



**City of Santa Ana
20 Civic Center Plaza, Santa Ana, CA 92701
Planning Commission Staff Report
July 25, 2022**

Topic: CUP No. 2022-10 - The Observatory

RECOMMENDED ACTION

Adopt a resolution approving Conditional Use Permit No. 2022-10 as conditioned.

EXECUTIVE SUMMARY

Jeffrey Thompson, representing Live Nation Worldwide, Inc. (current operator of The Observatory), on behalf of OC Constellation, LLC (property owner) is requesting approval of Conditional Use Permit (CUP) No. 2022-10 to allow for an ancillary banquet facility use for private events, at an existing concert facility at 3503 South Harbor Blvd. Pursuant to Section 41-313.5(j) of the Santa Ana Municipal Code (SAMC), banquet facilities are permitted as an ancillary use in the Professional (P) zone, subject to development and operational standards set forth in section 41-199.1. Staff is recommending approval of the applicant's request due to the site being used primarily as a concert/entertainment venue, the site being located away from sensitive uses and the property's history of compliance with City codes and regulations.

Conditional Use Permit No. 2022-10 was originally agendaized for the June 13, 2022, Planning Commission meeting. However, at the request of staff the Planning Commission voted to continue the item. The item was first continued to the June 27, 2022, meeting, and subsequently continued to the next available regular meeting after that. Staff's request was to allow time for discussions with the current operator regarding safety measures along the public right-of-way and the existing shared parking agreement. As a result, staff is recommending a couple of conditions of approval addressing staff concerns, which are outlined in Exhibit A of the resolution of approval.

DISCUSSION

Project Description

The applicant is currently occupying a 25,290-square-foot commercial building and is operating as a concert/entertainment venue known as The Observatory. The applicant proposes a new CUP to allow for an ancillary banquet facility use for private events, such

as business conferences, parties, community events, and weddings. The additional ancillary use will be invitation-only events and will not change the primary nature or operation of the venue. In addition, the proposed banquet services would require no changes to the existing venue, all improvements would be existing and no new construction is proposed.

The operation of the private functions would be similar to the venue's current operations, except that attendance would be by invitation of a private host (e.g., conferences, community events, and weddings) rather than by public ticket sales. The applicant's employees will staff and oversee the private events. Moreover, the private events would take place during existing permitted operating hours of the venue. The current operating hours of the venue are Monday through Sunday from 7:00 a.m. to 2:00 a.m.; these hours are not proposed to change as part of the applicant's request.

Table 1: Project and Location Information

Item	Information	
Project Address and Council Ward	3503 South Harbor Boulevard – Ward 1	
Nearest Intersection	Harbor Boulevard and Lake Center Drive	
General Plan Designation	Professional and Administrative Office (PAO)	
Zoning Designation	Professional (P)	
Surrounding Land Uses	North	Professional/Medical Offices
	East	Commercial
	South	Professional/Medical Offices
	West	Professional Offices
Property Size	The building is on a 4.9-acre site.	
Existing Site Development	The subject site is developed with an existing commercial building.	
Unit Size	25,290 square feet	
Use Permissions	Allowed with a conditional use permit (CUP)	
Zoning Code Sections Affected	Uses	Section 41-313.5(j) SAMC
	Operational Standards	Section 41-199.1 SAMC

Project Background

The subject site currently contains two buildings, including a 48,000-square-foot medical office building and the subject 25,290-square-foot entertainment venue. The existing entertainment venue first received approval to be converted from a warehouse into a restaurant and commercial theatre for the Harlequin Dinner Theatre in 1973, with the approval of CUP No. 73-13. However, the approval was only granted for a period of 10 years and the CUP subsequently expired in 1983. In 1992, the building was remodeled to accommodate the Rhythm Café, a short-lived commercial theatre similar in operation to the Harlequin Dinner Theatre in the City of Santa Ana. The building remained vacant until 1994.

In October 1994, CUP No. 1994-16 was approved to allow an indoor concert and dinner facility and Type 47 ABC license. At the time of the approval, the facility was proposed to operate as the Coach House. However, after receiving approval the facility began to operate as the Galaxy Concert Theatre. The venue operated as Galaxy Concert Theatre until October 2011 when the venue changed to The Observatory. In May 2019, Live Nation took over the concert operations for the location. In February 2021, CUP No. 2020-22 was approved to allow the expansion of the sale of alcoholic beverages for on-premise consumption to an outside patio area, in conjunction with the existing concert facility.

