42.030.

The Korea Kitchen has been operating for five years and currently has an ABC Type 41 license. On September 3, through September 5, 2010, Eric Miller, the promoter for the live entertainment, was approved for a special event that allowed for a Jazz Band, a Disc Jockey (DJ), and dancing. Subsequently, Mr. Miller inquired about promoting additional special events for live entertainment at the Korea Kitchen. Staff advised Mr. Miller that in order to conduct regular entertainment events, a Conditional Use Permit would be required. The proposal is to legitimize the entertainment uses and to provide the customers of the restaurant alternative entertainment options while dining at the restaurant and to add an entertainment venue after 9:00 p.m. The majority of the time, the restaurant serves lunch and dinner without the live entertainment.

The live entertainment would be located in the dining area away from the entrance door to the restaurant. The live entertainment space would allow for a DJ or a small (3-4 person) amplified live entertainers to set up and play music to patrons of the restaurant. The floor plan, Exhibit “A”, demonstrates the locations of the live entertainment and dance floor spaces within the restaurant.

The regular hours of operation would be from Sunday through Thursday, between 11:30 a.m. to midnight, and Friday and Saturday, between 11:30 a.m. to 2:00 a.m. On Fridays and Saturdays at 9:00 p.m., at the front door to the establishment, those attending an entertainment event who are 21 years of age or older, would pay a cover charge and would be issued a wrist band. Those that do not have a wrist band would be escorted to the sports bar/lounge area. Admittance to the entertainment area will be controlled through a security member posted at the entrance checking for wrist bands. After 10:00 p.m., only those who are 21 years of age or older would be allowed to enter the establishment. After 10:00 p.m., a modified menu would be offered to include additional finger foods, appetizers, and everything on the regular menu except grilled items.

The dance floor and the area for a band or a DJ would be used for restaurant patron seating when not in use. The request is to allow live entertainment which would include a live band (primarily jazz) on Friday nights starting approximately at 9:00 p.m. and continuing until midnight. The proposal is that once the band is finished performing, a DJ would play music until 1:00 a.m. A band would play Saturday nights during dinner hours. Afterwards, from 9:00 p.m. until 1:00 a.m. a comedian or another similar type act would perform. By limiting the live entertainment spaces to the areas identified on the floor plan, the live entertainment will remain ancillary to the main use, the restaurant.

The scope of the proposed live entertainment would include, but not limited to:

- (1) Karaoke;
- (2) Disc jockey (DJ) music;
- (3) Live bands; and
- (4) Dancing.

The types of events held would include;

- (1) Birthday parties;
- (2) Quinceaneras;
- (3) Receptions; and
- (4) Anniversaries

The restaurant would remain the primary use within Korea Kitchen. Any entertainment or event permitted by this Conditional Use Permit would be an accessory use to the primary use on the property. The proposed use would only be able to occur as incidental to and in conjunction with Korea Kitchen. In the event of any conflict or discrepancy between the project description provided in the applicant's application and the conditions established by this Conditional Use Permit, this Conditional Use Permit shall prevail. The events and activities would be limited to occur within the parameters as specified and the locations shown on the floor plan, Planning Commission Exhibit "A".

Conditions of Approval require that the applicant shall provide two (2) security personnel before, during, and after the live entertainment activities permitted under this Conditional Use Permit. Security personnel may be in the form of employees of Korea Kitchen. The Los Angeles County Sheriff's Department (Lancaster Station) was not opposed to the issuance of the conditional use permit, based on a conducted investigation and the applicant's agreement to the conditions.

As a bona fide restaurant, the alcohol use is exempt from the distance requirements of the City code, since the general alcohol sales will be incidental to the sale of food. The applicant will be required to comply with all standard conditions from the alcohol ordinance for on-sale alcoholic beverage establishments (Section 17.42.070).

Staff believes the location of the existing restaurant is highly suitable to the proposed use. There are no residential communities within at least 650 feet of the site. Combine that with the existing ambient noise levels generated by State Route 14, and there will be no noise impacts from this use to residential areas.

The proposed live entertainment and dancing will be a service enhancement for the existing business and be a good fit within the much larger retail center. It is anticipated that the enhanced service will benefit the City of Lancaster because it will provide residents another entertainment option.

