

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2013-27

HEARING DATE: 10/07/2013

DECISION DATE: 10/21/2013

FILE NO.: PCUP13-020

SUBJECT: A Conditional Use Permit to establish an after-market vehicle exhaust and suspension fabrication shop, located near the northwest corner of South Lake Place and Cedar Street, at 1936 South Lake Place, within the M2 (Industrial Park) zoning district.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

LP RACING, herein after referred to as "the applicant," has filed an application requesting Conditional Use Permit approval, *File No. PCUP13-020*, 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 an after-market vehicle exhaust and suspension fabrication and installation shop, located near the northwest corner of South Lake Place and Cedar Street, at 1936 South Lake Place, within the M2 (Industrial Park) zoning district.
- (b) TOP Policy Plan Land Use Map Designation: Industrial
- (c) Zoning Designation: M2 (Industrial Park)
- (d) Surrounding Zoning and Land Uses:

	Zoning	Existing Land Use
North:	M2 (Industrial Park)	Industrial
South:	M2 (Industrial Park)	Industrial
East:	M2 (Industrial Park)	Industrial
West:	M2 (Industrial Park)	Industrial

- (e) Site Area: 0.41 acres
- (f) Assessor's Parcel No.: 0113-461-22

(g) Project Analysis:

(1) Location and Operations: LP Racing is an existing automotive parts fabrication business, relocating from the City of Rancho Cucamonga to the City of Ontario, near the northwest corner of South Lake Place and Cedar Street, at 1936 South Lake Place. The business specializes in the fabrication and installation of after-market vehicle turbocharger systems, used for drag racing and competition of off-road specialty vehicles. Additionally, the business fabricates custom headers, exhaust, suspension components and parts for racing vehicles. They also occasionally design prototype parts for the automotive industry. Typical work involves metal cutting, bending, and welding; however, the business does not conduct general automotive tune-ups, paint, or body work. Pursuant to the allowed uses within the Development Code, major automotive customization, in conjunction with the use of impact tools, requires Conditional Use Permit approval. The business is licensed with the Bureau of Automotive Repair.

The new building is approximately 7,200 square-feet in floor area with 575 square-feet utilized as office space. General hours of operation are from 8:00am to 5:00pm, Monday to Friday, and the business has 2-3 employees on a regular basis.

(2) 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 M2 (Industrial Park) zoning district, surrounded by other industrial buildings and uses. Within this district, vehicle parts manufacturing is a conditionally permitted use. 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 beyond those that would normally be associated with any other use similarly allowed within the M2 (Industrial Park) zoning district. The use is compatible with the other surrounding industrial uses.

(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 7th day of October, 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. Following staff's presentation, the Zoning Administrator opened the public hearing.

(b) Lang Paciulli, the applicant and Barry Vantiger, the applicant's representative, explained the business operation and spoke in favor of the application.

(c) The Zoning Administrator (Mr. Blum) asked if the applicant read the final conditions of approval, to which they replied they had and agreed with the conditions. They asked for clarification regarding Fire Department condition number 3 and the term "Hot Works". The applicant was told that the term "Hot Works" is a general term for the

welding area. The applicant had already taken this into account with regards to the necessary type of fire suppression.

(d) The Zoning Administrator asked about potential outside storage of vehicles. The applicant responded that they may store a few vehicles outside, as a result of the work conducted on the vehicles taking several days. Generally, vehicles would not be stored outside as they are high-end racing vehicles and need to be secured.

(e) The Zoning Administrator asked the applicant why he is moving the business to the City of Ontario from the City of Rancho Cucamonga. He stated that he needed more space and that the building he was in, didn't adequately serve his needs. The property owner, Barry Vantiger, stated that he contacted the City of Rancho Cucamonga prior to executing a lease agreement. His research concluded that the City of Rancho Cucamonga did not have any issues with the business, and as a result, he moved forward with the lease.

(f) The Zoning Administrator questioned the types of tools that will be used in the process. Mr. Hildebrand stated they are compression tools, a bending machine, and general machine shop tools that will customize metal products. Mr. Paciulli stated they will be using general machinery tools and hand tools. Noise cannot be heard from the next door building. Mr. Blum asked they test drive the cars once they are complete. Mr. Paciulli answered no. Mr. Blum asked if there is need for outdoor storage. Mr. Paciulli stated they store trailers for the customized vehicles outside but nothing else. Mr. Blum asked if they have a secured facility. Mr. Paciulli answered yes. Mr. Blum asked if work on weekends. Mr. Paciulli stated they occasionally work on weekends.

(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 vehicle exhaust fabrication facility lies within the Industrial General Plan land use designation.

(2) Vehicle exhaust fabrication 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 site is located within an Industrial zoned district, which supports manufacturing uses. The use and project site location meet 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 after-market vehicle exhaust fabrication facility will not create a significant source of new traffic, nor negatively impact the surrounding circulation system, as the facility is relatively small at 7,200 square-feet in floor area and the business employs only 2-3 persons.

(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*.

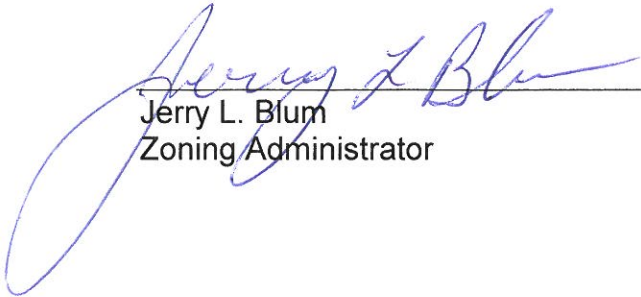
(c) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section § 15301 (Existing Facilities) 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. PCUP13-020, subject to the conditions of approval attached hereto and incorporated herein by this reference.



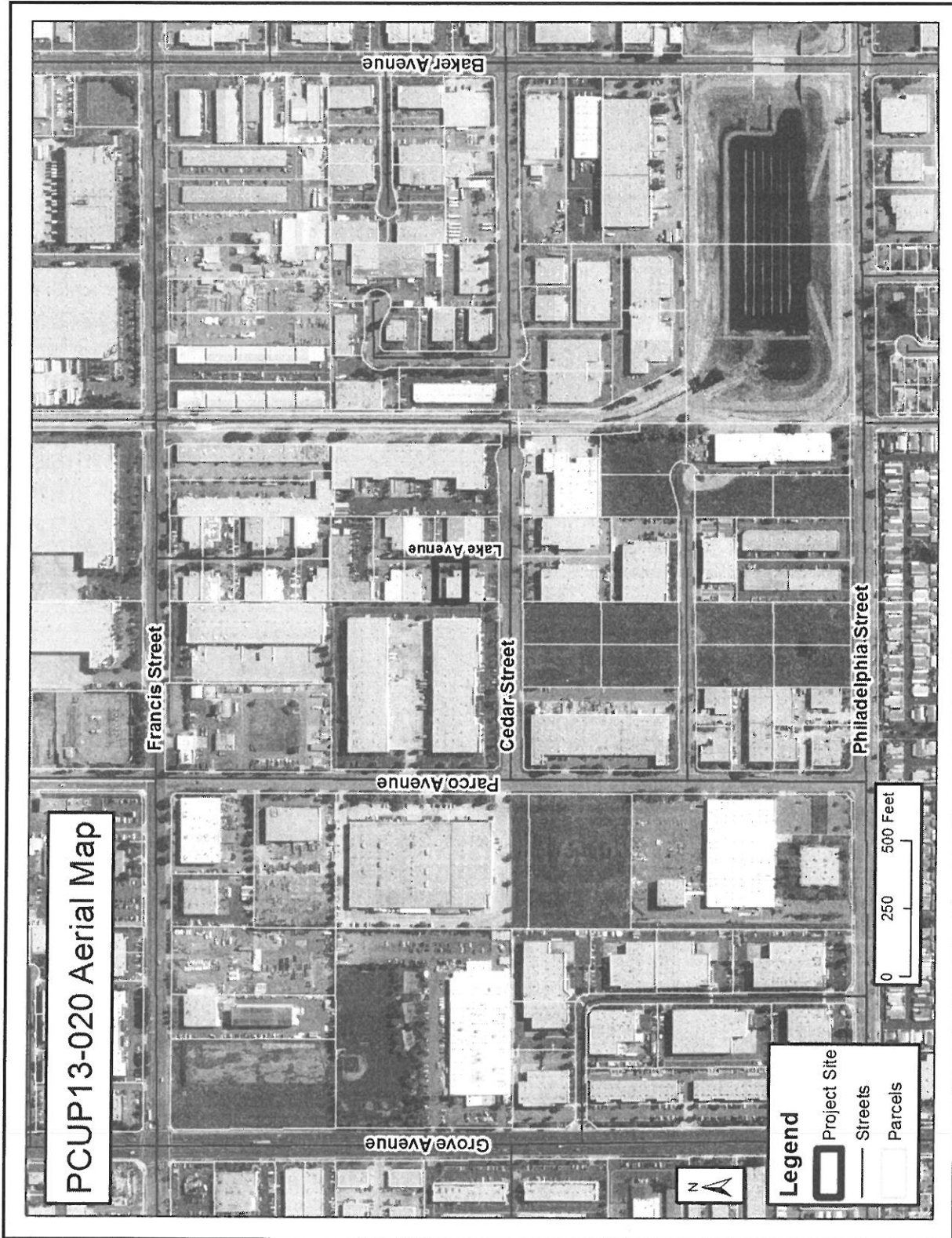
APPROVED by the Zoning Administrator of the City of Ontario on this 21st day of October, 2013.



