

# ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



**DECISION NO. 2013-29**

**HEARING DATE:** October 21, 2013

**DECISION DATE:** November 5, 2013

**FILE NO.:** PCUP13-024

**SUBJECT:** A modification to a previously approved Conditional Use Permit (File No. PCUP10-026) to upgrade an existing ABC license (Type 20 ABC License- Off Sale Beer & Wine) to include distilled spirits (Type 21 ABC License-Off Sale General), within an existing Walgreens Pharmacy located at the northwest corner of Riverside Drive and Archibald Avenue, at 2950 South Archibald Avenue, in the C1 (Shopping Center) zone.

**STAFF**

**RECOMMENDATION:**  Approval     Approval, subject to conditions     Denial

***PART A: BACKGROUND & ANALYSIS***

WALLGREENS, herein after referred to as “the applicant,” has filed an application requesting Conditional Use Permit approval, File No. PCUP13-024, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

- (a) Project Description: A modification to a previously approved Conditional Use Permit (File No. PCUP10-026) to upgrade an existing ABC license (Type 20 ABC License- Off Sale Beer & Wine) to include distilled spirits (Type 21 ABC License-Off Sale General), within an existing Walgreens Pharmacy located at the northwest corner of Riverside Drive and Archibald Avenue, at 2950 South Archibald Avenue, in the C1 (Shopping Center) zone.
- (b) TOP Policy Plan Land Use Map Designation: Neighborhood Commercial
- (c) Zoning Designation: C1 (Shopping Center) zone
- (d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	C1	Shopping Center
South:	C1	Shopping Center
East:	R1 & C1	Single Family Residential and Commercial
West:	C1	Shopping Center

Approved By:

-1-

CM \_\_\_\_\_ Senior Planner

Form Revised: 06/20/2013

- (e) Site Area: 1.6 acres
- (f) Assessor's Parcel No(s): 1083-061-04
- (g) Project Analysis:

Background: Beer and wine sales at the Walgreens pharmacy located at the northwest corner of Archibald Avenue and Riverside Drive was established in 2011 by the Zoning Administrator approval of Conditional Use Permit (CUP) File No. PCUP10-026. At the time of approval, the facility was located within Census Tract 18.02, which was over concentrated with alcohol licenses. The application was originally denied due to over concentration. The application was appealed to Planning Commission and then City Council. The applicant's appeal spurred the City Council to establish criteria for large retail businesses that provide alcohol sales as a convenience to their customers, but alcohol is a relatively minor in comparison to overall sales. The application was approved by the Zoning Administrator in December 2011 based on the criteria established by City Council.

After the approval of the CUP, the California Department of Alcoholic Beverage Control (ABC) adopted the Census 2010 census tracts, which divided Census Tract 18.02 into 4 parts. The Walgreens is now located in Census Tract 18.09, which is over concentrated with alcohol sales facilities.

Operation: The applicant is requesting approval of a Conditional Use Permit modification to upgrade their existing beer and wine alcohol sales to include distilled spirits. The applicant is also requesting to change the hours of alcohol sales from 8:00 a.m. to 10:00 p.m., extending the alcohol sales until the store closing time at midnight.

Land Use Compatibility: Conditional Use Permit reviews are performed in order to weigh the compatibility of adjacent uses and provide for the mitigation of potential nuisance activities.

The project is located within Census Tract 18.09. Per ABC, 3 off-sale licenses are permitted within the census tract and 7 are existing. The existing beer and wine license for Walgreens is included in this number; therefore, the upgrade of the license to include distilled spirits does not increase the concentration of licenses within the census tract.

In order to permit alcohol sales for off-site consumption in over concentrated census tracts, the facility must comply with the following criteria that City Council has established for retailers:

1. The retailer must occupy at least 12,000 square feet of gross floor area.
2. No more than 10% of the floor area may be devoted to alcoholic beverage display.
3. At least 10% of the floor area must be devoted to food sales.

4. If the location of the proposed business is 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, the hearing body may use that fact in denying the application for the Public Convenience and Necessity finding required for ABC.
5. The property/building/use has no outstanding Building or Health Code violations or Code Enforcement activity.
6. The site is properly maintained, including building improvements, landscaping and lighting.

The Walgreens meets all of these criteria. The store has a floor area of 15, 083 square feet, a minimum of 10% of the floor area is devoted to food sales and no more than 10% of the floor area will be dedicated to the sale of beer, wine and distilled spirits. The location is not in a high crime area, the location has no outstanding violations, and it is properly maintained, with the exception of landscape maintenance deficits as identified in the attached Landscape Planning comments. These issues will be addressed by the applicant prior to establishment of distilled spirits sales.

(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 continued the public hearing on the application to the October 21, 2013 Zoning Administrator hearing.

WHEREAS, on the 21st day of October 2013, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

- (a) Chuck Mercier, Senior Planner presented the staff report on behalf of Clarice Burden, Associate Planner, explaining the proposed use, and indicating the staff recommendation of Approval subject to conditions. Following staff's presentation, the Zoning Administrator opened the public hearing.
- (b) Jennifer Chavez, representing the applicant, explained the business operation and spoke in favor of the application.
- (c) The Zoning Administrator asked questions about the operation and LEAD (Licensee Education on Alcohol and Drugs) training of the employees.
- (d) Ms. Chavez explained some of the history of the operation and explained that the employees have already taken the LEAD training.
- (e) 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 off-sale general alcohol sales lies within the C1 (Shopping Center) land use designation.

(2) Alcohol sales are 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 application proposes to upgrade the alcohol sales from beer and wine to include distilled spirits.

(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.

(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes.

(c) For Off-Sale alcoholic beverage license types, which are located within overconcentrated census tracts, where overconcentrated 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:

(1) Required: The retailer occupies a minimum of 12,000 square feet of gross floor area. Finding: The location is over 15,000 square feet and therefore meets this size requirement.

(2) Required: No more than 10% of the floor area may be devoted to alcoholic beverage display. Finding: Per the floor plan alcohol sales area comprise less than 10% of the floor area.

(3) Required: At least 10% of the floor area must be devoted to food sales. Finding: Per the floor plan more than 10% of this location is utilized for food sales

(4) Required: 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. Finding: The Ontario Police Department reported that the site is not in a high crime area of the City

(5) Required: The property/building/use has no outstanding Building or Health Code violations or Code Enforcement activity. Finding: There are no current violations at this site.

(6) Required: The site is properly maintained, including building improvements, landscaping, and lighting. Finding: City staff reported that the property, with minor exceptions that are dealt with in the Condition of Approvals, is properly maintained.

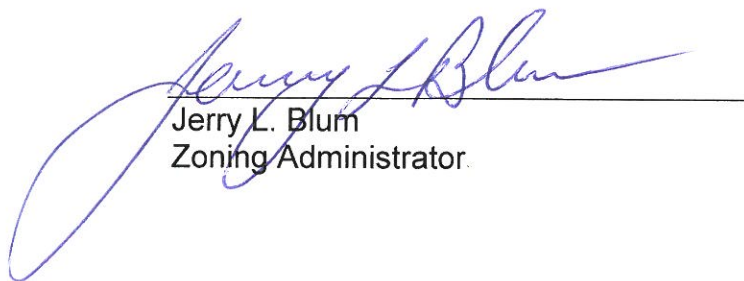
(d) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to § 15301 (Existing Facilities) of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

(e) 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.

(f) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP13-024, 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 5th day of November, 2013.

