

# ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



## DECISION NO. 2011-15

HEARING DATE: 08-01-2011

DECISION DATE: 08-02-2011

FILE NO.: PCUP11-012

**SUBJECT:** A Conditional Use Permit to establish a pawnshop within an existing shopping center located at 1630 East Fourth Street, Suite F, within the C3 (Commercial Service) zoning district.

### STAFF

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

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

MARTHA SALAS, herein after referred to as "the applicant," has filed an application requesting Conditional Use Permit approval, described as follows:

(a) Project Description: A Conditional Use Permit to establish pawn services and a second-hand dealer facility within an existing multi-tenant commercial shopping center located at 1630 East Fourth Street, Suite F, within the C3 (Commercial Service) zoning district.

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

(c) Zoning Designation: C3 (Commercial Service)

(d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	C3 (Commercial Service)	Fueling Station
South:	N/A	I-10 Freeway
East:	C3 (Commercial Service)	K-Mart
West:	C3 (Commercial Service)	Motel

(e) Site Area: Multi-tenant commercial parcel – About 14 acres total.

(f) Assessor's Parcel No(s): 0238-014-03

(g) Project Analysis:

1. Location & Operations: So Cal Jewelry and Loan is a Secondhand Dealer which also provides pawn services. The business is proposing to locate at 1630 East Fourth Street. The site is located within an existing multi-tenant commercial shopping center, which includes K-mart, Burger King, and Radio Shack, along with a variety of smaller businesses, including insurance services, video games, and a smoke shop (**Exhibit A: Aerial Map & Exhibit B: Site Plan**). The tenant space is approximately 1,260 square-feet and is identified as Unit "F" (**Exhibit C: Floor Plan & Exhibit D: Site Photos**). The facility will operate Monday-Sunday, 9:00am to 7:00pm, and employ 2-3 persons, including a manager and 2 sales persons (**Exhibit E: Applicant Statement**).

Pursuant to California State Business & Professions Code Section 21626, a “**Secondhand Dealer**” is any person whose business includes buying, selling, taking in trade, taking in pawn, taking on consignment, accepting for auction, or auctioning secondhand personal property. Additionally, pursuant to California State Financial Code Section 21000, a “**Pawnbroker**” is any person who is engaged in the business of receiving goods in pledge as a security for a loan. A Pawnbroker is also a Secondhand Dealer, but a Secondhand Dealer is not a Pawnbroker and cannot submit a pawn transaction.

Although So Cal Jewelry and Loan is not proposing to accept firearms for pawn or sale, California State law requires Secondhand Dealers and Pawnbrokers to report daily, or on the first working day after receipt or purchase of firearms, to local law enforcement agencies (LEAs) that, in turn, enter the information into the Department of Justice (DOJ) Automated Firearms System (AFS). Senate Bill 449 established a new electronic reporting requirement for Secondhand Dealers and Pawnbrokers to report firearms transactions. The law now requires Secondhand Dealers and Pawnbrokers to electronically report to the DOJ Bureau of Firearms (BOF), each firearm purchased, taken in pawn, or accepted for sale.

In addition to the Police Department Conditions of Approval, which are attached to this report, the business shall comply with the following Planning Department conditions:

- The business shall follow all requirements as specified within the California Business and Professions Code and Financial Code pertaining to Secondhand Dealer and Pawnshop licensing and operations.
- Acquire and maintain a valid City of Ontario Business License.
- A thumbprint, picture ID, and description of materials shall be required from each person selling materials at the pawnshop.
- A security camera system shall be installed both inside and outside of the facility, pursuant to the Police Department’s requirements.
- Comply with all City of Ontario Police Department operating conditions.

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

The project site is located within the C3 (Commercial Service) zoning district. Within this district, pawnshop businesses are a conditionally permitted use. It is staff's belief that the recommended conditions of approval will sufficiently mitigate potential impacts associated with the proposed use. Additionally, businesses within the surrounding area will not be exposed to any impacts resulting from the proposed pawnshop use, beyond those that would normally be associated with any other use similarly allowed within the C3 (Commercial Service) zoning district.

