

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2013-18

HEARING DATE: August 5, 2013

DECISION DATE: August 13, 2013

FILE NO.: PCUP13-017

SUBJECT: A Conditional Use Permit request to establish and operate a 700 sq. ft. chiropractor office within an existing two story 11,000 sq. ft. professional office building, within the C2 (Central Business District) and the Euclid Avenue (EA) Overlay zoning designations, located at 615 North Euclid Avenue (APN: 1048-356-05)

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

DR. JESUS TORRES CANCINO, herein after referred to as "the applicant," has filed an application requesting Conditional Use Permit approval, File No. *PCUP13-017*, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

(a) Project Description: A Conditional Use Permit request to establish and operate a 700 sq. ft. chiropractor office within an existing two story 11,000 sq. ft. professional office building, located at 615 North Euclid Avenue. The site is located on the west side of Euclid Avenue, north of West F Street and south of West G Street (see Exhibit A- Project location Map).

The 700 square foot tenant space is located on the ground floor level of a 2-story 11,000 square foot, professional office building known as the Hensley-Torta Office Building (see Exhibit C- Building Floor Plan). It was constructed in 1963 by architects HMC (Harnish, Morgan, and Causey). Since construction, the building has been subdivided and currently has 11 units ranging in size from 414 to 1,629 square feet. The primary entrance to the building is from Euclid Avenue with a secondary entrance from the alley. Entrances to the units are accessible from a central hallway. To date, the building has a 46% vacancy rate. Four units are used as offices, one unit is used as a wedding chapel, and the remaining five units are vacant. The property owner was notified by staff that the "Ontario Wedding Chapel", which recently located in the building, did not have the proper City permits or approvals in place to operate such use. This information was forwarded to the Ontario Business License Department.

Approved By:

-1-

_____ Senior Planner

Form Revised: 06/20/2013

- (b) TOP Policy Plan Land Use Map Designation: Mixed Use
- (c) Zoning Designation: C2 (Central Business District) and EA (Euclid Avenue Overlay District)
- (d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	C2	Multi-family Residential & Retail
South:	C2	Office
East:	C2	Restaurant, Retail & Office
West:	C2	Parking
- (e) Site Area: 0.19 acres
- (f) Assessor's Parcel No(s).: 1048-356-05
- (g) Project Analysis:

Proposed Use: The Applicant is requesting a Conditional Use Permit to establish and operate a chiropractic office to provide services which include chiropractic/physiotherapy and basic chiropractic adjustments to patients. The proposed hours of operation are Monday thru Friday 8:00 a.m. to 5:00 p.m. and closed on weekends. One employee, in addition to the doctor, will be staffed during business hours. No medications, drugs, or hazardous materials will be administered or stored on site.

The 700 square feet unit as proposed will include the Doctor's private area office, one patient exam room, and a lobby with a reception desk and a waiting area for up to four people (see Exhibit X, *Floor Plan*).

Parking: The Ontario Development Code requires a medical office to provide off-street parking at a rate of one space for each 175 square feet of gross floor area with a minimum of six spaces. The proposed chiropractor's office requires the minimum standard of six spaces. There are currently six on-site parking spaces at the rear of the building. Staff calculated a total of forty-four spaces required to accommodate all the administrative office units (1 space per 250 square feet of gross floor area), including the proposed chiropractor's office unit, within the building.

In order to adequately analyze the parking scenario staff utilized the Downtown Ontario Parking Model. The model specifically evaluates each block within the downtown at maximum built out, and provides an estimate of parking availability (on-site and street parking combined) with shared parking as the premise. Based on the existing land uses and parking spaces calculated in the parking model, staff determined that *Block 13* (project site), which provides a total of 134 spaces, currently utilizes less than 50 percent of the available parking capacity at all times. Therefore, staff has determined that based upon the Downtown Ontario Parking Model, sufficient parking exists to

support the proposed use. The table below illustrates available parking for *Block 13* (project site):

Available Public Parking with Proposed and Existing Use (8:00 a.m. – 5:00 p.m.)

Available Public Parking	8 a.m.	9 a.m.	10 a.m.	11 a.m.	12 p.m.	1 p.m.	2 p.m.	3 p.m.	4 p.m.	5 p.m.
<i>Block 13</i>	82	72	70	70	71	69	66	67	69	83

Land Use Compatibility: A Conditional Use Permit is required to ensure the compatibility of adjacent land use by identifying potential nuisance activities and establishing measures for mitigation accordingly. The subject site is located in the C2 (Central Business District) Zoning and the Euclid Avenue (EA) Overlay Districts within the downtown. The proposed chiropractor’s office is a conditionally permitted land use within the C2 (Central Business District), but is prohibited from the building’s ground floor level within the Euclid Avenue (EA) Overlay District.

The Euclid Avenue Overlay District was established to protect and to enhance the visual character and quality of Euclid Avenue as one of the City’s major scenic corridor and to limit land uses that are considered to be incompatible with the purpose, such pawn shops and indoor swap meets, tire retreading establishment, machine shops, kennels, feed and fuel stores and yards, outdoor rental or storage yard, and vehicle repair shops. It is also intended to encourage retail uses on the ground floor of buildings within the downtown district to achieve the full potential as a unique shopping area. However, not all existing development along the Euclid Avenue corridor within the downtown is suitable for retail land uses. The Applicant is proposing a chiropractor office use within an existing 2-story multi-tenant building constructed for office use. While the proposed location is located on the ground floor level of the building, the unit does not have any “store frontage” along Euclid Avenue.

Staff believes that the recommended conditions of approval will sufficiently mitigate potential impacts associated with the proposed use because the adjacent land uses are commercial and office related and are compatible with the proposed use.

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

(i) Departmental Review: Each City department has been provided the opportunity to review and comment on the subject application and recommends 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.

(j) 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.

(k) 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 B: RECITALS

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

WHEREAS, Ontario Municipal Code § 9-1.0405(f) provides 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, on the 5th day of August, 2013, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

- (a) Rudy Zeledon, Senior Planner, presented the staff report on the proposed use, indicating the staff recommendation of approval with conditions. Following staff's presentation, the Zoning Administrator opened the public hearing.
- (b) Dr. J. Torres Cancino, the applicant, explained the business operation and spoke in favor of the application.
- (c) Scott Murphy, Deputy Zoning Administrator, questioned if the Ontario Downtown Parking Model was based on one-hundred percent occupancy of the building and commented that the model indicates more than fifty percent of Block 13 parking is available at all hours.
- (d) Mr. Zeledon confirmed that the Parking Model took into account one-hundred percent occupancy and that the fifty percent parking availability was correct.
- (e) The Deputy Zoning Administrator asked if the Euclid Avenue Overlay District extended the full length of the property or just relative to the front of the property.
- (f) Mr. Zeledon explained that access to the proposed unit is by a hallway from Euclid Avenue and, therefore, there is no immediate frontage onto Euclid Avenue.

(g) 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 C: THE DECISION

NOW, THEREFORE, it is hereby found, determined and resolved by the Zoning Administrator of the City of Ontario as follows:

(a) All facts set forth in this Zoning Administrator Report and Decision are true and correct.