Jerry L. Blum
Zoning Administrator

EXHIBITS

Exhibit A: Aerial Map



PCUP13-020 Aerial Map

Exhibit B: Site Plan

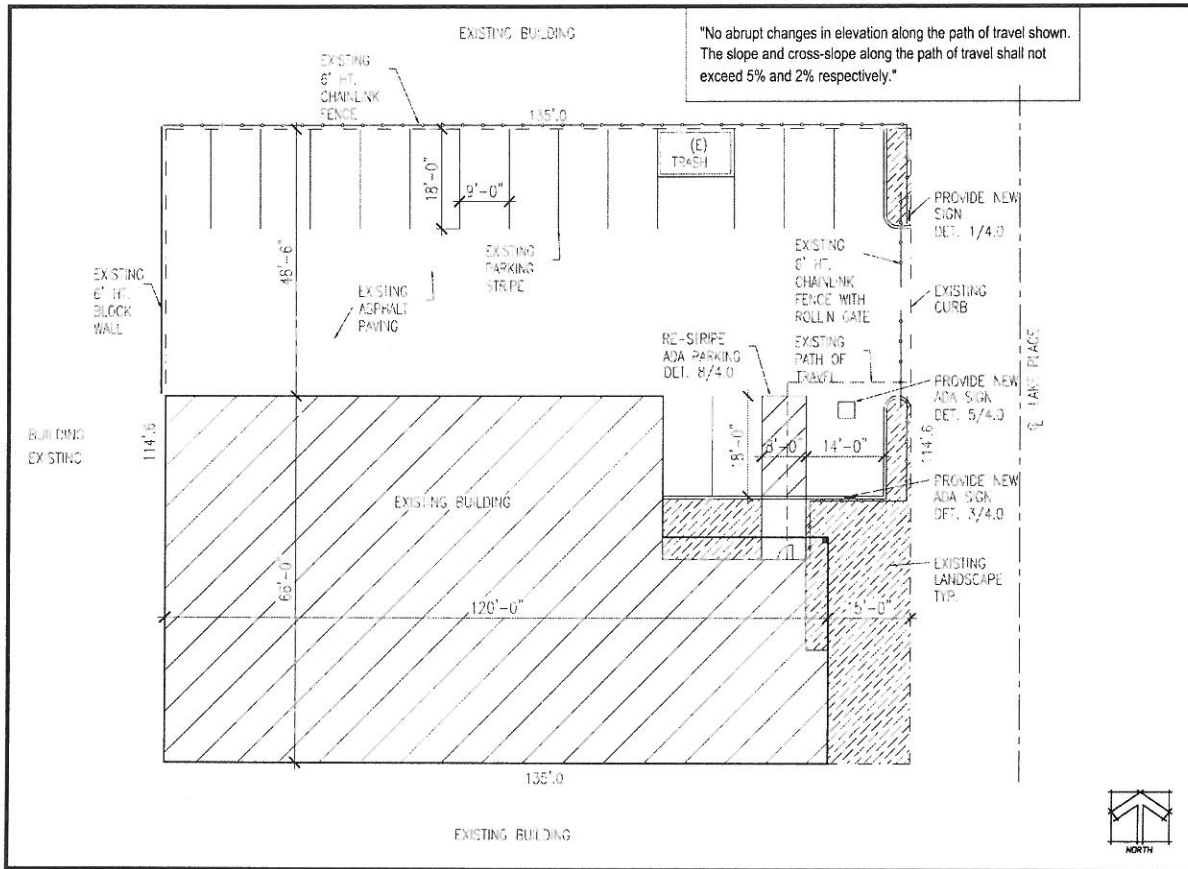


Exhibit C: Floor Plan

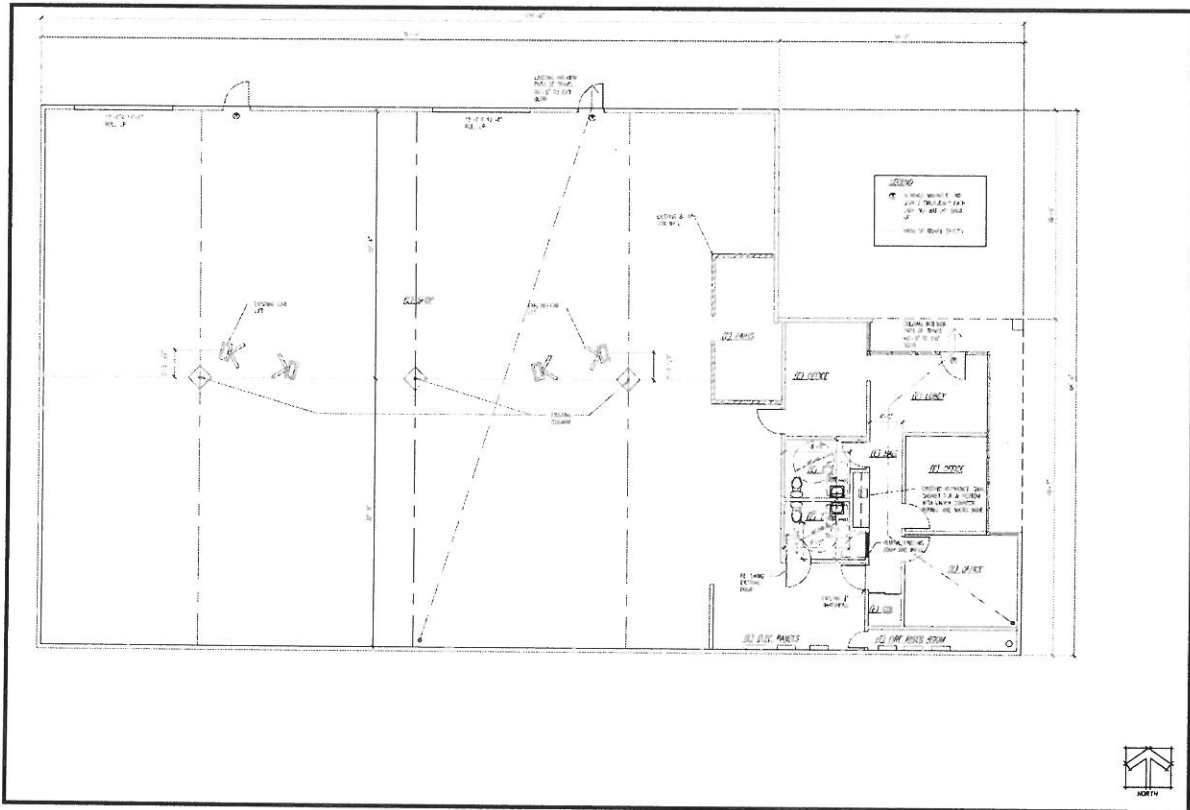


Exhibit D: Elevations

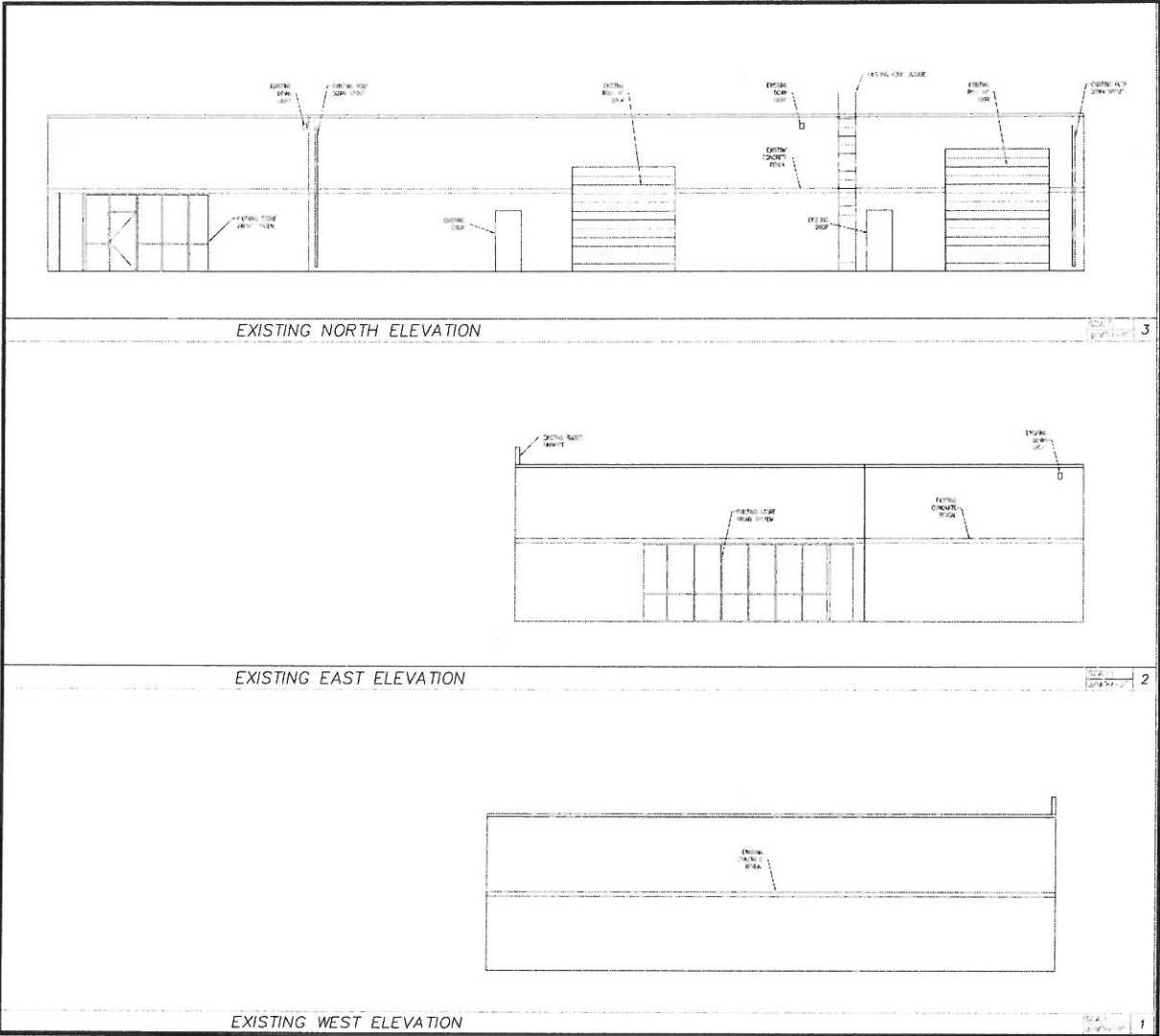
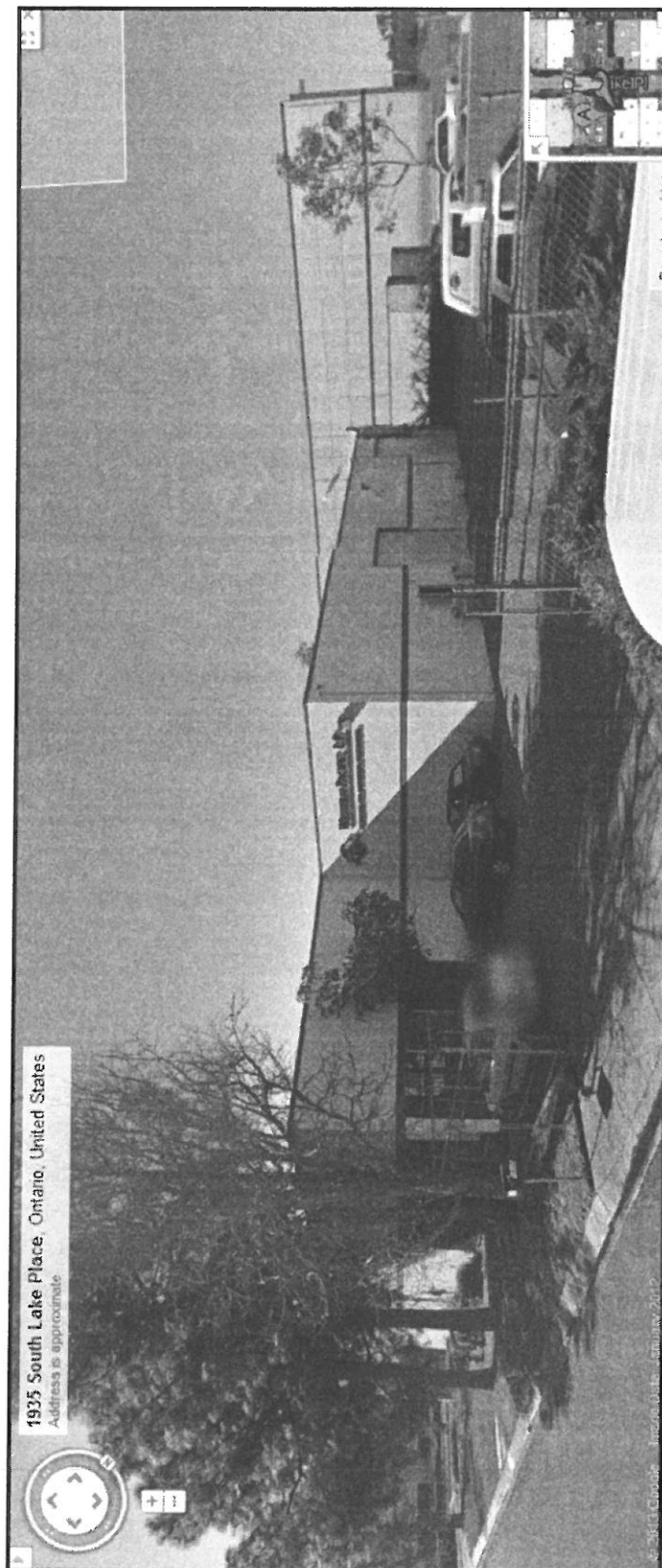


Exhibit E: Site Photo



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

DATE: 10/07/2013

FILE NO.: PCUP13-020

SUBJECT: A Conditional Use Permit to establish an after-market vehicle exhaust and suspension fabrication shop, located near the northwest corner of South Lake Place and Cedar Street, at 1936 South Lake Place, within the M2 (Industrial Park) 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 checked="" type="checkbox"/> ENGINEERING | <input type="checkbox"/> FIRE |
| <input type="checkbox"/> UTILITIES/SOLID WASTE | <input type="checkbox"/> POLICE |
| <input type="checkbox"/> BUILDING | |



CONDITIONS OF APPROVAL

DATE: 10/07/2013

FILE NO.: PCUP13-020

SUBJECT: A Conditional Use Permit to establish an after-market vehicle exhaust and suspension fabrication shop, located near the northwest corner of South Lake Place and Cedar Street, at 1936 South Lake Place, within the M2 (Industrial Park) 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.

