

Hearing Officer Transmittal Checklist

Hearing Date
5/7/2013
Agenda Item No.
8

Project Number: R2012-02837-(5)
Case(s): Conditional Use Permit No. 201200161
Planner: Tyler Montgomery

- Factual
 - Property Location Map
 - Staff Report
 - Draft Resolution / Draft Ordinance / 8.5x11 Map (ZC or PA)
 - Draft Findings
 - Draft Conditions
 - Burden of Proof Statement(s)
 - Environmental Documentation (ND / MND / EIR)
 - Correspondence
 - Photographs
 - Aerial Image(s)
 - Land Use Radius Map
 - Tentative Tract / Parcel Map
 - Site Plan / Floor Plans / Elevations
 - GIS Map
 - Landscaping Plans
 - Other
-

Reviewed By: *Andy Gilman* PRPA - FOR MI KIM (SUPV. REG. PLANNER)



Department of Regional Planning
 320 West Temple Street
 Los Angeles, California 90012

PROJECT NUMBER

R2012-02837-(5)

HEARING DATE

5/7/2013

REQUESTED ENTITLEMENT

Conditional Use Permit No. 201200161

PROJECT SUMMARY

OWNER / APPLICANT

Marie Callender's Pie Shops, LLC

MAP/EXHIBIT DATE

3/14/2012

PROJECT OVERVIEW

The applicant requests a conditional use permit ("CUP") to operate live entertainment in an existing Marie Callender's restaurant. Because the restaurant has an occupancy load of more than 200 persons, the provision of live entertainment in the C-3 (Unlimited Commercial) Zone requires a CUP. The existing restaurant has a maximum occupancy load of 374 persons. The live entertainment, in the form of a comedy club, would generally operate Friday and Saturday nights from 8:00 p.m. to 11:00 p.m., with occasional operation up to 10 additional nights per year. Entertainment would be confined to the existing bar/lounge area.

The applicant also requests a minor parking deviation ("MPD") to provide less than the required amount of parking for the proposed use. The site currently provides a total of 110 on-site parking spaces, rather than the 125 spaces required by the County Code for the proposed use—a reduction of 12 percent. Approximately 12 parking spaces were eliminated from the project site in 2009 due to the widening of Magic Mountain Parkway and The Old Road.

LOCATION

27630 The Old Road, Valencia

ASSESSORS PARCEL NUMBER(S)

2826-037-029

SITE AREA

1.5 acres

GENERAL PLAN / LOCAL PLAN

Santa Clarita Valley Area Plan

ZONED DISTRICT

Newhall

LAND USE DESIGNATION

Major Commercial

ZONE

C-3 (UNLIMITED COMMERCIAL)

PROPOSED UNITS

None

MAX DENSITY/UNITS

N/A

COMMUNITY STANDARDS DISTRICT

None

ENVIRONMENTAL DETERMINATION (CEQA)

Class 1 Categorical Exemption – Existing Facilities

KEY ISSUES

- Consistency with the Los Angeles County General Plan
- Satisfaction of the following Section(s) of Title 22 of the Los Angeles County Code:
 - 22.56.040 (CUP permit burden of proof requirements)
 - 22.56.1762 (Minor Parking Deviation requirements)
 - 22.28.220 (C-3 Zone development standards)

CASE PLANNER:

