



REGULAR MEETING OF THE UPLAND PLANNING COMMISSION AGENDA

**July 22, 2020 at 6:30 PM
Council Chambers**

**ROBIN ASPINALL, CHAIR
GARY SCHWARY, VICE CHAIR
CAROLYN ANDERSON, COMMISSIONER
THOMAS GRAHN, COMMISSIONER
SERGE MAYER, COMMISSIONER
ALEXANDER NOVIKOV, COMMISSIONER
PATRICK SHIM, COMMISSIONER**

CALL TO ORDER OF THE PLANNING COMMISSION REGULAR MEETING

PLEDGE OF ALLEGIANCE

ROLL CALL OF THE PLANNING COMMISSION

Chair Aspinall, Vice Chair Schwary, Commissioners
Anderson, Grahn, Mayer, Novikov and Shim

APPROVAL OF MINUTES

None

COUNCIL ACTIONS

Robert D. Dalquest, Development Services Director
July 13, 2020

FUTURE AGENDA ITEMS

Mike Poland, Contract Planning Manager

ORAL COMMUNICATIONS

This is the time for any citizen to comment on any items that are not listed on the agenda under "Public Hearings" but within the Planning Commission's purview. Anyone wishing to address the Planning Commission should submit a speaker card to the Planning Secretary prior to speaking. The speakers are requested to keep their comments to five (5) minutes. The use of visual aids will be included in the time limit. Under the provisions of the Brown Act, the Planning Commission is prohibited from taking action on items not listed on the agenda.

PUBLIC HEARINGS

1. PUBLIC HEARING FOR CONDITIONAL USE PERMIT NO. 20-0004.

Project Description: Request for a conditional use permit to allow the reconstruction of a legal non-conforming building damaged by fire by less than 50% of its market value, and allow a 15% increase in floor area to establish a bakery and sandwich shop with outdoor patio seating.

Project Location: Property is located at 1600 W. 9th Street, further described as Assessor’s Parcel Number 1007-643-16, and zoned Business/Residential Mixed-Use (B/R-MU).

STAFF:	Jacqueline Hong, Assistant Planner
APPLICANT:	Risen Bakery and Grill Gabriel Boyadjian 4558 Fruit Street La Verne, CA 91750
RECOMMENDATION:	That the Planning Commission: 1. Receive staff’s presentation; and 2. Hold a public hearing and receive testimony from the public; and 3. Find that the project is Categorically Exempt from further environmental proceedings pursuant to article 19, Section 15301, Existing Facilities, Class 1 (d and e), for the reconstruction of an existing legal non-conforming building damaged by fire by less than 50% of its market value and for a 15% increase in floor area to establish a bakery and sandwich shop with outdoor patio seating; and 4. Move to adopt a Resolution for approval of Conditional Use Permit No. 20-0004, based upon the findings and subject to conditions of approval as set forth in the Resolution.
COUNCIL HEARING REQUIRED:	No
APPEAL PERIOD:	July 23, 2020 – August 3, 2020

2. PUBLIC HEARING FOR CONDITIONAL USE PERMIT NO. 20-0005.

Project Description: Request for a conditional use permit to establish a firearm retailer with accessory gunsmithing.

Project Location: Property is located at 750 N. Mountain Avenue, further described as Assessor’s Parcel Number 1007-191-06, and zoned Commercial/Office Mixed-Use (C/O-MU).

STAFF:	Joshua Winter, Associate Planner
APPLICANT:	Brett and Kristina Swaim 5819 Beryl Street Rancho Cucamonga, CA 91737

RECOMMENDATION:	<p>That the Planning Commission:</p> <ol style="list-style-type: none"> 1. Receive staff's presentation; and 2. Hold a public hearing and receive testimony from the public; and 3. Find that this project is Categorical Exempt from environmental proceedings pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (a), of the California Environmental Quality Act Guidelines, since the proposed project consists of a negligible change in use within an existing structure; and 4. Move to adopt a Resolution for approval of Conditional Use Permit No. 20-0005, based upon the findings and subject to the conditions of approval as set forth in the Resolution.
COUNCIL HEARING REQUIRED:	No
APPEAL PERIOD:	July 23, 2020 – August 3, 2020

BUSINESS ITEMS – None.

COMMISSION COMMUNICATIONS

ADJOURNMENT

Adjourn to the next scheduled Planning Commission meeting on **August 12, 2020**.

The regular scheduled Planning Commission meeting for August 26, 2020 has been cancelled.

NOTICE TO PUBLIC: All maps, environmental information, and other data pertinent to this item are filed in the City of Upland Development Services Department and will be available for public inspection by appointment prior to the meeting at 460 North Euclid Avenue during normal business hours. To schedule an appointment, please call 931-4305.

If you wish to appeal a decision of the Planning Commission, you must do so within ten (10) calendar days following the meeting. Please contact the Planning Division for information regarding the appeal procedure.

If you challenge the public hearing(s) or the related environmental determinations, in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the City of Upland, at or prior to, the public hearing.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the Planning Division at 931-4305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting. [28 CFR 35.102-35.104 ADA Title II]

POSTING STATEMENT: On July 16, 2020, at least 72 hours prior to the meeting, a true and correct copy of this agenda was posted at 460 N. Euclid Avenue (Upland City Hall), 450 N. Euclid Avenue (Upland Public Library), and the City's website at www.uplandca.gov per Government Code Section 54954.2.



PLANNING COMMISSION REPORT

ITEM NO. 1

DATE: JULY 22, 2020

TO: PLANNING COMMISSION

FROM: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR

PREPARED BY: JACQUELINE HONG, ASSISTANT PLANNER

SUBJECT: CONDITIONAL USE PERMIT NO. 20-0004 FOR THE RECONSTRUCTION OF AN EXISTING LEGAL NON-CONFORMING BUILDING DAMAGED BY FIRE BY LESS THAN 50% OF ITS MARKET VALUE AND TO ALLOW A 15% INCREASE IN FLOOR AREA TO ESTABLISH A BAKERY AND SANDWICH SHOP WITH OUTDOOR PATIO SEATING WITHIN THE BUSINESS/RESIDENTIAL MIXED-USE (B/R-MU) ZONE LOCATED AT 1600 W. 9TH STREET (APN: 1007-643-16).

REQUEST

The applicant, Gabriel Boyadjian, is seeking approval of Conditional Use Permit No. 20-0004 (CUP-20-0004) for the reconstruction of an existing legal, non-conforming building damaged by fire by less than 50% of its market value, and to establish outdoor patio seating, and a request for a 15% increase in floor area to establish a 203 square foot office in the rear of the proposed bakery and sandwich shop with outdoor patio seating (See Exhibit A).

