PUBLIC HEARING

TITLE: CONDITIONAL USE PERMIT 4-2005 - PROPOSED FAMILY ARCADE TO BE LOCATED AT 841 WEST HENDERSON AVENUE (PORTERVILLE PLAZA SHOPPING CENTER)

SOURCE: COMMUNITY DEVELOPMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of a Conditional Use Permit to allow for a family arcade to be located at 841 West Henderson Avenue in a 6,240± square foot building located in the Porterville Plaza Shopping Center which is zoned PD (C).

The building will have approximately 17± pool tables, 10± video games, 8± computers and a team room for private parties. No kitchen facility is proposed, however, sodas and snacks will be available for sale. The proposed hours of operation will be 12:00 p.m to 2:00 a.m., seven (7) days a week with an attendant to be on the premises during the hours of operation. No alcohol will be allowed.

Section 800 A35 of the Porterville Zoning Ordinance states the following:

“Commercial recreation, including but not limited to arcades, is subject to obtaining approval of a Conditional Use Permit”.

Pursuant to “General Rule” Exemption - 14 CA. Admin. Code 15061 (b) (3), the proposed project is categorically exempt form the CEQA Guidelines (The activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment).

RECOMMENDATION: It is recommended that the City Council adopt the draft resolution approving Conditional Use Permit 4-2005.

ATTACHMENT:

1. Complete Staff Report
PUBLIC HEARING - STAFF REPORT

TITLE: CONDITIONAL USE PERMIT 4-2005

APPLICANT: Earnesto Cerda
640 Boxwood Ct.
Ontario, CA 91761

SPECIFIC REQUEST: The applicant is requesting approval of a Conditional Use Permit to allow for a family arcade to be located at 841 West Henderson Avenue in a 6,240± square foot building located in the Porterville Plaza Shopping Center which is zoned PD (C).

PROJECT DETAILS: The building will have approximately 17± pool tables, 10± video games, 8± computers and a team room for private parties. No kitchen facility is proposed, however, sodas and snacks will be available for sale. The proposed hours of operation will be 12:00 p.m to 2:00 a.m., seven (7) days a week with an attendant to be on the premises during the hours of operation. No alcohol will be allowed.

Section 800 A35 of the Porterville Zoning Ordinance states the following:

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Pursuant to “General Rule” Exemption - 14 CA. Admin. Code 15061 (b) (3), the proposed project is categorically exempt form the CEQA Guidelines (The activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment).

GENERAL PLAN AND LAND USE/ZONING DESIGNATION:

The site is designated for General Commercial uses and is zoned PD (C)- (Planed Development- (Central).

SURROUNDING AREA ZONING AND LAND USE:

NORTH: City PD (C) - Commercial business
SOUTH: City PD (C) - Commercial business, parking and the Galaxy 9 Theater
EAST: City PD (C) - Paved parking and Indiana Street
WEST: City PD (C) - Paved parking for the Porterville Plaza Shopping Center.
STAFF ANALYSIS: On April 13, 2005, the Project Review Committee reviewed the application request to ensure compliance with City codes. In addition, the Police Department reviewed the application to determine whether special conditions were necessary. In response, no special conditions were imposed on the design or operation. Section 800 A35 of the Porterville Zoning Ordinance requires approval of a Conditional Use Permit for arcades.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No project. Denial of the proposed use permit would prohibit the applicant to establish an arcade at this location. Additionally, the building would remain vacant.

2. Approve the project. Approval of the request would allow the applicant to establish an arcade at this location.

ENVIRONMENTAL: Pursuant to “General Rule” Exemption - 14 CA. Admin. Code 15061 (b) (3), the proposed project is exempt from the CEQA Guidelines (The activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment). Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: April 13, 2005

DATE ACCEPTED AS COMPLETE: May 13, 2005

RECOMMENDATION: It is recommended that the City Council approve the application for Conditional Use Permit 4-2005.

