

ZONING ADMINISTRATOR DECISION CONDITIONAL USE PERMIT



DECISION NO. 2015-005

HEARING DATE: March 16, 2015

DECISION DATE: March 19, 2015

FILE NO.: PCUP15-002

SUBJECT: A Conditional Use Permit (File No. PCUP15-002) modification to File No. PCUP09-032 to establish revised conditions of approval for alcoholic beverage sales and live entertainment in conjunction with Hamburger Mary's Bar & Grill, located at 3550 East Porsche Way, within the Urban Commercial Land Use designation of the Ontario Center Specific Plan.

STAFF

RECOMMENDATION: Approval Approval, subject to conditions Denial

PART A: BACKGROUND & ANALYSIS

HAMBURGER MARY'S BAR & GRILL, (herein after referred to as "Applicant") has filed an application requesting Conditional Use Permit approval, File No. PCUP15-002, as described in the subject of this Decision (herein after referred to as "Application" or "Project").

(a) Project Setting: The project site is part of a larger commercial center containing several restaurants, located at 3550 East Porsche Way, within the Urban Commercial Land Use designation of the Ontario Center Specific Plan, and is depicted in *Exhibit A: Aerial Photograph*, attached. Existing land uses, General Plan and zoning designations, and specific plan land uses on and surrounding the project site are as follows:

	Existing Land Use	General Plan Designation	Zoning Designation	Specific Plan Land Use
Site:	Restaurant	Mixed Use (Ontario Center)	Specific Plan (Ontario Center)	Urban Commercial
North:	Office/Commercial	Mixed Use (Ontario Center)	Specific Plan (Ontario Center)	Urban Commercial
South:	Restaurant	Mixed Use (Ontario Center)	Specific Plan (Ontario Center)	Urban Commercial
East:	Restaurant	Mixed Use (Ontario Center)	Specific Plan (Ontario Center)	Urban Commercial
West:	Office/Commercial	Mixed Use	Specific Plan	Urban Commercial

Approved By:

-1-

CM Senior Planner

	<i>Existing Land Use</i>	<i>General Plan Designation</i>	<i>Zoning Designation</i>	<i>Specific Plan Land Use</i>
		(Ontario Center)	(Ontario Center)	

(b) Project Analysis:

- (1) Background — The project site includes a 5,800 square-foot commercial building, previously used as a restaurant. The building was originally constructed in 1997 for the Tony Roma’s restaurant chain, which operated until August 2009. Approximately one month later, Fusions Bar & Grill took over the facility and operated from 2009 to 2014. The facility has now been vacant for approximately one year. This Conditional Use Permit is for the re-establishment of live entertainment and alcoholic beverage sales in conjunction with Hamburger Mary’s Bar & Grill, who is proposing to operate at the site. Hamburger Mary’s Bar & Grill is a full-service restaurant, featuring live entertainment shows consisting of comedy, live music, DJs and dancing, open mic nights, and lip-syncing entertainers. Some forms of live entertainment also include burlesque-style dancers; however, there will be no nudity, semi-nudity, or physical interaction between the dancers and patrons. The live entertainment portion of the Conditions of Approval for this CUP have been conditioned to not allow any form of nudity or dancer/patron interaction, nor is it allowed within the zoning district. The Adult Business section of the Ontario Development Code also prohibits “semi-nudity” and is defined as such. Hamburger Mary’s Bar & Grill is an independently owned restaurant franchise, having approximately 13 other existing locations across the United States, including Florida, Colorado, and California, as well as one facility located in Germany.
- (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. Fusions Bar & Grill, the previous tenant at the project site, was approved for alcoholic beverage sales with a Type 47 (On-Sale General for Bona Fide Public Eating Place) ABC license, which allows for the sale of beer, wine, and distilled spirits, under CUP File No. PCUP09-032. However, this ABC license was surrendered approximately one year ago, when the business closed. Once a CUP is approved, it runs with the land unless revoked. Although the CUP is still considered active, a new alcohol license is required to be obtained from ABC by the new tenant, Hamburger Mary’s Bar & Grill. For reference, Hamburger Mary’s Bar & Grill is located within Census Tract 21.09, which is bound by Fourth Street on the north, I-15 Freeway on the east, I-10 Freeway on the south, and Archibald Avenue on the west. As of February 2015, the latest ABC report shows Census Tract 21.09 as having a total number of 37 On-Sale licenses.

Since there has historically been an ABC license operating in conjunction with a restaurant at the site, this is not considered a new license, further contributing to the Census Tract overconcentration. The City of Ontario also considers this CUP as a modification to an existing use, but ABC is treating the application as a new request. As a result, Conditional Use Permit and Public Convenience and Necessity findings are both required to be made.

- (3) Live Entertainment — Hamburger Mary's Bar & Grill offers an eclectic mix of live entertainment events throughout the week, as stated above. The entertainment area within Hamburger Mary's Bar & Grill will be generally located at the southeast corner of the restaurant on a raised platform; however, certain types of entertainment may occasionally roam throughout the dining areas.

All special events, which exceed the scope and approval of this Conditional Use Permit are required to be reviewed and approved through a Temporary Use Permit, prior to the event occurring. A special event can include, but is not limited to, anything occurring outside of the facility such as a parking lot event, or any form of live entertainment not specifically identified within the approved Conditions of Approval.