3. 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 Decision preparation, recommended conditions of approval were provided from Planning and Police Departments and are attached to this report. The Planning Department supports the proposed use and requests the Zoning Administrator impose each Department's recommended conditions of approval on the proposed use, which are designed to mitigate anticipated impacts related to a pawnshop use.

(h) 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.

(i) Correspondence: As of the preparation of this Decision, Planning Department staff has not received any written or verbal communications from the owners of properties surrounding the project site or from the public in general, regarding the subject application.

#### **PART B: RECITALS**

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

WHEREAS, Ontario Municipal Code § 9-1.0405(f) provides that the Zoning Administrator has the responsibility and authority to review and act upon Conditional Use Permits for existing structures; and

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

WHEREAS, On the 1<sup>st</sup> day of August, 2011, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(a) John Earle Hildebrand III, *Associate Planner*, presented the staff report on the proposed use, indicating the staff recommendation of approval subject to the attached conditions. Following staff's presentation, the Zoning Administrator opened the public hearing.

(b) John Chappell, representing the applicant, explained the business operation and spoke in favor of the application. He explained that he was in agreement with each of the conditions of approval and will be in compliance with each item, prior to opening.

(c) Martha Salas, the business owner, introduced herself and spoke in favor of her business. She stated that she operates another Secondhand Dealer and Pawnshop in the City of Moreno Valley. She was in agreement with the conditions of approval.

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

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

### **PART C: THE DECISION**

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

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

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

(1) The proposed location of the Conditional Use Permit and the proposed conditions under which it will be operated or maintained will be consistent with The Ontario Plan and will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. The pawnshop business lies within the C3 (Commercial Service) zoning district.

(2) Pawnshops are allowed within the C3 (Commercial Service) zoning district upon approval of a Conditional Use Permit. The project has been conditioned so that the facility and use are operated in a manner that will not be detrimental to the health and safety of the surrounding community.

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

(4) Traffic generated by the proposed Conditional Use Permit will not overload the capacity of the surrounding street system and will not create a hazard to public safety. No significant new traffic will be created as a result establishing a pawnshop business within an existing commercial shopping center.

(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes. The conditions of approval imposed upon this Conditional Use Permit will ensure the use complies with all provisions in the Ontario municipal code.

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

(d) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP11-012, subject to the conditions of approval attached hereto and incorporated herein by this reference.



APPROVED by the Zoning Administrator of the City of Ontario on this 2nd day of August, 2011.

  
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Barbara Millman  
Deputy Zoning Administrator

