



# CITY OF ONTARIO ZONING ADMINISTRATOR AGENDA

January 17, 2024

Ontario City Council Chambers, 2 PM  
303 East "B" Street, Ontario

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All documents for public review are on file with the Planning Department located at City Hall, 303 East "B" Street, Ontario, CA 91764 and on the City website at [www.ontarioca.gov/agendas/zoning](http://www.ontarioca.gov/agendas/zoning)

## PUBLIC HEARINGS

- A. **ENVIRONMENTAL ASSESSMENT AND CONDITIONAL USE PERMIT REVIEW FOR FILE NO. PCUP23-016:** A public hearing to consider the establishment of a Conditional Use Permit for a Type 41 ABC license (On-Sale Beer & Wine) for the on-premises consumption of alcoholic beverages, including beer and wine within a 1,034 square-foot restaurant (Bengee Sushi) on 0.91 acres of land, located at 1953 East Fourth Street, within the CN (Neighborhood Commercial) zoning district. The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines. The proposed project is located within the Airport Influence Area of Ontario International Airport and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan. (APNs: 0110-441-05) **submitted by Michelle Zhang.**

If you wish to appeal a decision of the Zoning Administrator, you must do so within ten (10) days of the Zoning Administrator action. Please contact the Planning Department for information regarding the appeal process.

If you challenge any action of the Zoning Administrator in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or written correspondence delivered to the Zoning Administrator at, or prior to, the public hearing.

I, Angie Alvarez Cruz, Office Specialist of the City of Ontario, or my designee, hereby certify that a true, accurate copy of the foregoing agenda was posted on or before **January 12, 2024**, at least 72 hours prior to the meeting per Government Code Section 54954.2 at 303 East "B" Street, Ontario.

(Office Specialist)



# ZONING ADMINISTRATOR DECISION: CONDITIONAL USE PERMIT

January 17, 2024

303 East B Street, Ontario, California 91764 Phone: 909.395.2036 / Fax: 909.395.2420

**DECISION NO.:** [insert #]

**FILE NO.:** PCUP23-016

**DESCRIPTION:** A public hearing to consider the establishment of a Conditional Use Permit for a Type 41 ABC license (On-Sale Beer and Wine) for the on-premises consumption of alcoholic beverages, including beer and wine within a 1,034 square-foot restaurant (Bengee Sushi) on 0.91 acres of land, located at 1953 East Fourth Street, within the CN (Neighborhood Commercial) zoning district; (APN: 0110-441-05) **submitted by Bengee Kitchen Inc.**

## PART 1: BACKGROUND & ANALYSIS

BENGEE KITCHEN INC, (herein after referred to as "Applicant") has filed an application requesting approval of a Conditional Use Permit, File No. PCUP23-016, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

**PROJECT SETTING:** The Project site is located at 1953 East Fourth Street, within an existing 27,184 square foot multi-tenant retail building on 0.91 acres of land and is depicted in *Exhibit A: Project Location Map*, attached. Existing land uses, General Plan and zoning designations, and specific plan land uses on and surrounding the project site are as follows:

	<b>Existing Land Use</b>	<b>General Plan Designation</b>	<b>Zoning Designation</b>	<b>Specific Plan Land Use</b>
Site:	Commercial Shopping Center	NC (Neighborhood Commercial)	CN (Neighborhood Commercial)	N/A
North:	Single-Family Residential	MDR (Medium Density Residential - 11.1 to 25.0 du/ac)	MDR-18 (Medium Density Residential – 11.1 to 18.0 du/ac)	N/A
South:	Distribution Warehouse	IND (Industrial)	Meredith International Centre Specific Plan	PA 1A - Industrial

Prepared: DP 12/4/23

Reviewed: DE 1/9/24

	<b>Existing Land Use</b>	<b>General Plan Designation</b>	<b>Zoning Designation</b>	<b>Specific Plan Land Use</b>
East:	Single-Family Residential	MDR (Medium Density Residential - 11.1 to 25.0 du/ac)	MDR-18 (Medium Density Residential – 11.1 to 18.0 du/ac)	N/A
West:	Commercial Shopping Center	NC (Neighborhood Commercial)	CN (Neighborhood Commercial)	N/A

**PROJECT ANALYSIS:**

(1) Background—The Project site is located within an existing commercial shopping center that was constructed in 1979 (Exhibit A: Project Location Map) with one 46,000 square-foot multi-tenant building and three stand-alone buildings totaling 7,220 square feet. The shopping center tenants include Stater Bros Markets, Popeyes, Del Taco, Life Stream Blood Bank, and a variety of service commercial uses and restaurants including Bengee Sushi. Bengee Sushi established their Ontario restaurant location in 2021 and presently operates a second sushi restaurant within the City of Chino with a Type 41 ABC license that is in good standing.

On October 4, 2023, the Applicant submitted a Conditional Use Permit application requesting a Type 41 ABC license (On-Sale General) for the on-premises consumption of alcoholic beverages, including beer and wine for their existing restaurant (Bengee Sushi) at the Project site.