- (4) Conditions of Approval Modification — Hamburger Mary's Bar & Grill is proposing to re-establish live entertainment and alcoholic beverage sales within a vacant facility. The previous CUP, approved for Fusions Bar & Grill, established live entertainment, including DJs and dancing. Hamburger Mary's Bar & Grill is requesting to expand the previously allowed types of live entertainment, to now include dancers and occasional roaming performers. The Ontario Police Department has reviewed the request and is in agreement with the proposed expansion. However, as a result of the expanded type of live entertainment, the Police Department is requiring that two security guards be located inside the facility and two armed security guards be in the parking area, during events that include DJs and dancing and other forms of live entertainment, as specified in the conditions of approval. This security requirement is consistent with conditions of approval imposed on other restaurants that desire to establish a combination of DJs and dancing entertainment.

- (5) 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 Urban Commercial Land Use designation of the Ontario Center Specific Plan. Within this district, alcoholic beverage sales and live entertainment are conditionally permitted uses. It is staff's belief that the recommended modification to the conditions of approval will sufficiently mitigate any potential impacts associated with the use. Additionally, businesses within the surrounding area will not be exposed to any impacts resulting from alcoholic beverage sales or live entertainment, beyond those that would normally be associated with any other use similarly allowed within the Urban Commercial Land Use designation of the Ontario Center Specific Plan.

- (6) Previous Conditional Use Permit — Upon Zoning Administrator approval of this Conditional Use Permit (File No. PCUP15-002), the CUP will become the guiding document for alcoholic beverage sales and live entertainment operations for Hamburger Mary's Bar & Grill, as it contains a consolidated set of conditions of approval. The previous Conditional Use Permit, File No. PCUP09-032, approved by the Zoning Administrator on January 6th, 2010 (Decision No. 2009-23) for Fusions Bar & Grill, will no longer be applicable and shall be considered superseded.
- (c) **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. Any special conditions of approval associated with uses in close proximity to the airport are attached to this report.
- (d) **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.
- (e) **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.

(f) 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 March 16, 2015, 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 of approval. Following staff's presentation, the Zoning Administrator opened the public hearing.

(b) Neka Dunlap, the applicant and owner of Hamburger Mary's Bar & Grill business, explained the business operation and spoke in favor of the application. She further stated that she received the conditions of approval package and agreed with all conditions for live entertainment and alcoholic beverage sales operations.

(c) The Zoning Administrator, Barbara Millman, asked Corporal Steve Munoz, from the City of Ontario's Police Department, to comment about other Hamburger Mary's Bar & Grill locations and any issues related to live entertainment. Corporal Munoz explained that Officer Robert Sturgis made contact with another location to discuss general operations related to their business. Corporal Munoz feels confident that the security requirements stated in the conditions of approval, will be sufficient for safe operations and he is in support of the Conditional Use Permit.

(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 finds as follows:

(1) The proposed location of the requested Conditional Use Permit, and the proposed conditions under which it will be operated or maintained, will be consistent with the Policy Plan component of The Ontario Plan and will not be detrimental to the public health, safety, or welfare, or be materially injurious to properties or improvements in the vicinity. The site of the proposed Conditional Use Permit modification is located at 3550 East Porsche Way and is within the Urban Commercial Land Use designation of the Ontario Center Specific Plan.

(2) Alcoholic beverage sales and live entertainment 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 zoning designation within which the site is located. The project site is located within the Urban Commercial Land Use designation of the Ontario Center Specific Plan, for which alcoholic beverage sales and live entertainment are conditionally permitted uses. Alcoholic beverage sales and live entertainment are consistent with the allowed types of uses specified within the Specific Plan and the CUP will be conditioned to ensure that it will not create negative impacts to the other existing surrounding businesses.

(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. Modification to the existing conditions of approval for alcoholic beverage sales and live entertainment will not create a substantial source of new traffic, and as a result, will not overload the surrounding circulation system nor create a public health risk.

(5) The proposed Conditional Use Permit will comply with each of the applicable provisions of the Ontario Development Code, including Article 32: *General Development Requirements and Exceptions* and Article 33: *Environmental Performance Standards*, as well as the development standards and uses, as specified for the Urban Commercial Land Use district of the Ontario Center Specific Plan.

(6) For On-Sale alcoholic beverage license types located within overconcentrated census tracts (high density of alcoholic beverage sales locations as defined by the Alcoholic Beverage Control Act (commencing with Business and Professions Code Section 23000 et Seq.), the Zoning Administrator hereby also makes the following Public Convenience and Necessity (“PCN”) findings:

(i) The proposed retail alcohol license is not located within a high-crime area, defined as an area characterized by a high ratio of Police Department calls for service to alcohol-related incidences, not to exceed 20 percent greater than the average number of alcohol-related incidences reported for the City as a whole. The Ontario Police Department has determined that the facility and adjacent commercial center are not located within a high-crime area and are in support of this Conditional Use Permit, provided all attached conditions of approval are implemented.

(ii) The property/building/use has no outstanding Building or Health Code violations or Code Enforcement activity. The inside of the building will be remodeled prior to opening, but it does not currently have any outstanding violations.

