



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

ACTION DATE: March 21, 2013

TO: Planning Commission

APPLICANT: Shahnám Ebrahimi
Maral Cuisine
5843 Kanan Road
Agoura Hills, CA 91301

CASE NO.: 13-CUP-001

LOCATION: 5843 Kanan Road
(Maral Cuisine in the Agoura Hills City Mall)

REQUEST: Request for a Conditional Use Permit to obtain an Alcoholic Beverage Control license type 41 (beer and wine) for consumption on the premises of an existing restaurant.

ENVIRONMENTAL ANALYSIS: Categorically Exempt per Section 15301 (Existing Facilities) of the CEQA Guidelines

RECOMMENDATION: Staff recommends that the Planning Commission approve Conditional Use Permit Case No. 13-CUP-001, subject to the findings in the attached draft resolution and conditions of approval.

ZONING DESIGNATION: CS-MU (Commercial Shopping Center – Mixed Use)

GENERAL PLAN DESIGNATION: CS-MU (Commercial Shopping Center/Mixed Use)

I. PROJECT DESCRIPTION AND BACKGROUND

In 2009, the City Council adopted an ordinance that requires an approval of a Conditional Use Permit from the Planning Commission for new on-sale and off-sale alcoholic beverage

establishments, and changes to existing California Department of Alcoholic Beverage Control (ABC) licenses.

Shahnam Ebrahimi, owner of the Maral Cuisine Restaurant located at 5843 Kanan in the Agoura Hills City Mall, is requesting a Conditional Use Permit to allow for the consumption of beer and wine (license type 41) on the premises. Several restaurants have occupied that 2,329 square-foot tenant space over the years and have had a license to sell beer and wine for on-site consumption, the most recent being Char Fasl. The new restaurant owner wants to apply for a new alcoholic beverage control license from the California Department of Alcoholic Beverage Control (ABC) because the previous license for that location has expired. However, the applicant must first obtain a Conditional Use Permit from the City prior to approval from ABC.

ABC defines on-sale alcoholic beverage establishments as “any establishment where alcoholic beverages are sold, served, or given away to be consumed on the premises, and which has obtained or intends to obtain an Alcoholic Beverage Control license type 40, 41, 42, 47, 48, 51, 52, 61, and/or 75. References to an on-sale alcoholic beverage establishment shall include any immediately adjacent area that is owned, leased, or rented, or controlled by the permittee. It shall also include any facility, inclusive of a portion thereof, which is rented out for special event functions wherein alcoholic beverages are sold or given away on the premises and are to be consumed on the premises.” This particular type of license, type 41, will allow the consumption of beer, and wine as long as the owners maintain the premises as a restaurant.

The applicant is requesting to have three (3) tables immediately outside of the restaurant. An Outdoor Dining Permit is not required unless four or more tables are requested. ABC may also require that the tables be separated from the pedestrian walkway by at least a rope or other barrier to distinguish the restaurant space from the public space.

II. STAFF ANALYSIS

The City Council’s decision to initiate and approve the Alcoholic Beverage Establishment Ordinance was to achieve greater control over potential nuisance-type issues related to alcoholic beverage establishments, such as noise, particularly related to the proximity to residential areas, as well as overall safety issues, and any impacts related to the concentration of such businesses. The Conditional Use Permit allows for review by the Planning Commission and any appropriate conditions included on a case-by-case basis, following a public hearing. Accordingly, in addition to the findings currently required for approval of a Conditional Use Permit, the new Ordinance also requires the Planning Commission make additional findings relative to alcoholic beverage sales and service.

The facility is a 2,329 square-foot tenant space with currently no formal outdoor dining area. The tenant space is divided into an eating area and kitchen area. According to the owner, the restaurant is open for lunch and dinner, Monday through Thursday, from 11:30 a.m. to 9:00 p.m., Friday from 11:30 a.m. to 11:00 p.m., Saturday from 11:30 a.m. to 10:30 p.m., and Sunday from 11:30 a.m. to 10:00 p.m. The applicant is not requesting any floor plan modifications from the previous restaurant and no additional parking is required for this request. No live entertainment is proposed at this time.