(2) Proposed Use— Bengee Sushi occupies a 1,034 square-foot tenant space located on the eastern side of the existing multi-tenant building. The restaurant is divided into four general areas (See Exhibit B: Floor Plan), which includes a dining and counter area, a kitchen, restrooms, and a storage area located in the rear of the restaurant. The Applicant will use the existing rear storage area of the restaurant to store all alcoholic beverages.

The restaurant's main entrance is located on the south side of the building, facing the parking lot. Dining room seating can accommodate 24 patrons. The proposed daily business hours are from 11:00 AM to 10:00 PM, Monday through Sunday. The restaurant will operate with approximately 7 employees per shift.

The Police Department requires that the last call for alcohol shall be made no later than 45 minutes prior to closing and all alcohol sales must cease 15 minutes prior to closing. No alcoholic beverages are to be sold or removed from the establishment for outside consumption. In addition, the restaurant will have no bar seating or outdoor dining.

(3) Parking— The existing commercial shopping center currently has 262 shared parking spaces. Staff believes that granting the proposed Conditional Use Permit will not adversely affect the shopping center's existing parking demand, as the

Application does not propose any expansion to the building nor the elimination of existing parking spaces. Further, the proposed alcoholic beverage sales will be ancillary to the restaurant's use and will provide the public an additional convenience by means of offering a wider variety of dining options.

(4) ABC Concentration— The California Department of Alcoholic Beverage Control ("ABC") is the State entity responsible for granting, renewing, and revoking all ABC licenses. ABC determines how many On-Sale and Off-Sale alcoholic beverage license types should be issued per census tract, based upon their population. The Project site is located within Census Tract 13.12, which is located entirely within the City of Ontario and according to ABC, is not over-concentrated. The Census Tract currently allows 4 on-sale licenses; however, there are currently 3 active on-sale licenses within this census tract. The proposed location operates as a "Bona Fide Public Eating Place;" therefore, the Police Department does not object to allowing the proposed Type 41 ABC License, provided that all City and State Department of Alcohol Beverage Control rules, regulations, and conditions of approval are met and followed. In addition, the project site is not located in a high crime area and the property has no outstanding Building or Health Code Violations. As a result, staff have placed specific conditions of approval to ensure the safe operation of the business.

(5) Land Use Compatibility— A Conditional Use Permit review is required to ensure the compatibility of adjacent uses by identifying potential nuisance activities and establishing measures for mitigation, accordingly. The Project site is located within an existing commercial shopping center, which includes a variety of retail, fast food and personal care service uses designed to be conveniently accessible by foot to the nearby residential neighborhoods. The proposed Conditional Use Permit for the serving of alcoholic beverages in conjunction with restaurant use is compatible with neighboring uses and will provide an added convenience for the restaurant's customers.

Staff believes that the recommended Conditions of Approval will sufficiently mitigate any potential impacts that may be associated with the proposed use. Additionally, the nearby businesses within and surrounding the Project site will not be exposed to any impacts resulting from alcoholic beverage sales and consumption beyond those that would normally be associated with any other restaurant uses within the center and surrounding area. The Ontario Police Department has reviewed the Application and is recommending approval, subject to conditions.

**AIRPORT LAND USE COMPATIBILITY PLAN:** This project is located within the Airport Influence Area of Ontario International Airport and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan ("ONT ALUCP"). Any special conditions of approval associated with uses in close proximity to the airport are attached to this report.

**DEPARTMENTAL REVIEW:** Each City department has been provided the opportunity to review and comment on the subject application and recommend conditions of

approval to be imposed upon the application. At the time of the Decision preparation, recommended conditions of approval were provided and are attached to this report.

**PUBLIC NOTIFICATION:** The subject application was advertised as a public hearing in at least one newspaper of general circulation in the City of Ontario (the Inland Valley Daily Bulletin newspaper). In addition, notices were mailed to all owners of real property located within 300 feet of the exterior boundaries of the property that is the subject of the hearing, as shown on the records of the County Assessor.

**CORRESPONDENCE:** As of the preparation of this Decision, Planning Department staff has not received any written or verbal communications from the owners of properties surrounding the project site or from the public in general, regarding the subject application.

## **PART 2: RECITALS**

WHEREAS, the City of Ontario has received a request for Conditional Use Permit approval as described in Part I, above; and

WHEREAS, the Application is a project pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) ("CEQA"); and

WHEREAS, the Project is exempt from CEQA pursuant to a categorical exemption (listed in CEQA Guidelines Article 19, commencing with Section 15300) and the application of that categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

WHEREAS, Ontario Development Code Table 2.01-1 (Review Matrix) establishes that the Zoning Administrator has the responsibility and authority to review and act upon Conditional Use Permits for existing structures; and

WHEREAS, all members of the Development Advisory Board of the City of Ontario were provided the opportunity to review and comment on the requested Conditional Use Permit, and no comments were received opposing the proposed use; and

WHEREAS, the Project is located within the Airport Influence Area of Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and is subject to, and must be consistent with, the policies and criteria set forth in the ONT ALUCP, which applies only to jurisdictions within San Bernardino County, and addresses the noise, safety, airspace protection, and overflight impacts of current and future airport activity; and

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing

procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on January 17, 2024, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(1) Diana Prado, Planning Intern, presented the staff report on the proposed use, indicating the staff recommendation of approval subject to conditions. Following staff's presentation, the Zoning Administrator opened the public hearing.