(iii) The site is properly maintained, including building improvements, landscaping, and lighting. There are no outstanding violations related to the property or the adjacent commercial area.

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

(d) 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.

(e) Based upon the findings and conclusions set forth in Parts A, B and C above, the Zoning Administrator hereby approves File No. PCUP15-002, 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 19th day of March, 2015.



Barbara Millman
Zoning Administrator

Exhibit A: Aerial Photograph

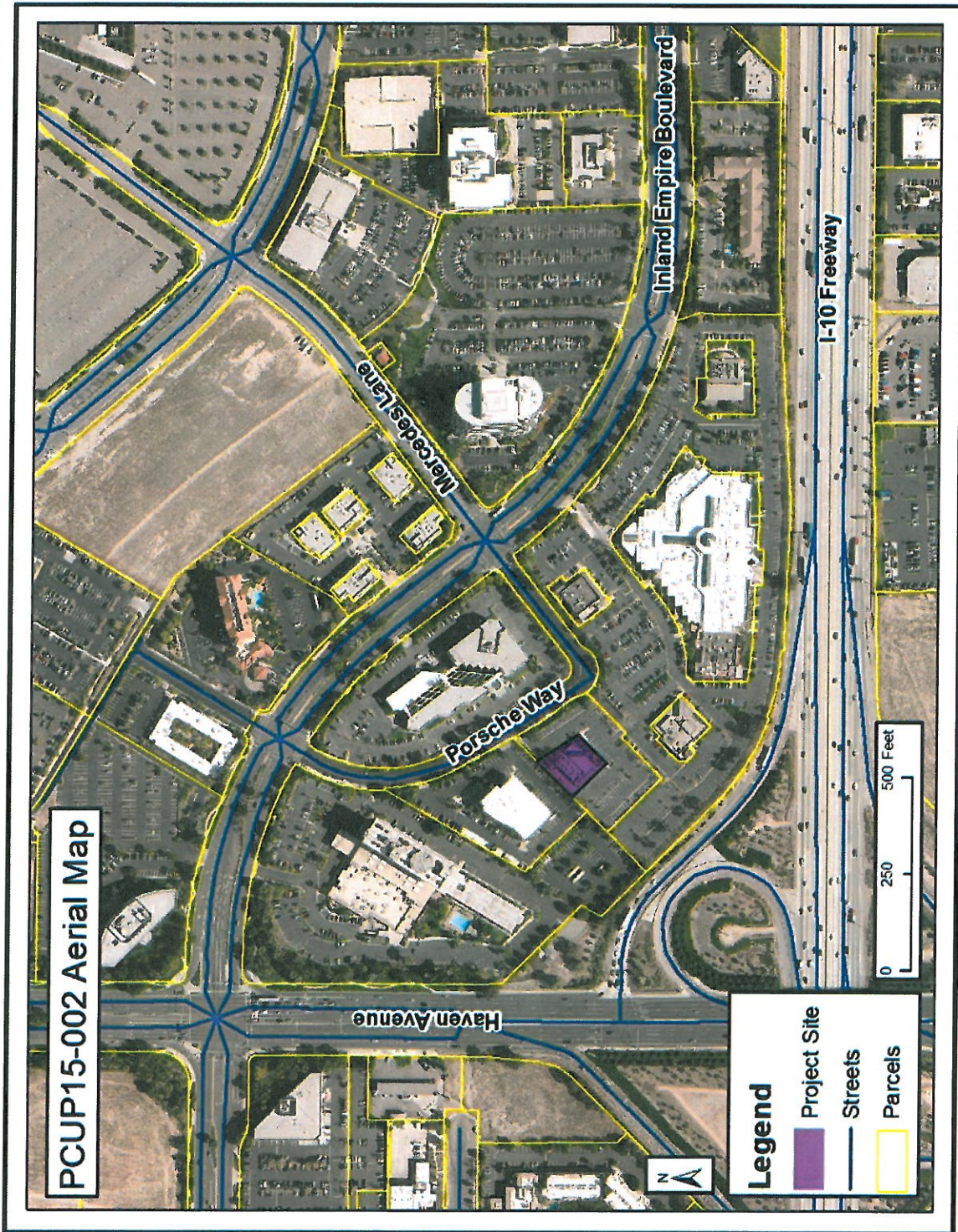


Exhibit B: Site Plan

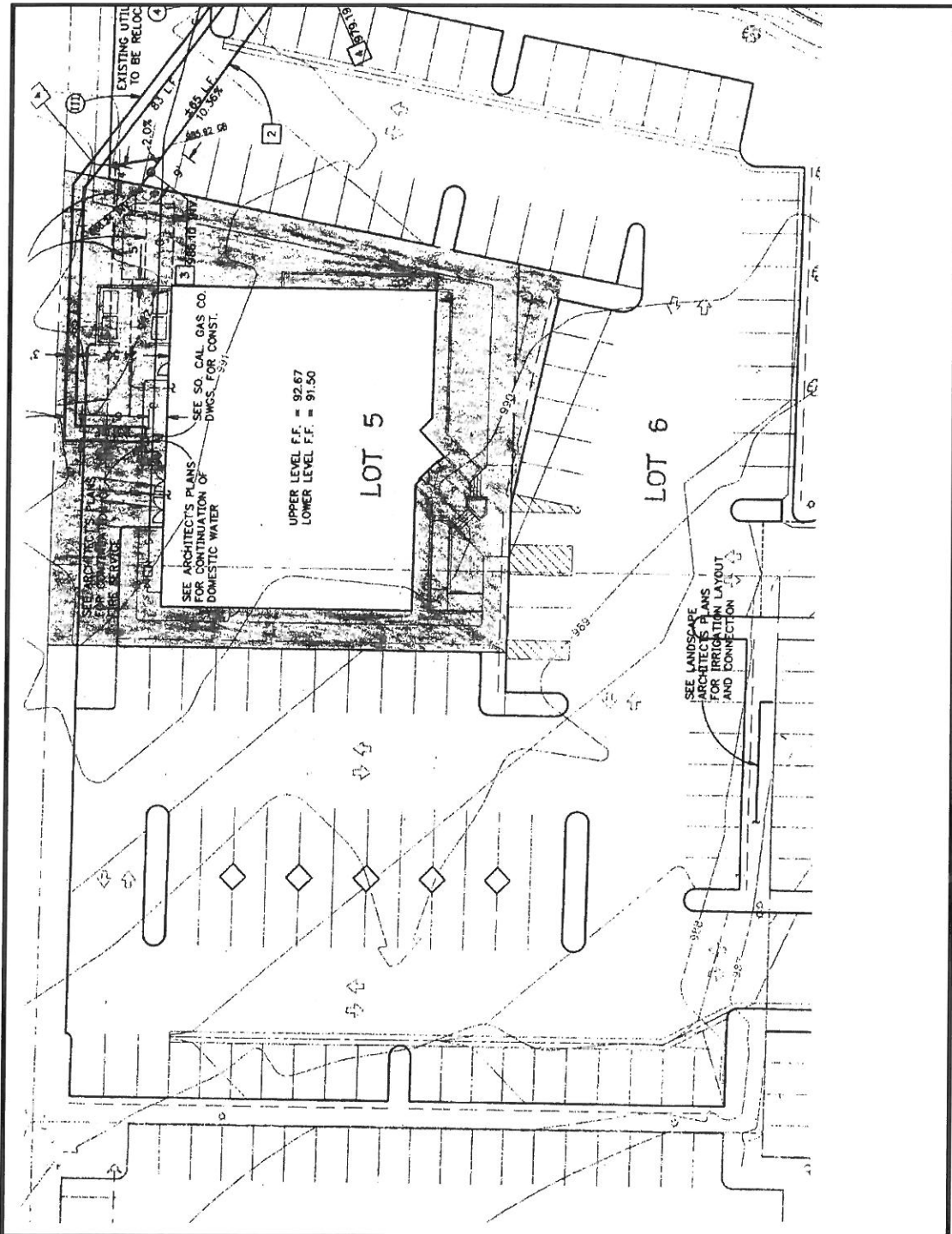


Exhibit C: Floor Plan

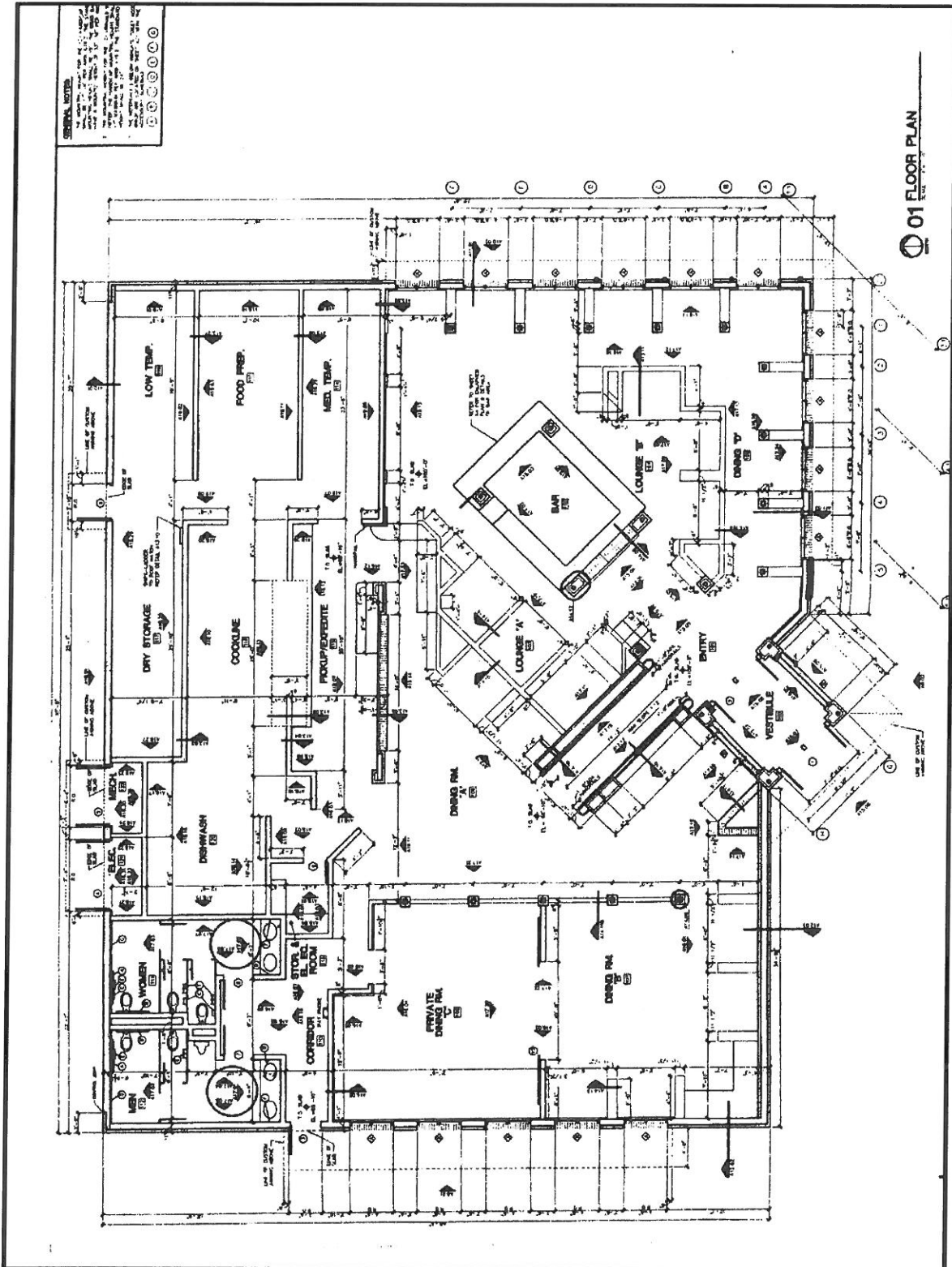
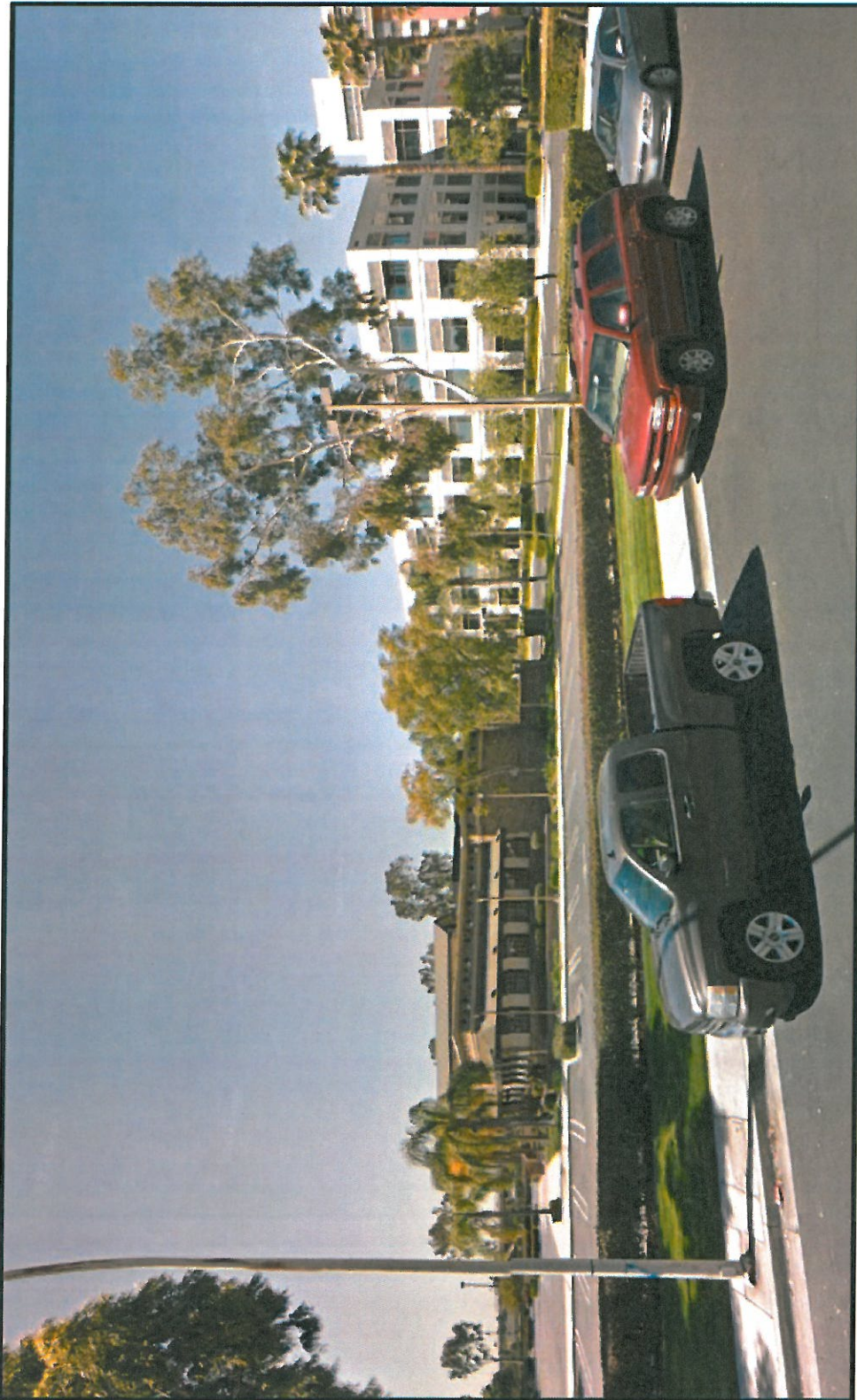


