



CITY OF ONTARIO
ZONING ADMINISTRATOR
AGENDA

May 20, 2019

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

All documents for public review are on file with the Planning Department located at
City Hall, 303 East "B" Street, Ontario, CA 91764

PUBLIC HEARINGS

- A. **ENVIRONMENTAL ASSESSMENT AND CONDITIONAL USE PERMIT REVIEW FOR FILE NO. PCUP19-005**: A Conditional Use Permit to establish alcoholic beverage sales, including beer and wine for on-premises consumption (Type 41 ABC License — On Sale Beer and Wine for a bona fide eating place) in conjunction with an existing 1,400-square foot restaurant (Burgerim) on 1.8 acres of land located at 990 Ontario Mills Drive, within the commercial/office land use district of the Ontario Mills Specific Plan (formerly known as the California Commerce Center North, Ontario Gateway Plaza and Wagner Properties Specific Plan). The project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines. The proposed project is located within the Airport Influence Area of Ontario International Airport, and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport Land Use Compatibility Plan (ALUCP); (APNs: 0238-014-03) **submitted by Liliger Damaso**

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

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

I, Maureen Duran, Office Specialist of the City of Ontario, or my designee, hereby certify that a true, accurate copy of the foregoing agenda was posted on or before **May 16, 2019**, at least 72 hours prior to the meeting per Government Code Section 54954.2 at 303 East "B" Street, Ontario.



ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT

May 20, 2019

DECISION NO.: [insert #]

FILE NO.: PCUP19-005

DESCRIPTION: A Conditional Use Permit to establish alcoholic beverage sales, including beer and wine for on-premises consumption (Type 41 ABC License — On Sale Beer and Wine for a bona fide eating place) in conjunction with an existing 1,400-square foot restaurant (Burgerim) on 1.8 acres of land located at 990 Ontario Mills Drive, within the commercial/office land use district of the Ontario Mills Specific Plan (formerly known as the California Commerce Center North, Ontario Gateway Plaza and Wagner Properties Specific Plan); (APN: 0238-014-03) **submitted by Liliger Damaso.**

PART I: BACKGROUND & ANALYSIS

LILIGER DAMASO, (herein after referred to as “Applicant”) has filed an application requesting a Conditional Use Permit approval for File No. PCUP19-005, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

(1) Project Setting: The project site is located at 990 North Ontario Mills Drive, Unit C, within an existing 22,300 square-foot multi-tenant retail building on approximately 1.8 acres of land and is depicted in ***Exhibit A: Aerial Photograph***, attached. Existing land uses, General Plan and zoning designations, and specific plan land uses on and surrounding the project site are as follows:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>Site</i>	Vacant	Mixed Use (MU)	Ontario Mills Specific Plan (Formerly California Commerce Center North (CCCN), Ontario Gateway Plaza & Wagner Properties Specific Plan)	Commercial/ Office
<i>North</i>	Multi-Tenant In-Line Commercial/Retail	Mixed Use (MU)	Ontario Mills Specific Plan (Formerly California Commerce Center North (CCCN), Ontario Gateway Plaza & Wagner Properties Specific Plan)	Commercial/ Office
<i>South</i>	Multi-Tenant In-Line Commercial/Retail	Mixed Use (MU)	Ontario Mills Specific Plan (Formerly California Commerce Center North (CCCN), Ontario Gateway Plaza & Wagner Properties Specific Plan)	Commercial/ Office

<i>Prepared: MT 05/06/19</i>	<i>Reviewed: CM 5/8/2019</i>	<i>Decision:</i>
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	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
<i>East</i>	I-15 Freeway	Freeway	Ontario Freeway (I-15)	N/A
<i>West</i>	Multi-Tenant Commercial/Retail	Mixed Use (MU)	Ontario Mills Specific Plan (Formerly California Commerce Center North (CCCN), Ontario Gateway Plaza & Wagner Properties Specific Plan)	Commercial/ Office

(2) Project Analysis:

(a) Background — The project site is located within an existing commercial center (Daybreak Plaza) that was constructed in 1997. In 2018, Burgerim initiated a tenant improvement to establish a 1,400 square-foot restaurant within Unit C. Unit C is located near the northern end of a 22,300 square-foot retail building (**see Exhibit B: Site Plan**). The previous use for the subject site was an office for a staffing agency.

Burgerim restaurant specializes in providing gourmet burgers. It is an international casual franchise that offers a unique concept by offering patrons an opportunity to customize three ounce patties to their liking. Burgerim currently has multiple locations in Southern California, including Rancho Cucamonga, Glendora, Montclair, Glendale, Fontana, and Eastvale.

(b) Proposed Use — On March 5, 2019, the applicant filed an application requesting Conditional Use Permit approval to allow their beverage menu to include the sale of beer and wine (Type 41 ABC license) for consumption on the premises, at the subject location. The restaurant space is divided into five general areas (**see Exhibit C: Floor Plan**) that include:

- Dining Area
- Kitchen
- Walk in Alcohol Storage, Refrigerator & Freezer
- Outdoor Patio Area
- Restroom

The restaurant’s main entrance is located on the west side of the building, facing the parking lot (**see Exhibit D: Site Photograph**). The applicant is proposing a new 76-square foot enclosed outdoor patio seating area located at the northwest corner of the existing building. The State of California Alcohol Beverage Control (ABC) requires that outdoor seating areas be enclosed if an establishment is to serve alcohol in that area.

The applicant is proposing a 3-foot tall wrought iron fence with a self-closing gate to enclose the proposed patio area. The Police Department has required that the patio will be for customers only and must be routinely monitored by an employee. In addition, empty alcoholic beverage containers must be removed from the patio area in a timely manner.

The Police Department is further requiring that the business maintain the ability to provide a full menu until last call. Alcoholic beverage sales will stop at 9:15 p.m., or 45 minutes prior to closing. In addition, the restaurant will have no bar seating.

The proposed business hours of operation are Monday through Sunday, 11:00 A.M. to 10:00 P.M. The restaurant proposes to operate with a total of 16 employees (4-full time employees and 12-part time employees).