(2) [insert speaker's name], representing the applicant, explained the business operation and spoke in favor of the application.

(3) [insert additional speaker info]

(4) [insert additional speaker info]

(5) There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing.

WHEREAS, all legal prerequisites to the adoption of this Decision have occurred.

### **PART 3: THE DECISION**

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED AND DECIDED by the Zoning Administrator of the City of Ontario as follows:

SECTION 1: Environmental Determination and Findings. As the decision-making body for the Project, the Zoning Administrator has reviewed and considered the information contained in the administrative record for the Project. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Zoning Administrator, the Zoning Administrator finds as follows:

(1) The project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines, which consists of the operation, repair, maintenance, permitting, leasing, licensing or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible (less than 10,000 square feet) or no expansion, of existing or former use. The proposed use is located within an existing building and does not include any alterations or operational changes; and

(2) The application of the categorical exemption is not barred by one of the exceptions set forth in CEQA Guidelines Section 15300.2; and

(3) The determination of CEQA exemption reflects the independent judgment of the Zoning Administrator.

SECTION 2: ONT ALUCP Compliance. The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the ONT ALUCP, establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the Zoning Administrator has reviewed and considered the facts and information contained in the Application and supporting documentation against the ONT ALUCP compatibility factors, including [1] Safety Criteria (ONT ALUCP Table 2-2) and Safety Zones (ONT ALUCP Map 2-2), [2] Noise Criteria (ONT ALUCP Table 2-3) and Noise Impact Zones (ONT ALUCP Map 2-3), [3] Airspace protection Zones (ONT ALUCP Map 2-4), and [4] Overflight Notification Zones (ONT ALUCP Map 2-5). As a result, the Zoning Administrator, therefore, finds and determines that the Project is consistent with the policies and criteria set forth within the ONT ALUCP.

SECTION 3: Concluding Facts and Reasons. Based upon [1] the substantial evidence presented to the Zoning Administrator in the Background and Analysis of this Decision, [2] the oral information presented during the herein-referenced public hearing, and [3] the findings set forth in Sections 1 and 2, above, the Zoning Administrator hereby concludes as follows:

(a) *The scale and intensity of the proposed land use would be consistent with the scale and intensity of land uses intended for the particular zoning or land use district. The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the City of Ontario Development Code and the CN (Neighborhood Commercial) zoning district, and the scale and intensity of land uses intended for the zoning district in which the use is proposed to be located. Furthermore, the proposed type 41 ABC License (On Sale General – Eating Place) in conjunction with the existing restaurant land use will be established and operated consistent with the objectives and purposes, and development standards and guidelines, of the Neighborhood Commercial zoning district; and*

(b) *The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan. The proposed type 41 ABC License (On Sale General – Eating Place) in conjunction with the existing restaurant land use will be located within the CN (Neighborhood Commercial) zoning district of the Policy Plan Land Use Map, and the CN*

(Neighborhood Commercial) zoning district. The development standards, and the conditions of approval under which the proposed land use will be established, operated, and maintained, are consistent with the goals, policies, plans, and exhibits of the Vision, City Council Priorities, and Policy Plan (General Plan) components of The Ontario Plan; and

(c) *The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of the Development Code and any applicable specific plan or planned unit development. The existing restaurant land use is located with the NC (Neighborhood Commercial) land use district, and the CN (Neighborhood Commercial) zoning district, and has been reviewed and conditioned to ensure the establishment, operation, and maintenance of the proposed land use consistent with all applicable objectives, purposes, standards, and guidelines of the Development Code; and*

(d) *The establishment, maintenance, and operation of the proposed use at the proposed location would not be detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood. The Development Advisory Board has required certain safeguards, and impose certain conditions of approval, which have been established to ensure that: [i] the purposes of the Development Code are maintained; [ii] the project will not endanger the public health, safety or general welfare; [iii] the project will not result in any significant environmental impacts; and [iv] the project will be in harmony with the surrounding area in which it is proposed to be located.*

SECTION 4: Zoning Administrator Action. Based on the findings and conclusions set forth in Sections 1 through 3, above, the Zoning Administrator hereby APPROVES the Application subject to each and every condition set forth in the Department reports included as "Attachment A" of this Decision, and incorporated herein by this reference.

SECTION 5: Indemnification. The Applicant shall agree to defend, indemnify, and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers, or employees to attack, set aside, void or annul this approval. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

SECTION 6: Custodian of Records. The documents and materials that constitute the record of proceedings on which these findings have been based are located at the City of Ontario City Hall, 303 East "B" Street, Ontario, California 91764. The custodian for these records is the City Clerk of the City of Ontario. The records are available for inspection by any interested person, upon request.

