



DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

ACTION DATE: October 21, 2010

TO: Planning Commission

APPLICANT: Cliff Muller
c/o Adler Realty Investments, Inc.
14200 Ventura Boulevard, Suite 206
Agoura Hills, CA 91301

CASE NO.: 10-CUP-007

LOCATION: 29001 Canwood Street (Jinky's Cafe)
(A.P.N. 2048-011-076)

REQUEST: Request for a Conditional Use Permit to allow the on-site sale of alcoholic beverages for a new cafe.

ENVIRONMENTAL ANALYSIS: Compliant with the Certified EIR for the Tract.

RECOMMENDATION: Staff recommends that the Planning Commission approve Conditional Use Permit Case No. 10-CUP-007, subject to conditions.

ZONING DESIGNATION: CRS-FC (Commercial Retail Service – Freeway Corridor Design Overlay)

GENERAL PLAN DESIGNATION: CG (Commercial-Retail/Service)

I. PROJECT DESCRIPTION AND BACKGROUND

On July 8, 2009, the City Council adopted a new ordinance that requires an approval of a Conditional Use Permit from the Planning Commission for new on-sale and off-sale alcoholic beverage establishments.

The applicant Cliff Muller/Adler Realty Investments, Inc. is requesting approval of a Conditional Use Permit to allow for the on-sale of alcohol for a new eating establishment (Jinky's Café) located at 29001 Canwood Street, adjacent to and west of Trader Joe's, in the Shops at Oak Creek East, Building C-1.

On-sale alcoholic beverage establishments are defined as, "Any establishment where in 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 (ABC) 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."

The applicant intends to obtain a type 41 license for the consumption of beer and wine inside the eating establishment from ABC. The restaurant will occupy the entire 2,500 square foot building, which includes 1,500 square feet of seating floor area where beer and wine will be served. The restaurants expected hours of operation are Sunday through Thursday from 7:00 a.m. to 10:00 p.m., Friday and Saturday from 7:00 a.m. to 11:00 p.m. Beer and wine will be served to seated customers only from 10:00 a.m. to 10:00 p.m. No sit-down bar is located within the restaurant and no live entertainment is proposed at this time.

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 alcohol beverage sales and service.

Staff finds the proposed use to be consistent with the intent of the ordinance and with the findings. The proposed on-sale of alcoholic beverages will occur in a new restaurant that is allowed in the CRS zone. The nearest residential properties are located in the Oak Creek Apartment complex, approximately 160 feet to the north of the restaurant site, and are separated and buffered by Medea Creek and a natural knoll. In addition, there is no school located within 500 feet of the site. Although Chumash Park is located approximately 540 feet from the site, it is separated by the adjacent apartment complex. Therefore, staff finds the proposed use will not negatively impact surrounding properties or neighborhoods.

The Shops at Oak Creek project, in which the restaurant and proposed on-sale of alcoholic beverages use is proposed, is vested per the Development Agreement and the Final Environmental Impact Report (EIR) that was approved and certified by the City Council for the tract. Staff concludes that because the project has been vested by the Final EIR and, more importantly, the execution of a Development Agreement, no additional environmental analysis per the California Environmental Quality Act (CEQA) may be prepared by the City for the proposed on-sale of alcoholic beverages use.

III. RECOMMENDATION

Staff recommends that the Planning Commission approve Conditional Use Permit Case No. 10-CUP-007, subject to conditions.

IV. ATTACHMENTS

- Draft Resolution and Conditions of Approval
- Site Plan and Floor Plan
- Vicinity Map

CASE PLANNER: Renee Madrigal, Associate Planner

DRAFT RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF AGOURA HILLS
APPROVING CONDITIONAL USE PERMIT CASE NO. 10-CUP-007

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 Cliff Muller/Alder Realty Investments, Inc. with respect to property located at 29001 Canwood Street (Assessor's Parcel No. 2048-011-076), requesting the approval of a Conditional Use Permit (Case No. 10-CUP-007) to allow the on-sale of alcohol beverages (ABC License Type 41) at a new restaurant. A public hearing was duly held on October 21, 2010, 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.

Section 2. Evidence, both written and oral, was presented to and was considered by the Planning Commission at the aforesaid public meeting.

Section 3. The Planning Commission finds, pursuant to the Agoura Hills Zoning Ordinance Section Nos. 9673.2.E and 9396.3, 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 new restaurant, which is a permitted use in the Commercial Retail Service (CRS) zone.

B. The proposed use, as conditioned, is compatible with the surrounding properties. The property, as well as adjacent parcels to the east and west, is zoned for commercial retail service uses.