(c) Parking – According to the Ontario Development Code, the project is required to provide 19 parking spaces, at a ratio of 13.3 spaces per 1,000 SF of GFA (Gross Floor Area). Parking was calculated based on the “fast food restaurants” standard of the Ontario Development Code. The Daybreak Plaza was developed with 268 parking spaces and an approved shared parking and access agreement. The application does not include the elimination of any parking spaces. The proposed Conditional Use Permit request is to provide an additional convenience to restaurant patrons; therefore, staff believes that the proposed use will not adversely affect the parking demand for the existing regional shopping center.

(d) ABC Concentration – The California Department of Alcoholic Beverage Control (ABC) is the State entity responsible for granting, renewing, and revoking all ABC licenses. ABC determines how many On-Sale and Off-Sale alcoholic beverage license types should be issued per census tract, based upon their population. The project site is located within Census Tract 21.09, which is located entirely within the City of Ontario and according to ABC, is over concentrated (***see Exhibit E: Census Tract Map***). ABC currently allows 4 On-Sale licenses; however, there are currently 41 active On Sale licenses within this census tract, including 25 businesses with a Type 47 — On Sale General - Eating Place — license; 12 businesses with a Type 41 — On Sale Beer and Wine - Eating Place — license, 2 businesses with a Type 70 — On Sale General - Restrictive Service license; and 2 businesses with a Type 48 On Sale General - Public Premises license. Census Tract 21.09 encompasses the City’s core Entertainment District, which includes the Ontario Mills Mall, Citizen’s Business Bank Arena, several restaurants and movie theaters in the area, and several general commercial retailers. The proposed location operates as a “Bona Fide Public Eating Place;” therefore, the Police Department does not object to allowing the proposed Type 41 ABC License provided that all City and State Department of Alcohol Beverage Control rules, regulations, and conditions of approval are met and followed. In addition, the project site is not located in a high crime area and the property has no outstanding Building or Health Code Violations. As a result, staff has placed specific conditions of approval to ensure the safe operation of the business.

(e) Land Use Compatibility – A Conditional Use Permit review is required to ensure the compatibility of adjacent uses by identifying potential nuisance activities and establishing measures for mitigation accordingly. The project site is located within the Ontario Mills Mall, which consists of one stand-alone shopping complex and several surrounding multi-tenant commercial buildings. Several entertainment and restaurant

tenants in the area currently hold a Type 41 ABC license (***see Exhibit F: List of Current Businesses with Type 41 License***), including: Rubio's Fresh Mexican Grill, Chopsticks House, Joey's Pizza, Los Jalapenos, Fuddruckers, The Luxe Buffet, @Home Thai Fusion Bistro, Hyatt Place Ontario Mills, Mantra Indian Cuisine, Blaze Fast Fired Pizza, Johnny Rockets, and Boiling World.

Staff believes that the recommended Conditions of Approval will sufficiently mitigate any potential impacts that may be associated with the proposed use. Additionally, the nearby businesses within and surrounding the Ontario Mills Mall will not be exposed to any impacts resulting from alcoholic beverage sales and consumption beyond those that would normally be associated with any other restaurant uses within the center and surrounding area.

(3) Airport Land Use Compatibility Plan: The 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.

(4) 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.

(5) 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.

(6) 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 II: RECITALS

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

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

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

WHEREAS, the 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; and

WHEREAS, on May 20, 2019, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

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

(2) Applicant or applicant's representative explained the business operation and spoke in favor of the application.

(3) **Additional speaker** name

(4) 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 III: THE DECISION

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

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

(2) Based upon the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby finds as follows:

(a) *The scale and intensity of the proposed land use would be consistent with the scale and intensity of land uses intended for the particular zoning or land use district.* The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the Development Code and Specific Plan within which the site is located. The proposed Type 41 ABC License (On Sale Beer and Wine – Eating Place) in conjunction with the proposed 1,400 square-foot restaurant (Burgerim) will be located at 990 North Ontario Mills Drive, Unit C, which is designated as the Commercial/Office land use designation of the Ontario Mills Specific Plan. The proposed use will be

established consistent with the City of Ontario Development Code and the Ontario Mills Specific Plan, and their objectives, purposes, development standards and guidelines.

(b) *The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.* The proposed Type 41 ABC License (On Sale Beer and Wine – Eating Place) in conjunction with the proposed 1,400 square-foot restaurant (Burgerim) will be located at 990 North Ontario Mills Drive, Unit C, which the Policy Plan Land Use Plan designates as Mixed Use. The proposed land use is consistent with the goals, policies, plans, and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan, which identifies the Ontario Mills Area as a “Growth Area”. The Growth Area is envisioned to be developed in a manner that has an intensification of uses, such as entertainment and restaurants to provide our residents and visitors with the opportunity to live, work and play within our City. The proposed project will provide an additional convenience for patrons of the existing restaurant, and will overall help to implement this Growth Vision.

(c) *The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of the Development Code, and any applicable specific plan or planned unit development.* With conditions of approval, the proposed use will be consistent with the uses allowed within the Commercial/Office land use designation of the Ontario Mills Specific Plan, which allows for commercial, retail, restaurant, and entertainment uses. The proposed use will provide an additional convenience for patrons of the proposed restaurant.

(d) *The proposed use at the proposed location would be consistent with the provisions of the Airport Land Use Compatibility Plan.* The project site is located within Airport Influence Area of the Ontario International Airport Land Use Compatibility Plan (ONT ALUCP) and the proposed use is consistent with the policies and criteria of the plan.

(e) *The establishment, maintenance, and operation of the proposed use at the proposed location would not be detrimental or injurious to property and improvements within the vicinity, nor would it be detrimental to the health, safety, or general welfare of persons residing or working in the surrounding neighborhood.* The 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 Police Department has also reviewed the application and they are in support of the application subject to the attached conditions of approval.

(f) For On-Sale alcoholic beverage license types located within over concentrated census tracts (high density of alcoholic beverage sales locations as defined by the Alcoholic Beverage Control Act (commencing with Business and Professions Code Section 23000 et Seq.), the Zoning Administrator hereby makes the following Public Convenience and Necessity (“PCN”) findings:

- The proposed retail alcohol license is not located within a high crime area, defined as an area characterized by a high ratio of Police Department calls for service to alcohol-related incidences, not to exceed 20 percent greater than the average number of alcohol-related incidences reported for the City as a whole. The Police Department has reviewed the application and is recommending approval subject to the attached conditions of approval. The proposed use is consistent with the Ontario Mills Specific Plan and other similar restaurant uses in the area. The use will be providing a convenience for restaurant patrons that would like to purchase alcoholic beverages with their meal(s).