(b) Based upon the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby makes the following Conditional Use Permit findings:

(1) The proposed location of the Conditional Use Permit and the proposed conditions under which it will be operated or maintained will be consistent with the General Plan and will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. The chiropractor office lies within the Mixed Use land use designation.

(2) A Conditional Use Permit request to establish and operate a 700 sq. ft. chiropractor office within an existing two story 11,000 sq. ft. professional office building, within the C2 (Central Business District) and the Euclid Avenue (EA) Overlay zoning designations, located on the west side of the 600 Block of North Euclid Avenue is allowed upon approval of a Conditional Use Permit. The project has been conditioned so that the facility and use are operated in a manner that will not be detrimental to the health and safety of the surrounding community.

(3) The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the Ontario Development Code and zoning designation within which the site is located. The project meets the objectives and purposes of the Ontario Development Code, pursuant to Article 9: *Conditional Use Permits*, Article 13, *Land Use and Special Requirement*, Article 16, *Commercial and Professional Districts*, and meets the intent of Article 23, *Euclid Avenue Overlay District*.

(4) Traffic generated by the proposed Conditional Use Permit will not overload the capacity of the surrounding street system and will not create a hazard to public safety. The establishment of a chiropractor's office will not substantially increase the number of vehicles trips to the site, nor will the surrounding circulation system be impacted.

(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes. The project meets the applicable developments standards as specified in Article 9:

Conditional Use Permits, Article 13, Land Use and Special Requirement, Article 16, Commercial and Professional Districts, and meets the intent of Article 23, Euclid Avenue Overlay District.

(c) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to § 15301 (Class 1- Existing Facilities) of the State CEQA Guidelines.

(d) The Zoning Administrator hereby finds and determines that the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

(e) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP13-017, subject to the conditions of approval attached hereto and incorporated herein by this reference.



APPROVED by the Zoning Administrator of the City of Ontario on this 13th day of August 2013.



