

Regional Planning Commission Transmittal Checklist

Hearing Date
08/15/2012
Agenda Item No.
7

Project Number: 90-242-(4)
Case(s): Conditional Use Permit No. 201100087
Planner: Rudy Silvas

- Factual
- Property Location Map
- Staff Report
- Draft Resolution / Draft Ordinance / 8.5x11 Map (ZC or PA)
- Draft Findings
- Draft Conditions
- Correspondence (Sheriff)
- Environmental Documentation (MND – Initial Study & MMP)
- Burden of Proof Statement(s)
- Photographs
- Aerial Image(s)
- Land Use Radius Map/ Zoning Map
- Tentative Tract / Parcel Map
- Site Plan/ Floor Plan
- Exhibit Map
- Landscaping Plans (Preliminary)
- Previous CUP 90-242 Findings and Conditions of Approval

Reviewed By: 



PROJECT SUMMARY

Department of Regional Planning

PROJECT NUMBER: 90-242-(4)

HEARING DATE: August 15, 2012

APPLICANT / OWNER: Kula West Irvine, Inc./ Diamond Plaza, LLC

MAP/EXHIBIT DATE: April 17, 2011

ENTITLEMENT(S):

- Conditional Use Permit No. 201100087

LOCATION:

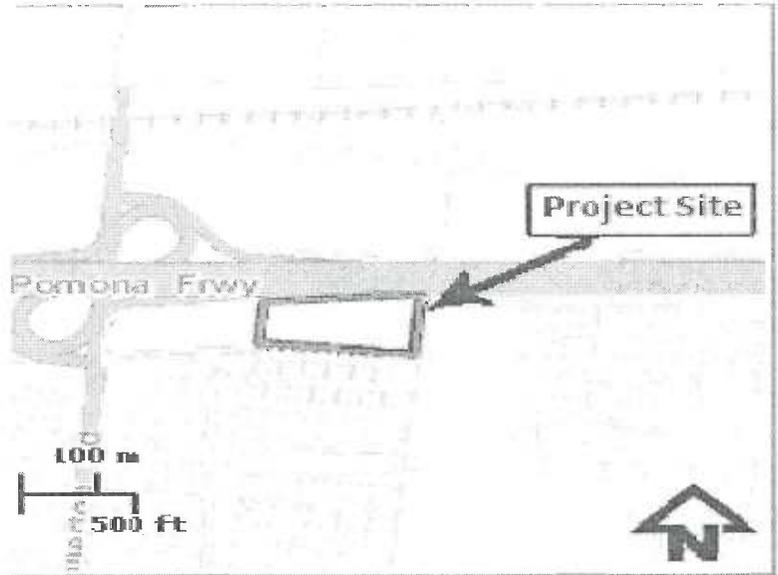
1370 Fullerton Rd., Ste. 105 & 106

APN(s):

8270-002-051

GENERAL PLAN / COMMUNITY PLAN / CSD:

- Rowland Heights Community Plan
- Rowland Heights (CSD)



LAND USE DESIGNATION	ZONE	PROPOSED UNITS	SITE AREA	MAX UNITS
Commercial	C-2-DP-BE (Neighborhood Business-Development Program-Billboard Exclusion)	N/A	4.35 Acres	N/A

PROJECT OVERVIEW

Conditional use permit (CUP) to allow sale of beer and wine with a Type 41 State (ABC) Alcoholic Beverage Control license for on-site consumption in an established restaurant (Kula Revolving Sushi Bar). Restaurant is located in the C-2-DP-BE (Neighborhood Business-Development Program-Billboard Exclusion) Zone, within the Rowland Heights Community Standards District (CSD). The restaurant was approved under a Revised Exhibit "A" to CUP 90-242 on February 22, 2011. No increase in current occupancy of patrons is proposed. Access to site is from Fullerton Road.

ENVIRONMENTAL DETERMINATION (CEQA)

Class 1 Categorical Exemption – Existing Facilities

STAFF RECOMMENDATION

Staff recommends approval of the CUP application pursuant to Los Angeles County Code Sections 22.28.160 and 22.56.195, for alcoholic beverage sales with on-site consumption of beer and wine in an established restaurant with a Type 41 ABC license. Staff is of the opinion that the applicant has met both the CUP and ABC burdens of proof.

CASE PLANNER:

Rudy Silvas

PHONE NUMBER:

(213) 974 - 6462

E-MAIL ADDRESS:

rsilvas@planning.lacounty.gov

Property Location Map
1370 Fullerton Rd, Ste 105 and 106



ENTITLEMENTS REQUESTED

The applicant requests approval of a CUP application pursuant to Los Angeles County "Code" Sections 22.28.160 and 22.56.195 to allow for alcoholic beverage sales (beer and wine only) with on-site consumption at an established restaurant in the C-2-DP-BE (Neighborhood Business-Development Program-Billboard Exclusion) Zone.

PROJECT DESCRIPTION

Conditional use permit (CUP) application is requested to allow the sale of beer and wine for on-site consumption with a Type 41 ABC license in an established restaurant (Kula Revolving Sushi Bar). The restaurant is located in the C-2-DP-BE Zone within the Rowland Heights Community Standards District (CSD). The restaurant was approved under a Revised Exhibit "A" to CUP 90-242 on February 22, 2011, and is currently operating. The original CUP 90-242 for construction of the multi-tenant Diamond Plaza commercial center was approved on December 4, 1991. The scope of this request is the sale of beer and wine for on-site consumption, no increase in current occupancy of the restaurant is proposed.

LOCATION

The subject property is located at 1370 Fullerton Rd., Ste. 105 and 106, Diamond Plaza, within the unincorporated community of Rowland Heights, Fourth Supervisorial District, in the Puente Zoned District.

Existing Zoning

Subject Property

The subject site is currently zoned C-2-DP-BE.

Surrounding Zones

Surrounding properties are zoned:

North: C-2-DP-BE to centerline of State Hwy. 60 (Pomona Fwy.)

South: R-3-3,000-14U-DP (Limited Multiple Residence-3,000 sq. ft. minimum lot size area required/unit-14 units/acre-Development Program) Zone

East: RPD-6,000-10U (Residential Planned Development-6,000 sq. ft. minimum lot size area required/unit-10 units/acre)

West: City of Industry

Existing Land Uses

Subject Property

The subject property is developed with an established commercial plaza on a project site that is located partially within the unincorporated County area and partially within the City of Industry. A total of 635 parking stalls are located on the overall site.

Surrounding Properties

Surrounding land uses consist of:

North: State Hwy. 60 (Pomona Fwy.)

South: Single Family Residential

East: Jellick Elementary School

West: Commercial Plaza

SITE PLAN DESCRIPTION

The site plan depicts the parcel in the County portion, which is 4.35 acres in size. The parcel in the City of Industry portion of the overall site is 3.26 acres, but is not depicted on the site plan. The Land Use Map does depict the overall site. There are four major structures that make up Diamond Plaza. Building 1 (1330 Fullerton) and Building 2 (1390 Fullerton), not depicted on the site plan, are located within the City of Industry portion of the plaza; and Building A (1370 Fullerton) and Building B (1380, 1388 Fullerton), which are depicted on the site plan, are located within the County portion. The Sushi restaurant is located within the County portion in Building A (Suites 105 & 106). The configuration of the parcels are rectangular. The commercial plaza site is situated between the Pomona Freeway to the north, a large residential community to the south, an elementary school to the east, and Fullerton Road to the West. The site is relatively flat and is developed with one and two story commercial structures, with subterranean parking located below the plaza within the City of Industry portion of the site. The main entrance to the commercial plaza is from Fullerton Road on the west end of the site, and a secondary emergency access with a locked gate is from Jellick Avenue to the east. The restaurant has an Occupancy Load Determination for 92 persons, as determined by County Building and Safety on February 2, 2011. Based on this occupancy load, the required parking for the restaurant is one parking space for every three occupants/persons which calculates to 31 required parking spaces. The applicant has indicated that 37 parking spaces are reserved for the restaurant (Units 105 & 106). The County portion of the commercial center where the restaurant is located has up to 308 parking spaces striped there at the plaza level (as depicted on the site plan), and 327 parking spaces are located in the City of Industry portion (not depicted) for a total of 635 parking spaces for the plaza.

ENVIRONMENTAL DETERMINATION

Staff of the Los Angeles County Department of Regional Planning (DRP) has recommended that a Categorical Exemption, Class 1 – Existing Facilities, is the appropriate environmental documentation pursuant to reporting requirements for classes of projects mandated as exempt from the provisions of the California Environmental Quality Act (CEQA), and found by the Secretary of Resources to not have a significant effect on the environment. . The project is to allow the sale of beer and wine at an existing restaurant.

LEGAL NOTIFICATION AND PUBLIC OUTREACH

Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper, property posting, library posting and DRP website posting.

In order to ensure notification thirty (30) days before the scheduled hearing date of August 15, 2012 and in accordance with above provisions, a total of 112 public hearing notices were mailed out on July 10, 2012 to all property owners within a 500 foot radius of the subject property.

Also in compliance with the thirty-day noticing requirement, the Notice of Public Hearing was published and advertised in *San Gabriel Valley Tribune* newspaper on July 17, 2012, and *La Opinion* newspaper on July 17, 2012, and was also sent on July 10, 2012 to the Rowland Heights County Library located at 1850 Nogales Street in unincorporated Rowland Heights along with the Factual Sheet.

Staff also received the Certificate of Posting from the applicant stating that the Notice of Public Hearing was posted at the site 30 days before the hearing date in accordance with Section 22.60.175 of the County Code.