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 ENVIRONMENTAL REVIEW

- 5.1 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.
- 5.2 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**

**ENGINEERING DEPARTMENT
CONDITIONS OF APPROVAL**

(Traffic/Transportation Division and Municipal Utilities Agency, and Environmental Section Conditions incorporated)

DATE: 09.25.2013 (1st review)

PROJECT PLANNER: John Hildebrand, Planning Department

PROJECT: PCUP13-020, A Conditional Use Permit for the fabrication/
manufacturing of custom/ specialized turbocharger, exhaust, and
suspension systems for racing vehicles within an existing 7,125 square
foot building in the M2 (Industrial Park) zone, located at 1936 South
Lake Place.


APN: 0113-461-22

LOCATION: 1936 South Lake Place

PROJECT ENGINEER: Miguel Sotomayor, Engineering Department

**ENGINEERING DEPARTMENT HAS CONDITIONS FOR THE MOST RECENT
SUBMITTAL OF THE ABOVE REFERENCED SITE.**

1. The Applicant shall follow up with OMUC and fill out an industrial survey. Please contact Margaret Haber at 909-395-2650.

CITY OF ONTARIO LANDSCAPE PLANNING DIVISION 303 East "B" Street, Ontario, CA 91764	DAB CONDITIONS OF APPROVAL Sign Off <div style="display: flex; justify-content: space-between; align-items: center;"> <div style="text-align: center;">  <small>Jamie Richardson, Associate Landscape Planner</small> </div> <div style="text-align: center;"> <small>08/19/2013</small> <small>Date</small> </div> </div>	
Reviewer's Name: Jamie Richardson, Associate Landscape Planner	Phone: (909) 395-2615	
D.A.B. File No.: PCUP13-026	Related Files:	Case Planner: John Hildebrand
Project Name and Location: 1936 South Lake Place Ontario, Ca		
Applicant/Representative: Lang Paciulli 1936 Lake Place Ontario, CA 91761		
<input checked="" type="checkbox"/>	A site plan (dated 06/21/2013) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met.	
<input type="checkbox"/>	A site plan (dated) has not been approved. Corrections noted below are required prior to DAB approval.	
CONDITIONS OF APPROVAL		
<ol style="list-style-type: none"> 1. Verify with property owner or landscape maintenance Company that all landscape areas in the adjacent parking lot planter islands each have 1 shade tree in good health. Replace if missing or dead with 1-24" box size tree each to match existing parking lot trees or typical such as Tristania conferta or Ulmus parvifolia. Remove a 36" diameter of lawn at tree trunks and add 1" layer of mulch. 2. Provide or show on plans the landscape planter areas. 		



CITY OF ONTARIO MEMORANDUM

TO: John Hildebrand, Planner
Planning Department

FROM: Kenna Leonard, Fire Safety Specialist
Fire Prevention Bureau

DATE: 8-6-13

SUBJECT: PCUP13-020-A Conditional Use Permit for the fabrication/manufacturing of custom/specialized turbocharger, exhaust and suspension systems for racing vehicles within an existing 7.125 Sq. ft. building in the M@ (industrial park) zone located at 1936 S Lake Place. APN: 0113-461-22

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

No comments

Report below.

1. An Operational Permit is required for Hot Works
2. A minimum 2A:20BC fire extinguisher is required within 30 feet of hot works area
3. A minimum of 2A:10BC fire extinguisher is required every 75 feet of travel distance
4. No smoking signs are required around hot works/welding area.

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. 2013-28

HEARING DATE: 10/07/2013

DECISION DATE: 10/22/2013

FILE NO.: PCUP13-023

SUBJECT: A Conditional Use Permit (**File No. PCUP06-004**) modification to change the hours of operation and establish live entertainment for La Isla Yokomo Sushi & Seafood Restaurant, located at the southeast corner of Grove Avenue and the 60-Freeway, at 2435 South Grove Avenue, within the C1 (Shopping Center District) zoning district.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

LA ISLA YOKOMO CORPORATION, herein after referred to as "the applicant," has filed a Conditional Use Permit application, File No. PCUP13-023, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

(a) Project Description: A Conditional Use Permit (**File No. PCUP06-004**) modification to change the hours of operation and establish live entertainment for La Isla Yokomo Sushi & Seafood Restaurant, located at the southeast corner of Grove Avenue and the 60-Freeway, at 2435 South Grove Avenue, within the C1 (Shopping Center District) zoning district.

(b) TOP Policy Plan Land Use Map Designation: Neighborhood Commercial

(c) Zoning Designation: C1 (Shopping Center Commercial)

(d) Surrounding Zoning and Land Uses:

	Zoning	Existing Land Use
North:	N/A	CA-60 Freeway
South:	R1 (Single-Family Residential)	Residential
East:	R1 (Single-Family Residential)	Residential
West:	C1 (Shopping Center Commercial)	Commercial/Retail Shopping Center

- (e) Site Area: 1.64 acres
- (f) Assessor's Parcel No.: 0216-341-61
- (g) Project Analysis:

(1) Location & Operations: La Isla Yokomo Sushi & Seafood Restaurant is a full-service, sit-down restaurant, which creates a unique fusion of sushi and Sinola-style Mexican food. The restaurant is located at the southeast corner of Grove Avenue and the 60-Freeway, at 2435 South Grove Avenue (**Exhibit A: Aerial Map**), within a multi-tenant commercial shopping center. The center also includes 7-Eleven, Nail Salon, donut shop, metroPCS, and several other small restaurant and commercial retailers (**Exhibit B: Site Plan**).

The restaurant includes approximately 1,530 square-feet of floor area and can support 34 patrons. The facility includes general seating at tables as well as a sushi bar. Several TV's will be installed along the walls, for purpose of providing sporting events. There will be approximately 3-4 employees during each shift (**Exhibit C: Floor Plan**).

This Conditional Use Permit ("CUP") is a request to modify a previously approved CUP, **File No. PCUP06-004, Decision No. 2006-10, approved May 19, 2006**, which allowed for alcoholic beverage sales in conjunction with a Sushi Restaurant called Chie. Since approval of the CUP, a new owner purchased the restaurant and changed the business name to La Isla Yokomo Sushi & Seafood Restaurant. This CUP modification is a request to include limited live entertainment and change the hours of operation. Previously, hours of operation were limited from 11:30am to 9:30pm, Monday through Thursday and from 11:30am to 10:00pm, Friday through Saturday. The restaurant owner is requesting to extend the hours of operation from 9:00am to 2:00am, daily. Due to the proximity of the restaurant to residential areas and the introduction of live entertainment, it is staff's recommendation that hours of operation be limited from 9:00am to 10:00pm, daily. If after six months of operation, the restaurant owner can demonstrate that operations had no negative effect on the surrounding community and that there were no calls for service as a result of alcohol or live entertainment related issues, the owner may request that the City extend general hours of operation. The request shall be made to the Police Department directly, whereby upon review of the operations, the Police Department may allow for extended operating hours.

(2) Live Entertainment: La Isla Yokomo Sushi & Seafood Restaurant is proposing to provide live entertainment for its patrons, in the form of karaoke. A karaoke machine and accompanying speaker system will be installed along the eastern wall, inside of the restaurant, behind the host desk. The restaurant owners are not proposing any other types of live entertainment, such as bands, mariachi, DJs, or dancing. The restaurant is physically not large enough to contain any form of live entertainment other than karaoke, nor would City staff be in support.

(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. La Isla Yokomo Sushi & Seafood Restaurant is located within Census Tract 18.06, which is generally bounded by the CA-60 Freeway on the north, Parco Avenue on the east, Riverside Avenue on the south, and Bon View Avenue on the west. ABC has determined that Census Tract 18.06 can support 3 On-Sale license types. As of September 2013, the latest ABC report shows Census Tract 18.06 as having a total number of 3 active On-Sale licenses, including the subject site's license. As a result, the Census Tract is not considered to be overconcentrated and additional Public Convenience and Necessity ("PCN") findings are not required.

(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 beyond those that would normally be associated with any other use similarly allowed within the C1 (Shopping Center District) zoning district.

(h) Conditional Use Permit Modification: This Conditional Use Permit, **File No. PCUP13-023**, has been submitted as a request to modify the previously approved Conditional Use Permit, **File No. PCUP06-004, Decision No. 2006-10**. The modification includes the addition of limited live entertainment and a change in hours of operation as described within this staff report. All previously applicable conditions of approval associated with alcoholic beverage sales, have been included into these revised conditions of approval. In addition, new conditions have been added for the modified and expanded uses. As a result, the previous Conditional Use Permit will become nullified upon approval of this Conditional Use Permit.

(i) 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.

(j) 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.

(k) 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.

(l) 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 7th day of October, 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 staff recommendation of approval for alcoholic beverage sales, limited live entertainment, and hours of operation change, subject to the attached conditions. Jerry Blum, Zoning Administrator, asked if staff was contacted by any member of the public about this project. Mr. Hildebrand answered no. Mr. Blum asked about live entertainment to begin in April 2014. Mr. Hildebrand stated this is the policy of Alcoholic Beverage Control however they can begin karaoke as long as it abides to the noise level condition.

(b) Following staff's presentation, the Zoning Administrator opened the public hearing.

(c) Elizabeth Rodriguez and business partner Ortiz, the Applicants, acknowledged receipt of the conditions of approval and asked for clarification regarding the operating hours. They wanted to be open until 2:00am on a daily basis. The Conditions of approval state operating hours shall be 9:00am to 10:00pm, daily. The Zoning Administrator stated his belief that this may be too restrictive but was concerned about making the jump to being open daily until 2:00 am for a restaurant.