Scott Murphy
Deputy Zoning Administrator

EXHIBITS

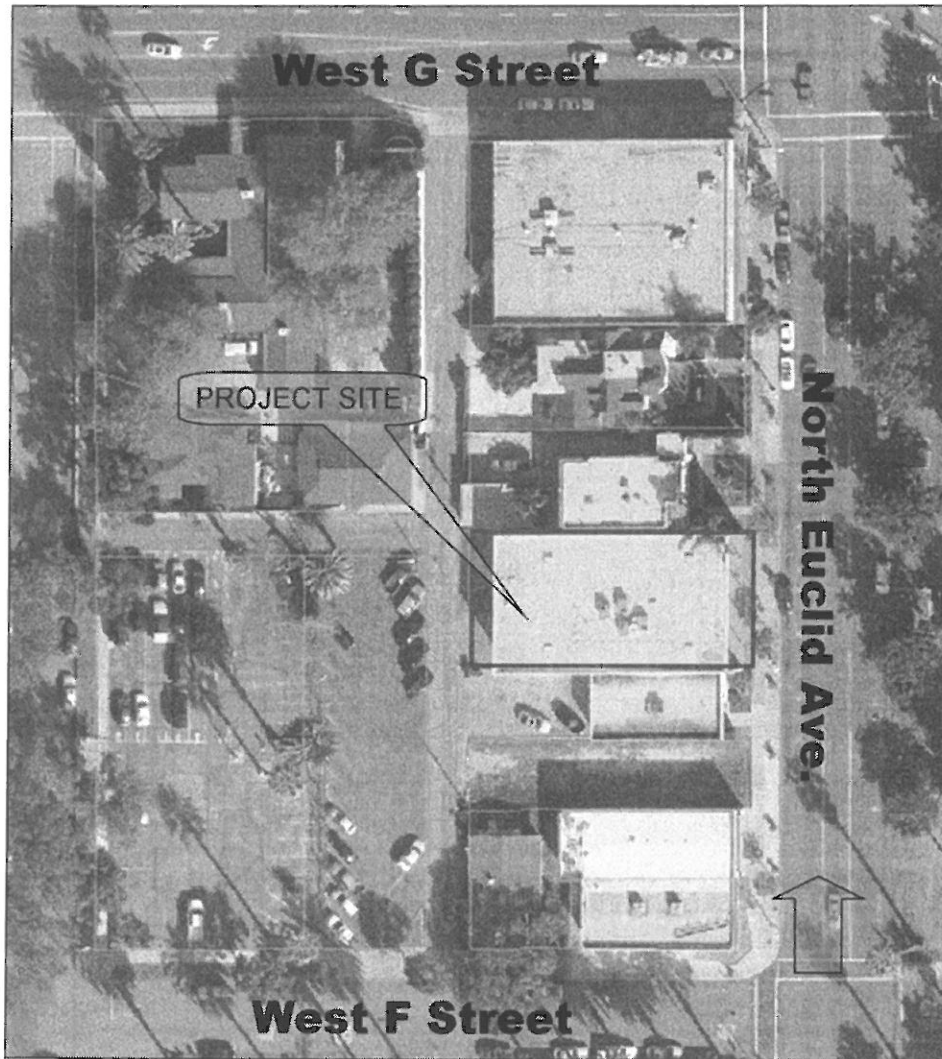


Exhibit A: *Aerial Map*

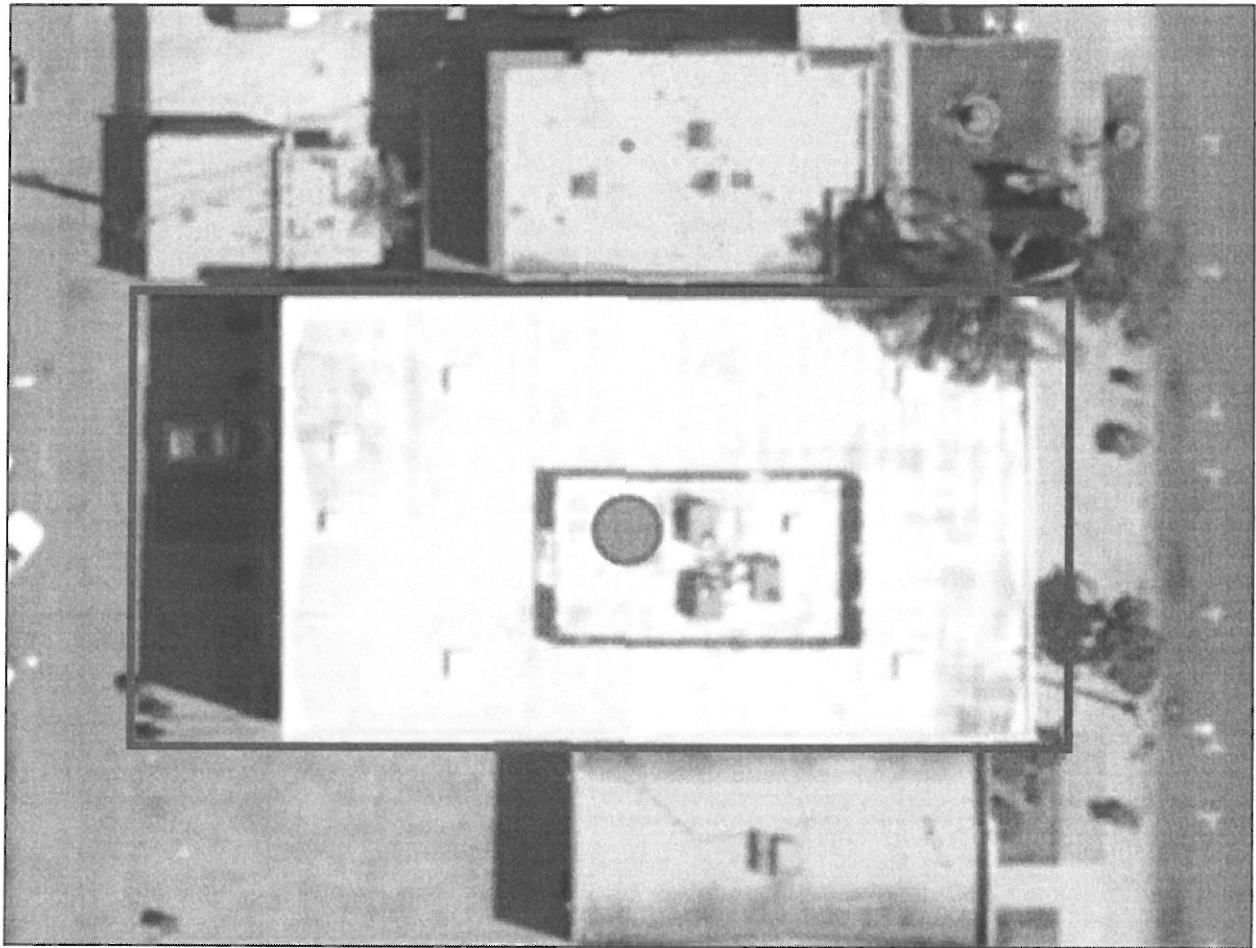


Exhibit B: Site Plan

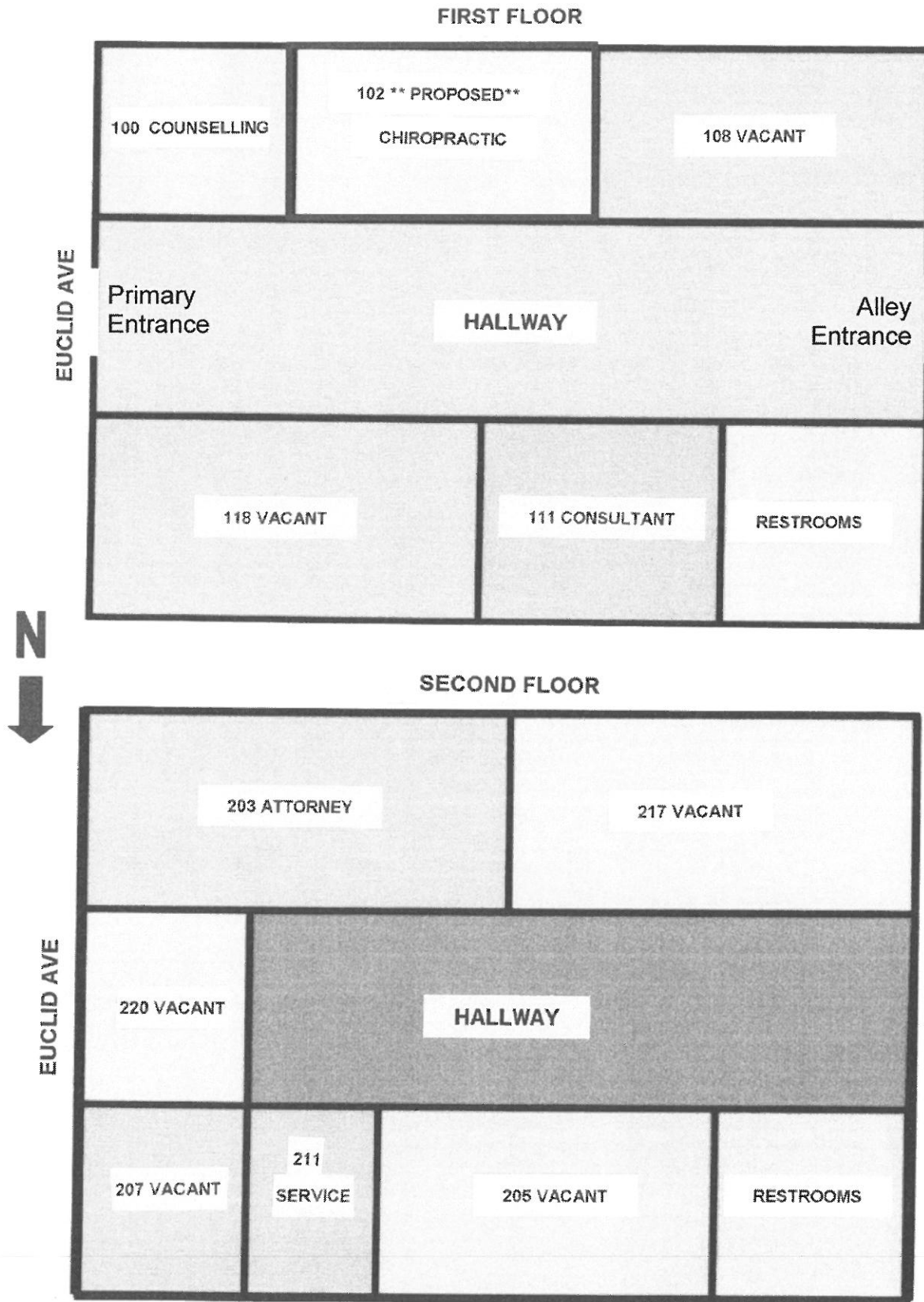
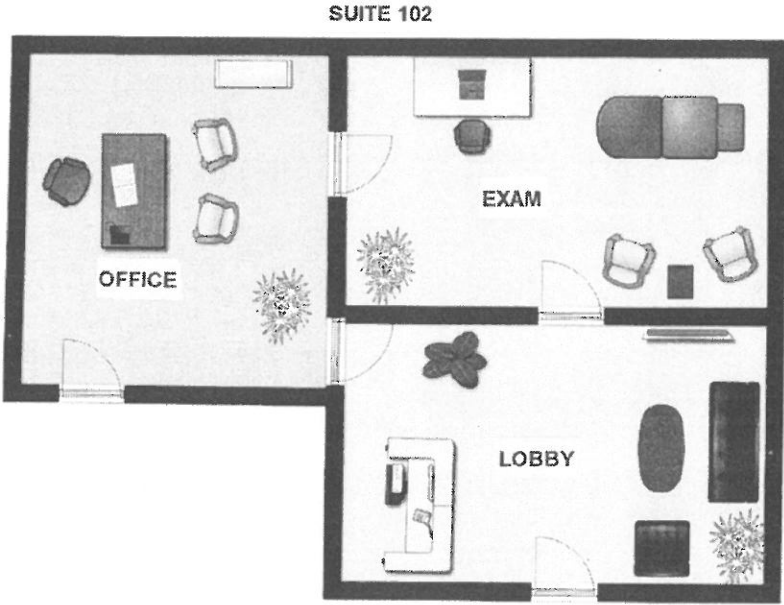