PREVIOUS CASES/ZONING HISTORY

- The current zoning of C-2-DP-BE was established by Ordinance No. 82-0065Z, adopted by the County Board of Supervisors on March 16, 1982.
- County Assessor records indicate that the structures on site were developed in 1993.
- CUP 90-242 for construction of the multi-tenant Diamond Plaza commercial center, on 4.35 acres of land in the unincorporated area, which included retail sales and services, offices and restaurants, was approved on December 4, 1991, by the Regional Planning Commission. The commercial center also consists of 3.26 acres of land within the City of Industry, for a total of 7.61 acres of land. The portion of the commercial center within the City of Industry was approved by the City.
- Rowland Heights Community Standards District adopted on November 27, 2001.
- The site plan for the restaurant was approved by Revised Exhibit "A" to CUP 90-242 on February 22, 2011.

STAFF EVALUATION

General Plan Consistency

The site is designated in the Rowland Heights Community Plan as "Commercial", and in the Los Angeles Countywide General Plan as "Category 2" (Low to Medium density residential-- 6 to 12 dwelling units/acre). The Rowland Heights Community Plan, which supplements the Countywide General Plan for the area provides more detailed information regarding specific land uses contemplated for the area. The existing commercial plaza and the proposed sale of beer and wine within the established restaurant are consistent with the Commercial land use category of the Rowland Heights Community Plan, which allows retail and commercial services and office uses. The restaurant is a local serving business which is also consistent with the land use category.

Zoning Ordinance and Development Standards Compliance

The sale of beer and wine sales for on-site consumption in an established restaurant is subject to the development standards of the C-2 Zone and the Rowland Heights Community Standards District (CSD).

The multi-tenant commercial center project site was approved by CUP 90-242, and was required in its design to buffer the project from the adjoining residential area to the south. The C-2 zone development standards under County Code Section 22.28.170 do not require any specific setbacks for structures. Nevertheless, the back of the restaurant is located 29 feet from the rear property line adjoining the residential zone to the south. Therefore, the proposed project to allow for the sale of beer and wine in a restaurant within the existing commercial plaza is adequately buffered from nearby uses because the commercial center itself is adequately buffered and no alterations are being proposed to the existing building.

The conditions of approval for CUP 90-242 also required the construction of an eight-foot high masonry wall along the southern property line to ensure the residential zone to the south was buffered. The height of the eight-foot wall exceeds the six-foot height of such required masonry walls to buffer commercial parking areas from residential areas under County Code Section 2.52.1060 D.2. The Rowland Heights CSD (County Code Section 22.44.132), adopted and enacted after the completion of the commercial center, requires buffers between new structures and additions to structures at 15 feet or less in height on lots or parcels adjoining a residential zone to be three feet from the property line, and one additional foot of setback for each foot in the height of such structure that exceeds 15 feet in height. Although the majority of the commercial center's structures are two-stories, the structure where the restaurant suite is located is single-story and is setback 29 feet from the rear property line adjoining the residential zone. The structure would be in compliance with the current Rowland Heights CSD requirements for buffering. Because the Project does not propose any alterations to the existing building, the Project is adequately buffered from the surrounding neighborhood and will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area and will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site.

The Rowland Heights CSD (County Code Section 22.44.132) does not contain additional requirements for the sale of alcohol at an existing restaurant, and the restaurant was approved in February 22, 2011 through a Revised Exhibit "A" which allowed the tenant improvement for the conversion of retail use to a dining use. The Revised Exhibit "A" analyzed the parking required for the spaces available for the restaurant use, and ensured that there were an adequate number of parking spaces available. The CUP for the sale of beer and wine for on-site consumption does not change or affect the parking required or provided.

Upon the approval of CUP 90-242 in 1991, the applicant was to provide 418 parking spaces within the County portion of the project area, which exceeded minimum requirements and allowed for assembly uses such as restaurants. The existing parking, as required for the restaurant per County Code Section 22.52.1110 for Entertainment, Assembly and Dining, is provided in accordance with the stamped Occupancy Load Determination for 92 persons on the Revised Exhibit "A" plan approved on February 22, 2011. Based on the ratio of one stall for every three persons,

31 parking spaces were required. The applicant has provided 37 parking spaces, six more than the minimum number required, and an additional 299 parking spaces are allotted for other dining, retail and office establishments in the commercial center within the County portion of the plaza. A total of 308 parking spaces are provided in the County portion of the plaza, plus 327 parking spaces provided in the City of Industry portion, for a total number of 635 parking spaces throughout Diamond Plaza. All required parking has been met and the CUP for the sale of beer and wine for on-site consumption does not change or affect the parking required or provided. The majority of parking spaces are located at plaza level, with some spaces located below the plaza in a subterranean garage.

In addition to the findings required for a CUP, the sale of alcohol is subject to additional findings under County Code Section 22.56.195 B., regarding proximity to sensitive uses and overconcentration of establishments selling alcohol. The project site is located within 600 feet of an elementary school with a playground to the east. The restaurant is located within the interior area of the commercial plaza, and is buffered from the elementary school site by the commercial building adjacent and to the east of the building where the restaurant is located. There is no line of sight between the restaurant and the elementary school to the east of the commercial plaza across Jellick Avenue. Also between the commercial buildings and Jellick Avenue is a landscaped buffer and eight-foot high wrought iron fence buffering the site from the elementary school site. Access to and from the site from Jellick Avenue is for emergency use only and secured by an eight-foot high wrought iron gate. There are no other sensitive uses, such as a place of religious worship, parks, other schools, playgrounds or any other similar uses within 600 feet. The site is sufficiently buffered from the residential area adjoining the site to the south with the required eight-foot high masonry wall and the 29-foot setback. The restaurant location and its buffering from the elementary school site and the residential area negates any impacts the restaurant could have from patrons entering and exiting. Therefore, the project will not adversely affect the use of a place used exclusively for worship, school, park, playground, or other similar use.

According to the report from ABC, there are other establishments within the Diamond Plaza commercial center that sell alcoholic beverages for on-site consumption. Seven have been identified within Diamond Plaza, one being a nightclub within the City of Industry portion near Fullerton Road. The other six establishments within Diamond Plaza are restaurants with on-site beer and wine sales and on-site consumption. There are also five other businesses that retail alcoholic beverages within 600 feet of the commercial center, all located north of the Pomona Freeway. The State Department of Alcoholic Beverage Control (ABC) reported to Regional Planning on August 1, 2011, that there is an undue concentration of alcoholic beverage licenses in the subject Reporting District No. 2931. There was reported to be an existing number of 59 licenses when only six are allowed. Such an undue concentration in the number of alcoholic beverages issued for the district requires a finding of public convenience and necessity under County Code Section 22.56.195 B.3. Finding No. 28 below explains

why the CUP application for the sale of beer and wine for on-site consumption in the established restaurant is considered a public convenience.

ABC also reported to Regional Planning that the restaurant is located in a high crime reporting district. It was reported that the average number of offenses for 374 reporting districts was 151.74, and that 120% of the average number of offenses was calculated to be 182.1. The total number of offenses reported in District 2931 was 307.

Staff consulted the County Sheriff Department (Walnut/Diamond Bar Sheriff Station) for a call and crime history report for the project site over the last five years (report attached). The County Sheriff's Department voiced no objection to the sale of beer and wine in their letter to Regional Planning dated August 9, 2011. In the list of calls presented and recorded from August 2006 to July 2011, the calls responded to did not involve actions related to public drunkenness. The entire Diamond Plaza consists of 7.61 acres, and 58 suites.

The exterior appearance of the building is consistent with surrounding structures. Therefore, the use is in compliance with additional findings required under County Code Section 22.56.195 B.5., in that the use will not diminish or impair property values within the neighborhood.

Neighborhood Impact/Land Use Compatibility

The proposed sale of alcoholic beverages for on-site consumption with food service in the established restaurant would not create any type of negative impact to the surrounding neighborhood. Although the restaurant is adjoining a large residential area to the south and an adjacent elementary school to the east, the on-site sale and consumption of beer and wine would not lead to problems typically associated with over consumption of alcoholic beverage because the alcohol is to be served in conjunction with the serving Japanese cuisine in an established restaurant.

The restaurant is a benefit to the local community, and serves not only those within this community but also customers from outside the community who visit or do business in the local vicinity. The use itself is consistent with the Commercial land use category of the Rowland Heights Community General Plan.

Due to the report from ABC that there is an undue concentration of ABC licenses in the vicinity of the restaurant, a finding of public convenience has been made by Staff based on the fact that the project is to provide beer and wine sales in conjunction with a full service eating establishment, and that alcohol is a customary accompaniment to full-service dining. Staff has found that it is better to concentrate alcohol permits within an existing, established, developed commercial center, as is the case with this CUP application. Finally, it has been considered that other restaurants within the vicinity offer the same service, which makes the sushi restaurant part of a network of restaurants that provide customers and the community with convenient alternatives for dining, thus providing a public convenience.

The project proposal was reviewed by the Rowland Heights Community Coordinating Council at their regularly scheduled Board meeting of May 16, 2012; there are no objections to the CUP application.

RELATED ZONING ENFORCEMENT CASES

None currently open on site. Verified with Zoning Enforcement East on July 26, 2012.

Burden of Proof

The applicant is required to substantiate all facts identified by County Code Section 22.56.040, CUP burden of proof. In addition, the applicant is also required to substantiate all facts identified by County Code Section 22.56.195, ABC burden of proof. The applicant's responses are attached. Staff is of the opinion that the applicant has met the two burdens of proof.

COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS

Staff consulted the County Sheriff Department (Walnut/Diamond Bar Sheriff Station) for a call and crime history report for the project site over the last five years (report attached). The County Sheriff's Department voiced no objection to the sale of beer and wine in their letter to Regional Planning dated August 9, 2011. In the list of calls presented and recorded from August 2006 to July 2011, the calls responded to did not involve actions related to public drunkenness. Staff also did solicit comments from other County Departments, but no comments were offered.

PUBLIC COMMENTS

To date, Staff has not received any comments from the public regarding the new CUP application for alcoholic beverage sales.

FEES/DEPOSITS

If approved, fees identified in the attached project conditions will apply unless modified by the Regional Planning Commission.

