

# ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



## DECISION NO. 2011-17

HEARING DATE: September 7, 2011  
DECISION DATE: September 26, 2011  
FILE NO.: PCUP10-014

**SUBJECT:** A Conditional Use Permit request to allow live entertainment in the form of Karaoke and a DJ for an existing TGI Friday's restaurant with a Type 47 ABC (On Sale General-Eating Place) license, located at 3351 E. Centrelake Drive within the Commercial land use designation of the Centrelake Business Park Specific Plan. (APN: 210-551-16).

### STAFF

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

### PART A: BACKGROUND & ANALYSIS

BRIAD RESTAURANT GROUP, LLC., 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 request to allow live entertainment in the form of Karaoke and a DJ for an existing TGI Friday's restaurant with a Type 47 ABC (On Sale General-Eating Place) license, located at 3351 E. Centrelake Drive within the Commercial land use designation of the Centrelake Business Park Specific Plan.
- (b) TOP Policy Plan Land Use Map Designation: Office Commercial
- (c) Zoning Designation: Commercial Land Use-Centrelake Business Park Specific Plan.
- (d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	n/a	I-10 Freeway
South:	Commercial	Parking & Office
East:	Office	Parking Structure & Office
West:	Commercial	I-10 Freeway

- (e) Site Area: 1.6 Acres

Approved By:

-1-

\_\_\_\_SM\_\_\_\_ Assistant Planning Director

Form Revised: 02/02/2010

(f) Assessor's Parcel No(s): 210-551-16

**Project Analysis:** The applicant Briad Restaurant Group, LLC proposes to establish live entertainment in the form of Karaoke and a DJ for an existing 6,646 square foot TGI Friday's restaurant located at 3351 E. Centrelake Drive. The restaurant is located within a mixed use development area that includes offices, restaurants, clinics, hotels and undeveloped land (*Exhibit B-Site Photos*). TGI Friday's restaurant is a popular eating establishment that provides a full menu that is currently licensed with a Type 47 ABC license. The existing ABC license was issued prior to 1998, when the City first required a Conditional Use Permit. The project site is located along the south side of the I-10 Freeway, just west of Haven Avenue, with visibility from the I-10 freeway. (*Exhibit A-Site Aerial & Site Plan*).

**Proposed Use:** The proposed entertainment area at TGI Friday's restaurant will occupy an area that's approximately 7 feet by 6 feet (42 square feet) within a small portion of the dining area (*Exhibit C-Floor Plan*). The Police Department has conditioned that an entertainment area be designated within the DJ and Karaoke immediate area, so that its separated from the dining area. The applicant hopes that by introducing entertainment, it will increase business for the restaurant.

The restaurant proposes to open seven days a week, from 11 a.m. to 2:00 a.m.. Entertainment will not begin until 9 p.m., and will end at 1:00 a.m. Police has places a restriction on alcohol service from 7 a.m. to 2:00 a.m. daily. The last call for alcohol has been condition to end at 1:15 a.m. Flexibility on the service hours has been provided in case management wants to open earlier in the future. This will avoid having to apply for a new CUP application.

TGI Friday's currently employees 10 full-time and 60 part-time employees. It is anticipated that if business improves, with the approval of this request, that the applicant may be able to employ more staff.

#### Parking

Ontario Development Code requires 67 parking spaces for this project and 71 spaces will be provided. Therefore, no parking issues are anticipated as a result of the request.

#### Floor Plan

With the exception of the new entertainment area and dance floor areas conditioned by Police, no additional interior improvements are proposed. The restaurant floor plan will feature the following:

- 55 tables/booths
- 16 bar seats
- Bar area
- Kitchen
- Male and female restrooms
- Freezer/cooler area
- Office
- Male and female employee changing rooms

The dining area where entertainment will take place will provide two external points of access (Exhibit C-Floor Plan). Therefore, no safety concerns are anticipated. Staff has carefully reviewed the proposed floor plan and believes that the proposed location is appropriate.

**Land Use Compatibility:** Ontario Development Code requires entertainment uses to receive approval of a Conditional Use Permit. The premise of all Conditional Use Permit reviews is to ensure the compatibility of adjacent uses and separation of potential nuisance activities. The proposed project site will not be exposed to any impacts normally associated with the proposed uses beyond those from uses that already exist. The restaurant currently has an approved Type 47 (On Sale General-Eating Place) ABC license and Police has not had any issues with them. The addition of Karaoke and a DJ will be minimal and impacts outside the establishment are not anticipated. Staff has also placed conditions of approval that will mitigate potential impacts. For example, the Police Department has placed the following conditions:

- During entertainment hours of 9:00 PM to 1:00 AM, the location shall not exceed a noise level of 65dBA per section 9-1.3305 of the Ontario Development Code.
- The sales or service to intoxicated patrons is prohibited.

Staff is recommending approval of the proposed application, subject to the attached conditions. Staff believes that the floor plan has been designed adequately and conditions of approval have been imposed on the application to mitigate impacts on the health, welfare, and safety of the project site and the adjacent uses.

**Public Notification:**

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

**Correspondence:**

As of the preparation of this Decision, Planning Department staff has not received any written or verbal communications from the owners of properties surrounding the project site or from the public in general.

***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 7th day of September, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

- (a) Luis E. Batres, Senior Planner, presented the staff report on the proposed use, indicating the staff recommendation of approval subject to the attached conditions of approval. Following staff's presentation, the Zoning Administrator opened the public hearing.
- (b) Richard Derobbio, representing the applicant, explained the business operation and spoke in favor of the application.
- (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 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 entertainment use with an existing restaurant with at Type 47 (On Sale General-Eating Place) ABC license lies within the Commercial land use designation of the Centrelake Business Park Specific Plan land use designation.

(2) A Conditional Use Permit request to allow live entertainment in the form of Karaoke and a DJ for an existing TGI Friday's restaurant with a Type 47 ABC (On Sale General-Eating Place) license, located at 3351 E. Centrelake Drive within the Commercial land use designation of the Centrelake Business Park Specific Plan 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.

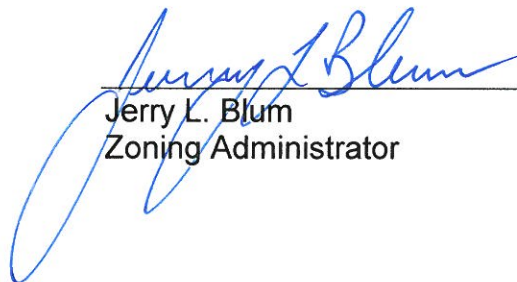
(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code and applicable municipal codes.

(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 § Section 15301 (Class 1-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. PCUP10-014, 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 26 day of September, 2011.

  
\_\_\_\_\_  
Jerry L. Blum  
Zoning Administrator

# Exhibit A-Site Aerial



Site Plan

**Exhibit B- Site Photos**

**Southwest View**



**Southeast View**



**West View from Project Site**



**East View from Project Parking Lot**

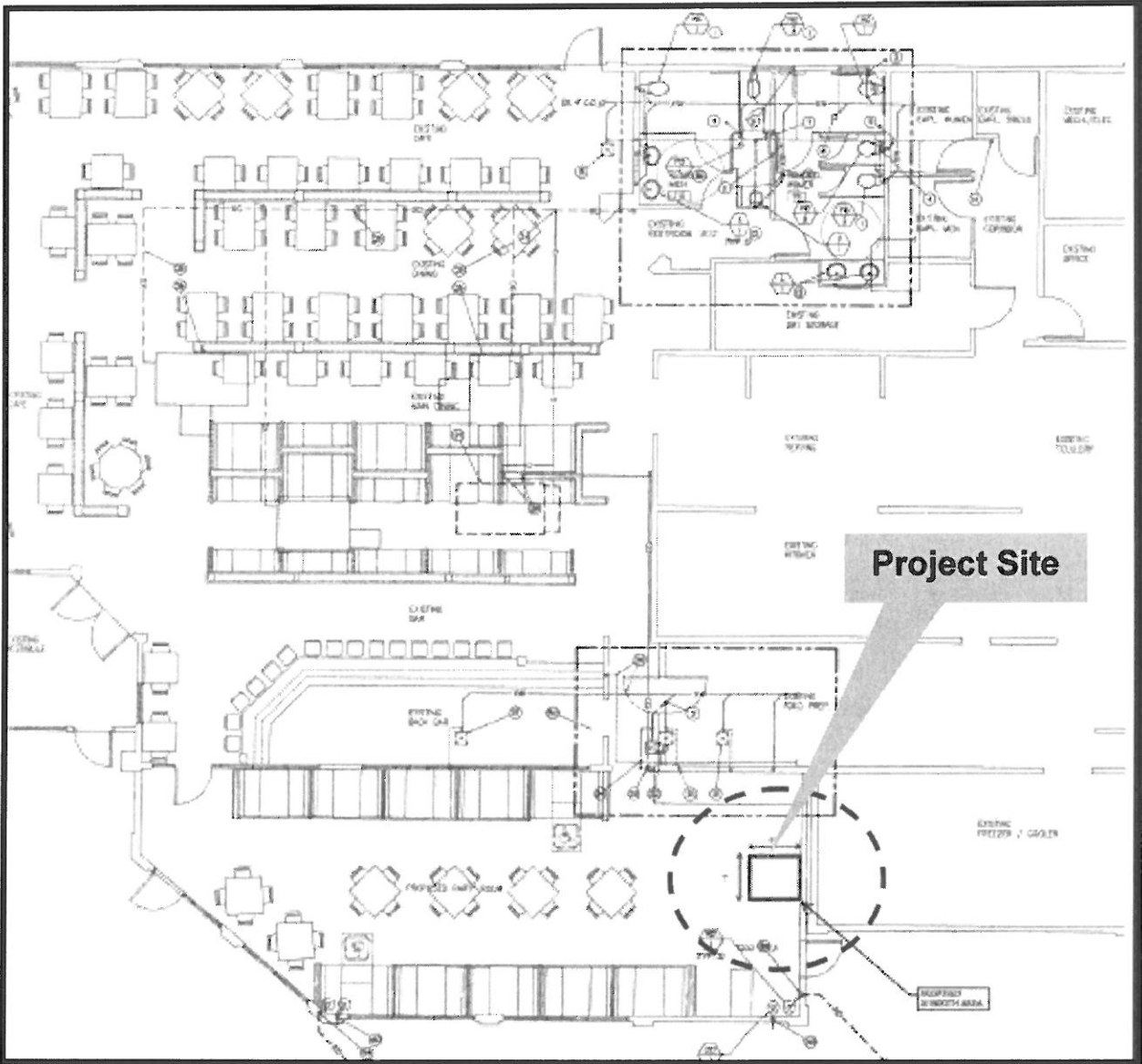


**South View from Project Site**





**Exhibit C- Floor Plan**



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

**DATE:** September 7, 2011

**FILE NO.:** PCUP10-014

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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
- LANDSCAPING-PLANNING
  
- BUILDING

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



## CONDITIONS OF APPROVAL

**DATE:** September 7, 2011

**FILE NO.:** PCUP10-014

**SUBJECT:** A Conditional Use Permit request to allow live entertainment in the form of Karaoke and a DJ for an existing TGI Friday's restaurant with a Type 47 ABC (On Sale General-Eating Place) license, located at 3351 E. Centrelake Drive within the Commercial land use designation of the Centrelake Business Park Specific Plan.