  
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Jerry L. Blum  
Zoning Administrator

EXHIBITS

Exhibit A: *Aerial Map*

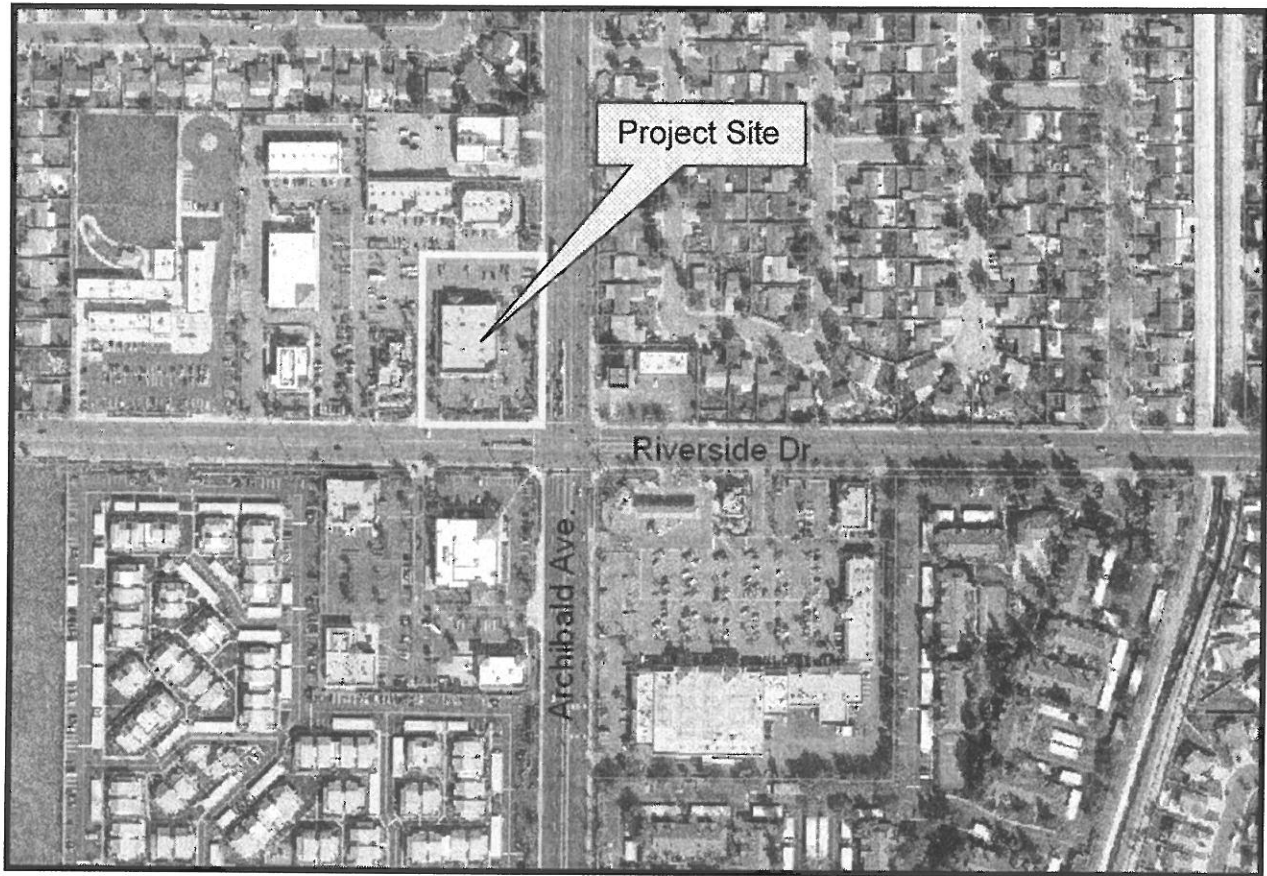


Exhibit B: Site Plan

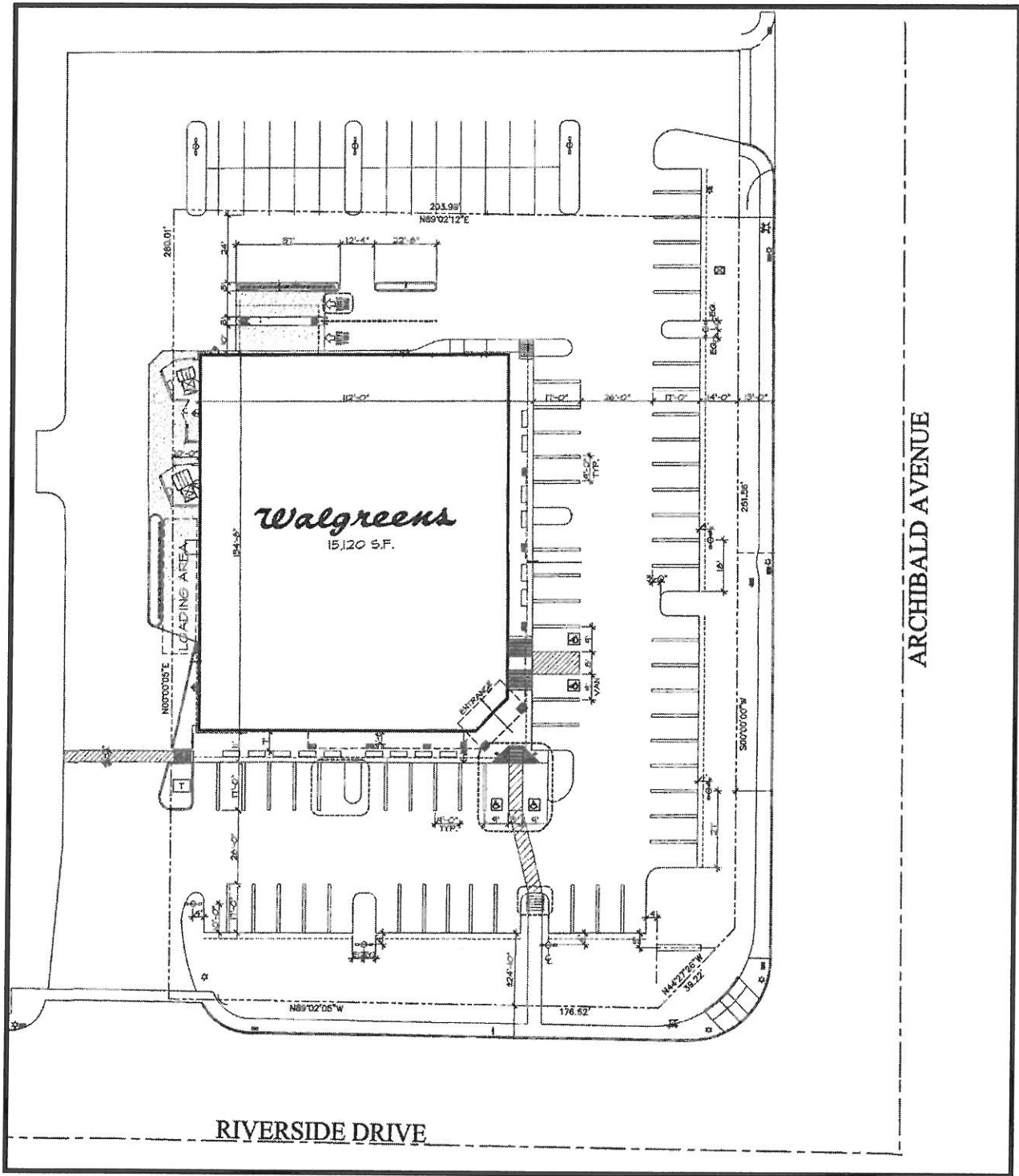


Exhibit C: Floor Plan

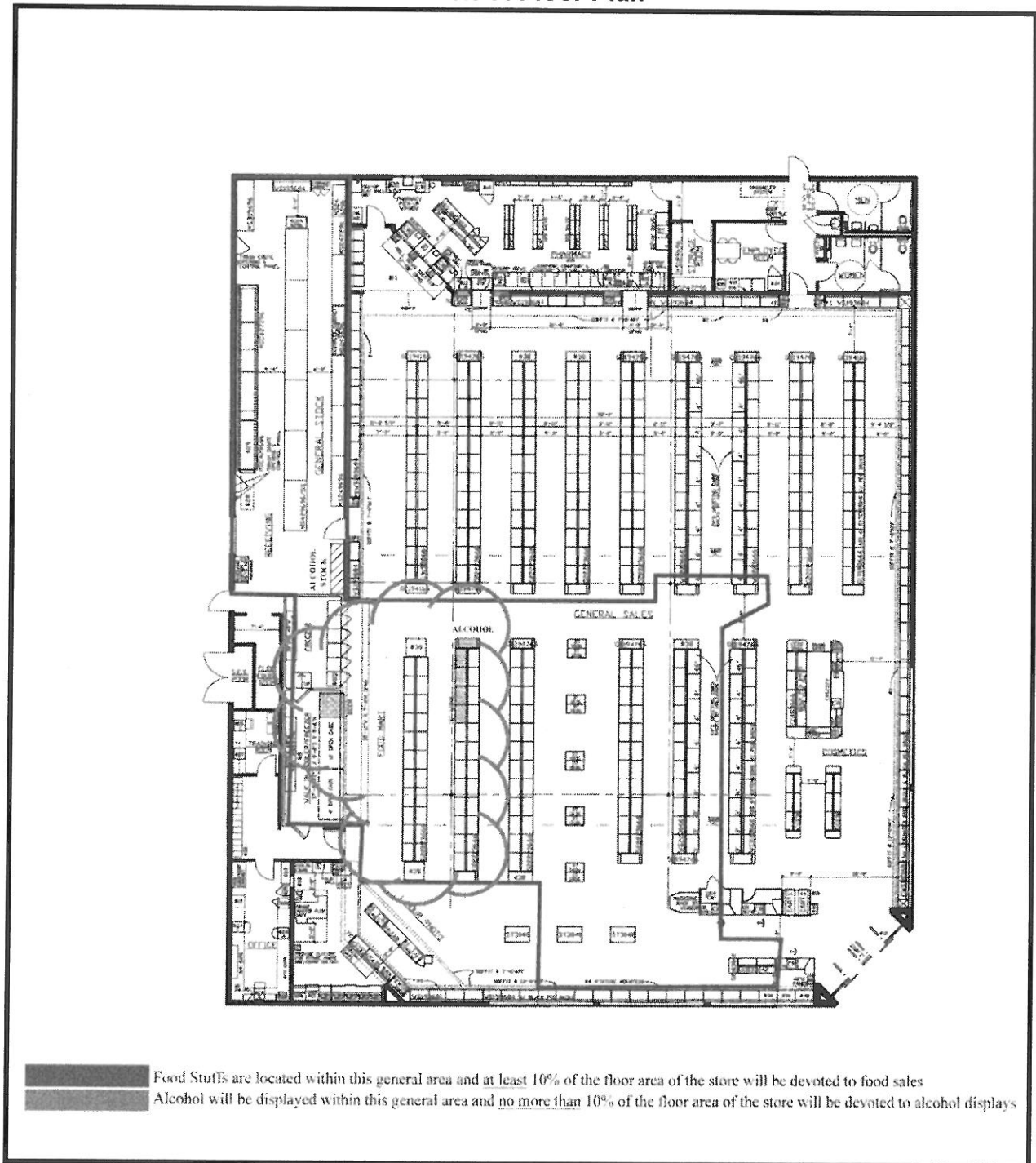
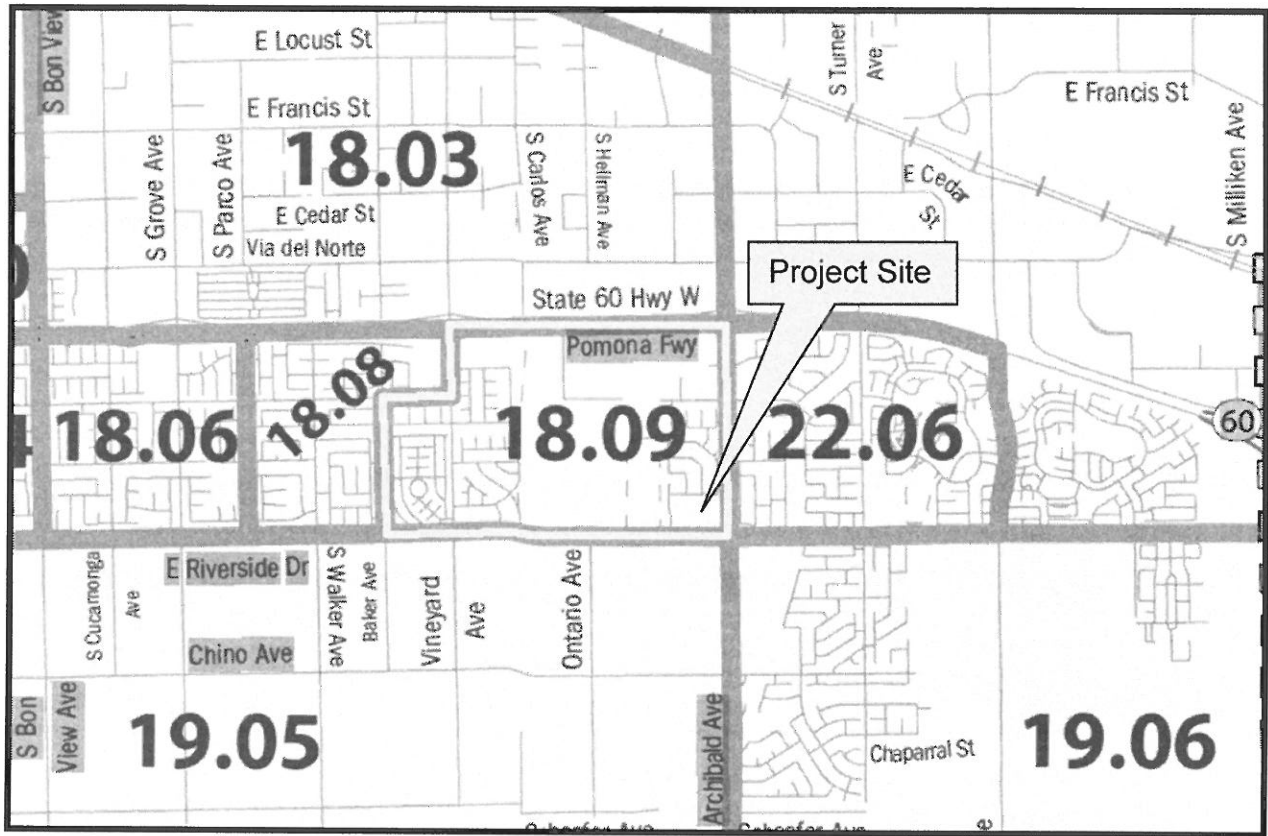




Exhibit D: Census Tract



**Exhibit E: ABC Off-Sale Licenses for Census Tract 18.09**

California ABC - License Query System - Data Portal

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California Department of Alcoholic Beverage Control  
 For the County of SAN BERNARDINO - (Off-Sale  
Licenses)  
 and Census Tract = 18.09

Report as of 9/16/2013

License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1) 334629	ACTIVE	20	2/18/1998	1/31/2014	BORBA, JAMES ANTHONY VINEYARD & 60 FWY SWC ONTARIO, CA 91710  Census Tract: 0018.09	ARCO AM PM	2456 S VINEYARD AVE ONTARIO, CA 91761	3607
2) 364770	SUREND	20	5/17/2000	4/30/2014	CARDENAS MARKETS INC 1945 E RIVERSIDE DR, STE 11 ONTARIO, CA 91761-6483  Census Tract: 0018.09		2501 E GUASTI RD. ONTARIO, CA 91761	3607
