

**RESOLUTION No. PC 2024-02**

**A Resolution of the Planning Commission  
City of Clearlake, State of California  
Approving Conditional Use Permit CUP 2024-01 and  
Categorical Exemption CE 2024-03  
to allow Live Music and disk jockey entertainment**

**WHEREAS**, Maria Veronica Onate Solis (applicant) applied for approval of a Conditional Use Permit to allow for live music and disk jockey entertainment at an existing operating restaurant in the “GC” General Commercial Zoning District located at 15176 Lakeshore Drive, Clearlake, CA 95422, APN 040-330-370-000; and

**WHEREAS**, the following applications have been made in accordance with the following sections of the City’s Municipal Zoning Code 18-18, and,

**WHEREAS**, these applications have been processed in accordance with the City’s Environmental Review Guidelines; and

**WHEREAS**, the project is Categorical Exempt from Environmental Review Pursuant to Article 19, Categorical Exemptions of the State of California Environment Quality Act (CEQA) Statute and Guidelines under Section 15301 (Class 1) Existing Facilities and Section 15601(b)(3), Common Sense Exemption; and

**WHEREAS**, adequate public noticing was made for the project in accordance with the Municipal Code; and

**WHEREAS**, the City’s Zoning designates the project site as “GC” General Commercial as conditioned, the proposed use and design would be consistent with the General Plan; and

**WHEREAS**, the General Plan designates the project site as Commercial as conditioned, the proposed use and design would be consistent with the General Plan; and

**WHEREAS**, the project is subject to obtaining a conditional use permit from the Planning Commission in accordance with Section 18-18 regarding live music and disk jockey entertainment. Therefore, in accordance Section 18-28.040 of the Zoning Code regarding use permits, the Planning Commission finds that these uses as proposed will not be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity, or injurious to the property, improvements or potential development in the vicinity with respect to aspects including, but not limited to, the following:

- a) The nature of the proposed site, including its size and shape, and the proposed size, shape, and arrangement of structures.
- b) The accessibility and traffic patterns for persons and vehicles, the type and volume of such traffic and the adequacy of proposed off-street parking and loading,

- c) The safeguards afforded to prevent noxious or offensive emissions such as noise, glare, dust and odor,
- d) Treatment given, as appropriate, to such aspects as landscaping, open spaces, parking areas, loading areas, service areas, lighting, and signs.

**WHEREAS**, with the incorporated conditions of approval, referenced as Exhibit A herein, the project complies with the Clearlake Zoning Code.

**NOW**, THEREFORE, BE IT RESOLVED by the City of Clearlake – Planning Commission of the City of Clearlake that the project is hereby approved, subject to approved Conditions of Approval (Exhibit A).

**PASSED AND ADOPTED on this 9th day of July 2024 by the following vote:**

Planning Commissioners	AYES	NOES	ABSTAIN	ABSENT
Chair Fawn Williams				
Vice Chair Terry Stewart				
Commissioner Robert Coker				
Commissioner Chris Inglis				
Commissioner Jack Smalley				

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City of Clearlake – Planning Commission Chair

ATTEST: \_\_\_\_\_  
City of Clearlake Clerk/Deputy Clerk

**Exhibit A**

**CITY OF CLEARLAKE  
CONDITIONS OF APPROVAL  
CONDITIONAL USE PERMIT, CUP 2024-01  
CATEGORICAL EXEMPTION, CE 2024-03  
MARIA VERONICA ONATE SOLIS  
(MONTERREY MEXICAN GRILL & BAR)**

Pursuant to the approval of the **City of Clearlake’s – Planning Commission on July 9<sup>th</sup>, 2024**, it is hereby granted to **Maria Veronica Onate Solis**, with the following conditions of approval to allow live music and disk jockey entertainment within an operating restaurant **located at 15176 Lakeshore Drive; Clearlake, CA 95422; further described as Assessor Parcel Number (APN) 040-330-37** is subject to the following terms and conditions of approval.