The service of alcohol will occur in a facility that is located in the Commercial Shopping Center-Mixed Use (CS/MU) zone in a commercial section of Kanan Road. The CS-MU zone permits retail, sit-down and fast-food restaurants, professional office and a variety of service oriented uses. The center is bordered by one other shopping center to the south and an elementary school to the north, and an open space parcel and single-family and multi-family zoned parcels to the west. The Agoura Hills City Mall leases space to tenants with valid alcohol licenses, specifically to Agoura's Famous Deli, Sushi Wasabi, and China Star which have received their ABC licenses prior to the City Conditional Use Permit requirement, as well as the Kosher Bazaar, a neighborhood supermarket. The shopping center to the south is occupied by Maria's Italian Kitchen, Ralphs Supermarket, and RiteAid also with valid licenses.

The City has issued ten Conditional Use Permits since the Ordinance was adopted in 2009. Nine were eating establishments and the tenth one was for an off-sale retail establishment (Trader Joe's). Maral Cuisine is one of four restaurants in the Agoura Hills City Mall. The other three already have ABC licenses. The request does not add a new license but rather updates the status of a previous one. A map of the existing facilities in the City with ABC issued licenses and City issued Conditional Use Permits is attached to this report for the Commission's review.

In considering the findings for the request, staff looked at the potential impacts to nearby sensitive uses, such as the elementary school (Willow Elementary School) to the north, the residentially zoned parcels (Morrison Ranch neighborhood) to the west and across from Kanan Road (Fountainwood neighborhood), and the closest public park (Sumac Park). Although the use is within a 500-foot radius to the elementary school, a public park and residential properties, it is located at the furthest south and most easterly corner of the shopping center buildings and is screened by buildings in the shopping center and adjacent shopping center. The commercial parcel is fenced all around by either a wrought iron fence or a masonry wall or a hedge without direct access to these uses. Willow Elementary is also fenced all around and Sumac Park is situated within a cluster of single-family units and is not visible from the commercial centers. The single-family residences to the west are separated by wall, open space areas, Medea Creek, parking lot and buildings, and the other residences to the east are separated by Kanan Road and face inward into their residential street. Therefore, staff finds the proposed use will not negatively impact surrounding properties or neighborhoods.

The nearest businesses located in the same City quadrant, north of the freeway that are permitted for the on-sale of alcoholic beverages are Agoura's Famous Deli, China Star, Sushi Wasabi, which are located in the same retail center, and other restaurants in the Twin Oaks shopping center, adjacent to the Agoura Hills City Mall and the Agoura Meadows shopping center located south of Thousand Oaks Boulevard.

Staff contacted the Los Angeles County Sheriff Department who does not have any opposition to the request. No incidents were reported for the tenant address while under the previous and the current ownership during 2012 and to the present.

Staff finds the proposed use to be consistent with the intent of the ordinance and with the findings. The proposed on-sale of alcoholic beverage license will occur in an existing restaurant

that is allowed in the CS-MU zone, and at a tenant space which previously had the same license for on-site consumption of beer and wine.

Staff finds the proposed Conditional Use Permit application to be categorically exempt from the requirements of the California Environmental Quality Act as an existing facility, per Section 15301 in that the proposal includes obtaining a new alcoholic beverage license in an existing restaurant, and does not include the expansion of the tenant space.

III. RECOMMENDATION

Based on the above analysis, staff recommends that the Planning Commission approve Conditional Use Permit Case No. 13-CUP-001, subject to the attached conditions of approval.

IV. ATTACHMENTS

- Draft Resolution and Conditions of Approval
- Conditional Use Permit Burden of Proof
- Vicinity/Zoning Map
- Reduced Copy of the Site Plan and Floor Plan
- Businesses with Approved Alcoholic Beverage Licenses Map
- Photographs

CASE PLANNER: Valerie Darbouze, Associate Planner

DRAFT RESOLUTION NO. _____

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF AGOURA HILLS APPROVING
CONDITIONAL USE PERMIT CASE NO. 13-CUP-001
FOR THE PROPERTY LOCATED AT 5843 KANAN
ROAD

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS DOES HEREBY
RESOLVE, FIND, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. An application was duly filed by Shahnam Ebrahimi from Maral Cuisine with respect to the property located at 5843 Kanan Road (Assessor's Parcel No. 2051-005-002), requesting the approval of a Conditional Use Permit (Case No. 13-CUP-001) to allow the on-sale of alcohol beverages (ABC License Type 41) in an existing restaurant. A public hearing was duly held on March 21, 2013, at 6:30 p.m. in the Council Chambers of City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid meeting was duly given and published as required by state law.

