

# PLANNING & REDEVELOPMENT DEPARTMENT STAFF REPORT PLANNING COMMISSION MEETING May 8, 2008

Prepared by: Eileen Bruggeman, Project Planner

ITEM V-A:

DESIGN REVIEW PERMIT, CONDITIONAL USE PERMIT, & ADMINISTRATIVE PERMIT – 9501 FAIRWAY DRIVE – HRNSP PACRL 45B, NIKO SPORTS BAR - FILE# 2006PL-080 (DRP-000124, CUP-000027, & AP-000048).

# **REQUEST**

The applicant requests approval of a Design Review Permit to allow the construction of a two-story, 17,544 square foot restaurant and nightclub, a Conditional Use Permit to allow operation of a nightclub use in a Community Commercial zone, and an Administrative Permit for a reduction in required parking based on shared parking.

Applicant – Jamie Cobabe and Jerry Aplass, Burrell Consulting Property Owner – Mike Alizadeh, Capitol City Restaurant

# **SUMMARY RECOMMENDATION**

The Planning Department recommends that the Planning Commission:

- A. Adopt the Mitigated Negative Declaration:
- B. Adopt the four (4) findings of fact for the Design Review Permit;
- C. Approve the Design Review Permit with 93 conditions of approval;
- D. Adopt the three (3) findings of fact for the Conditional Use Permit;
- E. Approve the Conditional Use Permit with eight (8) conditions of approval;
- F. Adopt the thee (3) findings of fact for the Administrative Permit; and,
- G. Approve the Administrative Permit with three (3) conditions of approval.

#### **ISSUES SUMMARY**

There are no outstanding issues associated with this request. The applicant has reviewed and is in agreement with all recommended conditions of approval. Key issues of concern related to the request and addressed in the Evaluation sections include:

- Appropriateness of proposed nightclub location The site is one of the few locations that has direct freeway access, in a zone district that conditionally permits nightclubs, and is also outside of the required 500-foot buffer surrounding residential uses (nearest residence is over 1,000 feet away);
- Public safety concerns associated with nightclubs Through the Conditional Use Permit and the
  Public Dance Permit that is renewed annually the owner will be required to follow the provisions of an
  Operational Plan that has been coordinated with the Police Department and will be revised as needed;
- **Noise** The owner rotated the building 180° to be able to comply with City of Roseville noise level standards; and
- Adequate parking The nightclub will operate after the closing times of surrounding commercial uses, making 695 parking spaces available.

# **BACKGROUND**

**Project Location:** The proposed project is within the Fairway Common I shopping center located on the southwest corner of Five Star Boulevard and Fairway Drive (Attachment 1). The shopping center is within the Highland Reserve North Specific Plan (HRNSP), Parcel 45B. The subject site is Pad B (Figure 1), which is a 2.14-acre, rough graded pad, located in the northwest corner of the shopping center. The remainder of the center has been developed with a variety of uses, including Joanne's Craft Shop, Golf Galaxy, and other retail uses. Immediately to the east of Pad B is Chuck E. Cheese (Pad A), the only restaurant within the center. The center is completed with the exception of Pad B.

Figure 1: Surrounding Uses



Entitlement History: On March 13, 2003 the Planning

Commission approved a Design Review Permit to allow the construction of seven (7) commercial buildings within Fairway Commons I, a 155,790 square foot shopping center on a 14.4-acre property. At that time the Planning Commission adopted the Negative Declaration prepared for the project. The Planning Commission also approved a Tentative Parcel Map to re-subdivide six (6) existing parcels into seven (7) parcels. A final map was never recorded.

On June 14, 2007 the Planning Commission approved a Tentative Parcel Map to create seven (7) parcels that was substantially consistent with the previously approved tentative map.

The plans approved for Fairway Commons I in 2003 included Pad B, which was anticipated to be a 10,330 square foot restaurant. On March 17, 2005 the Design Committee approved a Design Review Permit Modification to permit the construction of a 10,750 square foot restaurant on Pad B (Golden Corral). The restaurant was not constructed.

At this time the applicant is requesting entitlement approvals to permit the construction of a building on Pad B that would include a 11,700 square foot restaurant and bar on the first floor, and a 5,844 square foot (347 maximum occupancy) nightclub on the second floor.

# **PROJECT DESCRIPTION**

The current request is for a Design Review Permit to allow construction of a restaurant and nightclub to occupy the remaining pad in the center. The applicants describe the Niko Sports Bar as a "pan Asian restaurant and dance club". The downstairs will contain the restaurant and a bar area, with dancing, terrace, VIP area, and a second bar area on the upper level. The restaurant will be open from 11:00 a.m. to 10:00 p.m. seven days a week, and the dance club will be open from 9:00 p.m. to 2:00 a.m. Wednesday through Saturday.

A detailed Operational Plan for the nightclub component of the building has been developed in conjunction with the applicants, owner, facility manager, and Police and Planning Department staff (Exhibit B). The Operational Plan covers all facets of the facility's operations, including internal and external security, hours of operations, the type of entertainment to be provided, a parking plan, special events, and ongoing communication with City departments. The Operational Plan has been designed to serve as a governing document on which to base approval of the Conditional Use Permit. Rather than impose multiple conditions of approval to address operational characteristics of the club, the CUP will be conditioned to comply with the Operational Plan. Since the typical hours of operations are beyond normal City business hours, the Police Department will be the primary department responsible for enforcement of the Operational Plan. With this in mind, the Police Department has included all necessary measures into the Operational Plan to ensure the orderly operation of the facility and safety of its patrons, while reducing patrol resources necessary to respond to calls for service.

With implementation of the Operational Plan, the Police and Planning Departments believe impacts to surrounding properties and public safety services will be minimized. Additional detail of the Operational Plan is provided in the Conditional Use Permit evaluation below.

Parking requirements for nightclubs and bars are based on maximum occupancy as defined by the Building Code, and are typically a higher parking requirement than other commercial uses such as retail or restaurant uses. The nightclub would operate primarily after closure of the downstairs restaurant component and the surrounding uses within the Fairway Commons I shopping center. Based on the proposed operational hours there would be adequate parking during operation of the nightclub. Therefore, an Administrative Permit is requested to authorize the parking reduction based on shared use of the shopping center parking during nightclub operations.

# SITE INFORMATION

- **A. Roseville Coalition of Neighborhood Associations (RCONA)**: RCONA #37, Stanford the Stanford Neighborhood Association is currently inactive, with a designated contact person. Although there is not an actively functioning neighborhood association in the project vicinity, the applicant has sought the input of neighboring businesses and property owners. The applicant's outreach efforts and comments received are discussed on pages 7-8 of this report.
- **B. Noticing Requirement:** Nightclub uses are specifically regulated by Chapter 19.49 of the Zoning Ordinance. Pursuant to the Nightclub Ordinance, notice must be provided to all property owners within a 1,000-foot radius of the property. Within the 1,000-foot radius are primarily commercial properties and Open Space, with the nearest residential property at the perimeter of the1,000-foot radius (Attachment 2, Radius Map). No comments have been received in response to the public notice.
- C. Total Acreage: ±2.14 acres
- **D. Site Access:** Access to the project will be provided by two (2) driveways on Five Star Boulevard, and a driveway on Fairway Drive shared with Home Depot.
- **E. Physical or Natural Features:** The site was previously graded during construction of the Fairway Commons I project. There are no wetlands, native oak trees or other significant natural features on the site.
- **D. Grading:** The site is flat; minimal grading is anticipated for construction of the facility.

# ADJACENT ZONING AND LAND USE

LOCATION	ZONING	GENERAL PLAN LAND USE	CURRENT USE
Site	Community Commercial/Special Area (CC/SA-HR)	Community Commercial (CC)	Vacant
North	CC/SA-HR	CC	Fairway Creek Shopping Center
South	CC	CC	Fairway Commons I
East	CC/SA-HR	CC	Toys R Us
West	CC/SA-HR	CC	Home Depot

The proposed project is consistent with the land uses contemplated by the City's General Plan, and the Zoning Ordinance.

Development Standard	Required	Proposed
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Development Standard	Required	Proposed	
Building Setbacks -	None	30' from Fairway Drive	
Landscape Setbacks	30'	30'	
Building Height Limit	50' maximum	47'-4" to top of highest element	
Darking Space (total)	665 entire center with 1 <sup>st</sup> floor restaurant only	695	
Parking Spaces (total)	800 entire center with the restaurant & Nightclub*		
Bicycle Spaces	10	10	

<sup>\*</sup>Reduction in parking requirements is discussed further in the evaluation of the Administrative Permit.

