

# STAFF REPORT



ITEM NO. 14  
CITY OF OCEANSIDE

DATE: December 19, 2007

TO: Honorable Mayor and City Councilmembers

FROM: Development Services Department/Planning Division

SUBJECT: **ADOPTION OF A RESOLUTION CONFIRMING PLANNING COMMISSION RESOLUTION AND APPROVING CONDITIONAL USE PERMIT (C-24-07) FOR A REGULATED USE TO ALLOW THE ESTABLISHMENT AND OPERATION OF A GAME CENTER IN CONJUNCTION WITH A "SHAKEY'S" RESTAURANT AT 4141 OCEANSIDE BOULEVARD**

## **SYNOPSIS**

The item under consideration is the adoption of a resolution confirming Planning Commission Resolution 2007-P51 and approving a Conditional Use Permit (C-24-07) for a game center with 18 coin-operated electronic video games as a component within an eating and drinking establishment. Staff and the Commission recommend that the City Council approve the Conditional Use Permit and adopt the attached resolution.

## **BACKGROUND**

The public hearing and deliberations by the Planning Commission on the proposed use were held on November 5, 2007. The Commission recommended approval of the Conditional Use Permit by a 6-to-0 vote, with one Commissioner absent.

Pursuant to Oceanside Zoning Ordinance Section 3605, the Planning Commission shall make recommendations to the City Council for the approval or disapproval of a Conditional Use Permit for a regulated use.

The site is located southwest of the Oceanside and College Boulevard intersection within the Rancho Del Oro Business Commercial Master Plan Area (Del Oro Marketplace business/commercial center). Surrounding land uses include various commercial businesses such as the Armstrong Garden Center, La Salsa Restaurant, T-Mobile, Washington Mutual, McDonalds, Re/Max Realty, and the Dollar Tree store.

The property is zoned PD-1 (Rancho Del Oro Commercial Planned Unit Development) and has a General Plan land use designation of S-1-84 (Rancho Del Oro Commercial). The project is subject to compliance with applicable zoning and General Plan regulations and policies as well as the Rancho Del Oro Master Development Plan

development standards.

**Project Description:** The project application is comprised of a Conditional Use Permit (C-24-07) for a regulated use as follows:

(a) To allow the establishment and operation of 18 coin-operated electronic games in conjunction with an eating and drinking facility (“Shakey’s” restaurant) pursuant to Article 36 (Separation of Regulated Uses) of the Oceanside Zoning Ordinance (OZO).

The game center shall occupy an approximate 700-square-foot area within the 5,000-square-foot “Shakey’s” restaurant footprint at 4141 Oceanside Boulevard. The game center will consist of 18 electronic coin-operated games, the majority of which will be redemption games. Redemption games reward players with tickets redeemable for prizes provided by the restaurant. The applicant has indicated that violent games will not be permitted in the game center.

The game center’s hours of operation will coincide with those of the restaurant and will be limited to 10:00 a.m. to 11:00 p.m. Sunday through Thursday and 10:00 a.m. to 12:00 a.m. on Friday and Saturdays. Fifty-two parking spaces will be provided for the restaurant and game center uses in accordance with OZO parking ratio requirements.

A letter of intent was submitted to the management association of the Del Oro Market Place describing the proposed project. The management association approved the plan on August 29, 2007.

Regulated Uses: In addition to the requirement of Conditional Use Permit for a game center, Section 3601 of the Oceanside Zoning Ordinance states that game centers are also considered “regulated uses”. Regulated Uses are separated from other commercial uses in that “it is recognized that there are certain uses which create conditions harmful to the public health, welfare and safety when such uses are allowed to become numerous or concentrated within a limited geographical area, or when such uses exist near residential neighborhoods, family-oriented uses or sites commonly used by neighborhoods, family-oriented uses or sites commonly used by minors”.

Special regulations separating such uses from each other and from nearby residential areas, family-oriented uses, or sites commonly used by minors, are necessary to protect the community from consequent blight, depreciated property values, law enforcement problems, as well as interference with activities oriented toward families or minors.

The game center will house 18 electronic games within Shakey’s restaurant as a secondary use. Only 10 percent of the restaurant’s revenues will be derived from the game center. The game center’s hours of operation will be consistent with those of the restaurant. Minors under the age of 18 will not be permitted to use the game center during school hours pursuant to the Oceanside Zoning Ordinance code Section 3027. Therefore the proposed game center will complement and support the main “family-oriented” restaurant operation and will not detract or negatively impact uses within the

center.

## **ANALYSIS**

The proposed project has been carefully analyzed for land use and zoning compliance and it is Staff's opinion that the proposed use shall be compatible with the existing uses and future uses within the Center as described below:

**Project compliance with Oceanside Zoning Ordinance Article 36:** Section 3604 of the Zoning Ordinance establishes minimum separation distances (locational requirements) between regulated uses and other land uses. Game centers are subject to a minimum separation distance of 1,000 feet from any other regulated use. This distance is measured in a straight line, without regard to intervening structures from the closest point of the exterior structure walls of each business. In addition, game centers are also required to provide a minimum separation distance of 500 feet from any residential district, public or private schools, childcare facilities, public recreation facilities, and religious worship facilities.

