

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2014-02

HEARING DATE: February 3, 2014

DECISION DATE: February 13, 2014

FILE NO.: PCUP13-043

SUBJECT: A request for Conditional Use Permit approval to establish a 3,666 square foot full service restaurant with a Type 47 (On-Sale General Eating Place) ABC license and live entertainment, within the C2 (Central Business Commercial) Zoning District, located at 112 West B Street (APN: 1048-565-11).

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

AMAZIGH F & B LLC., herein after referred to as "the applicant," has filed an application requesting Conditional Use Permit approval, File No. *PCUP13-043*, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

- (a) Project Description: A request for Conditional Use Permit approval to establish a 3,666 square foot full service restaurant with a Type 47 (On-Sale General Eating Place) ABC license and live entertainment, within the C2 (Central Business Commercial) Zoning District, located at 112 West B Street. The site is located west of Euclid Avenue, on the north side of West B Street, adjacent to the alley (see Exhibit A—Project Location Map).

The 3,666 square foot tenant space is located on the ground floor of a 3-story, 22,000 square foot (est.) commercial building, also known as the "International Order of Odd Fellows (IOOF) Building," a designated local landmark. In 2003, building permits were issued for a tenant improvement converting the existing retail space into a restaurant. Those building permits were finalized in June, 2012. The restaurant has not yet been opened for business. There is one additional ground floor tenant space currently being used by a hair salon, adjacent to the west of the main building entrance. The IOOF utilizes the remainder of the building for assembly, storage, and offices.

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

(c) Zoning Designation: C2 (Central Business Commercial)

(d) Surrounding Zoning and Land Uses:

	<u>Zoning</u>	<u>Existing Land Use</u>
North:	C2	Parking Facility
South:	C2	Retail & Office
East:	C2	Retail & Residential
West:	C2	Retail & Office

(e) Site Area: 0.212 acres of land

(f) Assessor's Parcel No(s): 1048-565-11

(g) Project Analysis:

Proposed Use: The Applicant is requesting a Conditional Use Permit to establish a full service restaurant with alcohol sales of beer, wine and distilled spirits (Type 47 ABC License) and live entertainment. The applicant has filed with the State of California Alcoholic Beverage Control (ABC) for the issuance of a Type 47 license, which, upon issuance, will allow the sale of beer, wine and distilled spirits within the confines of the building in conjunction with a restaurant operation.

The Applicant is proposing one floor plan (see Exhibit B—Floor Plan). Primary access to the restaurant will be from West B Street with secondary access to the dining room from the rear parking lot. The restaurant will include a coffee bar/café, main dining room, entertainment staging area, and lounge. The dining room has fourteen (14) fixed tables, fixed booths, and chairs for a total seating of eighty-four (84). The coffee bar/café has seven (7) fixed tables and the lounge has six (6) high-top tables and four (4) bar stools.

Hours of operation are proposed from 10:00 a.m. to 12:00 a.m. Monday through Wednesday and 10:00 a.m. to 2:00 a.m. Thursday to Sunday. Approximately four (4) persons will be employed at the location on a full-time basis, with up to six (6) part-time employees.

Live entrainment is also proposed in conjunction with the restaurant use during open business hours. Belly dancers, guitar players, comedians, karaoke, and pianists will be featured as nightly entertainment. Belly dancers and guitar players will move freely around the dining room area, performing for each table. All other entrainment will be staged in a small space at the rear of the dining room dedicated to such use. The Police Department has conditioned the use to limit live entertainment to two (2) performers at one time.

Parking: As established in the Ontario Development Code, a full service restaurant use requires 1 parking stall per 100 square feet of gross floor area. Staff determined that 37 parking stalls were required for the project. Since the project site is situated within

the downtown area and on-site parking is not attainable, the Ontario Development Code allows for staff to conduct parking analysis using the Downtown Ontario Parking Model. The Parking Model specifically evaluates each block within the downtown at maximum built out, and provides an estimate of parking availability (on-site and street parking combined), from 6 a.m. to 12 a.m., with shared parking as the premise.

