

# ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2011-01

HEARING DATE: February 23, 2011

DECISION DATE: March 7, 2011

FILE NO.: PCUP10-055

**SUBJECT:** A Conditional Use Permit to establish alcoholic beverage sales (Type 21 – Off-Sale General), including beer, wine, and distilled spirits, within the existing Cardenas Market, located at the southwest corner of Euclid Avenue and Francis Street, at 1848 South Euclid Avenue, in the C1 (Shopping Center Commercial) zoning district.

**STAFF**

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

---

## PART A: BACKGROUND & ANALYSIS

CARDENAS MARKETS, INC., 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 alcoholic beverage sales (Type 21 – Off-Sale General) in conjunction with Cardenas Market, located at the southwest corner of Euclid Avenue and Francis Street, at 1848 South Euclid Avenue, in the C1 (Shopping Center Commercial) zoning district.

(b) TOP Policy Plan Land Use Map Designation: Mixed Use

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

(d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	R2	Multi-Family Residential
South:	R1.5	Multi-Family Residential
East:	C1	Shopping Center District
West:	AR	Single-Family Residential

(e) Site Area: 10.25 acres

(f) Assessor's Parcel No(s): 1050-371-17 & 1050-371-18

(g) Project Analysis:

(1) Location & Operations: Cardenas Market is a grocery store chain located primarily within the States of California and Nevada. An existing Cardenas Market, located at the southwest corner of Euclid Avenue and Maple Street, will be relocating to the project site at the southwest corner of Euclid Avenue and Francis Street, at 1848 South Euclid Avenue (**Exhibit A: Aerial Map**). The project site, totaling 10.25 acres, is built-out with a multi-tenant commercial shopping center. The shopping center was constructed in the early 1970's and previously included a Thrifty Drug Store and Alpha Beta supermarket, which transitioned into the Rancho Boys Market. Currently, the large anchor tenant spaces are vacant. The Cardenas Market will occupy approximately 46,000 square feet of an 81,400 square foot shopping center (**Exhibit B: Site Plan & Exhibit C: Floor Plan**).

Cardenas Market will occupy tenant space that currently extends across two separate parcels. As a result, a lot-line adjustment to merge the parcels is required. Although the entire commercial center shares parking spaces, Cardenas Market has 314 parking spaces available. Ontario Development Code requires spaces to be provided at a ratio of 1 space per 400 square feet of floor area for grocery stores. As a result, 115 parking spaces are needed for the 46,000 square feet of floor area, which is less than the total number of spaces available.

Prior to the 1999 Development Code update, businesses selling alcoholic beverages, did not need Conditional Use Permit (CUP) approval. The 1999 update requires all new businesses or expansions to existing businesses, which desire to serve or sell alcoholic beverages (On-Sale and Off-Sale category types), to obtain CUP approval first. The existing Cardenas Market on Euclid Avenue does not have an approved CUP. As a result of the relocation of Cardenas Market, CUP approval is required. Since Cardenas Market is not expanding the existing building, no additional entitlements are required, but all tenant improvement work will be permitted through the City of Ontario's Building Department.

(2) ABC License Concentrations: The California Department of Alcoholic Beverage Control (ABC) is the controlling State entity which grants, renews, and revokes all ABC licenses. ABC determines how many On-Sale and Off-Sale alcoholic beverage license types should be issued per Census Tract, based upon their populations. Cardenas Market is located within Census Tract 17.01, which is both in the City of Ontario as well as the City of Chino. The Census Tract is generally bounded by Mission Boulevard on the north, Mountain Avenue on the west, CA-60 Freeway in Chino on the south, and Euclid Avenue on the east. ABC has determined that Census Tract 17.01 can support 13 Off-Sale ABC license types. As of February, 2011, the latest ABC report shows Census Tract 17.01 as having a total number of 9 active On-Sale licenses (Including Cardenas Market), which is less than the maximum number allowed by ABC. The existing Cardenas Market ABC license will be transferred to the new location. No additional new licenses are proposed and the total number of licenses will not increase.

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

The project site is located within the C1 (Shopping Center Commercial) zoning district. Within this district, alcoholic beverage sales are a conditionally permitted use. It is staff's belief that the recommended conditions of approval will sufficiently mitigate potential impacts associated with the proposed use. Additionally, businesses within the surrounding area will not be exposed to any impacts resulting from alcoholic beverage sales, beyond those that would normally be associated with any other use similarly allowed within the C1 (Shopping Center Commercial) zoning district.