STAFF RECOMMENDATION

The following recommendation is made prior to the public hearing and is subject to change based upon testimony and/or documentary evidence presented at the public hearing:

Staff recommends that the Regional Planning Commission close the public hearing and approve Conditional Use Permit No. 201100087, subject to the attached Findings and Conditions.

SUGGESTED APPROVAL MOTIONS

I move that the Regional Planning Commission close the public hearing, determine that the project is exempt from the California Environmental Quality Act pursuant to a Class 1 categorical exemption, and **APPROVE** Conditional Use Permit Number 201100087 subject to the attached findings and conditions of approval.

Prepared by Rudy Silvas, Principal Regional Planning Assistant
Reviewed by Mi Kim, Supervising Regional Planner

Attachments:

Draft Findings and Conditions of Approval
Applicant's Burden of Proof statement
Site Photographs
Site Plan
Land Use Map

MKK:RS 08/02/2012

**DRAFT FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES**

**PROJECT NO. 90-242-(4)
CONDITIONAL USE PERMIT NO. 201100087**

REQUEST:

The applicant requests approval of a CUP application pursuant to Los Angeles County "Code" Sections 22.28.160 and 22.56.195 to allow for alcoholic beverage sales (beer and wine only) with on-site consumption at an established restaurant in the C-2-DP-BE (Neighborhood Business-Development Program-Billboard Exclusion) Zone.

HEARING DATE: AUGUST 15, 2012

PROCEEDINGS BEFORE THE REGIONAL PLANNING COMMISSION:

Findings

1. The project site restaurant is located within a commercial plaza known as Diamond Plaza, at 1370 Fullerton Rd., Suites 105 and 106, within the unincorporated community of Rowland Heights, Fourth Supervisorial District, in the Puente Zoned District.
2. A conditional use permit (CUP) is requested to allow the sale of beer and wine for on-site consumption with a Type 41 ABC license in an established restaurant (Kula Revolving Sushi Bar). The restaurant is located in the C-2-DP-BE Zone within the Rowland Heights Community Standards District (CSD). The restaurant was approved under a Revised Exhibit "A" to CUP 90-242 on February 22, 2011, and is currently operating. The original CUP 90-242 for construction of the multi-tenant Diamond Plaza commercial center was approved on December 4, 1991. The scope of this request is the sale of beer and wine for on-site consumption, no increase in current occupancy of the restaurant is proposed.
3. The subject property is developed with an established commercial plaza on a project site that is located partially within the unincorporated County area and partially within the City of Industry. The parcel in the County portion is 4.35 acres in size, and the portion within the City is 3.26 acres. There are four major structures that make up Diamond Plaza. Building 1 (1330 Fullerton) and Building 2 (1390 Fullerton) are located within the City of Industry portion of the plaza, and Building A (1370 Fullerton) and Building B (1380, 1388 Fullerton) are located within the County portion. The Sushi restaurant is located within the County portion in Building A (Suites 105 & 106). The configuration of the parcels are rectangular.
4. The commercial plaza site is situated between the Pomona Freeway to the north, a large residential community to the south, an elementary school to the east, and Fullerton Road to the West. The site is relatively flat and is developed with one and two story commercial structures, with subterranean parking located below the plaza

within the City of Industry portion of the site. The main entrance to the commercial plaza is from Fullerton Road on the west end of the site, and a secondary emergency access with a locked gate is from Jellick Avenue to the east.

5. The restaurant has an Occupancy Load Determination for 92 persons, as determined by County Building and Safety on February 2, 2011. Based on this occupancy load, the required parking for the restaurant is one parking space for every three occupants/persons which calculates to 31 required parking spaces. The applicant has indicated that 37 parking spaces are reserved for the restaurant (Suites 105 & 106). The County portion of the commercial center where the restaurant is located has up to 308 parking spaces striped there at the plaza level, and 327 parking spaces are located in the City of Industry portion for a total of 635 parking spaces for the plaza.

6. Surrounding properties are zoned:
 - North: C-2-DP-BE to centerline of State Hwy. 60 (Pomona Fwy.)
 - South: R-3-3,000-14U-DP (Limited Multiple Residence-3,000 sq. ft. min. lot size area required/unit-14 units/acre-Development Program) Zone
 - East: RPD-6,000-10U (Residential Planned Development-6,000 sq. ft. min. lot size area required/unit-10 units/acre)
 - West: City of Industry

7. Surrounding land uses consist of:
 - North: State Hwy. 60 (Pomona Fwy.)
 - South: Single Family Residential
 - East: Jellick Elementary School
 - West: Commercial Plaza

8. The site is designated in the Rowland Heights Community Plan as "Commercial", and in the Los Angeles Countywide General Plan as "Category 2" (Low to Medium density residential-- 6 to 12 dwelling units/acre). The Rowland Heights Community Plan, which supplements the Countywide General Plan for the area provides more detailed information regarding specific land uses contemplated for the area. The existing commercial plaza and the proposed sale of beer and wine within the established restaurant are consistent with the Commercial land use category of the Rowland Heights Community Plan, which allows retail and commercial services and office uses. The restaurant is a local serving business which is also consistent with the land use category.

9. The current zoning of C-2-DP-BE was established by Ordinance No. 82-0065Z, adopted by the County Board of Supervisors on March 16, 1982.

10. County Assessor records indicate that structures on site were developed in 1993.

11. The Regional Planning Commission approved CUP 90-242 authorizing construction of the multi-tenant Diamond Plaza commercial center, on 4.35 acres of land in the unincorporated area, which included retail sales and services, offices and restaurants, on December 4, 1991. The commercial center also consists of 3.26 acres of land within the City of Industry, for a total of 7.61 acres of land. The portion of the commercial center within the City of Industry was approved by the City.
12. The Rowland Heights Community Standards District was adopted on November 27, 2001.
13. The site plan for the restaurant was approved by Revised Exhibit "A" to CUP 90-242 on February 22, 2011.
14. The sale of beer and wine sales for on-site consumption in an established restaurant is subject to the development standards of the C-2 Zone and the Rowland Heights Community Standards District (CSD).
15. The multi-tenant commercial center project site was approved by CUP 90-242, and was required in its design to buffer the project from the adjoining residential area to the south. The C-2 zone development standards under County Code Section 22.28.170 do not require any specific setbacks for structures. Nevertheless, the back of the restaurant is located 29 feet from the rear property line adjoining the residential zone to the south. Therefore, the proposed project to allow for the sale of beer and wine in a restaurant within the existing commercial plaza is adequately buffered from nearby uses because the commercial center itself is adequately buffered and no alterations are being proposed to the existing building.
16. The conditions of approval for CUP 90-242 also required the construction of an eight-foot high masonry wall along the southern property line to ensure the residential zone to the south was buffered. The height of the eight-foot wall exceeds the six-foot height of such required masonry walls to buffer commercial parking areas from residential areas under County Code Section 2.52.1060 D.2. The Rowland Heights CSD (County Code Section 22.44.132), adopted and enacted after the completion of the commercial center, requires buffers between new structures and additions to structures at 15 feet or less in height on lots or parcels adjoining a residential zone to be three feet from the property line, and one additional foot of setback for each foot in the height of such structure that exceeds 15 feet in height. Although the majority of the commercial center's structures are two-stories, the structure where the restaurant suite is located is single-story and is setback 29 feet from the rear property line adjoining the residential zone. The structure would be in compliance with the current Rowland Heights CSD requirements for buffering. Because the Project does not propose any alterations to the existing building, the Project is adequately buffered from the surrounding neighborhood and will not adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area and will not be materially

detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site.

17. The Rowland Heights CSD (County Code Section 22.44.132) does not contain additional requirements for the sale of alcohol at an existing restaurant.
18. The restaurant was approved in February 22, 2011 through a Revised Exhibit "A" which allowed the tenant improvement for the conversion of retail use to a dining use. The Revised Exhibit "A" analyzed the parking required for the spaces available for the restaurant use, and ensured that there were an adequate number of parking spaces available. The CUP for the sale of beer and wine for on-site consumption does not change or affect the parking required or provided.
19. Upon the approval of CUP 90-242 in 1991, the applicant was to provide 418 parking spaces within the County portion of the project area, which exceeded minimum requirements and allowed for assembly uses such as restaurants. The existing parking, as required for the restaurant per County Code Section 22.52.1110 for Entertainment, Assembly and Dining, is provided in accordance with the stamped Occupancy Load Determination for 92 persons on the Revised Exhibit "A" plan approved on February 22, 2011. Based on the ratio of one stall for every three persons, 31 parking spaces were required. The applicant has provided 37 parking spaces, six more than the minimum number required, and an additional 299 parking spaces are allotted for other dining, retail and office establishments in the commercial center within the County portion of the plaza. A total of 308 parking spaces are provided in the County portion of the plaza, plus 327 parking spaces provided in the City of Industry portion, for a total number of 635 parking spaces throughout Diamond Plaza. All required parking has been met and the CUP for the sale of beer and wine for on-site consumption does not change or affect the parking required or provided.
20. The majority of parking spaces are located at plaza level, with some spaces located below the plaza in a subterranean garage.
21. In addition to the findings required for a CUP, the sale of alcohol is subject to additional findings under County Code Section 22.56.195 B., regarding proximity to sensitive uses and overconcentration of establishments selling alcohol. The project site is located within 600 feet of an elementary school with a playground to the east. The restaurant is located within the interior area of the commercial plaza, and is buffered from the elementary school site by the commercial building adjacent and to the east of the building where the restaurant is located. There is no line of sight between the restaurant and the elementary school to the east of the commercial plaza across Jellick Avenue. Also between the commercial buildings and Jellick Avenue is a landscaped buffer and eight-foot high wrought iron fence buffering the site from the elementary school site. Access to and from the site from Jellick Avenue is for emergency use only and secured by an eight-foot high wrought iron gate. There are no other sensitive uses, such as a place of religious worship,

parks, other schools, playgrounds or any other similar uses within 600 feet. The site is sufficiently buffered from the residential area adjoining the site to the south with the required eight-foot high masonry wall and the 29-foot setback. The restaurant location and its buffering from the elementary school site and the residential area negates any impacts the restaurant could have from patrons entering and exiting. Therefore, the project will not adversely affect the use of a place used exclusively for worship, school, park, playground, or other similar use.