# PROJECT DESIGN FEATURES

See attached Site Plan (Exhibit C); Grading Plan (Exhibit D); Landscape Plan (Exhibit E); Building Elevations (Exhibits F-H); Building Occupancy Plans (Exhibits I and J); and reduced color elevations (Attachments 3-6).

#### **EVALUATION**

The evaluation section of this report will first analyze the Conditional Use Permit, followed by the Administrative Parking Reduction, then end with the Design Review Permit. The CUP is discussed first, as it will determine if the use can operate on the site appropriately. If the use is found appropriate, it will then need to be determined if the project can function with the requested parking reduction. Lastly, the DRP will be analyzed for consistency with the applicable design guidelines. In review of each section, it should be recognized that aspects of each entitlement may overlap and be related to aspects of the associated entitlements. Lastly, for the project to proceed, all three entitlements must be approved. Should the Commission find it appropriate to deny one entitlement, then all of the entitlements should be denied.

#### **CONDITIONAL USE PERMIT**

By their definition, conditionally permitted uses are discretionary and are typically applied to uses that have the potential to have an adverse impact on surrounding uses. In an effort to address potential adverse impacts of the project, the Operational Plan (Exhibit B) incorporates measures and procedures to ensure compatibility with surrounding uses.

Conditional Use Permits are evaluated for consistency with the City's General Plan, conformance with the City's Zoning Ordinance, and potential for impacts to the health, safety and welfare of persons who reside or work in the area. Specifically, the Planning Commission must make the three findings listed below in **bold italics** to approve the Conditional Use Permit. Additionally, the Zoning Ordinance [Section 19.49] establishes general standards for nightclubs. An analysis of the project follows each finding of the CUP and standards of Section 19.49:

#### 1. The proposed use is consistent with the City of Roseville General Plan.

Land Use Designation: The subject property is designated Community Commercial (CC) in the General Plan. The General Plan states that primary uses anticipated within the CC land use designation include retail stores and businesses selling a full range of goods and services. As a retail service business (restaurant), the proposed restaurant with a dance club is consistent with this description.

**General Plan Noise Standards:** Restaurant uses typically generate low to moderate noise levels through the use of mechanical equipment such as roof top air conditioning units. The project includes an upstairs nightclub with bar, outdoor terrace, dancing and amplified music. The nightclub component will operate Wednesday through Saturday, from 9 pm to 2 am. The General Plan contains noise standards that are intended to protect residential properties (and other sensitive receptors) from the effects of excessive noise. Table IX-3 of the General Plan Noise Element establishes performance standards for non-transportation noise sources as measured at the property line of noise sensitive uses. The standards are:

Noise Level Descriptor	Daytime (7 am to 10pm)	Nighttime (10 pm to 7am)
Hourly Leq dB	50	45
Maximum level L <sub>max</sub> , dB	70	65

Each of the above noise levels should be lowered by five (5) dB for simple tone noises, which include music, resulting in nighttime standards of hourly 40 dB Leq, and maximum 60 dB Lmax.

The City established through adoption of the Noise Ordinance the C-weighted noise level criteria for evaluating noise impacts associated with amplified music (Roseville Municipal Code 9.24.110).

Noise Level Descriptor	Daytime (7 am to 10pm)	Nighttime (10 pm to 7am)
L <sub>eq</sub> , A weighting dBA	50	45
L <sub>eq</sub> , C weighting dBC	75	70
One-third octave band	10 dB increase in any one-third octave band	

The nearest sensitive noise receptors to the Niko Sports Bar site are residents of the single family residences in Highland Reserve North, with the closest residence approximately 1,000 feet to the north of the project site (Attachment 2).

The applicant had a noise analysis prepared to analyze potential noise levels associated with the proposed upstairs outdoor terrace. Initial results indicated the nightclub as originally proposed with the terrace oriented north, towards Fairway Drive, would not comply with City of Roseville noise standards. It was anticipated that noise would be generated by the speech of 75-85 people congregating on the terrace, from music inside the dance area when an operable partition to the terrace would be open, and when doors open connecting the terrace to the interior lounge area.

The applicant submitted revised exhibits that rotated the building 180° to orient the terrace portion of the building towards the interior of the shopping center, and the source of noise away from the residences.

The analysis based on the revised building orientation concluded the project would comply with the City of Roseville exterior noise level criteria (Attachment 7). Other factors included the amount of distance to the nearest residence, and shielding due to the intervening commercial uses between the Niko Sports Bar and the residences. The Noise Analysis predicts noise levels of the Niko nightclub will generate noise levels of 39.5 dB Leq at the nearest residence, which would comply with the City's maximum standard of 40 dBA Leq nighttime exterior noise level standard. It is also anticipated the

noise level due to amplified sound will be 62.3 dBC Leq at the nearest residential uses. This level would comply with the City of Roseville 70 dBC Leq exterior noise level standard.

Certain assumptions were made by the noise consultant to reach these conclusions. To ensure that the facility complies with the General Plan and Noise Ordinance performance standards, the Planning Department has included the measures listed below as Mitigation Measures in the environmental document and as project Conditions of Approval (CUP Conditions 4-6, and DRP Conditions of Approval 82 and 83):

- Live music or speakers shall not be used in the Terrace Lounge area.
- All exterior windows and doors which have a direct path to areas where amplified or live music occurs shall have an STC rating of 35.
- Gypsum board on interior walls in areas where amplified or live music is used shall be hung on resilient channels.
- All exterior doors and windows on the club shall remain in the closed position during dance hours, with the exception of the Terrace Lounge doors, and as needed during patron entry or exit of the Niko Sports Bar.

The project is consistent with uses allowed within the General Plan Land Use designation, and measures are required to ensure compliance with the noise standards established in the City's General Plan. If following commencement of operations it is found that the noise levels during nightclub operation do not comply with the General Plan standards and Noise Ordinance criteria additional noise attenuation will be required of the applicant by City staff. Additional noise attenuation may be accomplished through either change in operations and/or additional building modifications, as warranted to comply with City standards. At that time compliance will be enforced through Code Enforcement procedures, and if necessary through modification or revocation of the Conditional Use Permit by the Planning Commission.

# 2. The proposed use conforms to all applicable standards and requirements of the City of Roseville Zoning Ordinance.

**Community Commercial Zone Consistency:** The subject parcel was zoned and granted land use with the adoption of the Highland Reserve North Specific Plan (June 7, 1997) to accommodate commercial development. The property has a Specific Plan land use designation and was zoned Community Commercial/Special Area (CC/SA-HR), with a General Plan land use designation of Community Commercial (CC). The proposed primary use as a restaurant is consistent with the CC/SA-HR zone designation.

According to the City's Zoning Ordinance the nightclub component of the use is defined as a conditionally permitted use in the Community Commercial (CC) zone district. As a result, the project requires approval of a Conditional Use Permit (CUP). Since a CUP is required, additional restrictions can be placed on the operating characteristics of the use in order to ensure its compatibility with surrounding uses. In this case, the project proponent has prepared an Operational Plan for the Niko Sports Bar with input from the City of Roseville Police and Planning Departments. Components of the Operational Plan and how it addresses public safety and compatibility with surrounding uses is discussed further below (Use Compatibility Considerations).

The proposed hours of operation result in the facility primarily being used while other businesses in the center are closed. An analysis of the uses within the center and business hours is provided as Attachment 8. Due to the off-peak nature of the proposed nightclub, it is determined that the facility is consistent with the Community Commercial zoning.

**Nightclub Standards:** The Zoning Ordinance section adopted in 1996 established a standard that nightclubs are not permitted within 500 feet of a residential area as measured from the residential zone district boundary to the structure where the nightclub is proposed (RMC 19.49.030).

Attachment 9 (Nightclub Determination Map) indicates the 500-foot buffer surrounding all residential areas, and areas with zoning district designations that do not permit Nightclubs (i.e., Business Professional, Neighborhood Commercial, Highway Commercial, Park and Recreation, Open Space, Public/Quasi-Public, and Urban Reserve districts). The clear areas indicate areas where, pursuant to the current Zoning Ordinance, entitlements could be requested to permit a nightclub use.

The proposed location of the Niko Sports Bar is indicated on Attachment 9. The proposed location as previously noted is within the Community Commercial zone where nightclubs are a conditionally permitted use, and the proposed site is outside of the 500-foot buffer of the nearest residential boundary (the nearest residence is approximately 1,000 feet away). As such, the proposed use is consistent with the nightclub ordinance.