EXHIBITS

Exhibit A: Aerial Map

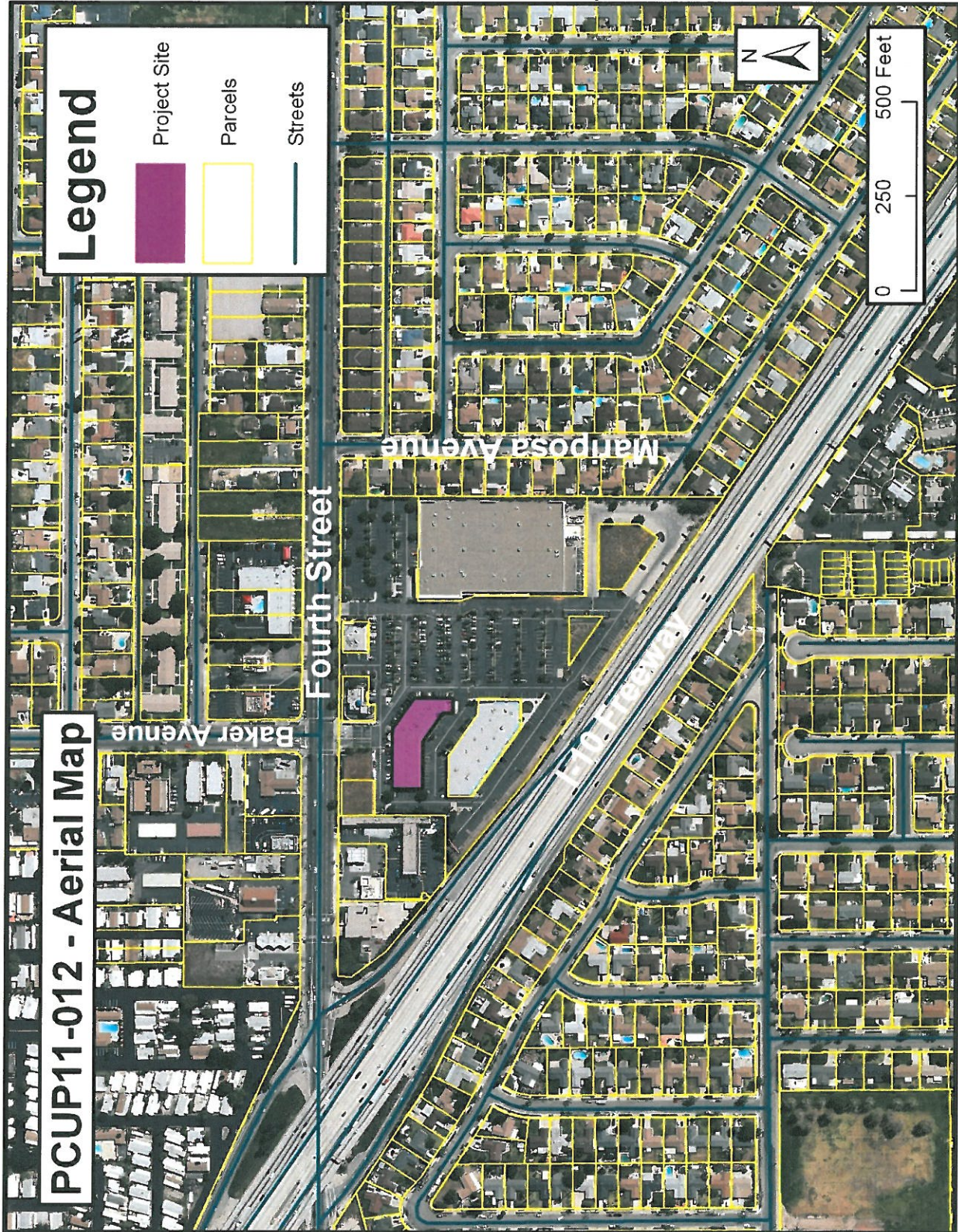


