

City of Norfolk's
Statement of Proposed Special Exception
Revocation for California Burrito, 319 Granby Street, Suite 319

California Burrito is an entertainment establishment with alcoholic beverages located at 319 Granby Street, Norfolk, Virginia. Through California Burrito, LLC, Miguel Roldan is the owner and operator of California Burrito and the holder of a Special Exception adopted June 13, 2017, under Ordinance No. 46,858 (Exhibit 1). The Special Exception requires adherence to specific conditions contained therein and also requires compliance with all other applicable laws and ordinances.

The Special Exception is conditioned upon operating hours of 11 am to 2 am the following morning, with a total occupancy, including employees, of 49 people. It permits entertainment from a disc jockey and live bands with a dance floor.

On October 30, 2020, the Norfolk Fire Marshal counted the occupancy at California Burrito as 131—82 people over the limit. The Fire Marshal did not issue a summons, but organized a meeting for Miguel Roldan with the Fire Marshal, Neighborhood Development, Zoning, the Norfolk Police Department, Virginia ABC, Norfolk Building and Electrical Inspectors, and the local Norfolk Health Department. Electrical found many violations and expired permit issues at California Burrito, and the Fire Marshal issues a red tag for the 150 amp disconnect. There was no GCFI extension cord, there were unsecure open wiring connections without junction boxes, and television and fan cords exposed and run through the ceiling, portable power strips used for coolers, receptacle covers that were not bolted, improper fan installation, circuits installed without permits or inspection, and receptacles near

sinks without GCFI protection. In the meeting, the parties discussed the improper use of firepits for outside dining, that there was no fire or security plan, that the security cameras were not working, that the business was not complying with Covid-19 pandemic regulations or signage from the Governor's executive orders, that no one was keeping a count at the entrance, as well as food safety issues.

On May 20, 2021, Miguel Roldan applies for a Conditional Use Permit—Nightclub at the same location for “California Burrito/The Back Social Club.” This application was meant to operate with a total occupancy of 99, an increase from 49.

On June 3, 2021, Miguel Roldan failed to have all of his managers appear virtually for a meeting with the Business Action Team, including representatives from the City government and outside partners such as Health and Virginia ABC. He was given another chance to have them attend and a subsequent follow-up meeting was held on July 1, 2021.

On July 17, 2021, the Fire Marshal issues a summons to Miguel Roldan for overcrowding. The Fire Marshal inspector noticed a large crowd outside of California Burrito with a security guard at the side of the restaurant counter inside checking patron identification. The patrons were moving from the restaurant counter area at the front of the building to the back, to The Back Social Club. The inspector asked the security guard for the count, and the hand counter showed 77 patrons in the back. No count was maintained for the front restaurant counter area or employees. Two Fire Marshal inspectors did a head count, finding a total of 78 patrons and 5 employees in the back, and 5 employees and 20 people in line for entry in the front of

the establishment, for a total occupancy of 108—59 over occupancy. The security guard told the Fire Marshal inspector that the owner, Miguel Roldan, had told him that they could go to 100 persons.

On August 31, 2021, the summons for overcrowding was nolle prosequied in court while Mr. Roldan had a pending Conditional Use Permit application to increase his occupancy for California Burrito/The Back. This application was before the Planning Commission for public hearing on January 27, 2022. Planning Commission recommended denial. On March 8, 2022, City Council denied the ordinance granting a Conditional Use Permit for California Burrito and The Back Social Club.

Meanwhile, on February 26, 2022, the Fire Marshal issued another summons to Miguel Roldan for overcrowding at California Burrito, but the Fire Marshal did not notify the City Attorney. On June 29, 2022, this summons was dismissed in Norfolk General District Court since the Fire Marshal inspector who wrote the summons did not appear for the hearing.