Based on the existing land uses calculated in the Model, staff determined that *Block 44* (project site) had adequate parking to accommodate the restaurant use. Evaluation of *Block 44* through the Parking Model found that with the proposed use at maximum capacity (10:00 a.m. - 5:00 p.m.), 72% of the available parking (121 total) in the block would be utilized. After 5:00 p.m., the Parking Model indicated that there was no less than 50% parking availability. Therefore, staff has determined that based upon the Downtown Ontario Parking Model, sufficient parking exists to support the proposed use. The table below illustrates available parking for *Block 44* with the proposed use:

Available Public Parking with Proposed Use- Day Hours (10:00 a.m. – 5:00 p.m.)

Available Public Parking	10 a.m.	11 a.m.	12 p.m.	1 p.m.	2 p.m.	3 p.m.	4 p.m.	5 p.m.
Block 44	67	64	46	42	34	54	55	67

Available Public Parking with Proposed Use- Evening Hours (5:00 p.m. – 12:00 a.m.)

Available Public Parking	6 p.m.	7 p.m.	8 p.m.	9 p.m.	10 p.m.	11 p.m.	12 a.m.
Block 44	59	61	67	104	115	115	115

ABC License Concentration: The California Department of Alcoholic Beverage Control Board (ABC) is the State entity responsible for granting, renewing and the revocation of all alcoholic beverage licenses. ABC determines how many on-sale and off-sale alcohol license types should be issued per census tract, based upon their population. ABC has determined that Census Tract 14.00 can support two on-sale licenses. Currently, there are 8 on-sale licenses within this census tract.

The current number of active on-sale licenses within the census tract exceeds the maximum allowed amount. However, the surrounding vicinity is not a high police service call area for alcohol-related issues and the restaurant is to operate as a “Bona Fide Public Eating Place.” Therefore, the Police Department is in support of the Conditional Use Permit.

Land Use Compatibility: A Conditional Use Permit review is required to ensure the compatibility of adjacent uses by identifying potential nuisance activities and establishing measures for mitigation accordingly. The subject site is located in the C2 (Central Business District) Zoning within the downtown. The proposed full service

restaurant with a Type 47 (On-Sale General Eating Place) ABC license that includes live entertainment is a conditionally permitted land use. The Ontario Plan (TOP) identifies Downtown as a Focused Growth Area. The downtown is envisioned as an intensive mixed-use area of retail, office and residential to help guide economic and development activity in the downtown. New restaurants within the downtown provide much needed dining and entertainment opportunities to downtown residents and visitors. The proposed restaurant is on located on "B" street, which is developed with various retail, office, medical, banks and residential (mixed-use) uses. A restaurant use is compliable with the surrounded uses and we help to attract people to downtown to support the surrounding uses.

Staff believes that the recommended conditions of approval will sufficiently mitigate potential impacts associated with the proposed use because the adjacent land uses are compatible with the proposed use.

Public Notification: This item was advertised as a public hearing in the Inland Valley Daily Bulletin newspaper, and notices were mailed to all property owners and business owners within a 300-foot radius of the project site.

Correspondence: As of the preparation of this report, staff has not received any written or verbal communication on the application from surrounding property owners or the public.

(h) **Airport Land Use Compatibility Plan:** This 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.

(i) **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 the Decision preparation, recommended conditions of approval were provided and are attached to this report.

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

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

PART B: RECITALS

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

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

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

WHEREAS, on the third day of February, the Zoning Administrator of the City of Ontario conducted a duly noticed public hearing on the application, as follows:

(a) Diane Ayala, Associate Planner, presented the staff report on the proposed use, indicating the staff recommendation of approval. The Zoning Administrator asked staff if the parking lots in the block were public or private, and if the total number of parking stalls in the block were used in the Parking Model to analyze parking counts. Staff indicated that there were a total of 121 parking spaces available in Block 44, both public and private, and that the Parking Model assumes a "shared" scenario. The Zoning Administrator asked staff if there were any residential units located within the project building. Staff stated that there were no residential units and that the upper floors were used as offices, storage, and assembly area for the IOOF. The Zoning Administrator opened the public hearing.

