

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2013-02

HEARING DATE: January 23, 2013

DECISION DATE: January 31, 2013

FILE NO.: PCUP12-023

SUBJECT: A Conditional Use Permit to establish a cash-for-gold business inside an existing jewelry store (Daniel's) located inside the Ontario Mills Mall, within the Regional Commercial land use district of the California Commerce Center North (Ontario Mills) Specific Plan, at 1 E. Mills Circle, Space #266.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

TOP HAT INC. DBA GOLD STOP, 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 business inside an existing jewelry store (Daniel's) located inside the Ontario Mills Mall, within the Regional Commercial land use district of the California Commerce Center North (Ontario Mills) Specific Plan, at 1 E. Mills Circle, Space #266.

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

(c) Zoning Designation: Regional Commercial district of the California Commerce Center North (Ontario Mills) Specific Plan

(d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	Ontario Mills Specific Plan	Commercial/Retail
South:	Ontario Mills Specific Plan	Commercial/Retail
East:	Ontario Mills Specific Plan	Commercial/Retail
West:	Ontario Mills Specific Plan	Commercial/Retail

(e) Site Area: Cart in Daniel's Jewelers inside Ontario Mills Mall (96 acres for entire Ontario Mills Mall)

(f) Assessor's Parcel No.: 0238-014-36

(g) Project Analysis:

- Proposed Use: Gold Stop is a cash-for-gold business that buys used gold and diamonds and pays for the items via cash, check or a Daniel's Jewelry Store gift card at the time of the transaction. The proposed location is inside an existing Daniel's Jewelers within Neighborhood 6 of the Ontario Mills Mall, located in the Regional Commercial district of the California Commerce Center North (Ontario Mills) Specific Plan. A cart to accommodate the cash-for-gold business is proposed behind a swinging gate in the existing store. The Building Department has required that the cart be fixed in place. The cash-for-gold business will be allowed to be open during the Ontario Mills Mall operating hours.

To comply with the 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:

- (1) A digital photograph of each person, a copy of each person's photo ID, and a digital photograph of each item sold shall be required for each transaction.
- (2) All materials purchased are required to be held for 30 days, prior to disposition.
- (3) Secondhand Dealer Report Forms shall be submitted weekly to the Ontario Police Department.
- (4) No more than \$2,500 cash for the cash-for-gold business shall be kept onsite.
- (5) Patrons shall not be issued more than \$200.00 in cash for goods exchanged. A check shall be issued for exchanges in excess of \$200.01.
- (6) Security cameras and an alarm system with a panic button shall be installed pursuant to the Police Department requirements.

- 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 Regional Commercial district of the Ontario Mills Specific Plan and the C3 (Commercial Service) zone. The Planning Commission made the determination that cash-for-gold businesses are similar to and no more objectionable than other uses conditionally permitted within certain 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.

- Land Use Compatibility: Conditional Use Permit reviews are required to ensure the compatibility between adjacent uses, and limit exposure of nearby residents, businesses and property owners to potential nuisance activities. The subject use is proposed within an existing jewelry store in the Ontario Mills Mall. The business will be operated in conformance with the Secondhand Dealer requirements as well as the

Ontario Police Department conditions for operating a cash-for-gold business. Additionally, businesses within the surrounding area will not be exposed to any impacts resulting from the 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.

- 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 project site is considered an existing use since the building exists and the proposed use is a retail use consistent with existing and prior uses of the building.

- Departmental Review: The Conditional Use Permit request to establish a cash-for-gold business was forwarded to the various City departments for comment. The Planning, Police, and Building Departments have requested that conditions of approval be imposed on the use, which are designed to mitigate anticipated impacts related to the 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 17th day of December, 2012, the Zoning Administrator of the City of Ontario, at the request of the applicant, continued the public hearing on the application to the next regularly scheduled Zoning Administrator hearing.

WHEREAS, On the 7th day of January, 2013, the Zoning Administrator of the City of Ontario, at the request of the applicant, continued the public hearing on the application to the next regularly scheduled Zoning Administrator hearing.

WHEREAS, On the 23rd day of January, 2013, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(a) Clarice Burden, Associate Planner, presented the staff report on the proposed use, indicating the staff recommendation of approval subject to conditions.