Staff has analyzed the location requirements and found that no sensitive uses are located within 500 feet of the proposed project site and no other regulated uses are within 1,000 feet from the project site. The Kingdom Hall of Jehovah Witness Church is located at least 1,584 feet from the subject game center use. Although approval of a conditional use permit by the City Council must be obtained prior to allowing 18 coin-operated video games within the proposed "Shakey's" restaurant, no waiver of locational requirements is necessary and land use compatibility between the proposed game center and existing and future uses will be ensured in part through compliance with separation standards set forth for game centers. Furthermore the Oceanside Police Department has reviewed the application and found the proposed Game Center to be consistent with and subject to the Municipal Code.

**Project compatibility with surrounding land uses:** The proposed project will enhance the variety of commercial services that are available to the general public. The game center use, as proposed to be incorporated within the restaurant facility and as conditioned to operate, will not negatively impact the surrounding commercial businesses. The game center use shall generate activity to the commercial center and will promote a commercial friendly atmosphere.

**Conclusion:** It is staff's opinion that the proposed use, as conditioned, does not pose any particular land use incompatibility to the area. The proposed business operation consists of an upscale family-orientated restaurant that shall upgrade the Del Oro Marketplace Shopping Center and provide more retail opportunities for the consumer.

## **FISCAL IMPACT**

The applicant has paid all fees required for the consideration of this application.

**COMMISSION OR COMMITTEE REPORT**

The Planning Commission reviewed the CUP application on November 5, 2007. Public hearing notices were mailed to business and residential property owners and occupants within a 1,000-foot radius of the proposed operation. No opposition was delivered in the form of written correspondence to the Commission and the Planning Commission recommended approval of the CUP on a vote of 6-to-0.

**CITY ATTORNEY'S ANALYSIS**

Under the provisions of Article 36 of the City Zoning Ordinance, the City Council has final authority in the approval, modification or denial of a Conditional Use Permit for the establishment of a regulated use. In addition, after affirming all of the required findings, the Council may grant a waiver of the applicable locational requirements.

**RECOMMENDATION**

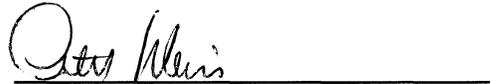
Staff recommends that the City Council accept the Planning Commission's findings and recommendations to approve the Conditional Use Permit and grant a waiver of locational requirements. Staff recommends the Council adopt the attached resolution affirming the specific findings and approving the business conditions contained within Planning Commission Resolution.

**PREPARED BY:**



Scott Nightingale  
Planner II

**SUBMITTED BY:**



Peter A. Weiss  
City Manager

**REVIEWED BY:**

Michelle Skaggs-Lawrence, Deputy City Manager  
Lauren Wasserman, Interim Development Services Director  
Jerry Hittleman, City Planner



