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**MEMORANDUM  
STAFF REPORT**

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**DATE:** NOVEMBER 21, 2011  
**TO:** PLANNING COMMISSION  
**FROM:** PLANNING DEPARTMENT  
**SUBJECT:** CONDITIONAL USE PERMIT NO. 11-10

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**Request:**

A Conditional Use Permit to allow a concert venue/nightclub and private events with on-sale consumption of alcoholic beverages (Alcoholic Beverage Control Type 42, on-sale beer and wine - public premises), and a request for waiver under Section 17.42.040.C of the Lancaster Municipal Code to allow the sale of beer and wine within 300 feet of a religious assembly area, in the LI (Light Industrial) Zone.

**Discussion:**

On October 17, 2011, the Planning Commission requested for the applicant, Tully Huffaker and Pastor Marsh from New Life Community Church, to meet and determine if an agreement could be reached. On October 31, 2011, the applicant and the Pastor met to discuss the proposed request for a concert venue, and to reduce the potential for negative external effects from the sale of alcohol from Industry Theatre to New Life Community Church. The applicant and Pastor Marsh came to the following agreement:

1. The applicant agrees to only sell beer and wine (ABC Type 42, on-sale beer and wine for public premises), and would not request an upgrade to full general liquor license. Any upgrade to the liquor license would require a conditional use permit.
2. No on-site alcohol consumption prior to door opening. In no case would the doors be opened to public more than 60 minutes prior to start of show. This does not preclude set up time by the bands or management.
3. Sales service and consumption of alcoholic beverages are permitted no sooner than one hour prior to the concert, and no later than one hour after the conclusion of the concert, or per the Department of Alcoholic Beverage Control Guidelines.
4. Any lines to enter the venue must be formed to the south of Suite 103 (Industry Theatre), away from the entrance of New Life Community Church.

5. Hours of operation for concert venue and large private events over 50 people would be limited to 7:00 pm to 1:00 am on Friday and Saturday, and 5:00 pm to 1:00 am on weekdays, with the exception of Wednesdays and Sundays. No events shall take place on Wednesday or Sundays.
6. Hours of operation for small private events with fewer than 50 persons would be limited to 10:00 am to 1:00 am on Friday and Saturday, and between 10:00 am and 12:00 am (midnight) on weekdays, with the exception of Wednesday. No events shall take place on Wednesday and Sunday.
7. Parking for Industry Theatre will be located at the south and east end of the parking lot (see site plan), and will be sectioned off by the applicant with cones, or as determined by the landlord. Any concerns about parking would be handled by management.
8. The applicant will ensure that security is available prior to the door opening.
9. The applicant agrees to work with New Life Community Church to avoid conflicts regarding events that are scheduled on weekdays.

On November 14, 2011, staff met with Tully Huffaker and Pastor Marsh to discuss the project and the request to add private events. The applicant would host various types of private events, such as wedding receptions, quinceñeras, birthdays, dances, and other similar conference/meeting type events. For events less with than 50 persons, the hours of operation would be between 10:00 am and 1:00 am on weekends, and 10:00 am to 12:00 am on weekdays, with the exception of Wednesday and Sundays. There will be no events on Wednesday and Sunday. Private events would be closed to the public, no tickets sold at the door, with mandatory two in-house security personnel provided when alcohol is being sold. Staff has added conditions per the attached conditions list.

Staff is recommending approval of the proposed alcohol use and entertainment use for Industry Theater, because the proposed project meets the requirements of the zone, it will meet a community need providing a concert venue/nightclub, the entertainment will occur within the building, security would be provided inside and outside the premises, and Pastor Marsh from New Life Community Church is not opposed to the project after meeting with applicant Tully Huffaker. 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.

**Recommendation:**

Adopt Resolution No. 11-18 approving Conditional Use Permit No. 11-10.

**Attachment:**

PC Resolution No. 11-18

Conditions List

Site Plan Map

## **RESOLUTION NO. 11-18**

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 11-10

WHEREAS, a conditional use permit has been requested by Tully Huffaker, Industry Theater, to allow a concert venue/nightclub with on-sale consumption of alcoholic beverages (Alcoholic Beverage Control Type 42, on-sale beer and wine - public premises), private events, and the request for a waiver for the normal distance requirements pursuant to Section 17.42.040.C of the Lancaster Municipal Code, for a site located at 43145 Business Center Parkway #103 in the LI (Light Industrial) 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 17, 2011 and November 21, 2011; 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 a waiver of normal distance requirements pursuant to Section 17.42.040.C of the Lancaster Municipal Code:

1. The on-site sale of alcohol at the purposed Industry Theater concert venue/nightclub and private events will meet a specific need, because it will provide increased public convenience through a type of venue that is limited within the Antelope Valley.
2. The distance waiver to allow on-site sale of alcohol within 300 feet of a religious assembly is not expected to result in adverse effect upon such use because restrictions will be placed on the days and time of operation of Industry Theaters. The business will be operated by well-trained staff in a safe, controlled, and

well-organized manner that will not affect the existing religious assembly, because the Industry Theater would be in operation during the evenings and weekends when the religious assembly is not in operation, security would be provided on-site, and patrol of parking lot would take place.