(4) Departmental Review: Each City department has been provided the opportunity to review and comment on the subject application and recommends conditions of approval to be imposed upon the application. At the time of Decision preparation, recommended conditions of approval were provided from Planning, Public Facilities, Engineering, 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 alcoholic beverage sales.

(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 23<sup>rd</sup> day of February 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. Mr. Hildebrand read into the record a letter received from James & Barbara Littlejohn voicing their opposition to the proposed alcoholic beverage sales. John Earle Hildebrand III explained the Conditional Use Permit ("CUP") process, how projects are conditioned, and remediation measures due to non-compliance. Mr. Hildebrand further explained that the City has the right to revoke Cups, which terminates the entitled use, when there is a history of non-compliance and/or public nuisances.
- (b) Scott Murphy, Zoning Administrator, asked staff whether the lighting within the commercial center was adequate. Mr. Hildebrand responded that as part of the tenant improvements being done by Cardenas Market, the parking lot lighting would be reviewed and repaired as needed. Mr. Murphy asked Officer Alvarez if there were any alcohol-related issues with Cardenas' existing market on Euclid Avenue. Officer Alvarez indicated that there have not been any issues at the existing establishment. Following staff's presentation, the Zoning Administrator opened the public hearing.
- (c) Darren P. Trone, Esq., representing the applicant, explained the business operation and spoke in favor of the application.
- (d) Rod Nourafshan, the property manager, elaborated on the issue of site lighting. He stated that they would be inspecting the parking lot lighting system to ensure it would adequately operate.
- (e) There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing. Mr. Murphy stated that the CUP provided greater City controls over the operation than in place for the existing operation. Furthermore, the CUP provides the City with a tool to better regulate alcoholic beverage sales than is in place at the exiting location.

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 TOP Policy Plan and will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. Alcoholic beverage sales in conjunction with a grocery store lies within the C1 (Shopping Center Commercial) zoning district.

(2) Alcoholic beverage sales are allowed upon approval of a Conditional Use Permit. The project has been conditioned so that the facility and use are operated in a manner that will not be detrimental to the health and safety of the surrounding community.

(3) The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the Ontario Development Code and zoning designation within which the site is located. The location of the grocery store and associated alcoholic beverage sales 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 of the use.


(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes. The proposed conditions of approval will comply 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. PCUP10-055, 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 7<sup>th</sup> day of March 2011.

  
\_\_\_\_\_  
Scott Murphy  
Deputy Zoning Administrator

# ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2011-02

**HEARING DATE:** February 23, 2011  
**DECISION DATE:** March 7, 2011  
**FILE NO.:** PCUP10-056  
**SUBJECT:** A Conditional Use Permit to establish alcoholic beverage sales (Type 40 – On-Sale Beer), in conjunction with the Whispering Lakes Golf Course, located at 2325 East Riverside Drive, within the OS (Open Space) zoning district.

**STAFF**

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

---

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

DONOVAN BROS. GOLF, INC., 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 alcoholic beverage sales, limited to beer for on-premise consumption, at the Pro Shop in conjunction with the Whispering Lakes Golf Course.

(b) TOP Policy Plan Land Use Map Designation: Open Space - Parkland

(c) Zoning Designation: Open Space (OS)

(d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	Public Facility (PF)	Chino Basin Treatment Facility
South:	Specific Plan (Armstrong Ranch)	Agriculture
East:	Open Space (OS)	Westwind Park
West:	Single-Family Residential (R1)	Single-family detached homes

(e) Site Area: 145 acres

(f) Assessor’s Parcel No(s): 0113-282-15

(g) Project Analysis:

(1) Location & Operations: The Whispering Lakes Golf Course is bordered by the CA-60 Freeway on the north, Westwind Park on the east, Riverside Drive on the south, and a Single-family detached housing tract on the west. The Golf Course has been in operation since 1956 and has operating hours of 6:00am to 8:00pm daily (**Exhibit A: Aerial Map & Exhibit B: Aerial Photo**). The 18-hole course features 6,706 yards of golf and has a par of 72 (**Exhibit C: Course Map**).

The course featured the Royal Tahitian Lounge and Pro Shop until December of 2010, when it was demolished as a result of the extensive repairs necessary to remain operational. A temporary modular building has been erected, which functions as the course administration and Pro Shop. A permanent facility will be constructed at some point in the future, replacing the modular building (**Exhibit D: Site Plan & Exhibit E: Site Photos**).