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 within an exterior patio area adjacent to the tenant space.

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. 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 specialty restaurant adds to the diversity of the eating establishments within 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. The nearest such land use is Chumash Park, which is located approximately 540 feet from the proposed site and the two land uses are separated by an existing apartment complex.

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. The nearest residential units are located approximately 160 feet from the proposed site, within an existing multi-family apartment complex, and are adequately buffered and separated by Medea Creek and a natural knoll.

I. The exterior of the structure will not be inconsistent with the external appearance of commercial structures already considered or under construction within the immediate neighborhood so as to cause blight or property deterioration, or to substantially diminish or impair property values within the neighborhood. The alcoholic sales will occur within a new restaurant that will be constructed per design plans that have been publicly reviewed and approved by the City.

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 on-site consumption of alcohol within public areas outside the establishment is approved with this 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 on-sale of alcoholic beverages in the restaurant is permitted between 10:00 a.m. and 10:00 p.m. will not impact 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 nearest restaurants located north of the 101 Freeway that are permitted for on-sale alcohol sales include two restaurants, Pizza Hut, and Sushi Raku, located in Kanan Plaza, approximately 1,080 feet from the applicant's proposed site.

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

Section 4. The proposed use involves the on-sale of alcoholic beverages within a new restaurant. A Final Environmental Impact Report (EIR) was prepared for the J.h. Snyder company mixed use development project dated May, 2002, which includes this proposed site among contiguous other parcels. A Development Agreement was prepared between the original project applicant and the City of Agoura Hills in July of 2002. The project is vested per the Development Agreement that was approved by the City Council. The proposed use is generally consistent with the Commercial Retail Service zoning for the site. The project has been vested by the Final EIR and the execution of a Development Agreement, and no additional environmental analysis per the California Environmental Quality Act is required of the City.

Section 5. Based on the aforementioned findings, the Planning Commission hereby approves Case No. 10-CUP-007, subject to the attached Conditions, with respect to property located described in Section 1 herein.

PASSED, APPROVED, and ADOPTED this 21st day of October, 2010, by the following vote to wit:

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

Steve Rishoff, Chairperson

Mike Kamino, Secretary

CONDITIONS OF APPROVAL
(Case No. 10-CUP-007)

STANDARD CONDITIONS

1. This decision, or any aspect of this decision, can be appealed to the City Council within fifteen (15) days from the date of Planning Commission action, subject to filing appropriate forms and related fees.
2. This action shall not be effective for any purpose until the applicants have 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.
3. 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.
4. 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.
5. 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 applicants have been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
6. 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.
7. Unless this permit is used within two (2) years from the date of City approval, Case No. 10-CUP-007 will expire. A written request for a one (1) year extension may be considered prior to the expiration date.

SPECIAL CONDITIONS

8. The applicants shall comply with all requirements of the State Department of Alcohol Beverage Control.
9. This permit shall be valid strictly for license type 41 as defined by the State Department of Alcohol Beverage Control.
10. No additional signage is made part of this approval.

11. No live entertainment permit is permitted as part of this approval.
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

INTERIOR DESIGNER
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 Design Group
Construction Management and Supervision
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 Sherman Oaks, CA 91423
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 F: 818 301 7930
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CONSTRUCTION MANAGEMENT
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 Construction Management and Supervision
 CMS CORP.
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 CMS.CORP@earthlink.net
 OFFICE 818-301-7100
 FAX 818-301-7930

REVISIONS
 CMS 3/25/10
 FOR PLAN CHECK/PERMIT
 4/7/2010
 FOR PLAN CHECK/PERMIT
 CORRECTION 6/25/2010
 FOR PLAN CHECK/PERMIT
 CORRECTION 7/28/2010

AS INSTRUMENT OF SERVICE, ALL DESIGN AND CONSTRUCTION DOCUMENTS SHALL REMAIN THE PROPERTY OF THE DESIGNER AND SHALL BE KEPT IN THE DESIGNER'S OFFICE. VISUAL CONTACT WITH THESE DRAWINGS OF ANY KIND WITHOUT THE WRITTEN PERMISSION OF THE DESIGNER IS STRICTLY PROHIBITED.

THESE DRAWINGS ARE FOR INTERIOR DESIGN PURPOSES ONLY.