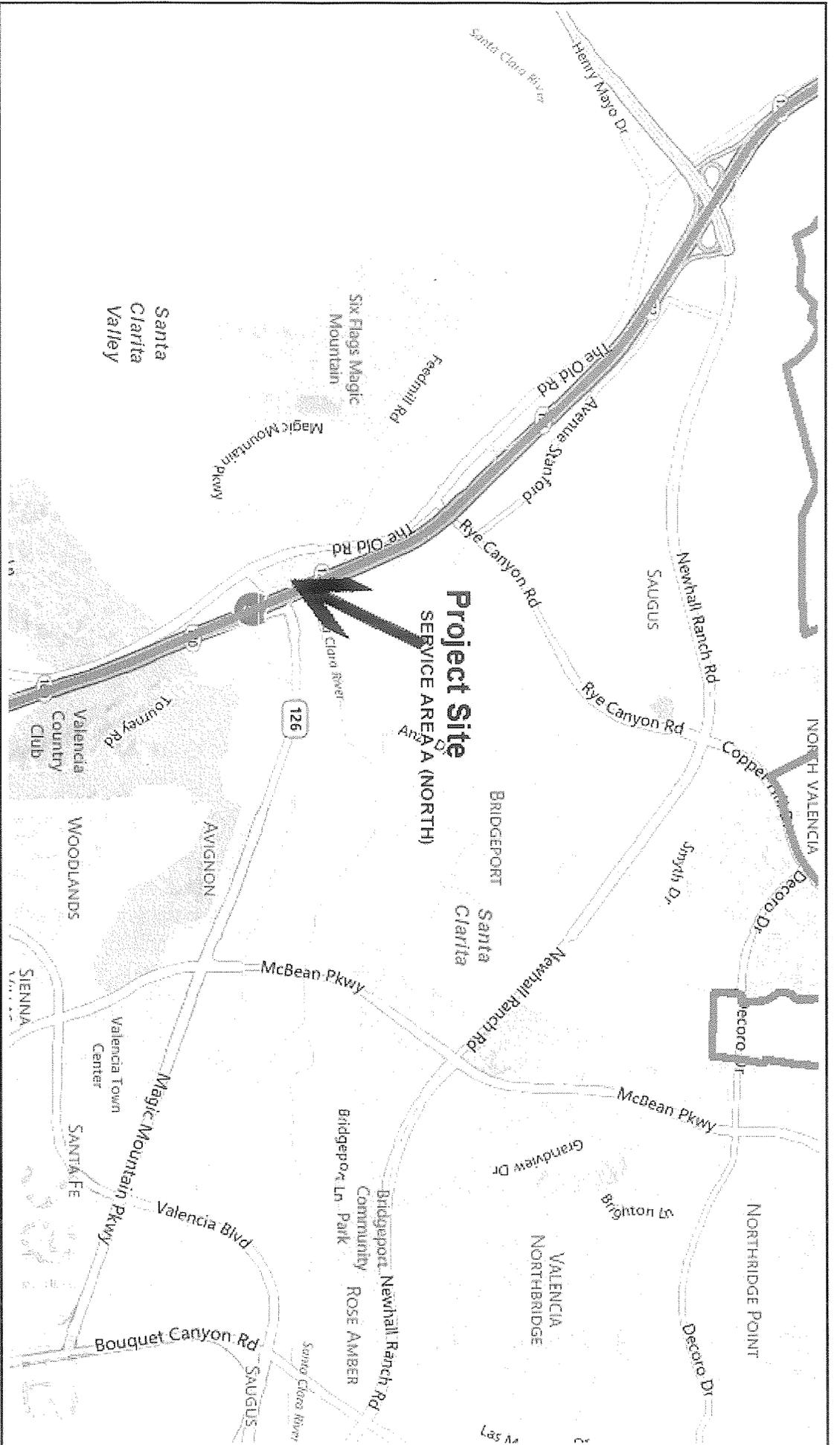
Tyler Montgomery

PHONE NUMBER:

(213) 974-6462

E-MAIL ADDRESS:

TMontgomery@planning.lacounty.gov

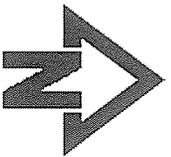


Project Location Map

R2012-02837 / RCUP 201200161

Printed: Apr 25, 2013

Copyright 2012 - Los Angeles County Department of Regional Planning, GIS Section. Note: This map represents a quick representation of spatial imagery or vector layers using GIS-NET3. The map should be interpreted in accordance with the GIS-NET3 disclaimer statement. Printed with permission from the Los Angeles County Dept. of Regional Planning. All rights reserved.



ENTITLEMENTS REQUESTED

- Conditional Use Permit (“CUP”) for the operation of live entertainment at a restaurant with an occupancy load of more than 200 persons in the C-3 (Unlimited Commercial) Zone, pursuant to County Code Section 22.28.210.
- Minor Parking Deviation (“MPD”) to provide 110 on-site parking spaces rather than the 125 on-site parking spaces required for the proposed use—a reduction of approximately 12 percent—pursuant to County Code Section 22.56.1762.

PROJECT DESCRIPTION

The applicant requests a CUP to operate live entertainment in an existing Marie Callender’s restaurant. The existing restaurant has a maximum occupancy load of 374 persons. Because the restaurant has an occupancy load of more than 200 persons, the live entertainment cannot be considered an accessory use pursuant to the provisions of County Code Section 22.56.1754. Instead, it would be defined as a night club per Section 22.08.140 of the County Code, which requires a CUP in the C-3 (Unlimited Commercial) Zone. The live entertainment, in the form of a comedy club, would generally operate Friday and Saturday nights from 8:00 p.m. to 11:00 p.m., with occasional entertainment on 10 additional nights per year maximum. Entertainment would be confined to the existing bar/lounge area.

The applicant also requests an MPD to provide less than the required amount of parking for the proposed use. The site currently provides a total of 110 on-site parking spaces, rather than the 125 spaces required by the County Code for the proposed use—a reduction of 12 percent. Approximately 12 parking spaces were eliminated from the project site in 2009 due to the widening of Magic Mountain Parkway and The Old Road. A minor parking deviation may reduce the number of on-site parking spaces required under Title 22 by less than 30 percent, pursuant to the provisions of County Code Section 22.56.1762. Any further reduction in parking requires the issuance of a parking permit. While a minor parking deviation may be granted by the Director without a public hearing, it shall be considered concurrently by the Hearing Officer when filed with a public hearing item.

The facility is located at 27630 The Old Road, Valencia, within the Newhall Zoned District of unincorporated Los Angeles County.

SITE PLAN DESCRIPTION

The site plan depicts the existing Marie Callender’s restaurant, consisting of approximately 11,500 square feet of floor area, 13,500 square feet of landscaping, and a 110-space paved parking lot on a 1.5-acre parcel located at the northeast corner of Magic Mountain Parkway and The Old Road. The restaurant has a certified occupancy load of 374 persons. Live entertainment would be conducted from a small portable stage in the bar and lounge area, which is located in the northwestern portion of the restaurant structure and has a maximum occupancy load of 138 persons. The property

is accessed from The Old Road to the west by 30-foot-wide paved driveway, as well as from a connection to the property immediately to the north, which contains a hotel.

EXISTING ZONING

Subject Property

The subject property is zoned C-3 (Unlimited Commercial).

Surrounding Properties

Surrounding properties within 500 feet are zoned as follows:

North: C-3

South: C-3

East: Golden State (5) Freeway, City of Santa Clarita

West: C-3-DP (Unlimited Commercial, Development Program)

EXISTING LAND USES

Subject Property

The subject property is developed with a Marie Callender's restaurant.