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### 1.0 TIME LIMIT

1.1 Conditional Use Permit approval shall become null and void one (1) year following the effective date of application approval, unless the approved use has commenced. This Permit does not supersede any individual time limits specified herein for performance of specific conditions or improvements.

### 2.0 GENERAL REQUIREMENTS

2.1 Failure to maintain compliance with the herein-listed conditions of approval shall be deemed just cause for revocation of conditional use permit approval.

2.2 The use shall be operated in full conformance with the description and requirements of the Conditional Use Permit on file with the City. Any variations from, or changes in, the approved use (i.e., increase in hours/days of operation, expansion or intensification of use, etc.), must first be reviewed and approved by the Zoning Administrator prior to commencement of the change.

2.3 The approved use is subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.

2.4 A copy of the herein-listed conditions of approval shall be maintained on the subject premises at all times. Copy of the conditions shall be kept next to your City approved business license. Conditions shall be available for review by Planning Staff at anytime during regular business hours.

2.5 Should the use for which conditional use permit approval has been granted ceases to exist or is suspended for ninety (90) or more consecutive days, such permit shall be deemed null and void.

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2.6 The Planning Department may, from time to time, conduct a review of the approved use to ascertain compliance with the herein-stated conditions of approval. Any noncompliance with the conditions of approval shall be immediately referred to the Zoning Administrator for possible action.

**3.0 PARKING AND CIRCULATION**

3.1 The project shall provide off-street parking spaces pursuant to the requirements of Ontario Municipal Code § 9-1.3010. Parking shall be calculated and continuously maintained in accordance with established standards, as follows:

<i>Use</i>	<i>Area (in SF)</i>	<i>Parking Ratio</i>	<i>Parking Spaces Required</i>
Restaurant	6,646	1:100 sq. ft. plus 1 loading space	67
<b>TOTAL</b>			<b>71</b>

**4.0 GRAFFITI REMOVAL**

- 4.1 Use of anti-graffiti material. Anti-graffiti material of a type and nature that is acceptable to the Director of Public Works, shall be applied to each of the publicly viewable surfaces on the improvements to be constructed on the site, which are deemed by the Director of Public Works to be likely to attract graffiti (“graffiti attracting surfaces”).
- 4.2 Right of access to remove graffiti. The City shall be granted the right of entry over and access to parcels, upon 48-hours of posting of notice by authorized City employees or agents, for the purpose of removing or “painting over” graffiti from graffiti attracting surfaces previously designated by the Director of Public Works, and the right to remove such graffiti.
- 4.3 Supply City with graffiti removal material. The City shall be provided sufficient matching paint and/or anti-graffiti material on demand, for a period of two (2) years after imposing this condition, for use in the painting over or removal of designated graffiti attracting surfaces.

**5.0 SITE LIGHTING**

5.1 Site lighting shall be reviewed and approved by the Planning Department and Police Department prior to the issuance of building/electrical permits.

- 5.2 Exterior lighting shall be arranged or shielded in such a manner as to contain direct illumination on the parking area and avoid glare on any adjoining site.
- 5.3 Along pedestrian movement corridors, the use of low mounted bollard light standards, which reinforce pedestrian scale, shall be encouraged. Steps, ramps and seatwalls should be illuminated wherever possible, with built-in light fixtures.

## **6.0 ALCOHOLIC BEVERAGE SALES**

- 6.1 The business shall be operated in strict compliance with the rules, regulations and orders of the State of California Department of Alcoholic Beverage Control. Failure to comply with this requirement shall be deemed just cause for revocation of conditional use permit approval.
- 6.2 One (1) year following commencement of the approved use, the Planning Department shall conduct a review of the approved use and shall prepare for Zoning Administrator consideration, a status report identifying impacts associated with the use and any non-compliance with the conditions of approval. In addition, such status report shall contain a police report regarding calls for service to the subject premises during the prior one (1) year period. Nothing herein shall modify or limit the City's ability to regulate the business or modify or revoke the permit upon the City's determination that the business is being operated in a manner adverse to the public health, safety and welfare.
- 6.3 Signs shall comply with all City of Ontario sign regulations. No more than 25% of the total window area shall bear advertising or signs of any sort. Window signs shall be placed and maintained in a manner so that there is clear and unobstructed view of the interior of the premises from the building exterior.
- 6.4 The rear doors shall be kept closed at all times during the operation of the premises, except in case of emergency or to permit deliveries.
- 6.5 In the event that security problems occur as a result of the approved subject use and at the request of the Police Department, the permit tee, at his/her own expense, shall provide a California licensed, uniformed security guard(s) on the subject premises, during such hours and in such number as requested by the Police Department.
- 6.6 The licensee shall attend a LEAD (Licensee Education on Alcohol and Drugs) training secession sponsored by the State of California Department of Alcoholic Beverage Control, within six (6) months of commencement of the approved use.

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

#### Restaurants

- 6.8 The establishment shall be operated as a “bona fide public eating place” as defined by Business and Professions Code § 23038. The restaurant shall contain full kitchen facilities for the cooking of an assortment of foods required for ordinary meals. The kitchen shall be open for the serving of meals to guests during all hours the establishment is open. The establishment shall provide an assortment of foods commonly ordered at various hours of the day. The service of sandwiches or salads shall not be deemed in compliance with this requirement.
- 6.9 The sale of alcoholic beverages shall be incidental to the sale of food. The quarterly gross sales of alcoholic beverages shall be less than 50% of the restaurants total sales, which includes all food, and alcoholic and non-alcoholic beverages. The owner of the establishment, upon request, shall provide the City of Ontario with an audited report of the sales ratio of food and non-alcoholic beverages to alcoholic beverages.
- 6.10 No alcoholic beverage shall be consumed outside of the enclosed building, except within the approved outdoor eating area, which has been designed so as to be adequately separated from direct public access.
- 6.11 Amplified music may be permitted; however, the sound emitted from the premises shall not exceed a noise level of 65dBA audible from the projects property lines.
- 6.12 Only live entertainment in the form of karaoke and DJ is allowed.

### **7.0 ENVIRONMENTAL REVIEW**

- 7.1 The proposed project is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to § Section 15301(Class 1- Existing Facilities) of the State CEQA Guidelines.
- 7.2 The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

**8.0 ADDITIONAL REQUIREMENTS**

- 8.1 Any required permits from Building and Safety shall be obtained prior to starting any remodeling work.



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



**TO:** Luis Batres, Senior Planner

**FROM:** Fred Alvarez, ABC Officer

**DATE:** August 25, 2011

**SUBJECT:** FILE NO. PCUP10-014– TGI FRIDAYS  
3351 EAST CENTRELAKE DRIVE

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The Police Department is placing the following conditions:

***RESTAURANT/ BAR CONDITIONS***

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1. Hours of alcohol service will be 7:00 A.M. to 2:00 A.M. daily. Last call for alcohol will be made at 1:15 A.M.
  2. No sales or service of alcoholic beverages to minors.
  3. No sales or service to obviously intoxicated patrons.
  4. No alcoholic beverages are to be sold or removed from the establishment for outside consumption.
  5. No smoking inside of establishment is permitted.
  6. There will be no narcotic sales or usage on the premises at any time.
  7. All restaurant employees servng alcohol must be 18 years or older.
  8. Employees engaged in servng alcohol inside the bar lounge area must be 21 years of age or older.
  9. No more than sixteen (16) stools will be allowed at the bar fixture in the bar lounge.
  10. The business is required to have and use driver license and/or ID card reading devices.
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11. Lighting within the establishment must be kept at a reasonable level as determined by city officials.
12. Food sales and service must be available for sale at all times. A menu will be submitted for review.
13. Back door must be alarmed and closed at all times.
14. Address to establishment must be illuminated for easy identification of safety personnel.
15. Roof top numbers shall be installed on the commercial building. They shall be a minimum of 3 feet in length and 1 foot in width. Numbers shall be painted in reflective white paint on a flat black background away from roof obstacles. Roof top numbers must be maintained every 3 years.
16. The parking lot will need adequate lighting (minimum 1 foot candle) from dusk to dawn.
17. Restrooms must be kept free of graffiti.
18. No arcade video game machines will be allowed in the premises.
19. All hallways must be kept clear from merchandise, storage, and patrons blocking pathway.
20. The applicant will be responsible for maintaining premises free of graffiti and litter over which the applicant has control and shall be responsible for its removal within 72 hours of its appearance or upon notice of its appearance to the applicant.
21. No loitering shall be permitted on any property adjacent to the licensed premise, which is under the control of the applicant, signs must be posted reference same
22. Applicant, security and all employees serving alcohol must attend an Alcohol Beverage Control (ABC) L.E.A.D. training class or a certified responsible beverage service class, which has been approved by ABC and Ontario Police Department, within three months of this dated conditional use permit. Proof of re-certification is required every 3 years.
23. A no trespass letter will be on file with the Police Department.

## ***ENTERTAINMENT CONDITIONS***

1. During entertainment hours of 9:00 PM to 1:00 AM, the location shall not exceed a noise level of 65dBA per section 9-1.3305 of the Ontario Development Code.

2. An entertainment area must be designated on a plan check and that area will only be allowed for entertainment purposes. (Karaoke, live entertainment)
3. Combination of dancing, and DJ/Live Band is prohibited.
4. Karaoke will be permitted the same hours of the restaurant, 7 days a week.
5. DJ will only to be allowed to set up on the area designated on the plan check as the DJ Area.
6. Tables shall not be removed or rearranged to increase occupancy, which has been approved on plans submitted with this conditional use permit.

### **SECURITY CONDITIONS**

1. A Code of Conduct will be required and posted at all public entrances of the establishment.
2. Ontario Police Officers have the right to limit or reduce the occupancy inside the establishment, if situations arise that may compromise the safety of patrons and the officer. Any additional police resources requested to bring peace in the establishment may be charged to the business owner.
3. Security personnel will be required to follow Ontario Municipal Code Article 6, Title 3, Section 3-1.601-621 (security regulations).

Any special event outside the scope of the Conditional Use Permit will require a TUP (Temporary Use Permit) which will be processed by the Planning Department and conditioned by the Ontario Police Department. (For example a radio station promotion held at the restaurant, or an outdoor event with alcoholic beverages would be a special event requiring Police or security personnel, but a community service organization breakfast meeting would not be considered a special event and therefore would not require additional security.)