ATTACHMENTS:

1. Locator/Site Map and interior layout of the arcade
2. Application
3. Notice of Exemption
4. Draft Resolution
Porterville Plaza Shopping Center
825 - 977 West Henderson Avenue
Porterville, California 93257

<table>
<thead>
<tr>
<th>No.</th>
<th>Address</th>
<th>Tenant Use</th>
<th>Gross Leasable Area (Sq. Ft.)</th>
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<tbody>
<tr>
<td>1</td>
<td>000DB</td>
<td>WELL'S FARGO BANK</td>
<td>8,300</td>
</tr>
<tr>
<td>2</td>
<td>825</td>
<td>99 CENT ONLY</td>
<td>59,376</td>
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<tr>
<td>3</td>
<td>827</td>
<td>Tanning Salon</td>
<td>1,170</td>
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<tr>
<td>4</td>
<td>829A</td>
<td>AVAILABLE</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>829B</td>
<td>AVAILABLE</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>831</td>
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</tr>
<tr>
<td>7</td>
<td>833</td>
<td>Educational Books/Supplies</td>
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<td>8</td>
<td>839</td>
<td>JUICE-N-JAVA</td>
<td>3,000</td>
</tr>
<tr>
<td>9</td>
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<td>AVAILABLE</td>
<td>6,240</td>
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<tr>
<td>10</td>
<td>847</td>
<td>AVAILABLE</td>
<td>2,000</td>
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<tr>
<td>11</td>
<td>855</td>
<td>FACTORY 2-U</td>
<td>21,440</td>
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<tr>
<td>12</td>
<td>897</td>
<td>Pizza Factory Restaurant</td>
<td>5,230</td>
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<tr>
<td>13</td>
<td>899</td>
<td>IN-SHAPE HEALTH CLUB</td>
<td>23,200</td>
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<tr>
<td>15</td>
<td>939</td>
<td>Coleman's Drive-Thru</td>
<td>1,875</td>
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<td>16</td>
<td>949</td>
<td>Italian Restaurant</td>
<td>3,500</td>
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<tr>
<td>17</td>
<td>951</td>
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<tr>
<td>18</td>
<td>953</td>
<td>WIC Nutritional Products</td>
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<tr>
<td>19</td>
<td>955</td>
<td>LAUNDERLAND</td>
<td>2,400</td>
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<td>20</td>
<td>961</td>
<td>Beauty Salon</td>
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<tr>
<td>21</td>
<td>963</td>
<td>Donut Shop</td>
<td>1,920</td>
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<tr>
<td>22</td>
<td>967</td>
<td>BBQ Restaurant</td>
<td>144</td>
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<tr>
<td>23</td>
<td>969</td>
<td>Jack's Junkyard Dogs</td>
<td>265</td>
</tr>
<tr>
<td>24</td>
<td>977</td>
<td>AVAILABLE</td>
<td>4,200</td>
</tr>
</tbody>
</table>

TOTAL G.L.A. (Sq. Ft.) = 158,215

Subject Site

Area Map

Traffic Count:
Approximately 35,000 Cars Daily

Information obtained by agent. As accuracy has not been verified, it is not guaranteed. (Rev. 12/16/04)
APPLICATION FOR CONDITIONAL USE PERMIT
(See Page 3 of this form for information on preparing and filing this application)

The Applicant(s) **Ernesto Cerda** is/are the owner(s) or tenant(s) of property situated at **841 W. Henderson Porterville, CA** between ________ Porter Street/Avenue and ________ Indiana Street/Avenue. Exact legal description of said property being [Use separate sheet if necessary]

See Attached

As applicable, a Plot Plan and 300' radius property owners map, and corresponding mailing list are hereto attached and made a part of this application (See detailed instructions on Page 3 of this form).

(A) Above described property is owned by **Ballenbacher&Kelton Inc.**
Date acquired _______________ 3/15/2005

(B) If applicant is the lessee, give date property was leased:

__________________________ 01/13/2005

(C) List below the original deed restrictions, if any, that were placed on the property which pertain to the type of improvements permitted.

Give date said restrictions expire ________ N/A

(You may attach copy of original printed restrictions in answer to this question after property underlining those features controlling the type and class of uses permitted thereby).

(D) REQUEST: The applicant requests a Conditional Use Permit to USE the above described property for the following purposes:

(Use this space ONLY to state exactly what is intended to be done, on or, with the property).

A billiard room which will house approximately 17 pool tables, more than 10 video games, and 8 computers.

Hours of operation requested: 12:00 p.m. - 2:00 a.m., 7 days a week.
NOTE: The basic purpose of the Conditional Use Permit Article of The City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the Ordinance and to protect the public health, safety and welfare, due to the unique and special characteristics of such uses.

1. State how the proposed use will not be materially detrimental to the public welfare or injurious to property or improvements in such vicinity and zone in which the use is proposed to be located.

   There will not be any amounts of solid waste or litter, no dust, ash, fumes, smoke, or odors. No hazardous materials such as toxic substances, flammables, or explosives. No alcohol will be served.

2. Principal requirements of intended use (Please answer the following statements, if applicable):

   (a) Total number of people that the building (or grounds if the use is not conducted in a building) can accommodate at one time (Seating Capacity).