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APPROVED AND ADOPTED this 17th day of January, 2024.

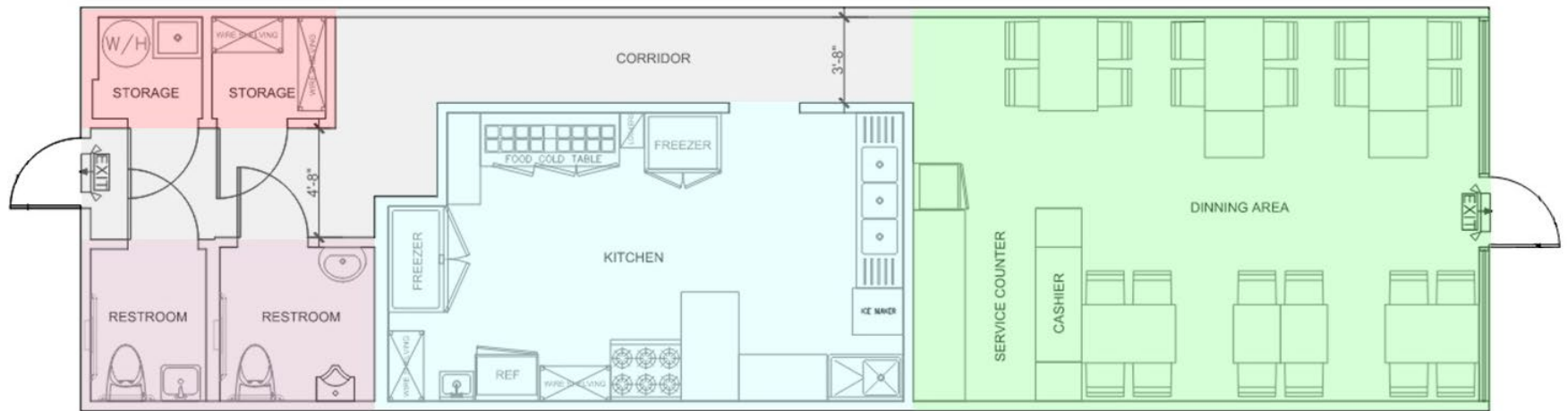
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Henry K. Noh  
Zoning Administrator

*Exhibit A: PROJECT LOCATION MAP*



**Exhibit B: FLOOR PLAN**



**Exhibit C: SITE PHOTOS**



Existing Restaurant Front Entrance

## **Attachment A: Department Reports (Conditions of Approval)**

*(Department Reports containing conditions of approval follow this page)*

**Date Prepared:** 1/17/2024

**File No:** PCUP23-016

**Related Files:** N/A

**Project Description:** A Conditional Use Permit to establish a Type 41 ABC license (On-Sale Beer and Wine) for the on-premises consumption of alcoholic beverages, including beer and wine within a 1,034 square-foot restaurant (Bengee Sushi) on 0.91 acres of land, located at 1953 East Fourth Street, within the CN (Neighborhood Commercial) zoning district; (APN: 0110-441-05) **submitted by Bengee Kitchen Inc.**

**Prepared By:** Diana Prado, Administrative Intern  
Phone: 909.395.2143 (direct)  
Email: [dprado@ontarioca.gov](mailto:dprado@ontarioca.gov)

The Planning Department, Land Development Section, conditions of approval applicable to the above-described Project, are listed below. The Project shall comply with each condition of approval listed below:

**1.0 Standard Conditions of Approval.** The project shall comply with the *Standard Conditions for New Development*, adopted by City Council Resolution No. 2017-027 on April 18, 2017. A copy of the *Standard Conditions for New Development* may be obtained from the Planning Department or City Clerk/Records Management Department.

**2.0 Special Conditions of Approval.** In addition to the *Standard Conditions for New Development* identified in condition no. 1.0, above, the project shall comply with the following special conditions of approval:

**2.1** Time Limits.

**(a)** Conditional Use Permit approval shall become null and void one year following the effective date of application approval, unless a building permit is issued and construction is commenced, and diligently pursued toward completion, or a time extension has been approved by the Planning Director, except that a Conditional Use Permit approved in conjunction with a Development Plan shall have the same time limits as said Development Plan. This condition does not supersede any individual time limits specified herein, or any other departmental conditions of approval applicable to the Project, for the performance of specific conditions or improvements.

**2.2** General Requirements. The Project shall comply with the following general requirements:

**(a)** All construction documentation shall be coordinated for consistency, including, but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.

**(b)** The project site shall be developed in conformance with the approved plans on file with the City. Any variation from the approved plans must be reviewed and approved by the Planning Department prior to building permit issuance.

**(c)** The herein-listed conditions of approval from all City departments shall be included in the construction plan set for project, which shall be maintained on site during project construction.