**GENERAL CONDITIONS:**

1. The use hereby permitted shall substantially conform to the **Site Plan(s), and Project Description** submitted with application dated **March 28, 2024**, and any conditions of approval imposed by the above Conditional Use Permit and Review Authority as shown on the approved site plan for this action dated **July 9<sup>th</sup>, 2024**, including all requirements of the City of Clearlake Municipal Codes.
2. The operation shall not exceed the maximum occupancy as prescribed by the California Building Code.
3. The applicant shall always keep a copy of the approved conditions of approval on premises.
4. Any modifications and/or additions to a use requiring use permit approval shall itself be subject to use permit approval. The addition of an allowed use to a premise occupied by a conditionally allowed use shall require use permit approval of the type required for the existing use. The Director shall determine when such an addition and/or change is of such a minor or incidental nature that the intent of these regulations can be met without further use permit control.
5. Any conditions established pursuant to these regulations shall be met before the use is established, except that the Director, Planning Commission or on appeal, the City Council, may establish a schedule for certain conditions to be met after establishment of the use. Continuance of the use shall then be contingent on complying with the schedule for meeting deferred conditions.
6. This Conditional Use Permit does not abridge or supersede the regulatory powers and permit requirements of any federal, state, or local agency requirements, which may retain a regulatory or advisory function as specified by statute or ordinance. The applicant shall obtain and maintained permits as may be required from each agency.

7. The operator shall be responsible to pay all sales, use, business and other applicable taxes, and all license, registration, and other fees and permits required under federal, state, and local laws.
8. The applicant is responsible for ensuring that all project workers including third party vendors are informed of, understand, and agree to abide by the approved plans and project conditions.
9. **Prior to operation**, the permit holder shall meet and operate in full compliance with fire safety rules and regulations of the Lake County Fire District.
10. **Prior to operation**, the permit holder shall meet and operate in full compliance with Alcoholic Beverage Control (ABC) regulations regarding live music.
11. **Prior to operation**, the permit holder shall meet and operate in full compliance with all required food safety rules and regulations of the County of Lake Environmental Health Division.
12. All building access and bathrooms shall meet the American with Disabilities Act (ADA) requirements and must be reviewed and approved of a Certified Accessibility Access Specialist (CASP). Handicapped accessibility routes and handicapped parking spaces shall not be effected by the operation.
13. In lieu of installing curb, gutter, and sidewalk improvements, as normally required, the applicant shall pay a fee to the City equal to the cost of installing the improvements to the City standard. This is in recognition of the project's location within the area of a city project including road and pedestrian improvements to the Lakeshore Drive corridor. The costs shall be determined by a qualified professional, at the expense of the applicant, and with final approval by the City Engineer. **Said fees shall be paid prior to commencement of special events.**
14. **Prior to building permit issuance and/or commencing construction**, the following shall be submitted for review and approval by the City:
  - Subject to Public Works Department approval, an encroachment permit shall be secured for all improvements, within the right of way (if applicable).
  - Subject to Community Development Department approval a Landscaping and Irrigation Plans. Plans shall demonstrate compliance with the City's Municipal Code regarding landscaping.
  - Subject to Community Development Department approval a detailed Trash Enclosure Plan. The plans shall show that the enclosure will be constructed of block with an attractive cap and the gates should incorporate solid metal materials painted to match the building colors. The gates should be mounted on separate posts mounted inside the enclosure. A hose bib should be located next to the enclosure for maintenance.
  - Subject to Community Development Department approval an Exterior Lighting Plan. Lighting poles, if used, should not exceed 15 feet in height. All lighting shall be shield and directed downwards and adhere to all Federal, State and local agency requirements, including the

dark-sky requirements found at <https://www.darksky.org/>. All lighting shall not project beyond the project parcel boundaries

- Subject to Community Development Department approval a *Final Signage Plan* for all existing and proposed signs. The sign plan shall comply with the City's Municipal Code/Design Requirements. No bunting strips, banners, flags, whirligigs or other attention-getting devices shall be displayed on site without Director approval.

15. **Prior to operation and/or development**, the applicant shall secure/maintain any required permits from the City of Clearlake (Building Department, Planning and Public Works), Fire District, Lake County Air Quality Management District, Lake County Water Resources Department, Lake County Environmental Health Department, Lake County Special Districts and/or all applicable Federal, State and local agency permits.
16. **Prior to Operation**, the applicant shall apply and obtain a Business License from the City of Clearlake.
17. All hazardous waste shall not be disposed of on-site without review or permits from the Environmental Health Department, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.
18. Any spills of oils, fluids, fuel, concrete, or other hazardous construction material shall be immediately cleaned up. All equipment and materials shall be stored in the staging areas away from all known waterways.
19. The storage of hazardous materials equals to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division.
20. All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of consistent with applicable local, state, and federal regulations.
21. Any demolition or renovation is subject to the Federal National Emissions Standard for Hazardous Air Pollutants (NESHAP) for asbestos in buildings requires asbestos inspections by a Certified Asbestos Consultant for all major renovations and all demolition. An Asbestos Notification Form with the Asbestos inspection report must be submitted to the district at least 14 days prior to beginning any demolition work. The applicant must contact the district for more details and proper approvals. Regardless of asbestos content or reporting requirements all demolition and renovation activities should use adequate water/ amended water to prevent dust generation and nuisance conditions.