- The property/building/use has no outstanding Building or Health Code violations or Code Enforcement activity. Burgerim has no outstanding enforcement violations.

- The project site is properly maintained, including building improvements, landscaping, and lighting. The Daybreak Plaza shopping center, including Burgerim restaurant, is properly maintained and serviced on a regular basis.

(g) 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 (Class 1 - Existing Facilities) of the State CEQA Guidelines. Existing facilities consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposed use is located within an existing building and does not include any negligible building additions or operational changes and therefore is categorically exempt.

(h) 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.

(i) Based upon the findings and conclusions set forth in Parts I, II and III above, the Zoning Administrator hereby approves File No. PCUP19-005, subject to the conditions of approval attached hereto and incorporated herein by this reference.

APPROVED AND ADOPTED this [Insert Day] day of May 2019.

Cathy Wahlstrom
Zoning Administrator

Exhibit A: Aerial Photograph

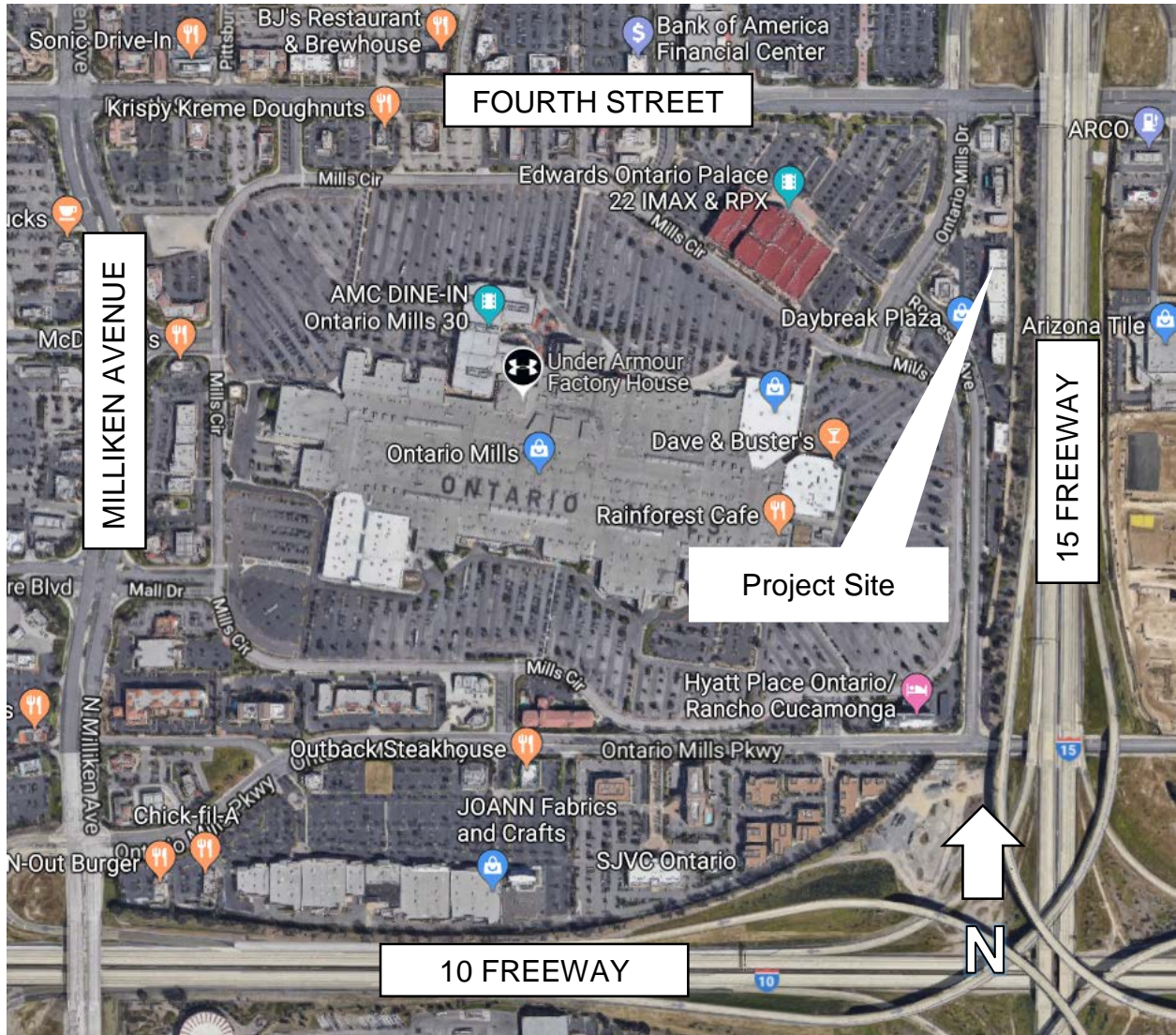


Exhibit B: Site Plan

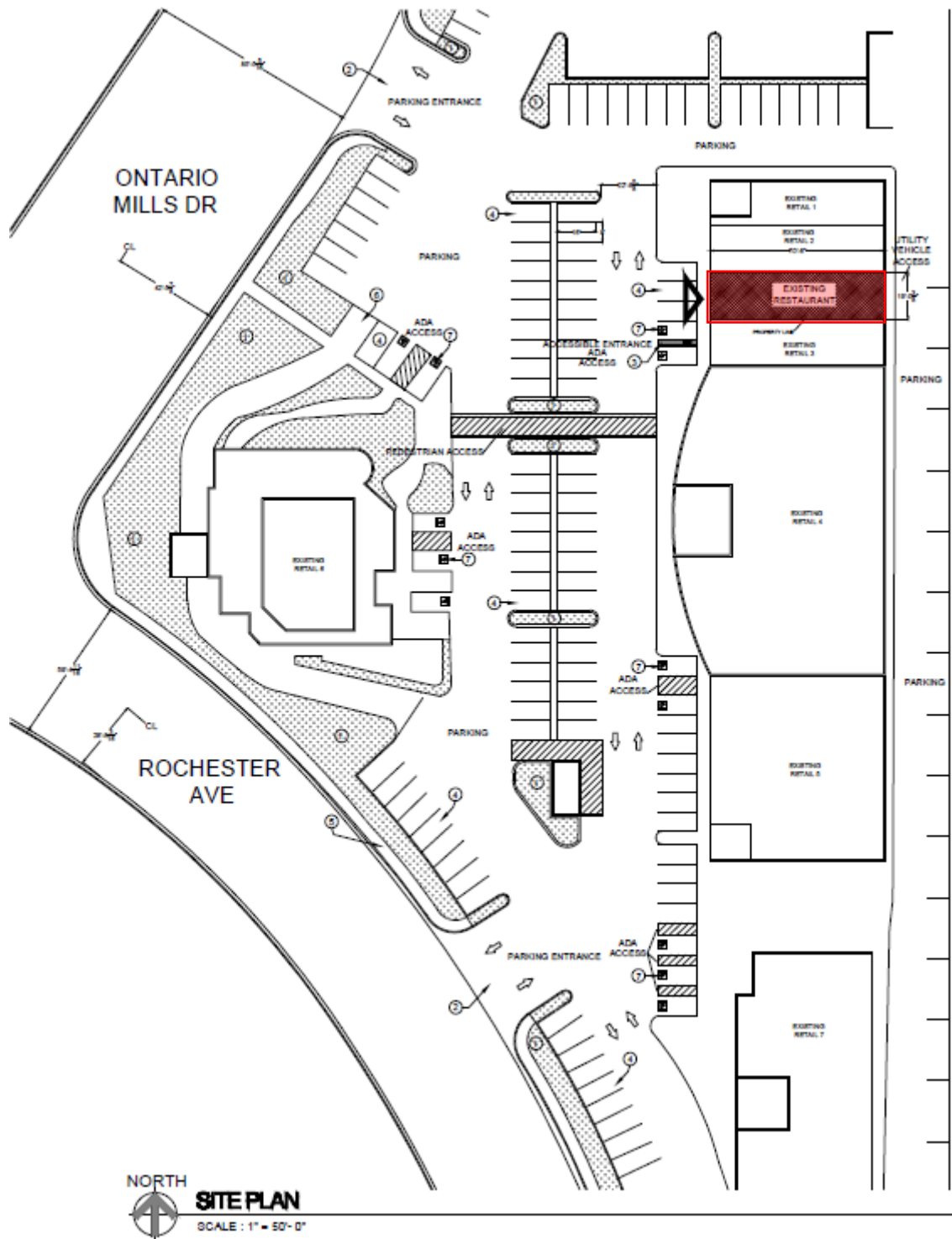


Exhibit C: Burgerim Floor Plan

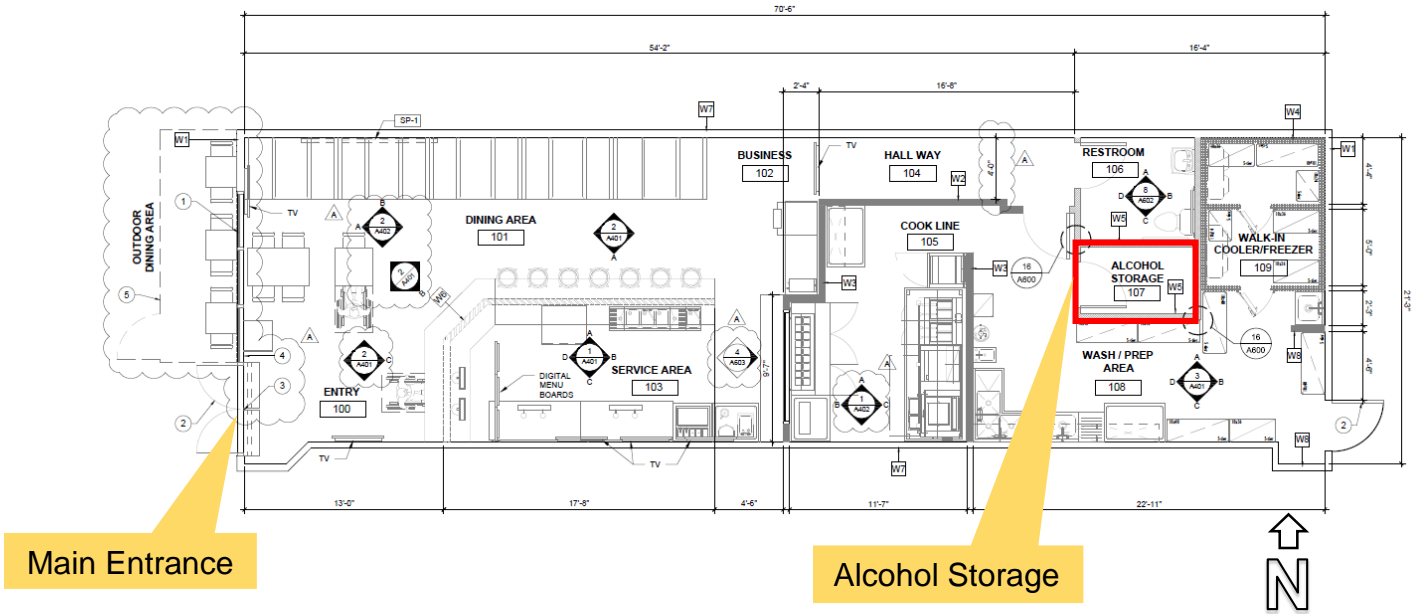


Exhibit D: Site Photograph

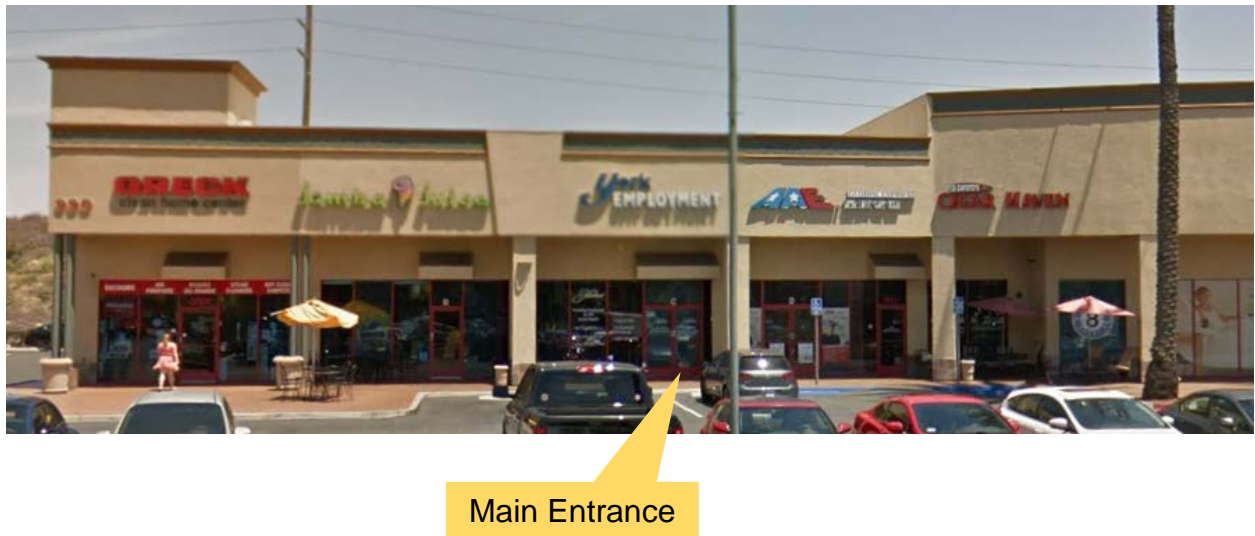


Exhibit E: Census Tract Map 21.09

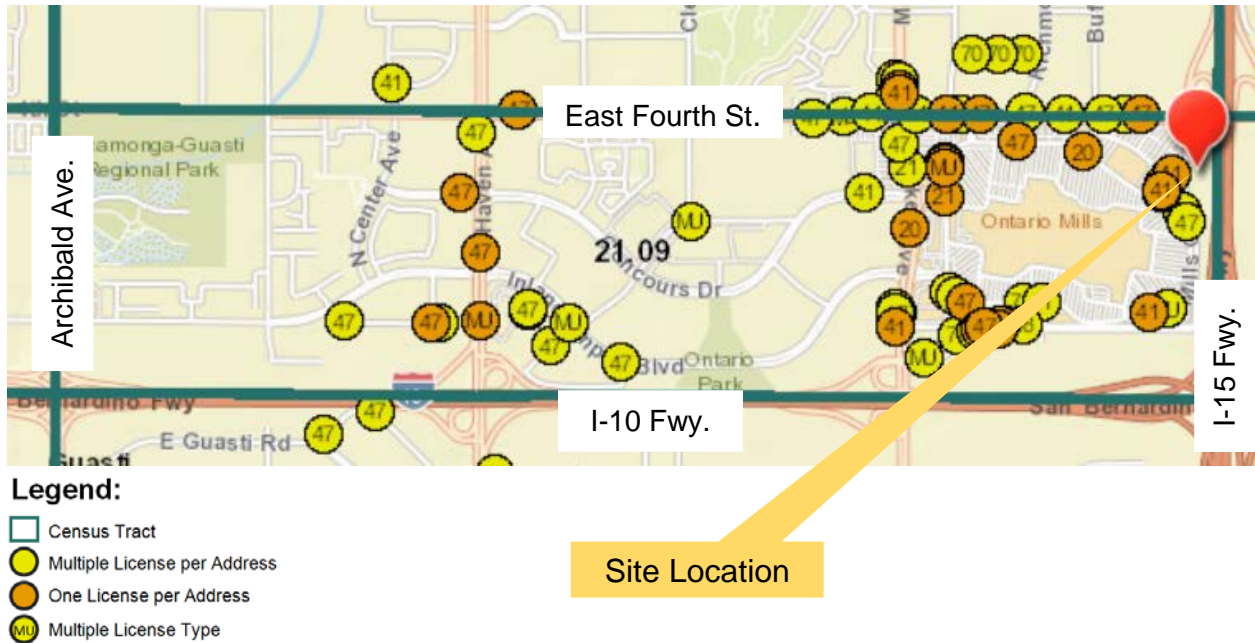


Exhibit F: List of Current Businesses with Type 41 License

License Number	Status	Type	Orig. Iss. Date	Expir. Date	BUSINESS NAME	Primary Owner	Premises Address
536646	ACTIVE	41	12/10/13	11/30/19	LUXE BUFFET THE	MINATO RESTAURANT INC	701 N MILLIKEN AVE, STE D
435929	ACTIVE	41	03/22/06	02/29/20	JOEYS PIZZA NO 1	CHO, JUNG OK	790 N ARCHIBALD AVE, STE B
595324	ACTIVE	41	12/31/18	11/30/19	BOILING WORLD	BOILING WORLD INC	4431 ONTARIO MILLS PKWY