(b) Following staff's presentation, the Zoning Administrator asked Corporal Alvarez if the Police Department had any concerns about the cash-for-gold business operating during all the hours that Ontario Mills Mall is open. Corporal Alvarez indicated that the Police Department does not have a problem with that. The Zoning Administrator opened the public hearing.

(c) Jennifer Hughes, representing the applicant, indicated agreement with all conditions of approval and would appreciate having hours of operation consistent with the Mall hours.

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

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

PART C: THE DECISION

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

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

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

(1) The proposed location of the Conditional Use Permit and the proposed conditions under which it will be operated or maintained will be consistent with the 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 cash-for-gold business lies within the Regional Commercial land use district of the California Commerce Center North (Ontario Mills) Specific Plan.

(2) Within the Regional Commercial land use district of the Ontario Mills Specific Plan, cash-for-gold businesses 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 the Regional Commercial land use district of the Ontario Mills Specific Plan 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.

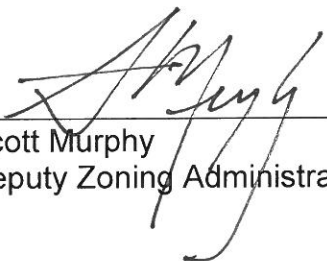
(6) The proposed project is located within the Airport Influence Area of Ontario International Airport (ONT) and was evaluated and found to be consistent with the policies and criteria of the Airport Land Use Compatibility Plan (ALUCP) for ONT.

(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. PCUP12-023, 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 31st day of January, 2013.