SYNOPSIS

<i>Applicant:</i>	Gabriel Boyadjian
<i>Representative:</i>	Same as Applicant
<i>Property Owner:</i>	Same as Applicant

<i>Property Location:</i>	1600 W. 9th Street (Exhibit B)																						
<i>Existing General Plan Land Use Designation:</i>	Business/Residential Mixed-Use (B/R-MU)																						
<i>Existing Zoning Classification:</i>	Business/Residential Mixed-Use (B/R-MU)																						
<i>Site Size:</i>	Project site location is 0.24 Acres (10,640 square feet)																						
<i>Building/Suite Size:</i>	1,291 square feet																						
<i>Access:</i>	W. 9th Street and N. Benson Avenue																						
<i>Existing Conditions:</i>	The existing building is currently vacant and unused due to the fire damage.																						
<i>Surrounding Land Uses:</i>	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Direction</th> <th style="text-align: center;">Land Use</th> <th style="text-align: center;">General Plan</th> <th style="text-align: center;">Zone</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">North</td> <td style="text-align: center;">Residential</td> <td style="text-align: center;">B/R-MU</td> <td style="text-align: center;">B/R-MU</td> </tr> <tr> <td style="text-align: center;">East</td> <td style="text-align: center;">Existing Commercial Complex</td> <td style="text-align: center;">LI</td> <td style="text-align: center;">LI</td> </tr> <tr> <td style="text-align: center;">South</td> <td style="text-align: center;">Commercial Uses</td> <td style="text-align: center;">B/R-MU</td> <td style="text-align: center;">B/R-MU</td> </tr> <tr> <td style="text-align: center;">West</td> <td style="text-align: center;">Commercial / Industrial (Existing Manufacturing Warehouse)</td> <td style="text-align: center;">B/R-MU</td> <td style="text-align: center;">B/R-MU</td> </tr> </tbody> </table>			Direction	Land Use	General Plan	Zone	North	Residential	B/R-MU	B/R-MU	East	Existing Commercial Complex	LI	LI	South	Commercial Uses	B/R-MU	B/R-MU	West	Commercial / Industrial (Existing Manufacturing Warehouse)	B/R-MU	B/R-MU
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	West	Commercial / Industrial (Existing Manufacturing Warehouse)	B/R-MU	B/R-MU																			
See Exhibit B – Vicinity Map																							
<i>Previous Applications/Entitlement:</i>	N/A																						

AUTHORIZATION/GUIDELINES

Upland Municipal Code Section 17.44.040(C) states the Planning Commission shall approve, conditionally approve, or deny all conditional use permit applications.

PUBLIC NOTICE

This project included the following modes of notifying the public, in accordance with Upland Municipal Code (UMC) Section 17.46.020.

1. On July 9, 2020, a Notice of Public Hearing was mailed to all property owners within 300 feet of the project site. This resulted in a total of 21 property owners being noticed.
2. The Public Hearing Notice was published in the Inland Valley Daily Bulletin and posted in 2 physical locations (Upland City Hall and Upland Library) on July 10, 2020.

BACKGROUND

The project site is located on an existing 0.24-acre parcel. Records indicate the existing building was constructed in 1973, but historic aerials indicate a structure on the site prior to 1938. The structure appears to be originally constructed as single-family dwelling, however, County records indicate that permits were issued by San Bernardino County in 1996 to establish a used car facility for sales and leasing. The property was used as a used car lot until 2014. More recently, the building was occupied by an illegal marijuana dispensary, which was shut down in 2017.

Furthermore, the structure is listed on the Upland Historic Resources Survey and is evaluated as a 6. An evaluation of a 6 indicates that the structure is not locally significant and is ineligible for the local register.

In 2019, the owner of Risen Bakery and Grill purchased the property. The property owner received building permits to construct interior tenant improvements to establish the bakery and grill. During construction of improvements, a fire occurred resulting in damages to the building.

The building is considered legal, nonconforming due to its sub-standard setback from Benson Avenue. According to Section 17.31.060(B) of the Upland Municipal Code, a non-conforming a building or structure that is destroyed by 50 percent or less of its current market value, may be reconstructed subject to the approval of a Conditional Use Permit. Therefore, in order to repair the building, the applicant is requesting approval of a Conditional Use Permit to repair the damages caused by the fire. In addition, the Conditional Use Permit is also necessary for an increase in floor area to establish a 203 square foot office in the rear of the bakery and an outdoor patio seating area.

ANALYSIS

General Plan

The project site has a Business/Residential Mixed-Use (B/R-MU) General Plan land use designation. This designation is intended to support for areas in which business and/or light industrial uses are compatible with multi-family or single-family residential development. The project is consistent with the General Plan, as the proposed business would not adversely affect the intent of this land use designation because the project is consistent with the following General Plan Goals and Policies:

General Plan Goal/Policy	Consistency
Policy LU-3.1 Economic Development. Retain and attract land uses that generate revenue to the City, provide employment for residents while balancing other community needs such as housing, parks and open space, and public facilities.	The proposed use will provide a sales tax generating business and provide employment for residents.

<p>Policy LU-3.2 Economic Revitalization. Promote the development of vacant and underutilized parcels with higher intensity commercial and industrial land uses.</p>	<p>The proposed project will result in the revitalization of a blighted building and the occupancy of a new business within a presently vacant building.</p>
<p>Policy LU-3.5 Commercial Revitalization. Encourage the revitalization of aging commercial centers to improve the tax base and provide improved commercial services for the community.</p>	<p>The proposed project is intended to provide a bakery and grill and enhance the revitalization of this section of Benson Avenue.</p>

Zoning

The intent and purpose of the Business/Residential Mixed-Use zoning district is intended for areas in which business and/or light industrial uses are compatible with multi-family, single-family, or live/work units. The B/R-MU Zone provides an environment where residents can enjoy the convenience of living and working on the same site or in close proximity. The preference for land uses consist of integrated (i.e., horizontal) mixed uses that are well designed, create an attractive street front, and provide adequate buffering and transitions between residential and non-residential land uses. The proposed primary use, a bakery and grill, is a permitted by right use in the Business/Residential Mixed-Use Zone (B/R-MU). A Conditional Use Permit is required for the repair of a non-conforming building, the increase in floor area, and for the ancillary outdoor patio seating area.

Non-Conforming Uses and Structures

As indicated previously, the building is considered legal, non-conforming, pursuant to the Upland Municipal Code Section 17.05.040 Note #3, structures adjacent to a major or secondary highway, freeways, drainage channels or railroad right-of-ways shall require an additional 10-foot setback. The Business/Residential Mixed-Use Zone requires a 5-foot street side setback, with an additional 10-foot due to N. Benson Avenue being a secondary arterial. The existing structure currently does not meet this setback, resulting in an existing setback of 11 feet 2 inches (11'-2"). Therefore, the existing street setback along N. Benson Avenue is considered a non-conforming street side setback.