3) 370879	ACTIVE	20	9/18/2002	8/31/2014	TIMEOUT II LLC 2446 S ARCHIBALD AVE ONTARIO, CA 91761  Census Tract: 0018.09	ARCO AM PM		3607
4) 439846	ACTIVE	20	6/20/2006	6/30/2014	7 ELEVEN INC 2945 S VINEYARD AVE ONTARIO, CA 91761  Census Tract: 0018.09	7 ELEVEN STORE 2171 19679C	PO BOX 219088 DALLAS, TX 75221-9088	3607
5) 456271	ACTIVE	21	8/20/2007	2/28/2014	RAMANCHA LIQUOR & JR MARKET INC 2929 S VINEYARD AVE, STE K ONTARIO, CA 91761-6486  Census Tract:	RAMANCHA LIQUOR & JR MARKET		3607

ZONING ADMINISTRATOR DECISION  
 FILE NO.: PCUP13-024

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California ABC - License Query System - Data Portal

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						0018.09			
6)	471423	SUREND	20	6/17/2009	5/31/2014	FRESH & EASY NEIGHBORHOOD MARKET INC 2645 E RIVERSIDE DR ONTARIO, CA 91761-7321  Census Tract: 0018.09	FRESH & EASY NEIGHBORHOOD MARKET STORE 1349	2120 PARK PL, STE 200 EL SEGUNDO, CA 90245-4741	3607
7)	520475	ACTIVE	20	7/6/2012 10:37:32 AM	6/30/2014	WALGREEN CO 2950 S ARCHIBALD AVE ONTARIO, CA 91761-7303  Census Tract: 0018.09	WALGREENS 6147	PO BOX 901, ATTN: LIQUOR RENEWALS DEERFIELD, IL 60015	3607

- - - End of Report - - -

For a definition of codes, view our [glossary](#).