Exhibit C: Building Floor Plan

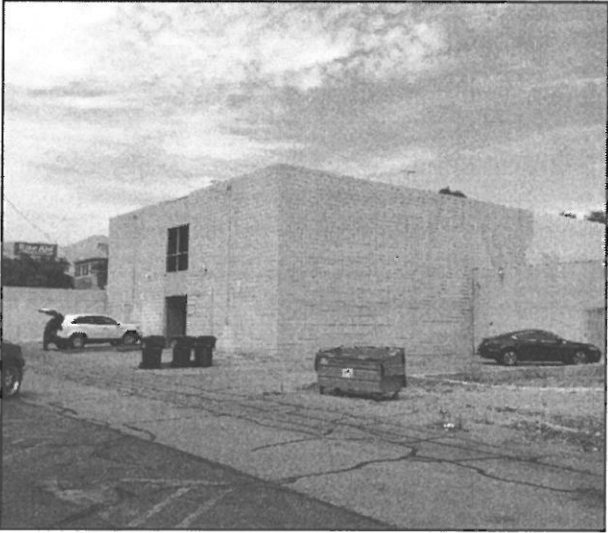


**Exhibit
D: Unit Floor Plan**

Exhibit E: Site Photos



Front View (East Elevation)



Rear View (West-South Elevation)

**DEPARTMENT ADVISORY BOARD
COMMENTS, CONDITIONS AND RECOMMENDATIONS**

DATE: August 5, 2013

FILE NO.: PCUP13-017

SUBJECT: A Conditional Use Permit request to establish and operate a 700 sq. ft. chiropractor office within an existing two story 11,000 sq. ft. professional office building, within the C2 (Central Business District) and the Euclid Avenue (EA) Overlay zoning designations, located at 615 North Euclid Avenue (APN: 1048-356-05).

The subject application has been reviewed by each agency/department listed below. A copy of each agency/department recommendation and comments are available for review in the Planning Department project file. Conditions of approval have been recommended by those agencies/departments marked below and are attached.

- | | |
|--|---|
| <input checked="" type="checkbox"/> PLANNING | <input type="checkbox"/> ECONOMIC DEVELOPMENT |
| <input type="checkbox"/> LANDSCAPING DIVISION | <input type="checkbox"/> HOUSING |
| <input type="checkbox"/> ENGINEERING | <input checked="" type="checkbox"/> FIRE |
| <input type="checkbox"/> UTILITIES/SOLID WASTE | <input type="checkbox"/> POLICE |
| <input type="checkbox"/> BUILDING | |



CONDITIONS OF APPROVAL

DATE: August 5, 2013

FILE NO.: PCUP13-017

SUBJECT: A Conditional Use Permit request to establish and operate a 700 sq. ft. chiropractor office within an existing two story 11,000 sq. ft. professional office building, within the C2 (Central Business District) and the Euclid Avenue (EA) Overlay zoning designations, located at 615 North Euclid Avenue (APN: 1048-356-05).

1.0 GENERAL REQUIREMENTS

- 1.1 Failure to maintain compliance with the herein-listed conditions of approval shall be deemed just cause for revocation of conditional use permit approval.
- 1.2 The use shall be operated in full conformance with the description and requirements of the Conditional Use Permit on file with the City. Any variations from, or changes in, the approved use (i.e., increase in hours/days of operation, expansion or intensification of use, etc.), must first be reviewed and approved by the Zoning Administrator prior to commencement of the change.
- 1.3 The approved use is subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.
- 1.4 A copy of the herein-listed conditions of approval shall be maintained on the subject premises at all times.
- 1.5 The Planning Department may, from time to time, conduct a review of the approved use to ascertain compliance with the herein-stated conditions of approval. Any noncompliance with the conditions of approval shall be immediately referred to the Zoning Administrator for possible action.

2.0 SIGNAGE

- 2.1 The location, quantity, size, and design of all signage shall comply with the Ontario Development Code and the Downtown Design Guidelines, pursuant to the zoning district for which the project site is located within.

3.0 PARKING AND CIRCULATION

- 3.1 The project shall provide off-street parking spaces pursuant to the requirements of Ontario Municipal Code § 9-1.3010. Parking shall be calculated and continuously maintained in accordance with established standards, as follows:

<i>Use</i>	<i>Area (in SF)</i>	<i>Parking Ratio</i>	<i>Parking Spaces Required</i>
Medical Office	700	1 space per 175 square feet with a minimum of 6 spaces	6

4.0 GRAFFITI REMOVAL

- 4.1 Right of access to remove graffiti. The City shall be granted the right of entry over and access to parcels, upon 48-hours of posting of notice by authorized City employees or agents, for the purpose of removing or "painting over" graffiti from graffiti attracting surfaces previously designated by the Director of Public Works, and the right to remove such graffiti.
- 4.2 Supply City with graffiti removal material. The City shall be provided sufficient matching paint and/or anti-graffiti material on demand, for a period of two (2) years after imposing this condition, for use in the painting over or removal of designated graffiti attracting surfaces.

5.0 SITE LIGHTING

- 5.1 Site lighting shall be reviewed and approved by the Planning Department and Police Department prior to the issuance of building/electrical permits.
- 5.2 Exterior lighting shall be arranged or shielded in such a manner as to contain direct illumination on the parking area and avoid glare on any adjoining site.

6.0 ENVIRONMENTAL REVIEW

- 6.1 The proposed project is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to § 15301 (Class1- Existing Facilities) of the State CEQA Guidelines.
- 6.2 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.

7.0 ADDITIONAL REQUIREMENTS

- 7.1 No medications, drugs, or hazardous materials shall be administered or stored on site. If medication or drugs are to be administered in the future City review and approval will be required and may be subject to Zoning Administrator review and approval.



CITY OF ONTARIO

MEMORANDUM

TO: Diane Ayala

FROM: Jim Heenan, Fire Safety Specialist
Bureau of Fire Prevention

DATE: June 25, 2013

SUBJECT: File No: PCUP13-017 A conditional use permit to establish a chiropractors office on 0.19 acres of land generally located at the northwest corner of "F" Street and Euclid Avenue (EA) overlay zoning districts.

The plan does adequately address the departmental concerns at this time.

No comments

Report below.

1. Fire Extinguishers shall be provided in accordance with 2007 CFC 906.1
 2. Required exit accesses, exits, or exit discharges shall be continually maintained free from obstructions for full instant use in case of fire or other when the areas served are occupied. As outlined in 2010 California Fire Code Section 1011
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For copies of Ontario Fire Department Standards please access the City of Ontario web site at www.ci.ontario.ca.us, click on Fire Department and then on forms.