If alcohol related crimes at this location are higher than other similar establishments in the overall City during any quarter, the CUP will automatically be referred to the Zoning Administrator for review and re-conditioning or revocation of the permit. The Police Department may, at their sole discretion, request a revocation hearing if they determine that the establishment is being operated in violation of this CUP or has violated the laws of the State or City are the intent of this action.

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

The Ontario Police Department and the Ontario Planning Department will conduct an inspection before the opening of the restaurant with the conditional use permit.

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

If you have any questions please call Fred Alvarez at (909) 395-2845.



# CITY OF ONTARIO

## MEMORANDUM

**TO:** Luis Batres, Planning Department

**FROM:** Michelle Starkey, Fire Safety Specialist  
Bureau of Fire Prevention

**DATE:** April 14, 2010

**SUBJECT:** PCUP10-014

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The plan does adequately address the departmental concerns at this time.

No comments

Report below.

1. Facility shall not exceed the maximum occupant load as determined by the Ontario Building Department and/or Ontario Fire Department.
2. All exit doors, aisles and corridors shall remain unobstructed at all times.
3. Exit signs and emergency lighting shall be in working order and equipped with battery back-up.
4. All fire protection systems/equipment shall be serviced and maintained in accordance with the California Fire Code and NFPA Standards.

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

**CITY OF ONTARIO  
LANDSCAPE ARCHITECTURE AND  
PLANNING**

303 East "B" Street, Ontario, CA 91764

Reviewer's Name:

**Carolyn Bell, Sr. Landscape Planner**

D.A.B. File No.:

**PCUP10-014**

Related Files:

-

Project Name and Location:

TGI Fridays

3351 East Centrelake Drive

Applicant/Representative:


Briad Restaurant Group, LLC

78 Okner Parkway

Livingston, NJ,

**DAB CONDITIONS OF APPROVAL**

Sign Off

  
Carolyn Bell, Sr. Landscape Planner

8/17/11

Date

Phone:

**(909) 395-2237**

Case Planner:

**Luis Batres**

<input checked="" type="checkbox"/>	<b>A site plan (submitted 7/12/11) has been approved with the consideration that the following conditions below be met.</b>
<input type="checkbox"/>	<b>A conceptual landscape plan (dated ) has not been approved. Applicable conditions are checked below. Corrections are required for DAB approval.</b>

**CONDITIONS OF APPROVAL**

1. Replace missing street trees on Centrelake Drive with 24" box Pyrus c. 'Aristocrat' spaced 25-30' apart, 10' from utilities and 5' from driveway or walkway edge.
2. Repair broken irrigation heads for complete coverage. Adjust or replace all irrigation heads to prevent overspray onto paving.
3. Replace dead or missing shrubs and groundcovers.
4. Remove stakes from established trees.
5. Replace damaged parking lot tree with like kind.
6. Remove weeds add mulch to cover bare soil between plants.
7. Replace irrigation controller for a 'smart' weather based irrigation controller or install moisture sensors to meet State Water Efficient Landscape Ordinance (AB1881).
8. Call for inspection of corrected landscape items

# ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



## DECISION NO. 2011-18

**HEARING DATE:** September 7, 2011

**DECISION DATE:** September 26, 2011

**FILE NO.:** PCUP11-015

**SUBJECT:** A Conditional Use Permit to expand the existing alcoholic beverage sales from a Type 41 (On-Sale Beer & Wine – Eating Place) license to a Type 47 (On-Sale General – Eating Place) license and add live entertainment in conjunction with Mariscos Sinaloa Style Restaurant, located at 2250 South Euclid Avenue, Unit E, within the C1 (Shopping Center Commercial) zoning district.

### STAFF

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

### PART A: BACKGROUND & ANALYSIS

MARISCOS SINOLA STYLE RESTAURANT, 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 allow for an Alcoholic Beverage Control (ABC) license upgrade from Type 41 (On-Sale Beer & Wine – Eating Place) to Type 47 (On-Sale General – Eating Place) and to establish live entertainment in conjunction with the existing Mariscos Sinaloa Style Restaurant, located at 2250 South Euclid Avenue, Unit E, within the C1 (Shopping Center Commercial) zoning district.
- (b) TOP Policy Plan Land Use Map Designation: General Commercial
- (c) Zoning Designation: C1 (Shopping Center Commercial)
- (d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	C3 (Commercial Service)	Multi-tenant commercial
South:	C3 (Commercial Service)	Vacant land/crop production
East:	C3 (Commercial Service)	Multi-tenant commercial
West:	R2 (Medium Density Residential)	Residential

- (e) Site Area: 6.7 acres
- (f) Assessor's Parcel No(s).: 1051-051-72
- (g) Project Analysis:

(1) Location & Operations: Mariscos Sinola Style Restaurant is located at the southwest corner of Euclid Avenue and Philadelphia Street, at 2250 South Euclid Avenue, Unit E. The restaurant is located within an existing multi-tenant commercial shopping center, which includes Food4Less and Savon Drugs anchor tenants, as well as a variety of other smaller tenants including Quiznos, clothing shop, cellular phone sales, donut shop, and Chinese food restaurant (**Exhibit A: Aerial Map & Exhibit B: Site Plan**). Mariscos Sinola Style Restaurant is a traditional Mexican style restaurant, which features seafood in many of their dishes. The restaurant was established in 2007.

Mariscos Sinola Style Restaurant has an approved Conditional Use Permit (File No. PCUP07-034) for the sale of alcoholic beverages (beer and wine only), which was approved on 11-05-2007. The restaurant is in the process of expanding into the adjacent tenant space to the south. The existing restaurant is 1,400 square feet in area and the expansion is 2,772 square feet in area, totaling 4,172 square feet of floor area. In addition to the expansion, the owners are requesting an upgrade from a Type 41 (On-Sale Beer & Wine – Eating Place) ABC license to a Type 47 (On-Sale General – Eating Place) ABC license, and to establish live entertainment. As a result of the expansion, ABC license upgrade, and addition of live entertainment, Conditional Use Permit modification is required.

(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. Mariscos Sinola Style Restaurant is located within Census Tract 17.01. The Census Tract is generally bordered by the CA-60 Freeway on the south, Euclid Avenue on the east, Mission Boulevard on the north, and Mountain Avenue on the west. ABC has determined that Census Tract 17.01 can support 14 On-Sale ABC license types. As of August, 2011, the latest ABC report shows Census Tract 17.01 as having a total number of 6 active On-Sale licenses (Including the existing Mariscos Sinola Style Restaurant license), 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) Live Entertainment: In addition to the alcoholic beverage control license upgrade and restaurant expansion, Mariscos Sinola Style Restaurant is proposing to provide live entertainment. Although a raised platform stage will not be constructed within the restaurant, a dedicated location at the southwest corner inside will become the live entertainment area and include a karaoke machine and speaker system (**Exhibit C: Floor Plan**). On special occasions, a Mariachi style band will play at the restaurant and may wander through the restaurant during dining hours. The Police

Department is in support of the addition of live entertainment and has imposed conditions pursuant to its operations, which are attached to this report.

(4) 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 and live entertainment are conditionally permitted uses. 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 and live entertainment, beyond those that would normally be associated with any other use similarly allowed within the C1 (Shopping Center Commercial) zoning district.

(5) 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, Police, Fire, Engineering, Utilities, Housing, and Landscaping 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 the expansion of floor area, alcoholic beverage sales, and live entertainment. Additionally, staff is recommending nullifying the previously approved Conditional Use Permit (CUP), File No. PCUP07-34, which allowed alcoholic beverages sales at Mariscos Sinola Style Restaurant. This CUP, File No. PCUP11-015, including all conditions of approval, replaces the previous CUP.

(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 7<sup>th</sup> day of September 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) Adriana Padilla, the applicant and owner of Mariscos Sinola Style Restaurant, explained the business operation and spoke in favor of the application.

(c) In response to questions from the Zoning Administrator, Adriana Padilla clarified the location of the live entertainment area. Previously, the area was shown as being adjacent to the kitchen area along the south wall. The revised located is adjacent to the front entry, still along the south wall. **Exhibit C: Floor Plan** has been modified to reflect this correction.

(d) Item Number 2 under the Entertainment Conditions, imposed by the Police Department, states that a maximum 5 member band is allowed. Adriana Padilla and her husband explained that a traditional Mariachi style band has 12 members and requested the 5 member limitation be increased to 12. The Zoning Administrator expressed his concerns of overcrowding and noise as a result of having 12 band members in a relatively small restaurant. The applicant agreed that 12 is a large number but stated he would ensure that the band and all live entertainment would not spill out of the restaurant and that he would control the occupancy of the restaurant at all times. Officer Fred Alvarez, (OPD) addressed this issue and agreed that increasing the number to 12 would be alright as long as the conditions of approval for noise and

maximum occupancy were complied with. He recommended that the COA be modified accordingly (condition Number 2 of the Police Department Entertainment Conditions).

(e) Adriana Padilla stated that in the future, she may want additional forms of live entertainment, including a stage/raised platform and dance area. Staff explained that any changes to the type of live entertainment approved through this CUP would be required to be reviewed and subsequently approved through a CUP modification.

(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 alcoholic beverage sales and live entertainment in conjunction with the existing Mariscos Sinola Style Restaurant lies within the C1 (Shopping Center Commercial) land use designation.

(2) Alcoholic beverage sales and live entertainment 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. The location of the Mariscos Sinola Style Restaurant and associated alcoholic beverage sales and live entertainment 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. The Alcoholic Beverage Control license upgrade and live entertainment will not generate a significant amount of new traffic. As a result, the use will not create a public safety hazard.

(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 the use will ensure compliance with all provisions in the Ontario municipal code.

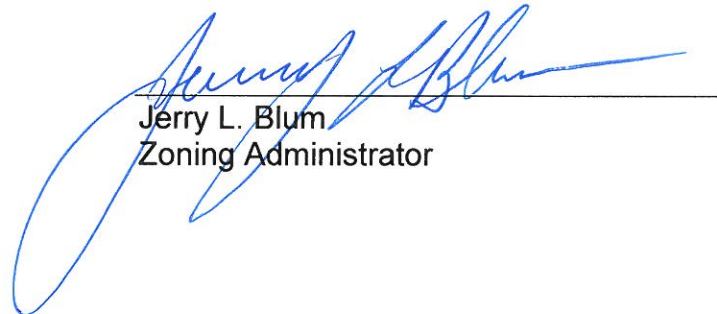
(c) The Zoning Administrator hereby finds and determines that the project identified in this Decision is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant State CEQA Guidelines Section § 15301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

(d) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP11-015, subject to the conditions of approval (as amended) attached hereto and incorporated herein by this reference.

(e) In conjunction with approval of this CUP, File No. PCUP11-015, the previous CUP, File No. PCUP07-034 is nullified. All conditions of approval associated with this CUP are in effect as a part of CUP11-015.