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

1. The proposed Industry Theater and the related on-site sale of alcohol would be located within an existing building, and will be in conformance with the General Plan land use designation of (LI) Light Industrial.
2. The requested alcohol use 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 business would be located in the Light Industrial zone where no homes are located. Industry Theater would be open on weekends and weekdays with the exception of Wednesdays and Sundays, and the hours of operation would be between the hours of 5:00 p.m. to 1:00 a.m., when most of the neighboring businesses would be closed. Private events of less than 50 persons would be allowed to operate between the hours of 10:00 a.m. to 1:00 a.m. on Friday and Saturday, and between the hours of 10:00 a.m. to 12:00 a.m. on weekdays. No events shall occur on Wednesdays and Sundays.
  - 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 have been met, adequate parking is provided, and on-site security would be 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 available.
3. The proposed site is adequately served:
  - a. By Business Center Parkway, which is 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 as required.

4. The proposed use will not result in a significant effect on the environment, because the site is already developed and adequately served by necessary street and utilities.

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 as a concert venue/nightclub and private event with on-sale consumption of alcoholic beverages (Alcoholic Beverage Control Type 42, on-sale beer and wine - public premises) is located in the LI (Light Industrial) Zone, which permits alcoholic beverages to be sold for on-site 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 places of religious worship, hospitals, clinics or other health care facilities, because adequate restrictions have been placed on the hours of operation and security and control of potential loitering is being required, which will provide an adequate level of safety.
3. The proposed concert venue/nightclub and private event serves the public convenience and necessity based on all factors outlined in Section 17.42.060 of the Municipal Code, because restrictions are placed on the operation of the use, including limiting alcohol sales and consumption to a 682 square-foot restricted lounge area, and security provisions are required that will adequately ensure that the use will not adversely affect nearby uses and the general public.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby approves Conditional Use Permit No. 11-10, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 21<sup>st</sup> day of November 2011, 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. 11-18**  
**CONDITIONAL USE PERMIT NO. 11-10**  
**CONDITIONS LIST**  
**November 21, 2011**

**GENERAL ADVISORY**

1. All standard conditions as set forth in Planning Commission Resolution No. 10-23 for Conditional Use Permits shall apply except for Condition Nos. 4, 7, 8, 10, 11, 13, 14, 16-30, 35, 36, 37, and 43-49.

**ADDITIONAL CONDITIONS**

2. Per the direction of the Planning Director, the applicant shall comply with applicable provisions of Chapter 17.42 of the Lancaster Municipal Code.
3. Hours of operation for the concert venue and private events over 50 persons would be 7:00 p.m. to 1:00 a.m. on Friday and Saturday, and between 5:00 p.m. to 1:00 a.m. on weekdays, with the exception of Wednesdays and Sundays. No events shall take place on Wednesdays or Sundays.
4. Hours of operation for small private events with less than 50 persons would be between 10:00 a.m. to 1:00 a.m. on Friday and Saturday, and between 10:00 a.m. and 12:00 a.m. (midnight) on weekdays, with the exception of Wednesdays and Sundays. No events shall take place on Wednesdays or Sundays.
5. Parking for Industry Theatre would be located at the south and east end of the parking lot (see site plan) and will be sectioned off by the applicant with cones or as determined by the landlord. Any concerns about parking would be handled by landlord.
6. The applicant agrees to only sell beer and wine (ABC Type 42, on-sale beer and wine for public premises), and not to request an upgrade to full general liquor license. Any upgrade to the liquor license would require a new application for a conditional use permit.
7. No on-site alcohol consumption shall be permitted prior to door opening. In no case would the doors be opened to public more than 60 minutes prior to start of show. This does not preclude set-up time by the bands or management.
8. Sales service and consumption of alcoholic beverages are permitted no sooner than one hour prior to the concert, and no later than one hour after the conclusion of the concert, or as allowed per the Department of Alcoholic Beverage Control, whichever is the more restrictive.
9. All alcoholic beverages shall be sold, served, and consumed in a 682 square-foot lounge that is separated from the concert/venue area, and no one under twenty-one years of age will be allowed into that area. Project authorization shall be for the serving and dispensing of beer and wine for on-site consumption in the lounge. The consumption of

