

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2011-06

HEARING DATE: May 16, 2011

DECISION DATE: June 1, 2011

FILE NO.: PCUP11-002

SUBJECT: A Conditional Use Permit to establish alcoholic beverage sales, including beer, wine and distilled spirits, for consumption on the premises (Type 47 ABC license-On-Sale General - Eating Place) in conjunction within an existing restaurant (Brandon's Diner) located at 2407 South Vineyard Avenue, within the C3 (Commercial Service) zoning district.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

JAM Benitez Restaurant, 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, including beer, wine and distilled spirits, for consumption on the premises (Type 47 ABC license-On-Sale General - Eating Place) in conjunction within an existing restaurant (Brandon's Diner) located at 2407 South Vineyard Avenue, within the C3 (Commercial Service) zoning district.

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

(c) Zoning Designation: C3 (Commercial Service) zone

(d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	60 Freeway Kaiser Hospital beyond	Kaiser Permante Specific Plan
South	R1	Single Family Residential
East:	OS	Golf Course
West:	C1	Shopping Center

(e) Site Area: 8.7 acre shopping center

Approved By:

_____ Senior Planner

(f) Assessor's Parcel No(s).: 0113-285-12

(g) Project Analysis: The applicant is requesting approval of a Conditional Use Permit to establish the retail sale of beer, wine and distilled spirits for on-site consumption in conjunction with the Brandon's Diner Restaurant (Type 47 ABC license) located at 2407 S. Vineyard Avenue. In addition, the applicant is requesting karaoke live entertainment up to 7 days a week.

Operation: Brandon's Diner occupies an existing 6,056 square foot restaurant located within the Vineyard Village Shopping Center. The restaurant is currently open from 6:00 a.m. to 2:00 a.m., daily. Brandon's Diner is a family owned and operated restaurant that has several locations in the Inland Empire and has been in business for over 14 years. The applicant has experience with alcohol sales at other locations. The Ontario location employs 15 full time and 10 part time employees.

Land Use Compatibility: The serving of alcoholic beverages in conjunction with a restaurant is conditionally permitted in the C3 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 12 licenses are existing. The restaurant is located in an existing shopping center with surrounding land uses that include the 60 freeway to the north, with Kaiser Permanente Hospital beyond, single family residences to the south, commercial uses to the west and a golf course to the east. 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 and Fire Departments have placed conditions on the project. All Departments are recommending approval of the application for beer, wine and distilled spirit 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 16th day of May, 2011, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(a) Clarice Ramey, Associate 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) The Zoning Administrator questioned staff regarding hours of current operation and the Police Department conditions of approval, particularly the hours of operation for karaoke.

(c) Armando Benitez, the applicant, explained the business operation and spoke in favor of the application. The Zoning Administrator asked if the Applicant had any prior experience with ABC licensed facilities. Mr. Benitez responded that they have over fifteen years of experience operating restaurants serving alcohol, both beer and wine and full on bars. They operate seven locations, four with similar Type 47 license (full bar) and three with beer and wine only.

(d) The Zoning Administrator asked the applicant about whether the establishment would have video games and about the operations. The applicant responded that there would not be any video games and clarified the operations.

(e) The Zoning Administrator indicated that if there was substantial and/or repeated violations of the conditions of approval that the CUP would be called in for re-conditioning or revocation.

(f) 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 with alcohol sales lies within the C3 (Commercial Service) land use designation.

(2) Alcohol sales 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 there under, pursuant to § 15301 (Existing facilities) of the State CEQA Guidelines.

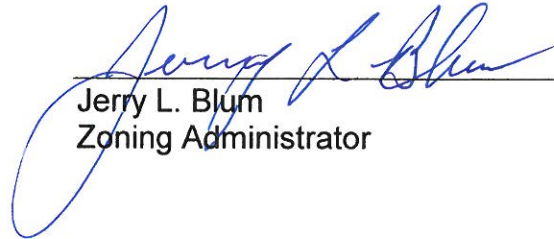
(d) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP11-002, subject to the conditions of approval attached hereto and incorporated herein by this reference and further amended as follows:

Police Department Condition of Approval, Security Conditions, second paragraph, last sentence is hereby amended to read as follows:

“The Police Department may, at their sole discretion, request a revocation hearing if they determine that the establishment is being operated in substantial and/or repeated violation of this CUP or has violated the laws of the State or City are the intent of this action, or has become a public nuisance.”.