Surrounding Properties

Surrounding properties within 500 feet contain the following uses:

North: Hotel

South: Gas station, fast food restaurant

East: Golden State (5) Freeway, vacant land

West: Office building

PREVIOUS CASES/ZONING HISTORY

The restaurant was legally constructed with plot plans and building permits in several stages between 1983 and 1993. According to records from the Department of Alcoholic Beverage Control ("ABC"), a valid liquor license for the sale of beer, wine, and distilled spirits for on-site consumption has been maintained without interruption since at least October of 1991. Because this predates the County's 1993 requirement that all new sellers of alcoholic beverages obtain CUPs, the restaurant is not required to obtain one.

The sections of Magic Mountain Parkway and The Old Road that border the subject property were widened by Caltrans and the Department of Public Works in 2009. The resulting acquisition of the southernmost portion of the property through eminent domain resulted in the loss of approximately 12 parking spaces from the site, resulting in the current total of 110 on-site parking spaces.

ENVIRONMENTAL DETERMINATION

Los Angeles County ("County") Staff recommends that this project qualifies for a Categorical Exemption (Class 1 Exemption, Existing Facilities) under the California Environmental Quality Act (CEQA) and the County environmental guidelines. The restaurant is already in existence and does not propose any physical expansion. Therefore, staff recommends that the Hearing Officer determine that the project is categorically exempt from CEQA.

COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS

The Santa Clarita Valley Station of the Los Angeles County Sheriff's Department was consulted regarding the proposed project. In a letter dated March 22, 2013 (enclosed), Captain Paul Becker indicated that, during the past five years, there have been a total of 18 calls for service at the subject property. All of these calls were described as routine in nature and not unusual for the area. Captain Becker further stated that the Sheriff's Department does not oppose the granting of the CUP.

Because no construction or physical alterations are proposed for the project site, the departments of Public Works, Fire, Public Health, and Parks and Recreation were not consulted.

STAFF EVALUATION

General Plan/Community Plan Consistency

The project site is located within the "Major Commercial" land use designation of the Santa Clarita Valley Area Plan. The Major Commercial designation is intended for all types of local and regional retail and service uses. The proposed live entertainment and the existing restaurant uses are both consistent with this designation.

Zoning Ordinance and Development Standards Compliance

The property on which the proposed facility is to be located is zoned C-3. A restaurant is allowed by right within this zone; however, live entertainment at a restaurant with an occupancy load in excess of 200 persons is considered a night club, which requires a CUP per Section 22.28.210 of the County Code.

Section 22.52.1110 of the County Code determines parking requirements for assembly and dining uses. A restaurant requires a minimum of one on-site parking space per each three persons based on its occupancy load, as determined by the Building & Safety Division of the Department of Public Works. A certified occupancy load of the subject restaurant indicates a maximum occupancy of 374 persons, which would require a total of 125 on-site parking spaces. While the subject property originally contained 122 parking spaces, the acquisition of the southernmost portion of the property through eminent domain resulted in the loss of 12 parking spaces, resulting in the current total of 110 on-site parking spaces. Therefore, the applicant is requesting a minor parking deviation to permit 110 on-site parking spaces rather than the required 125 spaces. A minor parking deviation may approve a reduction in parking of less than 30 percent. Therefore, the proposed 12 percent reduction in parking may be considered.

There are no specific height or setback requirements for the C-3 zone, although Section 22.28.220 of the County Code limits the net area to be occupied by buildings to 90 percent of the subject property and requires 10 percent to be developed with landscaping. The existing commercial building has a footprint of 11,500 square feet on a 1.5-acre property, for lot coverage of approximately 18 percent. The property also contains 13,500 square feet of landscaping, for a lot coverage of approximately 21 percent. Therefore, both of these standards are met.

Neighborhood Impact/Land Use Compatibility

The provision of live entertainment at the existing restaurant is unlikely to adversely affect the health, peace, comfort or welfare of surrounding residents, be detrimental to surrounding properties, or create a hazard to public health, safety, or general welfare. The restaurant has been in existence for more nearly 30 years without public complaints or violations issued by Regional Planning or ABC. Live entertainment would generally occur only two nights a week, would be confined to the lounge area, and would not operate past the restaurant's closing time of 11:00 p.m. The project site is buffered on all sides by commercial uses, wide streets, and a freeway, and no sensitive uses are located anywhere in the vicinity. Further, no public opposition has been received by Regional Planning, and the Sheriff's Department does not oppose the granting of the CUP.

The facility would comply with all applicable development standards for the Santa Clarita Valley Area Plan and the C-3 Zone, with the exception of required parking. The proposed use would be adequately served by The Old Road, a six-lane thoroughfare with a local-access side street that does not have major level-of-service issues. While a total of 125 spaces would normally be required for all uses on the project site, the existing 110 parking spaces are adequate to accommodate the uses at the project site. The peak period of use for the restaurant is generally the early evening, while the comedy club would operate from 8:00 p.m. to 11:00 p.m. The bar/lounge area of the restaurant has a calculated occupancy load of 138 persons. While this may be technically feasible, it generally does not occur, as this area does not contain standing room and has available seating for less than 70 persons. Therefore, a reduction in required parking by approximately 12 percent should not adversely affect the operation of the facility.

Burden of Proof

The applicant is required to substantiate all facts identified by Section 22.56.040 of the County Code. The Burden of Proof with applicant's responses is attached. Staff is of the opinion that the applicant has met the burden of proof.

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.

PUBLIC COMMENTS

Staff has not received any public comments regarding this project.

FEES/DEPOSITS

If approved, fees identified in the attached project conditions will apply unless modified by the Hearing Officer.

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 **APPROVAL** of Project Number R2012-02837, Conditional Use Permit Number 201200161, subject to the attached conditions.