Due to its nonconforming status, a non-conforming building or structure that is destroyed by 50% or less of its current market value according to Section 17.31.060(B) of the Upland Municipal Code, may be reconstructed subject to the approval of a Conditional Use Permit. Therefore, in order to repair the building, the applicant is requesting approval of a Conditional Use Permit.

Upland Municipal Code Section 17.31.070, states that the Planning Commission may find that the reconstruction of such non-conforming building or structure may be found to be consistent with the General Plan, if such reconstruction can be accomplished according to the following criteria:

- A. The reconstruction is generally consistent with the purpose and intent of the General Plan;
- B. The reconstruction as proposed and as conditioned by the Planning Commission will result in substantial benefit to the public; and
- C. The subject property and all existing and proposed improvements shall substantially conform to all current regulations, standards and policies of the City, including, but not limited to those which affect:
 - 1. Building and site design including building materials, colors, signage, paving, curbs and sidewalks;
 - 2. Building, housing and fire codes;
 - 3. Traffic circulation and off-street parking;
 - 4. Landscaping and screening;

In addition, Section 17.31.080 states that within non-residential zones, and for buildings or structures in residential zones that are not in residential use, a non-conforming building or structure may not be altered or expanded; except the Development Services Director may permit up to 5 percent expansion of the floor area of a non-conforming building or structure; and the Planning Commission may permit up to 15 percent expansion of the floor area of a non-conforming building or structure, provided that:

- A. The expansion is of an incidental character and does not constitute a complete remodeling or relocation of machinery, equipment or apparatus used in operating the establishment in question, and can be carried out without injury to the residents of adjacent property and of the neighborhood;
- B. The expansion is generally consistent with the purpose and intent of the general plan;
- C. The expansion as proposed will result in substantial benefit to the public; and
- D. All other development requirements of this title and all applicable City building and housing codes are fully complied with.

Section 1 of the Draft Resolution contains recommended findings for the Planning Commission's consideration.

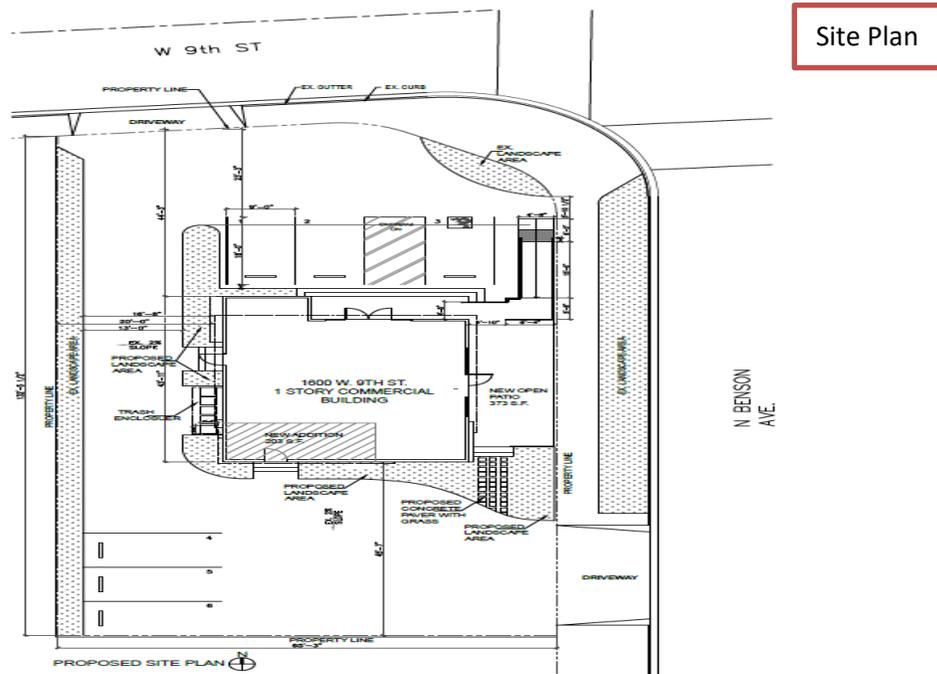
Operational Characteristics

The applicant proposes to operate a bakery and sandwich shop that will also provide outdoor patio seating for dining. The proposed bakery and grill will operate Monday to Saturday 7:00 am – 9:00 pm and closed on Sundays.

Development Plan/Standards

Site Plan

The project site is located on the southwest corner of W. 9th Street and N. Benson Avenue. The site design will remain largely as is, with the addition of a new outdoor open patio area (see site plan illustration below). The proposed site plan is provided in Exhibit C of the staff report. The proposed site design is consistent with Upland Municipal Code Section 17.06.050(B) Commercial Design Guidelines. The site incorporates active façades, with windows, doors, and other architectural elements giving interest to the building wall along the sidewalk and providing views into and out of the building. The existing building is oriented with the side of the building facing N. Benson Avenue and the entrance of the restaurant located on the north elevation facing W. 9th Street.



Parking & Circulation

The parking and circulation design will remain unchanged. The property can be accessed by two existing driveways, one from West 9th Street and the other from N. Benson Avenue. The project site provides six (6) existing parking spaces. Direct application of the City's parking code to the project results in a total parking requirement of 1 space for every 250 square feet of floor area. Therefore, there proposed use requires six (6) parking spaces.

Landscaping

The existing landscaping on-site is currently non-conforming. The applicant proposes to upgrade the landscaping to provide shade trees and new grass to enhance the appeal of the property. A Condition of Approval has been added to the Resolution (Exhibit A) requiring that the applicant submit and obtain approval of a landscape plan prior to building permit issuance.

Architectural Design

The applicant proposes exterior elevations to the existing building. The design of the bakery proposes to include architectural elements such as fiber cement siding, T-Groove flush metal panels, and foam crown molding. The figure below illustrates that the project is consistent with the UMC Section 17.06.050 (D) Commercial Design Guidelines, in that all façade elevations emphasize three-dimensional detailing such as the crown molding and reveals to cast shadows and create visual interest on the façade. The store front will be located on the north elevation. Additionally, the architectural design of the improvements are consistent with the Commercial Design Guidelines in that they provide varied massing and provides visual interest. The proposed materials on the façade will be made of high-quality and of durable material to provide an attractive environment. Proposed elevations of the project are included as Exhibit C.

Proposed Elevation



Outdoor Patio Dining and Seating

Upland Municipal Code Section 17.32.030 (A) requires that outdoor dining areas require the approval of an Administrative Use Permit, unless the primary use requires a Conditional Use Permit for which the outdoor dining area shall also require a Conditional Use Permit. To approve an outdoor dining area, the approving body, in this case, the highest review authority is the Planning Commission, must find that the following findings can be made in addition to the findings:

- a. The proposed outdoor dining area will not unreasonably interfere with pedestrian traffic or access.
- b. The proposed outdoor dining area will not have an undue adverse effect upon nearby property, the character of the neighborhood, traffic conditions, parking, or other matters affecting the public health, safety, welfare, or convenience.