**Parking:** A summary of the typical hours of operation of the other businesses within the shopping center were provided that indicates the nightclub will operate primarily after closing of the surrounding businesses (Attachment 8). The nightclub parking requirement after hours is 252 spaces. The proposed site plan will remove eleven (11) parking stalls from the shopping center, resulting in a total of 695 available parking spaces. Following closure of the other commercial businesses the parking spaces will become available for use by nightclub patrons.

A detailed analysis of the parking reduction is provided in the Administrative Permit evaluation section below. With approval of the parking reduction, the project will comply with the City's parking requirements.

3. The location, size, design and operating characteristics of the proposed use is compatible with and shall not adversely affect or be materially detrimental to the health, safety, or welfare of persons residing or working in the area, or be detrimental or injurious to public or private property or improvements.

**Use Compatibility Considerations – Commercial Center:** The restaurant portion of the building will operate seven days a week from 11:00 a.m. until 10 p.m. The Operational Plan specifies the nightclub will operate from 9:00 p.m. to 2:00 a.m. on Wednesday, Thursday, Friday and Saturday nights.

The surrounding retail businesses are typically closed by 9:00 p.m. with the exception of Chuck E. Cheese, which will remain open until 10:00 p.m. Sunday – Thursday, and until 11:00 p.m. Friday and Saturday (Attachment 8).

Operation of the nightclub will overlap with the downstairs restaurant for approximately one (1) hour, and will overlap with Chuck E. Cheese for one (1) hour on Wednesday and Thursday, and for two (2) hours on Friday and Saturday.

The Conditional Use Permit Conditions of Approval include **Condition 2** that requires compliance with all aspects of the Operational Plan. The Operational Plan includes provisions to address operational features of the nightclub that could potentially be incompatible with adjacent uses, such as Chuck E. Cheese. Such protective provisions in the Operational Plan include:

- External security personnel will patrol the surrounding parking areas and be at the entrance of the nightclub;
- Customers waiting to enter the nightclub will wait inside the building in the downstairs bar area, removing problems associated with people queuing outside the building or in the parking lot;
- Bathroom facilities will be provided that meet and exceed Building Code requirements for nightclubs by keeping the downstairs bathrooms available in addition to the upstairs bathrooms; and
- A clean up crew will complete clean up of the surrounding complex common areas and parking areas by 7:30 a.m.

Since the facility will operate primarily when the other businesses are closed (with the exception of the restaurant and Chuck E. Cheese), staff does not anticipate conflicts between the proposed facility and the existing tenants of the center. Following 9:00 p.m. the 695 space parking lot will gradually become entirely available for the three (3) remaining open uses.

However, staff observations indicate in the evening the patrons of Chuck E. Cheese primarily park in the area directly between Chuck E. Cheese and the Niko Sports Bar (Attachment 10). The Niko Sports Bar is proposing to remove six (6) parking stalls on the southeast side of the building to potentially provide valet services. Staff recommends inclusion of Conditional Use Permit Condition #7 to require that if the Planning Director determines that there are conflicts due to competition for parking spaces, then the Niko Sports Bar owner will agree to offer valet services on days and during hours as directed by the Planning Director to reduce the parking conflicts with adjacent uses.

If there are unforeseen conflicts between the nightclub and surrounding uses, the Operational Plan can be revised as needed through concurrence by the owner, the Police and Planning Departments to address operational issues.

**Use Compatibility Considerations – Residential Neighborhood Concerns:** The project proponents sent letters providing project information to surrounding property owners, inclusive of residential properties. A meeting was hosted by the proponents on May 31, 2007. Four (4) residents attended. Their comments focused on potential impacts of the nightclub on the single family residential neighborhood north of the site (see also email received from one of the residents who attended the informational meeting, Attachment 11).

1. Safety issues, such as increase in drinking, crime and traffic from people cutting through their neighborhood – Drinking establishments can result in higher demand for police services; however, as noted recently by the Police and Chief Fire Chiefs there is a difference between establishments that cause problems, and establishments where the managers establish good relationships with the officers, manage their establishments well, and actively monitor their patrons to ensure that they do not become disorderly or drive while impaired. The Operational Plan for the Niko Sports Bar was developed through extensive coordination by the owner and manager with the Police Department; the plan addresses concerns such as crowd control, types of events, security, and hours of operation. One of the problem areas with nightclubs is crowd control of the patrons waiting to enter the facility. The owners of the Niko Sports Bar propose to keep the downstairs bar area open after closure of the restaurant to use as an enclosed waiting area for the upstairs nightclub, and to provide additional restroom facilities. As stated in the Operational Plan outside promoters of events will not be used, and a

dress code will be strictly enforced. The patrons of the nightclub will have direct access to Highway 65 and Interstate 80 via Five Star Boulevard to Galleria Boulevard.

The Operational Plan can be revised to incorporate changes deemed by the Police Department to be necessary to address public safety concerns. The owner and manager have indicated that following opening of the club there will be regular meetings with City staff to review operations to identify changes as needed. Requirements include securing a Public Dance Permit that is reviewed and renewed annually; the Dance Permit can be denied or revoked if the Police Chief deems the nightclub is operating in a manner that is not in compliance with the Operational Plan. The Planning Commission also has the ability to revoke the Conditional Use Permit approval if following holding a public hearing, the Commission determined the nightclub owners were not in compliance with the approved Conditions of Approval and Operational Plan.

- 2. Noise from the nightclub See above discussion under General Plan Noise Standards.
- 3. Visual impacts to the residences The neighbors expressed concern regarding views of the two-story building. A line of sight analysis was prepared by the applicants to indicate how much of the building may be visible to residents on Kings Canyon and Big Bend Drive (Attachment 12). The drawing does not include commercial buildings within the Fairway Creek Shopping Center, which are approximately 20-feet in height. It is anticipated residents will see the roof and a portion of the second floor of the building, and the front elevation of the building will be visible in between the commercial buildings to a few of the residences. The design and lighting requirements of the building are addressed through the Community Design Guidelines and are discussed further under the evaluation of the Design Review Permit.
- 4. Not an appropriate location for a nightclub, it will be detrimental to the neighborhood To address concerns similar to those raised by the neighbors, standards and criteria have been established in the Roseville General Plan and the Municipal Code. To define appropriate nightclub locations the Zoning Ordinance requires a minimum 500-foot separation from residences (see above evaluation under Nightclub Standards), and conditionally permits Nightclubs in a limited number of zone districts. The General Plan and Noise Ordinance establish maximum noise levels, and noise standards specific to amplified music. Section 9 of the Municipal Code (Health and Safety) requires businesses with space for public dances to provide an Operational Plan, and to secure a Public Dance Permit that is renewed annually at the discretion of the Police Chief.

Staff believes this location is appropriate for a nightclub, and impacts to surrounding neighborhoods are addressed for the following reasons:

- This location is over 1,000-feet from the nearest residences;
- The site is within one of the few zone districts that conditionally permit Nightclubs;
- The building is surrounded by commercial properties, Open Space, and Highway 65 that provide buffering between the nightclub and residences;
- The site provides direct freeway access that will minimize traffic using alternative routes through residential neighborhoods;
- The building will be within a commercial center so that after typical retail business hours onsite parking will be available for the nightclub customers; and
- The owner and manager have worked closely with the Police Department to develop an Operational Plan that includes a schedule for future meetings to refine the Operational Plan as needed to improve public safety

**Police Department Response:** The facility is expected to generate a higher demand for police services than a typical commercial property. The Operational Plan for the Niko Sports Bar has been developed in coordination with the Police Department and strictly outlines how the facility is to be operated. The interior and exterior security plan requires a minimum number of security personnel (12), which will be off-duty uniformed police officers or bonded security guards. A designated security officer will monitor the club operations through the use of a video surveillance system with videotape recording. Cameras will be used in the parking lot and other key locations throughout the building.

A Public Dance Permit is issued by the Police Department, which is required to be renewed annually. The success of the Operational Plan will be reviewed by the Police Department with the owner prior to renewal of the Public Dance Permit, and the Police Chief has the option to revoke the Dance Permit at any time based on permit violations. Securing an approved Public Dance Permit and compliance with the Operational Plan are included as CUP Conditions of Approval. The Planning Commission has the ability to revoke the CUP approval based on lack of compliance with the Conditions of Approval.

