



CITY OF ONTARIO  
**ZONING ADMINISTRATOR**  
AGENDA

October 17, 2022

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

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

**PUBLIC HEARINGS**

**A. ENVIRONMENTAL ASSESSMENT AND CONDITIONAL USE PERMIT REVIEW FOR FILE NO. PCUP22-015**: A public hearing to consider a Conditional Use Permit to establish alcoholic beverage sales for consumption on the premises, limited to beer and wine (Type 41 ABC license), in conjunction with a full-service restaurant (Popping Yolk) located within the New Haven Marketplace Shopping Center, at 3420 East Ontario Ranch Road, Suite 1, within the Commercial land use district of The Avenue 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 project site is located within the Airport Influence area of Ontario International Airport and was evaluated and found to be consistent with the policies and criteria of the Ontario International Airport land use Compatibility Plan; (APNs: 0218-402-48-0000) **submitted by Popping Yolk Ontario.**

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, Gwen Berendsen, Administrative Assistant of the City of Ontario, or my designee, hereby certify that a true, accurate copy of the foregoing agenda was posted on or before **October 13, 2022**, at least 72 hours prior to the meeting per Government Code Section 54954.2 at 303 East "B" Street, Ontario.

Administrative Assistant



# ZONING ADMINISTRATOR DECISION: CONDITIONAL USE PERMIT

October 17, 2022

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

**DECISION NO.:** ZA22-[insert #]

**FILE NO.:** PCUP22-015

**DESCRIPTION:** A Conditional Use Permit to establish alcoholic beverage sales for consumption on the premises, limited to beer and wine (Type 41 ABC license), in conjunction with a full-service restaurant (Popping Yolk) located within the New Haven Marketplace Shopping Center, at 3420 East Ontario Ranch Road, Suite 1, within the Commercial land use district of The Avenue Specific Plan (APNs: 0218-402-48-0000); **submitted by Popping Yolk Ontario.**

## PART 1: BACKGROUND & ANALYSIS

POPPING YOLK ONTARIO, (herein after referred to as "Applicant") has filed an application requesting approval of a Conditional Use Permit, File No. PCUP22-015, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

**PROJECT SETTING:** The Project site is located at 3420 East Ontario Ranch Road, Suite 1, within an existing 7,020-square-foot multi-tenant retail building on approximately 10.06 acres of land and is depicted in Exhibit A: Project Location Map, attached. Existing land uses, General Plan and zoning designations, and specific plan land uses on and surrounding the Project site are as follows:

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
Site:	Commercial	Neighborhood Commercial (0.4 FAR)	The Avenue Specific Plan	Retail
North:	Residential	Medium Density Residential (11.1-25 du/ac)	The Avenue Specific Plan	Medium Density Residential
South:	Residential	Medium Density Residential (11.1-25 du/ac)	The Avenue Specific Plan	Low-Density Residential
East:	Commercial	Neighborhood Commercial (0.4 FAR)	The Avenue Specific Plan	Retail
West:	Residential	Medium Density Residential (11.1-25 du/ac)	The Avenue Specific Plan	Low-Medium Density Residential

Prepared: CN 09/27/2022	Reviewed: CM 10/12/2022	Decision: [enter initial/date]
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**PROJECT ANALYSIS:**

(1) Background — The Project site is located within the existing New Haven Marketplace shopping center that was recently constructed in 2021, as shown in Exhibit B: Site Plan. The multi-tenant commercial shopping center is currently occupied by a Stater Bros. grocery store, Chase Bank, Carl's Jr., Starbucks, Rodeo X Public Market, dentist office, cleaners, yoga studio, and a few fast-casual restaurants.

The Popping Yolk Café is a breakfast and brunch restaurant that features modernized American breakfast. Its menu includes a variety of omelets, Eggs Benedict, French toast, gourmet coffee, and artisanal tea. The Popping Yolk currently has multiple locations in Southern California, including Pasadena, Hacienda Heights, and Alhambra.