SUGGESTED APPROVAL ACTION:

I, THE HEARING OFFICER, CLOSE THE PUBLIC HEARING, FIND THAT THE PROJECT IS CATEGORICALLY EXEMPT PURSUANT TO STATE AND LOCAL CEQA GUIDELINES, AND APPROVE CONDITIONAL USE PERMIT NUMBER 201200161 SUBJECT TO THE ATTACHED FINDINGS AND CONDITIONS.

Prepared by Tyler Montgomery, Senior Regional Planning Assistant
Reviewed by Rudy Silvas, Principal Regional Planner, Zoning Permits West

Attachments:

Draft Findings, Draft Conditions of Approval
Applicant's Burden of Proof statement
Sheriff's Department letter (03/22/13)
GIS Map
Site Photographs
Site Plan

RS:TM
04/25/13

**DRAFT FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES
PROJECT NO. R2012-02837-(5)
CONDITIONAL USE PERMIT NO. 201200161**

1. **ENTITLEMENTS REQUESTED.** Pursuant to County Code Part 1 of Chapter 22.56, the applicant, Marie Callender's Pie Shops, LLC, requests a Conditional Use Permit ("CUP") for the operation of live entertainment at a restaurant with an occupancy load of more than 200 persons in the C-3 (Unlimited Commercial) Zone. Pursuant to County Code Part 12 of Chapter 22.56, the applicant also requests a Minor Parking Deviation ("MPD") to provide 110 on-site parking spaces rather than the 125 on-site parking spaces required for the proposed use—a reduction of approximately 12 percent.
2. **HEARING DATE.** May 7, 2013
3. **PROCEEDINGS BEFORE THE HEARING OFFICER.**
4. **PROJECT DESCRIPTION.** The applicant requests a CUP to operate live entertainment in an existing Marie Callender's restaurant. The existing restaurant has a maximum occupancy load of 374 persons. Because the restaurant has an occupancy load of more than 200 persons, the live entertainment cannot be considered an accessory use, pursuant to the provisions of County Code Section 22.56.1754. Instead, it would be considered a night club, which requires a CUP in the C-3 (Unlimited Commercial) Zone. The live entertainment, in the form of a comedy club, would generally operate Friday and Saturday nights from 8:00 p.m. to 11:00 p.m., with occasional on 10 additional nights per year maximum. Entertainment would be confined to the existing bar area.

The applicant also requests an MPD to provide less than the required amount of parking for the proposed use. The site currently provides a total of 110 on-site parking spaces, rather than the 125 spaces required by the County Code for the proposed use—a reduction of 12 percent. Approximately 12 parking spaces were eliminated from the project site in 2009 due to the widening of Magic Mountain Parkway and The Old Road. A minor parking deviation may reduce the number of on-site parking spaces required under Title 22 by less than 30 percent, pursuant to the provisions of County Code Section 22.56.1762. Any further reduction in parking requires the issuance of a parking permit. While a minor parking deviation may be granted by the Director without a public hearing, it shall be considered concurrently by the Hearing Officer when filed with a public hearing item.

5. **LOCATION.** The facility is located at 27630 The Old Road, Valencia, within the Newhall Zoned District of unincorporated Los Angeles County.
6. **SITE PLAN DESCRIPTION.** The site plan depicts the existing Marie Callender's restaurant, consisting of approximately 11,500 square feet of floor area, 13,500 square feet of landscaping, and a 110-space paved parking lot on a 1.5-acre

parcel located at the northeast corner of Magic Mountain Parkway and The Old Road. The restaurant has a certified occupancy load of 374 persons. Live entertainment would be conducted from a small portable stage in the bar and lounge area, which is located in the northwestern portion of the restaurant structure and has a maximum occupancy load of 138 persons. The property is accessed from The Old Road to the west by 30-foot-wide paved driveway, as well as from a connection to the property immediately to the north, which contains a hotel.

7. **EXISTING ZONING.** The subject property is zoned C-3 (Unlimited Commercial). Properties to the north and south are also zoned C-3, while properties to the west are zoned C-3-DP (Unlimited Commercial, Development Program), and properties to the east include the Golden State (5) Freeway right-of-way and the City of Santa Clarita.
8. **EXISTING LAND USES.** The subject property is developed with a Marie Callender's restaurant. A hotel is located to the north, an office building to the west, a gas station and fast food restaurant to the south, and the Golden State (5) Freeway and vacant land to the west.
9. **PREVIOUS CASES/ZONING HISTORY.** The restaurant was legally constructed with plot plans and building permits in several stages between 1983 and 1993. According to records from the Department of Alcoholic Beverage Control ("ABC"), a valid liquor license for the sale of beer, wine, and distilled spirits for on-site consumption has been maintained without interruption since at least October of 1991. Because this predates the County's 1993 requirement that all new sellers of alcoholic beverages obtain CUPs, the restaurant is not required to obtain one.

The sections of Magic Mountain Parkway and The Old Road that border the subject property were widened by Caltrans and the Department of Public Works in 2009. The resulting acquisition of the southernmost portion of the property through eminent domain resulted in the loss of approximately 12 parking spaces from the site, resulting in the current total of 110 on-site parking spaces.

10. **COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS.** The Santa Clarita Valley Station of the Los Angeles County Sheriff's Department was consulted regarding the proposed project. In a letter dated March 22, 2013 (enclosed), Captain Paul Becker indicated that, during the past five years, there have been a total of 18 calls for service at the subject property. All of these calls were described as routine in nature and not unusual for the area. Captain Becker further stated that the Sheriff's Department does not oppose the granting of the CUP.
11. **GENERAL PLAN / COMMUNITY PLAN CONSISTENCY.** The project site is located within the "Major Commercial" land use designation of the Santa Clarita Valley Area Plan. The Major Commercial designation is intended for all types of local and regional retail and service uses. The proposed live entertainment and the existing restaurant uses are both consistent with this designation.