      299 would be the total number of people that the building can accommodate at one time.

   (b) Total number of employees that will work on the property.

      There will be be a total of four employees working on the property.

   (c) Total number of off-street parking spaces provided or planned.

      Existing developer shopping center parking lot.

   (d) Maximum height of buildings or structures.

      N/A

   (e) If the application is not intended to be for a permanent conditional use, state the length of time for which it is requested.

      N/A
We, the undersigned OWNERS of ADJACENT PROPERTY as shown upon the map attached to the application, hereby certify that we have read the foregoing petition and agree that the facts stated correctly and completely present the conditions surrounding the property involved in the application, and believe the application SHOULD BE GRANTED (Add additional sheets where necessary. These signatures are desirable but not required).

<table>
<thead>
<tr>
<th>No. on Map</th>
<th>Name</th>
<th>Address</th>
<th>Lot</th>
<th>Block</th>
<th>Tract</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Ballenbacher &amp; Kelton Inc.</td>
<td>2716 ocean park blvd. 9 suit 3006 Santa Monica, CA</td>
<td>251</td>
<td>22</td>
<td></td>
</tr>
</tbody>
</table>

**APPLICANT'S DECLARATION**

STATE OF CALIFORNIA )
COUNTY OF TULARE ) ss.

I (WE),    **ERNESTO CERDA**    being duly sworn, declare and say that I am (we are) the owner (lessee or agent) of property involved in this application and that I (we) have completed this application and all other documents and maps required hereby to the best of my (our) ability and that the statements and information above referred to are, in all respects, true and correct, except, as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at **PORTERVILLE, CA** this 13 day of **MAY 2005**

**Telephone No.** **(626) 252-3515**

**Signature**

**Mailing Address** **640 BOXWOOD St. ONTARIO CA 91761**

This is to certify that the foregoing application has been inspected by me and has been found to be thorough and complete in every particular and to conform to the rules and regulations of the City of Porterville governing the filing of such application.

By ____________________________

Date Received ___________________
REQUIREMENTS FOR FILING APPLICATION FOR CONDITIONAL USE PERMIT

1. Conditional Use Permit Application Form
2. 300-Foot Radius Map
3. Property Owners' List
4. Plot Plan, Drawings or Photographs
5. Filing fee $700.00

1. The Conditional Use Application form must be filled out with full answers to every statement and question. The application must be signed by owner or authorized agent under penalty of perjury in the space provided on Page 3.

2. The 300-Foot Radius Map accompanying the application must be a clear tracing to a suitable scale and must be correctly prepared. It must show each parcel within 300 feet of the exterior boundaries of property involved with the uses of each parcel or present type of occupancy, such as single-family residence, duplex, apartment house, business building or type of industrial use, or if vacant. The various zones surrounding the subject property must also be shown. Each parcel must be consecutively numbered to correspond to owner's name on Property Owners' List (as explained below).

3. The Property Owners' List should be typewritten or legibly printed on a form to be obtained from the City (or directly on sheets of mailing labels), and must include the owner's name and mailing address. Each owner's name on this list must be numbered to correspond with the numbering placed on the aforesaid Map (Names of owners must be secured from County Assessor's Office at County Courthouse or from any title company). (One copy).

4. The Plot Plan, if applicable, must be a clear and accurate tracing of suitable size showing the parcel dimensions, its location with respect to adjacent streets, and the location of all existing and proposed buildings, structures or other improvements, with their distances from the parcel lines clearly shown. Drawings of proposed buildings on a scale large enough to illustrate the subjects under discussion are suggested as exhibits with this application. Photographs of structures are also helpful (8 copies initially with additional copies to be submitted prior to public hearing).

When above requirements are met, file Application, Plot Plan, if applicable, and Property Owners' List with the Planning Division, City Hall, Porterville, California. The application must be complete in every respect, with all questions and demands answered, before the City Planner can receive and certify the petition.