On July 31, 2022, another summons was issued for failure to maintain count. Miguel Roldan was on site and at the front of California Burrito with security. There was a line at the front and security was not sure of the count and stated that inside security had the count. Inside security stated that the count was 49. The Fire Marshal inspector used handheld counting device to count and determined the occupancy was 56. Miguel Roldan had 10 people leave to come into compliance, and a summons was issued that is pending for September 27, 2022.

For these reasons, the City proposes that the Special Exception be revoked.

05/24/2017 lds

Form and Correctness Approved: *RAF*

EXHIBIT 1

Contents Approved. *aw*

By *Alvin Daulton*
Office of the City Attorney

By *[Signature]*
DEPT

NORFOLK, VIRGINIA

ORDINANCE No. 46,858

C-3

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN ENTERTAINMENT ESTABLISHMENT WITH ALCOHOLIC BEVERAGES KNOWN AS "CALIFORNIA BURRITO" ON PROPERTY LOCATED AT 319 GRANBY STREET, SUITE 319

- - -

BE IT ORDAINED by the Council of the City of Norfolk

Section 1 - That a Special Exception is hereby granted to California Burrito, LLC authorizing the operation of an entertainment establishment with alcoholic beverages known as "California Burrito" on property located at 319 Granby Street. The property which is the subject of this Special Exception is more fully described as follows

Property fronts 55 feet, more or less, along the western line of Granby Street beginning 218 feet, more or less, from the southern line of West Freemason Street and extending southwardly; premises numbered 319 Granby Street, suite 319

Section 2 - That the Special Exception granted hereby shall be subject to the following conditions

- (a) The hours of operation for the establishment, for the sale of alcoholic beverages, and for entertainment shall be limited to 11 00 a m until 2 00 a m the following morning seven days per week. No use of the establishment outside of the hours of operation listed herein shall be permitted
- (b) The seating for the establishment shall not be less than 33 seats indoors, shall not be more than 4 seats outdoors, and the total occupant capacity, including employees, shall not exceed 49 people
- (c) No entertainment shall be permitted anywhere outside the building

- (d) No smoking shall be permitted anywhere in the outdoor dining area. Signage notifying patrons of this restriction shall be conspicuously posted.
- (e) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation or management of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier. Notwithstanding the above, no violation of this condition shall be deemed to have occurred if the only change in management is a result of one or more of the members of the management team identified in the Description of Operations ceasing to work at the establishment.
- (f) Entertainment shall be limited to live bands having no more than five (5) members, disc jockey, karaoke, comedian, and poetry reading. No other form of entertainment is permitted.
- (g) The dance floor shall not exceed 268 square feet and shall be located as indicated on the basic floor plan attached hereto and marked as "Exhibit B." The dance floor shall be constructed of a different material than the primary floor material.
- (h) The layout of the establishment shall adhere to the specifications of the floor plans attached hereto and marked as "Exhibit B."
- (i) No door to the establishment which opens onto or faces a public right-of-way shall be propped open during any time that entertainment is being provided.
- (j) The establishment shall maintain a current, active business license at all times while in operation.
- (k) The establishment shall remain current on all food and beverages taxes and business personal property.

taxes which may become due while it is in operation

- (l) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so as to keep such areas free of litter, refuse, and both solid and liquid waste
- (m) The establishment shall maintain a designated driver program which shall provide, at minimum, that designated drivers may be served non-alcoholic beverages at no charge. The establishment shall describe the program in writing and its availability shall be made known to patrons via either a printed card placed on each table and on the bar or a description printed on the menu
- (n) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar
- (o) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern
- (p) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from

requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law

- (q) Neither the establishment nor any portion of it shall be leased, let, or used by any third party to stage an event for profit. No outside promoter shall be permitted to use, operate, rent, or host any event on the premises.
- (r) An ABC manager, employed and compensated by the applicant, shall be present at all events held on the premises. This manager shall supervise the event at all times. The ABC manager shall be present on the premises at least one hour prior to the beginning of the event and shall remain on the premises until the event is concluded and the establishment is secured and locked. If alcohol is not served or consumed, a responsible supervisor, employed and compensated by the applicant, shall perform this function.
- (s) In addition to the ABC manager or supervisor the applicant shall provide such additional paid staff as may be necessary to coordinate, supervise, and manage any event held on the premises.
- (t) The establishment manager shall notify the Commissioner of the Revenue no less than 72 hours prior to the commencement of any event at which a cover charge is to be collected.
- (u) A copy of this Adult Use Special Exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this Adult Use Special Exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.
- (v) A binder or folder containing documentation relating to the operation of the establishment shall be kept on the premises at all times and shall be produced upon request made by any person. For

purposes of this section, the documentation relating to the operation of the establishment shall include copies of the following

- (1) This special exception;
- (2) Any ABC license(s)
- (3) Any occupancy permit(s);
- (4) Certifications of all persons who work on the premises as a security guard;
- (5) All fire code certifications, including alarm and sprinkler inspection records;
- (6) Any health department permit(s)
- (7) The emergency action plan required under the Fire Prevention Code;
- (8) The names, addresses, and phone numbers of all persons who manage or supervise the establishment at any time; and
- (9) The establishment's designated driver program

Section 3 - That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended)

Section 4 - That the Special Exception granted hereby amends the previously granted special exception permitting an Eating and Drinking Establishment on this property, adopted on April 12, 2016, (Ordinance No 46,311) and all provisions and conditions previously approved are entirely superseded by the terms of this Special Exception

Section 5 - That this ordinance shall be in effect from the date of its adoption

ATTACHMENTS

Exhibit A (5 pages)

Exhibit B (1 page)

ATTACHMENTS

Exhibit A (5 pages)

Exhibit B (1 page)

Adopted by Council June 13, 2017
Effective June 13, 2017

TRUE COPY
TESTE

R BRECKENRIDGE DAUGHTREY, CITY CLERK

BY _____
DEPUTY CITY CLERK



EXHIBIT "A"
Description of Operations
Entertainment Establishment
(Please Print)

Date March 13 '17

Trade name of business California Burrito LLC

Address of business 319 Granby Street Norfolk VA

Name(s) of business owner(s)* Miguel Roldan - California Burrito, LLC

Name(s) of property owner(s)* Armistead W Dey Jr

Name(s) of business manager(s)/operator(s) Miguel Roldan, Nicole Roldan, Keily Escobar

Daytime telephone number (757) 653-4981

*If business or property owner is a partnership, all partners must be listed.
 *If business or property owner is an LLC or Corporation, all principals must be listed.

1 Proposed Hours of Operation:

<u>Facility</u>	<u>Alcoholic Beverage Sales and Entertainment</u>
Weekday From <u>11</u> To <u>2am</u>	Weekday From <u>11</u> To <u>2am</u>
Friday From <u>11</u> To <u>2am</u>	Friday From <u>11</u> To <u>2am</u>
Saturday From <u>11</u> To <u>2am</u>	Saturday From <u>11</u> To <u>2am</u>
Sunday From <u>11</u> To <u>2am</u>	Sunday From <u>11</u> To <u>2am</u>

2. Type of ABC license applied for (check all applicable boxes):

On-Premises Off-Premises (second application required)

3. Type of alcoholic beverage applied for

Beer Wine Mixed Beverage

Exhibit A – Page 2
Entertainment Establishment

- 4 Will video games, pool tables, game boards or other types of games be provided?
 Yes (If more than 4, additional application required) No

4a If yes, please describe type and number of each game to be provided.