The Operational Plan and the restrictions contained therein will be incorporated as a condition of approval on the Conditional Use Permit for the project. If any aspect of the Operational Plan is not complied with or the Dance Permit is revoked, **Condition 8** of the Conditional Use Permit requires that the City initiate compliance review of the CUP, and if necessary, revoke the permit.

# **Conditional Use Permit Conclusion**

As previously stated, the Operational Plan contains a highly detailed description of how the facility is required to operate. The Police Department has held an instrumental role in the development of the Operational Plan to ensure that public health and safety will not be compromised as a result of the proposed project. Based on the previous discussion, the Planning and Police Departments conclude that the proposed nightclub will be compatible with the surrounding land uses and zoning and will not constitute a hazard to the public health, safety, or welfare. As such, staff recommends that the Planning Commission approve the request as proposed and conditioned.

#### ADMINISTRATIVE PERMIT

The Zoning Ordinance provides for the shared use of parking within centers if it can be proven that the hours of operation of different tenants/uses within a building complex will effectively allow for dual use of the parking spaces. The applicant and owner of the Fairway Commons I shopping center have applied for a parking reduction and has provided information to support the claim that the Niko Sports Bar will operate during off-peak hours when the other businesses within the center are closed.

The Zoning Ordinance lists four criteria that must be met in order to approve a Parking Reduction for Shared Use. The criteria are listed below in *italics* followed by an evaluation. In addition to the four criteria, three findings must be made for an Administrative Permit. If the four criteria for a Parking Reduction can be satisfied, the findings to approve the Administrative Permit can be made. The findings are listed under the 'Recommendation' section of the staff report.

#### **Shared Parking Reduction Criteria**

- 1. A sufficient number of spaces are provided to meet the greatest parking demand of the participating uses.
- 2. Satisfactory evidence is provided describing the nature of the uses and the times when the uses operate so as to demonstrate the lack of potential conflict between them.
- 3. Overflow parking will not impact any adjacent use.

4. Additional documents, covenants, deed restrictions or other agreements as may be deemed necessary by the Planning Director are executed to assure that the required parking spaces provided are maintained and uses with similar hours and parking requirements as those uses sharing the parking facilities remain for the life of the project.

A detailed summary of the changes in building sizes and uses, the resulting increased parking requirements, loss of parking spaces, and a listing of current parking requirements are provided in Attachment 13. A brief summary is provided below.

Original Entitlements - 2003		
Parking Provided 720		
Parking Required	<u>588</u>	
Surplus Parking Projected:		+132
Existing & Proposed Uses		
Parking Provided 695		
Required Parking for Existing Uses	548	
Required Parking for Proposed Restaurant (1st floor)	117	
Required Parking for Existing Uses & Restaurant:	665	
Surplus Parking during Retail Business Hours:		+30
2 <sup>nd</sup> Floor Nightclub & Bar Occupancy	252	
Required Parking for Existing Uses,		
Restaurant & Nightclub:	800	
*Parking Shortfall during Nightclub Operation:		-105

<sup>\*</sup>Concurrent operation of businesses creates shortfall only between hours of 9 pm to 11 pm

The Niko Sports Bar hours of operations will be required through the Conditions of Approval of the Conditional Use Permit (CUP) to comply with the hours of operation as listed in the Operational Plan, which will be:

Restaurant on 1st floor = 7 days per week, 11:00 am 10:00 pm Dancing Upstairs (nightclub) = Wednesday through Saturday, 9:00 pm to 2:00 am

The owner of the center and the Niko Sports Bar provided a list of existing tenants in the Fairway Commons I shopping center and their hours of operation (Attachment 9). The hours of the other tenants are typical retail hours ranging from 9:00 am to 9:00 pm, with the exception of the Chuck E. Cheese restaurant (10 pm Wednesday and Thursday, and 11pm on Friday and Saturday) and Total Wine & More (open to 10 pm everyday).

The operation of the Niko nightclub will be concurrent with the restaurants and Total Wine & More for one to two (1-2) hours. During that time the total parking requirement will be 572 spaces for the businesses that are open after 9pm, with 695 parking spaces available. After 11:00 pm the entire 695 space parking lot will be available to meet the 252 parking space requirement of the nightclub and bar.

Based on the hours of operation of the retail component of the center and compared to the restaurant and nightclub component of the center, the amount of available parking will be sufficient during the hours of operation of the nightclub.

However, if the upstairs nightclub portion of the building is used for restaurant uses during regular retail business hours the amount of available parking will be insufficient. The owners have previously expressed interest in making the upstairs portion available for special events such as

wedding receptions or business events. The upstairs portion has a parking requirement of 58 spaces, which exceeds the 30 space surplus currently available based on existing tenant uses. Allowing operation of the upstairs portion outside of the restricted nightclub hours of operation would result in a 17,544 square foot restaurant, which would be significantly larger than the 10,330 square foot restaurant originally anticipated for Pad B.

While it is clear there will be sufficient parking available after typical retail hours, staff is concerned that use of the upstairs portion outside of nightclub hours will cause parking conflicts within the center.

The request for a parking reduction is strictly for operation of a nightclub during the hours of operation as listed in the Operational Plan. The upstairs portion of the building could only be open for use as a restaurant or for special events during typical retail business hours if a Design Review Permit Modification and possibly a modified Conditional Use Permit is secured for a smaller building, reducing the parking demand on the center.

# **Valet Parking Operations**

The proposed plan includes removal of six (6) parking stalls on the south side of the building creating a vehicle loading area. The parking spaces that will be in highest demand are located between Niko and Chuck E. Cheese. As previously noted, Staff recommends inclusion of Conditional Use Permit Condition 7 to require that if the Planning Director determines that there are parking conflicts during operation of the nightclub, then the Niko Sports Bar owner will agree to offer valet services as directed by the Planning Director to reduce the parking conflicts. The project will utilize a for-fee valet service at the front door. The valet area will also serve as a vehicle loading area, where patrons can drop off members of their party and self-park. Vehicles being valet-parked will be parked in the spaces less used areas of the parking lot. Valets will continually direct patrons deeper into the parking lot as the lot begins to fill.

# **Administrative Permit Conclusion**

The City's parking requirement for nightclub uses results in a maximum parking demand for the Niko Sports Bar restaurant and nightclub of 369 spaces, 800 spaces total for the Fairway Commons I center where a total of 695 parking spaces will be provided. However, the nightclub only overlaps for a short period with the restaurants and Total Wine & More, and the remainder of the center will be closed making the parking lot of 695 spaces available for the majority of the time the nightclub is open. Based on our analysis, staff concludes that adequate parking is available to meet minimum ordinance requirements. Based on this, staff recommends approval of the Parking Reduction as conditioned.

# **DESIGN REVIEW PERMIT**

The evaluation of the Design Review Permit for the proposed project has been based on the applicable development standards within the City's Zoning Ordinance and the design standards of the City's Community Design Guidelines. As proposed and conditioned, the project complies with the applicable guidelines identified in the Community Design Guidelines document. The remainder of the Design Review Permit evaluation section will focus on design guidelines that warrant additional review and consideration by the Planning Commission.

#### SITE DESIGN GUIDELINES

#### **Restroom Facilities**

 A common concern with nightclubs or bars is the provision of adequate restroom facilities to avoid impacts to the parking lot and surrounding businesses. As stated previously, the downstairs bar

area and associated restrooms will remain open and available for use by nightclub customers while waiting to enter the club and after closing time.

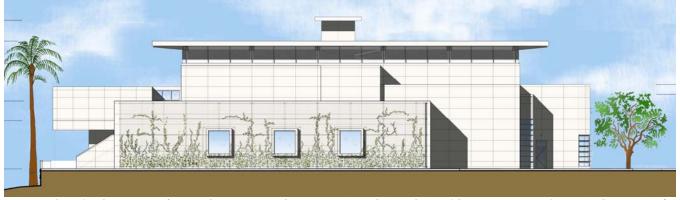
 The floor plan demonstrates the provision of the required restroom facilities per the Building Code. No change is recommended.

Elevation fronting Fairway Drive



#### **Architectural Guidelines**

- The building utilizes several different materials and finishes including metal panels, metal louvers, and board formed concrete. These materials are used on all four sides of the building. The colors will primarily be white, with the exception of the green screen on the west side.
- The architectural intention is to create a building with a unique urban, techno style. It will be unique to the other buildings in the Fairway Commons I center. In this particular case, staff does not believe that matching the architecture of the Fairway Commons I is particularly appropriate:
  - Other buildings within the center use a variety of bright colors and varying roof features to create an architecturally eclectic center; and
  - The CDG is clear to point out that unique architecture and the use of innovative materials is highly encouraged.
- Staff believes the design of the building meets the intent of providing unique architectural features and visual interest. As such, staff supports the design as proposed.