(d) Staff voiced a concern from the Police Department regarding the timing of when the live entertainment (karaoke) portion of their business could commence. The ABC license had been taken out in April of 2013. The Department of ABC's policy is to not approve any floor plan changes for one year following the issuance of the license. After reviewing the policy and Department of ABC codes further, the Police Department provided the Zoning Administrator with a determination that allows for the karaoke live entertainment, provided no sound emanates outside of the building. Ontario Municipal Code already requires businesses to attenuate noise generated from their business. As a result, the applicant is entitled to commence karaoke upon approval of this Conditional Use Permit.

(e) There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing. The Zoning Administrator stated that he would be in favor of allowing the karaoke to be allowed now but stated his preference of revising the operating hours from 9:00am to 11:00pm, Monday to Thursday and 9:00am to Midnight, Friday to Sunday. Mr. Blum indicated the Applicant could apply to the Police Department to extend the hours til 2:00 am after six months of peaceful operation of the business.

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 alcoholic beverage

sales and live entertainment uses, in conjunction with an existing restaurant, lies within the Neighborhood Commercial land use designation.

(2) Alcoholic beverage sales and live entertainment 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. Modification of the approved Conditional Use Permit to allow limited live entertainment and a change in operating hours, will not create a significant new source of traffic nor create a public hazard on the surrounding street system.

(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*.

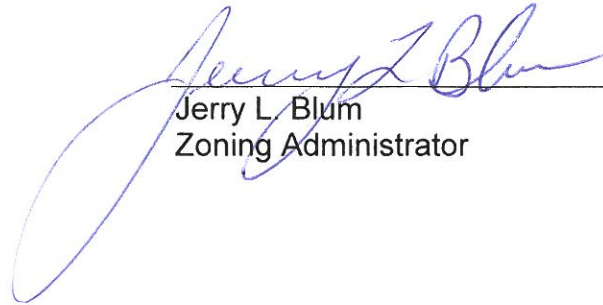
(c) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section § 15301 (Existing Facilities) 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. PCUP13-023, subject to the conditions of approval attached hereto and incorporated herein by this reference and including the changes to the hours of operation to be 9:00am to 11:00pm, Monday to Thursday and 9:00am to Midnight, Friday to Sunday.



APPROVED by the Zoning Administrator of the City of Ontario on this 22nd day of October, 2013.



Jerry L. Blum
Zoning Administrator

EXHIBITS

Exhibit A: Aerial Map

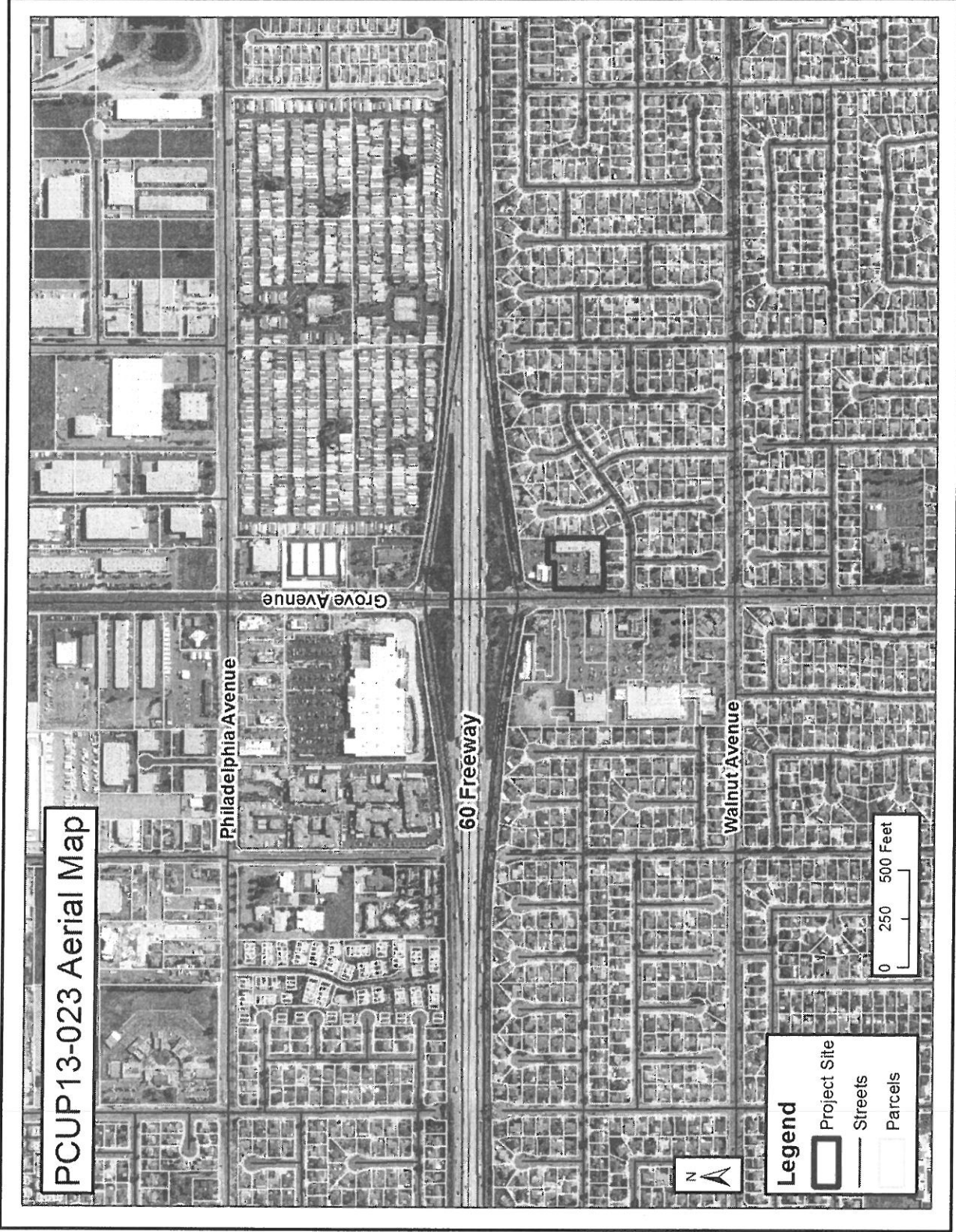
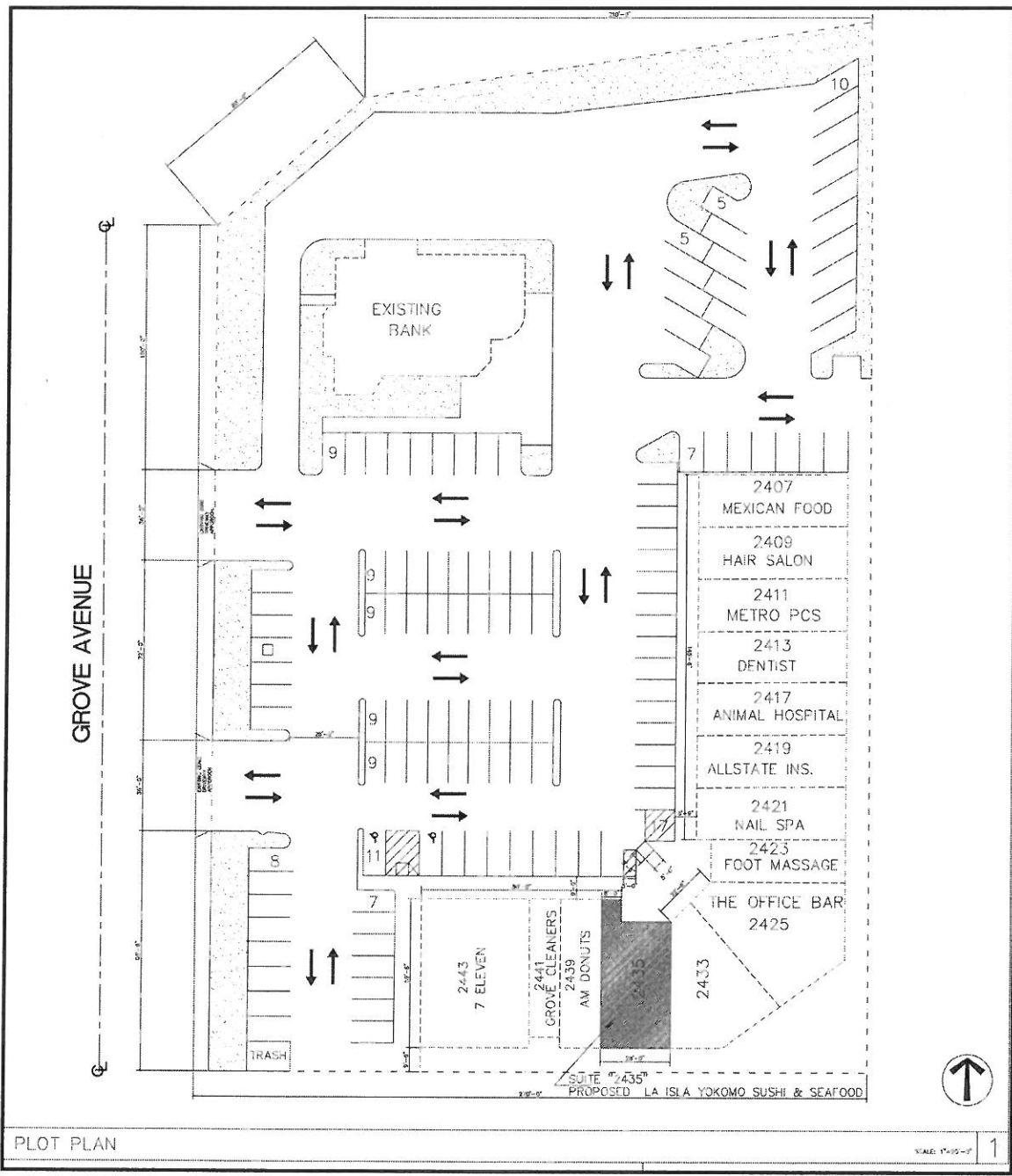