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

**DATE:** October 21, 2013

**FILE NO.:** PCUP13-024

**SUBJECT:** A modification to a previously approved Conditional Use Permit (File No. PCUP10-026) to upgrade an existing ABC license (Type 20 ABC License-Off Sale Beer & Wine) to include distilled spirits (Type 21 ABC License-Off Sale General), within an existing Walgreens Pharmacy in the C1 (Shopping Center) zone, located at the northwest corner of Riverside Drive and Archibald Avenue, at 2950 South Archibald Avenue.

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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:** October 21, 2013

**FILE NO.:** PCUP13-024

**SUBJECT:** A modification to a previously approved Conditional Use Permit (File No. PCUP10-026) to upgrade an existing ABC license (Type 20 ABC License-Off Sale Beer & Wine) to include distilled spirits (Type 21 ABC License-Off Sale General), within an existing Walgreens Pharmacy located at the northwest corner of Riverside Drive and Archibald Avenue, at 2950 South Archibald Avenue, in the C1 (Shopping Center) zone.

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### 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>
Pharmacy	15,083	1/250 sq. ft.	60
<b>TOTAL</b>			<b>60</b>

**4.0 GRAFFITI REMOVAL**

- 4.1 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”).
- 4.2 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.
- 4.3 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 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.
- 6.6 A clearly legible sign not less than 7" by 11" in size, reading "NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES," shall be posted at or near each public entrance of the premises. A sign of like size and content shall also be maintained at a prominent place in the interior of the premises.

- 6.7 A clearly legible sign not less than 7" by 11" in size, reading "NO OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED ON THESE PREMISES," shall be posted at or near each public entrance of the premises. A sign of like size and content shall also be maintained at a prominent place in the interior of the premises.
- 6.8 All provisions of the Alcoholic Beverage Control Act (Business and Professions Code § 23000 et. Seq.) pertaining to the sale of beer and wine for off-premise consumption shall be complied with, including, but not limited to, the following:
- (a) No beer or wine shall be displayed within 5 feet of the cash register or the front door, unless it is in a permanently affixed cooler.
  - (b) No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
  - (c) No sale of alcoholic beverages shall be made from a drive-thru window.
  - (d) No display or sale of beer or wine shall be made from an ice tub.
  - (e) No illuminated advertising for beer or wine shall be located on building exteriors or in windows.
- 6.9 Electronic arcade and amusement games shall be prohibited on-site.

## **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 (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 The applicant shall maintain compliance with the six City Council criteria regarding alcohol sales facilities in over-concentrated census tracts, as follows:
- (a) The retailer must occupy at least 12,000 square feet of gross floor area.
  - (b) No more than 10% of the floor area may be devoted to alcoholic beverage display.
  - (c) At least 10% of the floor area must be devoted to food sales.
  - (d) If the location of the proposed business is 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, the hearing body may use that fact in denying the application for the Public Convenience and Necessity finding required for ABC.
  - (e) The property/building/use has no outstanding Building or Health Code violations or Code Enforcement activity.
  - (f) The site is properly maintained, including building improvements, landscaping and lighting.
- 8.2 All merchandise shall be sold within the enclosed building only.
- 8.3 The hours of alcoholic beverage sales shall be from 8:00 a.m. to 12:00 a.m. (midnight) only.
- 8.4 The requirements of other departments shall be addressed.



**CITY OF ONTARIO**  
**MEMORANDUM**  
*“Excellence Through Teamwork”*

**TO:** Clarice Burden, Senior Planner  
**FROM:** Robert Sturgis, Officer  
**DATE:** September 17, 2013  
**SUBJECT:** FILE NO. PCUP13-024  
2950 S. Archibald Avenue – WALGREENS

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The Police Department is placing the following conditions:

**ABC CONDITIONS**

1. The sales of alcohol will be 8:00 a.m. to 12:00 a.m. daily.
2. If store hours go beyond or before the hours of alcohol sales indicated above, devices must be installed to lock up/secure alcohol product accessibility to customers.
3. Store will be limited to 10% of floor space for alcohol sales and must maintain a minimum of 10% floor space for food sales.
4. No sales or service to minors.
5. No sales or service to intoxicated patrons.
6. No open alcohol beverages are allowed in the establishment.
7. No drug paraphernalia is to be sold at any time
8. No smoking inside of the establishment is permitted.
9. There will be no narcotic sales or usage on the premises at any time.
10. No single can or bottle sales of malt based liquor is allowed, these must be sold in manufacture multi-packs or multi-packaging authorized by the police department.



11. No single bottle sales of wine smaller than 750 ml. Wine coolers must be sold in 4-packs. These are prohibited unless otherwise permitted by City ordinance or written policy.
12. No single bottle sales of distilled spirits smaller than 375 ml in size.
13. The clerk will hand distilled spirits to the customer from behind the counter or lock up area.
14. All alcohol sales must be placed in a plastic bag before leaving the store.
15. Employees engaged in the sale of alcohol must be 18 years of age or older.
16. No more than 25% of advertisements allowed on the windows of the business.
17. No warm beer displays close to the front door.
18. Cashier must be visible from the parking lot.
19. Restrooms shall be kept free from graffiti.
20. Cameras will be placed at the entrance of the establishment to monitor patrons entering and exiting the store through the main entrance. Cameras must be visible to the public. Cameras must be in working order during store operations.
21. Electronic arcade and amusement games shall be prohibited on-site.
22. 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.
23. 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.
24. The applicant will be responsible for keeping the grounds of the business clean from debris and litter as much as possible.
25. 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.
26. Applicant shall not encourage or permit alcoholic beverages to be consumed on any property adjacent to the licensed premises under the control of the applicant, and signs must be posted.

27. The applicant shall modify or equip the public telephones inside or adjacent to the establishment to prevent incoming calls.
28. 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 the Ontario Police Department, within three months of this dated conditional use permit. Proof of re-certification is required every 3 years.
29. A no trespass letter will be on file with the Police Department.

### **TOBACCO CONDITIONS**

1. No tobacco sales to anyone under 18 years of age.
2. Retailers must post age of sale warning signs at each cash register.
3. Customers may not help themselves to cigarettes.
4. Tobacco products must be stored behind the counter under lock and key.
5. Sales of individual cigarettes are prohibited.
6. Single cigarettes and roll-your-own tobacco in packaging containing less than 0.60 ounces are prohibited.
7. The distribution of free or nominal-cost tobacco products or coupons is prohibited.
8. Outdoor and storefront signs advertising tobacco may not exceed 14 square feet.
9. No more than one-third of the square footage of windows and glass doors of an alcohol retailer may have signs of any sort, including tobacco.
10. All employees involved in the sales or service of tobacco products, must attend a STAKE Act class provided by the San Bernardino County Health Department, within six months of this dated conditional use permit. Proof of re-certification is required every 3 years.
11. Employees must attend a STAKE Act class provided by the San Bernardino County Health Department.

If alcohol related crimes at this location are higher than for 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 Police Department will conduct a review in six months to determine whether additional conditions will be needed.

Please call me if you have any questions regarding this matter at (909) 395-2001 ext 4773.