**2.3** Security Standards. The Project shall comply with all applicable requirements of Ontario Municipal Code Title 4 (Public Safety), Chapter 11 (Security Standards for Buildings).

**2.4** Signs.

**(a)** All Project signage shall comply with the requirements of Ontario Development Code Division 8.1 (Sign Regulations).

**2.5** Sound Attenuation. The Project shall be constructed and operated in a manner so as not to exceed the maximum interior and exterior noise levels set forth in Ontario Municipal Code Title 5 (Public Welfare, Morals, and Conduct), Chapter 29 (Noise).

**2.6** Alcoholic Beverage Sales—General.

**(a)** No upgrade/change of an alcoholic beverage license type may occur until a minimum one-year of operations under the approved license type has occurred.

**(b)** The business shall be operated in strict compliance with the rules, regulations and orders of the State of California Department of Alcoholic Beverage Control. Failure to comply with this requirement shall be deemed just cause for revocation of conditional use permit approval.

**(c)** Coinciding with the annual Police Department inspection, the Planning Department shall conduct a review of the approved use and shall prepare for Zoning Administrator consideration, a status report identifying impacts associated with the use and any non-compliance with the conditions of approval. In addition, such status report shall contain a police report regarding calls for service to the subject premises during the prior one year period. Nothing herein shall modify or limit the City's ability to regulate the business or modify or revoke the permit upon the City's determination that the business is being operated in a manner adverse to the public health, safety and welfare.

**(d)** Signs shall comply with all City of Ontario sign regulations. No more than 25 percent of the total window area shall bear advertising or signs of any sort. Window signs shall be placed and maintained in a manner so that there is clear and unobstructed view of the interior of the premises from the building exterior.

**(e)** The rear doors shall be kept closed at all times during the operation of the premises, except in case of emergency or to permit deliveries.

**(f)** In the event that security problems occur as a result of the approved subject use and at the request of the Police Department, the permittee, at his/her own expense, shall provide a California licensed, uniformed security guard(s) on the subject premises, during such hours and in such number as requested by the Police Department.

**(g)** The licensee shall attend a LEAD (Licensee Education on Alcohol and Drugs) training secession sponsored by the State of California Department of Alcoholic Beverage Control, within 6 months following commencement of the approved use.

**(h)** A clearly legible copy of the herein-listed conditions of approval shall be posted at all times at a prominent place in the interior of the premises.

**(i)** Live entertainment shall be prohibited. Any future request for live entertainment shall require conditional use permit approval by the Zoning Administrator. Karaoke, DJs, live musical acts, and other similar forms of entertainment are hereby deemed to be live entertainment.

**(j)** Amplified prerecorded music may be permitted; however, the sound emitted from the premises shall not be audible outside the walls of the business establishment.

**(k)** Electronic arcade and amusement games shall be prohibited on-site, unless specifically permitted by the Police Department and shown on the approved site plan.

**2.7** Alcoholic Beverage Sales—Restaurants.

**(a)** The establishment shall be operated as a “bona fide public eating place” as defined by Business and Professions Code Section 23038. The restaurant shall contain full kitchen facilities for the cooking of an assortment of foods required for ordinary meals. The kitchen shall be open for the serving of meals to guests during all hours the establishment is open. The establishment shall provide an assortment of foods commonly ordered at various hours of the day. The service of sandwiches or salads shall not be deemed in compliance with this requirement.

**(b)** The sale of alcoholic beverages shall be incidental to the sale of food. The quarterly gross sales of alcoholic beverages shall be less than 50 percent of the restaurants total sales, which includes all food, and alcoholic and non-alcoholic beverages. The owner of the establishment, upon request, shall provide the City of Ontario with an audited report of the sales ratio of food and non-alcoholic beverages to alcoholic beverages.

**(c)** No alcoholic beverage shall be consumed outside of the enclosed building, except within the approved outdoor eating area, which has been designed so as to be adequately separated from direct public access.

**2.8** Indemnification. The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other



authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

**2.9** Additional Fees.

**(a)** Within 5 days following final application approval, the Notice of Exemption ("NOE") filing fee shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which shall be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act ("CEQA"). The filing of a NOE is voluntary; however, failure to provide said fee within the time specified will result in the extension of the statute of limitations for the filing of a CEQA lawsuit from 30 days to 180 days.



# CITY OF ONTARIO

## MEMORANDUM

*“Excellence Through Teamwork”*



**TO:** Diana Prado, Administrative Intern

**FROM:** Jonathan Burnette, Police Officer / CET Unit

**DATE:** November 28, 2023

**SUBJECT:** FILE NO. PCUP23-016 – BENGEE SUSHI  
1953 E. 4<sup>TH</sup> ST, ONTARIO, CA 91764

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This location has applied for an ABC Type 41 On-Sale Beer and Wine license for a Bona Fide Public Eating Place within Census Tract No. 13.12. According to the Department of Alcohol Beverage Control (ABC), four (4) on-sale licenses are allowed within this tract, there are currently two (2). The Police Department does not object to allowing the license. It is recommended the applicant obtain the ABC license through the State ABC office prior to moving forward.