Section 1 of the Draft Resolution contains recommended findings for the Planning Commission's consideration.

ENVIRONMENTAL ASSESSMENT

This project is Categorically Exempt from the California Environmental Quality Act pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (d and e), of the CEQA Guidelines as the proposed project consists of minor alterations and a negligible change in use within an existing structure.

REQUIRED FINDINGS

In order to approve the project, the Planning Commission is required to make various findings regarding the Conditional Use Permit to allow reconstruction of a non-conforming building or structure, allowing up to a 15 percent expansion of floor area of a non-conforming building or structure, and establishment of an outdoor dining area. Section 1 of the Draft Resolution contains recommended findings for the Planning Commission's consideration.

TECHNICAL REVIEW COMMITTEE

The Technical Review Committee reviewed the project, and recommended approval of the project subject to conditions of approval that have been incorporated into the draft resolution. The Conditions of Approval will ensure that the development meets all development standards within the Upland Municipal Code as required, and will ensure that the proposed use is compatible with the surrounding land uses.

RECOMMENDED ACTION

The Planning Division recommends the Planning commission adopt a Resolution entitled:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UPLAND, CALIFORNIA, AND APPROVING CONDITIONAL USE PERMIT NO. 20-0004 FOR THE RECONSTRUCUTION OF AN EXISTING LEGAL NON-CONFORMING BUILDING DAMAGED BY FIRE BY LESS THAN 50% OF ITS MARKET VALUE AND A REQUEST FOR A 15% INCREASE IN FLOOR AREA TO ESTABLISH A BAKERY AND SANDWICH SHOP WITH OUTDOOR PATIO SEATING WITHIN THE BUSINESS/RESIDENTIAL MIXED-USE ZONE (B/R-MU) ZONE LOCATED AT 1600 W. 9TH STREET (ASSESSOR'S PARCEL NUMBER 1007-643-16). (EXHIBIT A)

MOTION

1. Find that the project is Categorically Exempt from THE California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (d and e), of the CEQA Guidelines.
2. Move to adopt a Resolution approving Conditional Use Permit 20-0004, based on the findings and subject to the conditions of approval as set forth in the Draft Resolution dated July 22, 2020.

EXHIBITS

Exhibit A: Resolution
Exhibit B: Vicinity Map
Exhibit C: Proposed Plans

Exhibit A – Draft Resolution



RESOLUTION NO.**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UPLAND, CALIFORNIA, AND APPROVING CONDITIONAL USE PERMIT NO. 20-0004 FOR THE REPAIR OF AN EXISTING LEGAL NON-CONFORMING BUILDING DAMAGED BY FIRE BY LESS THAN 50% OF ITS MARKET VALUE AND A REQUEST FOR A 15% INCREASE IN FLOOR AREA TO ESTABLISH A BAKERY AND SANDWICH SHOP WITH OUTDOOR PATIO SEATING WITHIN THE BUSINESS/RESIDENTIAL MIXED-USE ZONE (B/R-MU) ZONE LOCATED AT 1600 W. 9TH STREET (ASSESSOR'S PARCEL NUMBER 1007-643-16).**

Intent of the Parties and Findings:

WHEREAS, Gabriel Boyadjian (Applicant) has filed an application for Conditional Use Permit (CUP No. 20-0004) requesting approval for the repair of an existing legal non-conforming building damaged by fire by less than 50% of its market value, establish outdoor patio seating, and a request for a 15% increase in floor area to establish a 203 square foot office in the rear of the proposed bakery and grill for the real property located at 1600 W. 9th Street, in the Business Residential Mixed-Use Zone (B/R-MU), Assessor's Parcel Number 1007-643-16; and

WHEREAS, the project is considered a project as defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq.; and

WHEREAS, the Development Services Director determined that the project qualifies for a Categorical Exemption from the provisions of CEQA per Section 15301(d and e), Existing Facilities, of the CEQA Guidelines; and

WHEREAS, the City of Upland Planning Division on July 10, 2020, posted two (2) true and correct copies of the legal notice at the Upland City Hall Bulletin Board and at the Upland Public Library in accordance with the Upland Municipal Code Section 17.46.020; and

WHEREAS, the City of Upland Planning Division on July 9, 2020, mailed the public hearing notice to each property owner within a 300-foot radius of the project site indicating the date and time of the public hearing in compliance with state law concerning the Project; and

WHEREAS, the City of Upland Planning Division on July 10, 2020, published a legal notice in the Inland Valley Daily Bulletin, a local paper of general circulation, indicating the date and time of the public hearing in compliance with state law concerning the Project; and

WHEREAS, the City of Upland Planning Commission conducted a duly noticed public hearing on July 22, 2020, at which time it received public testimony concerning the Project and considered the CEQA Exemption for the proposed project.

NOW, THEREFORE, the Planning Commission of the City of Upland hereby finds, determines and resolves as follows:

Section 1. FINDINGS. The Planning Commission hereby makes the following findings and determinations in connection with the approval of the Project:

A. The above Recitals are true and correct.

B. The project is consistent with the following General Plan Policies:

1. Policy LU-3.1 Economic Development. Retain and attract land uses that generate revenue to the City, provide employment for residents while balancing other community needs such as housing, parks and open space, and public facilities.

Fact: The proposed use will provide a tax generating business and provide employment for residents.

2. Policy LU-3.2 Economic Revitalization. Promote the development of vacant and underutilized parcels with higher intensity commercial and industrial land uses.

Fact: The proposed project will result in the revitalization of a blighted building and will promote the activity within the existing vacant building.

3. Policy LU-3.5 Commercial Revitalization. Encourage the revitalization of aging commercial centers to improve the tax base and provide improved commercial services for the community.

Fact: The proposed project is intended to provide a bakery and grill and enhance the revitalization of the vacant building.

C. Per Section 17.44.040(F) the Planning Commission may approve an application for a Conditional Use Permit only if the proposed project complies with applicable standards in the Zoning Ordinance, other City ordinances, the General Plan, and any other applicable community or specific plans, and as supported by all of the following findings:

1. Finding: The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses in the vicinity of the subject property.

Evidence: The bakery is located within an existing commercial building surrounded by other commercial uses. The tenant space provides adequate room for the operation of the bakery and outdoor patio seating. Therefore, the use, as conditioned, will be compatible with the existing and future land uses in the vicinity of the subject property.

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

Evidence: The property has developed into a commercial use and a bakery is a permitted use in the Business/Residential Mixed-Use Zone. The introduction of patio seating for dining will be ancillary to the restaurant use. No adverse impacts will be created to the surrounding neighborhood as the operation will be consistent with the recommended conditions of approval. The site provides adequate circulation and parking for the proposed use and access for emergency and public service vehicles.

