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ORDINANCE NO. O-1617-3

ITEM NO. 4

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**STAFF REPORT**

**GENERAL INFORMATION**

APPLICANT	El Chapo, L.L.C., dba Puebla Tacos y Tequileria
REQUESTED ACTION	Special Use for Live Entertainment Venue
EXISTING ZONING	C-3, Intensive Commercial District
SURROUNDING ZONING	North: C-3, Intensive Commercial District East: C-3, Intensive Commercial District South: C-3, Intensive Commercial District West: C-3, Intensive Commercial District
LOCATION	305 E. Main Street
LOT AREA	4,484 Square Feet
PURPOSE	Live Entertainment (Patio)
EXISTING LAND USE	Commercial
SURROUNDING LAND USE	North: Commercial East: Commercial South: Commercial West: Commercial
LAND USE PLAN DESIGNATION	Commercial

**SYNOPSIS:** The applicants run an existing restaurant, Puebla Tacos y Tequileria, located at 305 E. Main Street. This general area of Main Street has often been referred to as the "Downtown Arts District", although never officially branded with the name. The applicants recently purchased this business, previously known as Tres' Cantina, and have continued the use as the previous owners had done in the last few years. The previous owner started the business in fall of 2011 and then in spring of 2012 they added approximately 790 square feet of back patio area to accommodate outdoor seating and live music. However, Special Use for the live entertainment use located on the back patio had never been granted for the site so the current owner/applicant is requesting Special Use for Live Entertainment to allow the use to continue and properly zone the site.

**ANALYSIS:** The Zoning Ordinance (Z.O.) is cumulative; for example, a use allowed by right in the C-1, Local Commercial District is allowed by right in the C-2, General Commercial District and again in the C-3, Intensive Commercial District. In addition Special Uses in C-1 are allowed by right in the C-2 and C-3 Districts, without requesting Special Use from City Council.

In the C-1 District a restaurant is an allowed use; a restaurant can have live entertainment and/or a dance floor as long as all such activity is fully within an enclosed building, provided the kitchen remains open with full food service whenever live entertainment is offered.

As previously outlined, due to the Z.O. being cumulative the live entertainment Puebla is providing to their guests would be an allowed use in the C-3 District if the activity was within the restaurant. However, what requires Puebla to request Special Use is the fact that their live entertainment venue is on the back patio, adjacent to the back alley.

The definition of Live Entertainment Venue in the Zoning Ordinance does not delineate indoor or outdoor venues as part of the use.

Live Entertainment Venue is defined as "An establishment where a major component of the business includes live or electronically amplified music, dancing, or other entertainment and which may impose an admission charge or cover charge to observe that entertainment. Night clubs, bars and dance halls are typical uses within this category. This category shall not include, in any manner, any Adult Entertainment Establishment". Puebla Tacos does not charge an additional fee/cover charge for the live entertainment.

The proposed use of this facility fits with the neighborhood/downtown area and as stated the patio area is small, approximately 790 square feet. There is a back bar with seating for 6 and approximately 6 tables. There is seating on the stage/raised area, which is removed when live entertainment is provided. The majority of uses surrounding this particular facility are commercial businesses, which are predominantly day-time occupancies.

As with other downtown businesses which are zoned C-3, there are no on-site parking requirements. Main Street provides on-street parking, Crawford Street has some on-street parallel parking and a nearby parking lot is available.

**IMPACTS:** An adjacent business, Opolis, received Special Use for a Nightclub in fall of 2003, this allowed for live entertainment. The Special Use for Nightclub was for the building located at 113 Crawford Street. In the fall of 2012 Opolis received a second Special Use for Bar, Lounge or Tavern. This second Special Use included the existing building and an area to the south of the building which included a new patio area. Opolis has a garage door on the south side of their building which they open when they have music venues; this garage door allows patrons to sit on the patio area while listening to music. There has been discussion that the two businesses impact one another when each has an event on the same night.

**OTHER AGENCY COMMENTS:**

- **PRE-DEVELOPMENT MEETING – PD NO. 16-11** **MEETING JULY 28, 2016**  
Comments from the adjacent property owner attending the meeting
  - The owners of Opolis, Andy and Marian Nunez, are opposed to this request. They support the right for someone to rezone their property and respect the City's

process to do so but feel the approval of this request will negatively impact their business.

- o Andy Nunez stated the City has a generous allowance for issuing permits to have outdoor entertainment, 7 permits annually, and feels that is adequate. Andy stated on the nights they have an event and open their garage door, whether it be an art show or live music, his clients sitting on the patio are being “force fed” the music from Puebla, on the nights they do have an event. Andy prefers background music on a patio.

- **PARK BOARD** Commercial uses do not require parkland dedication.
- **PUBLIC WORKS** The property is platted; utilities, streets and sidewalks are existing. Approval of this Special Use will not require any modification to the site which would require additional public improvements.

**STAFF RECOMMENDATION:** This request is a minor change to the existing use. The applicants are not requesting any additional square footage so the occupant load will stay the same. Other than the permission to have occasional outdoor live entertainment, the use of this facility will not change. Staff supports this request for Special Use for Live Entertainment and recommends approval of Ordinance No. 1617-3.