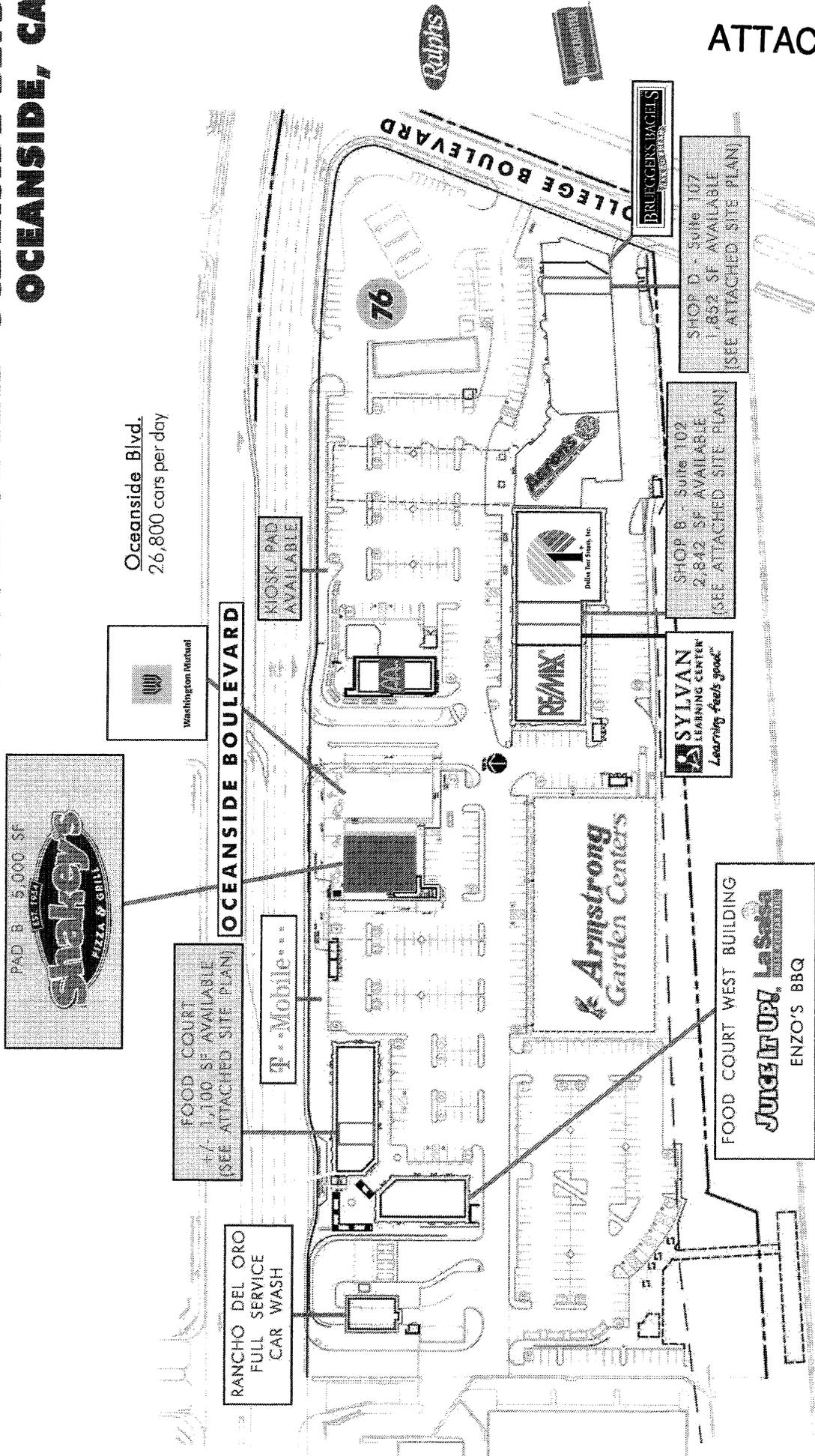
**ATTACHMENTS:**

1. Site Plans/Floor Plans & Elevations
2. City Council Resolution
3. Planning Commission Resolution No. 2007-P51
4. Planning Commission Staff Report dated November 5, 2007

# DEL ORO MARKETPLACE

## SWC COLLEGE AND OCEANSIDE BLVD OCEANSIDE, CA

ATTACHMENT 1



Oceanside Blvd.  
26,800 cars per day

College Blvd.  
46,300 cars per day





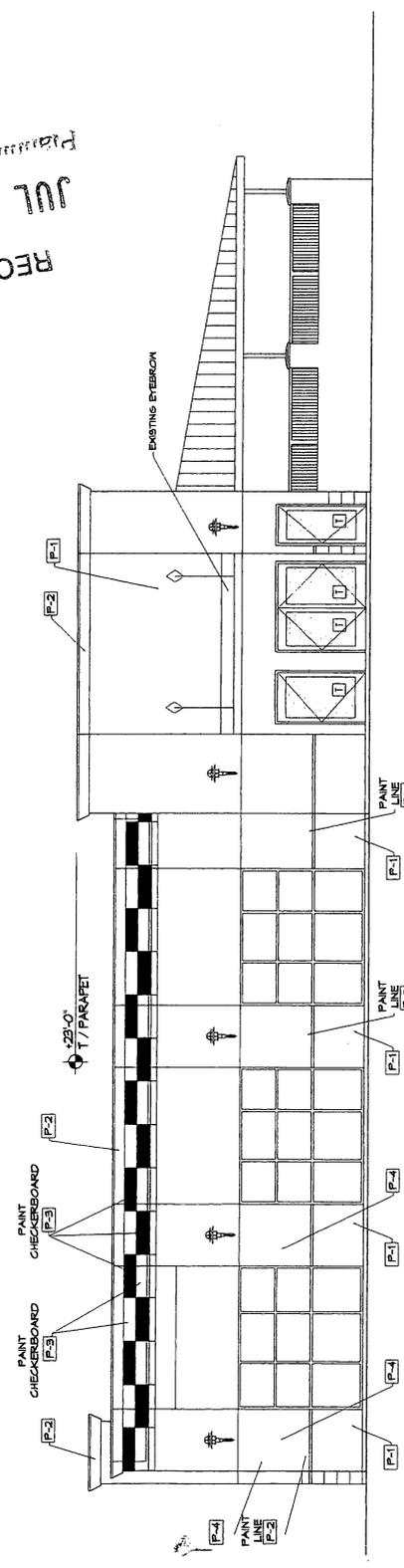
RECEIVED  
 JUL 02 2007  
 Planning Department

- ELEVATION KEYED NOTES**
- 1 PAINTED STUCCO
  - 2 REPAINTED EXISTING METAL RAIL
  - 3 EXISTING WINDOW
  - 4 PAINTED TRIM
  - 5 METAL DOOR PAINT
  - 6 METAL DOOR
  - 7 METAL EXTERIOR PAINTED
  - 8 FINISH AWNING
  - 9 METAL WINDOW EXTERIOR PAINTED
  - 10 STAINED WOOD
  - 11 STUCCO
  - 12 METAL ROOF
  - 13 ALL WINDOW METAL FRAMES PAINTED
  - 14 EXISTING BRICK TO REMAIN PAINT