Elevation facing west (upstairs terrace is moved to right side of image, away from Fairway Dr.) Design Review Permit Conclusion

Section 19.78.060(B) of the Zoning Ordinance requires that four findings be made in order to approve a Design Review Permit. Based on the analysis contained in this staff report and with the project conditions, the required findings can be made for the proposed Design Review Permit. The four findings for approval of the Design Review Permit are contained in the Recommendation section of this report.

#### **ENVIRONMENTAL DETERMINATION**

The Roseville Planning Department prepared an Initial Study and Mitigated Negative Declaration for this project, which was posted with the City Clerk's office on April 18, 2008. The document is available for review at the Planning Department office, located at 311 Vernon Street, Roseville, CA 95678. The public review period lasts until May 8, 2008. To date, no comments on the document have been received.

#### **RECOMMENDATION**

The Planning Department recommends that the Planning Commission take the following actions:

- A. Adopt the Mitigated Negative Declaration;
- B. Adopt the three findings of fact as stated below for approval of the CONDITIONAL USE PERMIT 9501 FAIRWAY DRIVE (NIKO SPORTS BAR) FILE #CUP-000027:
  - 1. The proposed use is consistent with the City of Roseville General Plan.
  - 2. The proposed use conforms with all applicable standards and requirements of the City of Roseville Zoning Ordinance.
  - 3. The location, size, design and operating characteristics of the proposed use is compatible with and shall not adversely affect or be materially detrimental to the health, safety, or welfare of persons residing or working in the area, or be detrimental or injurious to public or private property or improvements.
- C. Approve the CONDITIONAL USE PERMIT 9501 FAIRWAY DRIVE (NIKO SPORTS BAR) FILE #CUP-000027 with eight (8) conditions of approval.
- D. Adopt the findings of fact for the ADMINISTRATIVE PERMIT 9501 FAIRWAY DRIVE (NIKO SPORTS BAR) -- FILE# AP-000048:
  - 1. The proposed use or development is consistent with the City of Roseville General Plan.
  - 2. The proposed use or development conforms with all applicable standards and requirements of this Title.
  - 3. The location, size, design and operating characteristics of the use or development is compatible with and shall not adversely affect or be materially detrimental to the health safety, or welfare of persons residing or working in the area, or be detrimental or injurious to the public or private property or improvements.
- E. Approve the ADMINISTRATIVE PERMIT 9501 FAIRWAY DRIVE (NIKO SPORTS BAR) -- FILE# AP-000048 with three (3) conditions of approval.
- F. Adopt the four findings of fact as stated below for approval of the DESIGN REVIEW PERMIT 9501 FAIRWAY DRIVE (NIKO SPORTS BAR) FILE #DRP-000124:
  - 1. The project, as approved, preserves and accentuates the natural features of the property, such as open space, topography, trees, wetlands and watercourses, provides adequate drainage for the project, and allows beneficial use to be made of the site for development.

- 2. The project site design, as approved, provides open spaces, access, vehicle parking, vehicle, pedestrian and bicycle circulation, pedestrian walks and links to alternative modes of transportation, loading areas, landscaping and irrigation and lighting which results in a safe, efficient and harmonious development and which is consistent with the applicable goals, policies and objectives set forth in the General Plan, the Community Design Guidelines, and Highland Reserve North Specific Plan.
- 3. The building design, including the material, colors, height, bulk, size and relief, and the arrangement of the structures on the site, as approved, is harmonious with other development and buildings in the vicinity and which is consistent with the applicable goals, policies and objectives set forth in the General Plan, the Community Design Guidelines, and Highland Reserve North Specific Plan.
- 4. The design of the public services, as approved, including, but not limited to trash enclosures and service equipment are located so as not to detract from the appearance of the site, and are screened appropriately and effectively using construction materials, colors and landscaping that are harmonious with the site and the building designs.
- G. Approve the DESIGN REVIEW PERMIT 9501 FAIRWAY DRIVE (NIKO SPORTS BAR) FILE # DRP-000124 with the 93 conditions listed below;

# CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT-000027:

- This Conditional Use Permit approval shall be effectuated within a period of two (2) years from this
  date and if not effectuated shall expire on May 8, 2010. Prior to said expiration date, the applicant
  may apply for an extension of time, provided, however, this approval shall be extended for no more
  than a total of one year from May 8, 2010. (Planning)
- 2. The use shall comply with all aspects of the Operational Plan for the Niko Sports Bar (Exhibit B). The activities approved in conjunction with this CUP shall be as identified in the Operational Plan. (Planning, Police)
- 3. This project will be subject to any dance permit ordinance that the City of Roseville enacts. (Police)
- 4. Live music or speakers shall not be used in the Terrace Lounge area. (Planning, Building)
- 5. All exterior doors and windows shall remain in the closed position during dance hours, with the exception of the Terrace Lounge doors, and as needed during patron entry or exit of the Niko Sports Bar. (Planning, Building)
- 6. Amplified music shall be limited to the interior of the building and shall not be played outdoors. (Planning, Building)
- 7. The Niko Sports Bar owner shall be required to offer valet services on days and during hours as directed by the Planning Director to minimize the parking conflicts, if the Planning Director determines that there are conflicts due to competition for parking spaces. (Planning)
- 8. If any aspect of the Operational Plan is not complied with or the Dance Permit is revoked, the City shall initiate a compliance review of the CUP, and if necessary, revoke the permit. (Planning)

## CONDITIONS OF APPROVAL FOR ADMINISTRATIVE PERMIT-000048:

- Approval of this Administrative Permit shall expire on the same date as the Conditional Use Permit (File #CUP-000027) and Design Review Permit (File #DRP-000124) for the Niko Sports Bar project. (Planning)
- 2. Approval of this Administrative Permit shall terminate with the Conditional Use Permit (File #CUP-000027) for the Niko Sports Bar project. (Planning)
- 3. The Operational Plan shall be revised to the satisfaction of the Planning Director prior to issuance of the Building Permit to clarify the upstairs portion of the building is not available for holding special events outside of the normal nightclub hours. (Planning, Police)

#### **CONDITIONS OF APPROVAL FOR DESIGN REVIEW PERMIT-000124:**

- 1. This design review permit approval shall be effectuated within a period of two (2) years from this date and if not effectuated shall expire on **May 8, 2010**. Prior to said expiration date, the applicant may apply for an extension of time, provided, however, this approval shall be extended for no more than a total of one year from **May 8, 2010**. (Planning)
- 2. The project is approved as shown in Exhibits C H and as conditioned or modified below. (Planning)
- 3. The applicant shall pay City's actual costs for providing plan check, mapping, GIS, and inspection services. This may be a combination of staff costs and direct billing for contract professional services. (Engineering, Environmental Utilities, Finance)
- The design and construction of all improvements shall conform to the Improvement Standards and Construction Standards of the City of Roseville, or as modified by these conditions of approval, or as directed by the City Engineer. (Engineering)
- 5. The applicant shall not commence with any on-site improvements until such time as grading and/or improvement plans are approved and grading and/or encroachment permits are issued by the Department of Public Works (Engineering)
- 6. The approval of this project does not constitute approval of proposed improvements as to size, design, materials, or location, unless specifically addressed in these conditions of approval. (Engineering)

#### PRIOR TO BUILDING PERMITS

- Parking stalls shall meet, or exceed, the following minimum standards:
  - a. All parking stalls shall be double-striped. Parking stalls adjacent to sidewalks, landscaped areas or light fixtures, and all Accessible stalls shall abut a 6" raised curb or concrete bumper. (Planning)
  - b. Standard -- 9 feet x 18 feet; Compact--8 feet x 16 feet; Accessible--14 feet x 18 feet (a 9 foot wide parking area plus a 5 foot wide loading area) and a minimum of one (1) parking space shall be Accessible van accessible--17 feet x 18 feet (9 foot wide parking area plus an 8 foot wide loading area). (Planning)
  - c. An 'exterior routes of travel' site accessibility plan incorporating slope, cross-slope, width, pedestrian ramps, curb ramps, handrails, signages, detectable warnings or speed limit signs or equivalent means shall comprise part of the site improvement plans submitted to City for review, prior to building plan check approvals. This site accessibility plan shall also include:

- Handicapped parking stalls shall be dispersed and located closest to accessible entrances.
   The total number of accessible parking spaces shall be established by Table 11-B-6 of the CBC.
- ii) Accessible Parking spaces and crosswalks shall be signed, marked and maintained as required by Chapter 11 of the CBC.
- iii) Accessible parking and exterior route of travel shall comply with CBC, Sections 1127B and 1129B. (Building)
- Signs and/or striping shall be provided on-site as required by the Planning Department to control onsite traffic movements. (Planning)
- 9. The plans submitted to the Building Department for permits shall indicate all approved revisions/alterations as approved by the Commission including all conditions of approval. (Planning)
- 10. The Landscape plan shall comply with the Highland Reserve North Specific Plan and the City of Roseville Water Efficient Landscape Requirements Resolution No. 93-55. (Planning)
- 11. The tree plantings in the parking lot shall be designed to provide a minimum of 50% shade coverage after 15 years. (Planning)
- 12. At a minimum, landscaped areas not covered with live material shall be covered with a rock, (2") bark (no shredded bark) or (2") mulch covering. (Planning)
- 13. Any roof-mounted equipment and satellite dishes proposed shall be shown on the building plans. The equipment shall be fully screened from public streets and the surrounding properties. (Planning)
- 14. At the time of building permit application and plan submittal, the project applicant shall submit a proposed plan which shows the suite addressing plan for individual tenant spaces within the building. The Chief Building Official, or the designate, shall approve said plan prior to building permit approval. (Building)
- 15. A separate **Site Accessibility Plan** which details the project's site accessibility information as required by California Title 24, Part 2 shall be submitted as part of the project Building Permit Plans. (Building)
- 16. Building permit plans shall comply with all applicable code requirements (Uniform Building Code UBC, Uniform Mechanical Code UMC, Uniform Plumbing Code UPC, Uniform Fire Codes UFC and National Electrical Code NEC), California Title 24 and the American with Disabilities Act ADA requirements, and all State and Federally mandated requirements in effect at the time of submittal for building permits (contact the Building Department for applicable Code editions). (Building)
- 17. The developer shall obtain all required approvals and permits from the Placer County Health Department. (Building)
- 18. Health and Safety Code section 19850 requires the building department of every city or county to maintain an official copy of the building plans for the life of the building. As such, each individual building shall be submitted as a separate submittal package. Building plan review, permit issuance and archiving is based on each individual building address. (Building)

- 19. For all work to be performed off-site, permission to enter and construct shall be obtained from the property owner, in the form of a notarized right-of-entry. Said notarized right-of-entry shall be provided to Engineering prior to approval of any plans. (Engineering)
- 20. The grading and improvement plans shall be designed in accordance with the City's Improvement Standards and Construction Standards and shall reflect the following:
  - a. Street improvements including, but not limited to, curb, gutter, sidewalk, pavement, drainage systems, traffic striping, signing, medians and markings, etc. along all existing and proposed City streets, as required by Engineering.
  - b. Grading shall comply with the City grading ordinance. Erosion control devices (sediment traps, ditches, straw bales, etc.) shall be shown on the grading plans. All erosion control shall be installed prior to the onset of wet weather. Erosion control is installed to minimize silt discharge from the project site. It is incumbent upon the applicant to ensure that necessary measures are taken to minimize silt discharge from the site. Therefore modification of the erosion control plan may be warranted during wet weather conditions.
  - c. A rough grading permit may be approved by Engineering prior to approval of the improvement plans.
  - d. Standard Handicap ramps shall be installed at all curb returns per City Standards. (Engineering)
- 21. The applicant shall apply for and obtain an encroachment permit from the Engineering Department prior to any work conducted within the City right-of-way. (Engineering)
- 22. A note shall be added to the grading plans that states:
  - "Prior to the commencement of grading operations, the contractor shall identify the site where the excess/borrow earthen material shall be imported/deposited. If the borrow/deposit site is within the City of Roseville, the contractor shall produce a report issued by a geotechnical engineer to verify that the exported materials are suitable for the intended fill, and shall show proof of all approved grading plans. Haul routes to be used shall be specified." (Engineering)
- 23. The grading plans shall be accompanied with engineered structural calculations for all retaining walls greater then 4 feet in height. All retaining walls shall be of either split faced masonry units, keystone type construction, or cast in place concrete with fascia treatment. (Engineering)
- 24. Prior to the approval of the Improvement Plans, the project proponent shall prepare and submit a Storm Water Pollution Prevention Plan (SWPPP) to the City, as defined by the Regional Water Quality Control Board. The SWPPP shall be submitted in a single three ring binder. Upon approval, the SWPPP will be returned to the project proponent during the pre-construction meeting. (Engineering)
- 25. "Prior to the issuance of a grading permit or approval of Improvement Plans, the grading plans shall clearly identify all existing water, sewer and recycled water utilities within the boundaries of the project (including adjoining public right of way). Existing utilities shall be identified in plan view and in profile view where grading activities will modify existing site elevations over top of or within 15 feet of the utility. Any utilities that could potentially be impacted by the project shall be clearly identified along with the proposed protection measures. The developer shall be responsible for taking measures and incurring costs associated with protecting the existing water, sewer and recycled water utilities to the satisfaction of the Environmental Utilities Director. (Environmental Utilities)"
- 26. The applicant shall pay for all applicable water and sewer fees to include Pressure Zone 4 Reimbursement fees. (Environmental Utilities)

- 27. Water and sewer infrastructure shall be designed pursuant to the adopted City of Roseville Improvement Standards and the City of Roseville Construction Standards and shall include:
  - a. Utilities or permanent structures shall not be located within the area which would be disturbed by an open trench needed to expose sewer trunk mains deeper than 12' unless approved by Environmental Utilities in these conditions. The area needed to construct the trench is a sloped cone above the sewer main. The cone shall have 1:1 side slopes.
  - b. Water, sewer and reclaimed mains shall not exceed a depth of 12' below finished grade, unless authorized in these conditions of approval.
  - c. All sewer manholes shall have all weather 10-ton vehicle access unless authorized by these conditions of approval. (Environmental Utilities)
- 28. The project shall utilize existing water and sewer service stubs on site. (Environmental Utilities)
- 29. The applicant shall provide a trash enclosure drain with connection to the grease interceptor for disposal of any spilled grease waste stored within the trash enclosure. The outside of the trash enclosure shall be graded to drain away from the enclosure walls. (Environmental Utilities)
- 30. The applicant/developer shall prepare a Transportation Systems Management (TSM) Plan for Roseville Sports Bar to be reviewed and approved by the Transportation Commission. (Transportation)
- 31. Trash enclosures, recycling areas, and enclosure approaches shall be designed to current Refuse Division specifications, the materials and colors shall match the building, and the location of such facilities shall be reviewed and approved by the Refuse Division, Planning and the Fire Department. The enclosure must have inside dimensions of 12 feet wide and 9 feet deep and be built to the specifications of the Solid Waste Department's Enclosure Description. (Refuse, Planning, Fire)
- 32. Access to trash enclosures shall have an inside turning radius of 25 feet and an outside turning radius of 45 feet must be maintained to allow the refuse truck access to and from the enclosure. Enclosures must have a clear approach of 65 feet in front of the enclosure to allow servicing bins. (Refuse)
- 33. A trash enclosure and recycling enclosure is required for each building and each tenant, otherwise, the building owner is responsible for the trash service. (Refuse)
- 34. The design and installation of all fire protection equipment shall conform to the California Fire Code and the amendments adopted by the City of Roseville, along with all standards and policies implemented by the Roseville Fire Department. (Fire)
- 35. The applicable codes and standards adopted by the City shall be enforced at the time construction plans have been submitted to the City for permitting. (Fire)
- 36. An approved access walkway shall be provided to all exterior doors and openings required by either the Uniform Fire Code or the Uniform Building Code. A concrete sidewalk or other approved hard surface will meet the intent of the access walkway requirement. Adequate space adjacent to the access walkway, vertically and horizontally, shall be provided to allow firefighters to access required building openings in order to effectively perform rescue operations, to allow for equipment maneuverability, and to safely raise ground ladders. Any landscaping adjacent to the access walkway shall be such that it does not obstruct the functional purpose of the walkway upon maturity. (Fire)

