#### **RESOLUTION 17-03**

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN PABLO RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT FOR ON-SITE BEER AND WINE ALCOHOL SALES ASSOCIATED WITH A NEW RESTAURANT, OCOTES GRILL, AND THE DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY FOR THE ON-SITE BEER AND WINE SALES AT 1439 23<sup>RD</sup> STREET, APN 410-180-023

WHEREAS, Zoning Code Section 17.16.070(B) states that all projects with multiple approvals shall be processed concurrently, and final action shall be taken by the highest level designated approving authority for all such requested permits;

WHEREAS, Zoning Code Table 17.34-C allows an alcohol beverage sales use in the Commercial Mixed Use zoning district upon approval of a Use Permit; and

WHEREAS, the state department of Alcoholic Beverage Control identifies the City Council as the local governing body to approve a determination of Public Convenience or Necessity. For this reason, final action on the Conditional Use Permit and Public Convenience or Necessity must be made by the City Council; and

WHEREAS, the Planning Commission shall make findings that the establishment, maintenance or operation of the proposed on-site beer and wine sales will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City; and,

WHEREAS, this project is exempt under the California Environmental Quality Act, Class 1, Existing Facilities. Class 1 addresses an existing private structure, such as this recently renovated building, where a restaurant will be operating; and

WHEREAS, a public notice hearing has been given by mail to the applicant, local affected agencies and to all property owners within 300 feet of the subject property, and has been published in the East Bay Times in accordance with the requirements of Government Code Section 65091.

NOW, THEREFORE BE IT RESOLVED that the Planning Commission of the City of San Pablo has reviewed the proposed project and recommends approval to the City Council based on the following findings:

A. The proposed project has been determined to be categorically exempt from the provisions of the California Environmental Quality Act, in accordance with CEQA Guidelines pursuant to Section 15301, Existing Facilities. Class 1 addresses an existing private structure, such as this recently renovated building, where a restaurant will be operating.

In 2011, the Planning Commission approved a design review for a change to the exterior of the existing building. No addition to the building was part of the design review that was approved in 2011, and there is no addition to the building as part of the project to open a new restaurant at 1439  $23^{rd}$  Street. Section 15301, Existing Facilities, Class 1 of the CEQA Guidelines consists of the operating of private structures involving negligible or no expansion of use. As there is no expansion to the existing and recently renovated building, the proposal for a new restaurant with on-site beer and wine sales is exempt from the California Environmental Quality Act.

B. That the granting of this Use Permit will not, under the circumstances of the particular case, materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicants and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

Granting the Use Permit allows the proposed new restaurant to provide a service, the purchase of beer and wine that are consumed on site with meals, and enables the restaurant to compete with similar dining establishments. The beer and wine sales is an option to those customers who would like to enhance their dining experience with beer or wine. A condition of approval has been assigned to require employees of the restaurant to receive License Education on Alcohol and Drugs (LEAD) training. This training provides practical information on serving alcoholic beverages safely, responsibly and legally, and preventing illicit drug activity at the restaurant. For this reason, the granting of the Use Permit will not materially affect adversely the health or safety of persons residing or working in the neighborhood of the property of the applicants and will not, under the circumstances of the particular case, be materially detrimental to the public welfare or injurious to property or improvements in the neighborhood.

C. The proposed project complies with the development standards of the Commercial Mixed Use (CMU) zoning district.

The proposed new restaurant will be operating in an existing building that meets the development standards of the Commercial Mixed Use zoning district.

D. The proposed project incorporates Policy LU I -20, Mixed Use, for the Commercial Mixed Use Land Use category where this policy, "allows small-scale non-residential uses in neighborhoods that contribute to the residential character of an area or provide complimentary services within the neighborhood, such as child care, neighborhood retail, and other stores".