Exhibit B: Site Plan



PLOT PLAN

SCALE: 1"=10'-0" 1

Exhibit C: Floor Plan

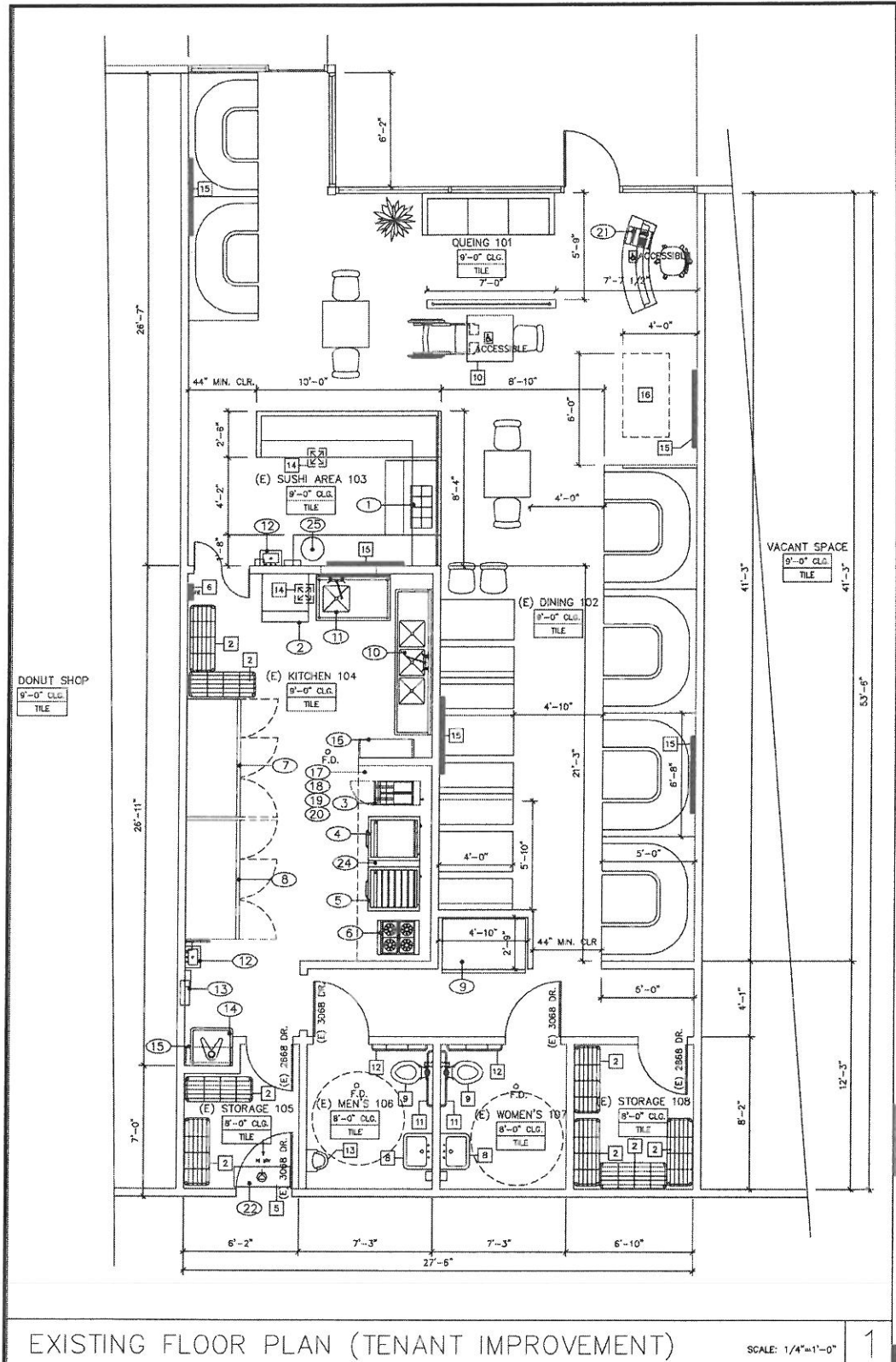
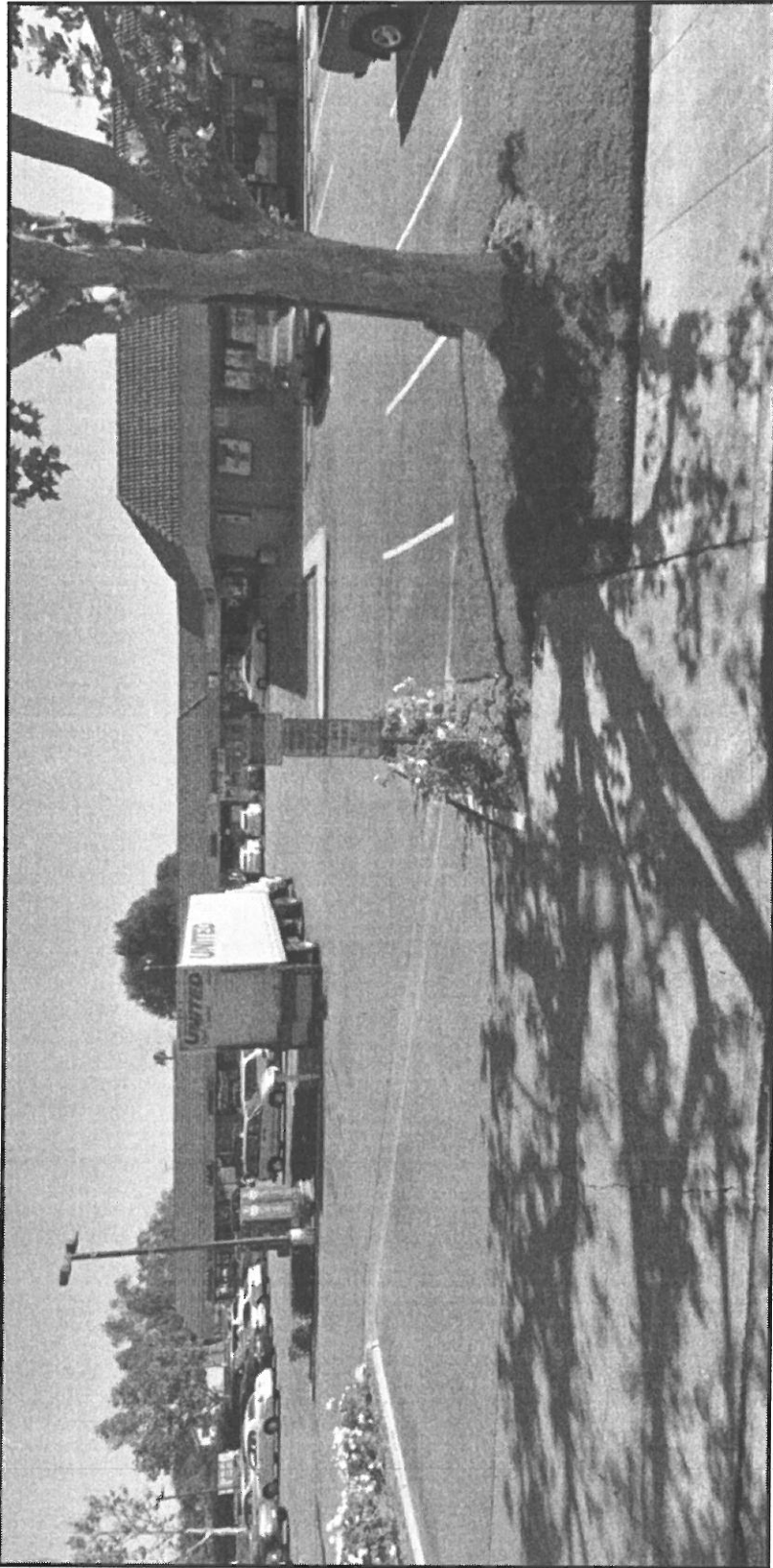


Exhibit E: Site Photos



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

DATE: 10/07/2013

FILE NO.: PCUP13-023

SUBJECT: A Conditional Use Permit (**File No. PCUP06-004**) modification to change the hours of operation and establish live entertainment for La Isla Yokomo Sushi & Seafood Restaurant, located at the southeast corner of Grove Avenue and the 60-Freeway, at 2435 South Grove 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 checked="" 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: 10/07/2013

FILE NO.: PCUP13-023

SUBJECT: A Conditional Use Permit (**File No. PCUP06-004**) modification to change the hours of operation and establish live entertainment for La Isla Yokomo Sushi & Seafood Restaurant, located at the southeast corner of Grove Avenue and the 60-Freeway, at 2435 South Grove Avenue, within the C1 (Shopping Center District) zoning district.

1.0 GENERAL REQUIREMENTS

- 1.1 File No. PCUP06-004, Decision No. 2006-10 has been nullified as a result of this Conditional Use Permit approval (File No. PCUP13-023). All previously applicable conditions, as well as new conditions pertaining to the new and expanded uses, have been included and are hereby in effect.
- 1.2 Failure to maintain compliance with the herein-listed conditions of approval shall be deemed just cause for revocation of conditional use permit approval.
- 1.3 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.
- 1.4 The approved use is subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.
- 1.5 A copy of the herein-listed conditions of approval shall be maintained on the subject premises at all times.
- 1.6 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 OPERATING HOURS

- 2.1 The restaurant's hours of operation are 9:00am to 11:00pm, Monday to Thursday and 9:00am to Midnight, Friday to Sunday.

3.0 SIGNAGE

- 3.1 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.
- 3.2 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.
- 3.3 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.

4.0 ALCOHOLIC BEVERAGE SALES

- 4.1 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.
- 4.2 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.
- 4.3 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.
- 4.4 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.

- 4.5 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.
- 4.6 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.
- 4.7 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.
- 4.8 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.

5.0 LIVE ENTERTAINMENT

- 5.1 Amplified music is permitted; however, the sound emitted from the premises shall not be audible outside the walls of the business establishment.
- 5.2 Limited live entertainment, in the form of karaoke only, is permitted in conjunction with the restaurant.

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 **Section § 15301 (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.



CITY OF ONTARIO
MEMORANDUM
"Excellence Through Teamwork"



TO: John Hildebrand, Senior Planner

FROM: Robert Sturgis, Officer

DATE: September 25, 2013

SUBJECT: FILE NO. PCUP13-023– La Isla Yokomo Sushi & Seafood
2435 S. Grove Avenue, Ontario, CA 91761

The Police Department is placing the following conditions:

RESTAURANT CONDITIONS

1. The restaurant's hours of operation are **9:00am to 11:00pm, Monday to Thursday and 9:00am to Midnight, Friday to Sunday.**
2. The last call for alcohol will be made 20-minutes prior to closing.
3. No sales or service of alcoholic beverages to minors.
4. No sales or service to obviously intoxicated patrons.
5. No alcoholic beverages are to be sold or removed from the establishment for outside consumption.
6. No smoking inside of the establishment is permitted, including electronic cigarettes.
7. There will be no narcotic sales or usage on the premises at any time.
8. All restaurant employees **servng alcohol** must be **18** years or older.
9. Lighting within the establishment must be kept at a reasonable level for safe movement of patrons, as determined by city officials.
10. Food sales and service must be available at all times during restaurant hours. A menu will be submitted for review.

11. The back door must be alarmed and closed at all times.
12. 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.
13. The parking lot will need adequate lighting (minimum 1 foot candle) from dusk to dawn.
14. Restrooms must be kept free of graffiti.
15. No arcade or video game machines will be allowed in the premises.
16. All hallways must be kept clear from merchandise, storage, and patrons blocking the pathway.
17. The applicant shall be responsible for maintaining the premises free of graffiti. This will include the area adjacent to the premise which the applicant has control. The applicant is responsible for the removal of the graffiti within 72 hours of its appearance or upon notice of its appearance.
18. No loitering shall be permitted on any property adjacent to the licensed premise, which is under the control of the applicant. If a loitering is identified as a problem by the police department or by city officials no loitering signs will be required to be posted.
19. Applicant, security, and all employees serving alcohol must attend an Alcohol Beverage Control (ABC) L.E.A.D. training class or a certified responsible beverage service class, which has been approved by ABC and Ontario Police Department, within six months of this dated conditional use permit. Proof of re-certification is required every 3 years.
20. A no trespass letter will be on file with the Police Department.

ENTERTAINMENT CONDITIONS

1. Karaoke will be permitted 7 days a week, 6:00 P.M. to 10:00 P.M.
2. The entertainment area must be designated on a plan check and that area will only be allowed for Karaoke.
3. A Disc Jockey and/or dancing are **not** allowed in the establishment.
4. Tables shall not be removed or rearranged to increase occupancy.

5. Entertainment sounds must be confined within the establishment and cannot expand beyond the area under the control of the licensee.