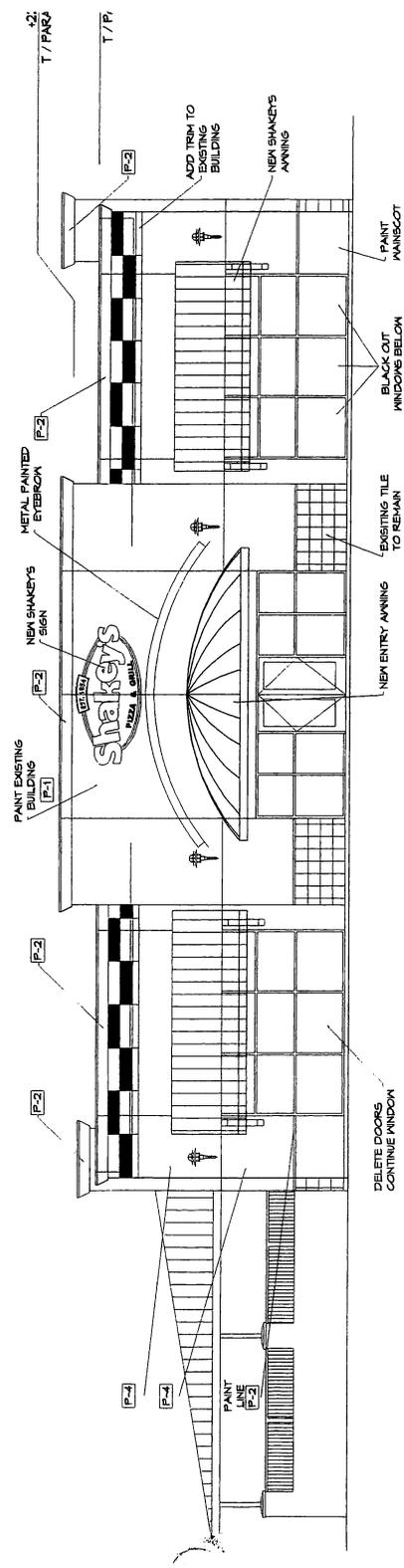
**FINISH NOTES:**

- EXTERIOR COLOR**
- F-1** PRODUCT: HANF; COLOR: NOT USED; PROVIDED BY: NOT USED
  - F-2** PRODUCT: HANF; COLOR: NOT USED; PROVIDED BY: NOT USED
  - F-3** PRODUCT: HANF; COLOR: NOT USED; PROVIDED BY: NOT USED
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  - F-16** PRODUCT: HANF; COLOR: NOT USED; PROVIDED BY: NOT USED
  - F-17** PRODUCT: HANF; COLOR: NOT USED; PROVIDED BY: NOT USED
  - F-18** PRODUCT: HANF; COLOR: NOT USED; PROVIDED BY: NOT USED
  - F-19** PRODUCT: HANF; COLOR: NOT USED; PROVIDED BY: NOT USED
  - F-20** PRODUCT: HANF; COLOR: NOT USED; PROVIDED BY: NOT USED

**EAST ELEVATION**



**WEST ELEVATION**



#5609 HARWOOD CRIMSON  
 SUNBRELLA



**EXTERIOR ELEVATIONS**

SHAKERS PIZZA

ID5.0

NO.	DATE	DESCRIPTION

PROJECT: SHAKERS PIZZA  
 1500 GOWAN AVE. #100  
 LOS ANGELES, CA 90015  
 DATE: 07/02/07  
 DRAWN BY: [Signature]  
 CHECKED BY: [Signature]  
 PROJECT NO: 07-001-001

SCALE: 1/4" = 1'-0"  
 1/8" = 1'-0"  
 1/16" = 1'-0"

SHAKERS PIZZA  
 1500 GOWAN AVE. #100  
 LOS ANGELES, CA 90015

PROJECT: SHAKERS PIZZA  
 1500 GOWAN AVE. #100  
 LOS ANGELES, CA 90015





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2. Pursuant to CCP Section 1094.6 (f), notice is hereby given that the time within which judicial review must be sought on this decision is governed by CCP Section 1094.6 as set forth in Oceanside City Code Section 1.10.

PASSED and ADOPTED by the City Council of the City of Oceanside, California this \_\_\_\_ day of \_\_\_\_\_, 2007 by the following vote:

AYES:

NAYS:

ABSENT:

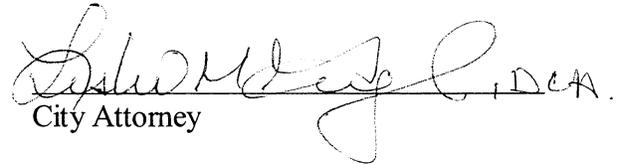
ABSTAIN:

\_\_\_\_\_  
Mayor of the City of Oceanside

ATTEST:

APPROVED AS TO FORM:  
OFFICE OF THE CITY ATTORNEY

\_\_\_\_\_  
City Clerk

  
City Attorney

PLANNING COMMISSION  
RESOLUTION NO. 2007-P51

A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF OCEANSIDE, CALIFORNIA APPROVING A  
CONDITIONAL USE PERMIT ON CERTAIN REAL  
PROPERTY IN THE CITY OF OCEANSIDE

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APPLICATION NO: C-24-07  
APPLICANT: Shakey's USA  
LOCATION: 4141 Oceanside Boulevard

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THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES  
RESOLVE AS FOLLOWS:

WHEREAS, there was filed with this Commission a verified petition on the forms prescribed by the Commission requesting a Conditional Use Permit under the provisions of Articles 11, 17, 36, & 41 of the Zoning Ordinance of the City of Oceanside to permit the following:

the establishment and operation of a game center - consisting of 18 coin-operated electronic games - in conjunction with a "Shakey's" restaurant;  
on certain real property described in the project description.

WHEREAS, the Planning Commission, after giving the required notice, did on the 5<sup>th</sup> day of November, 2007, conduct a duly advertised public hearing as prescribed by law to consider said application.

WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State Guidelines thereto; this project is not subject to CEQA per Article 19, Section 15301 Existing Facilities;

WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

WHEREAS, studies and investigations made by this Commission and on its behalf reveal the following facts:

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1 FINDINGS:

2 For the Conditional Use Permit to allow establishment and operation of a game center -  
3 consisting of 18 coin-operated electronic games - in conjunction with a “Shakey’s” restaurant:

- 4
- 5 1. The proposed location of the game center is in accord with the objectives of the Zoning  
6 Ordinance and the purposes of the district in which the site is located. No waiver of  
7 location separation requirements is necessary and land use compatibility between the  
8 proposed game center and existing and future uses will be ensured in part through  
9 compliance with separation standards set forth in the Zoning Ordinance for game  
10 centers.
- 11 2. The proposed location of the game center and the proposed conditions under which it  
12 would be operated and maintained will be consistent with the General Plan; will not be  
13 detrimental to the public health, safety or welfare of persons residing or working in or  
14 adjacent to the neighborhood of such use; and will not be detrimental to properties or  
15 improvements in the vicinity or to the general welfare of the City.
- 16 3. The proposed game center conditional use will comply with the provisions of the Zoning  
17 Ordinance, including any specific condition required for the proposed conditional use in  
18 the district in which it would be located. Surplus parking will be available to serve  
19 existing and the proposed use within the center.
- 20 4. The game center’s location and hours of operation will not interfere with the primary  
21 commercial uses in the vicinity and there are no public health and safety issues resulting  
22 from the location of the proposed use. The game center will house 18 electronic games  
23 within Shakey’s restaurant as a secondary use. Only 10 percent of the restaurant’s  
24 revenues will be derived from the game center. The game center’s hours-of-operation  
25 will be consistent with those of the restaurant. Minors under the age of 18 will not be  
26 permitted to use the game center during school hours pursuant to the Oceanside Zoning  
27 Ordinance code Section 3027. Therefore the proposed game center will complement and  
28 support the main “family oriented” restaurant operation and will not detract or negatively  
29 impact uses within the center.
5. The building will meet the requirements imposed by the Uniform Building Code for  
assembly/occupancy.

1 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby  
2 recommend approval to Conditional Use Permit (C-24-07) subject to the following conditions:

3 **Building:**

- 4 1. Applicable Building Codes and Ordinances shall be based on the date of submittal for  
5 Building Division plan check. (Currently the 2001 California Building Code, and 2004  
6 California Electrical Code)
- 7 2. The granting of approval under this action shall in no way relieve the applicant/project  
8 from compliance with all State and Local building codes.
- 9 3. Site development, parking, access into buildings and building interiors shall comply with  
10 the State's Disabled Accessibility Regulations. (2001 California Building Code (CBC),  
11 Chapter 11B)
- 12 4. The building plans shall be prepared by a licensed architect or engineer and shall be in  
13 compliance with this requirement prior to submittal for building plan review.
- 14 5. All electrical, communication, CATV, etc. service lines within the exterior lines of the  
15 property shall be underground (City Code Sec. 6.30).
- 16 6. All outdoor lighting shall comply with Chapter 39 of the City Code (Light Pollution  
17 Ordinance). Where color rendition is important, high-pressure sodium, metal halide or  
18 other such lights may be utilized and shall be shown on building and electrical plans.
- 19 7. Compliance with the Federal Clean Water Act (BMP's) shall be demonstrated on the  
20 plans.
- 21 8. Plans submitted after January 1<sup>st</sup> 2008 shall comply with the State adopted ICC codes.
- 22 9. Energy Calculations/documentation shall be required at time of plan submittal to the  
23 Building Division for plan check.
- 24 10. Tenant Improvements or other construction to the existing building shall require permits  
25 (including all required inspections and approvals, and issuance of Certificate of  
26 Occupancy) from the Building Division.
- 27 11. The developer shall monitor, supervise and control all building construction and  
28 supporting activities so as to prevent these activities from causing a public nuisance,  
29 including, but not limited to, strict adherence to the following:

- 1 a) Building construction work hours shall be limited to between 7:00 a.m. and 6:00  
2 p.m. Monday through Friday, and on Saturday from 7:00 a.m. to 6:00 p.m. for  
3 work that is not inherently noise-producing. Examples of work not permitted on  
4 Saturday are concrete and grout pours, roof nailing and activities of similar noise-  
5 producing nature. No work shall be permitted on Sundays and Federal Holidays  
6 (New Year's Day, Memorial Day, July 4<sup>th</sup>, Labor Day, Thanksgiving Day,  
7 Christmas Day) except as allowed for emergency work under the provisions of the  
8 Oceanside City Code Chapter 38 (Noise Ordinance).
- 9 b) The construction site shall be kept reasonably free of construction debris as  
10 specified in Section 13.17 of the Oceanside City Code. Storage of debris in  
11 approved solid waste containers shall be considered compliance with this  
12 requirement. Small amounts of construction debris may be stored on-site in a  
13 neat, safe manner for short periods of time pending disposal.

14 **Fire:**

- 15 12. Plans shall be submitted to the Fire Prevention Bureau for plan check review and  
16 approval prior to the issuance of building permits. A site plan indicating the fire access  
17 and hydrant locations must also be submitted on CD Rom.
- 18 13. Buildings shall meet Oceanside Fire Department's current codes at the time of building  
19 permit application.

20 **Planning:**

- 21 14. This Conditional Use Permit shall expire two years from the effective date of the  
22 approval, unless implemented as required by the Zoning Ordinance.
- 23 15. This Conditional Use Permit approves only the establishment and operation of a 700 sq.  
24 ft. (max) game center consisting of 18 coin-operated electronic games in conjunction  
25 with a 4,300 sq. ft. "Shakey's" restaurant as shown on the plans and exhibits presented to  
26 the Planning Commission for review and approval. No deviation from these approved  
27 plans and exhibits shall occur without Community Development Department/Planning  
28 Division approval. Substantial deviations shall require a revision to the Conditional Use  
29 Permit or a new Conditional Use Permit.