3. Finding: The proposed use will not be detrimental to the public health, safety, and welfare of the persons residing or working in the neighborhood of the proposed use.

Evidence: The project is non-conforming and was developed with the zoning standards for the zone at the time of construction, the land use is consistent with surrounding uses and the conditions of approval applied to the use will ensure that the use operates in a manner that protects the public health, safety, and welfare of the surrounding neighborhood.

- D. Upland Municipal Code Section 17.32.030(A) requires that outdoor dining areas require the approval of an Administrative Use Permit, unless the primary use requires a Conditional Use Permit for which the outdoor dining area shall also require a Conditional Use Permit. The Planning Commission shall make a determination to allow the activity based upon the following findings:

1. Finding: The proposed outdoor dining area will not unreasonably interfere with pedestrian traffic or access.

Evidence: The applicant proposes to construct an open patio dining area along the east elevation along N. Benson Avenue. The project site has an existing pedestrian walk-way that will remain, providing pedestrian access. Therefore, the outdoor patio dining and seating will not interfere with pedestrian traffic or access.

2. Finding: The proposed outdoor dining area will not have an undue adverse effect upon nearby property, the character of the neighborhood, traffic conditions, parking, or other matters affecting the public health, safety, welfare, or convenience.

Evidence: The use will be located within the street side setback of the property. The proposed use is not expected to have a negative impact

on the surrounding area in that Conditions of Approval have been appropriately added to the Resolution to mitigate any potential issues with the use. Elevations for the proposed patio area can be found in Exhibit C of the staff report.

E. Upland Municipal Code Section 17.31.070 requires the Planning Commission may find that the reconstruction of such non-conforming building or structure may be found to be consistent with the General Plan, if such reconstruction can be accomplished according to the following criteria:

1. Finding: The reconstruction is generally consistent with the propose and intent of the General Plan.

Evidence: The proposed project shows consideration for the General Plan Policies listed in Section 1. (B) within this Resolution. Therefore, as stated in the aforementioned section, the reconstruction is consistent with the purpose and intent of the General Plan.

2. Finding: The reconstruction as proposed and as conditioned by the Planning Commission will result in substantial benefit to the public.

Evidence: The reconstruction of the non-conforming structure as conditioned by the Planning Commission, will result in substantial benefit to the public as it proposes to operate as a bakery and sandwich shop providing an eating establishment for the community. Furthermore, the renovation of the non-conforming building will enhance the existing appearance of the structure as it will reflect a quality design with high quality materials.

3. Finding: The subject property and all existing and proposed improvements shall substantially conform to all current regulations, standards and policies of the City, including, but not limited to those which affect:

1. Building and site design including building materials, colors, signage, paving, curbs and sidewalks;
2. Building, housing and fire codes;
3. Traffic circulation and off-street parking;
4. Landscaping and screening;
5. Control of noise, glare, fire and explosion hazards. Dust and other airborne emissions including odors and smoke. Liquid and solid wastes, and all other potential nuisances and hazards.

Evidence: The subject building is currently non-conforming. The structure met the standards and policies of the County at the time it was established in the County. The proposed project was reviewed by the City of Upland's Technical Review Committee on June 24, 2020 and Conditions of Approval were added by each Technical Committee Member to ensure that the proposed improvements conform to all current regulations. The request for a 15% increase in floor area to establish a 203 square foot office will meet the current regulations and standards and policies of the City. The proposed addition will not negatively impact the building the items mentioned above:

1. The building and site design has been reviewed and approved by the Technical Review Committee on June 24, 2020. The design of the bakery proposes to include architectural elements such as fiber cement siding, T-Groove flush metal panels, and foam crown molding. The figure below illustrates that the project is consistent with the UMC Section 17.06.050 (D) Commercial Design Guidelines, in that all façade elevations emphasize three-dimensional detailing such as the crown molding and reveals to cast shadows and create visual interest on the façade. The store front will be located on the north elevation. Additionally, the proposed improvements provide varied massing and provides visual interest and human scale. The proposed materials on the façade will be made of high-quality and of durable material to provide an attractive environment;
2. The applicant is required to obtain building and fire permits to ensure building and fire codes are met. The Technical Review Committee reviewed the project, and recommended approval of the project subject to conditions of approval that have been incorporated into the draft resolution. The Conditions of Approval will ensure that the development meets all development standards within the Upland Municipal Code as required, and will ensure that the proposed use is compatible with the surrounding land uses;
3. The parking and circulation will remain unchanged. The property can be accessed by two existing driveways, one from West 9th Street and the other from N. Benson Avenue. The project site provides 6 existing parking spaces. Direct application of the City's parking code to the project results in a total parking requirement of 1 space for every 250 square feet of floor area. Therefore, there proposed use requires 6 parking spaces;

4. The existing landscaping on-site is currently non-conforming. The applicant proposes to upgrade the landscaping to provide shade trees and new grass to enhance the appeal of the property. Staff has provided a Condition of Approval has been added to the Resolution, conditioning that the applicant shall submit and obtain approval of a landscape plan prior to building permit issuance;
5. The proposed use of a bakery does not anticipate to create noise, glare, fire and explosion hazards. Dust and other airborne emissions including odors and smoke. Liquid and solid wastes, and all other potential nuisances and hazards.

F. Upland Municipal Code Section 17.31.080 allows the Planning Commission to permit up to 15 percent expansion of the floor area of a non-conforming building or structure, provided that:

1. Finding: The expansion is of an incidental character and does not constitute a complete remodeling or relocation of machinery, equipment or apparatus used in operating the establishment in questions and can be carried out without injury to the residents of adjacent property and of the neighborhood;

Evidence: The proposed expansion results in a 203 square foot office. This addition is a minor change to the scope of work proposed by the applicant. The proposed addition will be constructed without injury to residents of adjacent property and of the neighborhood as it will follow the City of Upland's Municipal Code and Building Code guidelines for construction.

2. The expansion is generally consistent with the purpose and intent of the general plan;

Evidence: The proposed project shows consideration for the General Plan Policies listed in Section 1. (B) within this Resolution. Therefore, as stated in the aforementioned section, the proposed expansion to include a 203 square foot office is consistent with the purpose and intent of the General Plan.

3. Finding: The expansion as proposed will result in substantial benefit to the public; and

Evidence: The expansion of the non-conforming structure and as conditioned by the Planning Commission, will result in substantial benefit to the business owner to allow for adequate space to operate the logistics of the proposed bakery and grill. Therefore, the expansion will

benefit the public as it proposes to operate as a bakery and grill providing an eating establishment for the community to enjoy.

4. Finding: All other development requirements of this title and all applicable City building and housing codes are fully complied with.