(2) Proposed Use — In July 2022, the Applicant applied for a Conditional Use Permit to establish alcoholic beverage sales for consumption on the premises, limited to beer and wine (Type 41 ABC license), in conjunction with a full-service restaurant. The unit is located within a multi-tenant building located within the westerly portion of the New Haven Marketplace. Popping Yolk Café, will utilize a floor plan layout typical of other in-line restaurant tenants, including two service counters, back kitchen/storage area, restrooms located in the rear, and customer seating for approximately 64 guests (see Exhibit C: Floor Plan, attached).

The restaurant's main entrance is located on the southwest side of the building, facing the parking lot. The proposed daily business hours of operation are 8:00 AM to 10:00 PM, daily. The restaurant will operate with approximately 8 employees per shift.

The Police Department has conditioned the service of alcoholic beverages to occur between 8:00 AM and 10:00 PM (sales to cease at 9:45 PM), daily. No alcoholic beverages are to be sold or removed from the establishment for outside consumption. In addition, the restaurant will have no bar seating or outdoor dining.

(3) Parking — The New Haven Marketplace development was approved with 522 shared parking spaces, based on a parking demand study. Staff believes that granting the proposed Conditional Use Permit will not adversely affect the shopping center's existing parking demand, as the Application does not propose any expansion to the building nor the elimination of existing parking spaces. Further, the proposed alcoholic beverage sales will be ancillary to the restaurant use and will provide the public an additional convenience by means of offering a wider variety of retail, entertainment, dining, and gathering options and experiences.

(4) ABC Concentration — The California Department of Alcoholic Beverage Control ("ABC") is the State entity responsible for granting, renewing, and revoking all ABC licenses. ABC determines how many on-sale and off-sale alcoholic beverage license types should be issued per census tract, based on its population. The Project site is located within Census Tract No. 19.06, which is not over-concentrated. Nine on-sale licenses are allowed within this tract, and currently only one active on-site license within the tract has been established. Therefore, the Police Department does not object to

allowing the proposed Type 41 ABC License, provided all City and State Department of Alcoholic Beverage Control rules, regulations, and conditions of approval are met and followed.

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

Staff believes that the recommended conditions of approval will sufficiently mitigate any potential impacts that may be associated with the proposed use. Additionally, the nearby businesses within the New Haven Marketplace shopping center will not be exposed to additional impacts resulting from alcoholic beverage sales beyond those that would normally be associated with any other restaurant use within the surrounding area.

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

**DEPARTMENTAL REVIEW:** Each City department has been provided the opportunity to review and comment on the subject application and recommend conditions of approval to be imposed upon the application. The recommended conditions of approval are attached to this report.

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

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

## **PART 2: RECITALS**

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

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

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

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

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

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

WHEREAS, City of Ontario Development Code Division 2.03 (Public Hearings) prescribes the manner in which public notification shall be provided and hearing procedures to be followed, and all such notifications and procedures have been completed; and

WHEREAS, on October 17, 2022, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

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

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

(3) [insert additional speaker info]

(4) [insert additional speaker info]

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

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

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

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

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

(1) The Project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301 (Class 1, Existing Facilities) of the CEQA Guidelines, which consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible (less than 10,000 square feet) or no expansion, within 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 is not within an area that is environmentally sensitive; and

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

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

SECTION 2: ONT ALUCP Compliance. The California State Aeronautics Act (Public Utilities Code Section 21670 et seq.) requires that an Airport Land Use Compatibility Plan be prepared for all public use airports in the State; and requires that local land use plans and individual development proposals must be consistent with the policies set forth in the adopted Airport Land Use Compatibility Plan. On April 19, 2011, the City Council of the City of Ontario approved and adopted the ONT ALUCP, establishing the Airport Influence Area for Ontario International Airport, which encompasses lands within parts of San Bernardino, Riverside, and Los Angeles Counties, and limits future land uses and development within the Airport Influence Area, as they relate to noise, safety, airspace protection, and overflight impacts of current and future airport activity. As the decision-making body for the Project, the Zoning Administrator has