Section 2. Evidence, both written and oral, including the staff report and supporting documentation, was duly presented to and considered by the Planning Commission at the aforesaid public hearing.

Section 3. Based on the evidence presented at the public hearing, including the staff report and oral and written testimony, the Planning Commission finds, pursuant to Sections 9673.2.E and 9396.3 of the Agoura Hills Municipal Code, that:

A. The proposed use, as conditioned, is consistent with the objectives of the Zoning Ordinance and the purposes of the district in which the use is located. The on-sale of alcoholic beverages will occur on-site in a tenant space occupied by a restaurant, which is permitted in the Commercial Shopping Center-Mixed Use zone.

B. The proposed use, as conditioned, is compatible with the surrounding uses at the shopping center. The restaurant shares tenant spaces with other retail, office and restaurant uses. Sufficient separation exists with potential sensitive uses in the vicinity of the site, including an elementary school to the north and residential property to the east and west of the retail center.

C. The proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare. The alcoholic beverages are to be consumed indoors and in a designated area immediately adjacent to the tenant space only. The California Department of Alcoholic Beverage Control regulates the sales and dispensing of alcohol inside as well as outside and enforces its own public safety regulations.

D. The proposed use, as conditioned, will comply with each of the applicable provisions of the Zoning Ordinance. This permit allows for the on-sale of alcoholic beverages in a restaurant and no additional parking is required for this request. No Variance request is considered as part of this application.

E. The proposed use as conditioned, will maintain the diversity of the community. In this case, diversity of restaurants rather than the number of restaurants increase the viability of these businesses. The request is subject to the Alcoholic Beverage Control agency's final determination for concentration of licenses.

F. The proposed use is consistent with the goals, objectives and policies of the General Plan. The on-site sale and consumption of alcoholic beverages at a specialty restaurant adds to the diversity of the eating establishments within the center and the community.

G. The requested use at the proposed location will not adversely affect the use of a school, park, playground or similar use within a 500-foot radius as the restaurant is located within an established shopping center and is not immediately adjacent to these uses and is screened by structures and a parking lot. The school is fenced all around its perimeter and the retail center can only be accessed via Kanan Road when traveling south.

H. The requested use, as conditioned, at the proposed location is sufficiently buffered by topographic conditions or public or private improvements from residentially zoned areas within the immediate vicinity so as not to adversely affect said areas. One residential parcel to the west abuts the center and is separated by a property line wall, a parking lot and the buildings of the shopping center. Other residential properties exist east of the property that do not directly face Kanan Road and are separated by Kanan Road, a major arterial road. The use is screened from Kanan Road by a free-standing building within the center.

I. The approved improvements to the exterior appearance of the structure will contribute to the economic viability of the center therefore no impact is expected on the immediate neighborhood and the project will not cause blight or property deterioration, or substantially diminish or impair property values within the neighborhood. The sale of alcoholic beverages will occur within an existing building which will remain compatible with the City's Architectural and Design Standards and Guidelines, the style of the shopping center and the new sign was built per the adopted shopping center's sign program.

J. The upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development and use of abutting properties and the surrounding neighborhood. No physical changes to the site are proposed with this application and no live entertainment is allowed with this Conditional Use Permit.

K. The proposed hours of alcohol beverage sales, as conditioned, ensure that activities related to the project are compatible with the quiet enjoyment of the neighborhood.

The restaurant is located at the most distant corner from the residential properties to the west and the on-sale of alcoholic beverages in the restaurant is only permitted between the hours of 11:30 a.m. and 11:30 p.m. which will minimize the potential for impacts on the quiet enjoyment of the neighborhood beyond the normal business operations.

L. The requested use will not contribute to an undue concentration of alcoholic beverage establishments in the area. The restaurant is within a multi-tenant retail center. Although other restaurants with ABC licenses exist in the retail center, the number of establishments in the retail center has not changed and ABC is responsible for determining whether the type of requests is within acceptable levels of licenses concentration.