- 1 16. The hours-of-operation of the subject use shall coincide with those of the restaurants and  
2 shall be limited to 10:00 a.m. – 11:00 p.m. Sunday through Thursday and 10:00 a.m. –  
3 12:00 a.m. Friday and Saturday. Any deviation in the subject hours-of-operation shall  
4 require a revision to the Conditional Use Permit or a New Conditional Use Permit.
- 5 17. The game center shall be supervised by an adult “Shakey’s” restaurant employee during  
6 all business hours.
- 7 18. A security system shall be installed to monitor the game center.
- 8 19. Minors, under 18 years of age shall not be allowed to play a mechanical or electronic  
9 game machine during the hours the public schools of the district in which the game center  
10 is located are in session, or after 9:00 p.m. on nights preceding school days, or after 10:00  
11 p.m. on any night. It is the responsibility of the owner or manager to obtain a current  
12 schedule of school days and hours.
- 13 20. The lighting in the game center area shall allow good visibility within the center to ensure  
14 users safety.
- 15 21. The applicant, permittee or any successor-in-interest shall defend, indemnify and hold  
16 harmless the City of Oceanside, its agents, officers or employees from any claim, action or  
17 proceeding against the City, its agents, officers, or employees to attack, set aside, void or  
18 annul an approval of the City, concerning Conditional Use Permit C-24-07. The City  
19 will promptly notify the applicant of any such claim, action or proceeding against the  
20 City and will cooperate fully in the defense. If the City fails to promptly notify the  
21 applicant of any such claim action or proceeding or fails to cooperate fully in the  
22 defense, the applicant shall not, thereafter, be responsible to defend, indemnify or hold  
23 harmless the City.
- 24 22. Prior to the issuance of building permits, compliance with the applicable provisions of the  
25 City's anti-graffiti (Ordinance No. 93-19/Section 20.25 of the City Code) shall be  
26 reviewed and approved by the Planning Division. These requirements, including the  
27 obligation to remove or cover with matching paint all graffiti within 24 hours shall  
28 recorded in the form of a covenant affecting the subject property.
- 29 23. The requirement to manage all solid waste and identified recyclable material on private  
property and to recycle or dispose of all material in compliance with city code.

- 1 24. The Conditional Use Permit shall lapse if the exercise of rights granted by them is
- 2 discontinued for six consecutive months.
- 3 25. This Conditional Use Permit shall be called for review by the Planning Commission if
- 4 complaints are filed and verified as valid by the Code Enforcement Office concerning
- 5 the violation of any of the approved conditions or assumptions made by the application.
- 6 26. There shall be no audible music or noise emitting from the premises, which would
- 7 disturb the quiet and peaceful enjoyment of the property by the tenants and residences
- 8 of the area.
- 9 27. Prior to the transfer of ownership and/or operation of the site the owner shall provide a
- 10 written copy of the applications, staff report and resolutions for the project to the new
- 11 owner and/or operator. This notification's provision shall run with the life of the project
- 12 and shall be recorded as a covenant on the property.
- 13 28. Failure to meet any conditions of approval for this development shall constitute a
- 14 violation of the Conditional Use Permit.
- 15 29. Unless expressly waived, all current zoning standards and City ordinances and policies in
- 16 effect at the time business licenses are issued are required to be met by this project. The
- 17 approval of this project constitutes the applicant's agreement with all statements in the
- 18 Description and Justification and other materials and information submitted with this
- 19 application, unless specifically waived by an adopted condition of approval.
- 20 30. There shall be no pool or billiard tables maintained upon the premises at any time.

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31. A covenant or other recordable document approved by the City Attorney shall be prepared by the applicant and recorded prior to the issuance of a business license. The covenant shall provide that the property is subject to this resolution, and shall generally list the conditions of approval.

PASSED AND ADOPTED Resolution No. 2007-P51 on November 5, 2007 by the following vote, to wit:

- AYES: Martinek, Parker, Neal, Troisi, Balma and Bertheaud
- NAYS: None
- ABSENT: Horton
- ABSTAIN: None

  
\_\_\_\_\_  
Dennis Martinek, Chairman  
Oceanside Planning Commission

ATTEST:  
  
\_\_\_\_\_  
Jerry Hittleman, Secretary

I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that this is a true and correct copy of Resolution No. 2007-P51.

Dated: November 5, 2007

EXHIBIT "A"

LEGAL DESCRIPTION - PARCEL 2 [EXISTING CENTER PARCEL]

BEING A PORTION OF PARCEL 1 AS SHOWN ON PARCEL MAP NO. 12485, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, LYING SOUTHERLY AND WESTERLY OF THE FOLLOWING DESCRIBED LINE:

COMMENCING AT THE SOUTHEAST CORNER OF SAID PARCEL 1; THENCE ALONG THE EASTERLY BOUNDARY THEREOF NORTH 00°06'33" WEST 152.50 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID EASTERLY BOUNDARY SOUTH 89°53'27" WEST 68.09 FEET; THENCE SOUTH 65°03'54" WEST 150.95 ON THE NORTHERLY BOUNDARY OF SAID PARCEL 1, BEING A POINT IN THE ARC OF A 1938.00 FOOT RADIUS CURVE, DISTANT EASTERLY 32.79 FEET ALONG THE ARC OF SAID CURVE FROM THE WESTERLY TERMINUS OF SAID CURVE AS SHOWN ON PARCEL MAP NO. 12485.

SAID PARCEL CONTAINING 79,506 SQUARE FEET.

LEGAL DESCRIPTION OF SHOPPING CENTER [PROPOSED EXPANSION PARCEL]

PARCEL 2 OF PARCEL MAP NO. 15456 IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 15, 1988 AS FILE NO. 88-587281 OF OFFICIAL RECORDS.