reviewed and considered the facts and information contained in the Application and supporting documentation against the ALUCP compatibility factors, including [1] Safety Criteria (ONT ALUCP Table 2-2) and Safety Zones (ONT ALUCP Map 2-2), [2] Noise Criteria (ONT ALUCP Table 2-3) and Noise Impact Zones (ONT ALUCP Map 2-3), [3] Airspace protection Zones (ONT ALUCP Map 2-4), and [4] Overflight Notification Zones (ONT ALUCP Map 2-5). As a result, the Zoning Administrator, therefore, finds and determines that the Project, when implemented in conjunction with the conditions of approval, will be consistent with the policies and criteria set forth within the ONT ALUCP.

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

(a) *The scale and intensity of the proposed land use would be consistent with the scale and intensity of land uses intended for the particular zoning or land use district.* The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the City of Ontario Development Code and the Retail land use district of The Avenue Specific Plan, and the scale and intensity of land uses intended for the zoning district in which the use is proposed to be located. Furthermore, the proposed restaurant with alcoholic beverage sales (beer and wine only) land use will be established and operated consistent with the objectives and purposes, and development standards and guidelines, of the Retail land use district of The Avenue Specific Plan; and

(b) *The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the goals, policies, plans and exhibits of the Vision, Policy Plan (General Plan), and City Council Priorities components of The Ontario Plan.* The proposed restaurant with alcoholic beverage sales (beer and wine only) land use will be located within the Neighborhood Commercial (0.4 FAR) land use district, and the Retail land use district of The Avenue Specific Plan. The development standards, and the conditions of approval under which the proposed land use will be established, operated, and maintained, are consistent with the goals, policies, plans, and exhibits of the Vision, City Council Priorities, and Policy Plan (general plan) components of The Ontario Plan, which promotes the establishment and intensification of retail and service commercial land uses in the area of the Project site. With the Project Conditions of Approval, the proposed Project will provide an added convenience to the retail center, further helping to implement the Policy Plan and City Council Priorities; and

(c) *The proposed use at the proposed location, and the manner in which it will be operated and maintained, is consistent with the objectives and requirements of the Development Code and any applicable specific plan or planned unit development.* The proposed land use, a restaurant with alcoholic beverage sales (beer and wine only), is located with the Neighborhood Commercial (0.4 FAR) land use district of the Policy Plan Land Use Map, and the Retail land use district of The Avenue

Specific Plan. The proposed use has been reviewed and conditioned to ensure the establishment, operation, and maintenance of the proposed land use is consistent with all applicable objectives, purposes, standards, and guidelines of the Development Code and The Avenue Specific Plan. The proposed use will provide an additional convenience to patrons of the New Haven Marketplace Shopping Center; and

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

(e) Although the Project site is not located within an over-concentrated Census Tract for Off-Sale or On-Sale alcoholic beverage license types, the Project meets the requirements of the Development Code Section 5.03.025.F ("Public Convenience or Necessity Determination "PCN" and as defined by the Alcoholic Beverage Control Act (commencing with Business and Professions Code Section 23000 et Seq.)), which are required to be met for over-concentrated areas. Therefore, based on the facts and information contained in the application, and the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby finds as follows:

- *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 property/building/use has no outstanding Building or Health Code violations or Code Enforcement activity.* The property site is a newly constructed building that has no outstanding Building or Health Code Violations.
- *The site is properly maintained, including building improvements, landscaping, and lighting.* The Project site is a newly constructed building and has been conditioned to be continuously maintained.