22. According to the report from ABC, there are other establishments within the Diamond Plaza commercial center that sell alcoholic beverages for on-site consumption. Seven have been identified within Diamond Plaza, one being a nightclub within the City of Industry portion near Fullerton Road. The other six establishments within Diamond Plaza are restaurants with on-site beer and wine sales and on-site consumption. There are also five other businesses that retail alcoholic beverages within 600 feet of the commercial center, all located north of the Pomona Freeway. The State Department of Alcoholic Beverage Control (ABC) reported to Regional Planning on August 1, 2011, that there is an undue concentration of alcoholic beverage licenses in the subject Reporting District No. 2931. There was reported to be an existing number of 59 licenses when only six are allowed. Such an undue concentration in the number of alcoholic beverages issued for the district requires a finding of public convenience and necessity under County Code Section 22.56.195 B.3. Finding No. 28 below explains why the CUP application for the sale of beer and wine for on-site consumption in the established restaurant is considered a public convenience.
23. ABC also reported to Regional Planning that the restaurant is located in a high crime reporting district. It was reported that the average number of offenses for 374 reporting districts was 151.74, and that 120% of the average number of offenses was calculated to be 182.1. The total number of offenses reported in District 2931 was 307.
24. Staff consulted the County Sheriff Department (Walnut/Diamond Bar Sheriff Station) for a call and crime history report for the project site over the last five years (report attached). The County Sheriff's Department voiced no objection to the sale of beer and wine in their letter to Regional Planning dated August 9, 2011. In the list of calls presented and recorded from August 2006 to July 2011, the calls responded to did not involve actions related to public drunkenness.
25. Staff also did solicit comments from other County Departments, but no comments were offered.
26. The exterior appearance of the building is consistent with surrounding structures. Therefore, the use is in compliance with additional findings required under County Code Section 22.56.195 B.5., in that the use will not diminish or impair property values within the neighborhood.

27. The proposed sale of alcoholic beverages for on-site consumption with food service in the established restaurant would not create any type of negative impact to the surrounding neighborhood. Although the restaurant is adjoining a large residential area to the south and an adjacent elementary school to the east, the on-site sale and consumption of beer and wine would not lead to problems typically associated with over consumption of alcoholic beverage because the alcohol is to be served in conjunction with the serving Japanese cuisine in an established restaurant.
28. The restaurant is a benefit to the local community, and serves not only those within this community but also customers from outside the community who visit or do business in the local vicinity. The use itself is consistent with the Commercial land use category of the Rowland Heights Community General Plan.
29. Due to the report from ABC that there is an undue concentration of ABC licenses in the vicinity of the restaurant, a finding of public convenience has been made by Staff based on the fact that the project is to provide beer and wine sales in conjunction with a full service eating establishment, and that alcohol is a customary accompaniment to full-service dining. Staff has found that it is better to concentrate alcohol permits within an existing, established, developed commercial center, as is the case with this CUP application. Finally, it has been considered that other restaurants within the vicinity offer the same service, which makes the sushi restaurant part of a network of restaurants that provide customers and the community with convenient alternatives for dining, thus providing a public convenience.
30. The project proposal was reviewed by the Rowland Heights Community Coordinating Council at their regularly scheduled Board meeting of May 16, 2012; there are no objections to the CUP application.
31. No open Enforcement cases on site; verified with Zoning Enforcement East on July 26, 2012.
32. Staff of the Department of Regional Planning has recommended that a Categorical Exemption, Class 1 – Existing Facilities, is the appropriate environmental documentation under California Environmental Quality Act (CEQA) reporting requirements.
33. Staff has not received any comments from the public regarding this CUP for alcoholic beverage sales.
34. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper and property posting.
35. To ensure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Hearing Officer determined that it is

necessary to limit the term of the grant to **15 years**, with **eight (8) biennial (one the first year and every other year thereafter)** site inspections.

36. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials is the Section Head of the Zoning Permits West Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

Regarding Conditional Use Permit:

- A. That the requested use at the location will not:
 - 1. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
 - 2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
 - 3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and
- B. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, and loading facilities, landscaping and other development features described in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
- C. That the proposed site is adequately served:
 - 1. By highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate, and
 - 2. By other public or private service facilities as are required.

Regarding Alcoholic Beverage Sales:

- A. That the requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground, or any similar use within a 600 – foot radius.
- B. That the requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area.
- C. The requested use at the proposed location will not result in an undue concentration of similar premises; a separation of not less than 500 feet shall not be construed as undue concentration; provided, however, that the planning agency may find that the public convenience or necessity for an additional facility selling alcoholic beverages for off-site consumption, outweighs the fact that it is

located within a 500-foot radius of any other facility selling alcoholic beverages for either on-site or off-site consumption, in which case the shelf space devoted to alcoholic beverages shall be limited to not more than five percent of the total shelf space in the establishment.

- D. That the requested use at the proposed location will not adversely affect the economic welfare of the nearby community.
- E. That the exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within said neighborhood.

REGIONAL PLANNING COMMISSION ACTION:

1. The Regional Planning Commission has determined that the project is Categorically Exempt from the provisions of CEQA, pursuant to a Class 1 Categorical Exemption for Existing Facilities, and certifies that it is consistent with the finding by the State Secretary for Resources and by local guidelines that this class of project does not have a significant effect on the environment.
2. In view of the findings of fact and conclusions presented above, Conditional Use Permit No. 201100087, Project No. 90-242-(4), is **APPROVED** subject to the attached conditions.

VOTE

Concurring:

Dissenting:

Abstaining:

Absent:

Action Date: August 15, 2012

c: Zoning Enforcement East, Building and Safety

MKK:RS
08/02/2012

**DRAFT CONDITIONS OF APPROVAL
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. 90-242-(4)
CONDITIONAL USE PERMIT NO. 201100087**

PROJECT DESCRIPTION

A conditional use permit (CUP) is requested to allow the sale of beer and wine for on-site consumption with a Type 41 ABC license in an established restaurant (Kula Revolving Sushi Bar). The restaurant is located in the C-2-DP-BE Zone within the Rowland Heights Community Standards District (CSD). The restaurant was approved under a Revised Exhibit "A" to CUP 90-242 on February 22, 2011. The original CUP 90-242 for construction of the multi-tenant Diamond Plaza commercial center was approved on December 4, 1991. The scope of this request is the sale of beer and wine for on-site consumption, no increase in current occupancy or alteration of the restaurant is proposed or authorized pursuant to this grant.

GENERAL CONDITIONS

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County ("County") Department of Regional Planning ("Regional Planning") their affidavit stating that they are aware of and agree to accept all of the conditions of this grant, and that the conditions of the grant have been recorded as required by Condition No. 7, and until all required monies have been paid pursuant to Condition No. 10. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4, 5, and 9 shall be effective immediately upon final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
4. The permittee shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009 or other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall fully cooperate in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.

5. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing make an initial deposit with Regional Planning in the amount of \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in Regional Planning's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

6. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
7. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall **record the terms and conditions** of the grant in the office of the County Registrar-Recorder/County Clerk ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
8. **This grant shall terminate on August 15, 2027.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new Conditional Use Permit application with Regional Planning, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six (6) months prior to the expiration date of this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
9. This grant shall expire unless used within two (2) years from the date of final approval of the grant. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
10. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation

applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$1,600.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The fund provides for **eight (8) biennial** inspections, one the first year, and one every other year thereafter. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be \$200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

11. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("Commission") or a Hearing Officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or Hearing Officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance or otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.
12. All development pursuant to this grant must be kept in full compliance with the County Fire Code.
13. All requirements of Title 22 of the County Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise modified as set forth in these conditions or as shown on the approved Exhibit A or on a revised Exhibit A approved by the Director.
14. All development pursuant to this grant shall conform with the requirements of County Department of Public Works.
15. All structures, walls and fences open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.

In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of notification of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces.

16. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." **Four (4) copies** of a modified Exhibit "A" of the building elevation plan that also depicts the new wall business sign and three projecting business signs fully dimensioned and drawn to scale shall be submitted to Regional Planning within sixty (60) days of the date of approval for final approval.

PERMIT SPECIFIC CONDITIONS

17. The permittee shall maintain the property in a neat and orderly fashion.
18. The permittee shall maintain free of litter all areas on the premises over which the permittee has control.
19. The conditions of this grant shall be retained on the premises at all times and shall be immediately produced upon request of any County Sheriff, Zoning Inspector or Department of Alcoholic Beverage Control agent. The manager and all employees of the facility shall be knowledgeable of the conditions herein.
20. Loitering shall be prohibited on the subject property, including loitering by employees of the subject property. Signage in compliance with Section 22.52 Part 10 of the County Code shall be placed on the premises indicating said prohibition. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary.
21. The permittee, and all managers and designated employees of the establishment, who directly serve or are in the practice of selling alcoholic beverages, shall participate in the LEAD (Licensee Education on Alcohol and Drugs) Program or similar program provided by the State of California Department of Alcoholic Beverage Control. All new designated employees shall be required to attend. The permittee shall display a certificate or plaque in a publicly accessible area of the establishment such as the lobby, indicating they have participated in this program. Proof of completion of the facilities' training program by employees, the permittee, and all managers shall be available to any ABC and County Zoning Enforcement Inspectors upon request.
22. The permittee shall not advertise the sale of alcoholic beverages on the exterior of any structure on the subject property including windows, walls, fences or similar structures.