(b) Alex Paiz, representing the applicant, explained the business operation and spoke in favor of the application. The Zoning Administrator asked if the applicant had reviewed the Conditions of Approval and had any questions. Mr. Paiz stated that he reviewed, understands, and agrees to the Conditions of Approval.

(c) The Zoning Administrator asked Officer Sturgis to confirm that the reason the Police Department was not requiring on-site security during business hours was because the application did not propose patrons dancing. Officer Sturgis confirmed that was the reason and stated that if the operation deviates from the approved project description, the Conditional Use Permit will require Police review.

(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 makes the following Conditional Use Permit findings:

(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 3,666 square foot full service restaurant with Type 47 and live entertainment lies within the C2 Central Business Commercial land use designation and will be subject to all conditions contained in the attached Conditions of Approval of this report.

(2) A full service restaurant with a Type 47 (On-Sale General Eating Place) ABC license 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. In addition, the Police Department has also reviewed the application and they are in support of the application subject to the attached conditions of approval.

(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, including 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 use will not generate a significant amount of new traffic nor overload the surrounding circulation system. In addition, ample parking will be provided within the surrounding public parking lots.

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

(c) For On-Sale alcoholic beverage license types, which are located within overconcentrated census tracts, where overconcentrated is defined by the California State Department of Alcoholic Beverage Control ("ABC") and is based upon census tract population and overall County of San Bernardino license concentrations, the Zoning Administrator hereby makes the following Public Convenience and Necessity ("PCN") findings:

(1) The proposed business is not located within a high crime area, which is defined as Police Department calls for service to alcohol-related incidences of 20% greater than the average number reported for the City as a whole.

(2) The property/building/use has no outstanding Building or Health Code violations or Code Enforcement activity. Staff confirmed with the Code Enforcement Department that there are no unresolved Code Enforcement activities at this time.

(3) The site is properly maintained, including building improvements, landscaping, and lighting. However, upon a site inspection conducted, as a result of this application, staff noted that several window frames, sashes, and glass were damaged or missing on the building's upper stories. Staff informed the Applicant of building disrepair and recommended that the windows be repaired or replaced per Article 26, Historic Preservation of the Ontario Development Code.


(d) 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.

(e) The Zoning Administrator hereby finds and determines that 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.

(f) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP13-043, 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 13th day of February, 2014.