THAT PORTION OF PARCELS 1 AND 2 OF PARCEL MAP NO. 16548 IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, JULY 15, 1991 AS FILE NO. 1991-0345756 OF OFFICIAL RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WESTERLY LINE OF SAID PARCEL 2 BEARING NORTH 20°46'13" WEST 280.59 FEET FROM THE SOUTHWESTERLY CORNER OF SAID PARCEL 1; THENCE NORTH 69°13'47" EAST 372.02 FEET; THENCE SOUTH 20°46'13" EAST 206.64 FEET TO THE SOUTHERLY LINE OF SAID PARCEL 1; THENCE ALONG SAID SOUTHERLY LINE NORTH 65°36'56" EAST 578.01 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 1; THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 1 AND 2, NORTH 19°15'05" WEST 389.78 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 2; THENCE ALONG THE NORTHERLY LINE, THEREOF SOUTH 69°13'47" WEST 959.21 FEET TO THE NORTHWESTERLY CORNER THEREOF; THENCE ALONG THE WESTERLY LINE OF SAID PARCEL 2 SOUTH 20°46'13" EAST 219.44 FEET TO THE POINT OF BEGINNING.

**PLANNING COMMISSION****STAFF REPORT**

DATE: November 5, 2007

TO: Chairman and Members of the Planning Commission

FROM: Community Development Department/Planning Division

SUBJECT: **CONSIDERATION OF A CONDITIONAL USE PERMIT (C-24-07) TO ALLOW THE ESTABLISHMENT AND OPERATION OF A GAME CENTER IN CONJUNCTION WITH A "SHAKEY'S" RESTAURANT AT 4141 OCEANSIDE BOULEVARD WITHIN THE IVEY RANCH RANCHO DEL ORO NEIGHBORHOOD. – SHAKEY'S VIDEO GAMES– APPLICANT: SHAKEY'S USA**

**RECOMMENDATION**

Staff recommends that the Planning Commission, by motion:

- (1) Recommend that the City Council confirm issuance of a Class 1, Categorical Exemption "Existing Facilities"; and,
- (2) Recommend approval of Conditional Use Permit (C-24-07) to the City Council, by adopting Planning Commission Resolution No. 2007-P51 with findings and conditions of approval attached herein.

**PROJECT DESCRIPTION AND BACKGROUND**

**Site Review:** The site is located southwest of the Oceanside and College Boulevard intersection within the Rancho Del Oro Business Commercial Master Plan Area (Del Oro Marketplace business/commercial center). Surrounding land uses include various commercial businesses such as The Armstrong Garden Center, La Salsa Restaurant, T-Mobile, Washington Mutual, McDonalds, Re/Max Realty, and the Dollar Tree store.

The property is zoned PD-1 (Rancho Del Oro Commercial Planned Unit Development) and has a General Plan land use designation of S-1-84 (Rancho Del Oro Commercial). The project is subject to compliance with applicable zoning and General Plan regulations and policies as well as the Rancho Del Oro Master Development Plan development standards.

**Project Description:** The project application is comprised of one entitlement; Conditional Use Permit (C-24-07) as follows:

Conditional Use Permit No. C-24-07 represents a request for the following:

- (a) To allow the establishment and operation of 18 coin-operated electronic games in conjunction with an eating and drinking facility (“Shakey’s” restaurant) pursuant to Article 36 (Separation of Regulated Uses) of the Oceanside Zoning Ordinance (OZO).

The game center is proposed to occupy approximately 700 square feet of the 5,000 square feet “Shakey’s” restaurant footprint at 4141 Oceanside Boulevard. The game center will consist of 18 electronic coin-operated games, the majority of which will be redemption games. Redemption games reward players with tickets redeemable for prizes provided by the restaurant. The applicant has indicated that violent games will not be permitted in the game center.

The game center’s hours-of-operation will coincide with those of the restaurant and will be limited to 10:00 a.m. to 11:00 p.m. Sunday through Thursday and 10:00 a.m. to 12:00 a.m. on Friday and Saturdays. Fifty-two parking spaces will be provided for the restaurant and game center uses in accordance with OZO parking ratio requirements.

A letter of intent was submitted to the management association of the Del Oro Market Place describing the proposed project. The management association approved the plan on August 29, 2007.

The project is subject to the following Ordinances and City policies:

- 1. General Plan Land Use Element
- 2. Zoning Ordinance
- 3. Rancho Del Oro Master Development Plan

## **ANALYSIS**

### **KEY PLANNING ISSUES**

#### **1. General Plan Compliance**

The General Plan Land Use Map designation on the subject property is Planned Unit Development Commercial. The proposed project is consistent with this designation and the goals and objectives of the City’s General Plan as follows:

## A. Land Use Element

### Goal 2.2: Commercial Development

Objective: To promote and preserve a balance of successful markets and service in aesthetic, people-oriented associations that are compatible and organized to surrounding land uses.

The proposed project will enhance the variety of commercial services that are available to the general public. The game center use, as proposed to be incorporated within the restaurant facility and as conditioned to operate, will not negatively impact the surrounding commercial businesses.

## B. Land Use Element

### Goal 1.1: Balanced Land Use

Objective: To develop and use lands for the long-term provision of balanced, self-sufficient and community.

Policy A: The City shall continuously monitor the impact and intensity of land use and land use distribution to ensure that the City's circulation system is not overburdened beyond design capacity.