On approval by the planning department, the location must follow all federal, State, local, and Department of Alcohol Beverage Control laws, rules and conditions. In addition, the following conditions of approval shall be imposed by the Ontario Police Department:

### ABC CONDITIONS

1. Alcohol sales will be from 11:00 A.M. to 10:00 P.M., Sunday through Monday. Last call for alcohol shall be made no later than 45 minutes prior to closing. All alcohol sales must cease 15 minutes prior to closing. All alcohol must be removed from the tables/patrons at closing.
2. At least 51% of sales at the establishment shall be food, based on the Type 41 ABC license.
3. No sales of alcoholic beverages to minors.
4. No sales to obviously intoxicated patrons.
5. The restaurant will have no bar seating.

6. Interior dining tables and chairs shall not be removed or rearranged to increase occupancy.
7. The business is required to have in place a driver's license and/or ID card reading device.
8. Alcohol will only be sold to patrons 21 years of age or older. The ages of patron's consuming alcoholic beverages will be confirmed by their driver's license or government issued identification cards.
9. The practice known as Bottle Service will not be allowed.
10. Food sales and service must be available for sale at all times.
11. There will be no narcotic sales or usage on the premises at any time.
12. No drug paraphernalia to be sold at any time.
13. No self-serve alcohol displays or machines allowed.
14. No alcoholic beverages are to be sold or removed from the establishment for off-site consumption.
15. Alcohol consumption at the location will only be types of alcohol allowed in conjunction with the state issued ABC license type. Based on this application of a Type-41 license, only beer and wine will be allowed to be sold.
16. Distilled spirits are not allowed to be sold or consumed at the location.
17. Signs must be posted at all exits stating no alcohol beyond this point.
18. No more than 25% of window space may be used for advertisements. If advertisements are placed on the windows, they must be below two feet on the window and/or above 6 feet on the window to allow clear visibility into and out from the business.
19. Smoking is not permitted inside of the establishment or on the patio areas. This includes electronic nicotine delivery devices.
20. Employees 18 and older may serve alcoholic beverages in an area primarily designed and used for the sale and service of food as an incidental part of their overall duties.
21. Applicant and all employees must attend an Alcohol Beverage Control (ABC) L.E.A.D.'s training class or a certified responsible beverage service class, which has been approved by the Ontario Police Department. This is required within six months of this dated conditional use permit and proof of re-certification is required every 3 years. New employees must attend the training class within three months of their hire date.
22. Lighting within the restaurant must be kept at a reasonable level for safe movement of patrons.

23. Address to the establishment must be plainly visible to the front for easy identification by safety personnel.
24. Restrooms must be kept free of graffiti. Any damage to restroom doors must be repaired within 24 hours and the doors must remain locked during hours of non-operation.
25. The back door must be alarmed and closed at all times.
26. The parking lot is required to have adequate lighting (minimum 1-foot candle) from dusk to dawn. All exterior walkways and footpaths will require a minimum of 0.5-foot candle. All exterior and parking lot shall be on a photo sensor. Photometrics shall be submitted to the Ontario Police Department CET unit prior to approval. As required by City of Ontario's Planning Department.
27. Graffiti abatement by the business owner/licensee, or management shall be immediate and on-going on the premises, but in no event shall graffiti be allowed unabated for more than 72 hours. Abatement shall take the form of removal or shall be covered/painted over with a color reasonably matching the color of the existing building, structure, or other surface being abated. Additionally, the business owner/licensee, or management shall notify the City within 24 hours at (909) 395-2626 (graffiti hotline) of any graffiti elsewhere on the property not under the business owner/licensee's or management control so that it may be abated by the property owner and/or the City's graffiti team.
28. Emergency-only doors must be alarmed and closed at all times.
29. No pool tables will be allowed on the premises. No arcade games that may be associated with gambling (video poker, card games, etc.), will be allowed.
30. No loitering shall be permitted on any property adjacent to the licensed premise, which is under the control of the applicant.
31. The applicant, and all employees, shall not encourage or permit alcoholic beverages to be consumed on any property adjacent to the licensed premises under the control of the applicant.
32. The restaurant manager shall be qualified per ABC rules. Anyone to whom a licensee delegates discretionary power to organize, direct, carry on, or control operations of the licensed business is presumed to be the manager of the business. (Business and Professions Code Section 23788.5, Rules 57.5 and 57.6 CCR).
33. The applicant will be responsible for keeping the grounds of the business clean from debris.
34. Any special event outside the scope of the Conditional Use Permit will require a Temporary Use Permit (TUP), which will be processed by the Planning Department and conditioned by the Ontario Police Department. (For example, a radio station promotion held at the restaurant, a car show, or an OUTDOOR event with alcoholic beverages would be a special event, requiring a TUP.) Situations may arise where the applicant/business owner will request an event that does not violate the intent of this Conditional Use Permit. The

applicant/business owner will notify the Ontario Police Department within a reasonable time frame, but not less than 15 days prior to the event, to determine the necessity for a TUP.