Project Analysis

CUP requests are governed by Section 41-638 of the SAMC. CUPs may be granted when it can be shown that the proposed project will not adversely impact the community. If these findings can be made, then it is appropriate to grant the CUP. Conversely, the inability to make these findings would result in a denial. The purpose of regulating banquet facilities is to set forth operating practices and procedures and to minimize impacts to surrounding areas. Staff has reviewed the applicant's request to allow for an ancillary banquet facility use for private events and has determined that the proposed CUP will not be detrimental to the health, safety, and welfare of the community.

The subject site is not located within immediate proximity to parks, playgrounds, schools, or religious institutions. In addition, the building is located approximately 1,800 feet away from the nearest multi-family residences in Costa Mesa and approximately 0.5-miles (2,640 feet) from the nearest single-family residences in Santa Ana. As a result, the granting of the CUP will not negatively impact any sensitive land uses that may be nearby. The use of banquet facility/private events will allow the applicant to maximize the use of the venue and remain economically viable and competitive with similar establishments that provide private event options. In addition, the private events are intended to provide a service ancillary to the primary entertainment and restaurant use.

Banquet facilities as primary or ancillary uses are subject to development and operations standards outlined in Section 41-199.1 of the SAMC. These include the facility providing: (1) full service kitchen facilities; (2) sanitation facilities in compliance with the California Building Code building standards; (3) uniformed state licensed security guard; and (4) exterior lighting in compliance with police department requirements. As an existing entertainment and restaurant use, the venue meets the above-mentioned development and operational standards. Moreover, recommended conditions of approval will ensure that uniformed security in compliance with Section 41-199.1 of the SAMC will be provided for all private events.

Finally, the CUP will be consistent with several goals and policies of the General Plan. Policy LU-2.3 of the Land Use Element encourages a diversity of land uses that support

residents, visitors, and businesses, and can accommodate the City's needs for goods and services. Providing a variety of full-service entertainment venues, eating establishments, and private event venues offers additional entertainment and dining options for Santa Ana residents and visitors. Furthermore, Policy LU-3.7 of the Land Use Element supports developments that create a business environment that is safe and attractive. Existing operational standards for the entertainment site (i.e., CUP No. 1994-16 and CUP No. 2020-22) as well as property maintenance agreement will ensure a safe and attractive environment in the neighborhood. Finally, Policy LU-4.1 of the Land Use Element and EP-2.3 of the Economic Prosperity Element encourages development that is compatible with and supporting of surrounding land uses, and are mutually beneficial and complementary businesses. The Observatory is located within a professional office area and its operations (including public and private events) will be compatible with the surrounding commercial businesses.

Noise Analysis

Private hosts would be permitted the use of both indoor and outdoor facilities of the existing venue, including the outdoor patios. Like the concert events, all private events are subject to the City's noise ordinance requirements in SAMC Section 18-312 and subject to cancellation or additional conditions if conducted in a manner detrimental to the health, safety, or welfare of the community. Currently, internal operations and guidelines established by the operator ensures that any ambient noise associated with the indoor entertainment is confined within the immediate site vicinity. This includes, but is not limited to, maintaining doors closed during events and preventing loitering to ensure that patrons leave in a timely manner after events have concluded. Staff is recommending a condition of approval to ensure that these measures are maintained and implemented for private events held on the site.

Public Notification and Community Outreach

The subject property is not located within the boundaries of an established Neighborhood Association. Project notifications were posted, published, and mailed in accordance with City and State regulations. Copies of the public notice, including a 1,000-foot notification radius map, and the site posting are provided in Exhibit 6. At the time this report was printed, no issues of concern were raised regarding the proposed CUP.

ENVIRONMENTAL IMPACT

Pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the project is exempt from further review pursuant to Section 15301 of the CEQA Guidelines (Class 1 - Existing Facilities). The request for an ancillary banquet facility consists of the permitting or minor alteration of an existing private structure involving negligible or no

expansion of the use beyond that existing at the time of the lead agency's determination. The proposed banquet services would require no changes to the existing venue, and all improvements would be existing. Therefore, there is no reasonable possibility that the project will have a significant effect on the environment due to the facility having the necessary infrastructure to operate the proposed use and minor expansion of the existing building is proposed. Based on this analysis, a Notice of Exemption, Environmental Review No. 2022-32 will be filed for this project.

FISCAL IMPACT

There is no fiscal impact associated with this action.

EXHIBIT(S)

1. Resolution
2. Vicinity Zoning and Aerial View
3. Site Photo
4. Site Plan
5. Floor Plan
6. Copy of Public Notices

Submitted By:
Pedro Gomez, AICP, Senior Planner

Approved By:
Minh Thai, Executive Director of Planning and Building Agency, Planning and Building Agency