The proposed use has been reviewed and analyzed to ensure that traffic impacts and parking deficiencies will not arise. Staff's analysis concludes that the proposed game center use will not conflict with the abutting tenant's hours-of-operation. Surplus parking will be available to serve all existing uses within the center. Therefore the use will positively contribute to the commercial center without impacting traffic and parking.

## 2. **Zoning Compliance**

This project is located in the Rancho Del Oro Commercial Planned Unit Development (PD-1) district, within an existing structure and complies with applicable requirements of that zone. The following table depicts the parking data for the existing commercial center with the proposed game center and restaurant use based upon Section 3100 of the OZO:

<b>EXISTING USES</b>	<b>BUILDING AREA (Sq. Ft.)</b>	<b>PARKING SPACES REQUIRED</b>	<b>PROPOSED</b>
Armstrong Garden Center (Nursery)	4,800	(1 per 250 sq. ft.)	20
Rancho Del Oro Car-Wash	3,129	(1 per 200 sq. ft. of sales, office, or lounge area; plus queue for 5 cars per washing station)	16
Washington Mutual Financial institution	4,615	(1 per 250 sq. ft.)	18
Two Food Court Buildings Drinking Establishment	22,092	(1 per 50 sq. ft. seating area)	110
<b>PROPOSED USE</b>			
Shakey's w/ game center.	(4,300 sq. ft. restaurant & 700 sq. ft. Game Center Area)	(1 per 50 sq. ft. restaurant seating area & 1 per 400 sq. ft. for game center)	52
<b>TOTAL</b>			
Total Spaces On-Site (246) All Buildings	Approximately 40,000 sq. ft.	Listed above	216 spaces required out of 246

**3. Land Use Compatibility with surrounding developments**

<b>LOCATION</b>	<b>GENERAL PLAN</b>	<b>ZONING</b>	<b>LAND USE</b>
Subject Property:	Rancho Del Oro Commercial (S-1-84)	PD-1 (Rancho Del Oro Commercial Master Plan)	Commercial
North	Rancho Del Oro Commercial (S-1-84)	PD-1 (Rancho Del Oro Commercial Master Plan)	Commercial
East	Rancho Del Oro Commercial (S-1-84)	PD-1 (Rancho Del Oro Commercial Master Plan)	Commercial
South:	Rancho Del Oro Commercial (S-1-84)	PD-1 (Rancho Del Oro Commercial Master Plan)	Commercial
West	Rancho Del Oro Industrial (S-1-84)	PD-1 (Rancho Del Oro Industrial Master Plan)	Industrial

## **DISCUSSION**

*Issue: Land Use compatibility with existing and future uses within the center*

*Recommendation:* Game center establishments are classified as regulated uses and locational restrictions separating such uses from each other and from nearby residential areas, family-oriented uses, or sites commonly used by minors, are applicable to protect the community from potential blight, depreciated property values, law enforcement problems, as well as interference with activities oriented toward families or minors.

More specifically Section 3604 of the OZO requires that a game center must be located a minimum of 1,000 feet from any other regulated use and 500 feet away from any residential district; any public or private school; park, playground, or public beach; church or other similar religious facility; and/or childcare or pre-school facility. The ordinance allows consideration of waivers to location requirements on a case by case basis.

Staff has analyzed the location requirements and found that no sensitive uses are located within 500 feet of the proposed project site and no other regulated uses are within 1,000 feet from the project site. The Kingdom Hall of Jehovah Witness Church is located at least 1,584 feet from the subject game center use. Although approval of a conditional use permit by the City Council must be obtained prior to allowing 18 coin-operated video games within the proposed "Shakey's" restaurant no waiver of locational requirements is necessary and land use compatibility between the proposed game center and existing and future uses will be ensured in part through compliance with separation standards set forth for game centers.

The game center will house 18 electronic games within Shakey's restaurant as a secondary use. Only 10 percent of the restaurant's revenues will be derived from the game center. The game center's hours-of-operation will be consistent with those of the restaurant. Minors under the age of 18 will not be permitted to use the game center during school hours pursuant to the Oceanside Zoning Ordinance code Section 3027. Therefore the proposed game center will complement and support the main "family oriented" restaurant operation and will not detract or negatively impact uses within the center.

## **ENVIRONMENTAL DETERMINATION**

The proposed project is categorically exempt pursuant to Article 19 Categorical Exemptions, Section 15301 Existing Facilities, of the California Environmental Quality Act.

**PUBLIC NOTIFICATION**

Legal notice was published in the North County Times and notices were sent to property owners of record within a 300-foot of the subject property, individuals/organizations requesting notification, applicant and their representative, and interested parties. As of November 5, 2007, no communication supporting or opposing the request has been received.

**SUMMARY**

The proposed Conditional Use Permit is consistent with the requirements of the land use policies of the General Plan, the Oceanside Zoning Ordinance and the Rancho Del Oro Commercial Master Development Plan. Staff supports the subject development proposal, therefore, staff recommends that the Planning Commission:

- (1) Recommend that the City Council confirm issuance of a Class 1, Categorical Exemption "Existing Facilities"; and,
- (2) Recommend approval of Conditional Use Permit (C-24-07) to the City Council, by adopting Planning Commission Resolution No. 2007-P51 with findings and conditions of approval attached herein.

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Attachments:

- 1. Site Plan/Floor Plan
- 2. Planning Commission Resolution No. 2007-P51
- 3. Parking Analysis
- 4. Pictures/Coin-Operated Electronic Game Examples
- 5. Management Permission Letter