

RECORDING REQUESTED BY:

City of San Leandro
Planning Services Division
835 East 14th Street
San Leandro, CA 94577

WHEN RECORDED MAIL TO:

Marian Handa, City Clerk
City of San Leandro
835 East 14th Street
San Leandro, CA 94577



2011163453

06/06/2011 02:25 PM

OFFICIAL RECORDS OF ALAMEDA COUNTY
PATRICK O'CONNELL
RECORDING FEE: 0.00



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THIS SPACE FOR RECORDER'S USE ONLY

(No fee pursuant to Government Code Section 27383)

AGREEMENT TO CONDITIONS

PLN2008-00049

14808 East 14th Street

DAN & GINA

D. and G. Dillman, Xzault Media Group (Applicants and Property Owners)

THIS AGREEMENT is entered into by and between the CITY OF SAN LEANDRO, a municipal corporation, hereinafter referred to as "City," D. and G. Dillman hereinafter referred to as "Applicants" and "Property Owners".

Applicant applied for and received approval for a Conditional use Permit to allow the establishment of a computer repair and service business at 14808 East 14th Street. The Bal Theater would continue to be used. Assessor's Parcel Number 077E-1593-008-00; Xzault Media Group, SA-1 South Area – 1 District

NOW, THEREFORE, pursuant to the applicable provisions of the Zoning Code, it is mutually agreed as follows:

1. Applicant agrees to comply with the Conditions of Approval adopted by the City of San Leandro Board of Zoning Adjustments, more specifically described in the list of Conditions of Approval, attached hereto, and as described in the exhibits on file in the Community Development Department, all of which are incorporated herein by this reference.
2. This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors, and assigns.
3. City is authorized to record this agreement and any amendments thereto with the Alameda County Recorder, California. All amendments hereto must be in writing and signed by the appropriate authorities of the City and Applicant. The Applicant will be charged the costs of recordation and agrees to pay same. Conditions run with the land and are binding to future owners of the property.
4. Applicant and Property Owner have read and fully understand all of the foregoing terms and conditions, and hereby agree that all said terms and conditions are as approved by the San Leandro Board of Zoning Adjustments in accordance with law, and hereby agrees to comply with all of said terms and conditions.

IN WITNESS WHEREOF, duly executed by the parties as of the day and year below written.

This _____ PERMIT must be exercised within ONE YEAR or it expires.

(Acknowledgment)

DAN & GINA DILLMAN

D. and G. Dillman, Applicants and Owners

uCC1-207 _____ *3-18-09*
Signature Date
uCC1-207 _____ *3-18-09*
Signature Date

Receipt of Executed Approval: I hereby certify that I am the Secretary to the Board of Zoning Adjustments of the City of San Leandro and in that capacity did receive this copy of **PLN2008-00049** Agreement to Conditions fully executed by all parties thereto, and that the effective date of this zoning approval granted herein is **January 15, 2009**.

CITY OF SAN LEANDRO, a municipal corporation

Attest: *Marian Handa*
Marian Handa, City Clerk

Sally Barros
Sally Barros, Secretary
Board of Zoning Adjustments

Approved as to Form:

Jayne Williams
for Jayne Williams, City Attorney

ACKNOWLEDGMENT

State of California

County of ALAMEDA

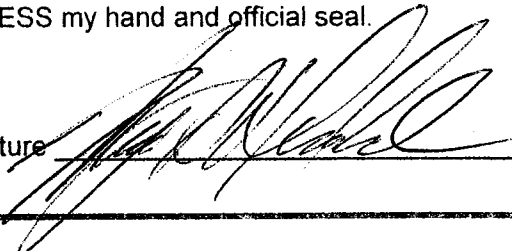
On MARCH 18, 2009 before me, HENRY P. DEADRICH, Notary Public
(insert name and title of the officer)

personally appeared David G. Dillman
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

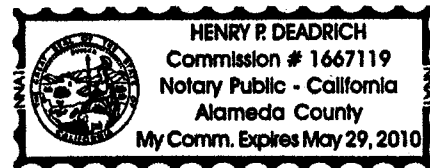
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature



(Seal)



CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of CALIFORNIA

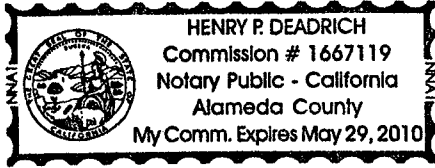
County of ALAMEDA

On MAR 18 2009 before me, HENRY P. DEADRICH, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared DAN & GUA DILLMAN
Name(s) of Signer(s)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that ~~he/she~~ they executed the same in ~~his/her~~ their authorized capacity(ies), and that by ~~his/her~~ their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

DAN & GUA DILLMAN



WITNESS my hand and official seal.

[Signature]
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____

RIGHT THUMBPRINT OF SIGNER
Top of thumb here

Signer Is Representing:

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

State of California

County of Alameda }

On June 2, 2009 before me, Kimberly Dawn Freitas, Notary Public
Date Here Insert Name and Title of the Officer

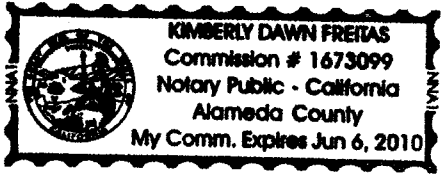
personally appeared Sally Barros
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Kimberly Dawn Freitas
Signature of Notary Public



Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: PN 2008.00049

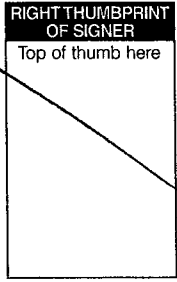
Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

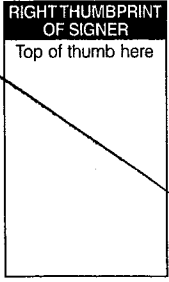
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

CONDITIONS OF APPROVAL

PLN2008-00049 – 14808 East 14th Street
D. and G. Dillman (Applicant and Property Owner)

I. COMPLIANCE WITH APPROVED PLANS

- A. The applicant and/or property owner shall comply with Exhibits A through C, dated January 15, 2008, except as hereinafter modified. (Exhibits are on file at the City of San Leandro Community Development Department, 835 East 14th Street, San Leandro, California).