22. Construction activities that involve pavement, masonry, sand, gravel, grading, and other activities that could produce airborne particulate should be conducted with adequate dust controls to minimize airborne emissions. A dust mitigation plan may be required should the applicant fail to maintain adequate dust controls.
23. All areas subject to semi-truck / trailer traffic should require asphaltic concrete paving or equivalent to prevent fugitive dust generation. Gravel surfacing may be adequate for low use driveways and overflow parking areas; however, gravel surfaces require more maintenance to achieve dust control, and permit conditions should require regular palliative treatment if gravel is utilized. White rock is not suitable for surfacing (and should be prohibited in the permit) because of its tendency to break down and create excessive dust. Grading and re-graveling roads should utilize water trucks if necessary, reduce travel times through efficient time management and consolidating solid waste removal/supply deliveries, and speed limits
24. Any stationary prime power or backup diesel generator requires an application submitted to LCAQMD. All engines must be notified to LCAQMD prior to beginning construction activities and prior to engine use. Mobile diesel equipment used for construction and/or maintenance shall be in compliance with State registration requirements. All equipment units must meet Federal, State and local requirements. All equipment units must meet RICE NESHAP/NSPS requirements including proper maintenance to minimize airborne emissions and proper record-keeping of all activities, all units must meet the State Air Toxic Control Measures for CI engines and must meet local regulations. Contact LCAQMD for more details.
25. Significant dust may be generated from increased vehicle traffic if driveways and parking areas are not adequately surfaced. Surfacing standards should be included as a requirement in the use permit to minimize dust impacts to the public, visitors, and road traffic. At a minimum, the district recommends chip seal as a temporary measure for primary access roads and parking. Paving with asphaltic concrete is preferred and should be required for long term occupancy.
26. The review authority may revoke or modify the Conditional Use Permit if the review authority finds that the use to which the permit allows is detrimental to health, safety, comfort, general welfare of the public; constitutes a public nuisance; if the permit was obtained or is being used by fraud; and/or if one or more of the conditions upon which a permit was granted are in noncompliance or have been violated. Applicant shall be notified of potential violations of the use permit prior to action.
27. During construction/ground disturbance activities, if any subsurface archaeological remains are uncovered, all work shall be halted within 100 feet of the find and the owner shall utilize a qualified professional archaeologist to identify and investigate any subsurface historic remains and define their physical extent and the nature of any built features or artifact-bearing deposits.
28. If human remains are encountered, no further disturbance shall occur within 100 feet of the vicinity of the find(s) until the Lake County Coroner has made the necessary findings as to origin (*California Health and Safety Code Section 7050.5*). Further, pursuant to California Public

Resources Code Section 5097.98(b) remains shall be left in place and free from disturbance until a final decision as to the treatment and disposition has been made. If the Lake County Coroner determines the remains to be Native American, the Native American Heritage Commission must be contacted within 24 hours.