478545	ACTIVE	41	07/29/09	06/30/19	LOS JALAPENOS 3	OCHOA, ANA GUADALUPE	710 N ARCHIBALD AVE, STE B
578549	ACTIVE	41	04/28/17	03/31/19	BLAZE FAST FIRED PIZZA	BLAZE IE LLC	1 MILLS CIR, STE 1000
576800	ACTIVE	41	10/08/18	09/30/19	MANTRA INDIAN CUISINE	MANTRA RESTAURANTS II CORPORATION	990 ONTARIO MILLS DR, STE H
510751	ACTIVE	41	09/26/11	12/31/19	FUDDRUCKERS	LUBY'S FUDDRUCKERS RESTAURANTS, LLC	4423 MILLS CIR
538441	ACTIVE	41	01/13/14	12/31/18	@ HOME THAI FUSION BISTRO	SUB PERMPOON LLC	4275 CONCOURS DR, #130
563764	ACTIVE	41	12/22/15	11/30/19	HYATT PLACE ONTARIO MILLS	HPO LP	4760 E MILLS CIR
339389	ACTIVE	41	04/06/98	12/31/19	RUBIOS FRESH MEXICAN GRILL 40	RUBIOS RESTAURANTS INC	980 ONTARIO MILLS DR, STE A
381577	ACTIVE	41	11/26/01	10/31/19	CHOPSTICKS HOUSE	BARRANCA MANAGEMENT INC	4451 ONTARIO MILLS PKWY, STE B
584421	ACTIVE	41	12/05/17	11/30/19	JOHNNY ROCKETS	HAMILTON STAWSON LLC	1 MILLS CIR, STE 103