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



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

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

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APPROVED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

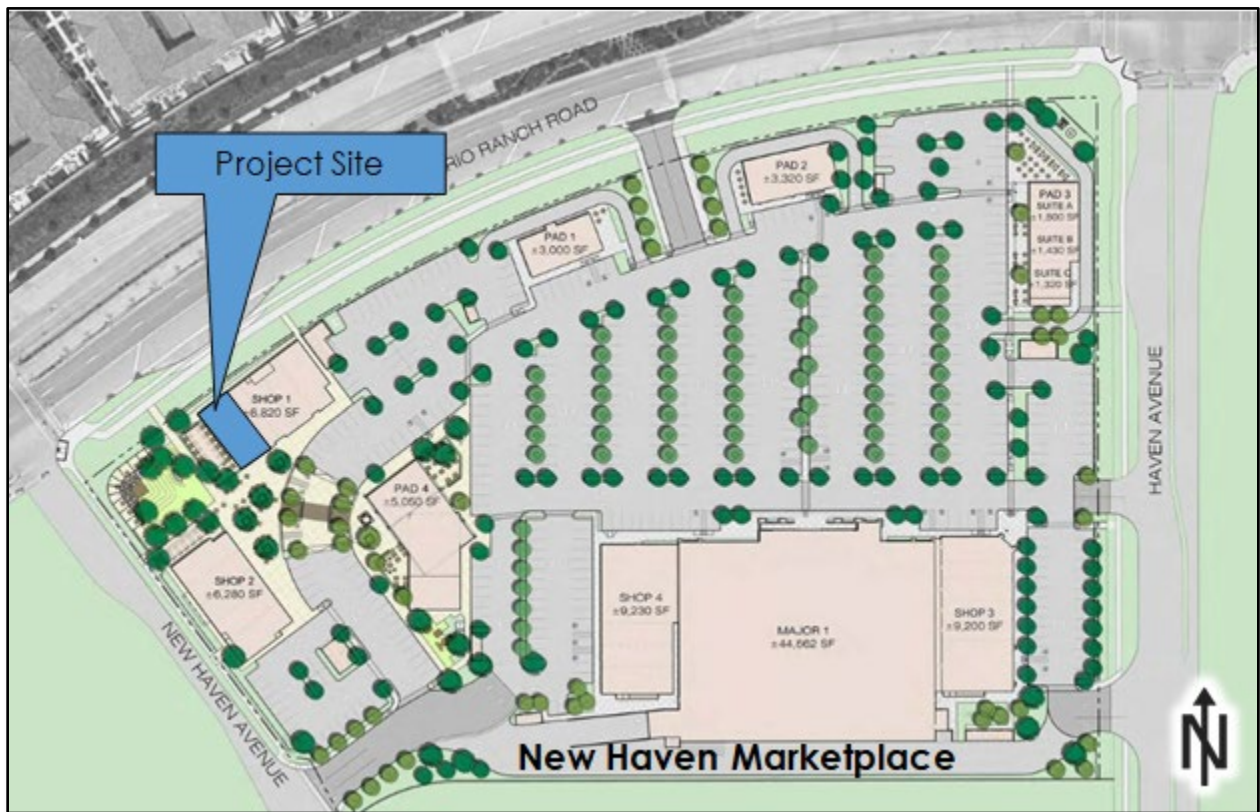
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Rudy Zeledon  
Zoning Administrator