ZONING ORDINANCE AND DEVELOPMENT STANDARDS COMPLIANCE.

12. The property on which the proposed facility is to be located is zoned C-3. A restaurant is allowed by right within this zone; however, live entertainment at a restaurant with an occupancy load in excess of 200 persons is considered a night club, which requires a CUP per Section 22.28.210 of the County Code.
13. Section 22.52.1110 of the County Code determines parking requirements for assembly and dining uses. A restaurant requires a minimum of one on-site parking space per each three persons based on its occupancy load, as determined by the Building & Safety Division of the Department of Public Works. A certified occupancy load of the subject restaurant indicates a maximum occupancy of 374 persons, which would require a total of 125 on-site parking spaces. While the subject property originally contained 122 parking spaces, the acquisition of the southernmost portion of the property through eminent domain resulted in the loss of 12 parking spaces, resulting in the current total of 110 on-site parking spaces. Therefore, the applicant is requesting a minor parking deviation to permit 110 on-site parking spaces rather than the required 125 spaces. A minor parking deviation may approve a reduction in parking of less than 30 percent. Therefore, the proposed 12 percent reduction in parking may be considered.
14. There are no specific height or setback requirements for the C-3 zone, although Section 22.28.220 of the County Code limits the net area to be occupied by buildings to 90 percent of the subject property and requires 10 percent to be developed with landscaping. The existing commercial building has a footprint of 11,500 square feet on a 1.5-acre property, for lot coverage of approximately 18 percent. The property also contains 13,500 square feet of landscaping, for a lot coverage of approximately 21 percent. Therefore, both of these standards are met.

NEIGHBORHOOD IMPACT/LAND USE COMPATIBILITY.

15. The provision of live entertainment at the existing restaurant is unlikely to adversely affect the health, peace, comfort or welfare of surrounding residents, be detrimental to surrounding properties, or create a hazard to public health, safety, or general welfare. The restaurant has been in existence for more nearly 30 years without public complaints or violations issued by Regional Planning or ABC. Live entertainment would generally occur only two nights a week, would be confined to the lounge area, and would not operate past the restaurant's closing time of 11:00 p.m. The project site is buffered on all sides by commercial uses, wide streets, and a freeway, and no sensitive uses are located anywhere in the vicinity. Further, no public opposition has been received by Regional Planning, and the Sheriff's Department does not oppose the granting of the CUP.
16. The facility would comply with all applicable development standards for the Santa Clarita Valley Area Plan and the C-3 Zone, with the exception of required parking. The proposed use would be adequately served by The Old Road, a six-lane thoroughfare with a local-access side street that does not have major level-of-service issues. While a total of 125 spaces would normally be required for all uses on the project site, the existing 110 parking spaces are adequate to accommodate

the uses at the project site. The peak period of use for the restaurant is generally the early evening, while the comedy club would operate from 8:00 p.m. to 11:00 p.m. The bar/lounge area of the restaurant has a calculated occupancy load of 138 persons. While this may be technically feasible, it generally does not occur, as this area does not contain standing room and has available seating for less than 70 persons. Therefore, a reduction in required parking by approximately 12 percent should not adversely affect the operation of the facility.

17. **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 and site posting.
18. **PUBLIC COMMENTS.** No public comments were received regarding the project.

CONDITIONAL USE PERMIT SPECIFIC FINDINGS

19. The project site is located within the "Major Commercial" land use designation of the Santa Clarita Valley Area Plan. The Major Commercial designation is intended for all types of local and regional retail and service uses. The proposed live entertainment and the existing restaurant uses are both consistent with this designation of the Area Plan.
20. The restaurant has been in existence for more nearly 30 years without public complaints or violations issued by Regional Planning or ABC. Live entertainment would generally occur only two nights a week, would be confined to the lounge area, and would not operate past the restaurant's closing time of 11:00 p.m. Further, no public opposition has been received by Regional Planning, and the Sheriff's Department does not oppose the granting of the CUP. Therefore, the requested uses at the location proposed would not adversely affect persons or properties in the surrounding area.
21. The facility would comply with all applicable development standards for the C-3 Zone, with the exception of required parking, and no physical changes are proposed for structures on the property. The project site is buffered on all sides by commercial uses, wide streets, and a freeway, and no sensitive uses are located anywhere in the vicinity. Therefore, the proposed site is adequate in size and shape to integrate said uses with the uses in the surrounding area.
22. The proposed use would be adequately served by The Old Road, a six-lane thoroughfare with a local-access side street that does not have major level-of-service issues. Therefore, the roads are sufficient to carry the kind and quantify of traffic generated by the maintenance visits.