City of Ontario
Planning Department
303 East B Street
Ontario, California 91764
Phone: 909.395.2036
Fax: 909.395.2420

*Planning Department
Land Development Division
Conditions of Approval*

Meeting Date: May 20, 2019

File No: PCUP19-005

Related Files: None

Project Description: A Conditional Use Permit request to establish on-premise alcohol beverage sales (Type 41-Beer and Wine ABC License), in conjunction with a proposed 1,400 square foot (Burgerim) restaurant located at 990 North Ontario Mills Drive, Unit C, within the Commercial/Office land use district of the Ontario Mills Specific Plan (formerly California Commerce Center North, Ontario Gateway Plaza & Wagner Properties Specific Plan). (APN: 0238-014-03); **submitted by Ms. Liliger Damaso**

Prepared By: Mai Thao
Phone: 909.395.2443 (direct)
Email: MThao@ontarioca.gov

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

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

1.1 Time Limits.

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

1.2 Parking, Circulation and Access.

(a) The Project shall comply with the applicable off-street parking, loading and lighting requirements of City of Ontario Development Code Division 6.03 (Off-Street Parking and Loading).

(b) Areas provided to meet the City's parking requirements, including off-street parking and loading spaces, access drives, and maneuvering areas, shall not be used for the outdoor storage of materials and equipment, nor shall it be used for any other purpose than parking.

(c) All parking and loading spaces shall be maintained in good condition for the duration of the building or use.

(d) Parking spaces specifically designated and conveniently located for use by the physically disabled shall be provided pursuant to current accessibility regulations contained in State law (CCR Title 24, Part 2, Chapters 2B71, and CVC Section 22507.8).

(e) Use shall provide a minimum of 19 parking spaces. The tenant space is part of the Daybreak Plaza and utilizes shared parking and access accordingly.

(f) A 3'-0" tall decorative fencing and a self-closing gate shall be reviewed and approved by the Planning Department prior to issuance of building permits. The outdoor patio shall be maintained and must not block path of travel.

1.3 Mechanical and Rooftop Equipment.

(a) All exterior roof-mounted mechanical, heating and air conditioning equipment, and all appurtenances thereto, shall be completely screened from public view by parapet walls or roof screens that are architecturally treated so as to be consistent with the building architecture.

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

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

1.6 Any new signs on the building or outside the tenant space shall be reviewed and approved by the City, prior to installation.

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

1.8 Alcoholic Beverage Sales—General.

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

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

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

(d) 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.

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

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

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

1.9 Alcoholic Beverage Sales—Restaurants.

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

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

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

1.10 Environmental Review.

(a) The Project is categorically exempt from environmental review pursuant to **Section 15301 (Class 1, Existing Facilities)** of the CEQA Guidelines, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible (less than 10,000 square feet) or no expansion, and is consistent with the following conditions:

(i) The project is in an area where all public services and facilities are available to allow for maximum development permissible in the Policy Plan (General Plan) component of The Ontario Plan; and

(ii) The area in which the project is located is not environmentally sensitive.

(b) If human remains are found during project grading/excavation/construction activities, the area shall not be disturbed until any required investigation is completed by the County Coroner and Native American consultation has been completed (if deemed applicable).

(c) If any archeological or paleontological resources are found during project grading/excavation/construction, the area shall not be disturbed until the significance of the resource is determined. If determined to be significant, the resource shall be recovered by a qualified archeologist or paleontologist consistent with current standards and guidelines, or other appropriate measures implemented.

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

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

2.0 Additional Fees.

(a) Within 5 days following final application approval, the Notice of Determination (NOD) filing fee of \$50.00 dollars shall be provided to the Planning Department. The fee shall be paid by check, made payable to the "Clerk of the Board of Supervisors", which shall be forwarded to the San Bernardino County Clerk of the Board of Supervisors, along with all applicable environmental forms/notices, pursuant to the requirements of the California Environmental Quality Act (CEQA). Failure to provide said fee within the time specified may result in a 180-day extension to the statute of limitations for the filing of a CEQA lawsuit.

3.0 Additional Requirements.

(a) All applicable Conditions of Approval from other City departments shall be met and addressed by the applicant.

(b) A revised City Business License must be reviewed and approved by the Ontario Planning Department prior to operation of business with sales of alcohol.



CITY OF ONTARIO
MEMORANDUM
“Excellence Through Teamwork”



TO: Alexis Vaughn, Assistant Planner

FROM: Erich Kemp, Police Officer/ C.O.P.S. Unit

DATE: April 16th, 2019

SUBJECT: FILE NO. PCUP19-005– BurgerIM
990 ONTARIO MILLS DRIVE STE. C, ONTARIO, CA 91764

This location has applied for a type 41 On-Sale Beer and Wine for a Bona Fide Public Eating Place located within Census Tract No. 21.09. According to the Department of Alcohol Beverage Control (ABC), three on-sale licenses are allowed within this tract, there are currently 41. This location operates as a “Bona Fide Public Eating Place,” and the Police Department does not object to allowing this conditional use permit. The location must follow all Department of Alcohol Beverage Control rules and conditions. In addition, the following conditions of approval shall be imposed by the Police Department:

RESTAURANT CONDITIONS

1. Alcohol sales will be from 11:00 A.M. to 10:00 P.M. daily. Last call for alcohol shall be made 45 minutes prior to closing and no later than 09:15 P.M.
2. No sales to minors.
3. The restaurant will have no bar seating.
4. No sales to obviously intoxicated patrons.
5. No self-serve alcohol displays allowed.
6. No alcoholic beverages are to be sold or removed from the establishment for outside consumption.
7. Signs must be posted at all exits stating no alcohol beyond this point.
8. No smoking inside of the establishment is permitted, including any type of electronic nicotine delivery device.