This application is not a permit. A public hearing will be held on your application.
NOTICE OF EXEMPTION

TO: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: City of Porterville
291 N. Main Street
Porterville, California 93257

X Tulare County Clerk
County Civic Center
Visalia, CA 93291

Fiesta Family Billiard
15842 E. Main Street
La Puente, CA 91744

Conditional Use Permit 4-2005
Project Title

841 W. Henderson Avenue
Project Location (Specific)

City of Porterville
Tulare
Project Location (City) Project Location (County)

A Conditional Use Permit to allow for an arcade in an existing building in a developed shopping center.
Description of Nature, Purpose, and Beneficiaries of Project

City of Porterville
Name of Public Agency Approving Project

Fiesta Family Billiard, 15842 E. Main St., La Puente, CA 91744
Name of Person or Agency Carrying Out Project

Exempt Status: (Check One)

Ministerial (Section 15073)
Declared Emergency (Section 15071 (a))
Emergency Project (Section 15071 (b) and (c))
Categorical Exemption. State type and section number: 15332 Class 32
"General Rule" Exemption - 14 Ca. Admin. Code 15061 (b) (3)

The activity is covered by the general rule that CEQA applies only to projects that which have the potential for causing a significant effect on the environment.
Reasons why project is exempt

Bradley D. Dunlap, Community Development Director
Contact Person
If Filed by Applicant:
1. Attached certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the projected? Yes:_______ No:

Date Received for filing:__________

Signature

Community Development Director
Title

ATTACHMENT
ITEM NO. 3
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN
SUPPORT OF APPROVAL FOR CONDITIONAL USE PERMIT 4-2005
TO ALLOW FOR A FAMILY ARCADE TO BE LOCATED AT 841 WEST HENDERSON
AVENUE LOCATED IN THE PORTERVILLE PLAZA SHOPPING CENTER

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of June 21, 2005, conducted a public hearing to consider Conditional Use Permit 4-2005, being a request to allow for a family arcade to be located at 841 West Henderson Avenue in a 6,240± square foot building located in the Porterville Plaza Shopping Center which is zoned PD (C); and

WHEREAS: The City Council received testimony from all interested parties relative to said Conditional Use Permit; and

WHEREAS: The City Council made the following findings:

1. Pursuant to “General Rule” Exemption - 14 CA. Admin. Code 15061 (b) (3), the proposed project is exempt from the CEQA Guidelines (The activity is covered by the general rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment).

2. Section 800 A35 of the Porterville Zoning Ordinance states the following:

“Commercial recreation, including but not limited to arcades, is subject to obtaining approval of a Conditional Use Permit”.

3. That the proposed project is consistent with the General Plan.

The Land Use Element of the General Plan designates the subject site as General Commercial. The PD(C) zoning is supported by the General Plan designation.

4. That the design and operation of the proposed project are consistent with the General Plan.

The uses allowed in the C-2 (Central Commercial) Zone are allowed in areas designated General Commercial in the City’s general plan.

5. That the proposed use is not likely to cause substantial environmental damage.
6. That the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.

7. That the standards of population density, site area, dimensions, site coverage, yard spaces, height of structures, distance between structures, off-street parking facilities, and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 4-2005 subject to the following conditions:

1. The proposed FAMILY BILLIARDS is considered an A-3 occupancy. Upon submittal of a building permit the following will be required:
   a. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to include two (2) sets of energy calculations and structural calculations.
   b. Compliance with access laws (both State and Federal) is required.
   c. Compliance with all applicable codes is required.
   d. Plan check fees are required at the time of building permit submittal.
   e. Approval from the Tulare County Health Department prior to issuance of the building permit.
   f. Restrooms and main entrance must comply with disabled access laws.

2. Signs require a separate permit.

3. The developer/applicant shall pay all applicable fees according to the Municipal Code and State Law.

4. When a fire sprinkler system is required all valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically monitored where the number of sprinklers are:
   a. Twenty or more in Group I, Divisions 1.1 and 1.2 Occupancies.
   b. One hundred or more in all other occupancies.
5. Submit two (2) complete sets of sprinkler and/or fire alarm plans to Fire Department for review prior to installation.

6. When any portion of the building to be protected is in excess of 150 feet from a water supply on a public street, there shall be installed on-site fire hydrants capable of supplying the required flow.

7. Project must meet minimum fire flow requirements per table in appendix III-A & III-B of the California Fire Code.

8. Areas identified as “Fire Lanes” must be identified as such by red painted curbs and identified per requirements set forth in the California Vehicle Code Sec. 22500.1.

9. Knox box will be required. Any locked access gates must also be fitted with a Fire Dept. access device. Application may be obtained from the Fire Department.

10. Any future change in operation which substantially alters the condition or nature of the subject business will require approval by the City Council.

11. The Conditional Use Permit shall become null and void if not under taken and actively and continuously pursued within one (1) year.

12. The construction and operation of the arcade shall comply with all Local, State, and Federal rules and regulations.

___________________________
Kelly E. West, Mayor

ATTEST:
John Longley, City Clerk

By __________________________
Georgia Hawley, Chief Deputy City Clerk