APPROVED by the Zoning Administrator of the City of Ontario on this 26th day of September, 2011.



Jerry L. Blum  
Zoning Administrator

EXHIBITS

Exhibit A: Aerial Map

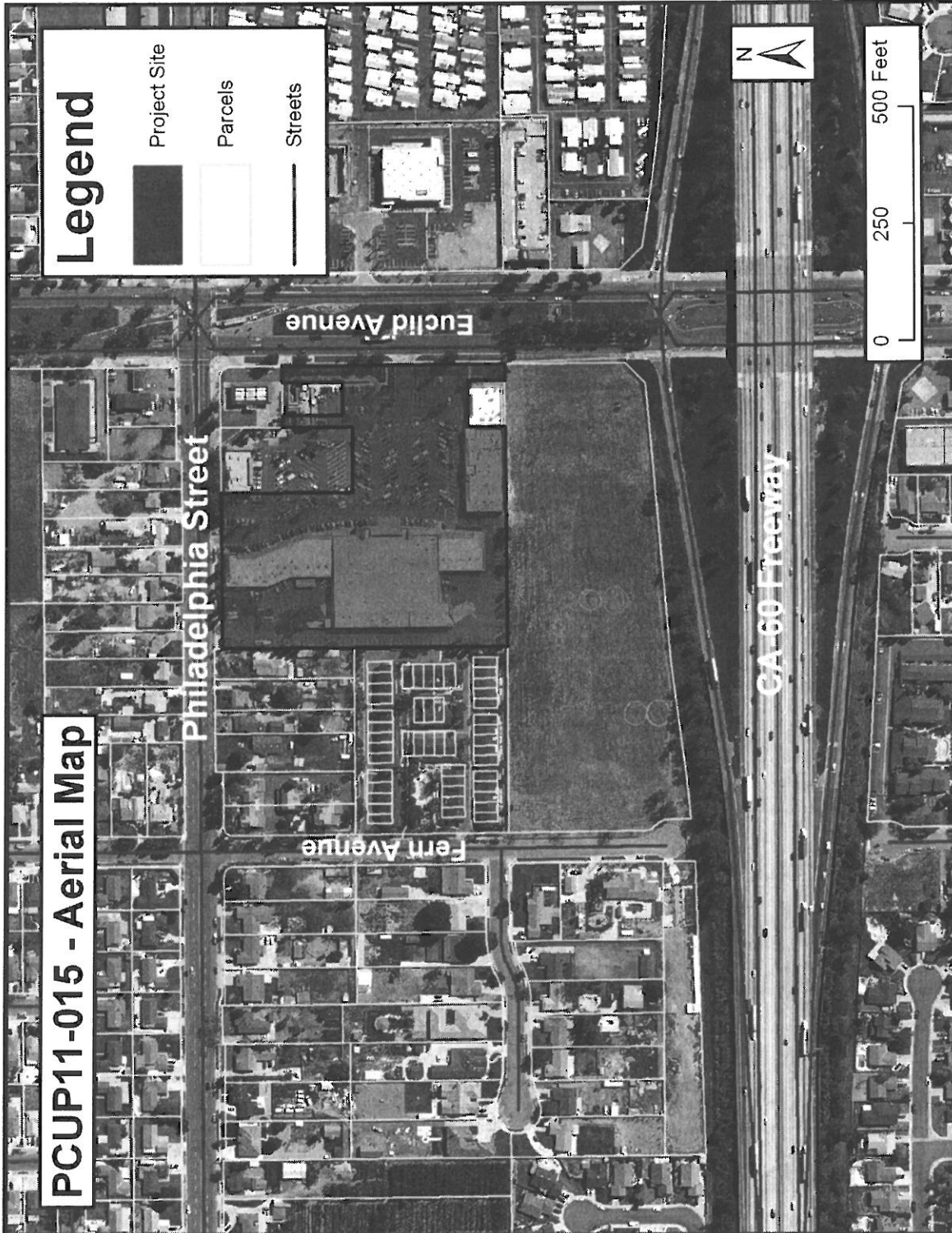


Exhibit B: Site Plan

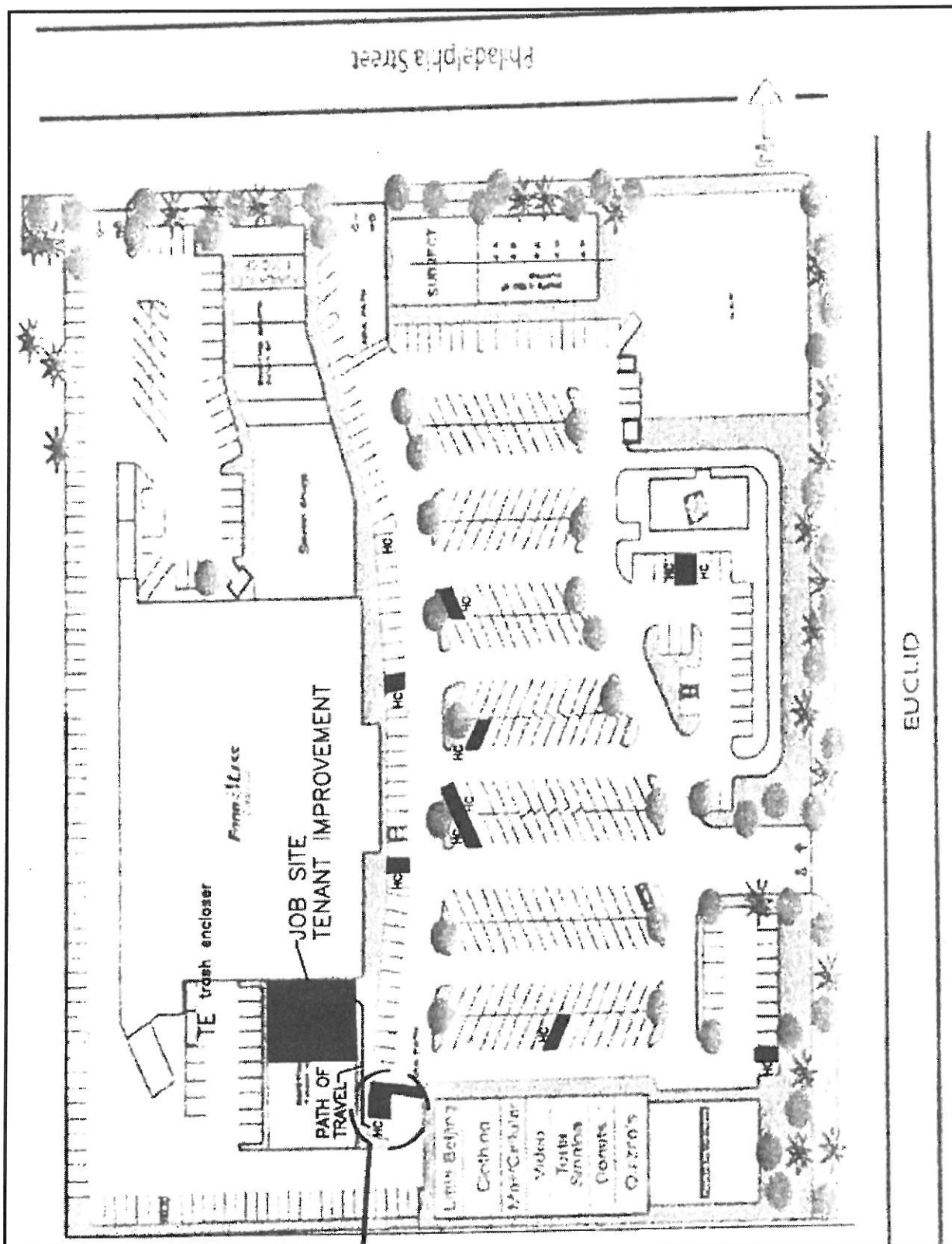
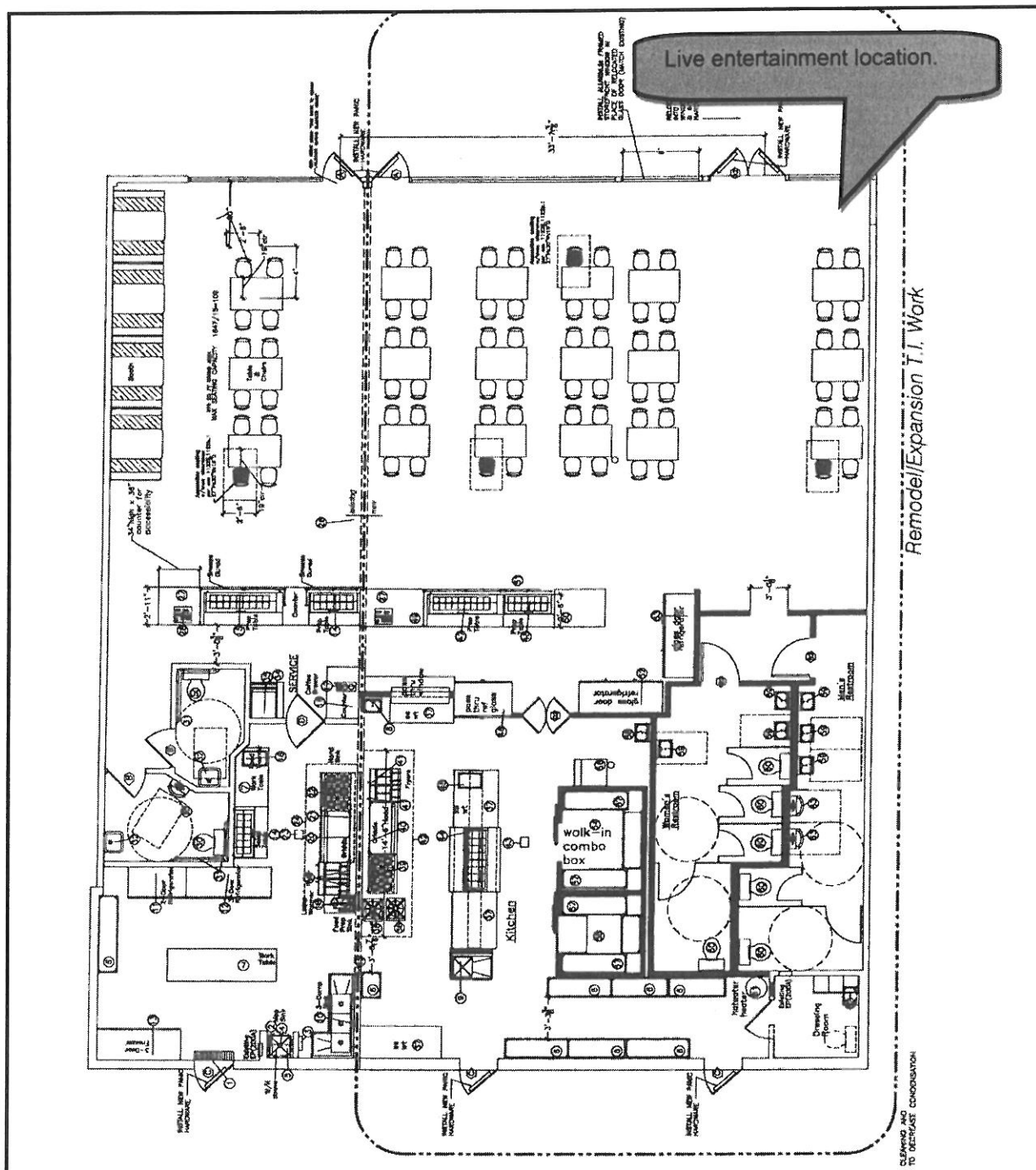