Exhibit B: Site Plan

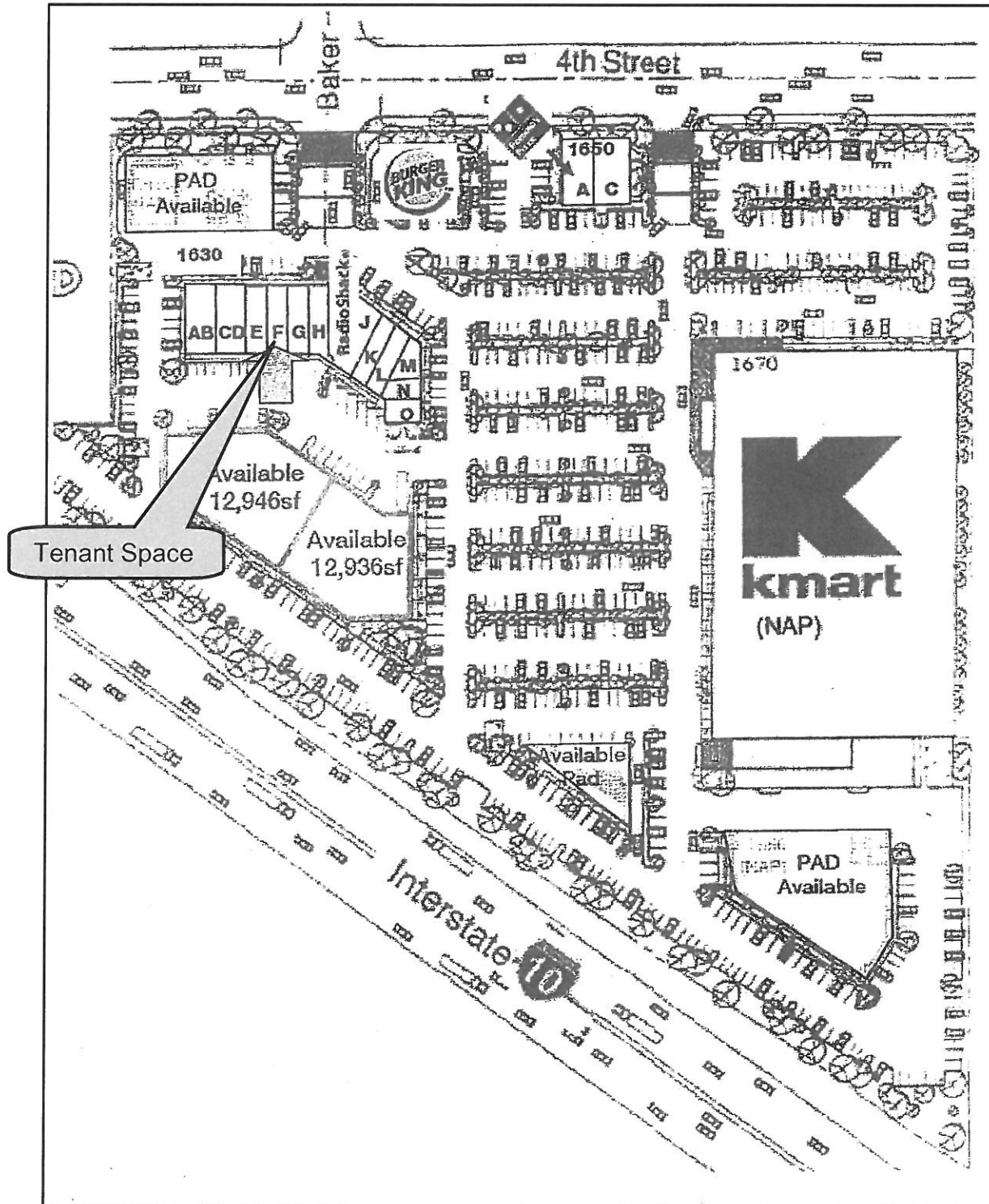