M. The requested use is not located in a high-crime area, or where a disproportionate number of police calls occur.

Section 4. The project has been environmentally reviewed pursuant to the California Environmental Quality Act (CEQA) Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.), and the City's local CEQA Guidelines. The project consists of providing additional services in an existing establishment without any expansion of space and is therefore exempt under Section 15301 of the CEQA Guidelines.

Section 5. Based on the aforementioned findings, the Planning Commission hereby approves Case No. 13-CUP-001, subject to the attached conditions, with respect to the property described in Section 1 hereof.

Section 6. The Secretary of the Planning Commission shall certify to the passage, approval, and adoption of this resolution, and shall cause this resolution and his certification to be entered in the Book of Resolutions of the Planning Commission of the City.

PASSED, APPROVED, and ADOPTED this 21st day of March, 2013, by the following vote to wit:

AYES: (0)
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

Michael Justice, Chairperson

Mike Kamino, Secretary

CONDITIONS OF APPROVAL
(Case No. 13-CUP-001)

STANDARD CONDITIONS

1. This action shall not be effective for any purpose until the applicant has agreed in writing that the applicants are aware of, and accept all, Conditions of Approval of this permit with the Department of Planning and Community Development. Any conditions on such acceptance or challenges, including the filing of legal action, relating to the permit or the conditions shall be treated as a failure to meet this Condition and shall nullify and void this permit.
2. Except as modified herein, the approval of this action is limited to and requires complete conformation to the labeled exhibits approved by the Planning Commission on March 21, 2013.
3. It is hereby declared to be the intent that if any provision of this Permit is held or declared to be invalid, the Permit shall be void and the privileges granted hereunder shall lapse.
4. It is further declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
5. All requirements of the Zoning Ordinance and of the specific zoning designation of the subject property must be complied with unless set forth in the Conditional Use Permit.
6. Unless this permit is used within two (2) years from the date of City approval, Case No. 13-CUP-001 will expire. A written request for a one (1) year extension may be considered prior to the expiration date.

SPECIAL CONDITIONS

7. The applicant shall comply with all requirements of the State Department of Alcohol Beverage Control.
8. This permit shall be valid strictly for license type 41 as defined by the State Department of Alcohol Beverage Control.
9. No additional signage is made part of this approval.
10. No Live Entertainment Permit is permitted as part of this approval.
11. The service of alcoholic beverages outside of the restaurant is subject to the California Department of Alcoholic Beverage Control's approval.

Conditions of Approval (Case No. 13-CUP-001)