Scott Murphy
Zoning Administrator

Exhibit A: Project Location Map

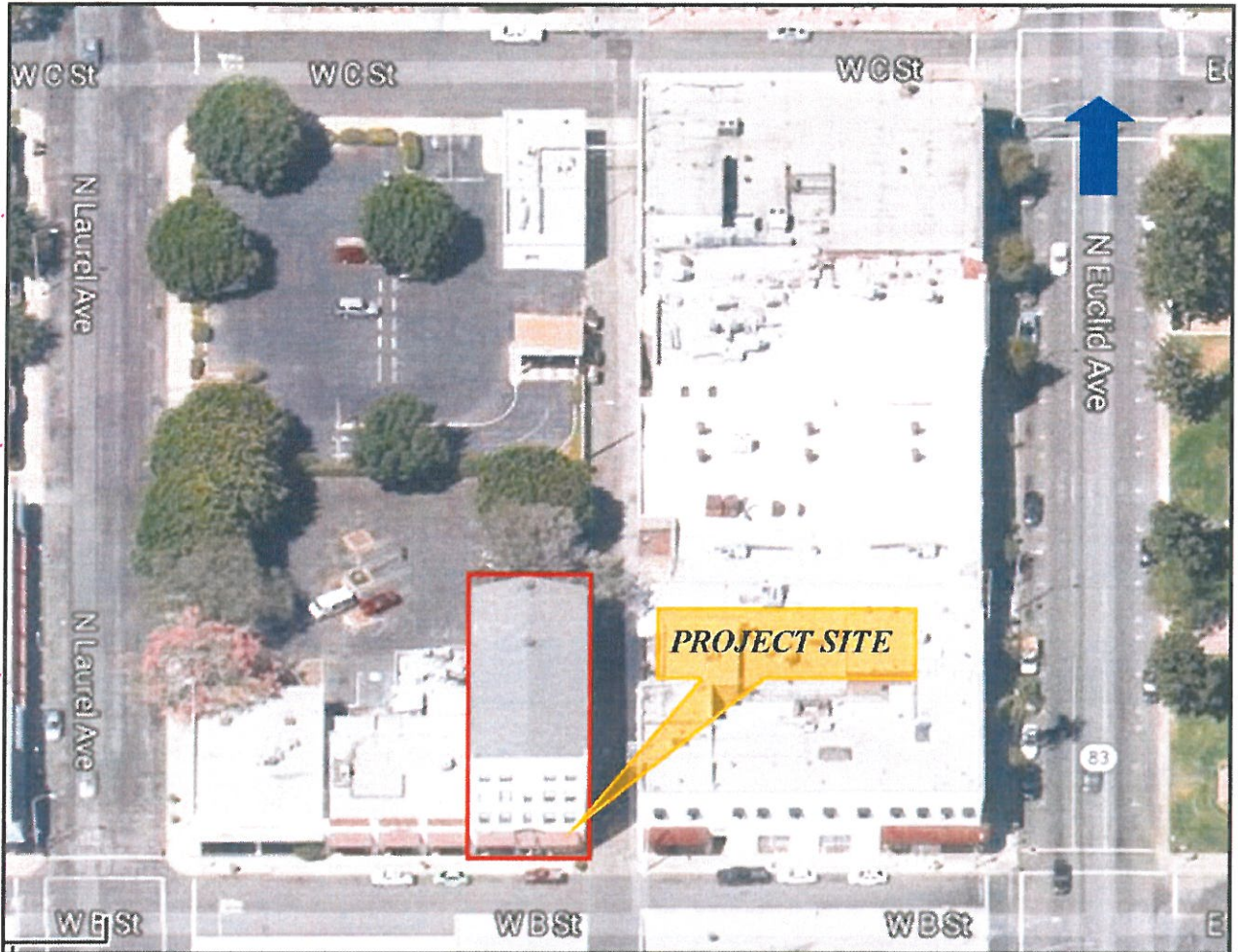


Exhibit B: Floor Plan

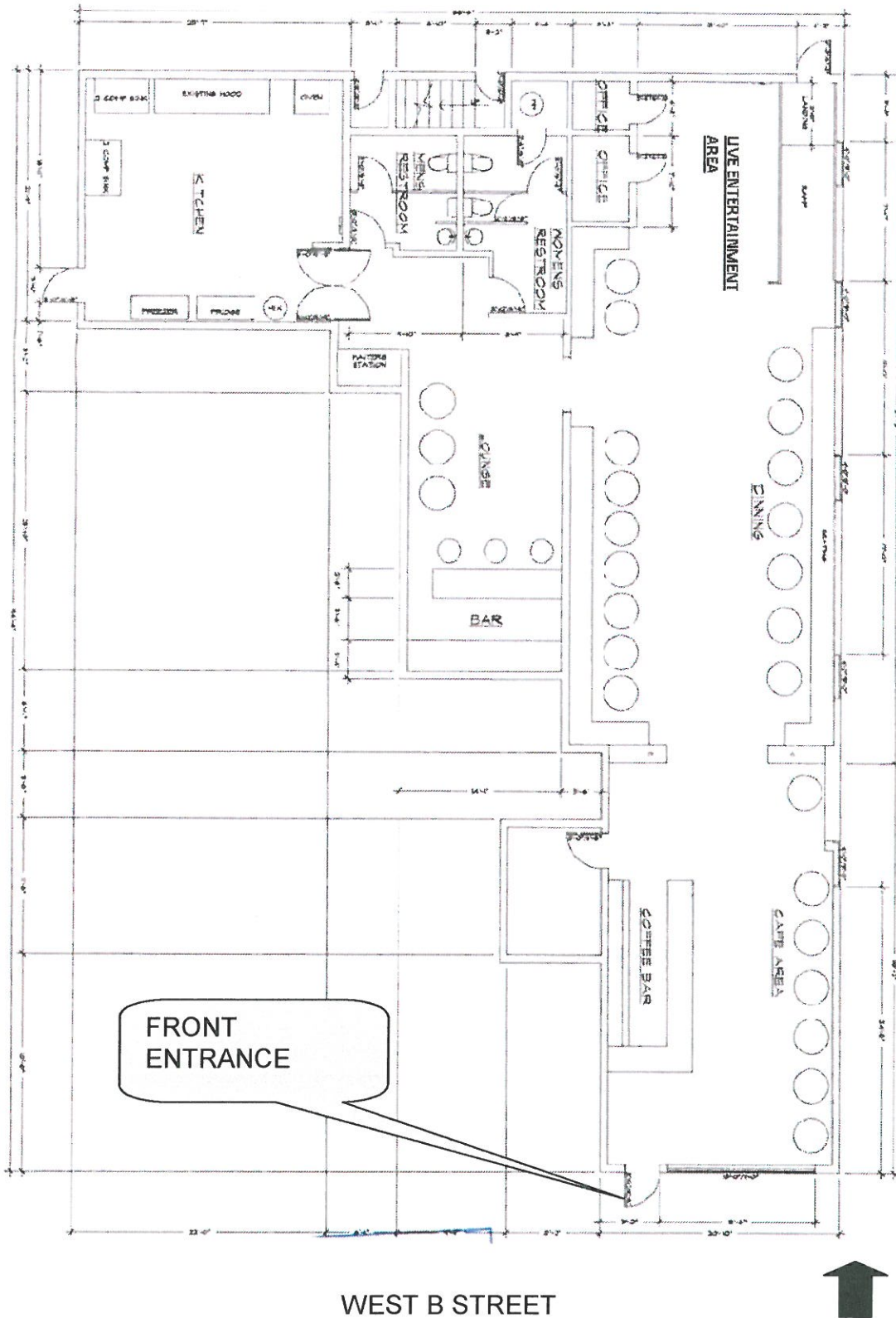


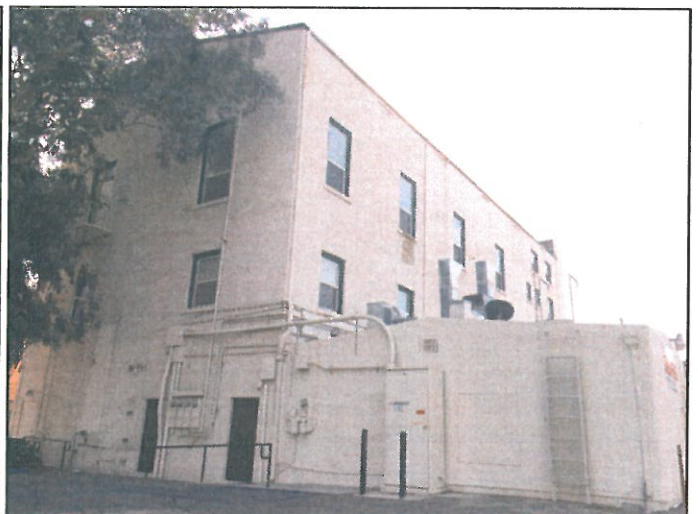
Exhibit C: Site Photos



Front Façade and Alley (South Elevation)



Rear Public Parking Lot



Rear of Building (North Elevation)

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

DATE: February 3, 2014

FILE NO.: PCUP13-043

SUBJECT: A request for Conditional Use Permit approval to establish a 3,666 square foot full service restaurant with a Type 47 (On-Sale General Eating Place) ABC license and live entertainment, within the C2 (Central Business Commercial) Zoning District, located at 112 West B Street (APN: 1048-565-11)

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.

- | | |
|--|---|
| <input checked="" type="checkbox"/> PLANNING | <input type="checkbox"/> ECONOMIC DEVELOPMENT |
| <input type="checkbox"/> LANDSCAPING DIVISION | <input type="checkbox"/> HOUSING |
| <input type="checkbox"/> ENGINEERING | <input checked="" type="checkbox"/> FIRE |
| <input type="checkbox"/> UTILITIES/SOLID WASTE | <input checked="" type="checkbox"/> POLICE |
| <input checked="" type="checkbox"/> BUILDING | |



CONDITIONS OF APPROVAL

DATE: February 3, 2014

FILE NO.: PCUP13-043

SUBJECT: A request for Conditional Use Permit approval to establish a 3,666 square foot full service restaurant with a Type 47 (On-Sale General Eating Place) ABC license and live entertainment, within the C2 (Central Business Commercial) Zoning District, located at 112 West B Street (APN: 1048-565-11)

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 SIGNAGE

- 2.1 The location, quantity, size, and design of all signage shall, including but not limited to wall, pedestrian, rear and window signs, comply with the Ontario Development Code pursuant to the zoning district for which the project site is located within and the Downtown Ontario Design Guidelines.