SECURITY CONDITIONS

1. In the event security problems occur as a result of the approved subject use and at the request of the Police Department; the owner at his/her own expense shall provide security guards and security cameras on the subject premises. This shall be during such hours and in such number as requested by the Police Department.
2. Security personnel will be required to follow Ontario Municipal Code Article 6, Title 3, Section 3-1.601-621 (security regulations).
3. A code of conduct will be required and posted at all public entrances of the establishment.
4. 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 or officers. Any additional police resources requested to bring peace in the establishment may be charged to the business owner.

Any special event outside the scope of the Conditional Use Permit will require a TUP (Temporary Use Permit) 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, or an outdoor event with alcoholic beverages would be a special event requiring Police or security personnel, but a community service organization breakfast meeting would not be considered a special event and therefore would not require additional security.)

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 their sole discretion, request a revocation hearing if they determine that the establishment is being operated in violation of this CUP or has violated the laws of the State or City are the intent of this action.

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 and the Ontario Planning Department will conduct an inspection before the opening of the restaurant with the conditional use permit.

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.

CITY OF ONTARIO
LANDSCAPE PLANNING DIVISION
 303 East "B" Street, Ontario, CA 91764

DAB CONDITIONS OF APPROVAL

Sign Off

	08/22/2013
Jamie Richardson, Associate Landscape Planner	Date

Reviewer's Name: Jamie Richardson, Associate Landscape Planner	Phone: (909) 395-2615
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D.A.B. File No.: PCUP13-023	Related Files:	Case Planner: John Hildebrand
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Project Name and Location:
 2435 S. Grove Avenue
 Ontario, CA

Applicant/Representative:
 Elizabeth Rodriquez
 10686 Cayenne Way
 Fontana, CA 92337

- | | |
|-------------------------------------|--|
| <input checked="" type="checkbox"/> | A site plan (dated 07/30/2013) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met. |
| <input type="checkbox"/> | A site plan (dated) has not been approved. Corrections noted below are required prior to DAB approval. |

CONDITIONS OF APPROVAL

1. Verify with property owner or landscape maintenance Company that all landscape areas in the adjacent parking lot planter islands each have 1 shade tree in good health. Replace if missing or dead with 1-24" box size tree each to match existing parking lot trees or typical such as Tristania conferta or Ulmus parvifolia. Remove a 36" diameter of lawn at tree trunks and add 1" layer of mulch.
2. Verify that irrigation is in proper working order and that all plant material is in good health; replace and repair if required.

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2013-30

HEARING DATE: 10/07/2013
DECISION DATE: 10/23/2013
FILE NO.: PCUP13-025

SUBJECT: A Conditional Use Permit request to establish alcohol beverage sales (Type 41 On-Sale Beer and Wine) ABC license for a new restaurant within the Urban Commercial land use designation of the Ontario Center Specific Plan, located at 765 N. Milliken Avenue, Unit C.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

Los Robles Village, LLC., herein after referred to as "the applicant," has filed an application requesting Conditional Use Permit approval, File No. PCUP13-025, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

Project Description: A Conditional Use Permit request to establish alcohol beverage sales (Type 41 On-Sale Beer and Wine) ABC license for a new 4,625 square foot restaurant within the Urban Commercial land use designation of the Ontario Center Specific Plan, located at 765 N. Milliken Avenue, Unit C (**Exhibit A-Site Aerial**).

- (a) TOP Policy Plan Land Use Map Designation: Mixed-Use
- (b) Zoning Designation: Urban Commercial (Ontario Center Specific Plan)
- (c) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	Mixed-Use	Service Station
South:	Urban Commercial	Restaurant
East:	Commercial Office	Retail/Commercial
West:	Urban Commercial	Retail/Commercial

- (d) Site Area: 11.58 Acres
- (e) Assessor's Parcel No.: 210-211-43

(f) Project Analysis:

The applicant, Los Robles Village, LLC., proposes to establish and operate a 4,625 square foot sit down restaurant (Phoenix Palace) with a Type 41 On-sale beer and wine ABC license. The applicant proposes to remodel and occupy a portion of an existing multi-tenant building that is located within the retail center located at the northwest corner of Milliken Avenue and the 10 Freeway (**Exhibit B-Site Plan**). Other uses located within the center include Denny's restaurant, Hooter's and Levitz furniture, to name a few. (**Exhibit D-Site Photos**). The restaurant "Phoenix Palace", as it will be named, will be a high-end Chinese restaurant that will provide a full menu. The restaurant will accommodate up to 165 patrons. The restaurant's operating hours will 11 a.m. to 10 p.m., seven days a week, and it will have 10 employees. According to the owner, if business does well, more staff will be employed. No live entertainment is proposed as part of the use.

Improvements Proposed: No outside modifications to the building are proposed. The applicant is currently remodeling the interior of the building to reflect the floor plan submitted to operate the restaurant. Work being performed now, was approved by the City. Overall, the retail center is in poor to fair condition. Many of the landscape areas contain dead or missing landscaping or not well maintained. In addition, buildings are in need of painting or have damaged wall signs. According to the applicant, the downturn in the economy impacted everyone, including regular maintenance of the retail center. Since the goal of the City is to improve the appearance of existing developments, as a condition of approval, staff is requesting the following:

1. All missing or dead landscaping within the retail center shall be replaced.
2. Any damage to existing sprinkler system shall be repaired or replaced.
3. Landscape sprinkler systems shall be set on timers.
4. The subject building shall be repainted within 60 days of CUP approval and the rest of the retail center shall be repainted within 90 days of CUP approval.
5. Any damage or missing letters to existing business signs shall be repaired or replaced within 30 days of CUP approval.

Parking

The Ontario Center Specific Plan requires the proposed use to provide 1 parking space for 100 square feet of gross floor area, thereby requiring a total of 47 parking spaces for the proposed use. The project will comply with the parking requirements of the specific plan. The entire retail center has 550 parking spaces and only 525 spaces are required. Therefore, no parking issues are anticipated as a result of the proposed use.

Floor Plan

The proposed 4,625 square foot floor plan will feature the following (**Exhibit C-Floor Plan**):

- Lobby
- Waiting area
- Dining area
- Three VIP dining rooms with collapsible partitions
- Service bar

- Office
- Men and women restrooms
- Walk-in coolers
- Kitchen

Staff has carefully reviewed the proposed floor plan and believes that with the recommended conditions of approval, the use will not have any negative impacts on the adjacent land uses.

Land Use Compatibility: The intent of a Conditional Use Permit (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 Conditional Use Permit 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 proposed use is located within the Urban Commercial land use designation of the Ontario Center Specific Plan. Within this designation, alcohol beverage sales are a conditionally permitted use. 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 the proposed use beyond those that would normally be associated with any other similar uses allowed within the same district. Hooter's restaurant currently has a Type 47 (On-Sale General) ABC license which also allows liquor to be served. The proposed beer and wine license will be less intensive than the existing Type 47 license.

Staff is recommending approval of the proposed application, subject to the attached conditions. Staff believes that the floor plan has been designed adequately and conditions of approval have been imposed on the application to mitigate impacts on the health, welfare, and safety of the project site and the adjacent uses.

ABC License Concentrations: The California Department of Alcoholic Beverage Control (ABC) is the 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. The subject property is located within Census Tract 21.09, which is generally bounded by the 10-Freeway on the south, the 15-Freeway on the east, Archibald Avenue on the west and Fourth Street on the north (**Exhibit E- ABC Map**). ABC has determined that Census Tract 21.09 can support 3 On-Sale license types. The latest ABC report shows Census Tract 21.09 as having a

total number of 32 active On-Sale licenses and one pending (the applicant). As a result, the addition of another On-Sale ABC license will exceed the maximum number allowed.

On the surface, the area will be heavily concentrated with On-sale licenses. However, the number of licenses allowed within a census tract is determined by the number of residents within the tract. This census tract is quite large and is largely undeveloped or developed with commercial and industrial uses. Thus it naturally has a lower number of allowable licenses than those tracts which are highly populated. In addition, the subject property is located within an entertainment district, which is generally identified as having a heavier concentration of restaurants, clubs, and entertainment venues with ABC licenses. In addition, the Police Department has carefully reviewed the proposed use and determined that beer and wine sales with the proposed bona fide restaurant will not impact the community.

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.

Departmental Review: Each department was provided the opportunity to review and comment on the subject application and recommend conditions of approval to be imposed upon the application. Recommended conditions of approval have been provided and are attached to this report. The Planning Department supports the proposed use and requests that the Zoning Administrator approve the use subject to each Department's recommended conditions of approval, which are designed to mitigate anticipated impacts related to the use.

Public Notification:

The subject application was advertised as a public hearing in at least one newspaper of general circulation in the City of Ontario (Inland Valley Daily Bulletin). 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.

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 7th day of October 2013, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

- (a) Luis E. Batres, *Senior 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) Mr. Frank Zeng, the applicant of the Conditional Use Permit and owner of the proposed restaurant and retail center, explained the business operation and spoke in favor of the application.
- (c) Mr. Stanley Szeto, the applicant's representative spoke in favor of the application. He indicated that the owner of the center was planning to repaint the entire center and to enhance all the landscaping, so they were okay with the proposed conditions of approval.
- (d) 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 concludes as follows:

(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. Alcohol beverage sales are a conditionally allowed use within the Urban Commercial land use designation of the Ontario Center Specific Plan.

(2) Beer and wine 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. In addition, the Ontario Police Department has reviewed the application and they are recommending approval subject to the attached conditions.

(3) The proposed location of the Conditional Use Permit is in accordance with the objectives and purposes of the Ontario Development Code and zoning designation within which the site is located. The use will be operated in accord with the Ontario Development Code and the use meets the objectives and purposes as required in the Urban Commercial land use designation of the Ontario Center Specific Plan.

(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 Ontario Traffic Division reviewed the proposed use and they are recommending approval of the application.

(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes. The use is consistent with uses allowed within the Urban Commercial land use designation of the Ontario Center Specific Plan.

(6) For On-sale alcoholic beverage license types, which are located within over concentrated census tracts, where over concentrated is defined by the California State Department of Alcoholic Beverage Control ("ABC") and is based upon census tract population and overall County of San Bernardino license concentrations, the Zoning Administrator hereby makes the following Public Convenience and Necessity ("PCN") findings:

(7) The proposed business is not located within a high crime area, which is defined as Police Department calls for service to alcohol-related incidences of 20% greater than the average number reported for the City as a whole. First, calls for service received by the Ontario Police Department showed that the subject area is not located within a high crime area as it relates to alcohol related instances. Second, the use is consistent with the Urban Commercial designation and similar other uses in the area. Third, the use will be providing a convenience for those individuals that would like to purchase a beer/wine when they dine in the restaurant, as such a public convenience and necessity letter will be prepared and sent to ABC. Lastly, the Ontario Police Department carefully reviewed the proposed CUP application and they are recommending approval subject to the attached conditions on the staff report.

a. The subject building has no outstanding Building or Health Code violations or Code Enforcement activity.

b. The site is properly maintained, including building improvements, landscaping, and lighting. Subject to the proposed use complying with all the conditions of approval, the subject property will be in compliance with City requirements. The proposed conditions will require them to replace missing/dead landscaping and to replace missing/damage business signs and to repaint the center.