23. The permittee shall strictly adhere to all regulations of the State of California prohibiting the sale of alcoholic beverages to minors.
24. The permittee shall post or otherwise provide telephone numbers of local law enforcement agencies and taxicab companies at or near the cashier, or similar public service area. Such telephone numbers shall be visible by and available to the general public.
25. This grant authorizes the sale of alcoholic beverages (beer and wine only) for on-site consumption from 11:00 a.m. to 10:30 p.m., seven days a week.
26. There shall be no consumption of alcoholic beverages outside the designated dining areas of the restaurant. The permittee shall instruct all designated employees, who directly serve or are in the practice of selling alcoholic beverages, regarding this restriction. Employees shall be instructed to enforce such restrictions and to call local law enforcement as necessary.
27. The permittee shall develop and implement a Designated Driver program (i.e. free soft drinks or coffee to a designated driver of a group). The permittee shall submit the program to the Director of Planning for approval prior to the effective date of the permit. A printed two-sided card explaining this program shall be placed on all tables in the restaurant or an explanation regarding the program shall be printed on the menu.
28. All servers of alcoholic beverages must be at least 18 years of age.
29. There shall be no music or other noise audible beyond the restaurant premises.
30. No live entertainment, dancing, or dance floor is authorized in or outside the premises.
31. Alcoholic beverages shall be sold to customers only when food is ordered and consumed within the subject restaurant only.
32. The sale and serving of alcoholic beverages for consumption outside the restaurant is prohibited, including patios, sidewalks, porches, loading docks, etc.
33. The business shall employ not less than one full-time cook that is engaged in the preparation of meals for patrons during the permissible hours of operation.
34. Not less than fifty-one percent of the income from the business enterprise shall be derived from the sale of food and non-alcoholic beverages. The business owner shall at all times maintain records which reflect separately the gross sale of food and the gross sale of alcoholic beverages. Said records shall be made available to the Los Angeles County Department of Regional Planning, the Department of Alcoholic Beverage Control, or the Los Angeles County Sheriff's Department on demand.

35. Food service shall be continuously provided during operating hours.

MKK:RS
08/02/2012



Leroy D. Baca, Sheriff

County of Los Angeles
Sheriff's Department Headquarters

4700 Ramona Boulevard
Monterey Park, California 91754-2169



August 9, 2011

AUG 16 2011

Dean Edwards, Senior Planner
Zoning Permits North Section
Los Angeles County Department Regional Planning
320 West Temple Street
Los Angeles, California 90012

Dear Mr. Edwards:

The information you requested regarding the Kula Revolving Sushi Bar is enclosed. The request for the conditional use permit has been provided to me by my staff. Upon review I find no objections to the conditional use permit and the addition of a full line of, *on sale person to person*, alcohol sales, (ABC Type 41). If you require additional information, please contact Deputy Joe LoMonaco at (909) 595-2264, extension 3043 or at his e-mail at jnlomona@lasd.org.

Sincerely,

LEROY D. BACA, SHERIFF

David E. Halm, Captain
Walnut/Diamond Bar Station



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



CONDITIONAL USE PERMIT BURDEN OF PROOF

Pursuant to Zoning Code Section 22.56.040, the applicant shall substantiate the following:

(Do not repeat the statement or provide Yes/No responses. If necessary, attach additional pages.)

A. That the requested use at the location will not:

1. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

1. The proposed project is for tenant improvement of an existing commercial space for a restaurant. The request for approval of a Type 41 On-Sale Beer & Wine Eating Place license will not detrimentally affect the health, safety, peace, comfort or welfare of persons residing or working in the surrounding area.
2. The proposed restaurant with beer and wine will not materially be detrimental to the use, enjoyment or valuation of property in the general vicinity.
3. The proposed restaurant with beer and wine will not create nor constitute a menace to the public health, safety or welfare.

B. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title 22, or as is otherwise required in order to integrate said use with the uses in the surrounding area.

The site is currently built at a large regional shopping center. The existing center has various retail stores, restaurants with and without alcohol, and other service uses. The shopping center was built according to approved plans by the County of Los Angeles and is developed in consideration of meeting the development standards of the County.

C. That the proposed site is adequately served:

1. By highways or streets of sufficient width, and improved as necessary to carry the kind and quantity of traffic such use would generate, and
2. By other public or private service facilities as are required.

The proposed restaurant with beer and wine is located in an existing center that is serviced by Fullerton Road and the 60 freeway. The major street and freeways provide adequate service for any additional traffic generated from the new restaurant. The existing shopping center is served by public services as contemplated in the development standards required by the County of Los Angeles when the center was built.



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



ALCOHOLIC BEVERAGE SALES BURDEN OF PROOF

Pursuant to Zoning Code Section 22.56.195, the applicant shall substantiate the following:
(Do not repeat the statement or provide Yes/No responses. If necessary, attach additional pages.)

ABC License Type No(s): Type 41 (e.g. Type 20, Type 41)

A. That the requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground, or any similar use within a 600-foot radius.

The proposed restaurant with beer and wine will not affect any sensitive uses within 600 feet of the property. The only sensitive use is an elementary school located behind the shopping center to the southeast. The center itself will act as a buffer as there is no direct access to the school or neighborhood from the center.

B. That the requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area.

The center itself will act as a buffer as customers and access to the restaurant are from the front of the center, not the rear. The center is also buffered by a 6 foot tall block wall and street from the residential area and the school.

C. The requested use at the proposed location will not result in an undue concentration of similar premises; a separation of not less than 500 feet shall not be construed as undue concentration; provided, however, that the planning agency may find that the public convenience or necessity for an additional facility selling alcoholic beverages for off-site consumption, outweighs the fact that it is located within a 500-foot radius of any other facility selling alcoholic beverages for either on-site or off-site consumption, in which case the shelf space devoted to alcoholic beverages shall be limited to not more than five percent of the total shelf space in the establishment.

While there are a number of other restaurants with alcoholic beverage licenses, the rotating sushi counter is unique and would serve the dining public.

D. That the requested use at the proposed location will not adversely affect the economic welfare of the surrounding community.

The proposed restaurant with beer and wine is located in a planner regional shopping center that will enhance and support the economic vitality of the surrounding community. It will help additional customers to the center that may be encouraged to also try other restaurants and retail stores at the same time or in the future.

E. That the exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within said neighborhood.

The exterior will not be changed with the exception of new signage for the restaurant.

APPLICANT: Kula West Irvine, Inc. dba "Kula Revolving Sushi Bar"
REQUEST: Approval of Conditional Use Permit Permitting a Type 41 On-Sale Beer & Wine license in Conjunction With The Operation of "Kula Revolving Sushi Bar".
PROPOSED USE: Restaurant With On-Sale Service of Beer & Wine
ADDRESS: 1370 S. Fullerton Road, Suite 105-106, Rowland Heights, CA 91748

USE PERMIT APPLICATION JUSTIFICATION

The proposed project is for the approval of a Type 41 On-Sale Beer & Wine license for a new full service Japanese restaurant located at 1370 S. Fullerton Road, Suite 105-106, Rowland Heights, CA 91748 and commonly known as "Kula Revolving Sushi Bar". The restaurant is located within the Diamond Plaza Shopping Center.

The proposed restaurant will have a total area of approximately 3,500 square feet. The proposed restaurant will be open seven (7) days a week. The proposed hours of operation are 11:00 AM to 11:00 PM. The restaurant seats 100 dining patrons.

The project will employ approximately 7-9 employees that would be on-site at one time

This request is to permit the sale of beer and wine for on-sale consumption in conjunction with the operations of the restaurant. Service of beer and wine is made for the convenience of patrons dining at the restaurant.

The proposed request meets the requirements set forth in the County of Los Angeles' General Plan and Zoning Code.

BURDEN OF PROOF:

1. The use is consistent with the General Plan and any applicable specific plan;

Response: The proposed use as a restaurant with beer, wine and distilled spirits is consistent with the General Plan and provisions of the Zoning Code.

2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code;

Response: The proposed use as a restaurant with beer and wine is permitted in the zoning district and is subject to the all the regulations, conditions, policies or other requirements of the County of Los Angeles. All new construction will be subject to permit and inspection. There currently are similar uses within the same center.

3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;

Response: The proposed use is not inconsistent with the adjacent uses and will not materially affect the surrounding community or environment. The proposed project is ideally suited for the area and separated from the residential area to the rear of the property. The approval of the request that serves the local community and tourism,

will not adversely affect the public's health, safety, welfare nor will it jeopardize or endanger the public. It will not be detrimental to the use, valuation or enjoyment of surrounding property owners or residents.

- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and**

Response: The proposed site, an existing shopping center, is not inconsistent with the adjacent uses and will not materially affect the surrounding community or environment. The proposed site is ideally suited for the area and is not directly accessible to and nearby residences. The approval of the request that serves the local community and tourism, will not adversely affect the public's health, safety, welfare nor will it jeopardize or endanger the public. It will not be detrimental to the use, valuation or enjoyment of surrounding property owners or residents.

- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the County, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.**

Response: The proposed use will contribute to the economic growth of the County as it will serve the local community and tourism. The proposed project will not adversely affect the public's health, safety, welfare nor will it jeopardize or endanger the public. It will not be detrimental to the use, valuation or enjoyment of surrounding property owners or residents.

SUSHI RESTAURANT

RESTAURANT



PLAZA EAST OF REST.



PARKING LOT IN FRONT OF RESTAURANT LOOKING EAST



PLAZA WEST OF REST.



FWY. (POMONA) TO NORTH



MASONRY BUFFER WALL AND PANEL ALONG SOUTH
PROPERTY LINE BEHIND RESTAURANT.