- 37. The Electric Department requires the submittal of the following information in order to complete the final electric design for the project:
  - a. one (1) set of improvement plans and AutoCAD base file.
  - b. load calculations
  - c. electrical panel one-line drawings
- 38. All on-site external lighting shall be installed and directed to have no off-site glare. Lighting within the parking areas shall provide a maintained minimum of one (1) foot candle of light. All exterior light fixtures shall be vandal resistant. (Planning & Police)
- 39. The parking lot shall have properly posted signs that state the use of the parking area is for the exclusive use of employees and customers of this project. (See California Vehicle Code Sections 22507.8, 22511.5, 22511.8, 22658(a), and the City of Roseville Municipal Code Section 11.20.110). The location of the signs shall be shown on the approved site plan. (Planning & Police)
- 40. It is the developer's responsibility to notify PG&E of any work required on PG&E facilities. (PG&E)

#### **DURING CONSTRUCTION & PRIOR TO ISSUANCE OF OCCUPANCY PERMITS:**

- 41. Any backflow preventors visible from the street shall be painted green to blend in with the surrounding landscaping. The backflow preventors shall be screened with landscaping and shall comply with the following criteria:
  - a. There shall be a minimum clearance of four feet (4'), on all sides, from the backflow preventor to the landscaping.
  - b. For maintenance purposes, the landscaping shall only be installed on three sides and the plant material shall not have thorns.
  - The control valves and the water meter shall be physically unobstructed.
  - d. The backflow preventor shall be covered with a green cover that will provide insulation. (Planning, Environmental Utilities)
- 42. The following easements shall be provided by separate instrument and shown on the site plan, unless otherwise provided for in these conditions:
  - a. A minimum 12.5 foot wide public utilities easement along all road frontages; and
  - b. Water and sewer easements. (Electric, Environmental Utilities)
- 43. Separate document easements required by the City shall be prepared in accordance with the City's "Policy for Dedication of Easements to the City of Roseville". All legal descriptions shall be prepared by a licensed land Surveyor. (Engineering, Environmental Utilities, Electric)
- 44. Easement widths shall comply with the City's Improvement Standards and Construction Standards. (Environmental Utilities, Electric, Engineering)
- 45. Inspection of the potable water supply system on new commercial/ industrial/ office projects shall be as follows:

- a. The Environmental Utilities Inspector will inspect all potable water supply up to the downstream side of the backflow preventor.
- b. The property owner/applicant shall be responsible for that portion of the water supply system from the backflow preventor to the building. The builder/contractor shall engage a qualified inspector to approve the installation of this portion of the water supply. The Building Division will require from the builder/ contractor, a written document certifying that this portion of the potable water supply has been installed per improvement plans and in accordance with the Uniform Plumbing Code. This certificate of compliance shall be submitted to the Building Division before a temporary occupancy or a building final is approved.
- c. The building inspectors will exclusively inspect all potable water supply systems for the building from the shutoff valve at the building and downstream within the building. (Building, Environmental Utilities)
- 46. The following note shall be added to the improvement plans:

To minimize dust/ grading impacts during construction the applicant shall:

- a. Spray water on all exposed earth surfaces during clearing, grading, earth moving and other site preparation activities throughout the day to minimize dust.
- b. Use tarpaulins or other effective covers on all stockpiled earth material and on all haul trucks to minimize dust.
- c. Sweep the adjacent street frontages at least once a day or as needed to remove silt and other dirt which is evident from construction activities.
- d. Ensure that construction vehicles are cleaned prior to leaving the construction site to prevent dust and dirt from being tracked off-site.
- e. The City shall have the authority to stop all grading operations, if in opinion of city staff, inadequate dust control or excessive wind conditions contribute to fugitive dust emissions. (Engineering)
- 47. The project shall be addressed as 9501 Fairway Drive. All projects with multi-tenants or buildings must submit a plot plan with building footprint(s) to the Engineering Division for building/suite addressing. (Engineering)
- 48. This project falls within the Highland Reserve North Commercial category of the Pleasant Grove Creek Watershed Flood Control Plan as determined by the Placer County Flood Control District and adopted by the City of Roseville. The project is therefore subject to a fee based on gross developed acres. (Engineering)
- 49. The applicant shall remove and reconstruct any existing damaged curb, gutter, and sidewalk along the property frontage. During plan check of the improvement plans and/or during inspection, Engineering will designate the exact areas to be reconstructed. (Engineering)
- 50. Existing public facilities damaged during the course of construction shall be repaired by the applicant, at the applicant's expense, to the satisfaction of the City. (Engineering)
- 51. All improvements being constructed in accordance with the approved grading and improvement plans shall be accepted as complete by the City. (Engineering)

- 52. The words "traffic control appurtenances" shall be included in the list of utilities allowed in public utilities easements (PUE's) located along public roadways. (Engineering)
- 53. The applicant/developer shall prepare a Transportation Systems Management (TSM) Agreement for Niko Sports Bar to be reviewed and approved by the City Manager. (Transportation)
- 54. Water, sewer and reclaimed water shall be constructed pursuant to the adopted City of Roseville Improvement Standards and the City of Roseville Construction Standards. (Environmental Utilities)
- 55. All water backflow devices shall be tested and approved by the Environmental Utilities Department. (Environmental Utilities)
- 56. The developer shall install exterior grease interceptor if the proposed business could potentially discharge any grease type product. (Environmental Utilities)
- 57. An approved automatic fire extinguishing system shall be provided for all buildings where the total fire area is 3,600 square feet or greater, as required by Roseville Fire Code Section 1003.2.2. Fire extinguishing systems installed shall conform to the minimum design standards of the Roseville Fire Code Standard 10-3. Plans and specifications shall be submitted to the Fire Department prior to system installation. Plan review and field inspection fees associated with the installation of said systems shall be paid prior to plan submittal. (Fire)
- 58. Fire extinguishing systems installed as required by Section 1003.1.1 of the City Fire Code shall have control valves and activation switches electrically supervised and monitored by an approved central alarm monitoring company. Digital alarm communicator system panels shall be installed and maintained in accordance with National Fire Protection Association Standard # 72 (Fire Alarm Code). Plan review and field inspection fees associated with the installation of said systems shall be paid prior to plan submittal. (Fire)
- 59. Fire extinguishing systems installed as required by Section 1003.1.1 of the City Fire Code shall be provided with an approved audible and visual alarm notification signal within the interior of the building to alert building occupants. Notification system shall be connected to the musical recreational entertainment system. Said alarm notification signal shall be provided throughout the building and shall be installed and maintained in accordance with National Fire Protection Association Standard #72 (Fire Alarm Code). Plan review and field inspection fees associated with the installation of said systems shall be paid prior to plan submittal. (Fire)
- 60. All buildings and structures with one or more passenger service elevators shall be provided with not less than one elevator meeting the requirements of California Building Code Section 3003.5a for emergency medical service. (Fire)
- 61. An approved project sign shall be placed at vehicle access points into the project during construction to assist emergency responders. The sign shall identify the project name and address, as approved by the City of Roseville. Such signs shall be clearly visible and legible from the street fronting the project. (Fire)
- 62. Dumpsters and trash containers with an individual capacity of 1.5 cubic yards [40.5 cubic feet] or more shall not be stored in buildings or placed within 5-feet of combustible walls, openings or combustible roof eave lines unless said areas are protected by an approved automatic fire sprinkler system in accordance with the Roseville Fire Code. (Fire)