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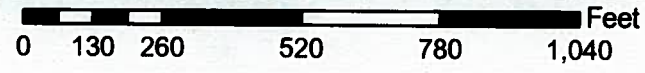
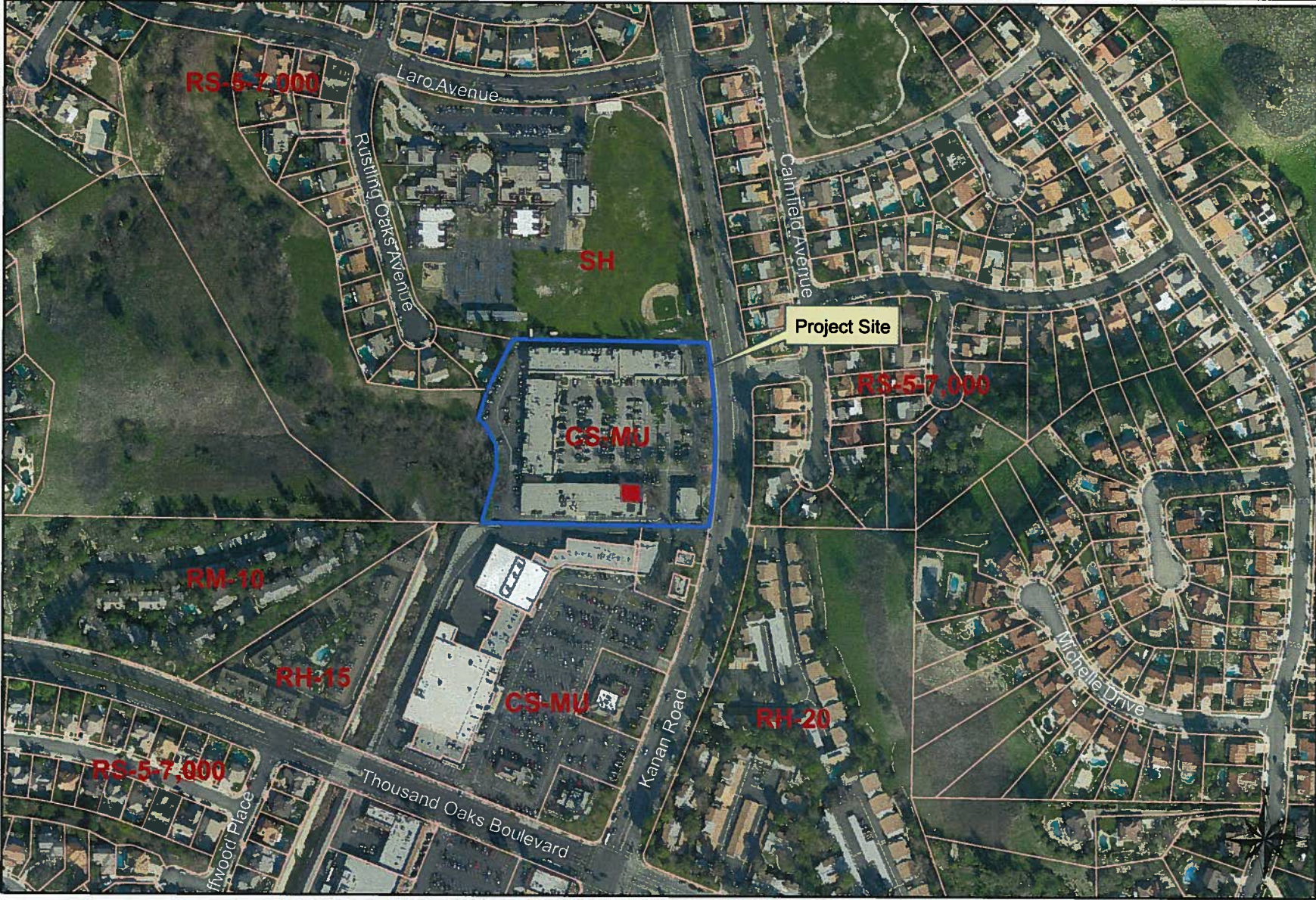
12. The Director of Planning and Community Development is authorized to prepare a letter of Public Necessity for this approval if required by the California Alcohol Beverage Control.
13. In accordance with Zoning Ordinance Section 9710, reconsideration of the Conditional Use Permit by the City shall be required when any of the following conditions of the business apply:
 - A. The establishment changes its type of retail liquor license with the Department of Alcoholic Beverage Control;
 - B. There is substantial modification to the mode or character of operation, including, but not limited to, any increase of 20% or more in the floor area.
 - C. The alcoholic beverage license has either been revoked or suspended for any period by ABC.

END

City of Agoura Hills

Vicinity/Zoning
Map

Conditional Use Permit Case No. 13-CUP-001



**CONDITIONAL USE PERMIT
BURDEN OF PROOF FORM**

In addition to the information required in the application, the applicant shall substantiate to the satisfaction of the Planning Commission, the following facts;

A. That the requested use at the location proposed 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 because;

No open container, No off premises sales.
No fumes from any internal or external utility

No effect on health or comfort or public safety. Because it was a ^{SH-G} existing existing license and did not cause any issue in past.

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 Ordinance, or as is otherwise required in order to integrate said use with the uses in the surrounding area because:

No open container,

No off premises sales,

No fumes from any internal or external utility,

No changing an external or internal or construction need it.

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 because:

No open container,
No off premises sales,
No fumes from any internal or external utility