The request for a Use Permit for an on-sale beer and wine license at this location as the sales of the alcoholic beverages are meant to enhance the restaurant dining experience. It is commonplace and an expected aspect of dining out that a patron, over the age of 21, can purchase beer or wine to add

to the enjoyment of their meal. Not having the opportunity to sell beer and wine, in conjunction with a meal, can put a restaurant at a competitive disadvantage with other similar uses. There are two (2) restaurants in Census Tract 3680.01 that have licenses to sell alcohol with meals – one on 23rd Street and one on Rumrill Blvd. The balance of on-site alcohol sales within the City are other restaurants or bars where beer, wine or distilled spirits are consumed. Conditions of approval have been assigned by the Police Department to limit the hours of sales of beer and wine, prevent loitering, and require that monthly records that clearly illustrate the gross sales of food and alcoholic beverages. As the applicant has indicated that 70% of the sales will be from food, and 15% will come from the sale of alcoholic beverages, Planning staff will use these percentages in the conditions of approval. Planning staff will also include the condition about attending a LEAD program for each employee, and will incorporate the relevant operating characteristics as discussed in the narrative about the restaurant and alcohol sales use as conditions of approval, Lastly, should the Planning Commission recommend approval of the Use Permit for an on-sale beer and wine license to the City Council, along with the determination of Public Convenience or Necessity, any change in the Use Permit - hours of operation, change in license type - must first be submitted to the City of San Pablo for review.

E. Public notice of the hearing has been given by mail to the applicants, local affected agencies, all property owners within 300 feet of the subject property, and has been published in the East Bay Times, in accordance with the requirements of Government Code Section 65905.

Notices were mailed to owners of properties within a 300-foot radius of the site. The notices were mailed on Thursday, March 9, 2017. In addition, a Public Hearing Notice was published in the East Bay Times newspaper on Friday, March 10, 2017.

BE IT FURTHER RESOLVED that the Planning Commission finds that despite the undue concentration of establishments serving alcohol in the census tract where the proposed project would be located, that public convenience or necessity would be served by allowing a restaurant at this location to have an on-sale beer and wine license. This allows the new restaurant to provide a service, on-site beer and wine sales, as an added feature to its patrons, and in order to be competitive with other restaurants along 23<sup>rd</sup> Street, and within the City of San Pablo that provide a similar on-site alcohol sales component to the dining experience. Staff of the restaurant will participate in training offered by the state department of Alcoholic Beverage Control. The purpose of this training is to provide the licensee with practical information on serving alcoholic beverages safely, responsibly and legally, and preventing illicit drug activity at the restaurant. Proof of attendance of this program, provided by the state department of Alcohol Beverage Control, will be required to be submitted to the Development Services Department, within 60 days of the receiving the beer and wine license from the state department of Alcoholic Beverage Control.

BE IT FURTHER RESOLVED that the Planning Commission of the City of San Pablo hereby recommends this application be approved, and forwards this Use Permit to the City Council, along with the determination of Public Convenience or Necessity, for action. The following Conditions of Approval for PLAN1702-0016 are provided below:

- 1. The Use Permit shall become null and void within one year of the effective date of approval.
- 2. The Use Permit is only for on-sale beer and wine sales. No sales of distilled spirits can occur at this location without submitting an application to amend the approved Use Permit.
- 3. The use shall be conducted in substantial compliance with Exhibit A-1, dated February 28, 2017, on file with the Development Services Department, PLAN1702-0016. Minor amendments to this Conditional Use Permit may be approved by the Zoning Administrator if it is determined the overall intent of the permit is fulfilled.
- 4. The applicant shall comply with all of the provisions of Section 17.62.020, Alcoholic Beverage Sales, of the San Pablo Zoning Ordinance including full compliance with Section 17.62.020 (D) regarding full-service restaurant.
- 5. The applicant shall obtain a City of San Pablo business license and all permits and licenses needed to serve food and drink, including but not limited to licenses from the Contra Costa County Health Department. Nothing other than food, drinks and associated restaurant items shall be sold. All food and drink preparation shall be done in strict accordance with Federal, State and local health regulations.
- 6. The operating hours shall be 9am 10pm, Monday through Sunday. No alcohol sales are allowed after 10pm. Any request to increase the hours associated with the on-sale beer and wine license, or include the sales of distilled spirits, must be submitted in an application to amend the hours of operation and type of on-sale license of this Use Permit from the City of San Pablo. Any subsequent request to increase the hours of the restaurant and the beer and wine sales will be limited to 12midnight.
- 7. The applicant, in the operation of the business, shall not serve alcohol to an obviously intoxicated person, serve or sell alcohol to a minor, serve or sell alcohol without valid identification verifying age, or serve or sell alcohol outside of the permitted hours. If two such violations occur in a 12-month period, the use permit may be revoked.
- 8. Upon the closing of the restaurant, the management or its representatives will not allow patrons to loiter in or about the business and will not furnish or sell alcohol to anyone on the premises.
- 9. The business shall affix "NO LOITERING" signs to the building that are easily visible by the public.
- 10. A minimum of seventy (70) percent of the revenue of the sales shall come from food,

and a maximum of fifteen (15) percent of sales shall come from alcoholic beverages. The monthly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records which reflect a separate gross sale of food and the gross sales of alcoholic beverages of the licensed business. Records will be kept on a monthly basis and shall be made available to the San Pablo Police Department on demand.

- 11. No reduction in the offering of breakfast meals can occur without first obtaining approval from the Development Services Department.
- 12. All current and future employees shall attend one free LEAD, License Education on Alcohol and Drugs, prevention and education program. The purpose of this training is to provide the licensee with practical information on serving alcoholic beverages safely, responsibly and legally, and preventing illicit drug activity at the restaurant. Proof of attendance of this program, provided by the state department of Alcohol Beverage Control, will be required to be submitted to the Development Services Department, within 60 days of the receiving the beer and wine license from the state department of Alcoholic Beverage Control.
- 13. If the use granted by this Conditional Use Permit is discontinued for a period of six consecutive months, the Use Permit automatically expires.
- 14. Failure to comply with any of the terms or conditions of this Use Permit is a violation of this title, subject to the enforcement provisions prescribed by Chapter 17.10, Enforcement, and any and all other penalties and remedies that may be provided by law.
- 15. Any Use Permit granted in accordance with the terms of this chapter may be revoked if any of the conditions or terms of such permit are violated, the use is discontinued, or if any law or ordinance is violated in connection therewith.
- 16. No illegal signs, pennants, banners, balloons, flags, or streamers are to be used on this site at any time.
- 17. All signs shall be subject to the review and approval by the City. No other outside displays are permitted. Prior to the installation of any signs, the applicant shall obtain design review approval from Development Services Planning Division, and building permits from the Building Department.
- 18. The site be kept clean of all debris (boxes, junk, garbage, etc.) at all times.
- 19. Indemnification: Pursuant to Government Code Section 66474.9, the applicant (including any agent thereof) shall defend, indemnify, and hold harmless the City of San Pablo and its agents, officers, or employees from any claim to attack, set aside, void or annul, the City's approval concerning this planning application, which action is brought within the time period provided for in Section 66499.37. The City will promptly notify the applicant of any such claim, action, or proceeding and cooperate fully in the defense.

BE IT FURTHER RESOLVED that the foregoing recitations are true and correct, and are included herein by reference as findings.

\*\*\*\*\*\*

Adopted this 21s	day of March,	, $2017$ , by the	e following vote to v	wit:
------------------	---------------	-------------------	-----------------------	------

AYES:

COMMISSIONERS: Feliciano, Shi, Trujillo, Xavier

NOES:

COMMISSIONERS: None

ABSENT:

COMMISSIONERS: Inglis

ABSTAIN:

COMMISSIONERS: None

ATTEST:

APPROVED:

Michele Rodfiguez

Secretary

Chairperson

### February 28, 2017

To: Department of Alcohol Beverage Control

Re: Letter of Public Convenience & Necessity

To whom it may concern,

The owners of Ocotes Grill, LLC, a restaurant located at 1439 23<sup>rd</sup> Street, Unit A, San Pablo, are requesting TYPE 41 – Beer & Wine On-Sale General Eating Place license.