Exhibit E: Site Photos





**PLANNING DEPARTMENT
CONDITIONS OF APPROVAL**

File No. PCUP15-002

Date: March 16, 2015

Project Description: A Conditional Use Permit (File No. PCUP15-002) modification to File No. PCUP09-032 to establish revised conditions of approval for alcoholic beverage sales and live entertainment in conjunction with Hamburger Mary's Bar and Grill, located at 3550 East Porsche Way, within the Urban Commercial Land Use designation of the Ontario Center Specific Plan. (APN: 0210-211-37); **submitted by Hamburger Mary's Bar and Grille.**

Reviewed by: John Earle Hildebrand III, *Associate Planner*
Phone: (909) 395-2036; **Fax:** (909) 395-2420

A handwritten signature in blue ink, appearing to read "John", is written over the printed name of the reviewer.

The above-described Conditional Use Permit ("CUP") application shall comply with the following Conditions of Approval ("COA"):

1.0 General Conditions

(a) The use shall be operated in full conformance with the description and requirements of this 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.

(b) 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 facility.

(c) The business shall be operated as a "bona fide public eating place" as defined by Business and Professions Code § 23038. The business 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 business is open. The business shall provide an assortment of foods commonly ordered at various hours of the day.

(d) Smoking is not permitted inside of the facility, including all electronic smoking devices.

(e) A clearly legible sign not less than 7 inches by 11 inches in size, reading "NO OPEN ALCOHOLIC BEVERAGE CONTAINERS ARE ALLOWED OUTSIDE THESE PREMISES," shall be posted at or near each public entrance of the facility. A sign of like size and content shall also be maintained at a prominent place in the interior of the facility.

(f) A clearly legible sign not less than 7 inches by 11 inches in size, reading "NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES," shall be posted at or near each public entrance of the facility. A sign of like size and content shall also be maintained at a prominent place in the interior of the facility.

(g) Signage shall comply with all City of Ontario's Development Code 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 a clear and unobstructed view of the interior of the facility from the building's exterior.

(h) Security cameras are required to be installed (if not already in use) and maintained in an operational state, pursuant to Police Department's specifications.

(i) Coinciding with the annual Police Department inspection, 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.

(j) The rear doors of the facility shall be kept closed at all times during operations, except in case of emergency or to permit deliveries.

(k) The parking lot is required to have adequate lighting (minimum 1 foot candle) from dusk to dawn. All parking lot lighting fixtures shall be maintained on a regular basis to ensure they are in proper working order.

(l) The business owner shall be responsible for removing any graffiti located on the building or within the surrounding area of responsibility within 72-hours.

(m) All special events, which exceed the scope and approval of this Conditional Use Permit are required to be reviewed and approved through a Temporary Use Permit, prior to the event occurring. A special event can include, but is not limited to anything occurring outside of the facility, such as a parking lot event, any event exceeding the maximum allowed facility occupancy, or any form of live entertainment not specifically identified within the approved Conditions of Approval.

(n) Upon Zoning Administrator approval, this Conditional Use Permit, File No. PCUP15-002, shall become the guiding document for alcoholic beverage sales and live entertainment operations for the business, as it contains a consolidated set of conditions of approval. The previous Conditional Use Permit, File No. PCUP09-032, approved by the Zoning Administrator January 6th, 2010 (Decision No. 2009-23), will become no longer applicable and shall be considered superseded.

2.0 Alcoholic Beverage Sales

(a) 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 modification or revocation of this Conditional Use Permit.

(b) No upgrade or change to the alcoholic beverage license type or conditions of approval may be requested by the business owner, until a minimum one-year of operations under the approved license type and conditions of approval has occurred.

(c) The licensee and all appropriate employees 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. Contact the Ontario Police Department for information regarding the locations and dates for LEAD training.

(d) 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 restaurant's total sales, which includes all food, and alcoholic and non-alcoholic beverages. The owner of the business, 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.

(e) No alcoholic beverages shall be consumed outside of the enclosed facility, except within an approved outdoor eating area, which has been designed so as to be adequately separated from direct public access.

3.0 Live Entertainment

(a) The business is approved for live entertainment, pursuant to the Police Department's Conditions of Approval.

(b) The operators of Hamburger Mary's Bar & Grill shall not allow any nudity, nor direct physical interaction between the entertainers and the patrons.

(c) The business shall provide sufficient security personnel during operations in the amount prescribed by the Police Department's Conditions of Approval.

(d) Sound emitted from the facility shall not be audible outside the walls of the building.

(e) Electronic arcade and amusement games shall be prohibited on-site, unless specifically permitted by the Police Department and shown on the approved site plan.

(f) In the event that security inside the facility and within the surrounding parking lot area becomes inadequate, as determined by the Police Department, additional security personnel may be required.

(g) No upgrade/change to live entertainment or conditions of approval may be requested by the business owner, until a minimum one-year of operations under the approved live entertainment use and conditions of approval has occurred.