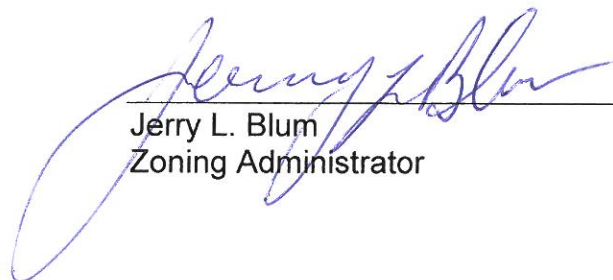
(c) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section § 15301 (Existing Facilities) 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. PCUP13-025, 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 23rd day of October, 2013.



Jerry L. Blum
Zoning Administrator

EXHIBITS
Exhibit A: Aerial Map

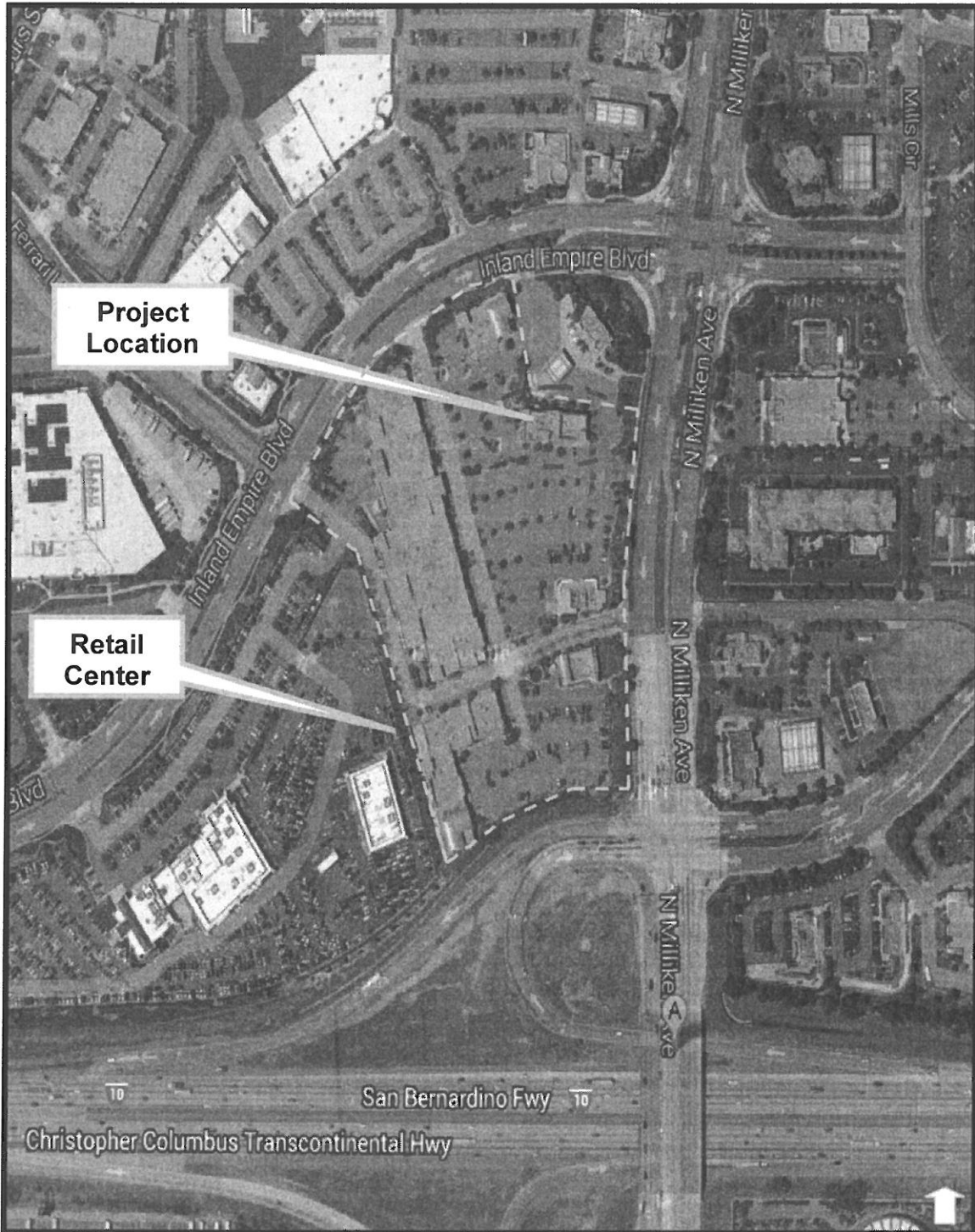
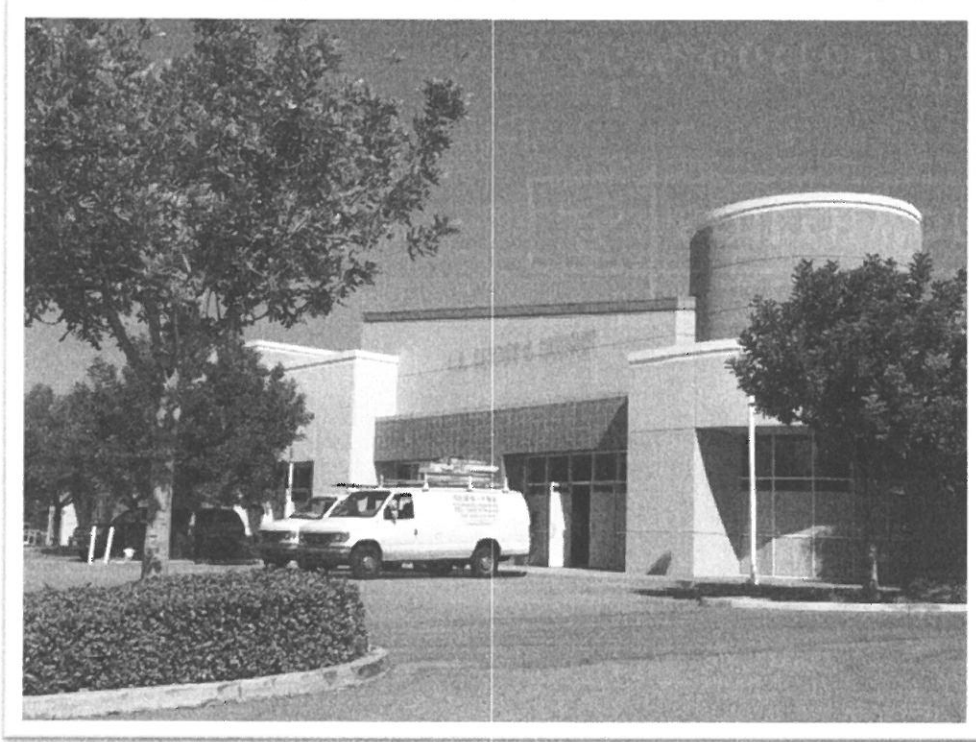