CITY OF ONTARIO  
MEMORANDUM

TO: Otto Kroutil, Development Director  
Jerry Blum, Planning Director  
Cathy Wahlstrom, Principal Planner (Copy of memo only)  
Charity Hernandez, Economic Development  
Kevin Shear, Building Official  
Raymond Lee, Assistant City Engineer  
Carolyn Bell, Landscape Planning Division  
Sheldon Yu, Municipal Utility Company  
Scott Melendrez, Police Department  
Art Andres, Deputy Fire Chief/Fire Marshal  
Brent Schultz, Housing and Neighborhood Revitalization Director (Copy of memo only)  
Sigfrido Rivera, Housing Manager  
Tom Danna, T. E., Traffic/Transportation Manager  
Lorena Mejia, Associate Planner, Airport Planning (Copy of memo only)  
Steve Wilson, Engineering/NPDES

FROM: Clarice Burden,

DATE: July 30, 2013

SUBJECT: FILE #: PCUP13-024 Finance Acct#:

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

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

**PROJECT DESCRIPTION:** A Conditional Use Permit Modification to PCUP10-026 to allow for alcoholic beverage & liquor sales for off-site consumption (Type 41 ABC License), within an existing Walgreens Pharmacy in the C1 (Shopping Center) zone, located on the northwest corner of Riverside Drive and Archibald Avenue, at 2950 S. Archibald Avenue APN: 1083-061-04 (\*\*This CUP Application was received via FEDEX and not over the counter\*\*)

RELATED FILE: PCUP10-026

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

Landscape Planning Division  
Department

*[Handwritten Signature]*  
Signature

Landscape Planner  
Title

8/26/13  
Date

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

<b>DAB CONDITIONS OF APPROVAL</b>	
Sign Off	
	09/25/13
Jamie Richardson, Associate Landscape Planner	Date

Reviewer's Name: <b>Jamie Richardson, Associate Landscape Planner</b>	Phone: <b>(909) 395-2615</b>
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D.A.B. File No.: PCUP13-024	Related Files:	Case Planner: Clarice Burden
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Project Name and Location:  
Walgreens  
2950 S. Archibald Avenue

Applicant/Representative:  
McKenna Long & Aldridge LLP Attn: Brian Fish, Esq./Jennifer Chavez, Esq.  
600 West Broadway, Suite 2600  
San Diego, CA 92101

<input checked="" type="checkbox"/>	<b>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.</b>
<input type="checkbox"/>	<b>A site plan (dated) has not been approved. Corrections noted below are required prior to DAB approval.</b>

**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; replace and repair if not functioning. Leaky and/or broken irrigation equipment is causing mud and soils to erode. Fill in areas where soil has eroded (i.e.: around the fire backflow on Archibald).
3. Remove stakes on existing mature street trees; ties and stakes are currently damaging the trees.
4. Remove and/or clean out mud and debris from all storm drain inlets. Add rip rap to any areas where required at drainage locations. This will help keep mud and debris out of the storm drains.
5. Cut and/or remove the weed fabric from around the roots of all trees.
6. Shredded mulch is required in all planter areas at a depth of 3" for shrubs and 1" for groundcover. Soil shall not be visible. Keep mulch 3" clear of plant stems and 6" away from tree trunks.
7. Replace dead shrubs and groundcovers with like size and type.



# ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2013-32

HEARING DATE: 10/21/2013

DECISION DATE: 11/20/2013

FILE NO.: PCUP13-027

**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 701 N. Milliken Avenue, Unit D.

## STAFF

**RECOMMENDATION:**  Approval  Approval, subject to conditions  Denial

## PART A: BACKGROUND & ANALYSIS

Minato Restaurant Inc., herein after referred to as "the applicant," has filed an application requesting Conditional Use Permit approval, File No. PCUP13-027, 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 12,276 square foot buffet style restaurant within the Urban Commercial land use designation of the Ontario Center Specific Plan, located at 701 N. Milliken Avenue, Unit D (**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	Multi-tenant Retail Building
South:	Urban Commercial	Furniture Stores
East:	Commercial Office	Denny's Restaurant
West:	Urban Commercial	CarMax Auto Dealership

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

**(f) Project Analysis:**

The applicant, Minato Restaurant Inc., proposes to establish and operate a 12,276 square foot buffet style restaurant (The Luxe Buffet) 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, Arizona Leather, Hooter's and Levitz furniture, to name a few. (**Exhibit D-Site Photos**). The restaurant "The Luxe Buffet", as it will be named, will be a buffet style restaurant. Food will be prepared and displayed for customers to self-serve themselves. Individuals that request beer or wine will be carded by the staff before it is served. The restaurant's operating hours will be 11 a.m. to 10 p.m., seven days a week, and it will have 12 full-time and 20 part-time employees. No live entertainment is proposed as part of the use.

Improvements Proposed: No outside modifications to the building are proposed. The applicant has pulled permits and is currently remodeling the interior of the building to reflect the floor plan submitted to operate the restaurant. Overall, the retail center is in poor to fair condition. Many of the landscape areas contain dead or missing landscaping or are 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 the 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.
6. Any and all unpermitted signs (banners) must be removed.

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 123 parking spaces for the proposed use. The project will comply with parking requirements. 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 12,276 square foot floor plan will feature the following (**Exhibit C-Floor Plan**):

- Lobby
- Dining Area (tables and booths)
- VIP Room (Private Area)
- Two Service Areas

- Food Display Areas
- Men and Women Restrooms
- Walk-in Coolers and Freezers
- Two Storage Areas
- Executive Office and Restroom
- Kitchen Area

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. In addition, at the last Zoning Administrators hearing of October 7, 2012, a Type 41 ABC (On-Sale Beer and Wine) license was approved for a new Chinese sit-down restaurant (Phoenix Palace) that will open soon in the same center.

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 three (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 two pending (one is from 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 allowing 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 the subject property is not located in a high crime area and beer and wine sales with the proposed bona fide restaurant will not impact the community. A convenience and necessary letter will also be prepared and sent to ABC if the application is approved.

Staff is recommending approval of the proposed application, subject to the attached conditions. Staff believes that the floor plan has been designed adequately, the use will provide a convenience to patrons and conditions of approval have been imposed on the application to mitigate any potential impacts on the health, welfare, and safety of the adjacent uses.

**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 21<sup>st</sup> 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) Ms. Lin Chen, the applicant's representative spoke in favor of the application. She indicated that she had read all the conditions of approval and that she was in agreement with all of them.
- (c) 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 restaurant 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. Fourth, a public convenience and necessity letter will be prepared and sent to ABC. Lastly, the Ontario Police Department also carefully reviewed the proposed CUP application and they are recommending approval subject to the attached conditions of approval.

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.

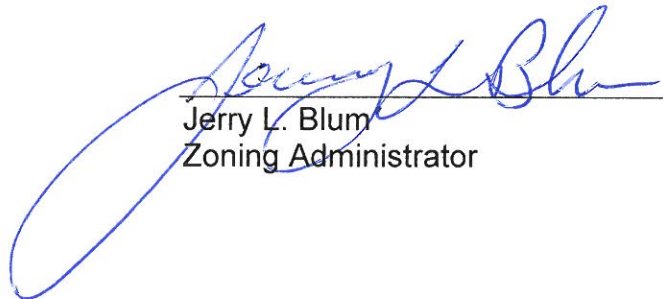
(c) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to Section § 15301 (Existing Facilities) 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. PCUP13-027, 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 20<sup>th</sup> day of November, 2013.