2012/08/01 14:08

FIRE LANE AND BUFFER WALL BEHIND AND SOUTH
OF PLAZA AREA WITH SUBJECT RESTAURANT



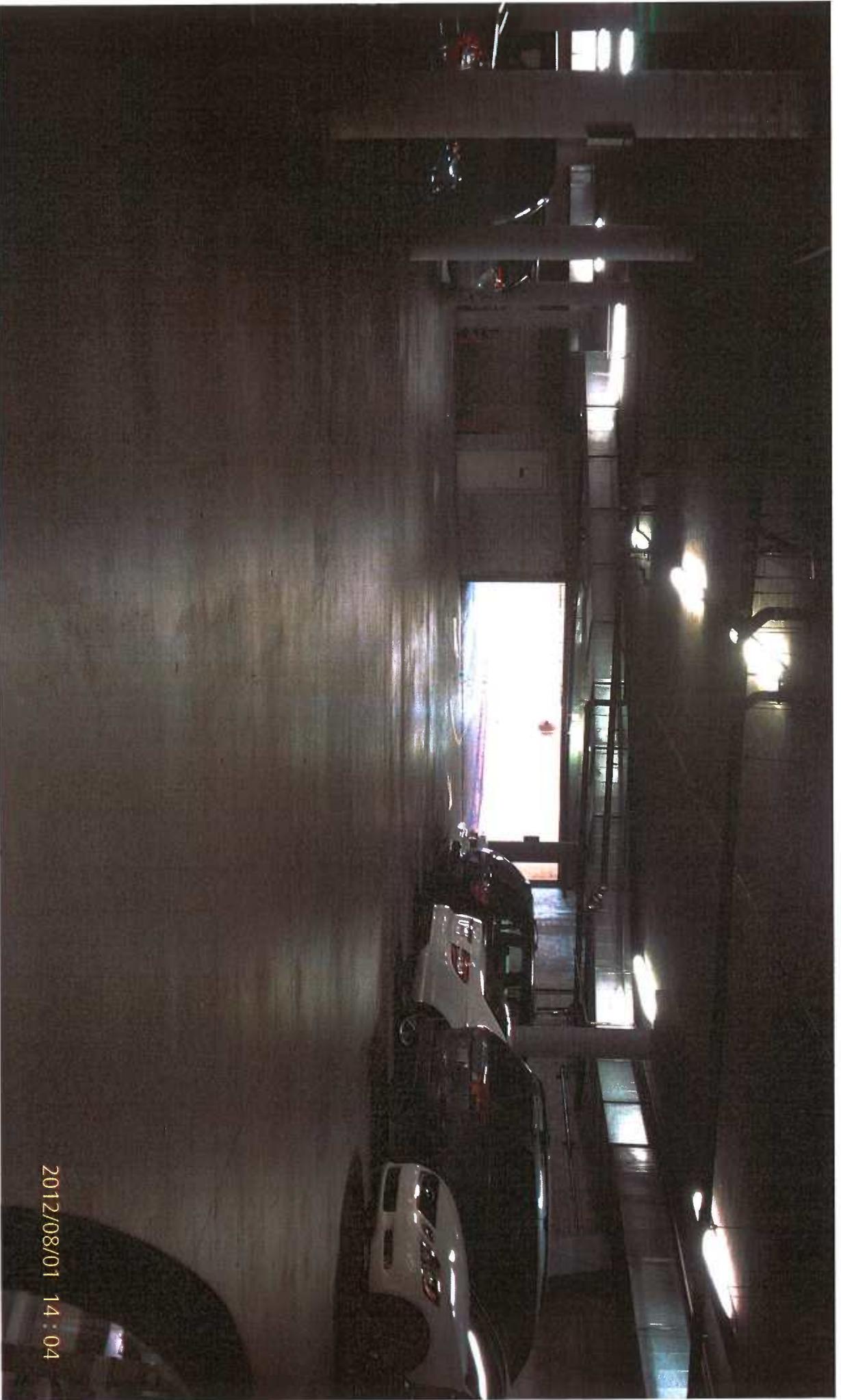
2012/08/01 14:09

LOCKED EMERGENCY ACCESS FROM JELICK AVE.



2012/08/01 14:10

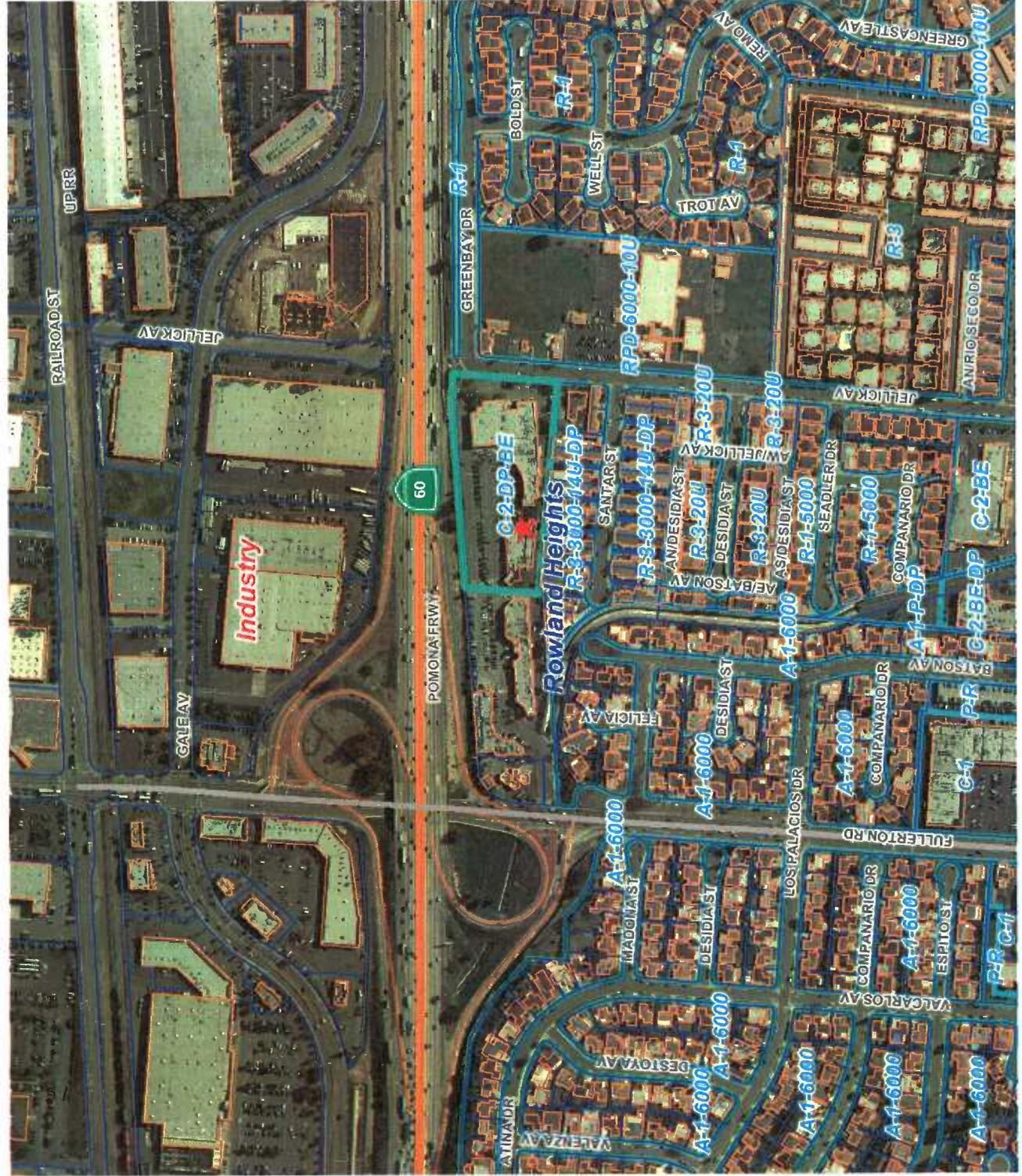
SUBTERRANEAN PARKING LOT



2012/08/01 14:04

Kula Sushi Restaurant in Diamond Plaza, Rowland Heights

Printed On: Aug 2, 2012



- Legend**
- Parcel Boundary
 - Arterial Street
 - Highway
 - Freeway
 - Master Plan of Highways
 - Expressway - (E)
 - Expressway - (P)
 - Light Duty Highway - (L)
 - Light Secondary Highway - (L)
 - Parway - (P)
 - Major Highway - (M)
 - Major Highway - (O)
 - Secondary Highway - (S)
 - Secondary Highway - (O)
 - Light Duty Highway - (L)
 - Light Secondary Highway - (L)
 - Railroad or Rapid Transit
 - Railroad
 - Rapid Transit
 - Underground Rapid Transit
 - Significant Ridgelines
 - Casual CSD Primary
 - Casual CSD Secondary
 - SMINA Significant
 - Census Tract (2000)
 - Assessor Map Book (AMB) Boy
 - Zoning Index Map Grid
 - USGS Quad Sheet Grid
 - The Thomas Guide Grid
 - TB Internal Page Grid
 - City High Fire Hazard Severity
 - Community Standards District
 - (CSD)
 - Area Specific Boundary
 - ESD (CSD) Boundary
 - Significant Ecological Area
 - (SEA)
 - Section Line Range
 - National Forest
 - Equitation District (EQD)
 - Transit Oriented District (TOD)
 - Special District (SD)
 - Zoned District (ZD)
 - Supervisory District Boundary
 - Safety Related Stations (From TB)
 - Highway Patrol
 - Police Station
 - Ranger Station
 - Fire Station
 - Sheriff Station
 - Inland Waterbody
 - Perennial
 - Intermittent
 - Dry
- Zoning (Boundary)**
- Zone A-1
 - Zone A-2
 - Zone B-1
 - Zone B-2
 - Zone C-1
 - Zone C-2
 - Zone C-3
 - Zone C-4
 - Zone C-5
 - Zone C-6
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 - Zone C-85
 - Zone C-86
 - Zone C-87
 - Zone C-88
 - Zone C-89
 - Zone C-90
 - Zone C-91
 - Zone C-92
 - Zone C-93
 - Zone C-94
 - Zone C-95
 - Zone C-96
 - Zone C-97
 - Zone C-98
 - Zone C-99
 - Zone C-100
- Landuse Policy (Not in Comm / Area Plan)**
- 1. Low Density Residential
 - 2. Low/Medium Density Residential (6 to 12 du/ac)
 - 3. Medium Density Residential (22 or more du/ac)
 - 4. High Density Residential
 - C - Major Commercial
 - O - Open Space
 - P - Public and Semi-Public Facilities
 - RC - Non-Residential
 - TC - Transportation Corridor

Note: This is a static legend, which includes only a portion of layers. To get full legend, please use 'Display Map Legend tab' on the top left side of screen.