5. Will patrons ever be charged to enter the establishment?
 Yes No

5a. If yes, why:

Special music events

5b. Which days of the week will there be a cover charge (circle all applicable days):

Monday Tuesday Wednesday Thursday Friday
Saturday Sunday

6. Will the facility or a portion of the facility be available for private parties?
 Yes No

6a. If yes, explain:

Corporate parties, wedding celebrations

- 7 Will a third party (promoter) be permitted to lease, let or use the establishment?
 Yes No

7a. If yes, explain:

8. Will there ever be a minimum age limit?
 Yes No

Exhibit A – Page 3
Entertainment Establishment

9. Additional comments/description/operational characteristics or prior experience:

Currently operating California Burrito

Note. If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility



Signature of Applicant

Non-Entertainment
Option

**Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application
- Floor plan(s) must be prepared by a registered design professional and include:
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1 Total capacity

a. Indoor

Number of seats (not including bar seats)

Number of bar seats

Standing room

36
5
0

b. Outdoor

Number of seats

4

c. Number of employees

4

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 49

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

3. Will a dance floor be provided?

Yes No

3a. If yes,

Square footage of establishment _____

Square footage of dance floor _____

- If a disc jockey is proposed, a dance floor must be provided.
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required.

Entertainment
Option

**Exhibit A – Floor Plan(s) Worksheet
Entertainment Establishment**

- Complete this worksheet based for each floor plan submitted with application.
- Floor plan(s) must be prepared by a registered design professional and include.
 - Tables/seats
 - Restroom facilities
 - Bar
 - Ingress and egress
 - Standing room
 - Disc Jockey/Band/Entertainment area)
 - Outdoor seating
 - Total maximum capacity (including employees)

1 Total capacity

a. **Indoor**

Number of seats (not including bar seats) 28
Number of bar seats 5
Standing room 8

b. **Outdoor**

Number of seats 4

c. **Number of employees**

4

Total Occupancy

(Indoor/Outdoor seats, standing room and employees) = 49

2. Entertainment

List ANY type of entertainment proposed other than a 3 member live band, karaoke, comedian, or poetry reading.