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2013-19

HEARING DATE: August 5, 2013

DECISION DATE: August 13, 2013

FILE NO.: PCUP13-012

SUBJECT: A Conditional Use Permit to establish alcoholic beverage sales (Type 41 On-Sale Beer and Wine) and live entertainment in conjunction with the existing restaurant inside Cardenas Market, located at the southwest corner of the 60-Freeway and Vineyard Avenue, at 2450 South Vineyard Avenue, within the C1 (Shopping Center District) zoning district.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

CARDENAS MARKETS, INC., herein after referred to as "the applicant," has filed an application requesting Conditional Use Permit approval, File No. PCUP13-012, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

- (a) Project Description: A Conditional Use Permit to establish alcoholic beverage sales (Type 41 On-Sale Beer and Wine) and live entertainment in conjunction with the existing restaurant inside Cardenas Market, located at the southwest corner of the 60-Freeway and Vineyard Avenue, at 2450 South Vineyard Avenue, within the C1 (Shopping Center District) zoning district.
- (b) TOP Policy Plan Land Use Map Designation: General Commercial
- (c) Zoning Designation: C1 (Shopping Center District)
- (d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	N/A	60-Freeway
South:	R1 (Single-Family Residential)	Residential
East:	R1 (Single-Family Residential)	Residential
West:	R1 (Single-Family Residential)	Residential

- (e) Site Area: Entire commercial center is approximately 14.6-acres.
- (f) Assessor's Parcel No.: 0216-401-63
- (g) Project Analysis:

(1) Location & Operations: Cardenas Market, Inc. is a supermarket chain which first established in the City of Ontario in 1981. Since the first store opening, the supermarket chain has grown to 29 separate locations throughout Southern California and Nevada, with more stores on the way. The subject Cardenas Market, which occupies approximately 45,000 square-feet of floor area, is located at 2450 South Vineyard Avenue, within a multi-tenant commercial shopping center (**Exhibit A: Aerial Map**). Other businesses within the center include Dairy Queen, Jiffy Lube, Popeye's, Zendejas, as well as several other commercial retailers (**Exhibit B: Site Plan**). This Cardenas Market was previously approved on July 8, 2007, for alcoholic beverage sales (Type 21 Off-Sale General) under **File No. PCUP06-044, Decision No. 2007-15**. The approval entitled Cardenas Market to sell beer, wine, and distilled spirits for the purpose of off-site consumption, in conjunction with their general grocery items.

The owners of Cardenas Market have requested separate Conditional Use Permit to allow for alcoholic beverage sales (Type 41 On-Sale Beer and Wine) for on-site consumption at the restaurant inside the market, as well as limited live entertainment. Cardenas Market contains an existing restaurant inside the facility, which was established as part of the original store construction. There is an approximate 33-foot by 40-foot partially enclosed area dedicated for dining. The area includes approximately 19 tables and booths, which can accommodate approximately 70 persons at maximum capacity (**Exhibit C: Site Photos**). The restaurant offers a variety of fresh, made-daily items, purchased via an employee served buffet. Restaurant hours of operation generally coincide with the market, and may be open from 7:00am to 12:00am, daily. The on-site consumption of alcoholic beverages is restricted to the restaurant area only. No consumption while shopping is allowed. Conversely, all grocery items, including alcoholic beverages being purchased for off-site consumption, are not allowed within the dining area. Cardenas will dedicate a shopping cart staging area adjacent to the restaurant for patrons who are both dining and shopping. No self-serve of alcoholic beverages will occur. A restaurant patron may order an alcoholic beverage and an employee will bring the order to the patron's dining area.

This Conditional Use Permit is for on-site consumption of alcoholic beverages and live entertainment, as described above. As a result, a separate set of operating conditions have been imposed. The previous operating conditions, approved in conjunction with Conditional Use Permit **File No. PCUP06-044**, for the sale of alcoholic beverages for off-site consumption, are still in effect. Both sets of conditions are to remain readily available at the facility.

The original set of conditions restricted operating hours from 7:00am to 11:00pm daily. The revised operating hours for the entire facility, shall be 7:00am to 12:00am daily. No other conditions of approval changes are requested.

(2) Live Entertainment: In addition to providing alcoholic beverages to the restaurant patrons, Cardenas would also like to provide limited forms of live entertainment, which includes Mariachi bands and other types of live bands. Live entertainment is restricted to small live bands. DJs, dance floors, and large-scale productions are prohibited, as the facility is not designed to accommodate these types of entertainment. Pursuant to the Police Department Conditions of Approval, live entertainment may be permitted daily; however, the management of Cardenas indicated that bands would most likely only be playing on occasion, during special events.

(3) ABC License Concentrations: The California Department of Alcoholic Beverage Control (ABC) is the controlling State entity which grants, renews, and revokes 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 populations. Cardenas Market is located within Census Tract 18.08, which is generally bounded by the 60-Freeway on the north, Vineyard Avenue on the east, Riverside Drive on the south, and Parco Avenue on the west. ABC has determined that Census Tract 18.08 can support 3 On-Sale license types. As of July 2013, the latest ABC report shows Census Tract 18.08 as having a total number of 1 active On-Sale licenses. As a result, the addition of another On-Sale ABC license will not exceed the maximum number allowed by ABC. The Census Tract is considered underconcentrated.

In addition, each Department within the City of Ontario has reviewed the proposed use and determined that alcoholic beverage sales and live entertainment will not impact the community, will not impact the surrounding circulation system, nor will it negatively affect the environment. Furthermore, the Police Department has indicated that the surrounding area is not located within a high Police service call area for alcohol related issues. The Police Department has provided standard operating conditions of approval, to ensure the use will not impact surrounding property owners and businesses. As a result, each City Department is recommending Conditional Use Permit approval, subject to the attached conditions.

(4) Land Use Compatibility: The intent of a CUP application and review is to ensure that the proposed use will be operated in a manner consistent with all local regulations, and to ensure that the use will not be detrimental to the public health, safety, or welfare, or materially injurious to uses, properties or improvements in the vicinity. The City of Ontario's Development Code describes a CUP as the following: § Sec. 9-1.0900: *Purposes and Authorization* – Conditional Use Permits are required for land use classifications typically having unusual site development features or operating characteristics requiring special consideration so that they may be designed, located, and operated compatibly with uses on adjoining properties and in the surrounding area. Approval of a CUP first requires making certain findings, which show that the proposed use is consistent with all City of Ontario development codes, land uses, and other applicable requirements. Additionally, the use must be compatible with the other surrounding uses; therefore, approving a CUP is discretionary in nature.

The project site is located within the C1 (Shopping Center District) zoning district. Within this district, alcoholic beverage sales and live entertainment are conditionally permitted uses. It is staff's belief that the recommended conditions of approval will sufficiently mitigate potential impacts associated with the proposed use. Additionally, businesses within the surrounding area will not be exposed to any impacts resulting from alcoholic beverage sales, beyond those that would normally be associated with any other use similarly allowed within the C1 (Shopping Center District) zoning district.

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

(i) 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.

(j) 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.