Exhibit D: *Site Photos*



Front of Subject Building



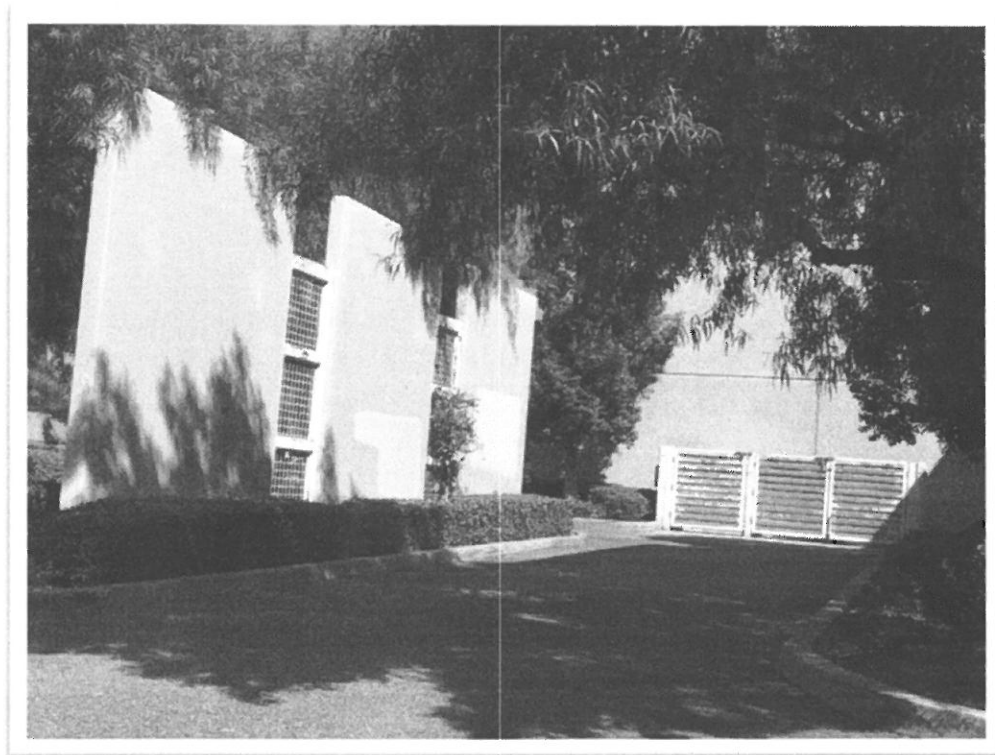
Existing uses



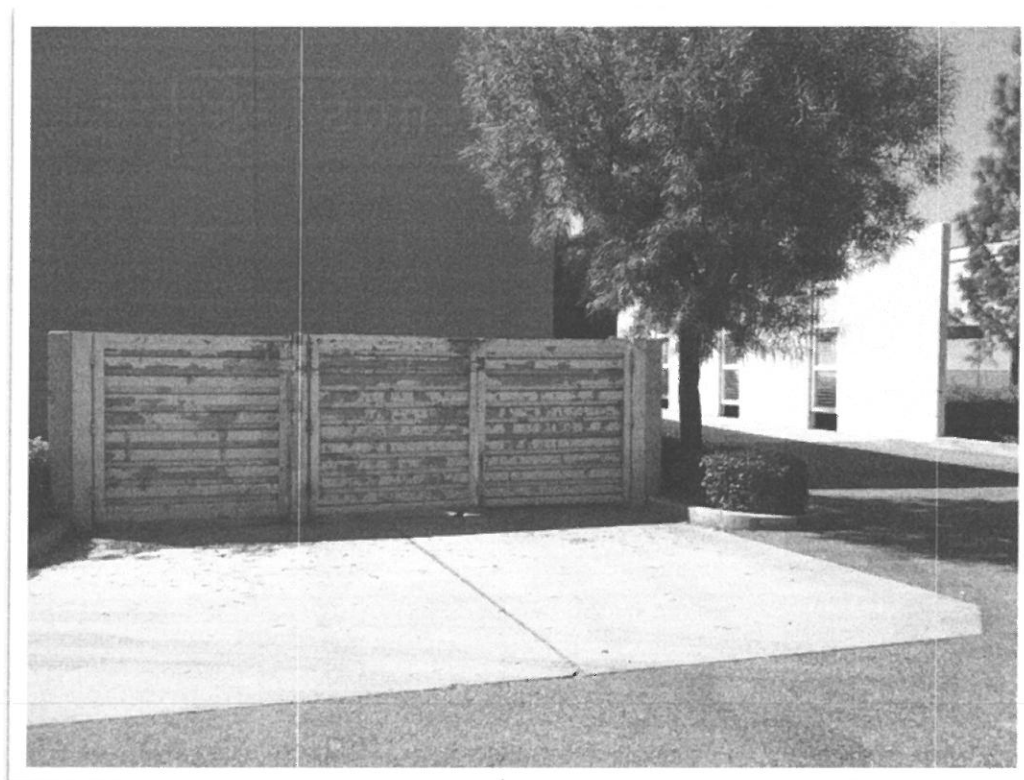
Existing uses



Missing Landscaping Areas

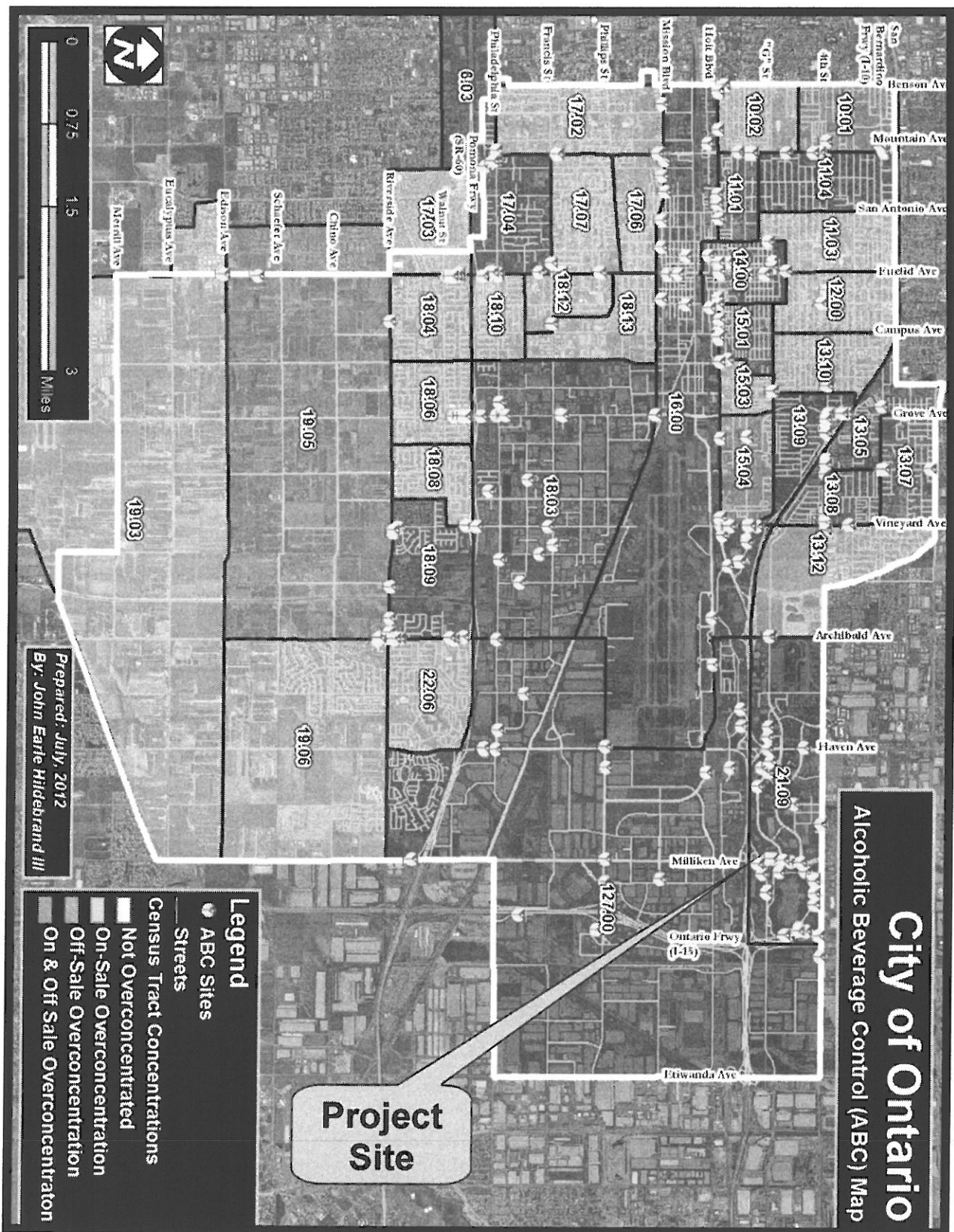


Some Areas Needing Painting



Some Areas Needing Painting

Exhibit E- ABC Map



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

DATE: October 7, 2013

FILE NO.: PCUP13-025

SUBJECT: A Conditional Use Permit request to establish alcohol beverage sales (Type 41 On-Sale Beer and Wine) ABC license for a new restaurant within the Urban Commercial land use designation of the Ontario Center Specific Plan, located at 765 N. Milliken Avenue, Unit C.

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



CONDITIONS OF APPROVAL

DATE: October 7, 2013

FILE NO.: PCUP13-025

SUBJECT: A Conditional Use Permit request to establish alcohol beverage sales (Type 41 On-Sale Beer and Wine) ABC license for a new restaurant within the Urban Commercial land use designation of the Ontario Center Specific Plan, located at 765 N. Milliken Avenue, Unit C.

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, 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 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>
Restaurant	4,625	1:100	47
TOTAL	128,300		550 Provided

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 ALCOHOLIC BEVERAGE SALES

- 6.1 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.
- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 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

- 6.6 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.
- 6.7 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.

- 6.8 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.
- 6.9 Amplified music may be permitted; however, the sound emitted from the premises shall not be audible outside the walls of the business establishment.
- 6.10 Live entertainment shall be prohibited. Any future request for live entertainment shall require conditional use permit approval by the Zoning Administrator.

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 § 15301 (Class 1-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.

8.0 ADDITIONAL REQUIREMENTS

- 8.1 All missing or dead landscaping in the center shall be replaced.
- 8.2 Any damage to existing sprinkler systems shall be repaired or replaced.
- 8.3 Landscape sprinkler systems shall be set on a timer.
- 8.4 The subject building shall be repainted within 60 days of CUP approval and the rest of the center shall be repainted within 90 days of CUP approval.
- 8.5 Any damage to existing business signs shall be repaired/replaced within 30 days of CUP approval.



CITY OF ONTARIO

MEMORANDUM

“Excellence Through Teamwork”

TO: Luis Batres, Senior Planner

FROM: Steven Munoz, Police Corporal

DATE: August 14, 2013

**SUBJECT: PCUP13-025 – Phoenix Palace
765 N. MILLIKEN AVENUE, #C-D, ONTARIO, CA 91764**

The Police Department will require the following conditions:

1. Hours of operation will be 11:00 a.m. to 10:00 p.m. daily.
2. No sales to minors
3. No sales to obviously intoxicated patrons
4. No alcoholic beverages are to be sold or removed from the establishment for outside consumption.
5. No Smoking inside of establishment is permitted, including electronic cigarettes.
6. There will be no narcotic sales or usage on the premises at any time.
7. No live entertainment is permitted, including Karaoke.
8. All restaurant employees serving alcohol must be 18 years or older.
9. 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 ABC and Ontario Police Department, within six months of this dated conditional use permit. Proof of re-certification is required every 3 years.
10. Back door must be alarmed and closed at all times except for deliveries.

11. Lighting within the restaurant must be kept at a reasonable level for safe movement of patrons.
12. Address to establishment must be illuminated for easy identification of safety personnel.
13. The parking lot of the premises shall be equipped with a maintained lighting device capable of providing a minimum of one-foot candle of light at ground level from dusk to dawn.
14. Restrooms must be kept free of graffiti.
15. All hallways must be kept clear from merchandise, storage, and patrons blocking pathway.
16. The applicant will be responsible for maintaining premises free of graffiti and litter over which the applicant has control and shall be responsible for its removal within 72 hours of its appearance or upon notice of its appearance to the applicant.
17. No loitering shall be permitted on any property adjacent to the licensed premise, which is under the control of the applicant. No loitering signs must be posted.
18. A "No Trespassing" letter will be on file with the Police Department.

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 their sole discretion, request a revocation hearing if they determine that the establishment is being operated in violation of this CUP, or has violated the laws of the State or City, or the intent of this action.

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 and the Ontario Planning Department will conduct an inspection before the restaurant will be allowed to sell alcoholic beverages with the conditional use permit.

Any special event outside the scope of the Conditional Use Permit will require a TUP (Temporary Use Permit) 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, or an outdoor event with alcoholic beverages would be a special event requiring Police or security personnel.)

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 Corporal Munoz at (909) 395-2782.

**CITY OF ONTARIO
 LANDSCAPE PLANNING DIVISION
 303 East "B" Street, Ontario, CA 91764**

DAB CONDITIONS OF APPROVAL	
Sign Off	
	08/27/2013
Jamie Richardson, Associate Landscape Planner	Date

Reviewer's Name: Jamie Richardson, Associate Landscape Planner	Phone: (909) 395-2615
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D.A.B. File No.: PCUP13-025	Related Files:	Case Planner: Luis Batres
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Project Name and Location:
 765 N. Milliken Ave.
 Ontario, CA

Applicant/Representative:
 Stanley Szeto
 879 W Ashiya Road
 Montebello, CA 90640

<input checked="" type="checkbox"/>	A site plan (dated 07/30/2013) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met.
<input type="checkbox"/>	A site plan (dated) has not been approved. Corrections noted below are required prior to DAB approval.

CONDITIONS OF APPROVAL

1. Contact the property owner or property maintenance company to repair all landscape areas and verify in the adjacent parking lot planter islands each have 1 shade tree in good health. Replace if missing or dead with 1-24" box size tree each to match existing parking lot trees or typical such as Tristania conferta or Ulmus parvifolia. Remove a 36" diameter of lawn at tree trunks and add 1" layer of mulch.
2. The maintenance company shall verify that irrigation is in proper working order and that all plant material is in good health; replace and repair where broken.



CITY OF ONTARIO MEMORANDUM

TO: Luis Batres, Planning Department

FROM: Michelle Starkey, Fire Safety Specialist
Bureau of Fire Prevention

DATE: September 16, 2013

SUBJECT: PCUP13-025

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

Conditions of approval are as follows:

1. A fully supervised automatic fire sprinkler system is **required**.
2. All fire protection systems/equipment shall be serviced and maintained in accordance with the California Fire Code and NFPA Standards.
3. Hand-portable fire extinguishers are required to be installed PRIOR to occupancy. Contact the Bureau of Fire Prevention during the latter stages of construction to determine the exact number, type and placement required per Ontario Fire Department Standard #C-001. (Available upon request from the Fire Department or on the internet at <http://www.ci.ontario.ca.us/index.cfm/34762>)
4. Approved numbers or addresses shall be placed on all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property. Multi-tenant or building projects shall have addresses and/or suite numbers provided on the rear of the building. Said numbers shall contrast with their background.
5. Facility shall not exceed the maximum occupant load as determined by the Ontario Building Department and/or Ontario Fire Department. Maximum occupant load sign to be placed in a visible location.
6. All exit doors, aisles and corridors shall remain unobstructed at all times.
7. Exit doors to be equipped with panic hardware.
8. Exit signs and emergency lighting shall be in working order and equipped with battery back-up.
9. All tenant improvements are subject to Fire Department review and approval.

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.