Evidence: The proposed project was reviewed by the City of Upland's Technical Review Committee on June 24, 2020 and Conditions of Approval were added by each Administrative Committee Member to ensure that the proposed improvements conform to all current regulations. The request for a 15% increase in floor area to establish a 203 square foot office will meet the current regulations and standards and polices of the City.

Section 2. DETERMINATION. In light of the evidence presented at the hearing on this application, and based on the findings set forth above, the Planning Commission hereby finds that the requirements necessary for the recommendation of approval of the Project, subject to all applicable provisions of the Upland Municipal Code, and the following conditions of approval:

10. General Conditions

- 10.1 The approved project includes for the repair of an existing legal non-conforming building damaged by fire by less than 50% of its market value, establish outdoor patio seating, and a request for a 15% increase in floor area to establish a 203 square foot office in the rear of the proposed bakery and grill.
- 10.2 All Ordinances, Policy Resolutions, and Standards of the City in effect at the time this project is approved shall be complied with as a condition of this approval.
- 10.3 A Development of the project shall be consistent with the stamped approved plans on file with the City of Upland Planning Division.
- 10.4 A Prior to issuance of permits, development plans shall be subject to plan check with the Planning Division, Building Division, Engineering Division, Public Works Department and Fire Department.
- 10.5 Current and future property owners, business managers, operators, etc. shall be responsible for ensuring and complying with all conditions of approval contained herein.
- 10.6 All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash, and debris at all times. Dead, damaged, and/or missing landscaping shall be replaced/replanted, subject to the satisfaction of the Planning Division.

- 10.7 To the maximum extent permitted by law, Applicant must defend, indemnify, and hold City and its elected officials, officers, contractors serving as City officials, agents, and employees ("Indemnitees") harmless from liability for damage and/or claims for damage for personal injuries, including death, and claims for property damage, and with respect to all other actions and liabilities for damages caused or alleged to have been caused by reason of the Applicant's activities in connection with CUP 20-0004 ("Project") on the Project site, and which may arise from the direct or indirect operations of the Applicant or those of the Applicant's contractors, agents, tenants, employees or any other persons acting on Applicant's behalf, which relate to the development and/or construction of the Project. This indemnity provision applies to all damages and claims for damage, as described above, regardless of whether or not the City prepared, supplied, or approved the plans, specifications, or other documents for the Project.

In the event of any legal action challenging the validity, applicability, or interpretation of any provision of this approval, or any other supporting document relating to the Project, the Applicant must indemnify, defend and hold harmless the Indemnitees, and each of them, with respect to all liability, costs and expenses incurred by, and/or awarded against, the City or any of the Indemnitees in relation to such action. The City shall have the right to select counsel of its choice that the Applicant reasonably approves. The parties hereby agree to cooperate in defending such action. The City will not voluntarily assist in any such third-party challenge or take any position adverse to the Applicant in connection with such third-party challenge.

- 10.8 The applicant shall operate in accordance with approved plans and specifications on file with the City of Upland Development Services Department and shall be in compliance with all conditions of approval of Conditional Use Permit No. CUP-20-0004, as approved by the Planning Commission on July 22, 2020.
- 10.9 Prior to the start of operations, there shall be implementation of the applicable conditions of approval as required by the City of Upland, to the satisfaction of the Development Services Director, Building Official, Public Works Director, Fire Chief, and Police Chief. No final inspection or clearances shall be given until all conditions are met. Each condition of approval is separately enforced, and if one of the conditions of approval is found to be invalid by a court of law, all the other conditions shall remain valid and enforceable.
- 10.10 The applicant or owner shall pay all applicable cost recovery fees to the Development Services Department and City of Upland development fees prior to issuance of any permits.

- 10.11 The applicant and owner shall comply with all provisions for licensing and certification from the San Bernardino County Health Department prior to the start of operations.
- 10.12 All current and future business owners shall have a valid business license to operate the business.
- 10.13 Expansion of use beyond the scope and nature described in this Conditional Use Permit No. 20-0004, which would increase the projected scale of operations, shall not be permitted except upon application for and approval of modification to this Conditional Use Permit.

20.0 Planning Division Conditions

- 20.1 All uses allowed by the conditional use permit shall be conducted indoors, within the approved tenant space and within the designated outdoor patio seating area.
- 20.2 Adequate litter receptacles shall be provided both in and outside the building. All litter shall be removed from the exterior areas around the building as required and no less frequently than once each day this business is open.
- 20.3 Prior to building permit issuance, the applicant is responsible to replace any dead or dying landscaping within the project site and submit and obtain approval of a landscape plan prior to building permit issuance.

30.0 Police Department

- 30.1 The approved conditions shall be retained on the premises at all times and produced immediately upon request of the Upland Police Department, and City Planning.
- 30.2 A 6-month review/inspection shall be conducted to ensure permittee's compliance with all operating conditions.
- 30.3 The Developer, builder, contractors, sub-contractors, and any other persons associated with this project shall adhere to the Upland Municipal Code (UMC) dealing with unnecessary noises under section 9.40.100. Furthermore, prior to the beginning of construction, a sign shall be posted at the entrance of the property educating everyone entering as to the authorized construction times and failure to comply with such requirements will result in an immediate citation for violating the aforementioned UMC section.
- 30.4 Prior to the issuance of building permits, the project must be enclosed with a 6-ft. high chain link fencing to prevent access to construction areas by the public and to minimize theft of building materials and

equipment. All fencing and gates shall meet the approval of the Fire Department and Police Department.

- 30.5 Units with front and rear drive access shall affix or paint address numbering/lettering in a conspicuous location, free from plant obstruction, and readily visible to emergency services personnel on both front and rear accesses.
- 30.6 Each building that has a flat roof shall be required to have the address numbering painted on the roof, as close to the center of the roof as possible, and at least 15 feet (or as far as possible if less than 15 feet) from roof mounted equipment or exhaust stacks, to assist helicopter patrols in quick location of the building. Numbering must be at least 12 inches wide, 48 inches tall, and be painted in contrast to the background on which it is affixed.
- 30.7 Prior to occupancy all private streets, parking areas, parking lots, and driveways shall be dedicated for off-road traffic, fire lane, soliciting, handicap, and loitering enforcement. The applicant must submit a written request to the City Clerk asking that a resolution from the City Council allow Police Enforcement of the above violations on the property. Once the resolution has been obtained, a sign shall be erected/ posted at all access points stating the above listed locations and violations have been dedicated for enforcement by the Upland Police Department.
- 30.8 Prior to occupancy, the Police Department will conduct an on-site inspection of the property, checking proper lighting has been installed throughout the property, proper locks on exterior doors and doors leading to the interior are in place and functioning properly. In addition, the Police Department will check that proper addressing/lettering has been installed.
- 30.9 Hinges for outwardly swinging doors or hatchway covers shall be equipped with non-removable hinge pins or a mechanical interlock system to prevent removal of the door from the exterior by removal of the hinge pins.
- 30.10 All hatchways shall be secured from the interior of the building with a sliding bolt or bar mechanism.
- 30.11 If the hatchway cover is of a wooden material, it shall be reinforced with at least 16-gauge U.S. sheet steel, or its equivalent, on the interior face of the cover and shall be attached with screws no more than six inches apart around the entire perimeter of the interior face cover.
- 30.12 All fencing and gates shall meet the approval of the Fire Department and the Police Department.