APPROVED by the Zoning Administrator of the City of Ontario on this 1st day of June, 2011.



Jerry L. Blum
Zoning Administrator

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2011-07

HEARING DATE: May 16, 2011

DECISION DATE: June 1, 2011

FILE NO.: PCUP11-003

SUBJECT: A Conditional Use Permit to establish alcoholic beverage sales, including beer, wine and distilled spirits, for consumption on the premises (Type 48 ABC license-On-Sale General) and live entertainment (karaoke) within an existing building located at 2425 South Grove Avenue, within the C1 (Shopping Center Commercial) zoning district.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

Scott E. Schaller/George K. O'Balle, 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, including beer, wine and distilled spirits, for consumption on the premises (Type 48 ABC license-On-Sale General) and live entertainment (karaoke) within an existing building located at 2425 South Grove Avenue, within the C1 (Shopping Center Commercial) zoning district.
- (b) TOP Policy Plan Land Use Map Designation: Neighborhood Commercial
- (c) Zoning Designation: C1 (Shopping Center Commercial)
- (d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	60 Freeway Grove Ave. Specific Plan beyond	Motel
South	R1	Single Family Residential
East:	R1	Single Family Residential
West:	C1	Shopping Center

Approved By: _____
Senior Planner

(e) Site Area: 1.64 acres

(f) Assessor's Parcel No(s).: 0216-341-61

(g) Project Analysis: The applicant is requesting approval of a Conditional Use Permit to establish the retail sale of beer, wine and distilled spirits for on-site consumption in conjunction with a proposed bar, The Office (Type 48 ABC license) located at 2425 S. Grove Avenue. In addition, the applicant is requesting karaoke live entertainment up to 7 days a week.

Operation: The Office proposes to occupy an existing 1,772 square foot suite located within an existing shopping center. The space had previously been used as a bar (The Pub) for 22 years. The location did not previously have a Conditional Use Permit and the bar was closed for more than 90 days prior to the applicant requesting to establish a bar in this location. The applicant has obtained a Type 42 ABC license (On-Sale Beer and Wine for Public Premises) and is in the process of trying to obtain a Type 48 (On-Sale General for Public Premises) but has not yet obtained that license type. Initially the new bar (The Office) would offer beer and wine and then, if a Type 48 license is obtained, would switch to offering distilled spirits as well. The applicant proposes to have various games available to the bar patrons consisting of 2 on-bar video games, 3 free-standing video games, electronic dart boards, a pool table and a shuffle board table as well as a jukebox. The applicant has submitted 2 floor plans (See Exhibits 3a and 3b). The Option 1 layout will be used primarily, but the Option 2 layout is proposed as an alternative if more seating is needed. The applicant also intends to sell cigarettes and lottery tickets. The proposed hours of operation are from 11:00 a.m. to 2 a.m., daily. The applicant is also requesting karaoke live entertainment from the hours of 9:00 p.m. to 1:30 p.m., 3 days per week. The Police Department conditions of approval will allow the business to open at 9:00 a.m. on Sundays (to accommodate televised sporting events) and will allow karaoke from 7:00 p.m. to 1:30 a.m. 7 days per week.

Land Use Compatibility: The serving of alcoholic beverages 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 12 licenses are existing (one of which is the Type 42 license for The Office). The bar is located in an existing shopping center with surrounding land uses that include the 60 freeway to the north with a motel beyond, single family residences to the south and east, and a shopping center 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, Fire, and Public Facilities Departments have placed conditions on the project. All Departments are recommending approval of the application for beer, wine and distilled spirit sales at the proposed bar.

(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 500 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/Neighborhood Meeting: Prior to the filing of the Conditional Use Permit application (File No. PCUP11-003), the City of Ontario received a complaint regarding the bar at this location and the re-establishing of a bar in this location. (See Exhibit 6 attached). The complaint was based on the prior operation and was signed by some Ontario residents and numerous out of town parents of children from the (then) adjacent Ti Kwon Do/Karate studio. The studio has subsequently closed. In order to offer the community an opportunity to voice concerns with or support for the proposed application, the Planning Department held a Neighborhood Meeting on April 28, 2011. Notices for the Neighborhood Meeting were mailed to residents within a 500 foot radius of the subject property. The Planning Department received one phone call inquiring about the purpose of the notice. No members of the community attended the Neighborhood Meeting. Notices were also provided for this Zoning Administrator hearing. As of the preparation of this Decision, Planning Department staff has not received any other 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 16th day of May, 2011, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(a) Clarice Ramey, Associate 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) The Zoning Administrator, questioned staff regarding the petition against the application, the hours for billiards, the sale of tobacco at this location, and the Police Department conditions of approval, particularly about the history of the site and the