4.0 Environmental Review

(a) The proposed project is categorically exempt from environmental review in accordance with State CEQA Guidelines Section 15301 (Existing Facilities) of the California Environmental Quality Act Guidelines.

(b) 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.



CITY OF ONTARIO
MEMORANDUM
"Excellence Through Teamwork"



TO: John Hildebrand, Planner

FROM: Steve Munoz, Police Corporal, COPS Unit/ABC Detail

DATE: February 4, 2015

SUBJECT: FILE NO. PCUP15-002 – Hamburger Mary’s Bar and Grille
3550 E. Porsche Way, ONTARIO, CA 91764

This location has applied for a type 47 On-Sale General-Eating Place license located within Census Tract No. 21.09. According to the Department of Alcoholic Beverage Control (ABC), there are currently thirty-seven on-sale licenses within this Census Tract. This location operates as a “Bona Fide Public Eating Place,” and the Police Department does not object to allowing the license. The location must follow all State, local, and Department of Alcoholic Beverage Control laws, rules, and conditions. In addition, the following conditions of approval shall be imposed by the Police Department:

BUSINESS CONDITIONS

1. The business hours permitted will be 06:00AM to 02:00AM daily.
2. Last call for alcohol will be no later than 45 minutes prior to closing, and not later than 01:15AM.
3. The business shall maintain the ability to make substantial meals until last call. A limited menu will be permitted after 9:00PM.
4. Employees serving alcohol during entertainment hours will be at least 21 years of age.
5. No sales of alcoholic beverages to minors.
6. Bottle service sales will not be allowed after 00:30AM, or ninety (90) minutes prior to closing.
7. No sales of alcohol to obviously intoxicated patrons.

8. No alcohol shall be sold/removed from the establishment for consumption.
9. No self serve alcohol displays or machines.
10. Smoking is not permitted inside of the establishment, including electronic nicotine delivery devices.
11. There will be no narcotic sales or usage on the premises at any time.
12. Applicant, managers, and all employees serving alcohol must attend an Alcoholic Beverage Control (ABC) L.E.A.D. training class or a certified responsible beverage service class, which has been approved by the Ontario Police Department, within six months of this approved conditional use permit (CUP). Proof of re-certification is required every 3 years. This class is given free of charge by the Ontario Police Department.
13. Lighting within the restaurant must be kept at a reasonable level for safe movement of patrons.
14. Back door to the location must be alarmed and closed at all times.
15. Address to establishment must be illuminated for easy identification of safety personnel.
16. 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.
17. The parking lot will need adequate lighting (minimum 1 foot candle) from dusk to dawn.
18. Restrooms must be kept free of graffiti.
19. A Juke Box will be allowed in the premises.
20. No arcade video game machines or pool tables will be allowed in the premises.
21. All hallways must be kept clear from merchandise, storage, and patrons blocking pathway.
22. 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 on the premises 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.

23. The restaurant managers 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).
24. All special events will require Ontario Police Officers or an authorized security company to provide security at the applicant's expense. The amount of officers will be determined by the size of the event. (For example a radio station promotion held at the restaurant 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.)

SECURITY CONDITIONS

1. Businesses that include a combination of live entertainment (disc jockey or bands) and dancing shall be required to provide security. A minimum of four security guards at the above business location are required. Two armed security guards in the parking lot area to patrol and proactively monitor patrons. Two security guards inside the location to check identifications and enforce the code of conduct. Example: If a disc jockey and dancing starts at 09:00PM, the security guards must be on-duty at the location at 09:00PM.
2. In addition to the security required above, the establishment will provide internal staff not part of the restaurant or alcohol serving operation staff, to control and proactively monitor patrons inside the establishment. (example is Lounge Host, Bouncer, assistant manager). During entertainment, this employee will also maintain a count of the number of patrons inside the location to ensure occupancy limits are followed.
3. In the event security problems occur as a result of the use, the Police Department may request a public hearing before the Zoning Administrator to consider modifications, including but not limited to, additional security guards, additional hours for security guards, and replacement of security guards with Ontario Police officers. The public hearing process shall be conducted in accordance with the requirements of the City's Development Code.
4. A Code of Conduct will be required to be used and posted at all public entrances of the establishment. The Code of Conduct will include a dress code and shall be utilized on days/nights of entertainment and special events. A copy of the code conduct will be on file with the police department.
5. The business shall maintain a security camera surveillance system in proper working order. A minimum of one camera will record the Entertainment area and a minimum of one camera will record the parking lot. Each camera will record at least 640x480 recording resolution levels, and at least fifteen (15) frames per second. The field of view for each camera will be to maximize the coverage of patrons. Recorded video will be stored for a minimum of 30 days and made available to the Police Department upon request.

6. 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.
7. Security personnel 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.
8. Security personnel will remain on-duty until the parking lot is clear of all patrons.