- 30.13 Building design and window placement shall facilitate high visibility to the public and police patrol vehicles as well as enabling employees to make periodic visual inspections of the premises.
- 30.14 Prior to building permit issuance, the applicant shall submit for review by the Police Department the design and specifications for all proposed lighting fixtures proposed for the buildings, drive aisles, parkways, parking areas, pathways, and surrounding areas within the development. The fixtures shall be reviewed for quality, aesthetics, illumination values, sustainability values such as LED and shall be decoratively and architecturally consistent with the building design. The number, location, height, style and design shall be reviewed and approved by the Police Department prior to issuance of building permits.
- 30.15 Prior to building permit issuance, submit a Photometric Study providing a minimum of two foot candle all around the structure and surveillance cameras all around the perimeter, common areas, and throughout the parking area, with the ability or resolution to make license plates discernable.
- 30.16 All exterior doors shall be equipped with a lighting device capable of providing a minimum of two foot-candle of light at ground level.
- 30.17 All exterior lighting lower than 12 feet from the ground level shall be enclosed in vandal-resistant covers.
- 30.18 Lighting shall be required in all area of public access.
- 30.19 All exterior lighting shall be oriented inward onto the project so as not to interfere with adjacent residential areas or vehicular traffic on adjacent public streets.
- 30.20 Public parking areas and access thereto shall be provided with a maintained minimum of 2 foot candle power of light on the parking surface, from dusk to dawn, or as modified by the Chief of Police, based on documented proof that meeting the 2 foot candle power standard is impractical. Lighting shall be provided through the use of photo cells; use of low pressure sodium fixtures and bulbs is prohibited.
- 30.21 At a minimum, internally illuminated address signs/ numbers are required for each building, to the satisfaction of the Deputy Fire Marshal and the Chief of Police.
- 30.22 Signs prohibiting loitering shall be installed to the satisfaction of the Chief of Police. They shall be mounted between six and ten feet above ground. The following must be printed on the sign in letters at least two inches tall: "PC647(h), UMC10.72.010." and "NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES." The signs shall be

posted on the front, rear, and sides of the building, and shall be clearly visible to patrons of the licensee.

- 30.23 Signs shall comply with all City of Upland sign requirements (UMC 17.15 et seq.). No more than 25% of the total window area and clear doors shall bear advertising or signs of any sort. Window signs shall be placed and maintained in a manner so that there is a clear and unobstructed view of the interior of the premises from the public sidewalk or entrance to the premises (this applies to all windows of this location).
- 30.24 A digital video surveillance system is required at the premise. It is recommended to have a surveillance video/visual media that shall be maintained for a minimum of sixty (60) days and upon request, shall be accessible to law enforcement personnel for viewing, copying and collection purposes during regular business hours. The system shall be able to make license plates discernable. The video system shall cover all ingress and egress points of the businesses parking lots, the building itself, and the rear perimeter of the building.
- 30.25 Provide UPD with contact information of person responsible for maintaining video equipment/system and who has access to retrieve and copy surveillance video. The surveillance video/visual media system shall be remotely accessible to the Upland Police Department.
- 30.26 The applicant shall be responsible for maintaining the area adjacent to the premises over which they have control free of litter.
- 30.27 Applicant shall comply with 6404.5 (b) of the Labor Code, which prohibits smoking within any place of employment.
- 30.28 All landscaping must adhere to the 2' 6' rule (all ground cover landscaping must be maintained no higher than 2' from ground level and all lower tree canopy must be maintained no lower than 6' in height from the ground level).
- 30.29 All landscaping areas shall be maintained in a healthy and thriving conditions, free from weeds, trash, and debris at all times.
- 30.30 Graffiti abatement by the business owner/licensee shall be immediate and ongoing on the licensed premises, but in no event shall graffiti be allowed unabated on the premises for more than 48 hours. Abatement shall take the form of removal or shall be covered/painted over with a color reasonably matching the color of the existing building, structure, or other surface being abated. Additionally, the business owner/licensee shall notify the City within 24 hours of any graffiti elsewhere on the property not under the business owner/licensee's control so that it may be abated by the property owner.

30.31 If any community issues arise, such as noise, odors, parking, crime etc., the owner/ operator shall be responsible for immediate implementation of measures to address the issues, including additional restrictions on the intensity of the use, to the satisfaction on the Development Services Director and/ or the Chief of Police.

30.32 Any vehicles not parked illegally may be cited and/ or towed if it is in violation of the California Vehicle Code and/ or Upland Municipal Code.

30.33 Violation of any of the aforementioned conditions, will result in immediate revocation of the CUP.

40.0 Building Division

40.1 New patio area shall provide accessible path of travel to ADA- Compliant parking and Public Way.

50.0 San Bernardino County Fire Department

50.1 After Planning Commission Approval building plans shall be submitted to the Fire Department for review and approval. Any changes to the previously approved construction plans require a new submittal to the San Bernardino County Fire Department.

50.2 Commercial and industrial developments of 100,000 sq. ft or less shall have the street address installed on the building with numbers that are a minimum six (6) inches in height and with a three quarter (3/4) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated contrasting six (6) inch numbers shall be displayed at the property access entrances.

50.3 Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.

50.4 An automatic fire sprinkler system complying with NFPA13 and the Fire Department standards is required in an A2 occupancy with an occupant load of 100 or more. The occupant load shall be clearly indicated on the construction plans to confirm a sprinkler system is not required for this project.

50.5 Permission to occupy or use the building (certificate of Occupancy or shell release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final".

50.6 The above referenced project is under the jurisdiction of the San Bernardino County Fire Department herein "Fire Department". Prior to

any construction occurring on any parcel, the applicant shall contact the Fire Department for verification of current fire protection requirements. All new construction shall comply with the current California Fire Code requirements and all applicable status, codes, ordinances and standards of the Fire Department.

- 50.7 Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred within 180 days of any previous inspection. After a construction permit or Fire Condition Letter, becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one-half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be made in writing PRIOR TO the expiration date justifying the reason that the Fire Condition Letter should be extended.