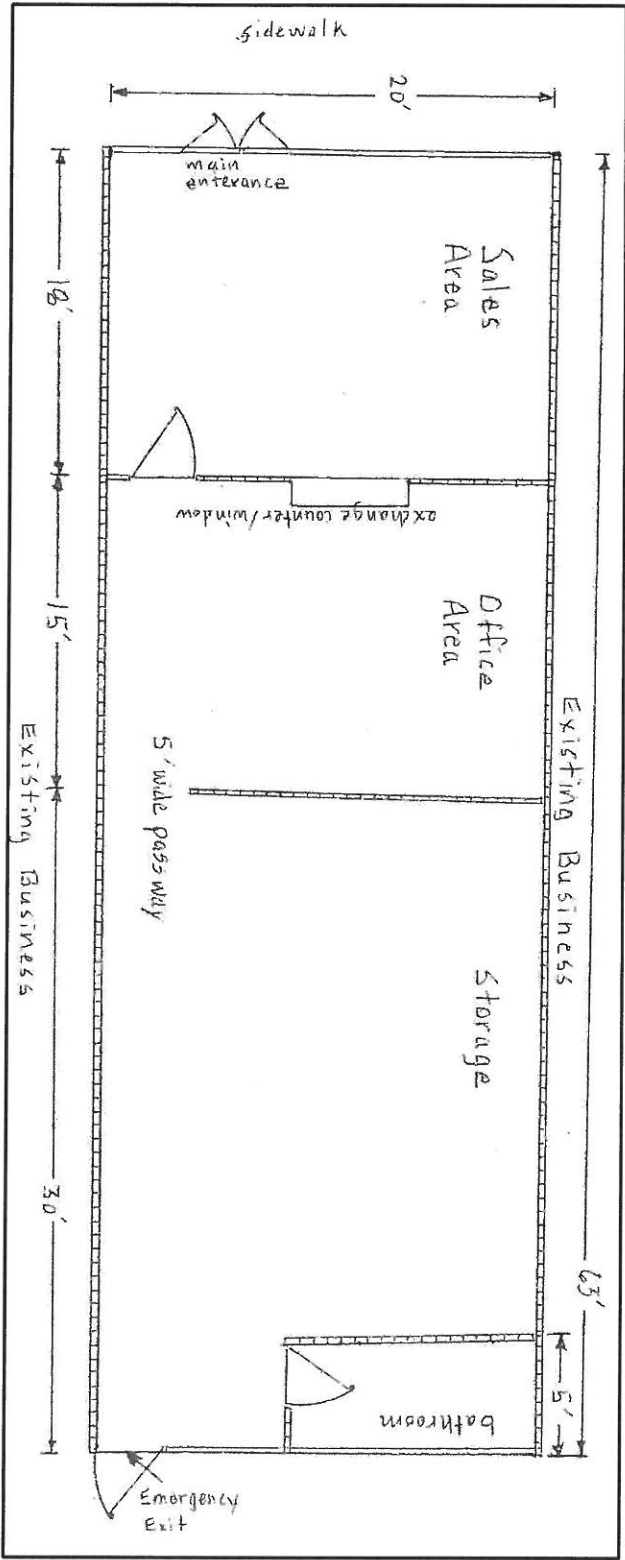