MINOR PARKING DEVIATION SPECIFIC FINDINGS

23. The facility would comply with all applicable development standards for the C-3 Zone, with the exception of required parking, and no physical changes are proposed for structures on the property. Therefore, the use, development of land and/or application of development standards is in compliance with all applicable provisions of County Code Title 22 (Zoning Ordinance).
24. The proposed use would be adequately served by The Old Road, a six-lane thoroughfare with a local-access side street that does not have major level-of-service issues. While a total of 125 spaces would normally be required for all uses on the project site, the existing 110 parking spaces are adequate to accommodate the uses at the project site. The peak period of use for the restaurant is generally the early evening, while the comedy club would operate from 8:00 p.m. to 11:00 p.m. The bar/lounge area of the restaurant has a calculated occupancy load of 138 persons. While this may be technically feasible, it generally does not occur, as this area does not contain standing room and has available seating for less than 70 persons. A reduction in required parking by approximately 12 percent should not adversely affect the operation of the facility. Therefore, the use, development of land, and/or application of development standards, when considered on the basis of the suitability of the site for the particular use or development intended, is so arranged as to avoid traffic congestion, provide for the safety and convenience of bicyclists and pedestrians, including children, senior citizens, and persons with disabilities, insure the protection of public health, safety and general welfare, prevent adverse effects on neighboring property and is in conformity with good zoning practice.
25. Live entertainment would generally occur only two nights a week, would be confined to the lounge area, and would not operate past the restaurant's closing time of 11:00 p.m. The project site is buffered on all sides by commercial uses, wide streets, and a freeway, and no sensitive uses are located anywhere in the vicinity. Therefore, the use, development of land and/or application of development standards is suitable from the standpoint of functional developmental design.
26. **ENVIRONMENTAL DETERMINATION.** The project does not propose to alter any of the existing structures on the site. Therefore, the projects qualify for Class 1—Existing Facilities—Categorical Exemptions and are consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.
27. **TERM LIMIT.** To assure continued compatibility between the use of the sites allowed by this grant and surrounding land uses, the Hearing Officer determines that it is necessary to limit the term of the grants to 15 years.
28. **RECORD OF PROCEEDINGS.** 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 shall be the Section Head of the Zoning Permits West Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

REGARDING THE CONDITIONAL USE PERMIT:

- A. That the proposed uses will be consistent with the adopted general plan for the area; and
- B. That the requested uses at the locations proposed will not adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding areas, will not be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the sites, and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare; and
- C. That the proposed sites are 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, of as is otherwise required in order to integrate said uses with the uses in the surrounding area; and
- D. That the proposed sites are adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such uses would generate, and by other public or private service facilities as are required.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a Conditional Use Permit as set forth in Section 22.56.090 of the Los Angeles County Code (Zoning Ordinance).

REGARDING THE MINOR PARKING DEVIATION:

- E. That the use, development of land and/or application of development standards is in compliance with all applicable provisions of this Title 22; and
- F. That the use, development of land, and/or application of development standards, when considered on the basis of the suitability of the site for the particular use or development intended, is so arranged as to avoid traffic congestion, provide for the safety and convenience of bicyclists and pedestrians, including children, senior citizens, and persons with disabilities, insure the protection of public health, safety and general welfare, prevent adverse effects on neighboring property and is in conformity with good zoning practice; and
- G. That the use, development of land and/or application of development standards is suitable from the standpoint of functional developmental design.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a Minor Parking Deviation as set forth in Sections 22.56.1762 and 22.56.1690 of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. The Hearing Officer has considered the Categorical Exemption for this project and certifies that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects 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. 201200161 and the associated Minor Parking Deviation are APPROVED subject to the attached conditions.

Action Date:

RS:TM
04/25/13

c: Hearing Officer, Zoning Enforcement, Building and Safety

**DRAFT CONDITIONS OF APPROVAL
COUNTY OF LOS ANGELES
PROJECT NO. R2012-02837-(5)
CONDITIONAL USE PERMIT NO. 201200161**

PROJECT DESCRIPTION

The project consists of a Conditional Use Permit (“CUP”) for the operation of live entertainment at a restaurant with an occupancy load of more than 200 persons in the C-3 (Unlimited Commercial) Zone and Minor Parking Deviation (“MPD”) to provide 110 on-site parking spaces rather than the 125 on-site parking spaces required for the proposed use—a reduction of approximately 12 percent—located at 27630 The Old Road, Valencia, subject to the following conditions of approval:

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 has 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 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 the date of 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 any 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 up to \$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. 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 May 7, 2028.** Entitlement to use of the property for live entertainment 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. This expiration date does not affect the permittee's ability to continue the operation of a restaurant on the site.
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 total 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 (one every other year) inspections. 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 as 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 development shall comply with the requirements of Title 22 of the County Code ("Zoning Ordinance") and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director.
14. All development pursuant to this grant shall conform to 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.

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 project sites shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of

instruction given at the public hearing, **three (3) copies** of a modified Exhibit "A" shall be submitted to Regional Planning by February 18, 2013.

17. In the event that subsequent revisions to the approved Exhibit "A" are submitted, the permittee shall submit **three (3) copies** of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.

PERMIT SPECIFIC CONDITIONS

18. Live entertainment shall be restricted to Friday and Saturday nights, with the exception of special events that shall occur no more than 10 additional nights per year. The dates of these special events shall be posted at least one week in advance on an event schedule located either on the restaurant premises or on a dedicated web page.
19. Live entertainment shall be restricted to the hours between 8:00 p.m. and 11:00 p.m.
20. Live entertainment shall occur only within the bar/lounge area, as depicted on the approved Exhibit "A."
21. Minors shall not be permitted in the bar/lounge area during live entertainment unless accompanied by an adult.
22. The permittee shall abide by the terms and restrictions of the Type 47 (On-sale General—Eating Place) liquor license issued to them by the Department of Alcoholic Beverage Control ("ABC"), including the service of alcoholic beverages only to patrons 21 years of age and older. During live entertainment, this shall be accomplished in the bar/lounge area by checking identification when drinks are ordered or by checking identification at the entrance and issuing bracelets, hand stamps, or other non-transferable identifying object to patrons over 21.
23. Any changes at the facility resulting in the issuance of a Type 48 (On-sale General—Bar/Club) liquor license are prohibited.

RS:TM
04/25/13

CUP APPLICATION BURDEN OF PROOF

Marie Callender's # 97, 27630 The Old Road

A. The requested use will not have adverse affects, be materially detrimental or jeopardize public health, safety or general welfare.