35. Roof top numbers shall be installed on the commercial building. They shall be a minimum of 3 feet in length and 1 foot in width. Numbers shall be painted in reflective white paint on a flat black background away from roof obstacles. Roof top numbers must be maintained every 3 years.
36. Camping as defined by Ontario Municipal Code 5-23.02 will not be allowed on the premises.

### **PATIO DINING CONDITIONS**

1. Currently there is no patio dining area. No alcoholic beverages or will be allowed outside of the business.

### **ENTERTAINMENT CONDITIONS**

1. There was no entertainment area designated on a plan check. No entertainment of any kind will be allowed without the submission and approval of a Temporary Use Permit (TUP).

### **SECURITY CONDITIONS**

1. In the event security problems occur as a result of the use, the Police Department may request a public hearing before the Zoning Administrator to consider modifications, including but not limited to, additional security guards, and additional hours for security guards, and replacement of security guards with Ontario Police Officers. The public hearing process shall be conducted in accordance with the requirements of the City's development Code.
2. A Code of Conduct will be required to be used and posted at all public entrances of the establishment.

3. Ontario Police Officers have the right to limit or reduce the occupancy inside the establishment if situations arise that may compromise the safety of patrons and/or the officer. Any additional police resources requested to bring peace in the establishment may be charged to the business owner.
4. If the business chooses to hire security personnel. The Security personnel will be required to follow Ontario Municipal Code Article 6, title 3, Section 3-1.601-621 (security regulations), which states in part that the security company and guards used will be registered with the City of Ontario.
5. The business shall maintain a security camera surveillance system in proper working order. Cameras will be placed to record the patrons using the restaurant area. A minimum of one camera will record the parking lot (if applicable). A minimum of one camera will record each cash register. A minimum of one camera will record each entry/exit. Each camera will record at least 720p recording resolution levels and at least 15 frames per second. The field of view for each camera will be to maximize the coverage of patrons. Recorded video will be stored for a minimum of 14 days and made available to the Ontario Police Department upon request.

## **PARKING LOT CONDITIONS**

The applicant will work with the property owner to install customer parking only signs. The signs will follow the guidelines set forth by California Vehicle Code Section 22658(a)(1).

California Vehicle Code 22658(a)(1): There is displayed, in plain view at all entrances to the property, a sign not less than 17 inches by 22 inches in size, with lettering not less than one inch in height, prohibiting public parking and indicating that vehicles will be removed at the owner's expense, and containing the telephone number of the local traffic law enforcement agency and the name and telephone number of each towing company that is a party to a written general towing authorization agreement with the owner or person in lawful possession of the property. The sign may also indicate that a citation may also be issued for the violation.

If alcohol related crimes at this location are higher than other similar establishments in the overall City during any quarter, the CUP will automatically be referred to the Zoning Administrator for review and re-conditioning, or revocation of the permit. The Police Department may, at its sole discretion, request a revocation hearing if it determines that the establishment is being operated in violation of this CUP or has violated the laws of the State or City.

**A copy of the listed conditions of approval must be posted with your ABC license at all times in a prominent place in the interior of the premises.**

**The Ontario Police Department will conduct an inspection to document compliance with this Conditional Use Permit before this business will be allowed to sell alcoholic beverages.**

**The Police Department will conduct a review six months after commencement of business to determine whether additional conditions will be needed or existing conditions revised.**

**Please contact Officer Jonathan Burnette if you have any questions regarding this matter at (909) 408-1069.**



# CITY OF ONTARIO

## MEMORANDUM

**TO:** Diana Prado, Administrative Intern  
Planning Department

**FROM:** Michelle Starkey, Deputy Fire Marshal  
Bureau of Fire Prevention

**DATE:** November 6, 2023

**SUBJECT:** PCUP23-016 A Conditional Use Permit to establish alcoholic beverage sales, including Type 41 beer and wine for on-premises consumption in conjunction with existing 1,033 square foot restaurant on 0.905 acres of land at 1953 East Fourth Street, within the CN (Neighborhood Commercial) zoning district (APN: 0110-441-05).

- 
- The plan **does** adequately address the departmental concerns at this time.
- No comments
  - Report below.

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For copies of Ontario Fire Department Standards please access the City of Ontario web site at [www.ontarioca.gov](http://www.ontarioca.gov) , click on Fire Department and then on forms.