  
\_\_\_\_\_  
Jerry L. Blum  
Zoning Administrator

**EXHIBITS**  
**Exhibit A: Aerial Map**

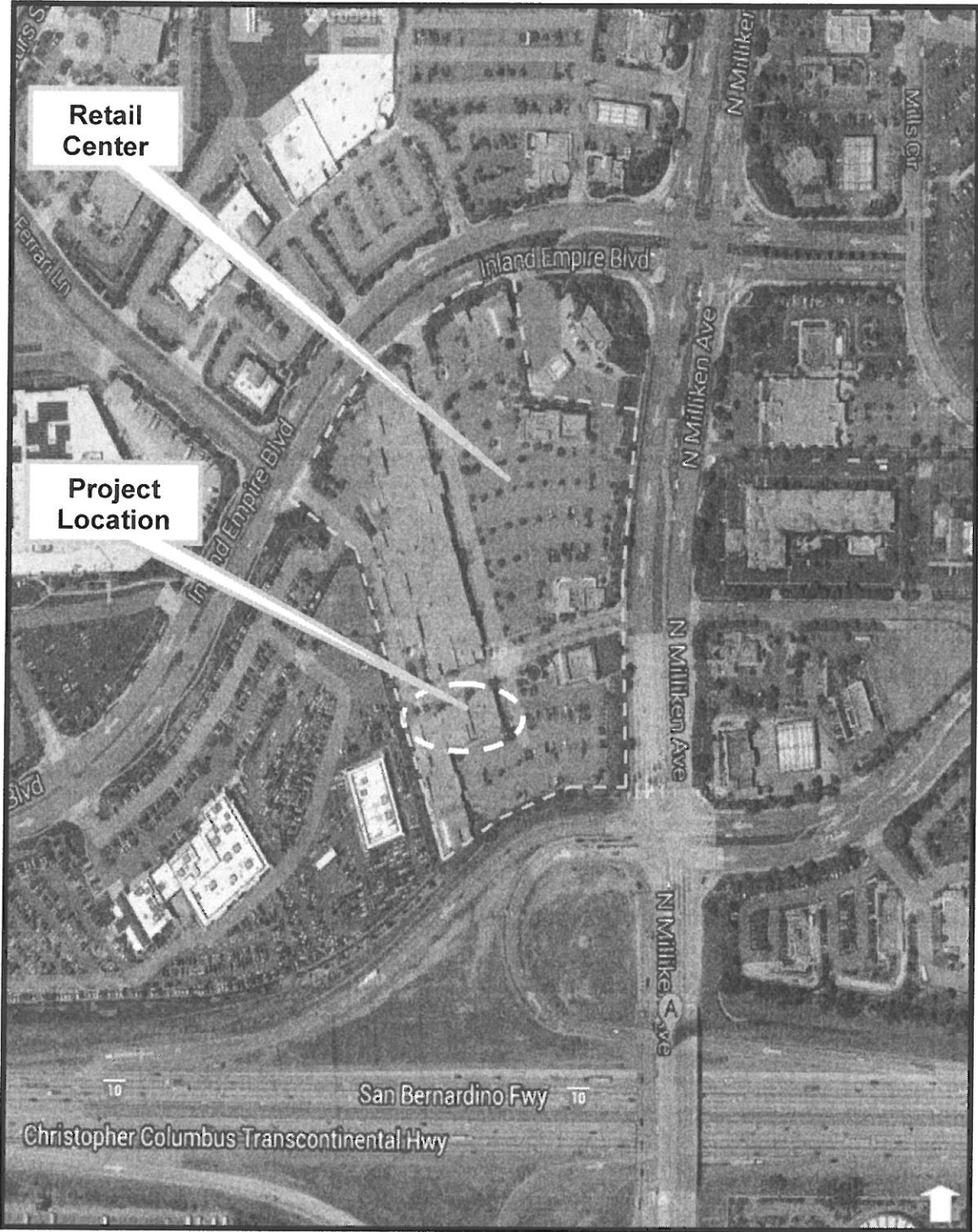
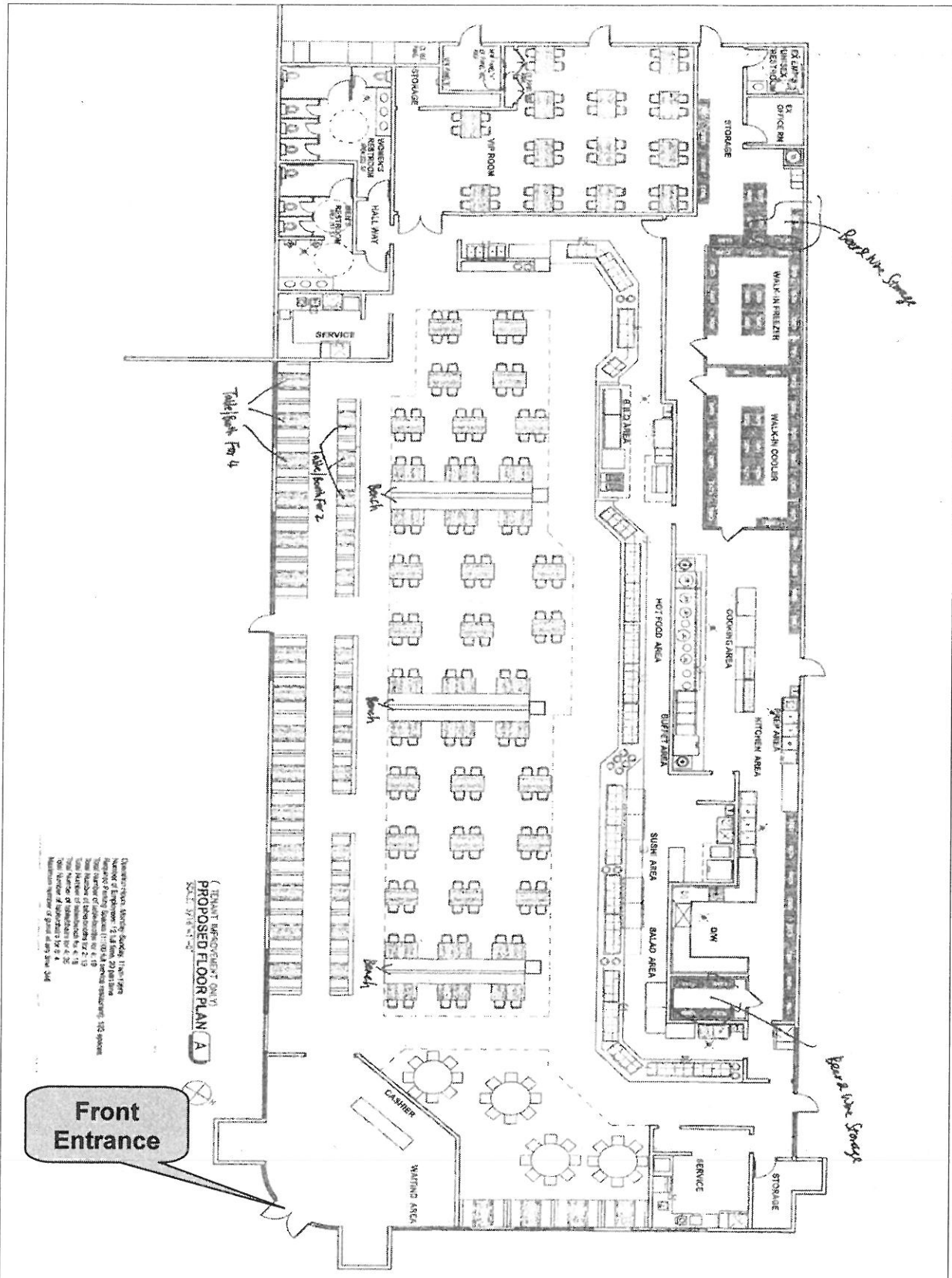