29. The archaeologist's investigation shall proceed into formal evaluation to determine their eligibility for the National Register of Historic Places and California Register of Historical Resources. This shall include, at a minimum, additional exposure of the feature(s), photo-documentation and recording, and analysis of the artifact assemblage(s). If the evaluation determines that the features and artifacts do not have sufficient data potential to be eligible for the California or National Register, additional work shall not be required. The cultural resource report shall be prepared with input from the Consulting Tribe. However, if data potential exists – e.g., there is an intact feature with a large and varied artifact assemblage – it shall be necessary to mitigate any Project impacts. Mitigation of impacts might include avoidance of further disturbance to the resources through Project redesign. If avoidance is determined by the City to be infeasible, a data recovery plan, which makes provisions for adequately recovering the scientifically consequential information from and about the historical resource, shall be prepared and adopted prior to any excavation being undertaken. Such studies shall be deposited with the California Historical Resources Information Center within 90 days of completion of the Project. Archeological sites known to contain human remains shall be treated in accordance with the provisions of Section 7050.5 Health and Safety Code. If a historic artifact must be removed during Project excavation or testing, curation may be an appropriate mitigation. This language of this mitigation measure shall be included on any future grading plans and utility plans approved by the City for the Project. It is understood that destructive data testing and/or curation of tribal cultural resources is strongly opposed by the Consulting Tribe and should be avoided.
30. The developer/landowner shall relinquish ownership of all sacred items, burial goods and all archaeological artifacts that are found on the project area to the Koi Nation for proper treatment and disposition.
31. Any modifications and/or additions to a use requiring use permit approval shall itself be subject to use permit approval. The addition of an allowed use to a premise occupied by a conditionally allowed use shall require use permit approval of the type required for the existing use. The Community Development Director shall determine when such an addition and/or change is of such a minor or incidental nature that the intent of these regulations can be met without further use permit control.
32. This use permit does not abridge or supersede the regulatory powers and permit requirements of any federal, state, or local agency requirements, which may retain a regulatory or advisory function as specified by statute or ordinance. The applicant shall obtain and maintained permits as may be required from each agency.
33. The developer/operator shall agree to indemnify, defend, and hold harmless the City or its agents, officers and employees from and against any and all claims, actions, demands or

proceeding (including damage, attorney fees, and court cost awards) against the City or its agents, officers, or employees to attach, set aside, void, or annul an approval of the City, advisory agency, appeal board, or legislative body concerning the permit or entitlement when such action is brought within the applicable statute of limitations. In providing any defense under this Paragraph, the applicant, business operator, property owner, developer shall use counsel reasonably acceptable to the City. The City shall promptly notify the applicant, business operator, property owner, developer of any claim, action, demands or proceeding and the City shall cooperate fully in the defense. If the City fails to promptly notify the developer/operator of any claim, action, or proceeding, or if the City fails to cooperate fully in the defense, the developer/operator shall not thereafter be responsible to defend, indemnify, or hold the City harmless as to that action. The City may require that the developer/operator post a bond, in an amount determined to be sufficient, to satisfy the above indemnification and defense obligation. Developer/operator understands and acknowledges that City is under no obligation to defend any claim, action, demand or proceeding challenging the City's actions with respect to the permit or entitlement.

34. All conditions are necessary to protect the general health, safety and welfare of the public. If any condition of this entitlement is held to be invalid by a court, the whole entitlement shall be invalid. The Director specifically declares that it would not approve this entitlement unless all of the conditions herein are held as valid.
35. The use permit may be transferred to new owners at the same location/use upon notifying the City Planning Department of said ownership transfer and upon the new owner's written agreement to maintain all conditions of approval.
36. Said Use Permits shall be subject to revocation or modification by the Planning Commission if the Commission finds that there has been:
  - *Noncompliance with any of the foregoing conditions of approval; or*
  - *The Planning Commission finds that the use for which this permit is hereby granted is so exercised as to be substantially detrimental to persons or property in the neighborhood of the use. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to the City of Clearlake Municipal Code. 15.*
37. Said Conditional Use Permit shall be subject to revocation or modification by the review authority if the review authority finds that there has been:
  - a) *Noncompliance with any of the foregoing conditions of approval; or*
  - b) *The Planning Director finds that the use for which this permit is hereby granted is so exercised as to be substantially detrimental to persons or property in the neighborhood of the use. Any such revocation shall be preceded by a public hearing noticed and heard pursuant to the City of Clearlake Municipal Code.*

- c) *If the approved use permit is not established within one (1) year of the date of approval or such longer time as may be stipulated as a condition of approval, the use permit shall expire.*
  
- d) *Expiration of Use Permit. When a use that was allowed by approval of a use permit ceases operation for one (1) year or such other time period as specified in the conditions of approval, then reinstatement of that use will be allowed only with approval of a new use permit.*

**To be Completed by Authorized Representative/Applicant**

**ACCEPTANCE**

**I have read and understand the foregoing Conditional Use Permit and agree to each term and condition of approval and/or mitigation measure(s) thereof.**

**Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**To Be Completed by Authorized Personnel**

**Name:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_