- 2.2 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.
- 2.3 View obscuring material that is applied to any window, preventing direct view into or outside of the building is prohibited. Additionally, any furniture, shelving system, or product stacked in front of a window which prevents an unobstructed view into or outside of the building is prohibited.

3.0 GRAFFITI REMOVAL

- 3.1 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”).
- 3.2 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.
- 3.3 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.

4.0 PARKING AND CIRCULATION

- 4.1 The project shall provide 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	3,666	One space for each 100 sq-ft of gross floor area	37

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 TRASH ENCLOSURES

- 1.1 All refuse shall be stored in an appropriate refuse container per City Standards.

7.0 OUTDOOR STORAGE

- 1.2 Areas designated for off-street parking, loading, required access drives and maneuvering areas shall not be used for the outdoor storage of materials.

8.0 ALCOHOLIC BEVERAGE SALES

- 8.1 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.
- 8.2 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.
- 8.3 The rear doors shall be kept closed at all times during the operation of the premises, except in case of emergency, ADA access, or to permit deliveries.
- 8.4 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.

- 8.5 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.

Restaurants

- 8.6 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.
- 8.7 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.
- 8.8 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.
- 8.9 Amplified music may be permitted; however, the sound emitted from the premises shall not be audible outside the walls of the business establishment.

9.0 LIVE ENTERTAINMENT

- 9.1 Live entertainment, as contained in this report, within the restaurant area is permitted upon approval of this Conditional Use Permit and is subject to the conditions imposed by the Police Department.

10.0 ENVIRONMENTAL REVIEW

- 10.1 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.
- 10.2 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.

11.0 ADDITIONAL REQUIREMENTS

- 11.1 Building and use shall comply with all Building and Safety requirements, including but not limited to a sizable grease interceptor, prior to opening for business.
- 11.2 All loading required to conduct business operations shall occur at the rear entrance.



CITY OF ONTARIO
MEMORANDUM
"Excellence Through Teamwork"



TO: Diane Ayala, Planning Department

FROM: Robert Sturgis, Police Officer

DATE: January 22, 2014

**SUBJECT: FILE NO. PCUP13-043– AMAZIGH RESTAURANT
112 W. B STREET, ONTARIO, CA 91762**

This location has applied for a type 47 On-Sale General license located within Census Tract No. 14.00. According to the Department of Alcohol Beverage Control (ABC), two on-sale licenses are allowed within this tract, there are currently eight. This location operates as a "Bona Fide Public Eating Place," and the Police Department does not object to allowing this conditional use permit. The location must follow all Department of Alcohol Beverage Control rules and conditions. In addition, the following conditions of approval shall be imposed by the Police Department:

RESTAURANT CONDITIONS

1. The hours of operation will be 10:00 A.M. to 12:00 A.M. Monday-Wednesday and 10:00 A.M. to 2:00 A.M. Thursday-Sunday. Last call for alcohol shall be made 45 minutes prior to closing and no later than 1:15 A.M.
2. No sales to minors.
3. No sales to obviously intoxicated patrons.
4. No self serve alcohol displays allowed.
5. No alcoholic beverages are to be sold or removed from the establishment for outside consumption.
6. No smoking inside of the establishment is permitted, including any type of electronic nicotine delivery device.
7. There will be no narcotic sales or usage on the premises at any time.
8. No pool tables or amusement games are allowed in the premises.