- 63. All shrubbery, trees and signs located within center medians adjacent to site access points shall be seven feet (7') in height or lower to allow access to the site by fire apparatus. (Fire)
- 64. The approved address numbers shall be placed on each building by the applicant in such a position as to be plainly visible and legible from the street fronting the property and shall be placed as to be seen from all entrances. Proposed address numbers shall be indicated on the elevation drawings contained within the building plan submittal. The address numbers shall be contrasting in color with their background and shall be illuminated. (Fire)
- 65. The applicant shall properly identify all required fire lanes in accordance with the Fire Department Fire Lane Standard. (Fire)
- 66. Barricades shall be provided to protect any natural gas meter, fire hydrant, or other fire department control device, which may be subject to vehicular damage. Approved signs may be required to identify the location of fire protection devices. (Fire)
- 67. Automatic fire extinguishing system risers, fire alarm system panels and digital alarm communicator system panels shall be located within an approved fire control room and shall be accessible from an adjacent fire apparatus roadway. Said fire control room shall be a minimum size of thirty-five (35) square feet in size and shall be openable from the exterior via an approved door opening. (Fire)
- 68. A Knox Company Model # 4400 key box shall be located adjacent to the door opening into the fire control room for each structure to provide access to fire protection system equipment. Said box shall be mounted at 6-feet above finished grade adjacent to the door opening. Contact the Fire Prevention Division for an approved Knox Company order form. The applicant shall pay a \$25 fee associated with the inspection of the key box prior to acceptance by the Fire Department at the time of receiving the Knox Company Order Form. (Fire)
- 69. A digitized copy of the approved of the approved drawings for the project shall be submitted to the Fire Department for pre-fire purposes. Said copy shall be submitted in an approved format. (Fire)
- 70. Adequate radio coverage shall be provided within buildings for public safety agencies, as required by Roseville Municipal Code Section 16.16.210. A field test shall be provided by a person in possession of a current FCC License, or a current technician certification issued by the Associated Public-Safety Communications Officials International (APCO), or the National Association of Business and Educational Radio (NABER). The building owner shall retain all test records on the inspected premises and a copy shall be submitted to the Fire Department officials. Adequate radio coverage shall include all of the following:
  - a. A minimum signal strength of 95 dBM available in 90% of the area of each floor of the building when transmitted from the closest City of Roseville Radio Communication site.
  - b. A minimum signal strength of 95 dBM received at the closest City of Roseville Communication site when transmitted from 90% of the area of each floor of the building.
  - c. The frequency range that must be supported shall be 821-824 MHz and 866-869 MHz.
  - d. A 100 % reliability factor. (Fire, Police)
- 71. Additional internal easements will be required to cover primary electrical facilities to the project when the final electrical design is completed. (Electric)

- 72. All Electric Department facilities, including streetlights where applicable, shall be designed and built to the "City of Roseville Specifications for Commercial Construction." (Electric)
- 73. The City of Roseville Electric Department has electrical construction charges which are to be paid by the developer and which are explained in the City of Roseville "Specification for Commercial Construction." These charges will be determined upon completion of the final electrical design. (Electric)
- 74. Any relocation, rearrangement, or change of existing electric facilities due to this development shall be at the developer's expense. (Electric)
- 75. Any facilities proposed for placement within public/electric utility easements shall be subject to review and approval by the Electric Department before any work commences in these areas. This includes, but is not limited to, landscaping, lighting, paving, signs, trees, walls, and structures of any type. (Electric)
- 76. All landscaping in areas containing electrical service equipment shall conform with the Electric Department's Landscape Requirements and Work Clearances as outlined in Section 10.00 of the Departments "Specification for Commercial Construction." (Electric)
- 77. All electric metering shall be directly outside accessible. This can be accomplished in any of the following ways:
  - a. Locate the metered service panel on the outside of the building.
  - b. Locate the metered service panel in a service room with a door that opens directly to the outside. The developer will be required to provide a key to the door for placement in a lock box to be installed on the outside of the door. Any doors leading from the service room to other areas of the building shall be secured to prohibit unauthorized entry.
- 78. One 3/4" conduit with a 2-pair phone line shall be installed from the buildings telephone service panel to the meter section of the customer's electrical switchgear or panel. (Electric)
- 79. It is the responsibility of the developer to insure that all existing electric facilities remain free and clear of any obstruction during construction and when the project is complete. (Electric)

# OTHER CONDITIONS OF APPROVAL:

- 80. The applicant shall pay City's actual cost for providing plan check, installation, and inspection services. This may be a combination of staff costs and direct billing for contract professional services. (Engineering, Environmental Utilities)
- 81. All existing public utility, electric, water, sewer and reclaimed water easements shall be maintained unless otherwise authorized by these conditions of approval. (Electric, Engineering, Environmental Utilities)
- 82. The project shall comply with all required environmental mitigation identified in the Mitigated Negative Declaration as stated below:
  - a. Prior to plan submittal, the project architect shall incorporate all noise attenuating measures as identified in the conclusion of the noise study (Attachment 7) as follows:

- 1. Live music or speakers shall not be used in the Terrace Lounge area;
- 2. All exterior windows and doors which have a direct path to areas where live or amplified music occurs shall have an STC rating of 35;
- 3. Gypsum board on interior walls in areas where amplified or live music is used shall be hung on resilient channels; and
- All exterior doors and windows shall remain in the closed position during dance hours, with the exception of the Terrace Lounge doors, and as needed during patron entry or exit of the Niko Sports Bar.
- b. Prior to the issuance of a building permit, the project architect shall certify in writing that all recommended noise attenuation measures have been incorporated into the project design. (Planning, Building)
- 83. Amplified music shall be limited to the interior of the building and shall not be played outdoors. (Planning)
- 84. Signs shown on the elevations are not approved as part of the Design Review Permit. A Sign Permit is required for all project signs. (Planning)
- 85. The parking lot striping and signing shall be maintained in a visual and legible manner. (Planning)
- 86. Following the installation of the landscaping, all landscape material shall be maintained in a healthy and weed free condition; dead plant material shall be replaced immediately. All trees shall be maintained and pruned in accordance with the accepted practices of the International Society of Arboriculture (ISA). (Planning)
- 87. The required width of fire apparatus access roads shall not be obstructed in any manner, including the parking of vehicles. Minimum required widths and vertical clearances established by the Fire Code shall be maintained at all times during construction. Closure of accesses for fire apparatus by gates, barricades and other devices shall be prohibited unless approved by the Fire Chief. (Fire)
- 88. Temporary aboveground storage tanks may be used at construction sites for diesel fuel only and shall not exceed 1,000 gallon capacity. Tanks shall comply with all provisions found within the Fire Code. A Fire Department Permit shall be obtained prior to tank installation. The permit shall expire after 90 days from the date of issuance, unless extended by the Fire Chief. (Fire)
- 89. If site survey or earth moving work results in the discovery of hazardous materials in containers or what appears to be hazardous wastes released into the ground, the contractor or person responsible for the building permit must notify the Roseville Fire Department immediately. A representative from the Fire Department will make a determination as to whether the incident is reportable of not and if site remediation is required. (Fire)
- 90. The location and design of the gas service shall be determined by PG&E. The design of the gas service for this project shall not begin until PG&E has received a full set of City approved improvement plans for the project. (PG&E)
- 91. The project is subject to the noise standards established in the City's Noise Ordinance. In accordance with the City's Noise Ordinance project construction is exempt between the hours of seven a.m. and seven p.m. Monday through Friday, and between the hours of eight a.m. and eight p.m. Saturday and Sunday. Provided, however, that all construction equipment shall be fitted with factory installed

muffling devices and that all construction equipment shall be maintained in good working order. (Building)

- 92. The developer (or designated consultant) shall certify that the building foundation location has been placed according to all approved setback requirements shown on the approved site plan. The developer shall prepare a written statement confirming building placement and provide an original copy to the City Building Department Field Inspector at the time of or prior to the foundation inspection. (Building)
- 93. Prior to Certificate of Occupancy, the applicant may apply for a Temporary Occupancy (TO) of the building. If a TO is desired, the applicant must submit a written request to the Building Division a minimum of thirty (30) days prior to the expected temporary occupancy date and shall include a schedule for occupancy and a description of the purpose for the Temporary Occupancy. (Building)

# **ATTACHMENTS:**

- 1. Location Map With 500-Foot Residential Buffer
- 2. Radius Mailing Map
- 3. East color elevation
- 4. North color elevation
- 5. South color elevation
- 6. West color elevation
- 7. Noise Analysis, dated February 15, 2008
- 8. Hours of Operation of Surrounding Commercial Uses
- 9. Nightclub Determination Map
- 10. Fairway Commons I Parking Lot Photos
- 11. Resident Email
- 12. Visual Line of Sight Analysis
- 13. Parking Requirements Summary

### **EXHIBITS**:

- A. Initial Study and Mitigated Negative Declaration
- B. Operational Plan
- C. Site Plan
- D. Grading Plan
- E. Landscape Plan
- F. Building Elevation
- G. Building Elevation
- H. Building Elevation
- I. 1<sup>st</sup> Floor Plan Occupant Load Calculations
- J. 2<sup>nd</sup> Floor Plan Occupant Load Calculations

Note to Applicant and/or Developer: Please contact the Planning Department staff at (916) 774-5276 prior to the Commission meeting if you have any questions on any of the recommended conditions for your project. If you challenge the decision of the Commission in court, you may be limited to raising only those issues which you or someone else raised at the public hearing held for this project, or in written correspondence delivered to the Planning Director at, or prior to, the public hearing.