(k) 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 B: RECITALS

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

WHEREAS, Ontario Municipal Code § 9-1.0405(f) provides 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, on the 5th day of August 2013, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

- (a) John Earle Hildebrand III, *Associate Planner*, presented the staff report on the proposed use, indicating the staff recommendation of approval, subject to the attached conditions. Following staff's presentation, the Zoning Administrator opened the public hearing.
- (b) Daren P. Trone, representing the applicant, introduced himself, briefly explained the business operation and spoke in favor of the application.
- (c) The Zoning Administrator, Scott Murphy, asked for clarification regarding the number of band members that would be allowed during times of entertainment. John Hildebrand explained that the Police Department restricted the number to five members and that he would clarify this in the final conditions of approval that a maximum of five band members would be allowed.
- (d) The Zoning Administrator asked if the band could use amplification equipment. John Hildebrand stated that the band could use amplification equipment if desired, but the City of Ontario's Municipal Code restricts noise generated from the facility to a maximum of 65dBA.
- (e) John Hildebrand, stated for the record, that live entertainment is to be restricted to the inside of the market and within the restaurant area only. Daren P. Trone acknowledged this and agreed. John Hildebrand further stated that the final conditions of approval would be amended to reflect this requirement.
- (f) 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 C: THE DECISION

NOW, THEREFORE, it is hereby found, determined and resolved by the Zoning Administrator of the City of Ontario as follows:

- (a) All facts set forth in this Zoning Administrator Report and Decision are true and correct.
- (b) Based upon the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby makes the following Conditional Use Permit findings:
- (1) The proposed location of the Conditional Use Permit and the proposed conditions under which it will be operated or maintained will be consistent with the General Plan and will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. Alcoholic beverage sales, in conjunction with the restaurant inside Cardenas Market, lies within the C1 (Shopping Center District) land use designation.

(2) Alcoholic beverage sales is allowed upon approval of a Conditional Use Permit. The project has been conditioned so that the facility and use are operated in a manner that will not be detrimental to the health and safety of the surrounding community.

(3) The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the Ontario Development Code and zoning designation within which the site is located. The location of alcoholic beverage sales and the associated restaurant, meets the objectives of the Ontario Development Code, Article 1: *Purposes and Objectives*.

(4) Traffic generated by the proposed Conditional Use Permit will not overload the capacity of the surrounding street system and will not create a hazard to public safety. The addition of alcoholic beverage sales as an ancillary service and use to an existing restaurant will not create a significant source of new traffic nor create a public safety issue.

(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes, including Article 9: *Conditional Use Permits* and Article 13: *Land Use and Special Requirements*.

(c) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section § 15301 (Existing Facilities) of the State CEQA Guidelines.

(d) The Zoning Administrator hereby finds and determines that the proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

(e) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP13-012, subject to the conditions of approval attached hereto and incorporated herein by this reference.



APPROVED by the Zoning Administrator of the City of Ontario on this 13th day of August 2013.