### Business purpose:

Ocotes Grill, LLC is a public eating establishment serving "bistro" styled Mexican American cuisine with table service of approximately 50 seated guests. Our restaurant will operate from 9:00 AM to 10:00 PM, Monday – Sunday, we will only be closed for special arrangements. The restaurant will have private dining area seating.

#### Products and services:

As with other restaurants of this style, both food and beverage are integral to the business plan and the overall environment of the restaurant. The recipes and menu items are prepared with consideration to the consumption of spirits, such as wines and beers to compliment the meal. We intend to provide our guests with a full range of culinary experience. In our experience, we have seen customers turn away unique, quality food due to non-sales of alcohol beverages.

# Revenue and management:

We expect that approximately 70% of revenue to come from food, 15% from alcohol, and 15% from non-alcohol beverage sales. The management of Ocotes Grill, LLC are well suited and experienced in the restaurant industry. The staff of Ocotes Grill, LLC will be well trained for food safety, and beverage service. On average we expect that 3 floor staff, 3 kitchen staff, beverage staff over the age of 21 and 2 managers will be present during operating hours. Management and beverage staff will have any required ABC training.

### Uniqueness:

Similar comparable restaurants within the area are La Selva, La Playita and La Chona additional food service establishments in the area differ fundamentally from style of service and type of cuisine. The menu selection of Ocotes Grill, LLC will differ from the comparable restaurants in the unique methods, experience and training of the chef and supporting kitchen staff.

### Positive impact:

Ocotes Grill, LLC will add to the efforts to revitalize and improve the downtown economy in several positive ways, the owner's/family of Ocotes Grill, LLC have purchased the building and have invested considerable amount in remodeling and improving the space with upgrades to the exterior and interior. This investment is a commitment to the community to provide a quality product in a safe environment. Ocotes Grill, LLC will employ 6-8 new hires, and contribute to the tax revenues of the community.

We thank you for your consideration of our application to provide alcohol sales to the guests of Ocotes Grill.

Sincerely,

Raul Ledesma Ocotes Grill, LLC

Attached: Lunch and Dinner Menu

### INFORMATION AND INSTRUCTIONS -

### **SECTION 23958.4 B&P**

Instructions This form is to be used for all applications for original issuance or premises to premises transfer of licenses.

- Part 1 is to be completed by an ABC employee, given to applicant with pre-application package, with copy retained
  in holding lile or applicant's district file.
- . Part 2 is to be completed by the applicant, and returned to ABC.
- Part 3 is to be completed by the local governing body or its designated subordinate officer or body, and returned to