ENTERTAINMENT CONDITIONS

1. An entertainment area must be designated on a plan check.
2. The entertainment allowed will be dancing, live band/musicians, comedy show, fashion show/drag show, disc jockey, open microphone events, trivia, karaoke, charity/bingo events, Dining with the Divas, and Go Go dancers/Club Dancers. All entertainment must be held in the designated entertainment area. Dining with the Divas event may occur throughout the restaurant.
3. A cover charge will be allowed after 09:00PM daily. Also, a cover charge will be allowed for events that are held in the entertainment area.
4. During days/nights of entertainment wristbands will be issued to patrons 21 and over after being checked for bone fide identification. This condition will not apply if the business is restricted to patrons that are 21 and over.
5. Dancing, disc jockey, live band/musicians, and Go Go dancers/Club dancers are permitted after 09:00PM daily. Go Go Dancers/Club Dancers are only permitted on a stage or dancing platform that will separate the dancers from the patrons. These dancers will not have physical interaction with the patrons. There will be no nudity, to include the appearance of the female breast, and no strip tease.
6. All entertainment will stop fifteen (15) minutes prior to closing.
7. A disc jockey will be allowed on Saturdays and Sundays from 11:00AM to 04:00PM for the Fashion Show/Drag Show brunch event.
8. Charity/Bingo events will be required to follow the regulations under Ontario Municipal Code 5-18.01 of Title 5 - Public Welfare, Morals, and Conduct.
9. Tables in the entertainment area may be removed or rearranged during events and dancing.
10. Entertainment sounds must be confined within the business and cannot expand outside to the parking lot.

11. The business is required to have in place driver license and/or ID card reading devices.

12. The business will not violate section 143.2 (Attire and Conduct), or section 143.3 (Entertainers and Conduct) of the California Code of Regulations, Title 4, Division 1.

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, or 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.

If you have any questions please call Corporal Steve Munoz at (909) 395-2782.



CITY OF ONTARIO MEMORANDUM

Date: February 24, 2015
To: Arij Baddour, Engineering Department
From: Jeff Krizek, Utilities Engineering Division
Subject: DAB#1 - Utilities Comments (#3803)
Project No.: PCUP15-002 – ABC License for Hamburger Mary's at 3550 E Porche Way

**Conditions of
Approval**

1. Project shall comply with the requirements as set forth in the Standard Conditions of Approval adopted by the City Council (Resolution No. 2010-021) on March 16, 2010; as well as project-specific conditions/requirements as outlined below.
2. The Occupant/Applicant shall apply for a Wastewater Discharge Permit for their Establishment, and shall comply will all the requirements of their Wastewater Discharge Permit. Requirements of Wastewater Discharge Permit may include, but not to limited to including: possibly installing new larger grease interceptor or other sewer pretreatment equipment.



CITY OF ONTARIO

MEMORANDUM

TO: John Hildebrand, Planning Department

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

DATE: January 22, 2015

SUBJECT: PCUP15-002 A Conditional Use Permit modification to establish new conditions of approval for alcoholic beverage sales and live entertainment in conjunction with Hamburger Mary's Bar and Grill, located at 3550 East Porsche Way, within the Urban Commercial Land Use designation of the Ontario Center Specific Plan.

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

No comments

Report below.

Conditions of approval are as follows:

1. Do not exceed maximum occupant load as determined by Ontario Fire Department and/or Ontario Building Department.
2. Maintain visible and unobstructed exits/aisles at all times.
3. Maintain all fire protection and detection equipment/devices.

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.

AIRPORT LAND USE COMPATIBILITY PLANNING CONSISTENCY DETERMINATION REPORT



Project File No.: PCUP15-002
 Address: 3550 East Porsche Way
 APN: 0210-211-37
 Existing Land Use: Commercial Restaurant
 Proposed Land Use: CUP amendment for ABC and live entertainment for existing restaurant
 Site Acreage: .316 Proposed Structure Height: n/a
 ONT-IAC Project Review: No
 Airport Influence Area: ONT

Reviewed By: Lorena Mejia
 Contact Info: 909-395-2276
 Project Planner: John Hildebrand
 Date: 2/24/15
 CD No.: 2015-007
 PALU No.: n/a

The project is impacted by the following ONT ALUCP Compatibility Zones:

- | Safety | Noise Impact | Airspace Protection | Overflight Notification |
|-------------------------------|---------------------------------------|---|--|
| <input type="radio"/> Zone 1 | <input type="radio"/> 75+ dB CNEL | <input type="radio"/> High Terrain Zone | <input type="radio"/> Avigation Easement Dedication |
| <input type="radio"/> Zone 1A | <input type="radio"/> 70 - 75 dB CNEL | <input checked="" type="checkbox"/> FAA Notification Surfaces | <input type="radio"/> Recorded Overflight Notification |
| <input type="radio"/> Zone 2 | <input type="radio"/> 65 - 70 dB CNEL | <input checked="" type="checkbox"/> Airspace Obstruction Surfaces | <input checked="" type="checkbox"/> Real Estate Transaction Disclosure |
| <input type="radio"/> Zone 3 | <input type="radio"/> 60 - 65 dB CNEL | <input type="radio"/> Airspace Avigation Easement Area | |
| <input type="radio"/> Zone 4 | | Allowable Height: 100 -102' | |
| <input type="radio"/> Zone 5 | | | |

The project is impacted by the following Chino ALUCP Compatibility Zones:

- Zone A Zone B1 Zone C Zone D Zone E

CONSISTENCY DETERMINATION

This proposed Project is: Exempt from the ALUCP Consistent Consistent with Conditions Inconsistent

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.

Lorena Mejia

Airport Planner Signature: _____