Upon approval of the CUP, a live entertainment license will be sought from the County's Business License Commission to allow a comedy club two nights a week (Friday and Saturday) and up to 10 additional evenings during the year. No changes or differences in operations will be noticeable outside the restaurant. There will be no change in noise, odors, dust, glare or materials used in the current operations of the restaurant. The comedy club will take place entirely within an existing restaurant. The comedy club will operate during the existing business hours and will end by 11 p.m. when the restaurant closes (earlier for the up to ten additional evenings during the year). There are no persons residing within a 500 foot radius as the surrounding area is developed with commercial and industrial use. The restaurant has a shared parking agreement with a hotel adjacent to the restaurant, and there will be no noticeable changes to hotel occupants. The restaurant is adjacent to the I-5 Freeway, Magic Mountain Parkway and The Old Road; it is separated from other uses on three sides by these transportation facilities. There will be no changes in noise levels, parking or maximum number of persons visiting the restaurant, therefore, persons working in the surrounding area will not be adversely affected.

B. The proposed site is adequate in size and shape to integrate said use.

The restaurant meets all development standards and no changes are proposed to the restaurant or the outside area. No yards, walls, fences, parking and loading facilities, landscaping or other development features are proposed. No construction is necessary. The live entertainment is allowed within the C-3 Unlimited Commercial zone with a CUP. The restaurant has operated for many years pursuant to existing County approvals, a public eating business license, and a liquor license for on-site consumption issued by the State of California. Therefore, the proposed site is adequate in size and shape to accommodate the limited use of the existing facility as a comedy club.

C. The proposed site is adequately served by highways and streets and other public or private service facilities.

The live entertainment use (comedy club) will be within an existing operating restaurant. There is adequate transportation service to and adjacent to the existing restaurant and nearby uses. The number of patrons served in the restaurant will not be changed as the comedy club will operate within the existing lounge with a maximum capacity of 100 persons. The comedy club will not increase the demand for highways/streets or for

other public or private service facilities because the patrons will be within the existing service capacity of the restaurant.



County of Los Angeles
Sheriff's Department Headquarters

4700 Ramona Boulevard
Monterey Park, California 91754-2169
(661) 255-1121



Leroy D. Baca, Sheriff

March 22, 2013

Subject: Conditional Use Permit (CUP) consultation for live entertainment in conjunction with the sale of alcohol

Project No.: R2012-02837-(5)

CUP Permit No.: 201200161

Establishment: Marie Callender's

Location: 27630 The Old Road, Valencia

Description: CUP for live comedy to be performed two nights a week (Friday and Saturday) in conjunction with the sale of beer, wine, and distilled spirits at an existing restaurant.

(1) Summary of service calls and crime history for the project site over the last five years:

The Sheriff's Department has responded to eighteen (18) calls for service at 27630 The Old Rd, Valencia in the past five years;

8 calls for robbery and burglar alarm activations
5 calls for theft reports
3 calls for disturbances (family argument, drunk person, mentally disturbed)
1 call for medical emergency
1 call for illegally parked car

(2) Comments/recommended conditions:

All calls for service have been routine in nature. This establishment has not been a problem.

(3) Overall recommendation:

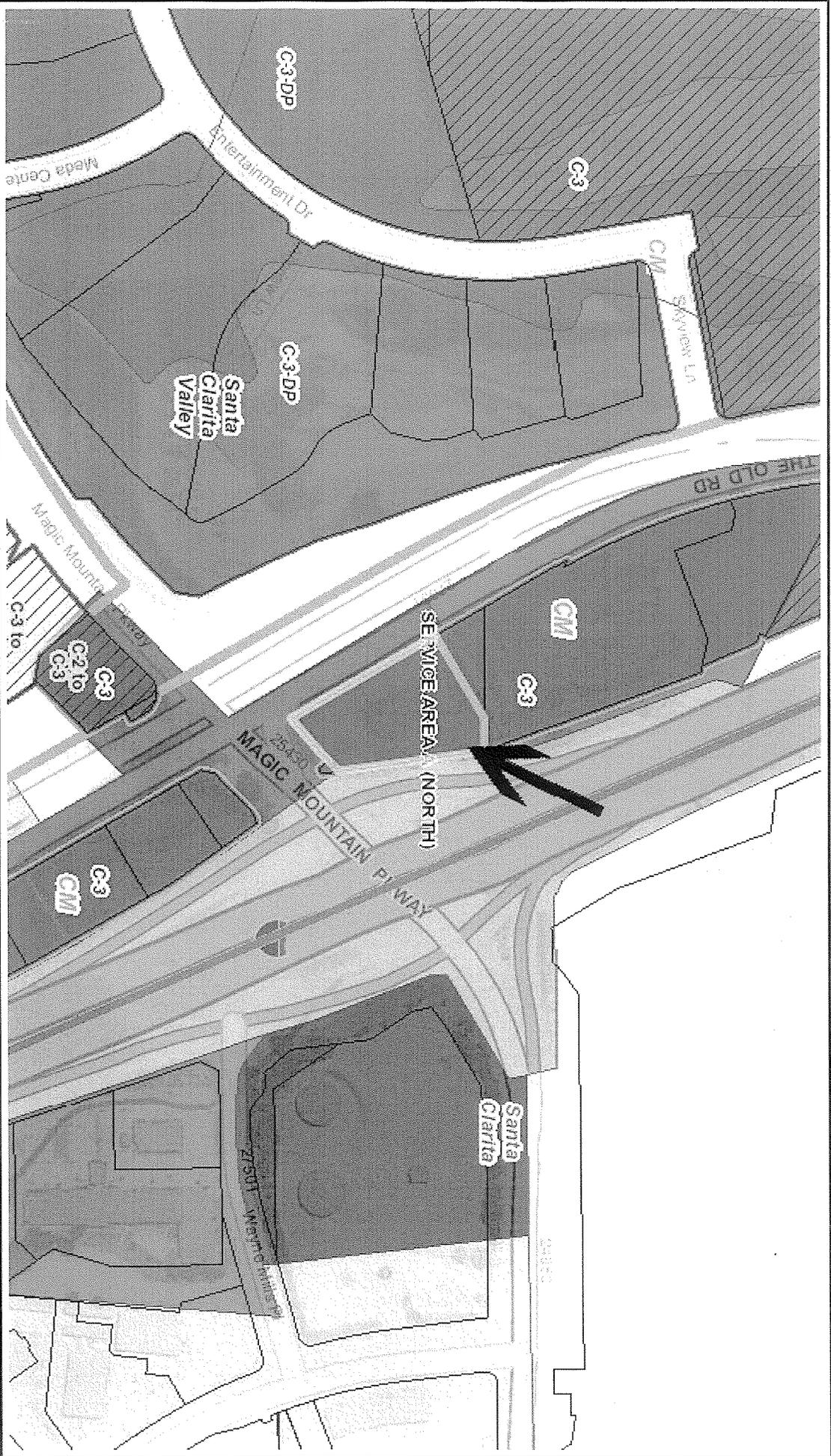
- Sheriff does not oppose approval of this CUP.
- Sheriff does **NOT** recommend approval of this CUP.