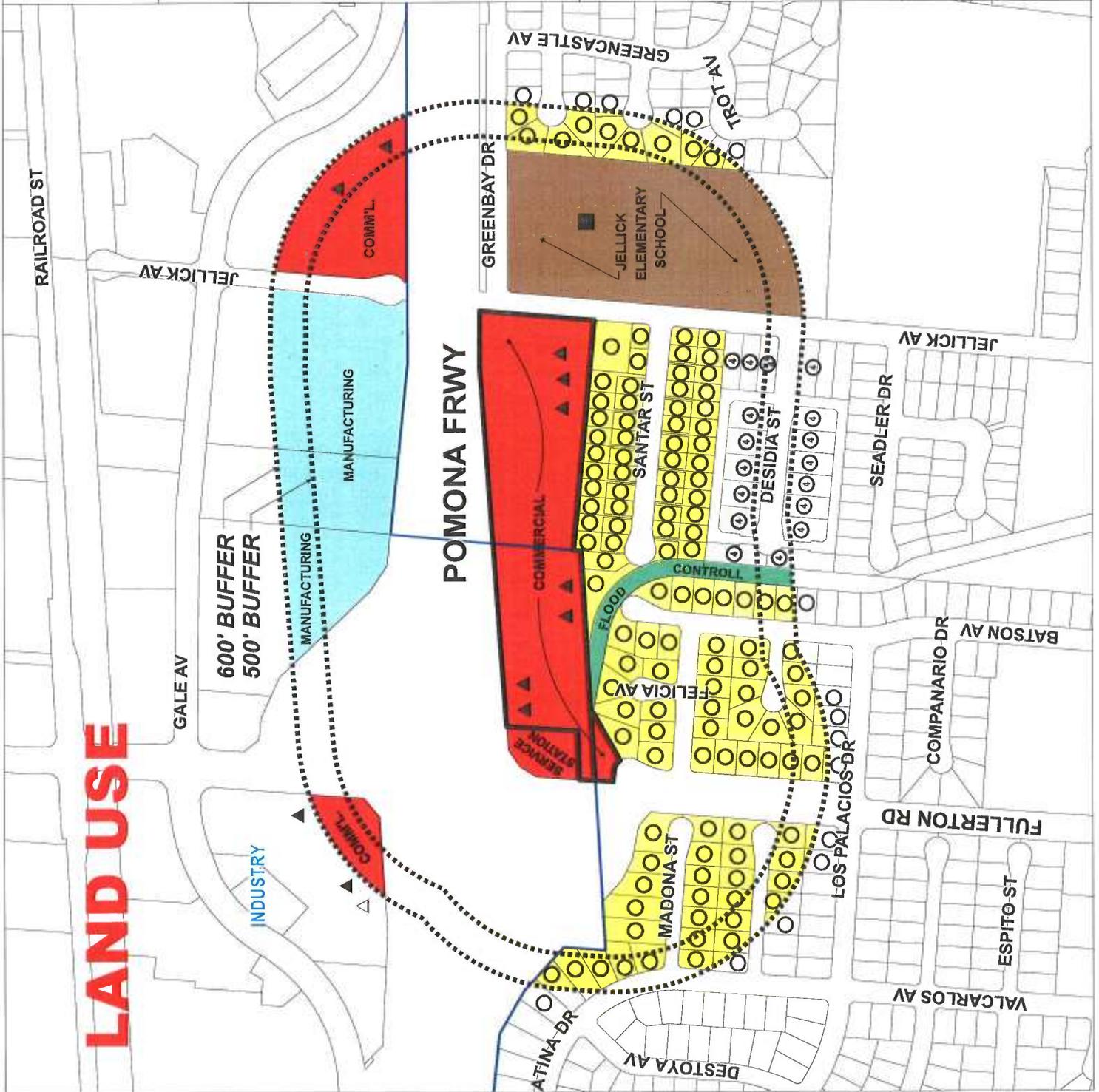
LAND USE

LAND USE 500 FT. RADIUS MAP / SENSITIVE USES - 600 FT. RADIUS

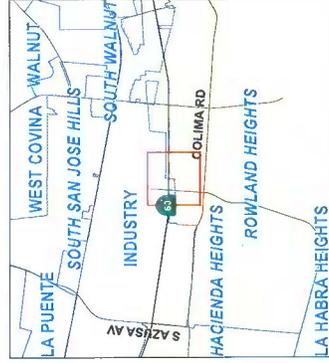
Proj. 90-242 (4)
RCUP 2011-00087

Legend

- SINGLE-FAMILY RESIDENCE
- △ OFF-SITE ALCOHOL CONSUMPTION
- ▲ ON-SITE ALCOHOL CONSUMPTION
- SENSITIVE USES
- SINGLE-FAMILY RESIDENCE
- MULT-FAMILY RESIDENCE
- INSTITUTION (NON-PROFIT)
- COMMERCIAL
- LIGHT INDUSTRY
- WATER
- VACANT



VICINITY MAP



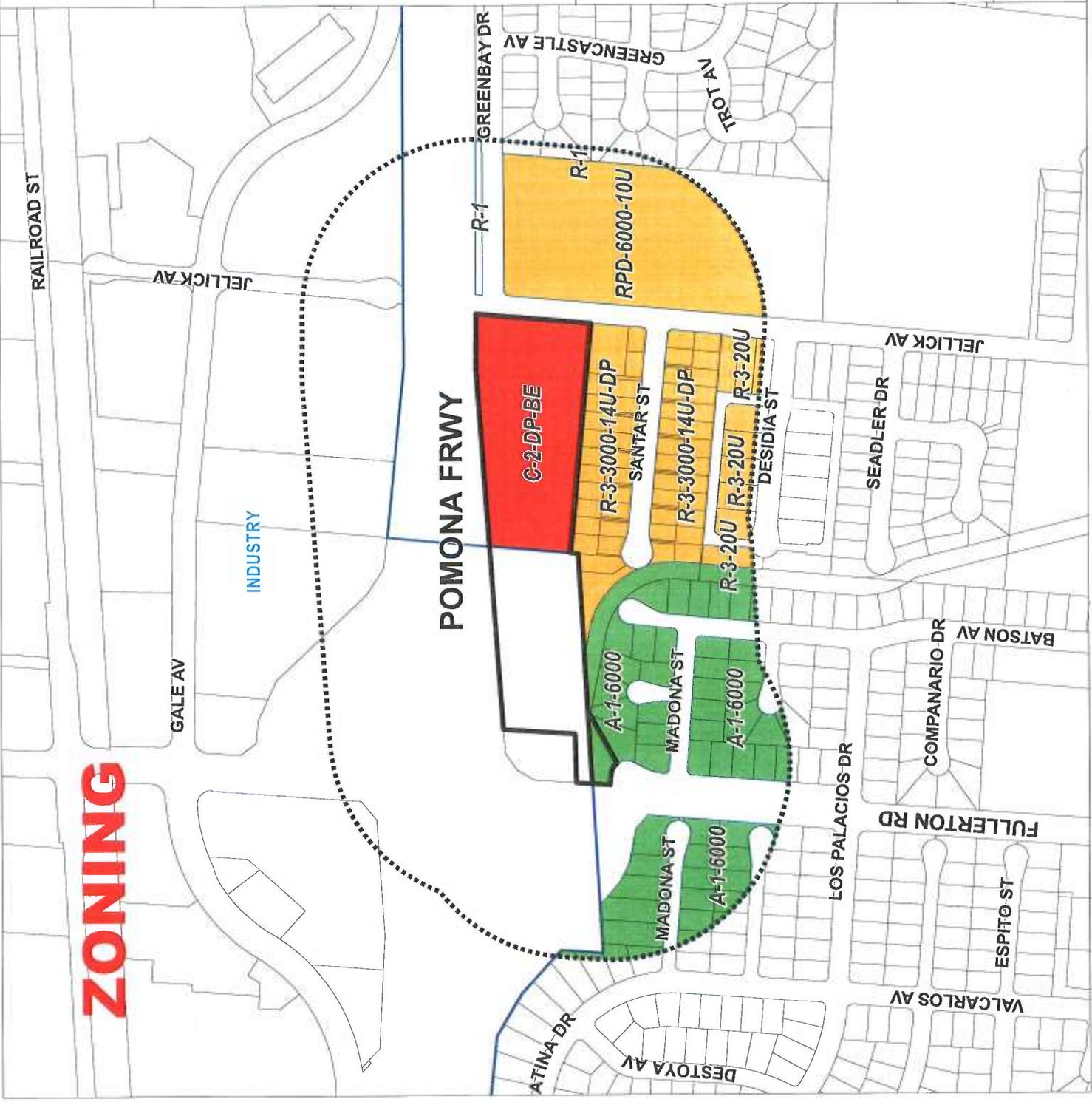
LOS ANGELES COUNTY
Department of Regional Planning
320 W. Temple St.
Los Angeles, CA 90012

ZONING 500 FOOT RADIUS MAP

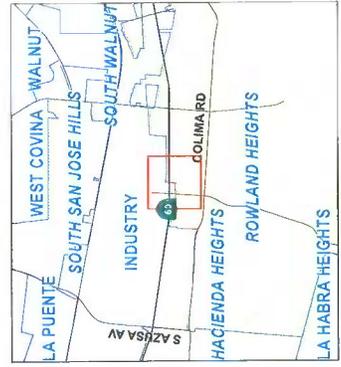
Proj. 90-242 (4)
RCUP 2011-00087

Legend

- R-1 - SINGLE-FAMILY RESIDENCE
- R-3-0U - LIMITED MULTIPLE RESIDENCE
- RPD - RESIDENTIAL PLANNED DEVELOPMENT
- A-1 - LIGHT AGRICULTURE
- C-2 - NEIGHBORHOOD COMMERCIAL



VICINITY MAP

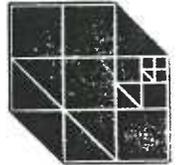


LOS ANGELES COUNTY
Department of Regional Planning
120 W. Temple St.
Los Angeles, CA 90012

RE: **CONDITIONAL USE PERMINT NO. 90242-(1)**
CONSTRUCT A COMMERCIAL CENTER
SOUTHWEST CORNER OF THE POMONA FREEWAY (I-60)
AND JELICK AVENUE, ROWLAND HEIGHTS

Mailing Date: December 5, 1991

**CERTIFIED - RECEIPT
REQUESTED**



TO: Lim Chang & Associates
c/o Swabb & Thiel
Investment Company
1275 Center Court, #290
Cerritos, CA 90701

The Regional Planning Commission **APPROVED** the above described grant on December 4, 1991.