EXHIBIT C: Floor Plan



**Exhibit D: Site Photos**



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

**DATE:** 09-07-2011

**FILE NO.:** PCUP11-015

**SUBJECT:** A Conditional Use Permit to expand the existing alcoholic beverage sales from a Type 41 (On-Sale Beer & Wine – Eating Place) license to a Type 47 (On-Sale General – Eating Place) license and add live entertainment in conjunction with Mariscos Sinaloa Style Restaurant, located at 2250 South Euclid Avenue, Unit E, within the C1 (Shopping Center Commercial) 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
- LANDSCAPING
  
- BUILDING

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





## CONDITIONS OF APPROVAL

**DATE:** 09-07-2011

**FILE NO.:** PCUP11-015

**SUBJECT:** A Conditional Use Permit to expand the existing alcoholic beverage sales from a Type 41 (On-Sale Beer & Wine – Eating Place) license to a Type 47 (On-Sale General – Eating Place) license and add live entertainment in conjunction with Mariscos Sinaloa Style Restaurant, located at 2250 South Euclid Avenue, Unit E, within the C1 (Shopping Center Commercial) zoning district.

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### 1.0 GENERAL REQUIREMENTS

- 1.1 Failure to maintain compliance with the herein-listed conditions of approval shall be deemed just cause for revocation of conditional use permit approval.
- 1.2 The use shall be operated in full conformance with the description and requirements of the Conditional Use Permit on file with the City. Any variations from, or changes in, the approved use (i.e., increase in hours/days of operation, expansion or intensification of use, etc.), must first be reviewed and approved by the Zoning Administrator prior to commencement of the change.
- 1.3 The approved use is subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.
- 1.4 A copy of the herein-listed conditions of approval shall be maintained on the subject premises at all times.
- 1.5 The Planning Department may, from time to time, conduct a review of the approved use to ascertain compliance with the herein-stated conditions of approval. Any noncompliance with the conditions of approval shall be immediately referred to the Zoning Administrator for possible action.

### 2.0 GRAFFITI REMOVAL

- 2.1 Use of anti-graffiti material. Anti-graffiti material of a type and nature that is acceptable to the Director of Public Works, shall be applied to each of the publicly viewable surfaces on the improvements to be constructed on the site, which are deemed by the Director of Public Works to be likely to attract graffiti (“graffiti attracting surfaces”).
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- 2.2 Right of access to remove graffiti. The City shall be granted the right of entry over and access to parcels, upon 48-hours of posting of notice by authorized City employees or agents, for the purpose of removing or "painting over" graffiti from graffiti attracting surfaces previously designated by the Director of Public Works, and the right to remove such graffiti.
- 2.3 Supply City with graffiti removal material. The City shall be provided sufficient matching paint and/or anti-graffiti material on demand, for a period of two (2) years after imposing this condition, for use in the painting over or removal of designated graffiti attracting surfaces.

### **3.0 ALCOHOLIC BEVERAGE SALES**

- 3.1 The business shall be operated in strict compliance with the rules, regulations and orders of the State of California Department of Alcoholic Beverage Control. Failure to comply with this requirement shall be deemed just cause for revocation of conditional use permit approval.
- 3.2 One (1) year following commencement of the approved use, the Planning Department shall conduct a review of the approved use and shall prepare for Zoning Administrator consideration, a status report identifying impacts associated with the use and any non-compliance with the conditions of approval. In addition, such status report shall contain a police report regarding calls for service to the subject premises during the prior one (1) year period. Nothing herein shall modify or limit the City's ability to regulate the business or modify or revoke the permit upon the City's determination that the business is being operated in a manner adverse to the public health, safety and welfare.
- 3.3 Signs shall comply with all City of Ontario sign regulations. No more than 25% of the total window area shall bear advertising or signs of any sort. Window signs shall be placed and maintained in a manner so that there is clear and unobstructed view of the interior of the premises from the building exterior.
- 3.4 The rear doors shall be kept closed at all times during the operation of the premises, except in case of emergency or to permit deliveries.
- 3.5 In the event that security problems occur as a result of the approved subject use and at the request of the Police Department, the permittee, at his/her own expense, shall provide a California licensed, uniformed security guard(s) on the subject premises, during such hours and in such number as requested by the Police Department.
- 3.6 The licensee shall attend a LEAD (Licensee Education on Alcohol and Drugs) training secession sponsored by the State of California Department

of Alcoholic Beverage Control, within six (6) months of commencement of the approved use.

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

#### Restaurants

- 3.8 The establishment shall be operated as a “bona fide public eating place” as defined by Business and Professions Code § 23038. The restaurant shall contain full kitchen facilities for the cooking of an assortment of foods required for ordinary meals. The kitchen shall be open for the serving of meals to guests during all hours the establishment is open. The establishment shall provide an assortment of foods commonly ordered at various hours of the day. The service of sandwiches or salads shall not be deemed in compliance with this requirement.
- 3.9 The sale of alcoholic beverages shall be incidental to the sale of food. The quarterly gross sales of alcoholic beverages shall be less than 50% of the restaurants total sales, which includes all food, and alcoholic and non-alcoholic beverages. The owner of the establishment, upon request, shall provide the City of Ontario with an audited report of the sales ratio of food and non-alcoholic beverages to alcoholic beverages.
- 3.10 No alcoholic beverage shall be consumed outside of the enclosed building, except within the approved outdoor eating area, which has been designed so as to be adequately separated from direct public access.

#### **4.0 LIVE ENTERTAINMENT**

- 4.1 Live entertainment is allowed, pursuant to the related conditions of approval provided by the Police department.

#### **5.0 ENVIRONMENTAL REVIEW**

- 5.1 The proposed project is categorically exempt from the requirements of the California Environmental Quality Act of 1970, as amended, and the Guidelines promulgated thereunder, pursuant to State CEQA Guidelines Section § 15301 (Existing Facilities).
- 5.2 The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

**6.0 PREVIOUS CONDITIONAL USE PERMIT**

- 6.1 The previous Conditional Use Permit, File No. PCUP07-034, which entitled Mariscos Sinola Style Restaurant to serve alcoholic beverages (Beer and wine only), is hereby nullified.
- 6.2 This Conditional Use Permit, File No. PCUP11-015 and the accompanying conditions of approval, entitle Mariscos Sinola Style Restaurant to Serve alcoholic beverages with an upgraded license Type 47 (On-Sale General – Eating Place) and provide live entertainment.



**CITY OF ONTARIO**  
**MEMORANDUM**  
*"Excellence Through Teamwork"*



**TO:** John Hildebrand, Planner  
**FROM:** Fred Alvarez, ABC Officer  
**DATE:** August 25, 2011  
**SUBJECT:** FILE NO. PCUP11-015-- Mariscos Sinola Style  
2250 S. EUCLID AVENUE

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The Police Department is placing the following conditions:

**ALCOHOL SERVING CONDITIONS**

1. Hours of alcohol service will be 9:00 A.M. to 12:00 A.M. daily.
2. No sales or service of alcoholic beverages to minors.
3. No sales or service to obviously intoxicated patrons.
4. No alcoholic beverages are to be sold or removed from the establishment for outside consumption.
5. No smoking inside of establishment is permitted.
6. There will be no narcotic sales or usage on the premises at any time.
7. All restaurant employees servng alcohol must be 21 years or older.
8. The business is required to have and use driver license and/or ID card reading devices.
9. Lighting within the establishment must be kept at a reasonable level as determined by city officials.
10. Food sales and service must be available for sale at all times. A menu will be submitted for review.

11. Back door must be alarmed and closed at all times.
12. Address to establishment must be illuminated for easy identification of safety personnel.
13. Roof top numbers shall be installed on the commercial building. They shall be a minimum of 3 feet in length and 1 foot in width. Numbers shall be painted in reflective white paint on a flat black background away from roof obstacles. Roof top numbers must be maintained every 3 years.
14. The parking lot will need adequate lighting (minimum 1 foot candle) from dusk to dawn.
15. Restrooms must be kept free of graffiti.
16. A juke box is allowed, but shall not be audible outside the establishment.
17. No pool tables or amusement games permitted inside establishment.
18. All hallways must be kept clear from merchandise, storage, and patrons blocking pathway.
19. The applicant will be responsible for maintaining premises free of graffiti and litter over which the applicant has control and shall be responsible for its removal within 72 hours of its appearance or upon notice of its appearance to the applicant.
20. No loitering shall be permitted on any property adjacent to the licensed premise, which is under the control of the applicant, signs must be posted reference same
21. Applicant, security and all employees serving alcohol must attend an Alcohol Beverage Control (ABC) L.E.A.D. training class or a certified responsible beverage service class, which has been approved by ABC and Ontario Police Department, within three months of this dated conditional use permit. Proof of re-certification is required every 3 years.
22. A no trespass letter will be on file with the Police Department.

### **ENTERTAINMENT CONDITIONS**

1. During entertainment hours of 9:00 AM to 11:00 PM, the location shall not exceed a noise level of 65dBA per section 9-1.3305 of the Ontario Development Code.
2. During restaurant hours a 5-piece band is permitted daily.
3. Karaoke will be permitted the same hours of the restaurant, 7 days a week in an area
4. Live entertainment involving a combination of DJ/Live Entertainment and Dancing is prohibited at the location.

5. Cover charge to patrons is prohibited at the location.
6. Tables shall not be removed or rearranged to increase occupancy, which has been approved on plans submitted with this conditional use permit.

### **SECURITY CONDITIONS**

1. A Code of Conduct will be required and posted at all public entrances of the bar lounge.
2. Ontario Police Officers have the right to limit or reduce the occupancy inside the establishment, if situations arise that may compromise the safety of patrons and the officer. Any additional police resources requested to bring peace in the establishment may be charged to the business owner.
3. Any security personnel hired will be required to follow Ontario Municipal Code Article 6, Title 3, Section 3-1.601-621 (security regulations).