PART 1 - TO BE COMPLETED	BY ABC			
RAUL LEDESMA - OCOT	ES GRILL LLC			
2. PREMISES ADDRESS (Street number and near	·		]:	3. LICENSE TYPE
1439 23RD STREET, UNI	T A, SAN PABLO, CA		ĺ	41
4 TYPE OF BUSINESS				1
X Full Service Restaurant	Hofbrau/Cafeteria	Cocktail Lounge	I	Private Club
Deli or Specialty Restaurant	Comedy Club	Night Club		Veterans Club
Cafe/Coffee Shop	Brew Pub	Tavern: Beer		Fraternal Club
Bed & Breakfast:	Theater	Tavern: Beer & Wind	е	Wine Tasting Room
,Wine only All				
Supermarket	Membership Store	Service Station		Swap Meet/Flea Market
Liquor Store	Department Store	Convenience Market		Drive-in Dairy
Drug/Variety Store	Florist/Gift Shop	Convenience Market	w/Gasoline	
Other - describe:				
5 COUNTY POPULATION	6. TOTAL NUMBER OF LICENSES	IN COUNTY	7. RATIO OF LICEN	ISES TO POPULATION IN COUNTY
		On-Sale Off-Sale		On-Sale Off-Sale
8 CENSUS TRACT NUMBER	9 NO. OF LICENSES ALLOWED IN	CENSUS TRACT	10. NO. OF LICENS	ES EXISTING IN CENSUS TRACT
		On-Sale Off-Sale		On-Sale Off-Sale
11. IS THE ABOVE CENSUS TRACT OVERCONG Yes, the number of existing licens	•		in the census tract exc	ceed the ratio of licenses to population for the entire of
No, the number of existing license	s is lower than the number allo	owed		
12. DOES LAW ENFORCEMENT AGENCY MAIN	TAIN CRIME STATISTICS?			
Yes (Go to Item #13)	No (Go to Item #20)			
13 CRIME REPORTING DISTRICT NUMBER	14 TOTAL NUMBER OF REPORTIN	NG DISTRICTS	15. TOTAL NUMBER	R OF OFFENSES IN ALL REPORTING DISTRICTS
16 AVERAGE NO OF OFFENSES PER DISTRIC	T 17 120% OF AVERAGE NUMBER	OF OFFENSES	18. TOTAL NUMBER	R OF OFFENSES IN REPORTING DISTRICT
19. IS THE PREMISES LOCATED IN A HIGH CRIM reporting districts within the jurisdiction of the loc		20% greater number of reported cris	mes than the average r	number of reported crimes as determined from all cri
Yes, the total number of offenses i	in the reporting district equals of	or exceeds the total number	er in item #17	
No, the total number of offenses in	the reporting district is lower t	han the total number in ite	m #17	
20 CHECK THE BOX THAT APPLIES (check only				
<ul> <li>a. If "<u>No</u>" is checked in both item be needed on this issue. Advise</li> </ul>	#11 <u>and</u> item #19, <u>Section 23</u> the applicant to bring this com	958.4 B&P does not apply pleted form to ABC when f	to this application iling the application	n, and no additional information will on.

- b. If "Yes" is checked in either item #11 <u>or</u> item #19, <u>and</u> the applicant is applying for a non-retail license, a retail bona fide public eating place license, a retail license issued for a hotel, motel or other lodging establishment as defined in Section 25503.16(b) B&P, or a retail license issued in conjuction with a beer manufacturer's license, or winegrower's license, advise the <u>applicant to complete Section 2</u> and bring the completed form to ABC when filing the application or as soon as possible thereafter.
- c. If "Yes" is checked in either item #11 <u>or</u> item #19, <u>and</u> the applicant is applying for an off-sale beer and wine license, an off-sale general license, an on-sale beer license, an on-sale beer and wine (public premises) license, or an on-sale general (public premises) license, advise the <u>applicant to take this form to the local governing body, or its designated subordinate officer or body to have them complete Section 3. The completed form will need to be provided to ABC in order to process the application.</u>

Governing Body/Designated Subordinate Name:

### FOR DEPARTMENT USE ONLY

PREPARED BY (Name of Department Employee)

	,

#### PART 2 - TO BE COMPLETED BY THE APPLICANT (If box #20b is checked)

21. Based on the information on the reverse, the Department may approve your application if you can show that public convenience or necessity would be served by the issuance of the license. Please describe below the reasons why issuance of another license is justified in this area. You may attach a separate sheet or additional documention, if desired. Do *not* proceed to Part 3.