hours of operation. Clarice Ramey, Associate Planner, responded that some of the addresses on the petition were from Ontario and that many were outside of Ontario. She also responded that most of the names were associated with a marshal arts business that is no longer at the location. She also stated that there are no specified hours for billiards and that the applicant is proposing to sell tobacco at this location, but that tobacco sales does not require a conditional Use Permit. Fred Alvarez, Ontario Police Officer, responded and explained the history with the prior establishment and indicated that the conditions are consistent with standards imposed on other bars.

(c) George O'Balle, the co-applicant, explained the business operation and spoke in favor of the application.

(d) The Zoning Administrator asked the applicants about their experience and also spoke with Sam O'Mullane (the Bar Manager) about the operations. The applicant responded and clarified the operations.

(e) The Zoning Administrator indicated that if there was substantial and/or repeated violations of the conditions of approval that the CUP would be called in for re-conditioning or revocation. He also discussed the need for the operators to be good neighbors to the other businesses but also to the adjacent residential neighborhood.

(f) 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 bar lies within the C1 (Shopping Center Commercial) land use designation.

(2) A bar is 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 § 15301 (Existing facilities) of the State CEQA Guidelines.

(a) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP11-003, subject to the conditions of approval attached hereto and incorporated herein by this reference. and further amended as follows:

Police Department Condition of Approval, page 34, second paragraph, last sentence is hereby amended to read as follows:

"The Police Department may, at their sole discretion, request a revocation hearing if they determine that the establishment is being operated in substantial and/or repeated violation of this CUP or has violated the laws of the State or City are the intent of this action, or has become a public nuisance."

(b)



APPROVED by the Zoning Administrator of the City of Ontario on this 1st day of June, 2011.



Jerry L. Blum
Zoning Administrator

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2011-08

HEARING DATE: May 16, 2011

DECISION DATE: June 1, 2011

FILE NO.: PCUP11-006

SUBJECT: A request to modify the conditions of approval to an approved Conditional Use Permit (**File No. PCUP09-029**) for an existing billiard/pool hall (D'Big Shots Family Billiards) with a Type 41 ABC license (On-Sale beer and wine) and a request to modify a portion of the floor plan, within the C1 (Shopping Center Commercial) and EA (Euclid Avenue Overlay) Districts, located at 2507 S. Euclid Avenue. (APN: 1051-281-80)

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

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

- (a) Project Description: A request to modify the conditions of approval to an approved Conditional Use Permit (**File No. PCUP09-029**) for an existing billiard/pool hall (D'Big Shots Family Billiards) with a Type 41 ABC license (On-Sale beer and wine) and a request to modify a portion of the floor plan, within the C1 (Shopping Center Commercial) and EA (Euclid Avenue Overlay) Districts, located at 2507 S. Euclid Avenue. The applicant is proposing to modify the establishment's hours of operation from 2 p.m. – 12:00 a.m. Sunday thru Saturday to 10:00 a.m. to 2:00 a.m. daily and to alter the karaoke room by removing a section of an existing wall to open up the space. The karaoke room is located along the north side of the space. (See Exhibit C: Floor Plan) The karaoke use will be discontinued and the space will be used as a lounge area, where customers can sit down and watch TV or play dartboard or other existing video/arcade games.

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

 - (c) Zoning Designation: C1 (Shopping Center Commercial) & EA (Euclid Avenue Overlay) District
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(d) Surrounding Zoning and Land Uses:

(e) Site Area: 2.6 Acres; Building = 4,500 square feet

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	(C1) Shopping Center Commercial	Tire Store & McDonald's Restaurant
South:	(C1) Shopping Center Commercial	Commercial Retail Center
East:	(R1) One Family Residential	Single Family Homes
West:	(C1) Shopping Center Commercial	Commercial Shopping Center, Restaurant, Office & Daycare Center

(f) Assessor's Parcel No(s): 1051-281-80

(g) Project Analysis:

Background: On February 1ST, 2010, Emerita Corporation received approval to establish a family billiard/pool hall with a game arcade, karaoke, and on-site sales (Type 41 ABC license) of beer and wine (File No. PCUP09-029). The applicant is currently operating within a multi-tenant building in a shopping center. Other tenants within the center include McDonalds restaurant, Del Taco, H&R Block and State Farm insurance, just to name a few. The north side of the project contains a tire store and Angelo's Pizzeria, who currently has an ABC license for on-site sales for beer and wine. The site is bounded on the south by a commercial center and to the west is the K-mart Center. Single family homes are located to the east. The residential development is separated from the site by a six foot tall wall that runs along the east side of the property. (See Exhibit D-Site Photos).