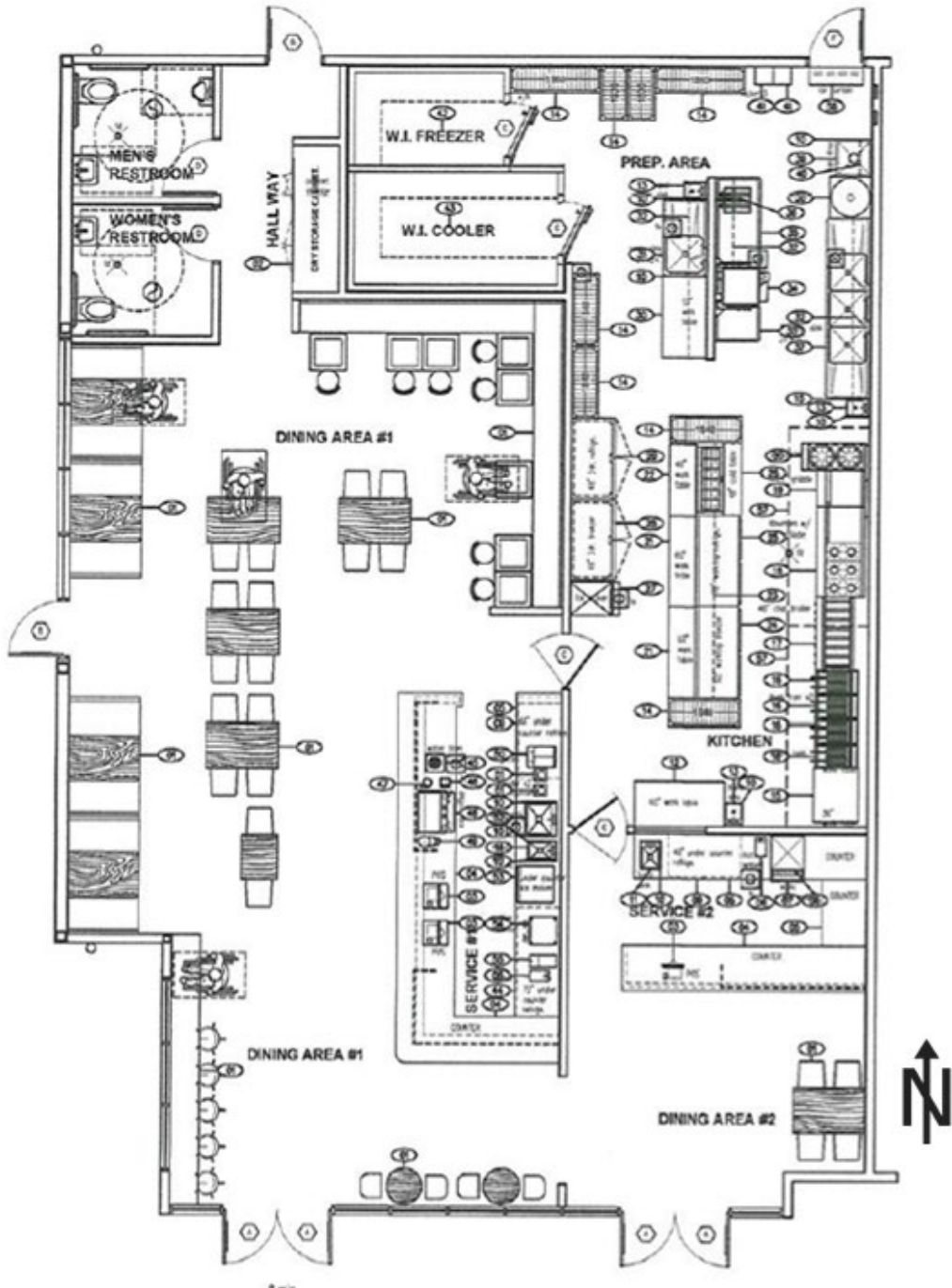
**Exhibit A: PROJECT LOCATION MAP**



**Exhibit B: SITE PLAN**



**Exhibit C: FLOOR PLAN**



**Exhibit E: SITE PHOTO**



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

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

**Date Prepared:** 9/29/2022

**File No:** PCUP22-015

**Related Files:** PDEV17-051

**Project Description:** A Conditional Use Permit to establish alcoholic beverage sales for consumption on the premises, limited to beer and wine (Type 41 ABC license), in conjunction with a full-service restaurant (Popping Yolk) located within the New Haven Marketplace Shopping Center, at 3420 East Ontario Ranch Road, Suite 1, within the Commercial land use district of The Avenue Specific Plan (APNs: 0218-402-48-0000); **submitted by Popping Yolk Ontario.**

**Prepared By:** Cristal G. Nava, Planning Intern  
Phone: 909.395.2421 (direct)  
Email: CNav@OntarioCA.gov

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

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

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

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

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

**(a)** All construction documentation shall be coordinated for consistency, including, but not limited to, architectural, structural, mechanical, electrical, plumbing, landscape

and irrigation, grading, utility and street improvement plans. All such plans shall be consistent with the approved entitlement plans on file with the Planning Department.