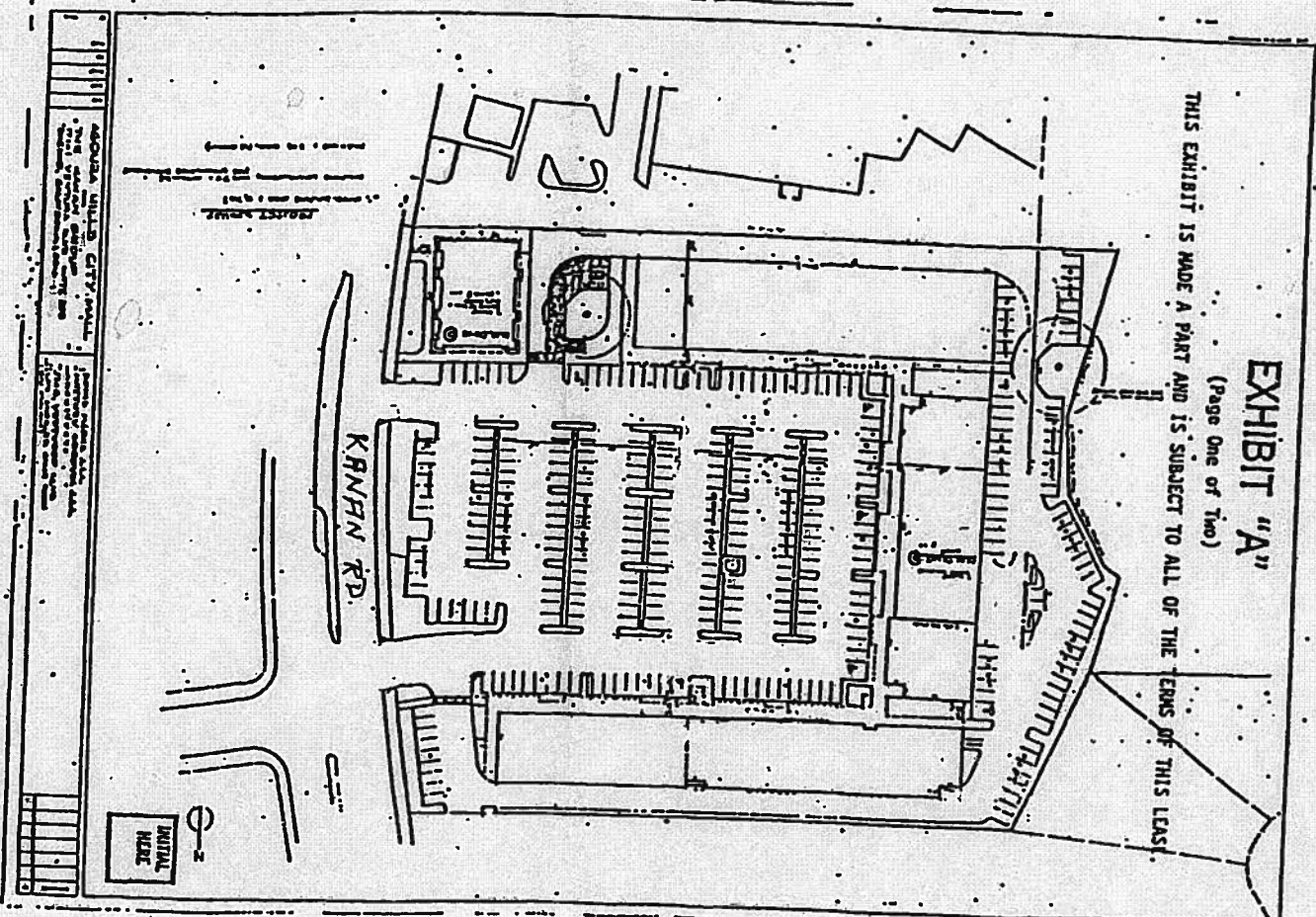
No changing or adding, we are just adding
a service.

END

EXHIBIT "A"

(Page One of Two)

THIS EXHIBIT IS MADE A PART AND IS SUBJECT TO ALL OF THE TERMS OF THIS LEAS.



ADONIS 0000-0000-0000-0000-0000
THIS EXHIBIT IS MADE A PART AND IS SUBJECT TO ALL OF THE TERMS OF THIS LEAS.