Existing Use: The proposed use will continue to be a billiard/pool hall, which occupies approximately 4,500 sq. ft. of an existing retail space. This unit provides two points of access along the front and two along the rear, for emergency access.

The current floor plan features the following:

- 11 pool tables along the front and southern portion of the unit
- A bar and service area located at the center of the unit
- A video arcade with 10-15 games
- An office, kitchen, and restrooms on the rear of the unit (east side); and
- Tables and chairs along the front perimeter and around the bar area

The billiard/pool hall provides a food menu that includes hot and cold sandwiches, burgers, hotdogs, fries, chips, nachos, pizza bread, Buffalo wings, egg rolls, and calamari. Food is available until closing time.

Three full-time staff serve the billiard/pool hall. The current business hours of operation are from 2:00 p.m. to 12 a.m. seven days a week, with the option to stay open until 2:00 a.m., Friday and Saturday, with two armed security or Ontario Police Officers in the parking lot area starting at 7:00 p.m.

Proposed Changes: The proposed changes to the previously approved Conditional Use Permit (PCUP09-029) are the following:

- Hours of operation to change from: 2:00 p.m. to 12:00 a.m., seven days a week, to 10:00 a.m. to 2:00 a.m. seven days a week, and
- Remove Karaoke use from the floor plan area and alter the existing wall to open up the space. (See Exhibit C: Proposed Floor Plan)

The karaoke room will be used as a lounge area, where customers can sit down and watch TV or play dartboard or other existing video/arcade games.

With the downturn of the economy, the applicant believes that by modifying the hours of operation and by making minor changes to the floor plan, these changes will attract more customers and potentially improve the business.

The Police Department has reviewed the request and will allow the proposed hours to be extended from 10:00 a.m. to 12 a.m. daily, with the option to stay open until 2:00 a.m., only if two armed security or two Ontario police officers secure the parking lot after 7:00 p.m.

The applicant is in agreement with the Police Department's Conditions of Approval, with the exception of condition number 1, which states:

"Billiard hours of operation will be 10:00 a.m. to 12 a.m., Sunday thru Saturday. Location has the option to stay open until 2:00 a.m., with two security guards in the parking lot area starting at 7:00 p.m."

The applicant is concerned with the condition because it will be a financial hardship for the business. Since the grand opening in March of 2010, the applicant has invested close to \$500,000. During this past summer, between the months of June and August, the cost of electricity was more than the revenues generated by the business. The purpose of this modification request is an attempt to save the business.

The applicant is hopeful that the Police Department will change this condition by not requiring two security guards after 7:00 p.m.

The Ontario Police Department has spoken with the applicant regarding their concern with the Police Department's conditions of approval. They were advised that the condition is a standard condition from the Police Department.

Staff believes that the recommended conditions of approval will sufficiently mitigate potential impacts and, therefore, recommends approval, subject to attached conditions.

(a) 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.

(b) 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 16th day of May 2011, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(a) Denny D. Chen, *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.

The Zoning Administrator asked Mr. Fred Alvarez, Ontario Police Department, if this location is considered a bar.

Officer Alvarez stated this is not considered a bar. It is considered a Billiard/Pool Hall recreational facility. In response to a further question, Mr. Alvarez stated that beat officers said that the business has improved security of the shopping center by having greater visibility of property throughout the evening hours. There has been no recent service calls to this location. The business will close at 1:30 a.m.

Mr. Chen provided an updated version of the Police Department's conditions of approval, to Mr. Blum.

Ms. Tita de Guzman, applicant, 2507 S. Euclid Avenue, Ontario, CA, stated with their experience of operating the business, customers have been very happy with this establishment. The applicant is requesting an extension to the hours of operation in order to increase revenue.