- beer and wine, as well as the presence of open containers, shall be permitted only in this location. Alcoholic beverages shall not be permitted in any portion of the establishment beyond the lounge. Signs shall be prominently posted near doors exiting the lounge area that state: "NO Alcoholic Beverages Permitted Outside the Lounge." Please refer to the floor plan for exact locations.
10. The applicant shall implement a wristband or other control system to ensure that only patrons age 21 and over are permitted within the age-restricted lounge.
  11. Alcoholic beverages shall not be permitted to be consumed in the parking area or other exterior areas of the premises.
  12. There shall be no pool tables or coin operated video games in the premises.
  13. The licensee shall be active in the management of the entertainment activities; if facility/space is rented or leased to outside promoters who would bring in their own entertainment (concerts), the applicant or at least one member of applicant's business management team shall be present on-site to provide for a safe controlled environment that adheres to these conditions of approval.
  14. The licensee shall provide security from a licensed professional security company for all special entertainment/events at a ratio of not less than one security officer per 100 anticipated patrons.
  15. The applicant shall provide security prior to the door opening.
  16. Any lines to enter the venue must be formed to the south of Suite 103, away from the entrance to New Life Community Church.
  17. There shall be no payphones maintained on the exterior of the premises.
  18. The licensee shall be responsible for maintaining free of litter the areas over which they have control and which are adjacent to the premises.
  19. The licensee shall monitor the area under its control, in an effort to prevent the loitering of persons about the premises.
  20. A phone number of the responsible representative of the owner/applicant shall be posted for the purposes of allowing neighboring uses to report an emergency, or a complaint about the method of operation of the facility, or the serving of alcoholic beverages.
  21. No person under the age of 21 shall serve alcoholic beverages.
  22. No self-service of alcoholic beverages shall be permitted.



23. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of beverages.
24. Interior displays of beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
25. A strict "No in-and-out" policy shall be enforced, which would restrict guests from entering and exiting the premises.
26. Loitering in the parking lot shall be prohibited. The onsite manager shall inform all clients that when coming or leaving the building, they must not congregate in the parking lot.
27. Management/Security officers shall patrol the parking lot, and will remain in the parking lot until all the patrons have left. The applicant must develop a policy on how security officers will address intoxicated patrons leaving the parking lot; the policy must be approved by the Los Angeles County Sheriff's Department and placed in the case file.
28. The Sheriff's Department reserves the right to increase the required number of security guards based on the nature of the event and the number of patrons expected to attend the event.
29. Security personnel shall wear clothing/uniforms that is/are easily identifiable or possess forms of identification approved by the Los Angeles County Sheriff's Department. Each security guard shall be licensed and possess a current "guard card". Security personnel shall not be armed at any time. All personal protective equipment used by security officers must be approved by the Sheriff's Department prior to being deployed.
30. Pyrotechnic displays are prohibited at any events unless approved in advance by the Fire Marshal.
31. Special effects which diminish the effectiveness of fire protection systems, occupant notification systems, or infringe upon the means of egress are prohibited.
32. All exterior doors shall be kept closed at all times when amplified or live music is being played in the Industry Theater.
33. The applicant shall install a video camera surveillance system for all entrances and exits, compatible with the requirements of the City's forthcoming surveillance ordinance.
34. The applicant agrees to work with New Life Community Church regarding events that are scheduled on weekdays to avoid conflicts.

35. The use shall be reviewed six months after commencement date to ensure the protection of neighboring tenants from any adverse effects.

The following conditions shall apply to all private events:

36. All private events shall not be opened or advertised to the public.
37. All private events that sell alcohol must provide two in-house security personnel.
38. Adequate seating and tables must be provided for all guests during all private events.
39. A written guest list shall be compiled in advance of each private event, and shall be made available to any peace officer or other City employee upon request.
40. The applicant shall maintain and provide a list to the Los Angeles County Sheriff's Department of the on-site managers (those with authority and responsibility to maintain order during operations), with their phone numbers.
41. Tully Huffaker, or the representative thereof, shall be present at all private events offering alcoholic beverage service, music, or dancing.
42. The private events shall not be open until the minimum required number of management/security personnel is present and prepared to commence security duties. Management/Security staff must remain on-site until the event has closed and all patrons have departed from the parking lot.
43. In addition to posting maximum occupant load signs, the applicant and facility operator shall provide the current occupant load count to Los Angeles County Sheriff or Fire Department upon request. One employee or one member of the security team shall monitor occupancy loads at all times while the facilities are in use.