Exhibit C: Floor Plan

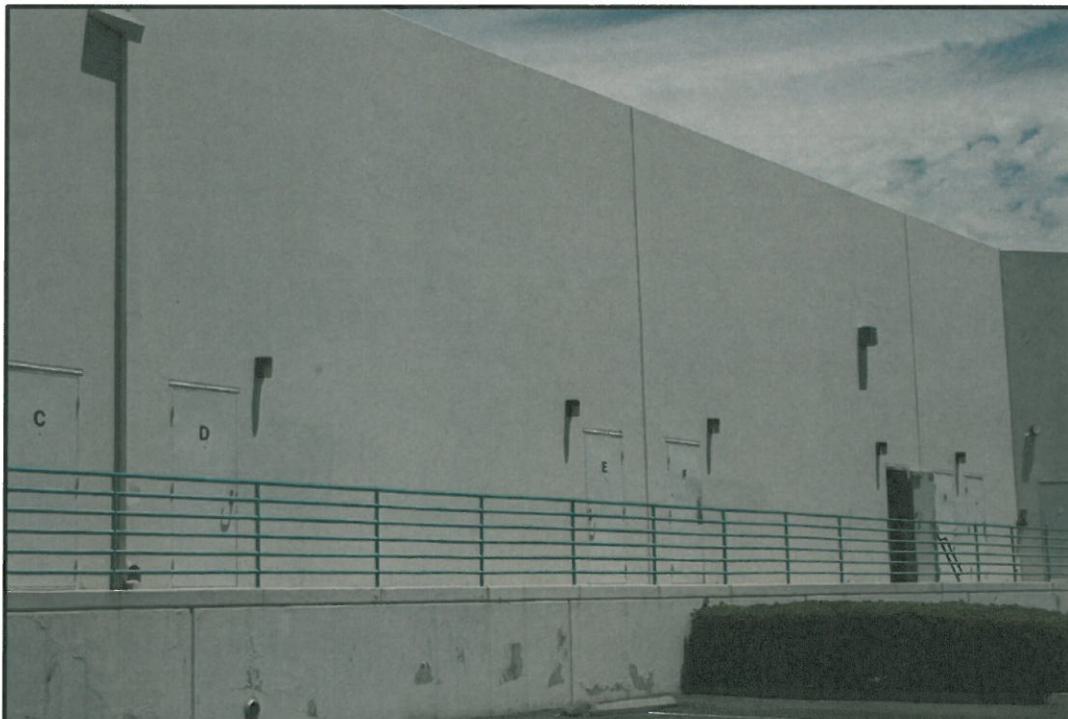




**Exhibit D: Site Photos**



**Front of business (Unit F)**



**Back of business**

### Exhibit E: Applicant Statement

#### Specific Planning Department Questions for Conditional Use Permit For So Cal Jewelry & Loan

How will the strict, literal interpretation of the Development Code result in practical difficulty or unnecessary physical hardship inconsistent with the objectives of the Development Code? *No difficulty or hardship should be experienced by literal interpretation of the Development Code.*

How will the strict interpretation of the Development Code deprive you of privileges enjoyed by owners of other properties in the same zoning district? *No adverse effects should be experienced by literal interpretation of the Development Code.*

Will approval of the variance request grant special privileges to the property that are not enjoyed by other properties in the same zoning district? *We are not aware of any special privileges that will be created.*

Are there exceptional circumstances or conditions applicable to the property involved which do not apply generally to other properties in the same zoning district? *We are not aware of any exceptional circumstances or conditions that will be created.*

What are the impacts of this variance on the public health, safety or welfare? *We know of no impacts upon the public health, safety or welfare.* Will the use be materially injurious to properties or persons? *We do not know of any act or mechanism that will be materially injurious to property or persons.*

**Proposed Use:**

Retail Trade

- Miscellaneous Retail Stores (NAICS 453)
- Pawnbrokers/pawnshops

**Hours of Operation:**

9:00 am to 7:00 pm

Monday thru Sunday

**Number of Employees:**

- 1 - Manager/Supervisor
- 2 - Sales Persons

**Miscellaneous Information:**

- No seating will be made available for the public.
- There are no plans for students or interns at this time.
- The front of the store is an existing glass store front with 2- 3 foot standard glass doors with two-way swing. This will be the ingress and egress for the public and will remain unlocked during business hours.
- The sales floor will have two display cases. Larger items for sale will be placed on the floor but will not interfere with exiting or exit pathways. Display cases will be free standing furniture type and will be bolted to the floor.
- No tenant improvements will need to be made as proposed usage appears to be similar to the previous occupant.
- The suite has fire protection sprinklers and no modifications will need to be made as no existing walls or ceiling heights will be changed.

- An ABC fire extinguisher with a minimum 2-A rating will be mounted and marked (according to the Fire Code) in the sales area for use by the public. Only 1 extinguisher is required as the exit is less than 75' in distance. A second such rated extinguisher will be mounted in the "employee only" area for use by employees.
- An existing wall with a glass exchange window will remain. This wall has a 36" exit door that will be locked to the public for security reasons. It also has panic hardware mounted on the "employee" side for appropriate exiting requirements. The public will not be allowed beyond the sales floor area for security reasons. The rear of the store has an existing exit.

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

**DATE:** 08-01-2011

**FILE NO.:** PCUP11-012

**SUBJECT:** A Conditional Use Permit to establish a pawnshop within an existing shopping center located at 1630 East Fourth Street, Suite F, within the C3 (Commercial Service) zoning district.

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

- PLANNING
- ENGINEERING
- UTILITIES/SOLID WASTE
- PUBLIC FACILITIES
  
- BUILDING

- POLICE
- FIRE
- REDEVELOPMENT AGENCY
- HOUSING & NEIGHBORHOOD  
REVITALIZATION
- OTHER: \_\_\_\_\_