Any special event outside the scope of the Conditional Use Permit will require a TUP (Temporary Use Permit) which will be processed by the Planning Department and conditioned by the Ontario Police Department. (For example a radio station promotion held at the restaurant, or an outdoor event with alcoholic beverages would be a special event requiring Police or security personnel, but a community service organization breakfast meeting would not be considered a special event and therefore would not require additional security.)

If alcohol related crimes at this location are higher than other similar establishments in the overall City during any quarter, the CUP will automatically be referred to the Zoning Administrator for review and re-conditioning or revocation of the permit. The Police Department may, at their sole discretion, request a revocation hearing if they determine that the establishment is being operated in violation of this CUP or has violated the laws of the State or City are the intent of this action.

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

The Ontario Police Department and the Ontario Planning Department will conduct an inspection before the serving of distilled spirits and live entertainment by the restaurant with the conditional use permit.

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

If you have any questions please call Fred Alvarez at (909) 395-2845.



## CITY OF ONTARIO MEMORANDUM

**TO:** John Hildebrand, Planning Department

**FROM:** Kenna Leonard, Fire Safety Specialist  
Fire Prevention Bureau

**DATE:** July 26, 2011

**SUBJECT:** A Conditional Use Permit to expand the existing alcoholic beverage sales (Type 41 License) and add live entertainment in conjunction with Mariscos Sinaloa Style Restaurant, located 2250 South Euclid Avenue, Unit E, within the C1 (Shopping Center Commercial) zoning district (APN: 1051-051-72)  
Related File: PCUP07-034.

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- The plan does not adequately address the departmental concerns at this time.
- No comments
- Report below.
- 

An automatic sprinkler system shall be provided for Group A-2 occupancies where the fire area has an occupancy load of 100 or more.

Two exits are required for A-2 occupancy type

A permit is required for Place of Assembly

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





# CITY OF ONTARIO MEMORANDUM

## ENGINEERING DEPARTMENT CONDITIONS OF APPROVAL

(Traffic/Transportation Division and Municipal Utilities Agency, and Environmental Section Conditions incorporated)

**DATE:** 08.22.2011

**PROJECT PLANNER:** John Hildebrand, Planning Department

**PROJECT:** PCUP11-015, a Conditional Use Permit to expand the existing alcoholic beverage sales (Type 41 License) and add live entertainment in conjunction with Mariscos Sinaloa Style Restaurant, located 2250 South Euclid Avenue, Unit E, within the C1 (Shopping Center Commercial) zoning district.

**RELATED FILE:** PCUP07-034

**APN:** 1051-051-72

**LOCATION:** 2250 South Euclid Avenue, Unit E

**PROJECT ENGINEER:** Arij Baddour, Engineering Department

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**ENGINEERING DEPARTMENT HAS CONDITIONS FOR THE MOST RECENT SUBMITTAL OF THE ABOVE REFERENCED SITE.**

- Developer is required to install backflow prevention assembly to existing domestic water connection per City of Ontario standard # 4206 or 4207.



## CITY OF ONTARIO MEMORANDUM

**Date:** July 12, 2011  
**To:** Arij Baddour, Engineering  
**Cc:**  
**From:** Sheldon Yu, Utilities  
**Subject:** DPR No. 1 - Utilities Comments (#2674)  
**Project No.:** PCUP11-015 (ABC + restaurant exp.)


<b>Project</b>	Project Location: 2250 S. Euclid Ave. Project Description: ABC License + Restaurant Expansion Applicant: Mariscos Sinaloa Style Restaurant  <b>Note: All Utility design shall meet the City's Design Development Guidelines and Specifications Design Criteria.</b>
<b>General</b>	PCUP11-015 <i>MARISCOS SINOLOA STYLE ATTN: ADRIANA PADILLA</i> A Conditional Use Permit to expand the existing alcoholic beverage sales (Type 41 License) and add live entertainment in conjunction with Mariscos Sinaloa Style Restaurant, located 2250 South Euclid Avenue, Unit E, within the C1 (Shopping Center Commercial) zoning district. <i>RELATED FILE: PCUP07-034</i>
<b>Water Service</b>	1. RP/backflow installation is required.
<b>Sewer System</b>	2. Ensure that the existing/proposed grease interceptor can handle future increased sewage flows.

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**CITY OF ONTARIO  
MEMORANDUM**

**TO:** John Hildebrand, Associate Planner

**FROM:**  Brent Schultz, Housing and Neighborhood Revitalization Director

**DATE:**  August 17  
July 25, 2011

**SUBJECT:** FILE NO. PCUP11-015

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The Housing Department has the following conditions and comments on the above mentioned project:

**Comment**

- Applicant to be aware that live entertainment under this Conditional Use Permit approval shall be conducted indoors only. No outdoor live entertainment is allowed or permitted.

# ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



## DECISION NO. 2011-19

**HEARING DATE:** September 19, 2011  
**DECISION DATE:** September 29, 2011  
**FILE NO.:** PCUP11-011  
**SUBJECT:** A Conditional Use Permit to establish a martial arts studio, located at 1165 East Acacia Court, within the Business Park land use district of the Grove Avenue Specific Plan.

### STAFF

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

### PART A: BACKGROUND & ANALYSIS

GEORGE FULLERTON, 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 martial arts studio, located at 1165 East Acacia Court, within the Business Park land use district of the Grove Avenue Specific Plan. The use is proposed within an approximate 1,350 square foot suite within a 7,850 square foot existing building.

(b) TOP Policy Plan Land Use Map Designation: Business Park

(c) Zoning Designation: Business Park land use district of the Grove Avenue Specific Plan.

(d) Surrounding Zoning and Land Uses:

	<i>Zoning</i>	<i>Existing Land Use</i>
North:	Grove Ave. SP – Business Park	Industrial Building
South:	Grove Ave. SP – Business Park	Industrial Building
East:	Grove Ave. SP – Business Park	Industrial Building
West:	Grove Ave. SP – Business Park	Industrial Building

(e) Site Area: 0.58 acres

(f) Assessor's Parcel No(s): 1050-151-13

Approved By:

-1-

CM Senior Planner

Form Revised: 02/02/2010

(g) Project Analysis:

Operations: Proposed hours of operation for the martial arts studio are from 4:45 to 8:45 p.m., Monday, Tuesday, Wednesday and Friday. Classes would consist of 15 to 20 students with a martial arts instructor. It is anticipated that one-hour children's classes would be scheduled from 5:00 to 7:00 p.m., Monday, Tuesday, Wednesday and Friday. Adult classes would be scheduled from 7:15 to 8:30 p.m., Monday, Wednesday and Friday.

Land Use Compatibility: Conditional Use Permit reviews are performed in order to weigh the compatibility of a proposed land use with adjacent uses, and establish measures to mitigate potential nuisance activities.

The potential impacts of a martial arts studio relate to parking. The existing 7,850 square foot building is currently occupied by 99 Precision Tools, a business that machines metal parts. At the manufacturing parking standard of 1 space per 500 square feet, the building must provide 16 parking spaces for the current use. Utilizing 1,350 square feet of the building for a martial arts studio increases the parking required for that area to 1 space per 200 square feet. This increases the overall required parking from 16 spaces to 20 spaces. The property provides 25 parking spaces. Therefore, the required parking to accommodate the martial arts studio has been provided on-site.

The proposed location of the martial arts studio is within the Business Park land use district of the Grove Avenue Specific Plan. This district allows light industrial, research and development, and administrative office uses with ancillary retail. Entertainment and recreation uses are allowed upon approval of a Conditional Use Permit. The other on-site use at this location is a machine shop with hours of operation from 6:00 a.m. to 4:00 p.m. No conflict between uses is anticipated. The site is not designed to accommodate large trucks. As such, no significant impacts on the clients of the martial arts studio are anticipated.

Airport Land Use Compatibility Plan (ALUCP) Consistency: The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT. The proposed project is for a new use (martial arts studio) that will be located within an existing building. The project site is located outside of the safety zones but is located within the 65-70 CNEL noise contour. Indoor recreation uses such as a martial arts studio are allowed within the 65-70 CNEL noise contour. Airspace Protection policies and Overflight Notification policies do not apply to this project since the proposed project does not include any new construction that would affect Airspace Protection or require Overflight Notification. Therefore, the proposed project is consistent with the ALUCP for ONT.

Departmental Comments: City departments were given the opportunity to review the subject application and all are recommending approval of the application. The Planning, Building, Landscape, Police and Fire departments have placed conditions on the martial arts studio use per the attached reports.

(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 19th day of September, 2011, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(a) Associate Planner Clarice Burden, 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) George Fullerton, the applicant, explained the business operation and spoke in favor of the application. He indicated that he has a 40 year history with martial arts and is a former public school educator and feels that his martial arts program will be positive for the community.

The Zoning Administrator asked Mr. Fullerton about the businesses in the surrounding area and compliance with various conditions of approval including the planting of a tree and installing doors for the trash enclosure. Jerry Blum, Zoning Administrator, asked Ms. Burden to refer to page two of the staff report referring to the surrounding and or adjacent land uses. He asked if the machine shop is located to the west of the building. Ms. Burden stated the other portions of the existing building are occupied by the machine shop.

Mr. Blum asked if the machine shop is a permitted use in the Business Park. Ms. Burden answered that light industrial and manufacturing uses are permitted in the Business park and the only types of businesses that would require a Conditional Use Permit in this Business park are automotive or truck repair and Commercial uses including entertainment, health clubs and spas.

Mr. Blum questioned the type of work that is operating next to the business. Ms. Burden stated the owner of the machine shop next to this business who is also the owner of the building operates a business that machines parts made out of metal.

Mr. Blum referred to page eight of the staff report showing the floor plan. He asked if the public entry into the studio is from the south into the office area. Ms. Burden answered it is located on the east side of the building which faces the parking lot and the entrance to the south is for emergency exits. The hatched area is for the proposed Martial Arts Studio.

Mr. Blum referred to page ten of the staff report, section 2.5. and asked if the term "null and void" be used if they have not yet instituted their use. The actual term should probably be "abandoned." Ms. Burden stated we may want to verify with BB&K for legal consistency of the terms.

Mr. Blum referred to page fifteen of the staff report and asked if building lights complied with the Police Department. Ms. Burden referred the question to the owner for a later time.

Mr. Blum asked if the applicant is proposing an alarm system for the building. Ms. Burden stated the building already has an alarm system.

(c) Applicant, George Fullerton, 1165 E. Acacia Court Suite B Ontario, CA, spoke of their operation and the good it will bring to the community of Ontario. He has been involved in martial arts for over forty years and is a former educator.

Mr. Blum stated this was the most eloquent statement he has heard from an applicant in thirty-six years of experience. Mr. Blum asked what type of impacts may affect the business from surrounding business and asked if the plant tree is still missing near mailboxes.

Mr. Fullerton stated he does not feel the Martial Arts Studio would impact the surrounding uses since his hours of operation are different from the others and their hours will also not be affected his. He had no questions on staff report and no concerns with the conditions. He stated the plant tree issue has been completed. The metal gate is also in progress. They are receiving bids to correct the condition. The parking lot is well lit. Mr. Fullerton requested the decision be expedited if possible due to the amount of rent he is paying out in the meantime.