# CITY OF ONTARIO

## MEMORANDUM

TO: Scott Murphy, Community Development Director (Copy of memo only)  
Rudy Zeledon, Planning Director (Copy of memo only)  
Diane Ayala, Advanced Planning Division (Copy of memo only)  
Charity Hernandez, Economic Development  
James Caro, Building Department  
Raymond Lee, Engineering Department  
Jamie Richardson, Landscape Planning Division  
Dennis Mejia, Municipal Utility Company  
Heather Lugo, Police Department  
Paul Erhman, Deputy Fire Chief/Fire Marshal  
Jay Bautista, Traffic/Transportation Manager  
Lorena Mejia, Airport Planning  
Jeff Tang, Engineering/NPDES  
Angela Magana, Community Improvement (Copy of memo only)  
Jimmy Chang, IPA Department  
Blaine Ishii, Integrated Waste

FROM: Diana Prado, Administrative Intern

DATE: October 17, 2023

SUBJECT: FILE #: PCUP23-016 Finance Acct#:

The following project has been submitted for review. Please send one (1) copy and email one (1) copy of your DAB report to the Planning Department by .

- Note:**
- Only DAB action is required
  - Both DAB and Planning Commission actions are required
  - Only Planning Commission action is required
  - DAB, Planning Commission and City Council actions are required
  - Only Zoning Administrator action is required

**PROJECT DESCRIPTION:** A Conditional Use Permit to establish alcoholic beverage sales, including Type 41 beer and wine for on-premises consumption in conjunction with an existing 1,033 square-foot restaurant on 0.905 acres of land located at 1953 East Fourth Street, within the CN (Neighborhood Commercial) zoning district (APN: 0110-441-05).

- The plan does adequately address the departmental concerns at this time.
  - No comments
  - Report attached (1 copy and email 1 copy)
  - Standard Conditions of Approval apply
- The plan does not adequately address the departmental concerns.
  - The conditions contained in the attached report must be met prior to scheduling for Development Advisory Board.

Landscape Planning Division

Sr. Landscape Architect

11/2/2023

Department

Signature

Title

Date  
Item A - 24 of 29



# CITY OF ONTARIO

## MEMORANDUM

TO: Scott Murphy, Community Development Director (Copy of memo only)  
Rudy Zeledon, Planning Director (Copy of memo only)  
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Jay Bautista, Traffic/Transportation Manager  
Lorena Mejia, Airport Planning  
Jeff Tang, Engineering/NPDES  
Angela Magana, Community Improvement (Copy of memo only)  
Jimmy Chang, IPA Department  
Blaine Ishii, Integrated Waste

FROM: Diana Prado, Administrative Intern

DATE: October 17, 2023

SUBJECT: FILE #: PCUP23-016 (1st Submittal) Finance Acct#:

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OMUC Utilities Engineering  
Department

Peter Tran  
Signature  
ptran@ontarioca.gov

Associate Engineer  
Title

03/02/2023  
Date



# CITY OF ONTARIO

## MEMORANDUM

TO: Scott Murphy, Community Development Director (Copy of memo only)  
Rudy Zeledon, Planning Director (Copy of memo only)  
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Angela Magana, Community Improvement (Copy of memo only)  
Jimmy Chang, IPA Department  
Blaine Ishii, Integrated Waste

FROM: Diana Prado, Administrative Intern

DATE: October 17, 2023

SUBJECT: FILE #: PCUP23-016

Finance Acct#:

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Engineering  
Department

*Henry Pham*  
Signature

Associate Engineer  
Title

10/30/23  
Date  
Item A - 26 of 29



# CITY OF ONTARIO

## MEMORANDUM

TO: Scott Murphy, Community Development Director (Copy of memo only)  
Rudy Zeledon, Planning Director (Copy of memo only)  
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Jeff Tang, Engineering/NPDES  
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Jimmy Chang, IPA Department  
Blaine Ishii, Integrated Waste

FROM: Diana Prado, Administrative Intern

DATE: October 17, 2023

SUBJECT: FILE #: PCUP23-016 Finance Acct#:

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*Nathan Pino*

Department

Signature

Title

Date  
Item A - 27 of 29



# CITY OF ONTARIO

## MEMORANDUM

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Rudy Zeledon, Planning Director (Copy of memo only)  
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Jimmy Chang, IPA Department  
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FROM: Diana Prado, Administrative Intern

DATE: October 17, 2023

SUBJECT: FILE #: PCUP23-016 (1st Submittal) Finance Acct#:

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OMUC Utilities Engineering

Department

Peter Tran

Signature

ptran@ontarioca.gov

Associate Engineer

Title

03/02/2023

Date

Item A - 28 of 29



# CITY OF ONTARIO

## MEMORANDUM

TO: Scott Murphy, Community Development Director (Copy of memo only)  
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Heather Lugo, Police Department  
Paul Erhman, Deputy Fire Chief/Fire Marshal  
Jay Bautista, Traffic/Transportation Manager - *Diego Tapia*  
Lorena Mejia, Airport Planning  
Jeff Tang, Engineering/NPDES  
Angela Magana, Community Improvement (Copy of memo only)  
Jimmy Chang, IPA Department  
Blaine Ishii, Integrated Waste

FROM: Diana Prado, Administrative Intern

DATE: October 17, 2023

SUBJECT: FILE #: PCUP23-016

Finance Acct#:

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ENG/TRAF  
Department

  
Signature

ENG ASST  
Title

11/21/2023

Date  
Item A - 29 of 29