Scott Murphy
Deputy Zoning Administrator

EXHIBITS

Exhibit A: Aerial Map

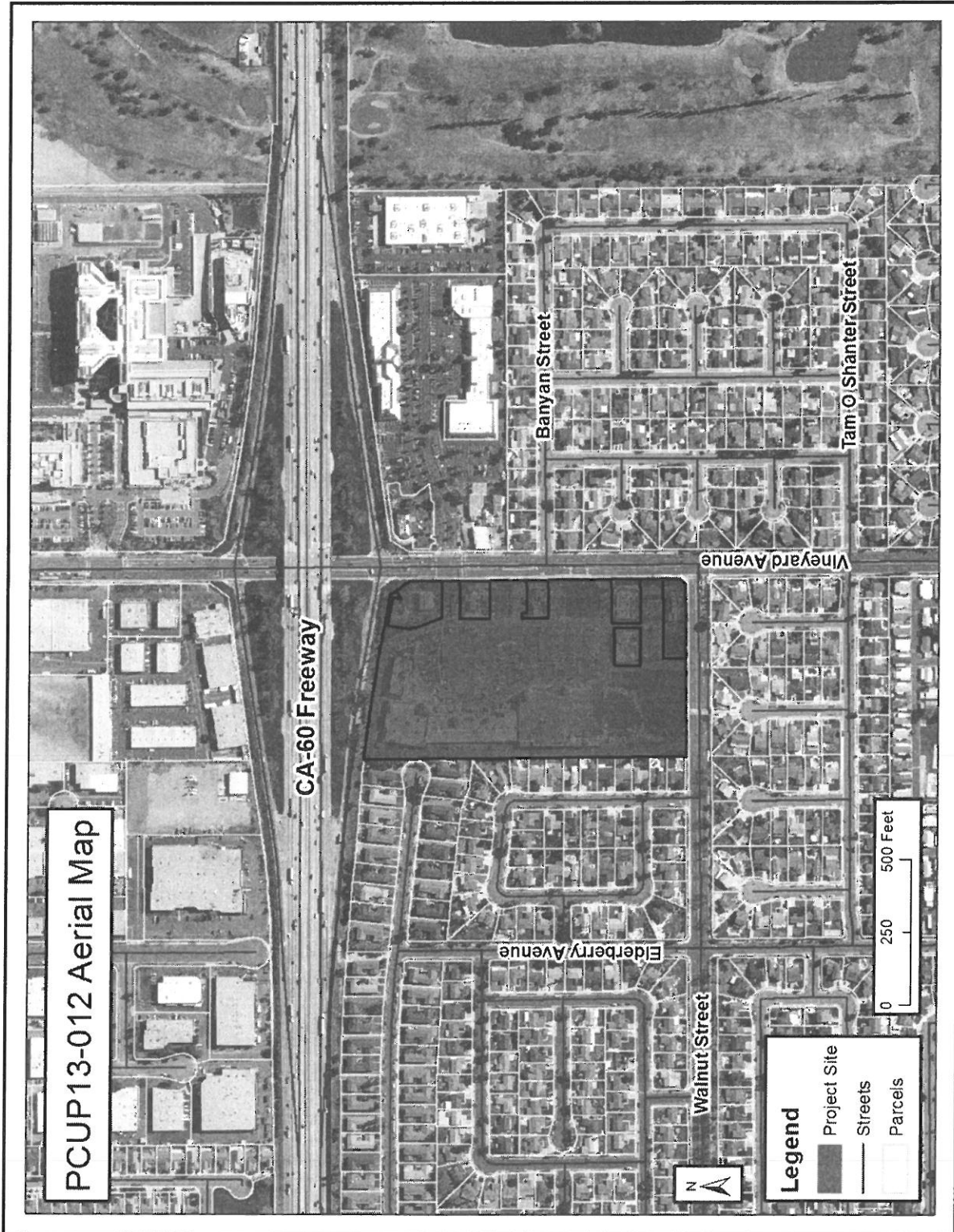


Exhibit B: Site Plan

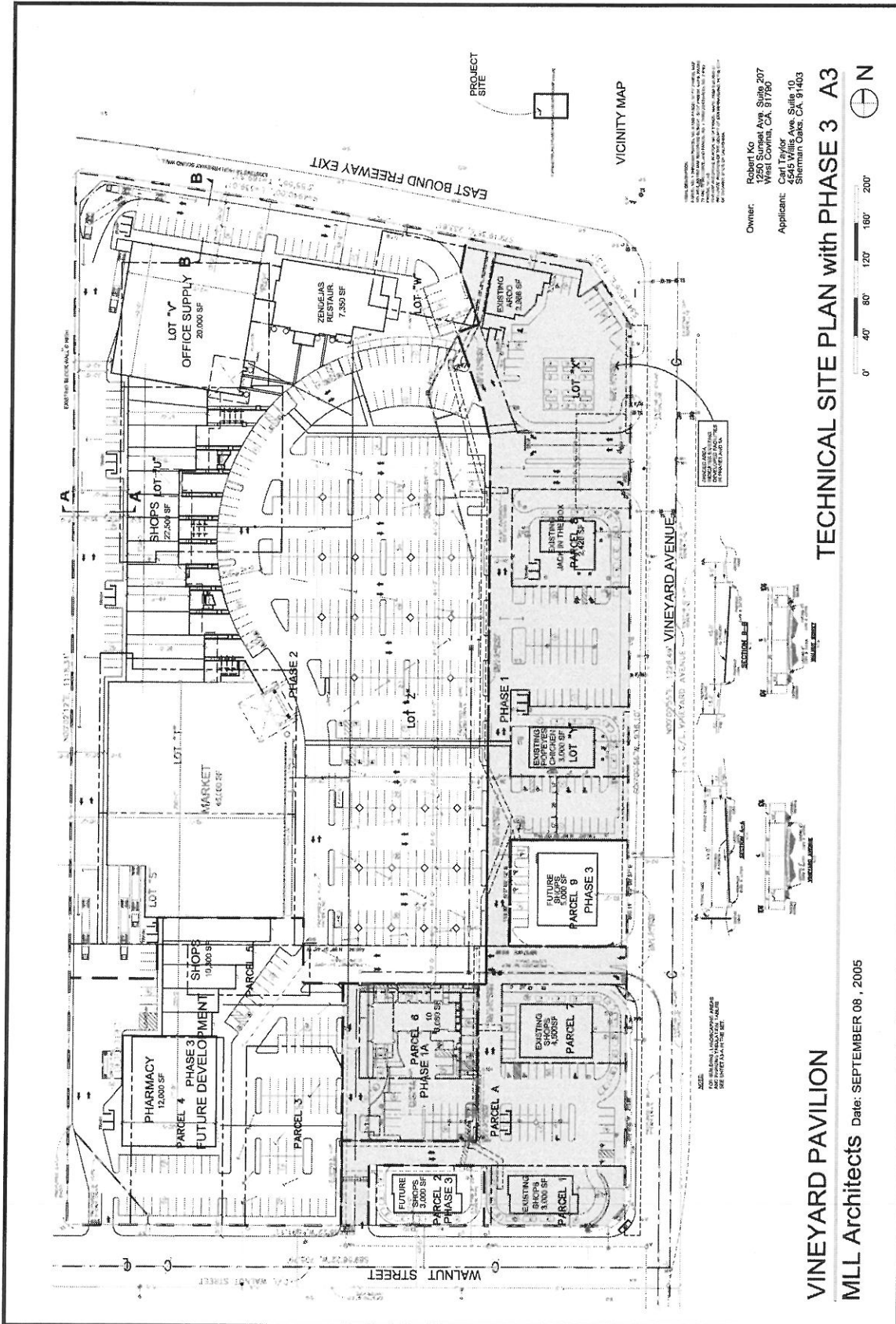
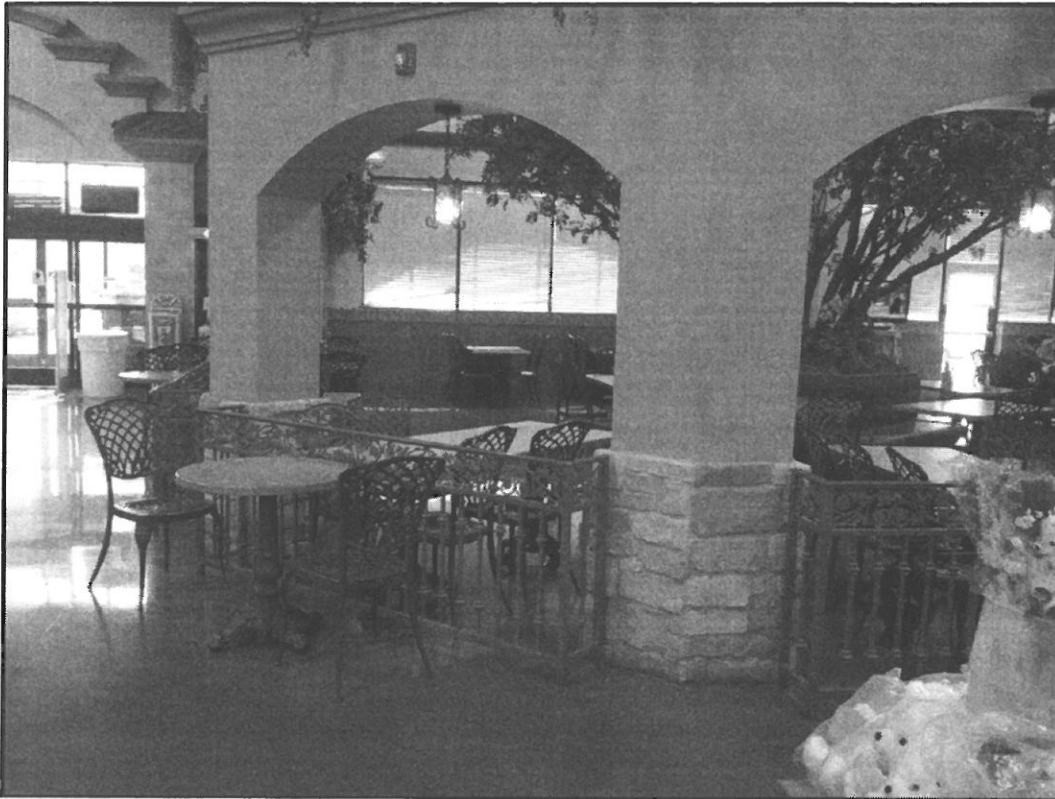


Exhibit E: Site Photos



Inside Cardenas Market – Looking into restaurant area



Inside Cardenas Market – Looking at the restaurant entry area



Inside Cardenas Market – Inside restaurant

**DEPARTMENT ADVISORY BOARD
COMMENTS, CONDITIONS AND RECOMMENDATIONS**

DATE: 08/05/2013

FILE NO.: PCUP13-012

SUBJECT: A Conditional Use Permit to establish alcoholic beverage sales (Type 41 On-Sale Beer and Wine) and live entertainment in conjunction with the existing restaurant inside Cardenas Market, located at the southwest corner of the 60-Freeway and Vineyard Avenue, at 2450 South Vineyard Avenue, within the C1 (Shopping Center District) zoning district.

The subject application has been reviewed by each agency/department listed below. A copy of each agency/department recommendation and comments are available for review in the Planning Department project file. Conditions of approval have been recommended by those agencies/departments marked below and are attached.

- | | |
|--|---|
| <input checked="" type="checkbox"/> PLANNING | <input type="checkbox"/> ECONOMIC DEVELOPMENT |
| <input type="checkbox"/> LANDSCAPING DIVISION | <input type="checkbox"/> HOUSING |
| <input type="checkbox"/> ENGINEERING | <input type="checkbox"/> FIRE |
| <input type="checkbox"/> UTILITIES/SOLID WASTE | <input checked="" type="checkbox"/> POLICE |
| <input type="checkbox"/> BUILDING | |



CONDITIONS OF APPROVAL

DATE: 08/05/2013

FILE NO.: PCUP13-012

SUBJECT: A Conditional Use Permit to establish alcoholic beverage sales (Type 41 On-Sale Beer and Wine) and live entertainment in conjunction with the existing restaurant inside Cardenas Market, located at the southwest corner of the 60-Freeway and Vineyard Avenue, at 2450 South Vineyard Avenue, within the C1 (Shopping Center District) zoning district.