Scott Murphy
Deputy Zoning Administrator

Exhibit 1: Vicinity Map – Ontario Mills Mall



Exhibit 2: Daniel's Jewelry Store Floor Plan

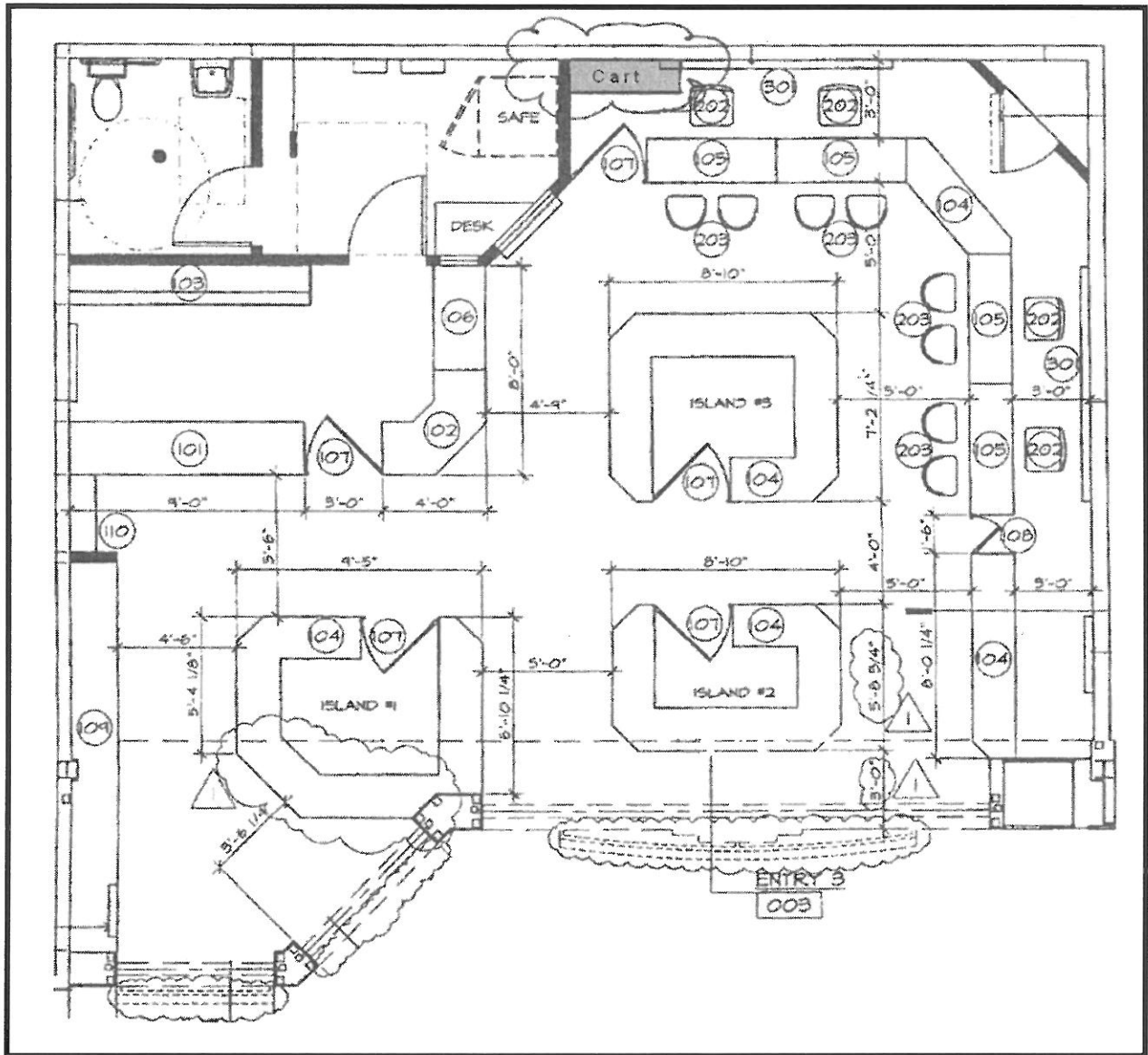


Exhibit 3: Cart elevation

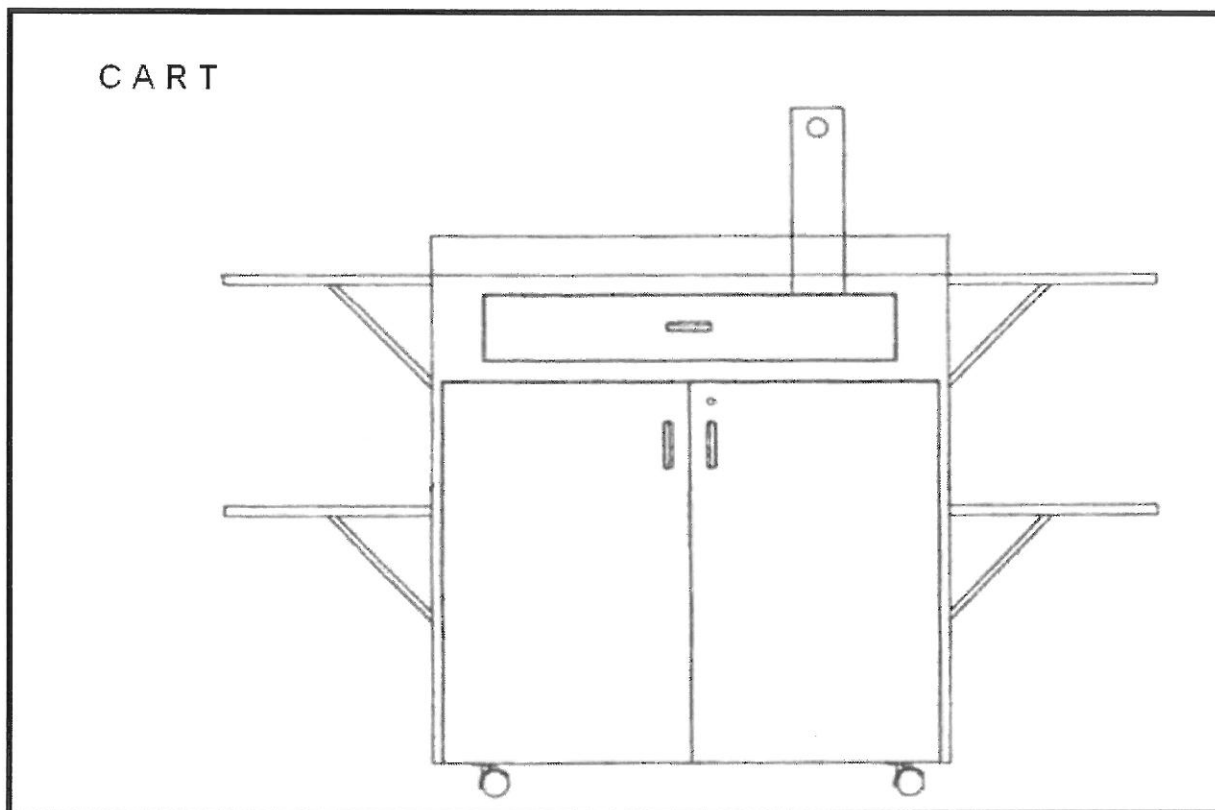
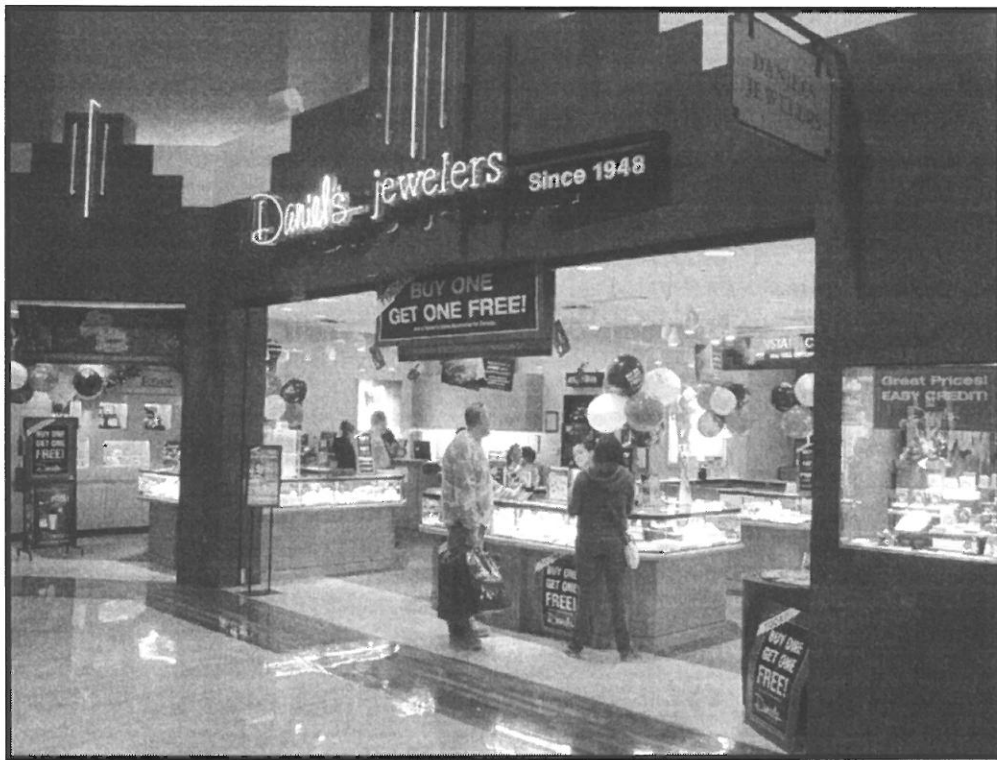


Exhibit 4: Daniel's Jewelry Store Photos



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

DATE: January 23, 2013

FILE NO.: PCUP12-023

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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: January 23, 2013

FILE NO.: PCUP12-023

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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. The Ontario Mills mall provides adequate parking to accommodate the use.

4.0 ENVIRONMENTAL REVIEW

- 4.1 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.
- 4.2 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.

5.0 ADDITIONAL REQUIREMENTS

- 5.1 The business shall acquire and maintain a valid Secondhand Dealers license and a City of Ontario Business License. A copy to the required licenses shall be provided to the Planning Department upon receipt.
- 5.2 The business shall follow all requirements as specified within the California Business and Professions Code, Sections 21641 and 21642 pertaining to Secondhand Dealer licensing and operations.
- 5.3 The business shall comply with all of the requirements of the City of Ontario Police Department including the following:
- (i) A digital photograph of each person, a copy of each person's photo ID, and a digital photograph of each item sold shall be required for each transaction.
 - (ii) All materials purchased are required to be held for 30 days, prior to disposition.
 - (iii) Secondhand Dealer Report Forms shall be submitted weekly to the Ontario Police Department.
 - (iv) No more than \$2,500 cash for the cash-for-gold business shall be kept onsite.