9. There will be no narcotic sales or usage on the premises at any time.
10. Employees 18 and older may serve alcoholic beverages in an area primarily designed and used for the sale and service of food as an incidental part of their overall duties. Bartenders and cocktail servers must be 21.
11. Applicant and all employees must attend an Alcohol Beverage Control (ABC) L.E.A.D.'s training class or a certified responsible beverage service class, which has been approved by the Ontario Police Department. This is required within six months of this dated conditional use permit and proof of re-certification is required every 3 years. New employees must attend the training class within three months of their hire date.
12. Lighting within the restaurant must be kept at a reasonable level for safe movement of patrons.
13. Address to the establishment must be plainly visible to the front for easy identification by safety personnel.
14. The parking lots under control of the applicant 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.
15. Graffiti abatement by the business owner/licensee, or management shall be immediate and on-going on the premises, but in no event shall graffiti be allowed unabated for more than 72 hours. Abatement shall take the form of removal, or shall be covered/painted over with a color reasonably matching the color of the existing building, structure, or other surface being abated. Additionally, the business owner/licensee, or management shall notify the City within 24 hours at (909) 395-2626 (graffiti hotline) of any graffiti elsewhere on the property not under the business owner/licensee's or management control so that it may be abated by the property owner and/or the City's graffiti team.
16. No loitering shall be permitted on any property adjacent to the licensed premise, which is under the control of the applicant.
17. The restaurant manager shall be qualified per ABC rules. Anyone to whom a licensee delegates discretionary power to organize, direct, carry on, or control operations of the licensed business is presumed to be the manager of the business. (Business and Professions Code Section 23788.5, Rules 57.5 and 57.6).

PATIO CONDITIONS

1. Patio fencing needs to be a minimum height of 5 feet to prevent patrons from passing alcoholic drinks to minors or outside the licensed premises. Also, the spacing between the fencing needs to be close enough together to prevent alcohol beverages from being passed through the opening.

2. The patio area will be for customers only.
3. The patio area will be routinely monitored by an employee. Empty alcoholic containers will be removed from the patio area in a timely manner.
4. Patio exits must be gated and closed at all times. Emergency sounding devices and panic hardware must be installed on gates.
5. The patio exit will have a sign posted, stating "No alcohol beyond this point"
6. Outdoor tables shall not be removed or rearranged to increase occupancy.

ENTERTAINMENT CONDITIONS

1. There was no entertainment area designated on a plan check. Any entertainment will have to be approved by the Ontario Police Department prior to the event.

SECURITY CONDITIONS

1. In the event security problems occur as a result of the use, the Police Department may request a public hearing before the Zoning Administrator to consider modifications, including but not limited to, additional security guards, and additional hours for security guards, and replacement of security guards with Ontario Police Officers. The public hearing process shall be conducted in accordance with the requirements of the City's development Code.
2. A Code of Conduct will be required to be used and posted at all public entrances of the establishment.
3. Ontario Police Officers have the right to limit or reduce the occupancy inside the establishment if situations arise that may compromise the safety of patrons and/or the officer. Any additional police resources requested to bring peace in the establishment may be charged to the business owner.
4. If the business chooses to hire security personnel. The Security personnel will be required to follow Ontario Municipal Code Article 6, title 3, Section 3-1.601-621 (security regulations), which states in part that the security company and guards used will be registered with the City of Ontario.
5. The business shall maintain a security camera surveillance system in proper working order. Cameras will be placed to record the patrons using the bar/restaurant area. A minimum of one camera will record the parking lot. Each camera will record at least 640x480 recording resolution levels and at least fifteen (15) frames per second. The field of view for each camera will be to maximize the coverage of patrons. Recorded video will be stored for a minimum of 30 days and made available to the Police Department upon request.

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 security.) If security personnel are needed they will be required to follow Ontario Municipal Code Article 6, Title 3, Section 3-1.601-621 (security regulations), which states in part that the security company and guards used will be registered with the City.

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

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

Please contact Officer Erich Kemp if you have any questions regarding this matter at (909) 408-1922.



CITY OF ONTARIO

MEMORANDUM

TO: Alexis Vaughn, Assistant Planner
Planning Department

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

DATE: March 20, 2019

SUBJECT: PCUP19-005 A Conditional Use Permit to establish beverage sales, including beer and wine for on-premise consumption (Type 41-ABC license) in conjunction with an existing 1,400 square foot restaurant (Burgerim) on 1.8 acres of land located at 990 Ontario Mills Drive.

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



CITY OF ONTARIO

MEMORANDUM

TO: Scott Murphy, Development Director
Cathy Wahlstrom, Planning Director (Copy of memo only)
Diane Ayala, Advanced Planning Division (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, City Engineer
Carolyn Bell, Landscape Planning Division
Ahmed Aly, Municipal Utility Company
Doug Sorel, Police Department
Paul Ehrman, Deputy Fire Chief/Fire Marshal
Jay Bautista, T. E., Traffic/Transportation Manager
Lorena Mejia, Airport Planning
Eric Woosley, Engineering/NPDES
Joe De Sousa, Code Enforcement (Copy of memo only)
Jimmy Chang, IT Department

FROM: Alexis Vaughn, Assistant Planner

DATE: March 06, 2019

SUBJECT: FILE #: PCUP19-005

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 **Wednesday, March 20, 2019**.

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

PROJECT DESCRIPTION: A Conditional Use Permit to establish alcoholic beverage sales, including beer and wine for on-premise consumption (Type 41-ABC license) in conjunction with an existing 1,400 square foot restaurant (Burgerim) on 1.8 acres of land located at 990 Ontario Mills Drive.

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.

Building

Department

Signature

Title

Date

CITY OF ONTARIO MEMORANDUM

TO: PLANNING DEPARTMENT, Alexis Vaughn
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: March 7, 2019
SUBJECT: PCUP19-005



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

KS:lm



CITY OF ONTARIO

MEMORANDUM

ENGINEERING DEPARTMENT CONDITIONS OF APPROVAL

(Engineering Services Division [Land Development Section and Environmental Section], Traffic & Transportation Division, Ontario Municipal Utilities Company and Information Technology & Management Services Department Conditions incorporated)

ZA MEETING DATE: May 20, 2019

PROJECT: PCUP19-005 – A conditional use permit to establish alcoholic beverage sales, including beer and wine for on premise consumption (Type 41-ABC) in conjunction with an existing 1,400 square foot restaurant (Burgerim) in a suite of the existing plaza located on 1.8 acres at 990 N. Ontario Mills Drive.