Mr. Fullerton indicated that the tree has already been planted and that the door for the trash enclosure is in the works. He stated that he does not think there would be an impact with the surrounding uses since his hours of operation are different from the others. He indicated that he had no questions on the staff report and no concerns with the conditions.

(d) There being no one else to offer testimony regarding the application, the Zoning Administrator closed the public hearing. Mr. Blum stated he appreciates the comments of Mr. Fullerton. He believes this will be a positive program for the community and the applicant appears to have a good background to help the community.

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 martial arts studio lies within the Business Park land use district of the Grove Avenue Specific Plan.

(2) A martial arts studio 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.

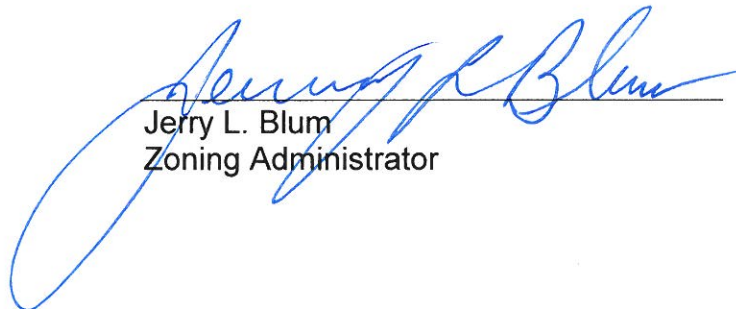
(6) The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

(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.

(d) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP11-011, 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 29th day of September, 2011.



Jerry L. Blum  
Zoning Administrator

Exhibit 1  
Aerial view

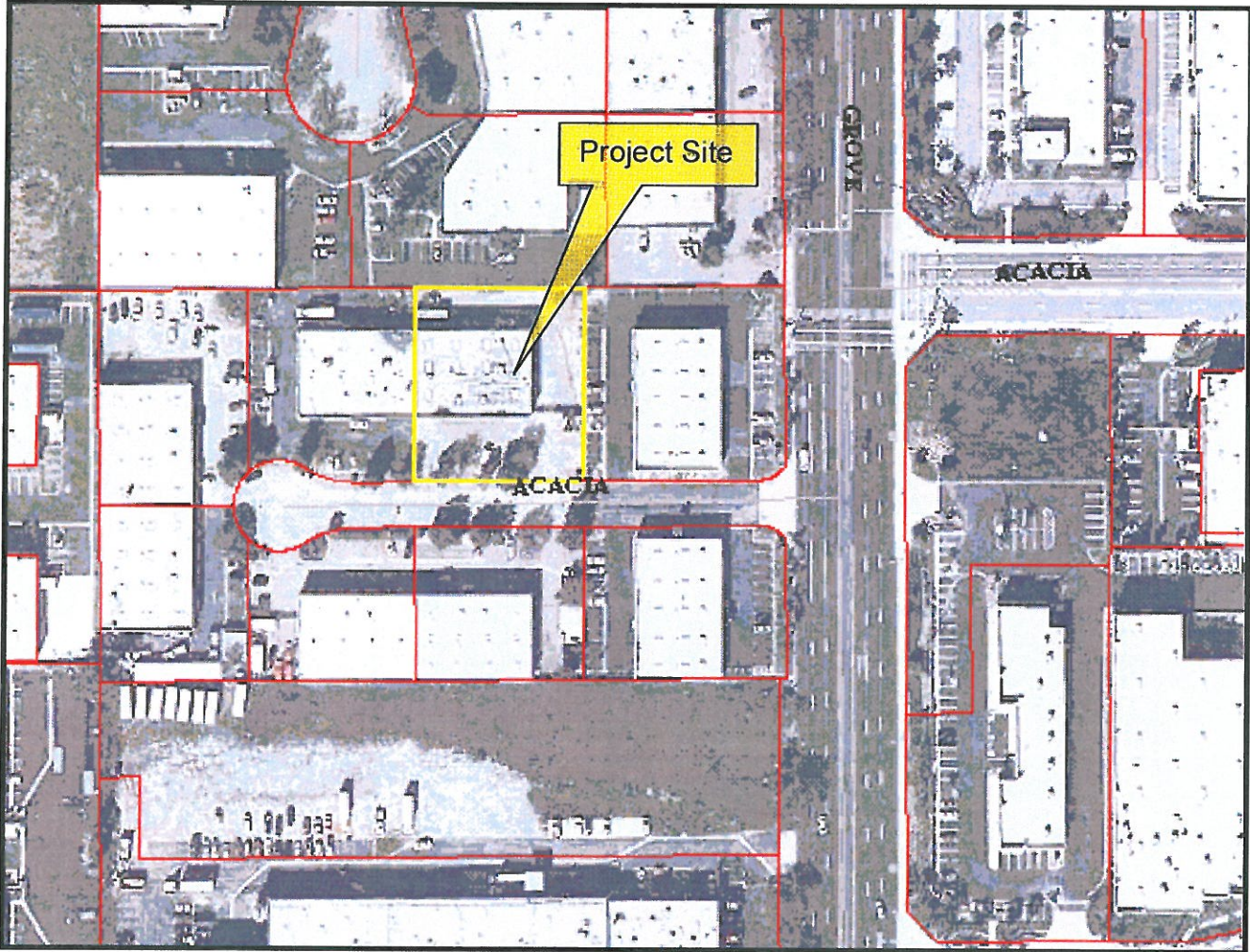


Exhibit 2  
Site Plan

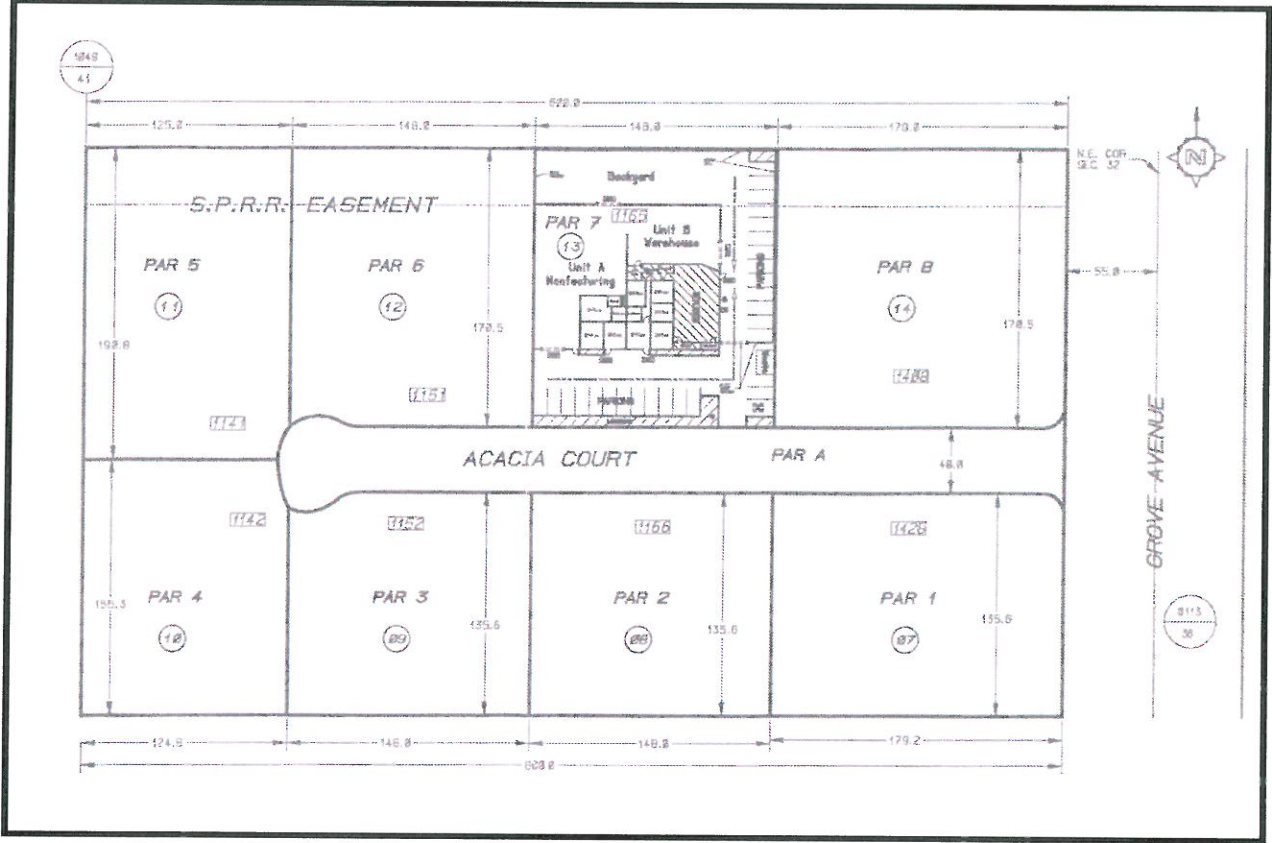
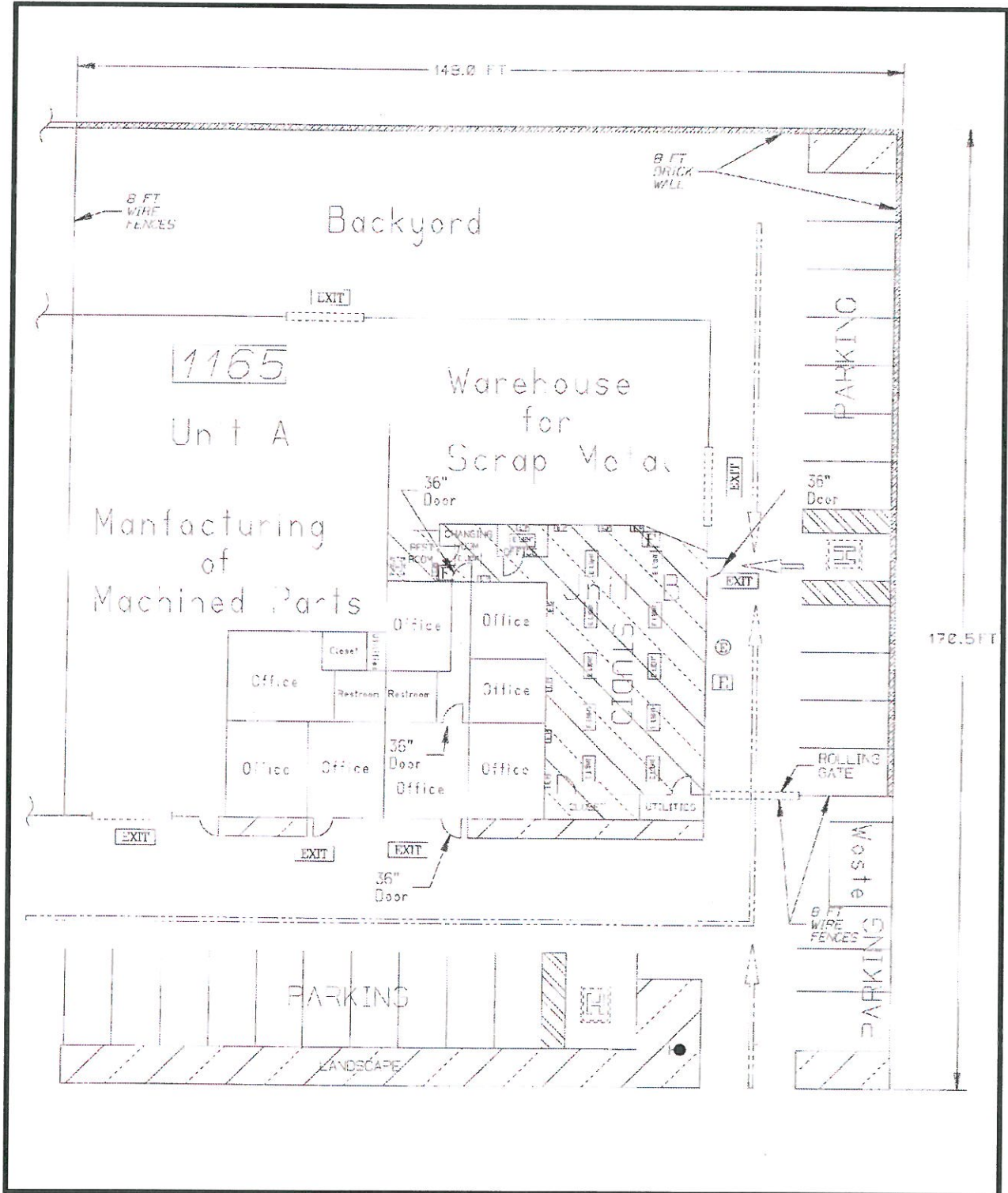