As indicated previously, the proposal is to add a live entertainment component to the existing restaurant and change the ABC license from a Type 41 (on-sale beer and wine for a bona fide restaurant) to a Type 47 (on-sale general for a bona fine restaurant). The business has been successfully operating for five years and by modifying the ABC license and adding live entertainment, it will continue to provide their patrons with quality food, service and entertainment. The proposed live entertainment is located entirely within the interior of the restaurant and will not impact the adjacent businesses and no residences exist closer than 650 feet. With the other retail spaces closing in the evenings, any additional vehicular traffic and parking demand can be handled by the existing design of the center and the shared parking lot. The proposed project meets the requirements of the zone, and will not adversely affect nearby residences or businesses. The conditions of approval have been included, which would ensure that the safety and general welfare of the surrounding area would be maintained. Staff believes the Planning Commission could make a favorable determination in support of the proposal.

Respectfully submitted,

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Christopher Aune, Assistant Planner

cc: Applicant  
Engineer

## RESOLUTION NO. 10-44

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 10-21

WHEREAS, a conditional use permit has been requested by Korea Kitchen, Inc., for the establishment of entertainment uses and to change an existing Alcoholic Beverage Control Type 41 license (on-sale beer and wine for a bona fide restaurant) to an ABC Type 47 license (on-sale general for a bona fide restaurant) within Korea Kitchen, an established restaurant located at 44810 Valley Central Way, in the CPD (Commercial Planned Development) Zone, as shown on the attached site map; and

WHEREAS, an application for the above-described conditional use permit has been filed pursuant to the regulations contained in Article I of Chapter 17.32 and Chapter 17.42, of the Lancaster Municipal Code; and

WHEREAS, a notice of intention to consider the granting of a Conditional Use Permit has been given as required in Article V of Chapter 17.32 of the Lancaster Municipal Code, and in Section 65905 of the Government Code of the State of California; and

WHEREAS, staff has performed necessary investigations, prepared a written report, and recommended approval of this conditional use application, subject to conditions; and

WHEREAS, public notice was provided as required by law and a public hearing was held on October 18, 2010; and

WHEREAS, the proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3), which states that “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”. As the proposed project is a use permit for the sale of alcohol at an existing facility, no impacts on environmental resources would be expected to occur.”

WHEREAS, this Commission hereby adopts the following findings in support of approval of this application:

1. The proposed entertainment use and alcohol sales will be in conformance with the General Plan land use designation of C (Commercial) for the subject property, and with Policy No. 16.1.3 of the General Plan which states, “Promote economic self-sufficiency through the application of programs and efforts that help to revitalize local commerce and create a sustainable and prosperous marketplace.”
2. The proposed entertainment use and alcohol sales would be located within an existing building, and will be in conformance with the General Plan land use designation of (CPD) Commercial Planned Development).
3. The requested entertainment use and alcohol sales at the location proposed will not:

- a. Adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, because the request is for entertainment use and to modify an existing Alcohol Beverage Control Type 41 license (on-sale beer and wine for a bona fide restaurant) to an ABC Type 47 license (on-sale general for a bona fide restaurant). The hours of operation would be from Sunday through Thursday, between 11:30 a.m. to midnight, and Friday and Saturday, between 11:30 a.m. to 2:00 a.m. The entertainment hours would be Friday and Saturday, between 9:00 p.m. to 2:00 a.m. There are no residential communities within at least 650 feet of the site. Combine that with the existing ambient noise levels generated by State Route 14, and there will be no noise impacts from this use to residential areas.
  - b. Be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, because City development standards will be met, and adequate parking is provided.
  - c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare, because adequate sewer, water, drainage, and improvements are part of the project and adequate security will be provided.
4. The proposed site is adequately served:
- a. By Valley Central Way and Lancaster Boulevard, which are of sufficient width and improved to carry the anticipated daily vehicle trips such use would generate; and
  - b. By other public or private service facilities, including sewer, water, fire, and police services are required.
5. The proposed use will not result in a significant effect on the environment because all potential impacts have been found to not be significant as noted in the environmental review section of the staff report prepared for this project.