Prior to the 1999 Development Code update, businesses selling alcoholic beverages, did not need Conditional Use Permit (CUP) approval. The 1999 update requires all new businesses or expansions to existing businesses, which desire to serve or sell alcoholic beverages (On-Sale and Off-Sale category types), to obtain CUP approval first. The Whispering Lakes Golf Course does not have an approved CUP. As a result of the demolition of the Royal Tahitian Lounge and Pro Shop and the establishment of a new modular Pro Shop, CUP approval is required. It is anticipated that Whispering Lakes Golf Course will provide an area for banquet services and live entertainment in the near future. This CUP will need to be modified through another public hearing to accommodate the additional uses. It is also anticipated that a permanent Pro Shop and banquet facility will be constructed, replacing the modular units, at some point in the future. This CUP will need to be modified again, through another public hearing, due to the expansion.

(2) ABC License Concentrations: The California Department of Alcoholic Beverage Control (ABC) is the controlling State entity which grants, renews, and revokes all ABC licenses. ABC determines how many On-Sale and Off-Sale alcoholic beverage license types should be issued per Census Tract, based upon their populations. The Whispering Lakes Golf Course is located within Census Tract 18.02, which is located entirely within the City of Ontario. The Census Tract is generally bordered by the CA-60 Freeway on the north, Euclid Avenue on the west, Riverside Drive on the south, and Archibald Avenue on the east. ABC has determined that Census Tract 18.02 can support 14 On-Sale ABC license types. As of February, 2011, the latest ABC report shows Census Tract 18.02 as having a total number of 10 active On-Sale licenses (Including Whispering Lakes Golf Course), which is less than the maximum number allowed by ABC. No additional new licenses are proposed and the total number of licenses will not increase.

(3) 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 OS (Open Space) zoning district. Within this district, alcoholic beverage sales is a conditionally permitted use. It is staff's belief that the recommended conditions of approval will sufficiently mitigate potential impacts associated with the proposed use. Additionally, businesses within the surrounding area will not be exposed to any impacts resulting from alcoholic beverage sales, beyond those that would normally be associated with any other use similarly allowed within the OS (Open Space) zoning district.

(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 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 alcoholic beverage sales.

(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 23<sup>rd</sup> day of February, 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) Christine Smith, the applicant, explained the business operation and spoke in favor of the application.

(c) Scott Murphy, Zoning Administrator, asked for clarification regarding future expansion plans. Mr. Hildebrand responded that any additional services such as banquet, live entertainment, or change of ABC license type, would require CUP modification and an additional public hearing. Applicant acknowledged this and agreed to submit for CUP modification in the future.

(d) Mr. Murphy asked about parking lot lighting and whether there were any issues. Fred Alvarez, Ontario ABC Enforcement officer, responded that there are some issues with the existing lighting and that proposed improvements/upgrades are being addressed through the plan check process. Mr. Alvarez further explained that the golf course has previously not had any alcohol related issues and that he is in support of this CUP.

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

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

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

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

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

(b) Based upon the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby 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 TOP

Policy Plan and will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. Alcoholic beverage sales in conjunction with the Pro Shop and golf course lies within the OS (Open Space) zoning district.

(2) Alcoholic beverage sales are allowed upon approval of a Conditional Use Permit. The project has been conditioned so that the beer sales 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 Pro Shop and associated alcoholic beverage sales 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 of the use.

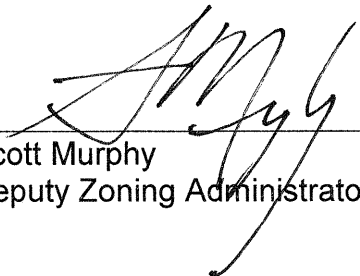
(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes. The proposed conditions of approval will comply with all provisions in the Ontario municipal code.

(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. PCUP10-056, 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 7<sup>th</sup> day of March 2011.

  
\_\_\_\_\_  
Scott Murphy  
Deputy Zoning Administrator

# ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2011-03

**HEARING DATE:** February 23, 2011  
**DECISION DATE:** March 7, 2011  
**FILE NO.:** PCUP10-053  
**SUBJECT:** A Conditional Use Permit to establish beer and wine sales (Type 41 ABC license) in conjunction with a restaurant (Manila Bay Seafood Boiler) on 0.89 acres of land within the C1 (Shopping Center) zone, located at 2548 S. Archibald Avenue.