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

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

### **2.3** Landscaping.

**(a)** The Project site shall provide and continuously maintain landscaping and irrigation systems in compliance with the provisions of Ontario Development Code Division 6.05 (Landscaping).

**(b)** Changes to approved Landscape and Irrigation Construction Documentation Plans, which affect the character or quantity of the plant material or irrigation system design, shall be resubmitted for approval of the revision by the Landscape Planning Division, prior to the commencement of the changes.

**2.4** Walls and Fences. All Project walls and fences shall comply with the requirements of Ontario Development Code Division 6.02 (Walls, Fences and Obstructions) and The Avenue Specific Plan.

### **2.5** 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)** The required number of off-street parking spaces and/or loading spaces shall be provided at the time of site and/or building occupancy. 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)** Bicycle parking facilities, including bicycle racks, lockers, and other secure facilities, shall be provided in conjunction with development projects pursuant to current regulations contained in CALGreen (CAC Title 24, Part 11).



**2.6**     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.

**(b)**     All ground-mounted utility equipment and structures, such as tanks, transformers, HVAC equipment, and backflow prevention devices, shall be located out of view from a public street, or adequately screened through the use of landscaping and/or decorative low garden walls.

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

**2.8**     Signs.

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

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

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

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

**(f)**     In the event that security problems occur as a result of the approved subject use and at the request of the Police Department, the permittee, at his/her own expense,

shall provide a California licensed, uniformed security guard(s) on the subject premises, during such hours and in such number as requested by the Police Department.

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

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

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

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

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

#### **2.10** 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 an approved outdoor eating area, which has been designed so as to be adequately separated from direct public access. Any modifications to the site plan to include an outdoor eating area where alcoholic beverages may be served will require review and approval of a modification to this Conditional Use Permit. This condition does not preclude the restaurant from installing outdoor seating without alcoholic beverage consumption, so long as the proposed seating area has been reviewed and approved by all applicable departments.

**2.11** 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.

**2.12** Additional Fees.

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

**(b)** After the Project's entitlement approval, and prior to issuance of final building permits, the Planning Department's Plan Check and Inspection fees shall be paid at the rate established by resolution of the City Council.



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



**TO:** Alexis Vaughn, Assistant Planner

**FROM:** Thomas Cho, Police Officer/ ABC Enforcement

**DATE:** July 26, 2022

**SUBJECT:** FILE NO. PCUP22-015 – Popping Yolk Ontario  
3420 E ONTARIO RANCH ROAD STE. 1, ONTARIO, CA 91761

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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. 19.06. According to the Department of Alcohol Beverage Control (ABC), nine on-sale licenses are allowed within this tract, there are currently one. The Police Department neither approves nor denies conditional use permits. However, it is recommended the applicant obtain an ABC license through the State ABC office prior to moving forward. On approval by the planning department, 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 Ontario Police Department:

**RESTAURANT CONDITIONS**

1. Alcohol sales will be allowed from 08:00 A.M. to 10:00 P.M. daily. Last call for alcohol shall be made 45 minutes prior to closing and alcohol sales must cease 15 minutes prior to 9:45 P.M. All alcohol must be removed from the tables/patrons at 9:45 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.



# CITY OF ONTARIO

## MEMORANDUM

**TO:** Alexis Vaughn, Associate Planner  
Planning Department

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

**DATE:** July 18, 2022

**SUBJECT:** PCUP22-015 A Conditional Use Permit to have a type 41 ABC License (beer and wine) in conjunction with a full service restaurant located at 3420 E Ontario Ranch Rd, Suite 1 (New Haven Marketplace Shopping Center) within the Commercial land use district of the Avenue Specific Plan – APN: 218-402-048.