9. Employees 18 and older may serve alcoholic beverages in an area primarily designed and used for the sale and service of food as an incidental part of their overall duties. Bartenders and cocktail servers must be 21.
10. Applicant and all employees must attend an Alcohol Beverage Control (ABC) L.E.A.D.'s training class or a certified responsible beverage service class, which has been approved by the Ontario Police Department. This is required within six months of this dated conditional use permit and proof of re-certification is required every 3 years. New employees must attend the training class within three months of their hire date.
11. Lighting within the restaurant must be kept at a reasonable level for safe movement of patrons.
12. Address to the establishment must plainly visible to the front for easy identification by safety personnel.
13. The parking lots under control of the applicant shall be equipped with a maintained lighting device capable of providing a minimum of one-foot candle of light at ground level from dusk to dawn.
14. All hallways must be kept clear from merchandise, storage, and patrons blocking the pathway.
15. Graffiti abatement by the business owner/licensee, or management shall be immediate and on-going on the premises, but in no event shall graffiti be allowed unabated for more than 72 hours. Abatement shall take the form of removal, or shall be covered/painted over with a color reasonably matching the color of the existing building, structure, or other surface being abated. Additionally, the business owner/licensee, or management shall notify the City within 24 hours at (909) 395-2626 (graffiti hotline) of any graffiti elsewhere on the property not under the business owner/licensee's or management control so that it may be abated by the property owner and/or the City's graffiti team.
16. No loitering shall be permitted on any property adjacent to the licensed premise, which is under the control of the applicant.
17. The restaurant manager shall be qualified per ABC rules. Anyone to whom a licensee delegates discretionary power to organize, direct, carry on, or control operations of the licensed business is presumed to be the manager of the business.
(Business and Professions Code Section 23788.5, Rules 57.5 and 57.6).

ENTERTAINMENT CONDITIONS

1. Entertainment is only allowed during restaurant hours with the licensee or an ABC qualified manager present.

2. The location shall not exceed a noise level of 65dBA per section 9-1.3305 of the Ontario Development Code.
3. Entertainment shall be limited to two (2) performers at one time.
4. No nudity is allowed.
5. A disc jockey and dance floor are not permitted.
6. A cover charge to patrons is prohibited at the location.
7. Tables shall not be removed or rearranged to increase occupancy, which has been approved on plans submitted with this conditional use permit.

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 security.) If security personnel are needed they will be required to follow Ontario Municipal Code Article 6, Title 3, Section 3-1.601-621 (security regulations), which states in part that the security company and guards used will be registered with the City.

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 Officer Robert Sturgis at (909) 395-2001 ext 4773.



CITY OF ONTARIO MEMORANDUM

TO: Diane Ayla

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

DATE: December 9, 2013

SUBJECT: File No: PCUP13-043 A Conditional Use Permit to establish a full service Moroccan restaurant with distilled spirits (Type 47 on sale General) ABC license, generally located on a Historic ELIGIBLE property on the northwest corner of "B" Street and Euclid Avenue, within the C2 (Central Business Commercial) zone at 112 West B Street.
APN: 1048-565-11

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

No comments

Report below.

1. Based upon proposed restaurant floor plan the occupancy would be considered a place of assembly (greater than 50 people) a fire department operational permit is required. In accordance with 2010 CFC. Section 105.6.34
2. Fire Extinguishers shall be provided in accordance with 2010 CFC 906.1
3. Installed fire protection systems (Hood System) shall be maintained in accordance with 2010 CFC 901.6.1
4. Decorative materials and furnishings shall be in accordance with those outlined section 801 of the 2010 CFC.
5. Exit signs shall be required as outlined in 2010 California Fire Code Section 1011.

Required exit accesses, exits, or exit discharges shall be continually maintained free from obstructions for full instant use in case of fire or other when the areas served are occupied. As outlined in 2010 California Fire Code Section 1011.

For copies of Ontario Fire Department Standards please access the City of Ontario web site at www.ci.ontario.ca.us, click on Fire Department and then on forms.

**CITY OF ONTARIO
MEMORANDUM**

TO: PLANNING DEPARTMENT, Diana Ayala
FROM: BUILDING DEPARTMENT, Kevin Shear
DATE: December 5, 2013
SUBJECT: PCUP13-043

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

Conditions of Approval

1. Permits are required for any improvements.
2. Approval is for the first floor only.
3. Plans show elevator tower, no approval granted.

KS:kc