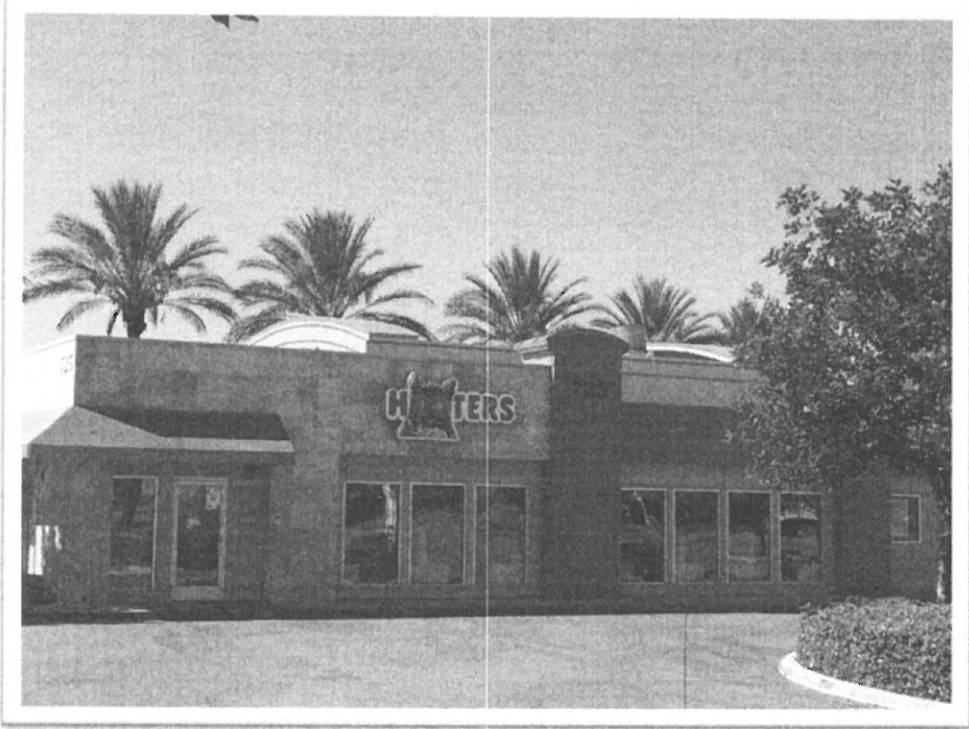


Exhibit C: Floor Plan





**Exhibit D: *Site Photos***

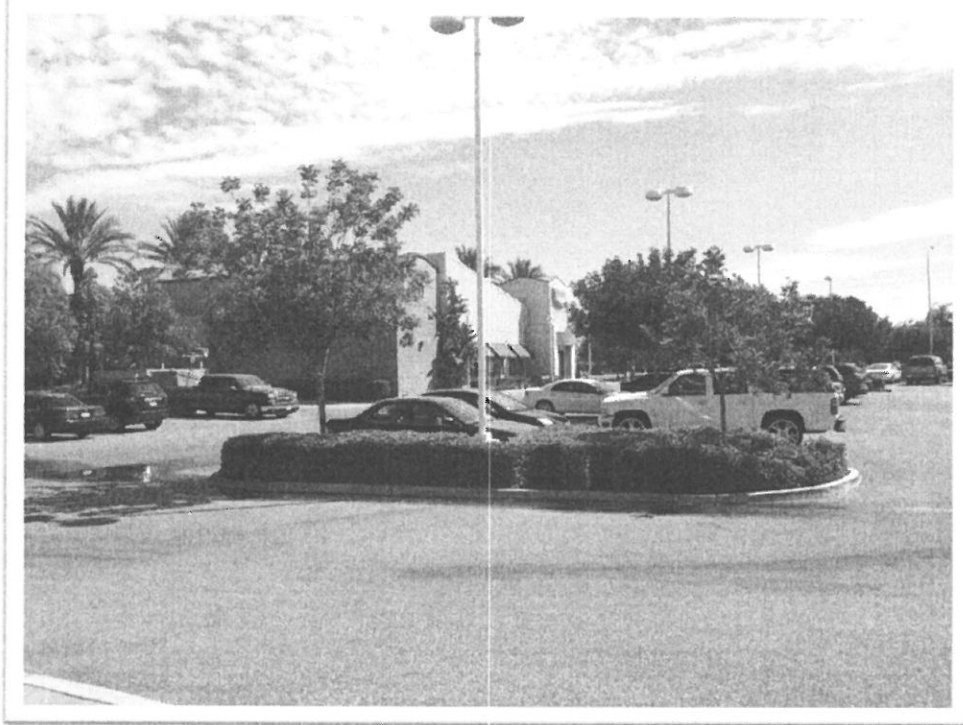


**Hooters Restaurant-Tenant in the Center**



**Arizona Leather-Tenant in the Center**

**Exhibit D: Site Photos**



**Denny's Restaurant-Tenant in the Center**



**Levitz Furniture-Tenant in the Center**



**Exhibit D: Site Photos**



**Area Missing Landscaping**

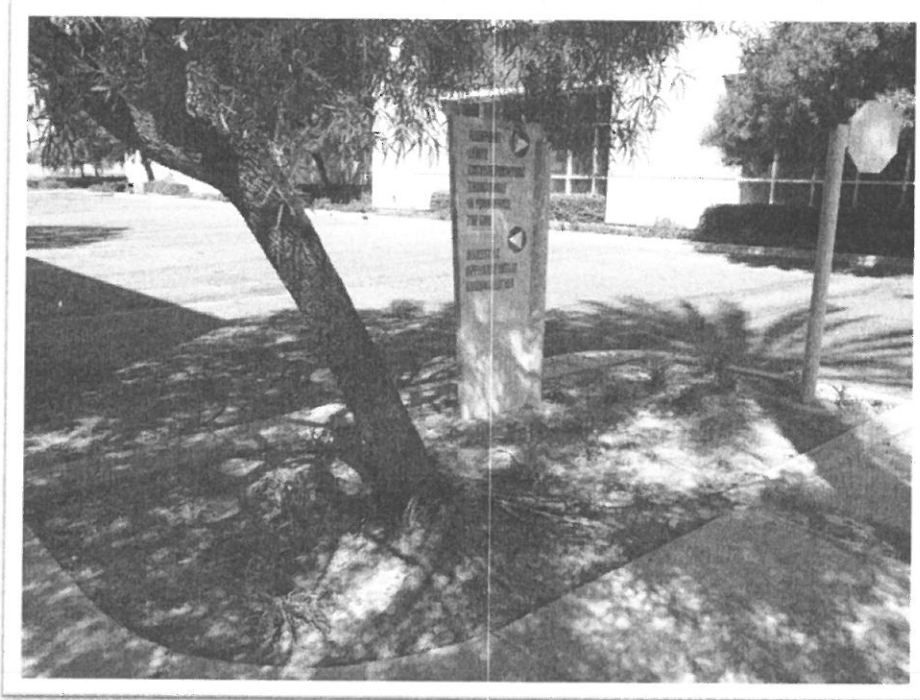


**Area Missing Landscaping**

**Exhibit D: Site Photos**

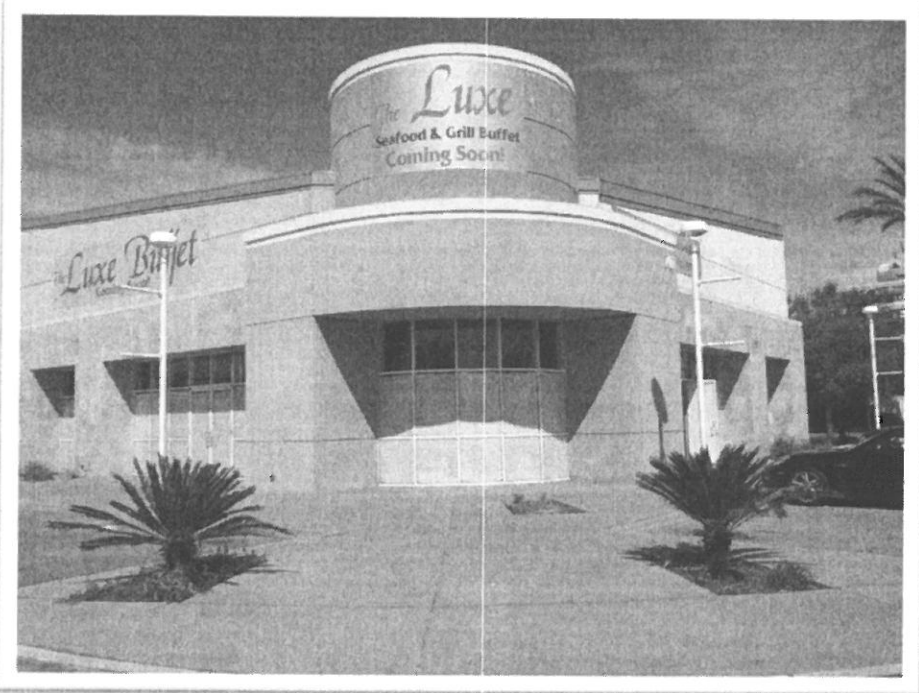


**Area Missing Landscaping**

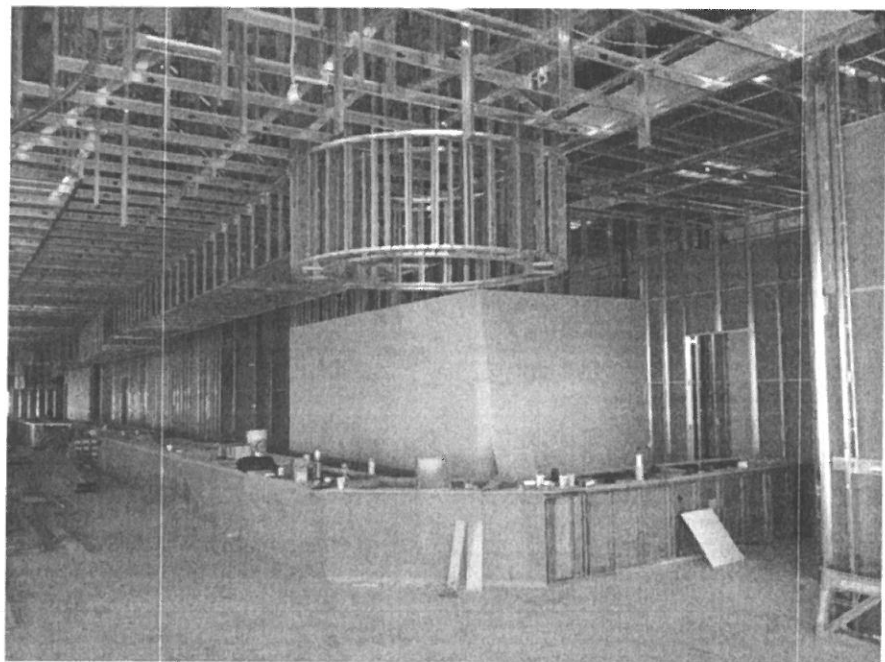


**Area Missing Landscaping**

**Exhibit D: Site Photos**

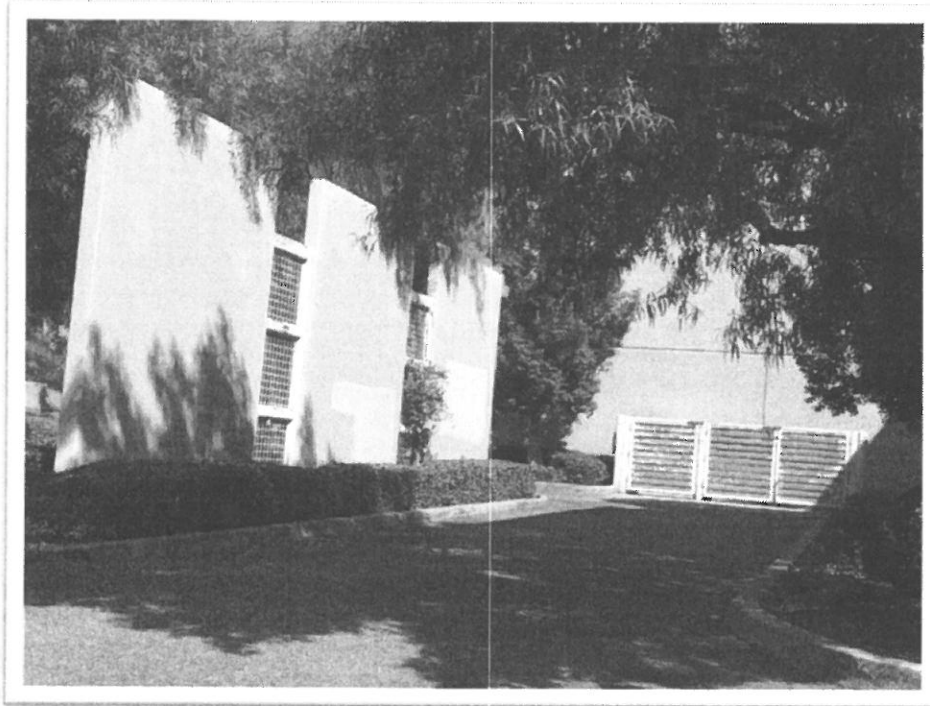


**Front of Subject Building**

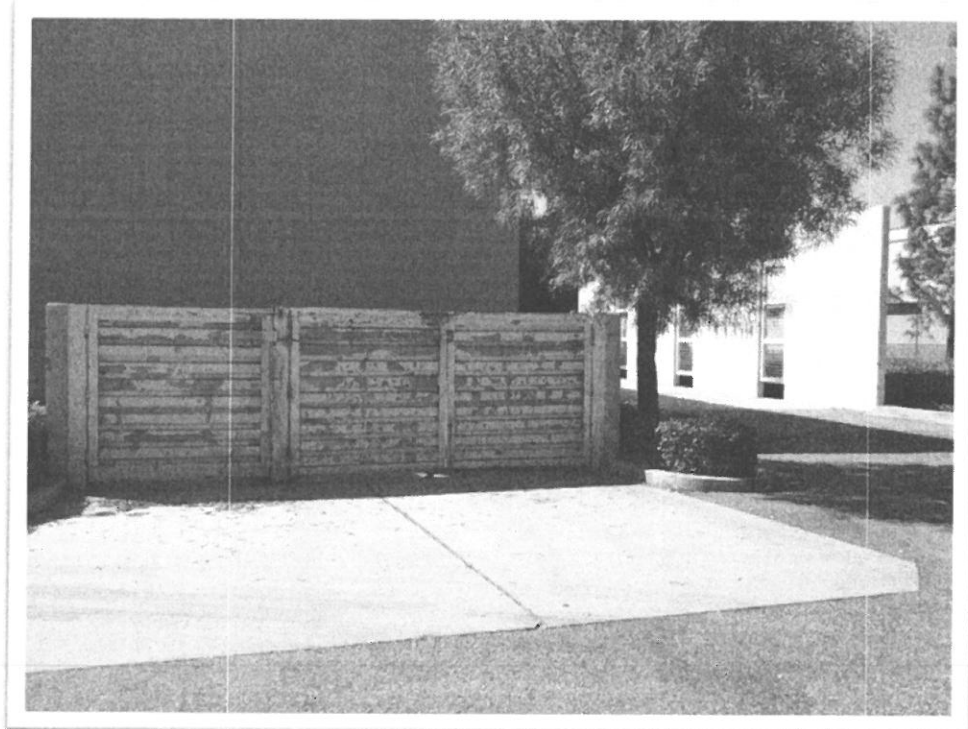


**Interior of Subject Building**

**Exhibit D: Site Photos**



**Some Areas Needing Painting**



**Some Areas Needing Painting**





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

**DATE:** October 21, 2013

**FILE NO.:** PCUP13-027

**SUBJECT:** A Conditional Use Permit request to establish alcohol beverage sales (Type 41 On-Sale Beer and Wine) ABC license for a new buffet restaurant within the Urban Commercial land use designation of the Ontario Center Specific Plan, located at 701 N. Milliken Avenue, Unit D.

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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.

PLANNING  
 LANDSCAPING DIVISION  
 ENGINEERING  
 UTILITIES/SOLID WASTE  
 BUILDING

ECONOMIC DEVELOPMENT  
 HOUSING  
 FIRE  
 POLICE