- (v) Patrons shall not be issued more than \$200.00 in cash for goods exchanged. A check shall be issued for exchanges in excess of \$200.01.
- (vi) Security cameras and an alarm system with a panic button shall be installed pursuant to the Police Department requirements.



CITY OF ONTARIO
MEMORANDUM
“Excellence Through Teamwork”



TO: Clarice Burden, Associate Planner

FROM: Fred Alvarez, Corporal

DATE: October 9, 2012

SUBJECT: FILE NO. PCUP12-023– CASH TO GOLD (Jewelry Mall Store)
1 E. MILLS CIRCLE DRIVE

The Police Department is placing the following conditions:

1. Prior to the operation of business, the business shall submit a security plan to the Ontario Police Department outlining procedures for employees/management's responsibilities during emergency incidents. The security plan shall also outline how to access the business' video recordings, alarm systems and procedures on how employees are to record/document sales transactions required by California law. Police Department approval of the security plan is required prior to the commencement of business.
2. The facility shall have an extensive digital video recording system that covers all points of entry, exit and areas of purchase. The video recording shall also cover areas where cash and gold/precious metals are stored within the facility. Records of this recording capability shall be of good quality and have archives up to 60 days. The video recording archives shall be accessible to members of the Ontario Police Department and California Department of Justice upon request. The hard-drive or computer storing all digital records shall be maintained in a secured area and away from the view of the public.
3. The facility shall be equipped with an alarm system that has instant panic button/robbery notification capabilities and silent monitoring. The applicant shall maintain a valid alarm permit on file with the Ontario Police Department at all times.
4. A separate room/area shall be maintained and alarmed for the storage of precious metals and cash. Property may be stored off-site for the Department of Justice 30-day holding requirements. Property is subject to inspection and upon request shall be produced at the licensee's business premises within one business day of request.

5. The following licensing requirements shall be maintained by the applicant/owner:
 - a. The applicant shall maintain a valid City of Ontario Business License.
 - b. The applicant shall maintain a valid Secondhand Dealer's License issued by that California Department of Justice (21641 Business & Professions Code). This license shall be displayed in a conspicuous manner as to easily be seen by the public.
6. The applicant shall properly document all property taken in trade or exchanged for cash and documented by the Secondhand Dealer Report Form (JUS 123).
7. The following forms of documentation/processes shall be administered during each customer transaction:
 - a. A clear photo or digital copy of each person's driver's license, identification card, passport, military identification or any valid government issued form of identification.
 - b. A digital photograph shall be taken of the customer taking property to be exchanged for cash.
 - c. A digital photograph of each item of property taken in trade or exchanged for cash. This photograph shall be maintained by the business for a minimum of five (5) years.
 - d. All property shall be stored and maintained by the business for 30 days prior to disposition.
 - e. All Secondhand Dealer Report Forms shall be submitted weekly to the Ontario Police Department (Detective Bureau) at 2500 S. Archibald Ave, Ontario, CA 91761.
8. The licensee shall not engage in the business of secondhand jewelry dealer with any minor or with any person who is intoxicated or under the influence of drugs.
9. The licensee shall not be convicted of an attempt to receive stolen property or any other offense involving stolen property.
10. Patrons shall not be issued more than \$200.00 in cash for goods exchanged. A check shall be issued for exchanges in excess of \$200.01.
11. No more than \$2,500.00 shall be kept on the premises at any given time.

If crimes resulting from the use 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.

The Applicant is invited to call Corporal Alvarez at (909) 395-2845 regarding any questions or concerns.

CITY OF ONTARIO

MEMORANDUM

TO: PLANNING DEPARTMENT, Clarice Burden
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: September 19, 2012
SUBJECT: PCUP12-023

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

Conditions of Approval

1. This cart is to be fixed in place inside the store.

KS:kc