Exhibit A - Site Plan & Floor Plans
Exhibit B - First Floor Plan
Exhibit C - Second Floor Plan
Exhibit D – Applicant’s Statement

- B. The applicant and/or property owner shall be responsible for assuring that any successor in interest who assumes responsibility for the zoning approval is informed of its terms and conditions.

II. USE RESTRICTIONS

- A. This is a conditional use approval and parking exception that allows a computer and media-related business to be operated inside the Bal Theater in a 1,411-square foot area in the SA-1 South Area – 1 District. Permitted hours of operation for the computer repair business are 8 a.m. to 7 p.m., Monday through Friday.
- B. The computer repair business may be open generally from 8 a.m. to 7 p.m. Monday through Friday. The number of employees associated with the computer repair business shall be up to five employees. The theater use may be open to customers from 7 p.m. to 10 p.m. a minimum of once per week.
- C. Any modification to the hours or days of operation, or relocation of the business on the property or the expansion of the business shall be requested in writing to the Community Development Director, who may approve the request or direct the matter to the Board of Zoning Adjustments.
- D. This approval is for a computer-repair business only and the space is not to be used by the applicant or rented out for any other business activities or functions nor donated to another organization.
- E. As part of the theater existing use of the building, the applicant shall show documentary or independent films a minimum of once per week.

- F. There shall be no sale or consumption of alcoholic beverages on the premises.
- G. All doors shall be kept closed when movies are being played, and signs shall be posted on the doors to that effect.
- H. These conditions of approval shall be posted in the building and shall be made accessible to all employees.
- I. The applicant shall be responsible for litter pick up of patron's litter once each evening after theater use or prior to the next business day for a minimum distance of 400 feet from the exterior property lines. All litter resulting from the theater or computer repair use shall be promptly removed.
- J. The computer repair business will be subject to a Community Development staff review within six months of opening to determine if vehicular parking impacts are disturbing the surrounding properties. A memorandum shall be provided to the Board of Zoning Adjustments summarizing the results of the review. Should there be complaints regarding vehicular parking, the Community Development Director shall review the issue(s) and recommend mitigation measures and /or refer the matter back to the Board of Zoning Adjustments for consideration. Measures for parking could include further restricting the hours/days of the use.

III. ENGINEERING DEPARTMENT CONDITIONS:

- A. Pursuant to Government Code Section 66020, including Section 66020 (d) (1), the City HEREBY NOTIFIES the applicant for this Project that the 90-day approval period (in which the applicant may protest the imposition of any fees, dedications, reservations, or other exactions imposed on this Project by these Conditions of Approval) will begin on the date of the conditional approval of this Project. If you fail to file a protest within this 90-day period, complying with all of the requirements of Government Code Section 66020, you will be legally barred from later challenging any such fees, dedications, reservations or other exactions.
- B. The proposed development shall comply with City ordinances, policies and regulations. All improvements shall be in accordance with the City's Design Standards, Specifications and Standard Plans unless otherwise specifically approved by the City Engineer.
- C. Applicant shall remove any unused driveways or damaged driveways, sidewalk, and curb and gutter along the full property frontage and shall construct new City standard driveway, sidewalk, curb and gutter in place of the removed items.

IV. FIRE DEPARTMENT COMMENTS

- A. The applicant shall submit plans to the Building Department for the change of use of the space.

- B. Prior to occupancy, the applicant shall provide a Knox box at the main entry door to the space.
- C. The project shall comply with the applicable Building and Fire Codes as adopted by the City of San Leandro. Building construction plans shall be submitted and approved prior to start of any work.

V. BUILDING DEPARTMENT COMMENTS

- A. There shall be no use of theater and stage for live performances.
- B. A building permit is required for any changes to layout or structural elements of second floor rooms.
- C. A building permit and energy calculation (Title 24) is required for any changes to existing lights or mechanical units and or any addition to existing lights or mechanical units.
- D. There shall be no use of the stage for any type of assembly use.
- E. A building permit is required for any structural changes to exterior of the building.

VI. MAINTENANCE

- A. The site shall be maintained and shall be kept free of litter, debris and weeds.
- B. Any graffiti shall be promptly removed from the building walls and fences.

VII. GENERAL CONDITIONS

- A. The approvals granted by the City as a result of this application, as well as the Conditions of Approval, shall be recorded in the Office of the County Recorder of Alameda County.
- B. No application for amendment of the application or conditions of approval may be submitted or accepted for processing by the City of San Leandro unless (i) there is full compliance with all terms of the application and Conditions of Approval; or (ii) the Community Development Director waives compliance with the terms of the application and Conditions of Approval pending application for amendment.
- C. A sign permit shall be obtained from Building Safety prior to being installed. Details for the sign shall be submitted to the Community Development Director for review and approval and shall comply with the sign program adopted for the center, using the same materials and colors and comprising individual letters of the same font, prior to the issuance of building permit.

- D. Pursuant to Zoning Code Section 5-2218, this approval shall lapse on **January 15, 2010**, unless a) a business license has been issued, coupled with diligent progress evidencing a good-faith intent to commence the intended use, or b) a written request for a one-year extension of the use permit is approved by the Zoning Enforcement Official.