2901 CANYON STREET
 C-1, PARCEL 6
 AGOURA HILLS, CA 91301

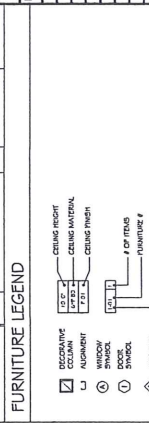
JINKY'S CAFE
 AT OAK CREEK

FILE NAME
 CMS JINKY'S LAYOUT
PLANS_A-1_03_TURN PLAN
PROJECT NO. C-1/J-103
SCALE 3/16" = 1' - 0"
DRAWN BY L. Schwartz
SHEET TITLE

FURNITURE PLAN
PATH OF TRAVEL

SHEET NO.
A-1.03

AREA	ITEM #	DESCRIPTION	QTY.	APPROX. SIZE	REMARKS
2 MANAGED OFFICE	1.01	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.02	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.03	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.04	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.05	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.06	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.07	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.08	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.09	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.10	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.11	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.12	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.13	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.14	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.15	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.16	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.17	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.18	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.19	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS
2 MANAGED OFFICE	1.20	EXECUTIVE DESK, 58" x 30" x 42"	1	20' x 24' x 42"	CMS



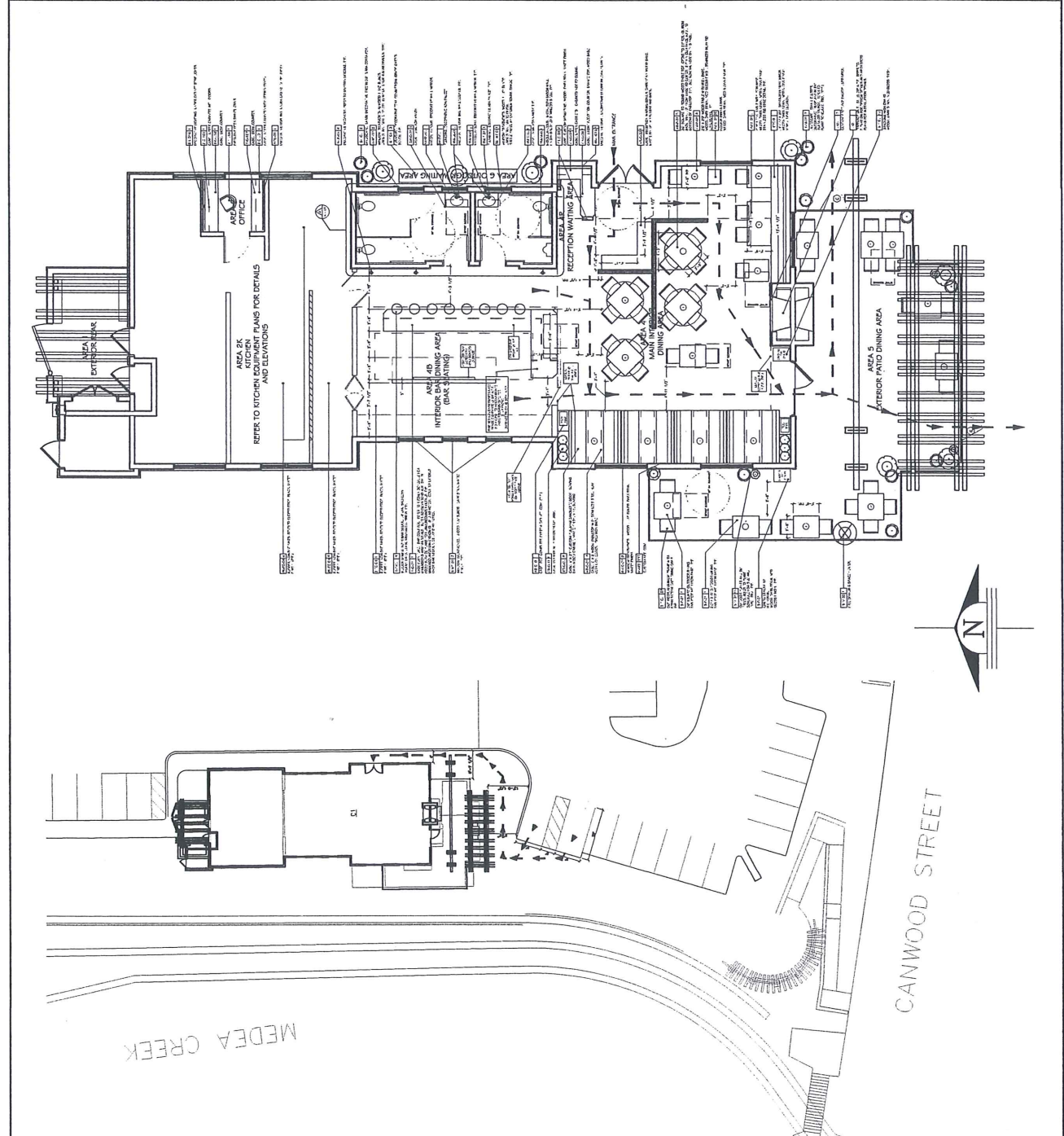
PATH OF TRAVEL / OCCUPANCY

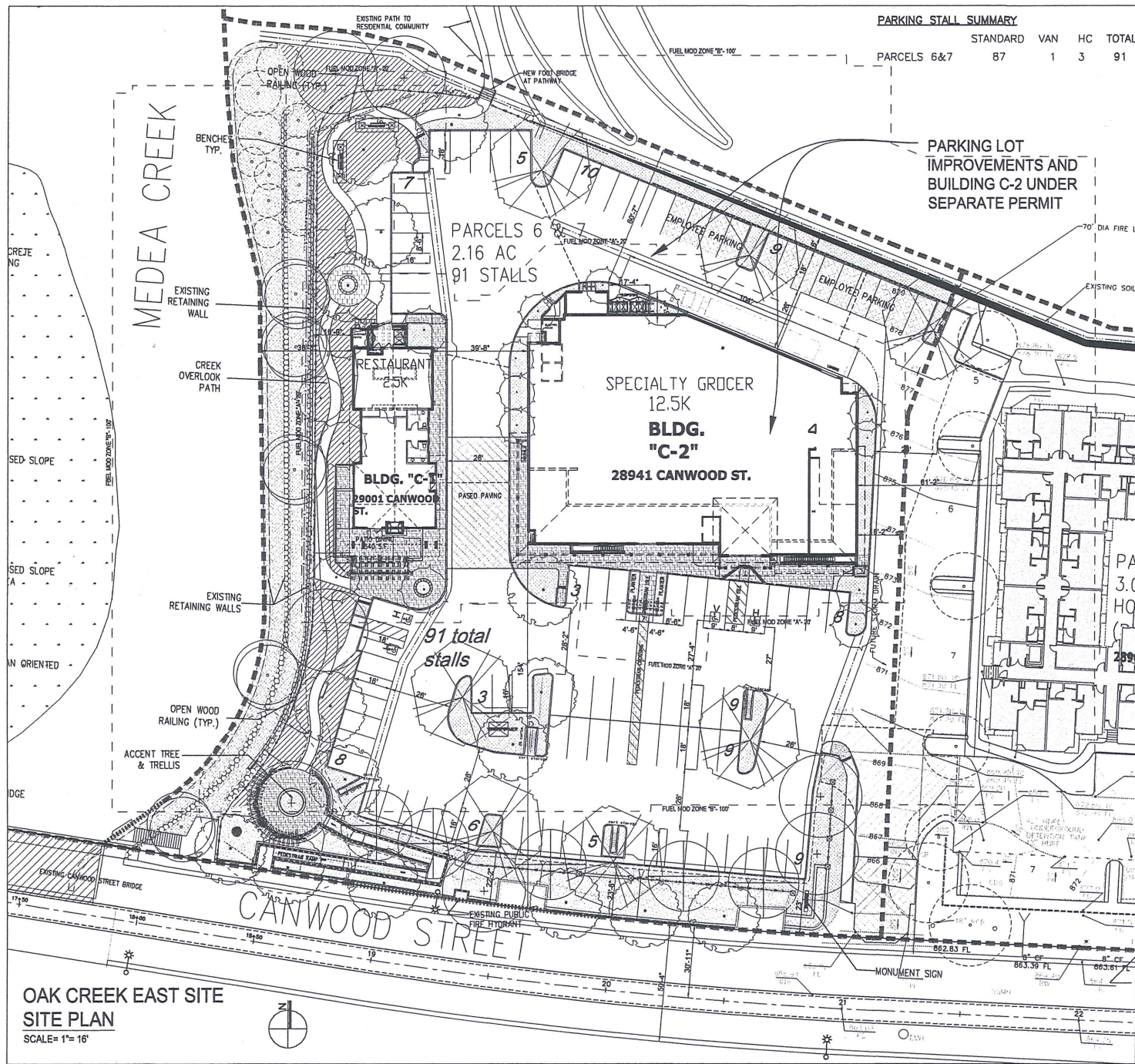
PER (B) APPENDIX 106.1.2 CBC, NUMBER OF OCCUPANTS IN ALL ROOMS AND SPACES ARE AS FOLLOWS:

AREA	NUMBER OF OCCUPANTS
KITCHEN / BREAK ROOM	5
MANAGEMENT OFFICE	9
MAIN DINING	47
OUTDOOR PATIO	22
TOTAL	84

GENERAL NOTES ADA REQUIREMENTS

- 1) ALL HALLWAYS BOTH BUILT-UP AND FREE STANDING THROUGHOUT SHALL HAVE A MINIMUM CLEARANCE OF 48" MIN. ACCESSIBILITY REQUIREMENTS SEE NOTE BELOW. SEE THIS SHEET FOR GENERAL DESIGN, LOCATION, AND DETAILS.
- 2) ALL HALLWAY AND ENTRYWAYS SHALL BE 48" MIN. CLEARANCE. ALL RAMP CLEARANCE SHALL BE 48" MIN. CLEARANCE. ALL RAMP CLEARANCE SHALL BE 48" MIN. CLEARANCE. ALL RAMP CLEARANCE SHALL BE 48" MIN. CLEARANCE.
- 3) DINING ROOM SEATING IS DESIGNED TO PROVIDE SEATING AT LEAST ONE (1) PER EACH 30 SEATS INTEGRATED WITH GENERAL SEATING TO AVOID HAVING ONE AREA SPECIFICALLY IDENTIFIED AS A SEATING AREA. SEATING SHALL BE PROVIDED AT LEAST ONE (1) PER EACH 30 SEATS. SEE FURNITURE PLAN DETAILS THIS PAGE.
- 4) ALL FLOORING IS CONTINUOUS TO WALL LINE DEMONSTRATING SERVICE FACES FOR DETAILS UNLESS OTHERWISE NOTED.
- 5) REFER TO 2015 SMC WITH SECTION 106000-0000-0000 FOR DETAILS UNLESS OTHERWISE NOTED.
- 6) ALL FINISHES SHALL COMPLY WITH CBC 2007, CH 6, C-605 C
- 7) ADA SPECIFICATIONS FOR DINING ROOM SEATING ARE AS FOLLOWS:
 - A. SEATING TO REMAIN NON-FOLD DOWN SEATING SHALL BE 30" MIN. WITH 3" DIA. ROUND ARM. 30" W x 19" D.
 - B. ALL INTERIOR/DOOR NON-FOLD DOWN SEATING, AND ALL INTERIOR/DOOR NON-FOLD DOWN SEATING SHALL HAVE A MIN. CLEARANCE OF 37" W x 19" D.
 - C. ALL INTERIOR/DOOR NON-FOLD DOWN SEATING SHALL HAVE A MIN. CLEARANCE OF 37" W x 19" D.
 - D. ALL SEATING ACCESSIBLE FROM KITCHEN/COUNTER WITH THE MIN. HEIGHT AND MIN. CLEARANCE OF 37" W x 19" D SHALL BE PROVIDED. FINISHED SURFACE HEIGHT SHALL NOT BE LESS THAN 30" W x 19" D SHALL BE PROVIDED. FINISHED SURFACE HEIGHT SHALL NOT BE LESS THAN 30" W x 19" D SHALL BE PROVIDED. FINISHED SURFACE HEIGHT SHALL NOT BE LESS THAN 30" W x 19" D SHALL BE PROVIDED.
- 8) REFER TO GENERAL NOTES AND ACCESSIBILITY REQUIREMENTS DETAILS ON SHEET NOS. CS-2.3.4.5 FOR FURTHER SPECIFICATIONS.





PARKING STALL SUMMARY

	STANDARD	VAN	HC	TOTAL
PARCELS 6&7	87	1	3	91

PARKING LOT IMPROVEMENTS AND BUILDING C-2 UNDER SEPARATE PERMIT

OAK CREEK EAST SITE
SITE PLAN
SCALE= 1"= 16'

ADLER
ARCHITECTURE • PLANNING • DESIGN

OWNER:
ADLER
Realty Investments, Inc.
7959 C Winner Center Lane
Walpole, MA 01987
(618) 894-2200

SHOPS at OAK CREEK
BUILDING C-1
EAST SITE, PARCEL 6
29001 Canwood Street, City of Agoura Hills, CA 91301

SITE PLAN

DATE	DESCRIPTION
03-18-09	CLP SUBMITTAL

PROJECT: 23000 DATE: 06-20-09
DRAWN: HWS CHECKED:

CONDITIONAL USE PERMIT CASE NO. 10-CUP-007
29001 CANWOOD STREET (A.P.N. 2048-011-076)