1.0 GENERAL REQUIREMENTS

- 1.1 Failure to maintain compliance with the herein-listed conditions of approval shall be deemed just cause for revocation of conditional use permit approval.
- 1.2 The use shall be operated in full conformance with the description and requirements of the Conditional Use Permit on file with the City. Any variations from, or changes in, the approved use (i.e., increase in hours/days of operation, expansion or intensification of use, etc.), must first be reviewed and approved by the Zoning Administrator prior to commencement of the change.
- 1.3 The approved use is subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.
- 1.4 A copy of the herein-listed conditions of approval shall be maintained on the subject premises at all times.
- 1.5 The Planning Department may, from time to time, conduct a review of the approved use to ascertain compliance with the herein-stated conditions of approval. Any noncompliance with the conditions of approval shall be immediately referred to the Zoning Administrator for possible action.
- 1.6 General operating hours have been amended from the previous Conditional Use Permit, **File No. PCUP06-044, Decision No. 2007-15**. The original set of conditions restricted operating hours from 7:00am to 11:00pm daily. The revised operating hours for the entire facility, shall now be **7:00am to 12:00am daily**.
- 1.7 These Conditions of Approval apply to the restaurant alcoholic beverage sales and live entertainment. The previous set of conditions applies to the

sale of alcoholic beverages for offsite consumption. Both sets of conditions are in effect and shall remain readily available within the facility.

2.0 SIGNAGE

- 2.1 The location, quantity, size, and design of all signage shall comply with the Ontario Development Code, Specific Plan, or applicable sign program, pursuant to the zoning district for which the project site is located within.
- 2.2 No more than 25% 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.
- 2.3 View obscuring material that is applied to any window, preventing direct view into or outside of the building is prohibited. Additionally, any furniture, shelving system, or product stacked in front of a window which prevents an unobstructed view into or outside of the building is prohibited.

3.0 GRAFFITI REMOVAL

- 3.1 Use of anti-graffiti material. Anti-graffiti material of a type and nature that is acceptable to the Director of Public Works, shall be applied to each of the publicly viewable surfaces on the improvements to be constructed on the site, which are deemed by the Director of Public Works to be likely to attract graffiti ("graffiti attracting surfaces").
- 3.2 Right of access to remove graffiti. The City shall be granted the right of entry over and access to parcels, upon 48-hours of posting of notice by authorized City employees or agents, for the purpose of removing or "painting over" graffiti from graffiti attracting surfaces previously designated by the Director of Public Works, and the right to remove such graffiti.
- 3.3 Supply City with graffiti removal material. The City shall be provided sufficient matching paint and/or anti-graffiti material on demand, for a period of two (2) years after imposing this condition, for use in the painting over or removal of designated graffiti attracting surfaces.

4.0 SITE LIGHTING

- 4.1 Site lighting shall be reviewed and approved by the Planning Department and Police Department prior to the issuance of building/electrical permits.

- 4.2 Exterior lighting shall be arranged or shielded in such a manner as to contain direct illumination on the parking area and avoid glare on any adjoining site.
- 4.3 Along pedestrian movement corridors, the use of low mounted bollard light standards, which reinforce pedestrian scale, shall be encouraged. Steps, ramps and seatwalls should be illuminated wherever possible, with built-in light fixtures.

5.0 ALCOHOLIC BEVERAGE SALES

- 5.1 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.
- 5.2 One (1) year following commencement of the approved use, 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 (1) 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.
- 5.3 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.
- 5.4 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.
- 5.5 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 six (6) months of commencement of the approved use.

Restaurants

- 5.6 The establishment shall be operated as a "bona fide public eating place" as defined by Business and Professions Code § 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.

- 5.7 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% 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.
- 5.8 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.
- 5.9 Amplified music may be permitted; however, the sound emitted from the premises shall not be audible outside the walls of the business establishment.

6.0 LIVE ENTERTAINMENT

- 6.1 Live entertainment within the restaurant area is permitted upon approval of this Conditional Use Permit and is subject to the conditions imposed by the Police Department.

7.0 ENVIRONMENTAL REVIEW

- 7.1 The proposed project is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section § 15301 (Existing Facilities) of the State CEQA Guidelines.
- 7.2 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.



CITY OF ONTARIO
MEMORANDUM
“Excellence Through Teamwork”

TO: John Hildebrand, Associate Planner

FROM: Robert Sturgis, ABC Officer

DATE: June 18, 2013

SUBJECT: FILE NO. PCUP13-012 - CARDENAS MARKET 2450 SOUTH VINEYARD AVENUE

The Police Department is placing the following conditions which compliment, not supersede previous conditions:

RESTAURANT CONDITIONS

1. The hours of restaurant will be 7:00 A.M. to 12 A.M. daily. Last call for alcohol will be made at 11:15 P.M.
2. No sales or service of alcoholic beverages to minors.
3. No sales or service to intoxicated patrons.
4. Alcohol is only allowed to be consumed inside of the restaurant seating area.
5. No alcohol is to be removed from the restaurant area for consumption.
6. Alcohol will only be served in a clear glass or cup.
7. No self serve alcohol displays.
8. Food must be available at all times during alcohol service.
9. No shopping carts are allowed in the restaurant area.
10. No smoking inside of establishment is permitted.
11. All restaurant employees **servicing alcohol** must be **21** years or older.

12. Applicant and all employees must attend an Alcoholic Beverage Control (ABC) L.E.A.D. training class within six months of this dated conditional use permit. Proof of re-certification is required every 3 years.
13. A plan check will be submitted identifying a barricade separating the restaurant area from the store area.
14. No restaurant tables are allowed outside of restaurant seating area.
15. Lighting within the establishment must be kept at a reasonable level for safe movement of patrons as determined by city officials.
16. There will be no narcotic sales or usage on the premises at any time.
17. Signage will be posted at the exit of the restaurant area advising customers, No Alcoholic Beverages beyond this point.
18. Signage will be posted at the entrance of the restaurant area advising customers, Only restaurant purchased alcohol is allowed in the dining area.
19. A Code of Conduct will be required and posted at the establishment.
20. The Ontario Police Department and the Ontario Planning Department will conduct an inspection before the consumption of alcohol is permitted with this conditional use permit.

ENTERTAINMENT CONDITIONS

1. During restaurant hours, the location shall not exceed a noise level of 65dBA per section 9-1.3305 of the Ontario Development Code.
2. During restaurant hours, a live band up to a maximum of 5-members, is permitted daily.
3. Live entertainment involving a combination of DJ/Live Entertainment and Dancing is prohibited at the location.
4. Cover charge to patrons is prohibited at the location.
5. Tables shall not be removed or rearranged to increase occupancy, which has been approved on plans submitted with this conditional use permit.
6. Live entertainment shall be restricted to the designated restaurant area only. Live entertainment shall not spill over into the market area or outside of the facility, unless separately approved through a Temporary Use Permit (TUP), prior to commencement of the live entertainment activity.

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 Police Department will conduct a review in six months to determine whether additional conditions will be needed.

If you have any questions please call Officer Robert Sturgis at (909) 395-2001 ext. 4773.