Sincerely,

LEROY D. BACA, SHERIFF

Paul Becker, Captain
Santa Clarita Valley Station

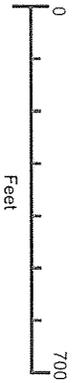
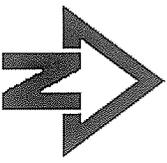
BCT/bct



GIS Map

R2012-02837 / RCUP 201200161

Printed: Apr 25, 2013



Copyright 2012 - Los Angeles County Department of Regional Planning, GIS Section. Note: This map represents a quick representation of spatial imagery or vector layers using GIS-NET3. The map should be interpreted in accordance with the GIS-NET3 disclaimer statement. Printed with permission from the Los Angeles County Dept. of Regional Planning. All rights reserved.



CUP Photo Log

Property Address:
 Marie Callender's #97
 27630 Old Road, Valencia, CA 91355

Date: 03/28/2012



Photo Description

- Picture A
- South Approach

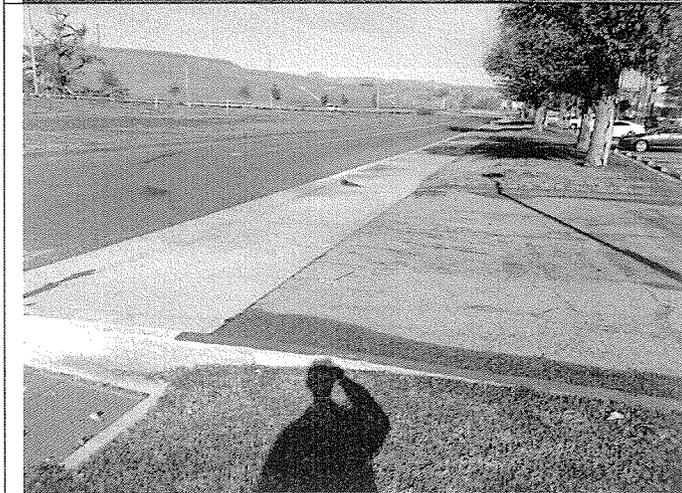


Photo Description

- Picture B
- South Approach / Street



Photo Description

- Picture C
- North Approach



Photo Description

- Picture D
- South Approach



Photo Description

- Picture E
- South Approach

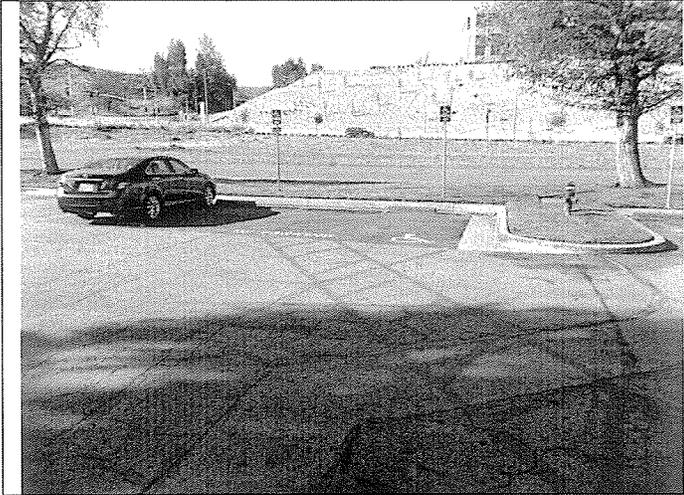


Photo Description

- Picture F
- ADA parking



Photo Description

- Picture G
- ADA parking



Photo Description

- Picture H
- Restaurant entrance



Photo Description

- Picture I
- Parking Lot



Photo Description

- Picture J
- North side of parking lot



Photo Description

Picture K
North side of parking lot





J.R.'s *Comedy Club*

inside

Marie Callender's

Featuring

Headlining



FRIDAYS & SATURDAYS AT 9:00 P.M.

Featuring Nationally Known Comedians From

HBO - SHOWTIME
THE TONIGHT SHOW!

CALL (661) 259-2291 FOR RESERVATIONS
www.ComedyInValencia.com