**STAFF**

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

## PART A: BACKGROUND & ANALYSIS

MANILA BAY SEAFOOD BOILER, 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 alcoholic beverage sales for consumption on the premises, limited to beer and wine (Type 41 ABC license), in conjunction with a restaurant (Manila Bay Seafood Boiler) on 0.89 acres of land, located at 2548 S. Archibald Avenue, within the C1 (Shopping Center) zoning district.
- (b) TOP Policy Plan Land Use Map Designation: General Commercial
- (c) Zoning Designation: C1 (Shopping Center) zone
- (d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	Archibald Center SP	60 Freeway Industrial and Commercial beyond
South:	R1	Single Family Residential
East:	C1 & PF	Commercial and School
West:	PF	Sewage Treatment Plant

- (e) Site Area: 0.89 acres parcel, 34 acre Shopping Center
- (f) Assessor's Parcel No(s): 1083-011-15

(g) Project Analysis: The applicant is requesting approval of a Conditional Use Permit to establish the retail sale of beer and wine for on-site consumption in conjunction with the Manila Bay Seafood Boiler Restaurant (Type 41 ABC license) located at 2548 S. Archibald Avenue.

Operation: The Manila Bay Seafood Boiler Restaurant proposes to occupy an existing 3,265 square foot building and will be open from 8:00 a.m. to 10:00 p.m., daily. The existing restaurant building was previously used by a fast food restaurant and has an existing drive-thru. The restaurant proposes to use the drive-thru for take-out orders but has been conditioned to exclude the sale of beer or wine at the drive-thru window.

Land Use Compatibility: The serving of alcoholic beverages in conjunction with a restaurant is conditionally permitted in the C1 District. Conditional Use Permit reviews are performed in order to weigh the compatibility of adjacent uses and establish measures to mitigate potential nuisance activities. The project site is located within Census Tract 18.02. Per the California Department of Alcoholic Beverage Control (ABC), 14 on-sale licenses are permitted within the census tract and 10 licenses are existing. The restaurant is located in an existing shopping center with surrounding land uses that include the 60 freeway to the north, single family residences to the south, commercial uses to the east and a sewage treatment plant to the west. Staff has placed conditions on the operation of the business to limit impacts to the surrounding neighbors.

City Department Review: City departments were given the opportunity to review the subject application. The Planning, Police, Public Facilities, and Housing Departments have placed conditions on the project. The conditions of approval include such items as: no service of alcoholic beverages at the drive-thru window, no service of alcohol to minors or intoxicated patrons, and property/landscape maintenance items. All Departments are recommending approval of the application for beer and wine sales at the proposed restaurant.

(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 23rd day of February 2011, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(a) Charles Mercier, Senior Planner, 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.

(b) Reynald Sison, the business owner, explained the business operation and spoke in favor of the application. Mr. Sison further stated that he had read the staff report and the conditions of approval, and had no objections to any of the conditions.

(c) Scott Murphy, Zoning Administrator, asked Officer Alvarez about the use of the drive-thru in conjunction with the beer and wine sales. Officer Alvarez stated that the drive-thru would be used for food orders only and that beer and wine sales would not be permitted at the drive-thru window. There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing.

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

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

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

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

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

(1) The proposed location of the Conditional Use Permit and the proposed conditions under which it will be operated or maintained will be consistent with the General Plan and will not be detrimental to the public health, safety, or welfare or materially injurious to properties or improvements in the vicinity. The restaurant lies within the C1 (Shopping Center) land use designation.

(2) Beer and wine sales for on-site consumption in conjunction with a restaurant are allowed upon approval of a Conditional Use Permit. The project has been conditioned so that the facility and use are operated in a manner that will not be detrimental to the health and safety of the surrounding community.

(3) The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the Ontario Development Code and zoning designation within which the site is located.

(4) Traffic generated by the proposed Conditional Use Permit will not overload the capacity of the surrounding street system and will not create a hazard to public safety.

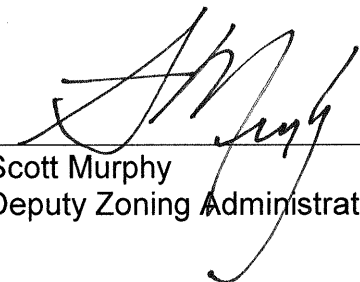
(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes.

(c) 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. PCUP10-053, 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 7<sup>th</sup> day of March 2011.

  
\_\_\_\_\_  
Scott Murphy  
Deputy Zoning Administrator