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

1. Modification to existing fire sprinkler or fire alarm systems will require a plans submittal to the Ontario Fire Department.
2. Installation/modification to kitchen hood/ansul system will require a plans submittal to the Ontario Fire Department.
3. Location must meet all requirements of a Place of Assembly, such as maximum occupant load signs, correct number of exits, exit doors swinging in the direction of path of egress, exit signage, emergency lights, exit doors equipped with panic hardware, etc.

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

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. The applicant did not propose a patio seating.

## **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 restaurant area. A minimum of one camera will record the parking lot. A minimum of one camera will record each cash register. A minimum of one camera will record each entry/exit. Each camera will record at least 720p recording resolution levels and at least 15 frames per second. The field of view for each camera will be to maximize the coverage of patrons. Recorded video will be stored for a minimum of 30 days and made available to the Ontario Police Department upon request.

Any special event outside the scope of the Conditional Use Permit will require a Temporary Use Permit (TUP) which will be processed by the Planning Department and conditioned by the Ontario Police Department. (For example a radio station promotion held at the restaurant, 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 its sole discretion, request a revocation hearing if it determines that the establishment is being operated in violation of this CUP or has violated the laws of the State or City.

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

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

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

**Please contact Officer Cho if you have any questions regarding this matter at (909) 408-1671.**





# CITY OF ONTARIO MEMORANDUM



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**DATE:** August 16, 2022  
**TO:** Alexis Vaughn, Planning Department  
**FROM:** Blaine Ishii, Integrated Waste Department (via Transtech Engineers)  
**ADDRESS:** 3420 E Ontario Ranch Road, Suite 1  
**PROJECT NO.:** PCUP22-015  
**ATTACHMENTS:** None

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**BRIEF DESCRIPTION**

*RESTAURANT*

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**THIS SUBMITTAL ADEQUATELY ADDRESSES THE  
CONCERNS OF THIS DEPARTMENT.**

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There are no conditions at this time.



# CITY OF ONTARIO MEMORANDUM



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**DATE:** July 28, 2022  
**TO:** Raymond Lee, Engineering Department  
**CC:** Alexis Vaughn, Planning Department  
**FROM:** Eric Woosley, Utilities Engineering  
**SUBJECT:** DPR #1 - Utilities Engineering Comments (**#8547**)  
**PROJECT NO.:** PCUP22-015

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## BRIEF DESCRIPTION

*A Conditional Use Permit to have a type 41 ABC License (beer and wine) in conjunction with a full-service restaurant located at 3420 E Ontario Ranch Rd, Suite 1 (New Haven Marketplace Shopping Center) within the Commercial land use district of the Avenue Specific Plan (APN(s): 0218-402-48).*

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## NO COMMENT FOR THIS SUBMITTAL

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**CORRECTION ITEMS:** *To be considered for approval by the Ontario Municipal Utilities Company (OMUC) the applicant shall address all the correction items below and resubmit the application for further review. Please note that all Utility design shall meet the City's Design Development Guidelines, Specifications Design Criteria, and City Standards.*

### **General Comments:**

1. The Utilities Engineering Department has no comment on this submittal.



# CITY OF ONTARIO

## MEMORANDUM

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

FROM: Alexis Vaughn, Associate Planner

DATE: July 12, 2022

SUBJECT: FILE #: PCUP22-015

Finance Acct#:

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

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

**PROJECT DESCRIPTION:** A Conditional Use Permit to have a type 41 ABC License (beer and wine) in conjunction with a full service restaurant located at 3420 E Ontario Ranch Rd, Suite 1 (New Haven Marketplace Shopping Center) within the Commercial land use district of the Avenue Specific Plan - APN: 218-402-48

- 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.

ENG. / TRAF.  
Department

Signature

ASST. ENG.  
Title

7/18/22  
Date