DJ, 5-member live band - unamplified

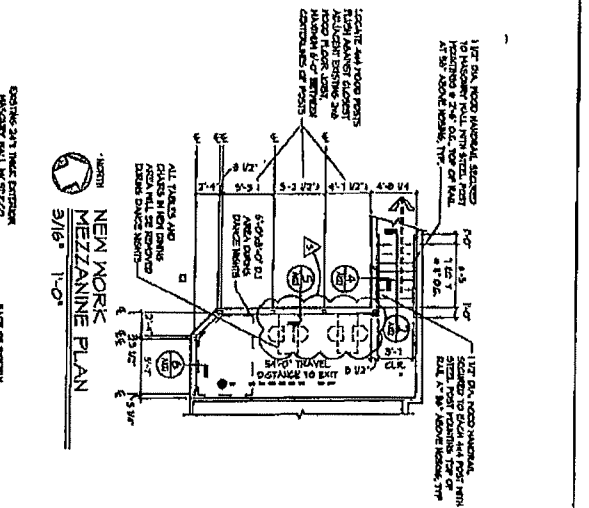
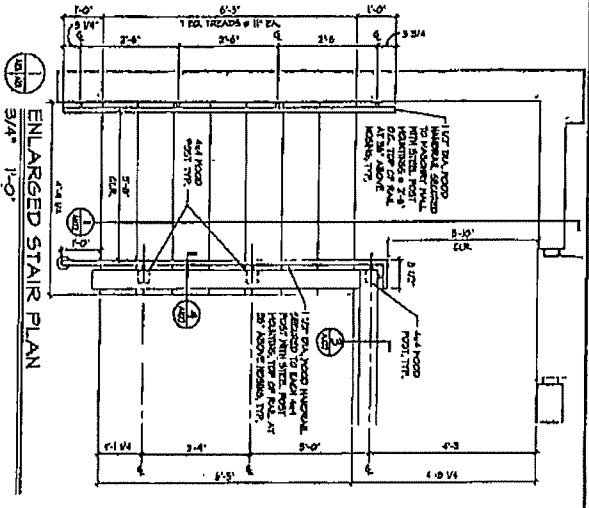
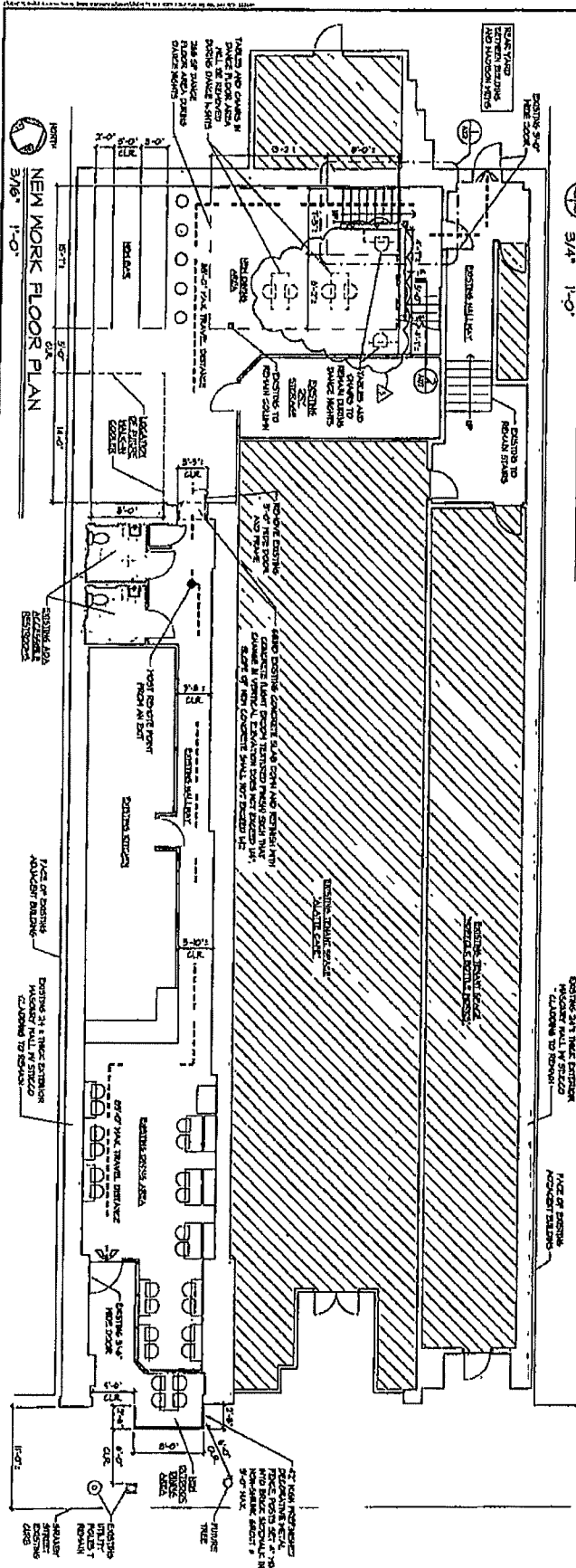
3. Will a dance floor be provided?

Yes No

3a. If yes,

Square footage of establishment 2,832
Square footage of dance floor 268

- If a disc jockey is proposed, a dance floor must be provided
- If the dance floor is more than 10% of the square footage of the establishment, a Dance Hall permit is required



REVISIONS	NO.	DESCRIPTION	DATE
OWNER REVISION	001		08/23/11
OWNER REVISION	002		08/23/11
OWNER REVISION	003		08/23/11
OWNER REVISION	004		08/23/11
OWNER REVISION	005		08/23/11
OWNER REVISION	006		08/23/11
OWNER REVISION	007		08/23/11
OWNER REVISION	008		08/23/11
OWNER REVISION	009		08/23/11
OWNER REVISION	010		08/23/11

SHEET NO. 2
 2016-058
 DATE 08/19/16
A101
 02 OF 03

CALIFORNIA BURRITO TENANT IMPROVEMENTS
 319 GRANBY ST.
 NORFOLK, VA
 NEW WORK FLOOR PLANS AND ENLARGED STAIR PLAN