DIGITAL
HERE

5843 Kanan Rd Agoura Hills CA 91301
MARAL CUISINE

Fantasia Salon
Hair Design

Drive Way

Affection Nails

Dining Area

Kitchen

Parking

Sidewalk

Sidewalk

Income Tax
&
ACCOUNTING

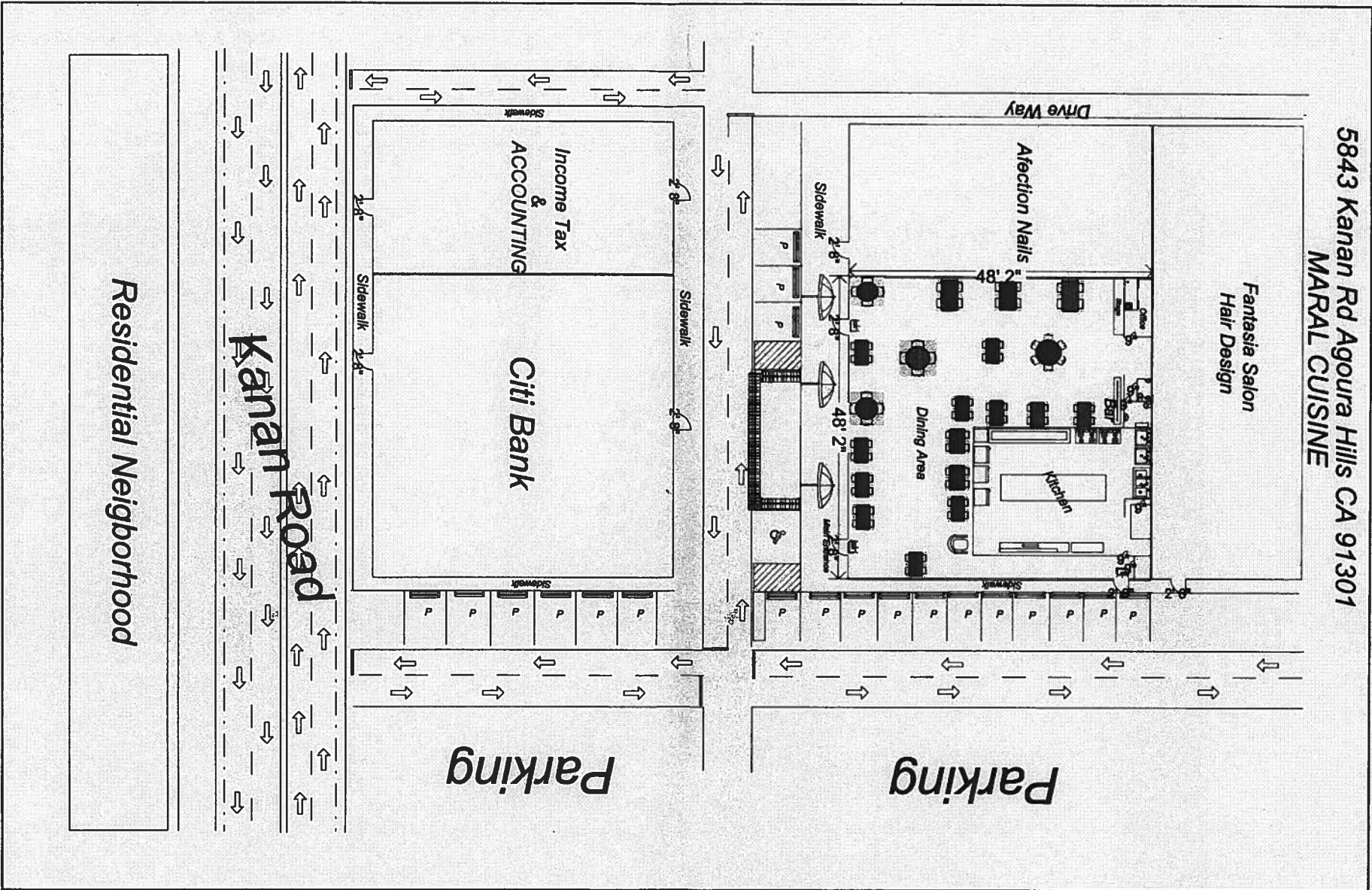
Citi Bank

Sidewalk

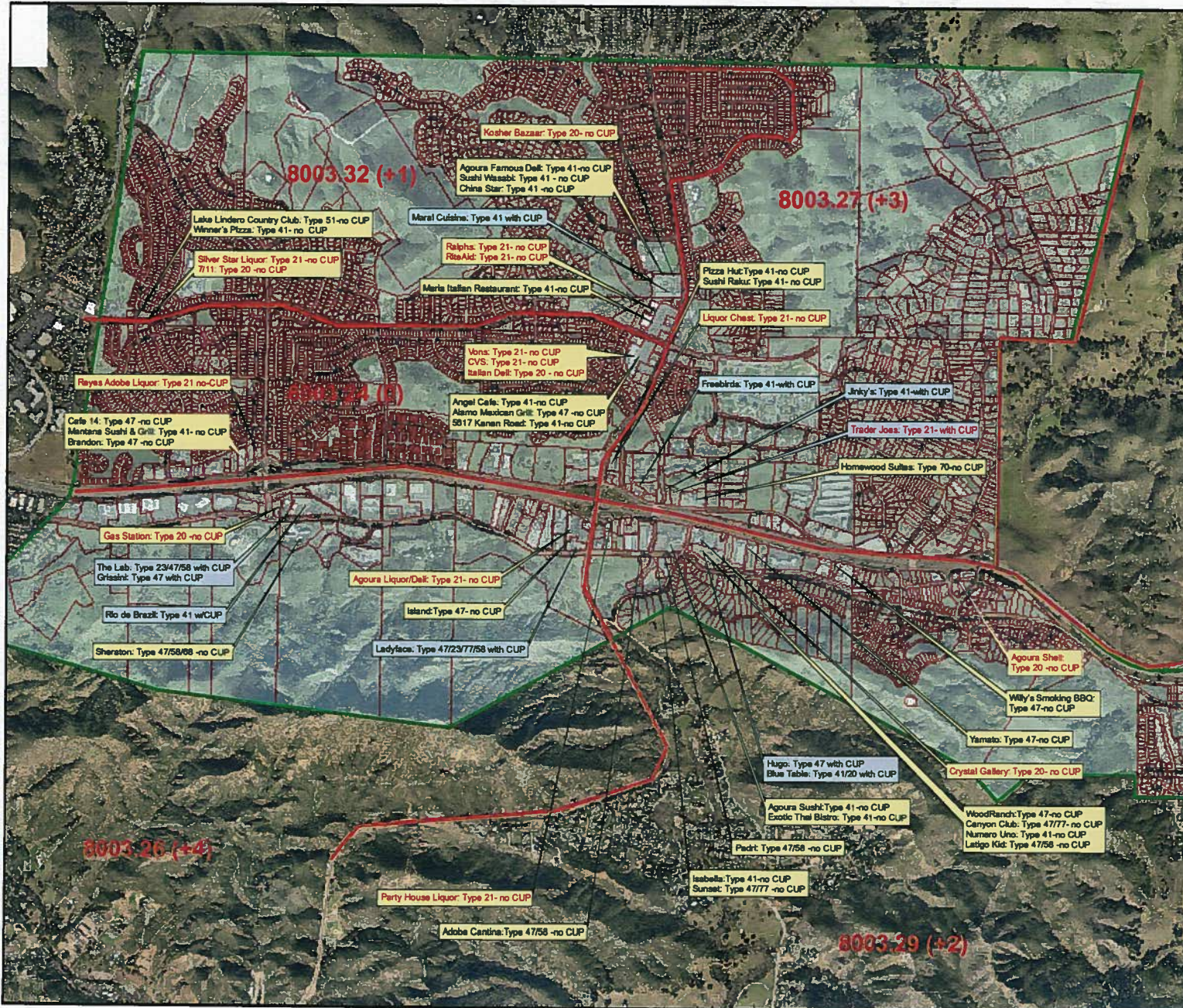
Parking

Kanan Road

Residential Neighborhood



City of Agoura Hills ABC Issued Licenses City Issued CUPs as of March 2013 (Per 7/09 Ordinance)



- City Issued CUPs:**
- Trader Joes: 09-CUP-006
 - Ladyface Ale: 09-CUP-008
 - Grissini: 09-CUP-009
 - Hugo: 10-CUP-005
 - Jinky's: 10-CUP-007
 - The Lab: 11-CUP-001
 - Freebirds: 12-CUP-003
 - Rio de Brazil: 12-CUP-004
 - Blue Table: 12-CUP-005
 - Maral Cuisine: 13-CUP-001

Census Tract Number/Boundary

WITH CUPs

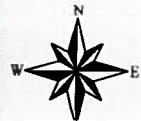
On-Sale Licenses

Off-Sale Licenses

WITHOUT CUPs

On-Sale Licenses

Off-Sale Licenses





MARAL CUISINE

MARAL CUISINE
HOUSE OF KABOB

MARAL CUISINE

HOUSE OF KABOB



MARAL CUISINE

HOUSE OF KABOB