Mr. Blum asked if there have been any complaints or issues from neighboring businesses.

Ms. De Guzman stated there have been no issues with neighboring businesses and no issues with karaoke ending at 1:30 a.m.

Public Hearing Closed

Mr. Blum stated he is hesitant about allowing weekday operations to close at 2:00 a.m., but since there are no Police issues at this location and with the condition requiring extra security guards he believed it would be all right. He cautioned the Applicant about the late hours of operation and insuring the business did not disrupt the peace of the neighborhood or adjacent businesses.

(b) 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 proposed billiard/pool hall with karaoke, a game arcade and on-site sales of beer and wine (Type 41 ABC license) lies within the C1 & EA Districts and the use is a conditionally permitted use.

(2) The billiard/pool hall with on-site sales of beer and wine (Type 41 ABC license) with a game arcade and karaoke are allowed upon approval of a Conditional Use Permit. The new hours of operation will be from 10:00 a.m. to 2:00 a.m. daily, subject to the Ontario Police Department's conditions of approval. 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. Staff has carefully placed conditions that will mitigate the concerns that were received.

(3) The proposed location of the Conditional Use Permit is in accord with the objectives and purposes of the Ontario Development Code, including Article 1: Purposes and Objectives as well as the C1 & EA land use designations.

(4) Traffic generated by the proposed Conditional Use Permit will not overload the capacity of the surrounding street system and will not create a hazard to public safety. The use will not generate a significant amount of new traffic nor overload the surrounding circulation system. In addition, ample parking will be provided within the shopping center where the use will be located.

(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code, including Article 13: Land Use and Special Requirements, Article 16: Commercial and Professional Districts and Article 32: General Development Requirements and Exceptions, and Article 23: Euclid Avenue Overlay District.

(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 there under, pursuant to section § 15301 (Existing Facilities) of the State CEQA Guidelines.

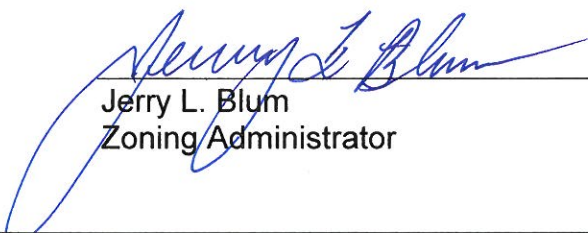
(d) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP11-006, subject to the conditions of approval attached hereto and incorporated herein by this reference and further amended as follows:

Police Department Condition of Approval, Security Conditions, fourth paragraph, last sentence is hereby amended to read as follows:

"The Police Department may, at their sole discretion, request a revocation hearing if they determine that the establishment is being operated in substantial and/or repeated violation of this CUP or has violated the laws of the State or City are the intent of this action, or has become a public nuisance."



APPROVED by the Zoning Administrator of the City of Ontario on this 1st day of June, 2011.



Jerry L. Blum
Zoning Administrator

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2011-09

HEARING DATE: 05-16-2011

DECISION DATE: 06-01-2011

FILE NO.: PCUP11-007

SUBJECT: A Conditional Use Permit to establish a "Cash-for-Gold" facility, located near the southwest corner of Fourth Street and the I-15 Freeway, at 990 North Ontario Mills Drive, Unit "D", within the Commercial/Office district of the Ontario Mills Specific Plan.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

AAA GOLD EXCHANGE, 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 a Cash-for-Gold facility at 990 North Ontario Mills Drive, Unit "D", within a multi-tenant commercial center adjacent to The Ontario Mills.

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

(c) Zoning Designation: Commercial/Office district of the Ontario Mills Specific Plan

(d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	Commercial/Office - Ontario Mills Specific Plan	Multi-tenant Commercial
South:	Commercial/Office - Ontario Mills Specific Plan	Multi-tenant Commercial
East:	N/A	I-15 Freeway
West:	Commercial/Office - Ontario Mills Specific Plan	Movie Theatre

(e) Site Area: Multi-tenant commercial parcel – 1.8 acres

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

(g) Project Analysis:

1. Location & Operations: AAA Gold Exchange is a “Cash-for-Gold” type of business that buys used gold, platinum, silver, and diamonds, paying cash at the time of each transaction. Also, as part of their business model, items can be mailed directly to AAA Gold Exchange, where the items are inspected, appraised, and subsequently paid for based upon established rates. AAA Gold Exchange proposes to locate their business at 990 North Ontario Mills Drive (**Exhibit A: Aerial Map**). The tenant space is approximately 1,600 square-feet, identified as Unit "D", and located within a multi-tenant commercial center adjacent to The Ontario Mills (**Exhibit B: Site Plan, Exhibit C: Floor Plan, & Exhibit D: Site Photos**). The facility will operate Monday-Saturday, 10:00am to 8:00pm, and Sunday, 10:00am to 6:00pm and employ approximately 2-3 persons. To comply with the City’s Secondhand Dealer requirements, as well as the Ontario Police Department conditions for operating a “Cash-for-Gold” business, the following operating measures are required of the business:

- All materials purchased are required to be held for 30 days, prior to resale.
- A thumbprint, picture ID, and description of materials shall be required from each person selling materials at the “Cash-for-Gold” business.
- Security cameras shall be installed both inside and outside the facility, pursuant to the Police Department requirements.

AAA Gold Exchange currently operates 6 other facilities (**Exhibit E: Applicant Statement**), all located within Southern California. Each location is operated in strict accordance with the Secondhand Dealer requirements, as well as any additional local requirements. Cesar Meyer, owner of AAA Gold Exchange, has met with the Ontario Police Department to review security measures and general operating characteristics. Both Cesar Meyer and the Ontario Police Department are in accord with the imposed conditions and plan to work together should any issues arise as a result of the business.

2. Determination of Use: A Determination of Use (File No. PDET09-003, Resolution No. PC09-039) was approved by the Planning Commission on November 24, 2009, which resulted in allowing “Cash-for-Gold” businesses as conditionally permitted uses within the California Commerce Center North (Ontario Mills Mall) Specific Plan and the C3 (Commercial Service) zoning district. The Planning Commission made the determination that “Cash-for-Gold” businesses are similar to and no more objectionable than other activities or uses conditionally permitted within commercial designations in the City of Ontario. Pursuant to the Determination of Use, “Cash-for-Gold” businesses shall follow all requirements as specified within the California Business and Professions Code, Sections 21641 and 21642 pertaining to Secondhand Dealer licensing and operations, which is restated in the attached conditions of approval. The Determination of Use was submitted by Goldrush Stores, who proposed to locate within the Ontario Mills.

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 Commercial/Office district of the Ontario Mills Specific Plan. Within this district, "Cash-for-Gold" 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 a "Cash-for-Gold" use, beyond those that would normally be associated with any other use similarly allowed within the Regional Commercial district of the Ontario Mills Specific Plan.

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 a "Cash-for-Gold" 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 16th day of May, 2011, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

- (a) Chuck Mercier, *Senior Planner*, presented the staff report on 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) Cesar Meyer, the applicant, explained the business operation and spoke in favor of the application. In response to a question from the Zoning Administrator the applicant stated that the Ontario Mills location was an ideal place for expansion of his business to enter the Ontario market place.
- (c) There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing.

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

PART C: THE DECISION

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

- (a) All facts set forth in this Zoning Administrator Report and Decision are true and correct.
- (b) Based upon the evidence presented to the Zoning Administrator during the above-referenced public hearing, the Zoning Administrator hereby concludes as follows:
 - (1) The proposed location of the Conditional Use Permit and the proposed conditions under which it will be operated or maintained will be consistent with The 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 "Cash-for-Gold" business lies within the Commercial/Office district of the Ontario Mills Specific Plan.
 - (2) "Cash-for-Gold" businesses are allowed within the Ontario Mills Specific Plan area 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 "Cash-for-Gold" business meets the objectives of the Ontario Mills Specific Plan and 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 "Cash-for-Gold" business within the Ontario Mills Specific Plan area.

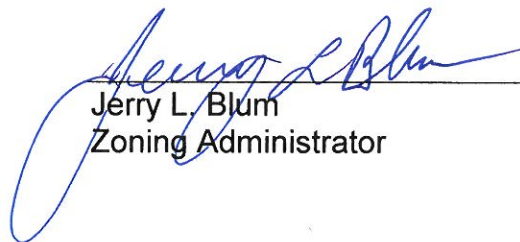
(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes. The conditions of approval imposed upon this Conditional Use Permit will ensure the use complies with all provisions in the Ontario municipal code.

(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. PCUP11-007, 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 1st day of June, 2011.



Jerry L. Blum
Zoning Administrator