APN: 023801404

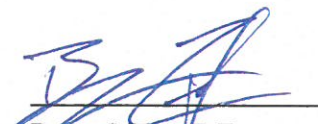
LOCATION: 990 N. Ontario Mills Drive, Suite C

PROJECT ENGINEER: Matthew Holmes, Assistant Engineer (909) 395-2155

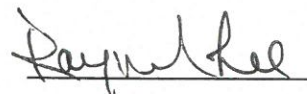
PROJECT PLANNER: Alexis Vaughn, Assistant Planner (909) 395-2416

The following items are the Conditions of Approval for the subject project:

Project shall comply with the requirements as set forth in the Amendment to the Standard Conditions of Approval for New Development Projects adopted by the City Council (Resolution No. 2017-027) on April 18, 2017.


Bryan Lirley, P.E.
Principal Engineer

4/9/19
Date


Raymond Lee, P.E.
Assistant City Engineer

4/9/19
Date

AIRPORT LAND USE COMPATIBILITY PLANNING

CONSISTENCY DETERMINATION REPORT



Project File No.: PCUP19-005
 Address: 990 North Ontario Mills Drive
 APN: 238-014-03
 Existing Land Use: Commercial Shopping Center
 Proposed Land Use: CUP to establish an ancillary Type 41 on-sale beer and wine ABC license
 Site Acreage: 1.8 acres Proposed Structure Height: Existing Building
 ONT-IAC Project Review: n/a
 Airport Influence Area: ONT

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: Alexis Vaughn
 Date: 4/22/19
 CD No.: 2019-019
 PALU No.: n/a

The project is impacted by the following ONT ALUCP Compatibility Zones:

Safety	Noise Impact	Airspace Protection	Overflight Notification
<input type="radio"/> Zone 1	<input type="radio"/> 75+ dB CNEL	<input type="radio"/> High Terrain Zone	<input type="radio"/> Avigation Easement Dedication
<input type="radio"/> Zone 1A	<input type="radio"/> 70 - 75 dB CNEL	<input checked="" type="checkbox"/> FAA Notification Surfaces	<input type="radio"/> Recorded Overflight Notification
<input type="radio"/> Zone 2	<input type="radio"/> 65 - 70 dB CNEL	<input checked="" type="checkbox"/> Airspace Obstruction Surfaces	<input checked="" type="checkbox"/> Real Estate Transaction Disclosure
<input type="radio"/> Zone 3	<input type="radio"/> 60 - 65 dB CNEL	<input type="radio"/> Airspace Avigation Easement Area	
<input type="radio"/> Zone 4		Allowable Height: 200 FT plus	
<input type="radio"/> Zone 5			

The project is impacted by the following Chino ALUCP Safety Zones:

Zone 1
 Zone 2
 Zone 3
 Zone 4
 Zone 5
 Zone 6
 Allowable Height: _____

CONSISTENCY DETERMINATION

This proposed Project is: Exempt from the ALUCP
 Consistent
 Consistent with Conditions
 Inconsistent

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.

Airport Planner Signature: _____



CITY OF ONTARIO

MEMORANDUM

TO: Scott Murphy, Development Director
Cathy Wahlstrom, Planning Director (Copy of memo only)
Diane Ayala, Advanced Planning Division (Copy of memo only)
Charity Hernandez, Economic Development
Kevin Shear, Building Official
Khoi Do, City Engineer
Carolyn Bell, Landscape Planning Division
Ahmed Aly, Municipal Utility Company
Doug Sorel, Police Department
Paul Ehrman, Deputy Fire Chief/Fire Marshal
Jay Bautista, T. E., Traffic/Transportation Manager
Lorena Mejia, Airport Planning
Eric Woosley, Engineering/NPDES
Joe De Sousa, Code Enforcement (Copy of memo only)
Jimmy Chang, IT Department

FROM: Alexis Vaughn, Assistant Planner

DATE: March 06, 2019

SUBJECT: FILE #: PCUP19-005 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 **Wednesday, March 20, 2019**.

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

PROJECT DESCRIPTION: A Conditional Use Permit to establish alcoholic beverage sales, including beer and wine for on-premise consumption (Type 41-ABC license) in conjunction with an existing 1,400 square foot restaurant (Burgerim) on 1.8 acres of land located at 990 Ontario Mills Drive.

- 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 Carolyn Bell Sr Landscape Architect
Department Signature Title Date 4/2/19

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

CONDITIONS OF APPROVAL

Sign Off

Carolyn Bell
 Carolyn Bell, Sr. Landscape Planner

4/1/19
 Date

Reviewer's Name: **Carolyn Bell, Sr. Landscape Planner** Phone: **(909) 395-2237**

D.A.B. File No.: **PCUP19-005** Related Files: Case Planner: **Alexis Vaughn**

Project Name and Location:
ABC license
990 Ontario Mills Drive

Applicant/Representative:
Daybreak Plaza LLC/ Liquor License Agents
1752 W Adams Blvd Ste 205
Los Angeles CA 90018

<input checked="" type="checkbox"/>	A site plan (dated 3/5/19) 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.

1. Contact property management to replace missing parking lot island trees: 1 at each parking island or parking row end. 24" box size trees, type shall match existing r consider low water trees for this climate such as: Eucalyptus Microtheca – Coolibah Tree, Brachychiton populneus, Bottle Tree, or Quercus ilex, Holly Oak, or Ulmus True Green Elm. Provide, repair or replace tree irrigation tree bubblers to wet the entire root system until established.
2. Landscape renovations shall include a weather based controller with weather sensor and system tune up to prevent any overspray or run off.
3. Repair or replace broken or leaking irrigation components.
4. Contact this department for inspection when construction is completed.
5. Landscape and irrigation plans shall meet the requirements of the Landscape Development Guidelines. See <http://www.ontarioca.gov/landscape-planning/standards>