#### SEE ATTACHED LETTER OF STATEMENT

22.	APPI	ICANT	SIGNATURE	

23. DATE SIGNED

### PART 3 - TO BE COMPLETED BY LOCAL OFFICIALS (If box #20c is checked)

The applicant named on the reverse is applying for a license to sell alcoholic beverages at a premises where undue concentration exists (i.e., an over-concentration of licenses and/or a higher than average crime rate as defined in Section 23958.4 of the Business and Professions Code). Sections 23958 and 23958.4 of the Business and Professions Code requires the Department to deny the application unless the local governing body of the area in which the applicant premises are located, or its designated subordinate officer or body, determines within 90 days of notification of a completed application that public convenience or necessity would be served by the issuance. Please complete items #24 to #30 below and certify or affix an official seal, or attach a copy of the Council or Board resolution or a signed letter on official letterhead stating whether or not the issuance of the applied for license would serve as a public convenience or necessity.

24	24 WILL PUBLIC CONVENIENCE OR NECESSITY BE SERVED BY ISSUANCE OF THIS ALCOHOLIC BEVERAGE LICENSE?			
	Yes	No		See Attached (i.e., letter, resolution, etc.)

25 AUDITIONAL COMMENTS, IF DESIRED (may include reasons for approval or denial of public convenience or necessity)

26 CITY/COUNTY OFFICIAL NAME

27 CITY/COUNTY OFFICIAL TITLE

28. CITY/COUNTY OFFICIAL PHONE NUMBER

29 CITY/COUNTY OFFICIAL SIGNATURE

30 DATE SIGNED

# OCOTES GRILL









# **Breakfast**

Huevos con chorizo\*

Huevos con nopanes\*

Breakfast Burrito: rice, beans, cheese, scramble eggs, choice of meat: sausage, bacon, Hot link Chilaquiles\*

**Pancakes** 

Omelets: Ham & cheese, Vegetarian (tomatoe, mushroom, bell pepper, onion, cheese)\*

\*include rice and beans

guacamole and sour cream extra

# **APPETIZERS**

Nachos: Regular: Meat: Guac&Se:

Choice of meat: Chicken, Beef

Quesadillas & Empanadas: Regular: Meat:

Guac&Sc:

"Regular: cheese only

Choice of meat: Chicken, Beef

Steak fries French fries

Onion rings

# OCOTES GRILL

Agua chile Ceviche

# DINNER

Barbacoa

Carnitas

Chile Verde

Chile Colorado

Enchiladas: Choice: cheese, chicken, beef

Flautas: Choice: chicken, beef.

Carne Asada

SEAFOOD

Camarones al Mojo de Ajo

Camarones ala Diabla

Camarones ala Plancha

Pescado entero Frito

Ala Pina

\*Dinners include rice and beans Molcajetes

# **OCOTES GRILL**

# **HOUSE SPECIALITY**

Gorditas: Choice: chicharron, cheese, beans Tacos: Choice: asada, carnitas, chicken, shrimp, vegetarian.

Super Taco: asada, carnitas, chicken, shrimp, vegetarian, guacamole and sour cream.

\*super taco has one tortilla grilled and one deep fried.

Burritos: choice of meat: asada, chicken, carnitas, vegetarian (rice & beans, cheese, lettuce guac & sc extra)

\*Burritos come with rice, beans, lettuce, cheese.

Super Burrito includes Guac. & Sc.

# **WEEKENDS**

Birria Menudo Pozole

\*base on availability\*
Saturday & Sunday Brunch
From 9am-11am
Buffet Style

# OCOTES GRILL

Tortillas Made in House Fresh Daily

# **DESERTS**

Churro Flan Casero Nieve Galletas

### **DRINKS**

Sodas:

Agua Fresca:

Beer: Imported: Modelo, Corona

Domestic: Budlight, shocktop,pilsner

Tap: Modelo, Coors light

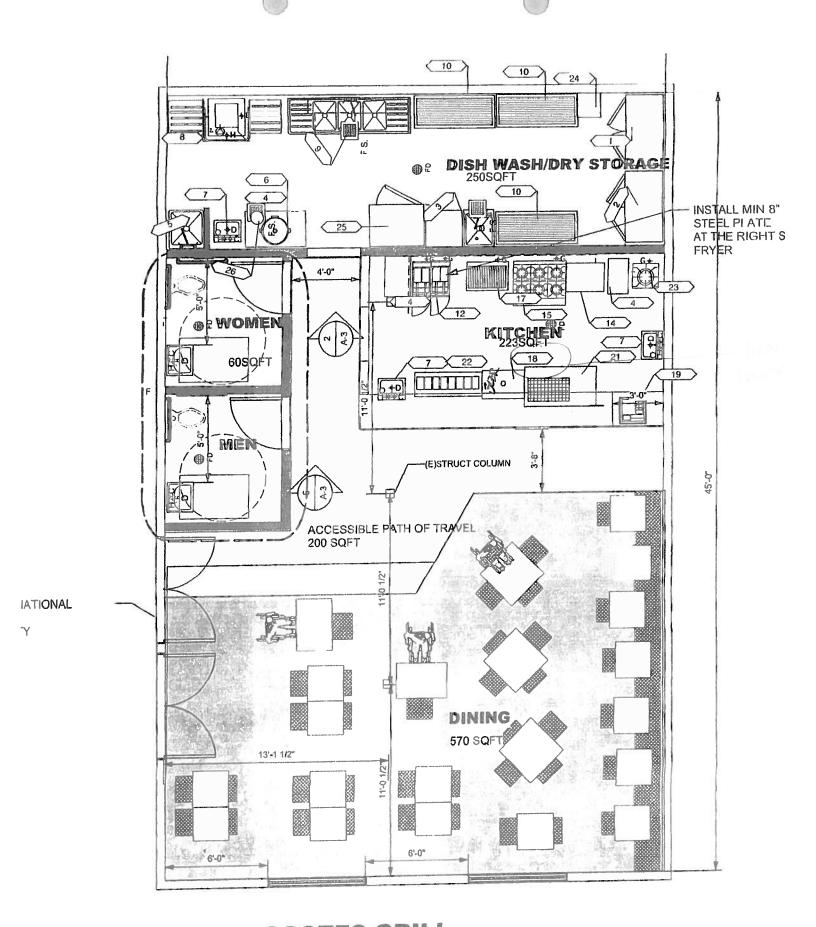
Wine: House wine

Chardonnay

Cabernet Sauvignon

# Menu ocotes grill

	*	



OCOTES GRILL 1439 23RD ST, SAN PABLO, CA

# EQUIPMENT SCHEDULE- OCOTES GRILL

#	EQUIPMENT	MANUFACT	MODEL#	CASTER	ACCESSARY
1	REACH IN FREEZER	TRUE	T-49F		
2	REACH IN REFRIGERATOR	TRUE	T-35		
3	PREP SINK	GSW	SE1818R		
4	S/S TABLE	GSW	WTE3048		
5	MOP SINK	GSW	IP1826		
6	RICE COOKER	TOWN	RM55		
7	HAND SINK	GSW	HS1615SS		
8	DISH WASHING MACHINE				
9	3 COMPARTMENT SINK	GSW	SH24243C		GSW AA FAUCET
10	WIRE SHELF	GSW	WSC1848		
11					
12	DEEP FRYER	PITCO	35C	YES	DORMONT
13					
14	GRIDDLE	SOUTHBEND	HDG24	YES	DORMONT
15	6 BURNER	SOUTHBEND		YES	DORMONT
16					
17	CHARBROILER	SOUTHBEND	HDC-36	YES	DORMONT
18	BEER TOWER	TRUE	TDD2		
19	CASH REGISTER	BY OWNER			
20					
21	SANDWICH TABLE	TRUE	TSSU4512	YES	
22	STEAM TABLE	EAGLE	DI-174		
23	STOCK POT	WOLF	WSPR1		
24	EMPLYEE'S LOCKER	GSW	EL6DR		
25	BAVARAGE COOLER	TRUE	GDM41LD		
1	EXAUST FAN FOR TYPE I HOOD				
KEF 2	EXAUST FAN FOR TYPE II HOOD				