Exhibit 3  
Floor Plan



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

**DATE:** September 19, 2011

**FILE NO.:** PCUP11-011

**SUBJECT:** A Conditional Use Permit to establish a martial arts studio, located at 1165 East Acacia Court, within the Business Park land use district of the Grove Avenue Specific Plan.

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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: \_\_\_\_\_



## CONDITIONS OF APPROVAL

**DATE:** September 19, 2011

**FILE NO.:** PCUP11-011

**SUBJECT:** A Conditional Use Permit to establish a martial arts studio, located at 1165 East Acacia Court, within the Business Park land use district of the Grove Avenue Specific Plan.

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### 1.0 TIME LIMIT

1.1 Conditional Use Permit approval shall become null and void one (1) year following the effective date of application approval, unless the approved use has commenced. This Permit does not supersede any individual time limits specified herein for performance of specific conditions or improvements.

### 2.0 GENERAL REQUIREMENTS

- 2.1 Failure to maintain compliance with the herein-listed conditions of approval shall be deemed just cause for revocation of conditional use permit approval.
- 2.2 The use shall be operated in full conformance with the description and requirements of the Conditional Use Permit on file with the City. Any variations from, or changes in, the approved use (i.e., increase in hours/days of operation, expansion or intensification of use, etc.), must first be reviewed and approved by the Zoning Administrator prior to commencement of the change.
- 2.3 The approved use is subject to all conditions, requirements and recommendations from all other affected departments/agencies, provided on the attached reports/memorandums.
- 2.4 A copy of the herein-listed conditions of approval shall be maintained on the subject premises at all times.
- 2.5 The Planning Department may, from time to time, conduct a review of the approved use to ascertain compliance with the herein-stated conditions of approval. Any noncompliance with the conditions of approval shall be immediately referred to the Zoning Administrator for possible action.

### 3.0 PARKING AND CIRCULATION

3.1 The project shall provide off-street parking spaces pursuant to the requirements of Ontario Municipal Code § 9-1.3010. Parking shall be calculated and continuously maintained in accordance with established standards, as follows:

<i>Use</i>	<i>Area (in SF)</i>	<i>Parking Ratio</i>	<i>Parking Spaces Required</i>
Martial Arts Studio	1,350	1 space per 200 square feet	7
Machine Shop	6,500	1 space per 500 square feet	13
<b>TOTAL</b>	<b>7,850</b>		<b>20</b>

3.2 The property provides 25 existing parking spaces.

### 4.0 GRAFFITI REMOVAL

4.1 Use of anti-graffiti material. Anti-graffiti material of a type and nature that is acceptable to the Director of Public Works, shall be applied to each of the publicly viewable surfaces on the improvements to be constructed on the site, which are deemed by the Director of Public Works to be likely to attract graffiti (“graffiti attracting surfaces”).

4.2 Right of access to remove graffiti. The City shall be granted the right of entry over and access to parcels, upon 48-hours of posting of notice by authorized City employees or agents, for the purpose of removing or “painting over” graffiti from graffiti attracting surfaces previously designated by the Director of Public Works, and the right to remove such graffiti.

4.3 Supply City with graffiti removal material. The City shall be provided sufficient matching paint and/or anti-graffiti material on demand, for a period of two (2) years after imposing this condition, for use in the painting over or removal of designated graffiti attracting surfaces.

### 5.0 SITE LIGHTING

5.1 Site lighting shall be reviewed and approved by the Planning Department and Police Department prior to the issuance of building/electrical permits.

5.2 Exterior lighting shall be arranged or shielded in such a manner as to contain direct illumination on the parking area and avoid glare on any adjoining site.



**6.0 ENVIRONMENTAL REVIEW**

- 6.1 The proposed project 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.
- 6.2 The applicant shall agree to defend, indemnify and hold harmless, the City of Ontario or its agents, officers, and employees from any claim, action or proceeding against the City of Ontario or its agents, officers or employees to attack, set aside, void or annul any approval of the City of Ontario, whether by its City Council, Planning Commission or other authorized board or officer. The City of Ontario shall promptly notify the applicant of any such claim, action or proceeding, and the City of Ontario shall cooperate fully in the defense.

**7.0 ADDITIONAL REQUIREMENTS**

- 7.1 The conditions required by other City departments/agencies shall be addressed.

**CITY OF ONTARIO  
MEMORANDUM**

**TO:** PLANNING DEPARTMENT, Clarice Burden  
**FROM:** BUILDING DEPARTMENT, Kevin Shear  
**DATE:** August 30, 2011  
**SUBJECT:** PCUP11-011

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

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Conditions of Approval

1. Permit B201101925 must be finalized before occupancy will be granted for tenant.

KS:kc

**CITY OF ONTARIO  
LANDSCAPE ARCHITECTURE AND  
PLANNING**  
303 East "B" Street, Ontario, CA 91764

**DAB CONDITIONS OF APPROVAL**

Sign Off

*Carolyn Bell*  
Carolyn Bell, Sr. Landscape Planner

7/29/11  
Date

Reviewer's Name: <b>Carolyn Bell, Sr. Landscape Planner</b>		Phone: <b>(909) 395-2237</b>
D.A.B. File No.: PCUP11-011	Related Files:	Case Planner: Clarice Burden
Project Name and Location: Martial Arts Studio 1165 East Acacia Court		
Applicant/Representative: Ty Romero 99 Precision Tools		

<input checked="" type="checkbox"/>	A conceptual landscape plan (dated ) meets the Standard Conditions for New Development and has been approved with the consideration that the following conditions below be met.
<input type="checkbox"/>	A conceptual landscape plan (dated ) has not been approved. Corrections noted below are required prior to DAB approval.

**CONDITIONS OF APPROVAL**

All landscape plans or landscape installations shall meet current City standards as listed in the Landscape Development Standards, or as obtained in writing from Public Facilities Development.

Contact the site management/ landscape maintenance company and coordinate the following:

1. ok
2. ok
3. Plant tree missing from front planter near mail boxes – Brachychiton populneus 24" box size.
4. ok
5. Adjust and repair all irrigation heads to prevent any overspray or run-off onto paving.
6. ok
7. ok
8. Repair or replace trash enclosure gates so that the bin can be kept inside the closed enclosure.
5. ok

**CITY OF ONTARIO  
POLICE DEPARTMENT  
SITE PLAN REVIEW AND DAB REPORT  
FILE NO. PCUP11-011**

**TO:** Clarice Ramey, Associate Planner

**FROM:** Barbara White, Crime Prevention Specialist - DAB

**DATE:** July 13, 2011

**LOCATION:** A conditional use permit to establish a martial arts studio, located at 1165 East Acacia Court, within the Business Park land use district of the Grove Avenue Specific Plan (APN: 1050-151-13)

**NOTES:** The Applicant and/or Applicant's representative shall be responsible for the adherence to all conditions.

**CRIME PREVENTION THROUGH ENVIRONMENTAL DESIGN**

- The applicant must meet all the related conditions set forth in the Ontario Municipal Code, Title 4- Public Safety, Chapter 11: Security Standards for Buildings, Section 4-11.01 through 4-11.13.
- All types of exterior doors shall be illuminated during the hours of darkness. Each door shall have a minimum maintained one-foot candle of measured light within a 5-foot radius of each side of the door at ground level.
- Parking lot lights shall remain illuminated one hour past the last scheduled class.
- Roof top numbers shall be installed on all commercial/industrial buildings. They shall be a minimum of 3 feet in length and 1 foot in width. Numbers shall be painted in reflective white paint on a flat black background away from roof obstacles. Buildings with multiple sites, in addition to the primary address, must have suite numbers painted to above specifications on the roof over the primary entrance to that suite. Such roof numbers shall be screened from public view and visible only from the air. The numbers shall be placed parallel to the assigned street and as close to the front door of the business as possible.

- Roof top numbers will be maintained by the property owner and must be re-painted every 3 years.
- The applicant is required to file an alarm application with the Police Department on all proposed alarm systems.
- A blue strobe light (minimum 25-watt) shall be installed on the rooftop and activated with any proposed alarm systems.

Should you have any questions regarding these conditions please call me at (909) 395-2493.



## CITY OF ONTARIO MEMORANDUM

**TO:** Clarice Ramey, Associate Planner

**FROM:** Jim Heenan, Fire Safety Specialist  
Bureau of Fire Prevention

**DATE:** June 14, 2011

**SUBJECT:** PCUP11-011 A Conditional Use Permit to establish a martial arts studio, located at 1165 East Acacia Ct, within a Business Park Land use District of the Grove Avenue Specific Plan.

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

The following comments apply to this project

1. Fire Extinguishers shall be provided in accordance with 2010 CFC 906.1
2. Decorative materials and furnishings shall be in accordance with those outlined in Chapter 8 of the 2010 CFC

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