WHEREAS, this Commission hereby adopts the following Conditional Use Permit findings, per Section 17.42.050, in support of approval of this application:

1. The proposed use for entertainment and for an ABC Type 47 license in a bona-fide restaurant is located in the CPD (Commercial Planned Development) Zone, which permits entertainment and alcoholic beverages to be sold, served or given away for on-sale consumption with a conditional use permit.
2. The proposed use will not adversely affect the nearby residents and facilities primarily devoted to use by children, families, and the general public, after giving consideration to the distance or proximity of the proposed alcoholic beverage establishment to residential districts, schools (public or private), day care centers, public parks, playgrounds and other recreational

facilities, churches or other places of religious worship, hospitals, clinics or other health care facilities, because the entertainment and alcohol sales are in conjunction with a restaurant, and it is not in proximity to any of the above.

3. The proposed entertainment and on-sale and consumption of alcoholic beverages (Alcoholic Beverage Control Type 47, on-sale general for a bona fide restaurant) serves the public convenience and necessity based on all factors outlined in Section 17.42.060 of the Municipal Code.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby approves Conditional Use Permit No. 10-21, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 18<sup>th</sup> day of October 2010, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

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JAMES D. VOSE, Chairman  
Lancaster Planning Commission

ATTEST:

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BRIAN S. LUDICKE, Planning Director  
City of Lancaster

**ATTACHMENT TO PC RESOLUTION NO. 10-44**  
**CONDITIONAL USE PERMIT NO. 10-21**  
**CONDITIONS LIST**  
**October 18, 2010**

**GENERAL ADVISORY**

1. All standard conditions as set forth in Planning Commission Resolution Number 10-23 for Conditional Use Permits shall apply except for Condition No. 4, 7, 10, 11, 13, 14, 16-30, 36, 37, and 43-46.
2. The hours of operation for the restaurant would be from Sunday through Thursday, between 11:30 a.m. to midnight, and Friday and Saturday, between 11:30 a.m. to 2:00 a.m. The paid entertainment hours would be Friday and Saturday, between 9:00 p.m. to 2:00 a.m.
3. All entertainment will be conducted inside the building. Types of entertainment include, but may not be limited to:
  - a. Karaoke
  - b. Disc jockeys
  - c. Live Bands
  - d. Dancing
  - e. Birthday Parties
  - f. Weddings
  - g. Quinceaneras
  - h. Anniversaries
4. The restaurant is the primary use within 44810 Valley Central Way. Any entertainment or event permitted by this Conditional Use Permit shall be an accessory use to the primary use on the property. The proposed entertainment use may occur only as incidental to and in conjunction with Korea Kitchen, 44810 Valley Central Way. The types of events permitted are limited to the events as described by Condition No. 3. In the event of any conflict or discrepancy between the project description provided in the applicant's application and the conditions established by this Conditional Use Permit, this Conditional Use Permit shall prevail. The events and activities shall be limited to occur within the parameters as specified and the locations shown on the floor plan, Planning Commission Exhibit "A" incorporated herein by reference.
5. Patrons attending the entertainment event shall be 21 years of age or older. Between the hours of 9:00 p.m. and 10:00 p.m., at the entrance to the restaurant, attendance to the entertainment event shall be controlled by the issuance of wrist bands to those attendees who are 21 years of age or older. At the entrance to the entertainment area, security shall check for wrist bands before allowing admittance. After 10:00 p.m., identification will be checked at the front door, and individuals under 21 years of age will not be allowed to enter the building.



6. Any changes to the uses enumerated in Condition No. 3 shall be reviewed and approved by the Planning Director. Uses found inconsistent shall require Planning Commission approval.
7. By recommendation of the City of Lancaster Sheriff's Department, the applicant shall provide two security personnel before, during, and after the live entertainment activities permitted under this Conditional Use Permit. Security personnel may be in the form of employees of Korea Kitchen.
8. Prior to the transfer of ownership and/or operation of the site the owner shall provide a written copy of the applications, staff report and resolutions for the project to the new owner and/or operator. This notification's provision shall run with the life of the project and shall be recorded as a covenant on the property.
9. All live entertainment shall occur indoors only. No outdoor entertainment and/or noise generating activities are permitted in association with this Conditional Use Permit.