## CONDITIONS OF APPROVAL

**DATE:** October 21, 2013

**FILE NO.:** PCUP13-027

**SUBJECT:** A Conditional Use Permit request to establish alcohol beverage sales (Type 41 On-Sale Beer and Wine) ABC license for a new buffet restaurant within the Urban Commercial land use designation of the Ontario Center Specific Plan, located at 701 N. Milliken Avenue, Unit D.

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### 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	12,276	1:100	123
<b>TOTAL</b>	<b>128,300</b>		<b>550 Provided</b>

### 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.
- 8.6 Any and all unpermitted signs (banners) must be removed.



**CITY OF ONTARIO**  
**MEMORANDUM**  
*“Excellence Through Teamwork”*

**TO: Luis Batres, Senior Planner**

**FROM: Steven Munoz, Police Corporal**

**DATE: August 28, 2013**

**SUBJECT: PCUP13-027 – Minato Restaurant Inc.  
701 N. MILLIKEN AVENUE, #D, ONTARIO, CA 91764**

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The Police Department will require the following conditions:

1. Hours of operation will be 10:30 a.m. to 10:30 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

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

Reviewer's Name: <b>Jamie Richardson, Associate Landscape Planner</b>	Phone: <b>(909) 395-2615</b>
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D.A.B. File No.: PCUP13-027	Related Files:	Case Planner: Luis E. Batres
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Project Name and Location:  
 701 N. Milliken Ave. #D  
 Ontario, CA

Applicant/Representative:  
 Li Chen  
 5112 Lipizzan Place  
 Rancho Cucamonga, CA 91737

<input checked="" type="checkbox"/>	<b>A site plan (dated 08/06/2013) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met.</b>
<input type="checkbox"/>	<b>A site plan (dated) has not been approved. Corrections noted below are required prior to DAB approval.</b>

**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 or missing.