Enclosed are the Commission's findings, order and conditions.
CAREFULLY REVIEW EACH CONDITION.

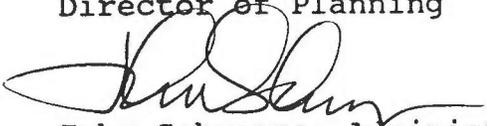
Condition 2 requires that the permittee must file an affidavit accepting the conditions before this grant becomes effective. **USE THE ENCLOSED AFFIDAVIT FOR THIS PURPOSE.**

The applicant or **ANY OTHER INTERESTED PERSON** may **APPEAL** the Commission's decision to the Board of Supervisors at the office of Mr. Larry J. Montelth, Executive Officer, Room 383, Hall of Administration, 500 West Temple Street, Los Angeles, California 90012, telephone (213) 974-1432. The appeal must be postmarked or delivered in person within 15 days after the applicant receives this notice. The Board of Supervisors may also call the Commission's decision up for review during the appeal period. This grant will not become effective until and unless this period has passed without an appeal or call for review.

For further information on appeal procedures, compliance with conditions or any other matter pertaining to this grant, please contact the Variances and Permits Section at (213) 974-6446.

Very truly yours,

DEPARTMENT OF REGIONAL PLANNING
James E. Hartl, AICP
Director of Planning


John Schwarze, Administrator
Current Planning Branch

JS:RF:tc

Enclosure: Affidavit; Findings, Order and Conditions

cc: Board of Supervisors; Building and Safety; Zoning Enforcement;
Subdivision Road Unit

**FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION
COUNTY OF LOS ANGELES**

CONDITIONAL USE PERMIT NO. 90242 - (1)

COMMISSION HEARING DATE: November 6, 1991

SYNOPSIS:

The applicant applied for a conditional use permit to construct a commercial center, including retail sales and services, offices and restaurants and consisting of 2 buildings on 4.25 acres within the unincorporated territory of Rowland Heights. These facilities would be a part of a larger project including property within the City of Industry.

PROCEDURE BEFORE THE COMMISSION:

The applicant's agent and architect testifies in favor of the project and indicated a willingness to accept staff's recommended conditions. Four persons expressed concerns regarding the proposed underground parking lot, the need for an 8 foot wall along Jellick Avenue, the need for a larger buffer zone with mature landscaping along the southern property line, the need for enclosed trash containers, and possible graffiti.

There being no further testimony, the Commission closed the public hearing and, by a vote of 5-0, instructed staff to prepare findings and conditions for approval.

FINDINGS:

1. The subject property is a vacant 4.35 acre parcel of land located south of the Pomona Freeway and west of Jellick Avenue in the unincorporated community of Rowland Heights.
2. The applicant proposes to construct a commercial center on the property comprised of two buildings and surface and underground parking.
3. The center would be part of a larger project which includes 3.26 acres of land within the City of Industry. The land within the City of Industry fronts on Fullerton Road. The City of Industry has approved the portion of project within the City.
4. The subject property is zoned C-2-DP-BE (Neighborhood Commercial - Development Program - Billboard Exclusion). A conditional use permit is required for the proposed development.
5. The subject property is classified "Commercial" on the Rowland Heights Community Plan.

6. The project site is bounded on the south by residences, on the east by a public school, on the north by the Pomona Freeway, and on the west by the vacant land within the city of Industry which is to be developed commercially.
7. The project design and conditions of grant contain substantial measures to buffer the project from the adjacent residential area, including provision of an eight foot high wall along the southerly boundary of the project and restriction of access to Jellick Avenue to emergency use only.
8. The applicant proposes to provide 418 parking spaces within the county portion of the project. The proposed parking exceeds minimum requirements, leaving ample allowance for assembly uses such as restaurants.
9. All required utilities are existing or are readily available to the site.
10. An Initial Study was prepared on this project in compliance with the State CEQA Guidelines and the environmental reporting procedures of the County of Los Angeles. It was originally determined that the proposed project might exceed established threshold criteria for the traffic service factor.
11. Access to the project will be via a driveway to Fullerton Road. Because of the proximity of the entrance drive to freeway ramps, traffic control is problematic. The Department of Public Works in coordination with Caltrans and the City of Industry has recommended that the applicant provide substantial traffic mitigations. The applicant has agreed to implement these mitigations as a condition of grant.

BASED ON THE FOREGOING, THE COMMISSION CONCLUDES:

- A. The requested use is consistent with the adopted General Plan.
- B. With the attached restrictions and conditions, the requested use will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area and will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- C. The site is adequate in size and shape to accommodate the development features prescribed in the Zoning Ordinance and otherwise required to integrate the use requested with the uses in the surrounding area.

- D. The site has adequate traffic access and is adequately served by other public or private facilities which it requires.

COMMISSION ACTION:

1. The Regional Planning Commission approves the Negative Declaration for the project, certifies that it has reviewed and considered the environmental information contained in the Initial Study, and determines that the proposed project will not have a significant effect on the environment.
2. In view of the findings of act presented above, Conditional Use Permit 90242 - (1) is **GRANTED** with the attached conditions.

VOTE: 5-0

Concurring: Commissioners Clark, Robinson, Russell, Santiago, Wulliger

Dissenting: None

Abstaining: None

Absent: None

Date of Action: December 4, 1991

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose until the permittee and the owner of the property involved (if other than the permittee) have filed at the office of the Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant.
3. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65907 or other applicable time period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate fully in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
4. This grant will expire unless used within three years from the date of approval. A one year time extension may be requested before the expiration date.
5. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
6. The subject property shall be developed, maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions.
7. This grant allows the development of a commercial center subject to the following restrictions as to use.
 - a. Access to Jellick Avenue is restricted to emergency use only. An eight foot high wrought iron and masonry fence shall be installed along Jellick Avenue, except at the

emergency access way. The emergency accessway shall be secured by a gate acceptable to the County Forester and Fire Warden. The fence and gate shall be setback at least eight feet from the road right-of-way. Landscaping along the fence shall be of sufficient density to provide screening and visual relief, to the satisfaction of the Director of Planning.

- b. The permittee shall construct an eight foot high masonry wall along the southerly property line of the subject property, except that at a point 10 to 20 feet from Jellick Avenue, the wall shall transition to an openwork and masonry fence (as required along the Jellick Avenue frontage) to allow for adequate sight distance along the sidewalk. The permittee shall install mature trees that extend above the wall within the adjacent planters to the satisfaction of the Director of Planning.
- c. The wall and fencing along the southerly property line and Jellick Avenue shall be installed before beginning construction of the buildings on the subject property. All masonry used shall be decorative in type and neutral in color;
- d. There shall be no outside sales, storage or display of goods and all waste shall be stored within a fully enclosed building.
- e. There shall be no business signs on the south (residential) facing side of the buildings and on the east side of Building B, as shown on the submitted site plan on file, marked Exhibit "A". Roof signs and freestanding, freeway oriented signs are prohibited. Flashing, sequential or changeable message signs are prohibited on the building exteriors.
- f. There shall be no windows on the second floor, south facing walls of the buildings.
- g. Parking lot or security lighting on the south face of the buildings or in the area between the buildings and the south property line shall be installed at a height of less than 8 feet. All exterior lighting shall be focused or shielded so that it does not illuminate or cast glare upon the freeway or adjacent residential property.

- h. The underground parking garage shall be secured by a gate at times when it is not in use. Parking provided within the County portion of the project shall be sufficient for all uses within the County area.
 - i. Any graffiti applied to walls or building exteriors shall be removed within 72 hours of application.
 - j. All new electrical, telephone and other wired utility extensions shall be installed underground.
 - k. Business hours for all occupancies shall be between 8 a.m. and 10 p.m.
8. Three copies of revised plans, similar to Exhibit "A" as presented at the public hearing and showing sufficient detail to verify compliance with Condition 7 shall be submitted for approval of the Director of Planning. The property shall be developed and maintained in substantial conformance with the approved plan. All revised plot plans must be accompanied by the written authorization of the property owner.
 9. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.
 10. Three copies of a landscape plan, which may be incorporated into a revised plot plan, shall be submitted to and approved by the Director of Planning before issuance of a building permit. The landscape plan shall show the size, type, and location of all plants, trees, and watering facilities. All landscaping shall be maintained in a neat, clean and healthful condition, including proper pruning, weeding, removal of litter, fertilizing and replacement of plants when necessary.
 11. Provisions shall be made for all natural drainage to the satisfaction of the Department of Public Works. Drainage plans and two signed grading plans shall be submitted to the Department of Public Works for approval before grading or construction.
 12. The subject facility shall be developed and maintained in compliance with requirements of the Los Angeles County Department of Health Services. Adequate water and sewage facilities shall be provided to the satisfaction of said Department.
 13. Upon receipt of this letter, the permittee shall contact the Fire Prevention Bureau of the Los Angeles County Forester and