





# City of Fullerton Community Development Department

## Action Description/Justification –CUP / ARUP

(Attach additional sheets as necessary.)

1. Project location (Address):  
100 N. Harbor Blvd. et seq., Fullerton, CA 92832, per Resolution No. PC-08-34
2. Briefly describe the project and request(s) for discretionary actions including Fullerton Municipal Code (FMC) section numbers:

Applicant/Use Owner\* requests to Amend its Conditional Use Permit in order to conform with Fullerton Ordinance No. 3270 and the newly enacted FMC Title 15 Chapter 31. The Applicant/Use Owner's existing CUP issued on September 10, 2008 (Resolution No. PC-08-34) permitted its existing use, which will not change or intensify.

3. In order to grant a CUP or an Administrative Restaurant Use Permit, the Planning Commission (CUP) or Zoning Administrator (ARUP) must make the following findings:
  - A. That the proposed use is permitted in the zone and complies with all applicable zoning standards;
  - B. That the proposed use is consistent with the goals and policies of the general plan of the city or any specific plan applicable to the area of the proposed use;
  - C. That the proposed use as conditioned will not be incompatible with the surrounding area or detrimental to the health, safety, or general welfare of those persons residing or working in the vicinity

### Describe how your request for a CUP or ARUP meets the above requirements:

- A. The Existing Use was permitted in the Applicant/Use Owner's Conditional use Permit (Resolution No. PC-08-34), per Fullerton Municipal Code 15.30.030.3B(21).
- B. The Permitted Use as a Restaurant will not change and there will be no intensifications, as the Applicant/Use Owner applying for an amended CUP pursuant to Fullerton Ordinance 3270.
- C. The Existing Use as a Restaurant will not change, will not intensify, there will be no square footage added, and there will not be any physical changes to the building. Further, the surrounding area features mainly restaurants with the same existing use -- restaurants with on-site alcohol sales -- as the Applicant/Use Owner

\* "Applicant/Use Owner" is defined as a Lessee who is the owner of the exclusive right to the use of the property, per Shell Oil v. City and County of San Francisco, (1983) 139 Cal.App.3d 917. Florentine's Downtown Grill has obtained an "ownership" in the property because it has a long-term lease with 23 years remaining that contains an exclusive Use provision, whereby Florentine's may only use the Property for food, beverage, and entertainment. Florentine's is such a lessee and as such is the "Owner" and thus entitled to sign as such and the City is required to accept and process this Application as such.