60.0 Review/Compliance

- 60.1 If the Development Services Director finds evidence that the conditions of approval have not been fulfilled or the use has or have resulted in a substantial adverse effect to the health, and/or general welfare of users of adjacent or proximate property, or have a substantial adverse impact on public facilities or services, the Development Services Director may refer the conditional use permit back to the Planning Commission for review. If, upon such item the Commission finds that any of the results above have occurred the Commission may modify or revoke the conditional use permit.
- 60.2 The Planning Commission may review the use every 90 days, every 180 days, or on an annual basis following the date of final inspection, or as needed at the discretion of the Development Services Director, to determine whether the applicant and operators are operating the use in a manner that is compatible with the community. The Planning Commission may establish additional conditions of approval that are necessary to eliminate any issues that arise from the operation of the use that adversely impact the public health, welfare, and safety, or may direct staff to initiate revocation proceedings. The conditional use permit may be revoked if the permittee, his agents or assignees, or employee(s) of the establishment, or any other person connected or associated with the permittee or his business establishment, or any

person who is exercising managerial authority of the business establishment has:

- a. Violated any rule, regulation, or condition of approval adopted by the Planning Commission relating to the conditional use permit or contained in the Upland Municipal Code, or state or federal regulations. Violation of any provision of the Upland Municipal Code (UMC) or the conditions of approval set forth in this resolution, shall be deemed to constitute an infraction of the Upland Municipal Code, and shall be subject to the applicable fines and penalties, including the possibility of revocation of this permit.
- b. Conducted the operation permitted hereunder in a manner contrary to the peace, health, safety, and general welfare of the public, or in a manner which either generates or contributes to noise and/or health/sanitation nuisances, or which results in undesirable activities that negatively affects adjacent properties or creates an increased demand for public services.

Section 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15301 (d and e) (Class 1 – Existing Facilities) because the project consists of the repair of an existing legal non-conforming building damaged by fire by less than 50% of its market value, establish outdoor patio seating, and a request for a 15% increase in floor area to establish a 203 square foot office in the rear of the proposed bakery and grill. There is no environmental public review required for a Categorical Exemption.

Section 4. APPEAL. Pursuant to Upland Municipal Code Section 17.47.040, the decision of the Planning Commission may be appealed to the City Council provided that written notice of the appeal is filed with the City Clerk within ten (10) days following the date the decision was rendered, unless a longer appeal period is specified as part of the project approval. Failure to file a timely appeal shall constitute a waiver of the right of appeal, and the decision of the Planning Commission shall be final.

Section 5. INCONSISTENCY. If any section, division, sentence, clause, phrase or portion of this resolution or the document in the record in support of this resolution is determined by a court of competent jurisdiction to be invalid, unenforceable, unconstitutional or otherwise void, that determination shall not affect the validity of the remaining sections, divisions, sentences, clauses, phrases of this resolution.

Section 6. CERTIFICATION. 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 22th day of July 2020.

Robin Aspinall, CHAIR

ATTEST:

Robert D. Dalquest, SECRETARY

I HEREBY CERTIFY that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of Upland at a regular adjourned meeting thereof held on the 22th day of July, 2020, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Robert D. Dalquest, SECRETARY

Exhibit B – Vicinity Map



EXHIBIT B

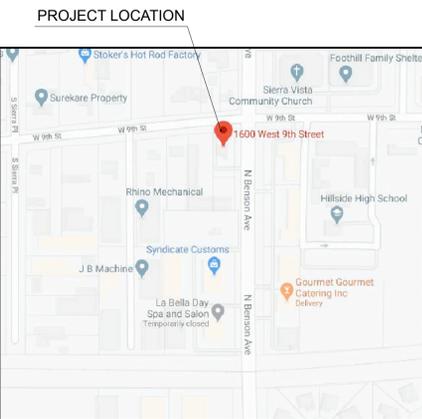
Vicinity Map



Exhibit C – Proposed Plans



RISEN BAKERY AND GRILL T.I. 1600 W. 9TH ST.



VICINITY MAP

THE APPLICABLE CODES FOR THIS PROJECT ARE:
 2019 CALIFORNIA BUILDING CODE
 2019 CALIFORNIA MECHANICAL CODE
 2019 CALIFORNIA PLUMBING CODE
 2019 CALIFORNIA ELECTRICAL CODE
 2019 CALIFORNIA ENERGY CODE
 2019 CFC (2015 IFC)
 2019 CALIFORNIA ENERGY CODE
 2019 CGBSC (CA GREEN BUILDING STANDARDS CODE)
 ALL WORK SHALL CONFORM TO: CITY OF UPLAND MUNICIPAL CODES

SHEET INDEX:

T	TITLE SHEET.
SP	PERMITTED & PROPOSED SITE PLAN.
A1	PERMITTED FLOOR PLAN & ELEVATIONS.
A2	PROPOSED 1ST AND 2ND LEVELS PLANS.
A3	PROPOSED ROOF PLAN.
A4	PROPOSED ELEVATIONS.



PROPERTY ADDRESS: RISEN BAKERY AND GRILL T.I.
 1600 W. 9TH ST.
 UPLAND, CA 91786

OWNER: GABRIEL BOYADJIAN
 4558 FRUIT ST.
 LA VERNE, CA 91786

DESIGNER: MAGGIE EBDELSAYED
 200 N MINNESOTA AVE. #3
 GLENDORA, CA 91741

LEGAL DESCRIPTION

APN#: 1007-643-16
 ZONING: BUSINESS/RESIDENTIAL MIXED-USE (B/R-MU)
 CONSTRUCTION TYPE: VB, NONE-SPRINKLED
 OCCUPANCY GROUP: A2
 NUMBER OF STORIES: 1

SUMMARY

LOT AREA: 10,640 S.F.
 LOT COVERAGE AFTER ADDITION: 1,291/10,640 = 12.13%
 EXISTING FLOOR RESTAURANT AREA: 1,088S.F.
 EXISTING PATIO: 127 S.F.
 NEW ADDITION: 203 S.F.
 NEW OPEN PATIO AREA: 373 S.F.
 TOTAL FLOOR RESTAURANT AREA: 1,291 S.F.
 LANDSCAPE AREA: 1,079 S.F.
 1,079/ 10,640 = 10.14 > 10%

PARKING REQUIREMENTS:

1 SPACE PER 250 S.F.
 1,291 S.F./ 250 S.F. = 5.16
 PARKING PROVIDED: 6

SCOPE OF WORK:

ADDING 203 SQ. FT., ADDING NEW PATIO, NEW ROOF LINE, NEW EXTERIOR DESIGN



MAGGIE ASAAD
 DESIGNER
 200 N MINNESOTA AVE. #3
 GLENDORA, CA 91741
 INFO@GOGO-INTERIORS.COM
 T: (626) 782-1905

CONSULTANT(S)

STAMP(S)



PROJECT

Risen Bakery and Grill
 1600 W. 9TH ST.

REVISION(S)

No.	Issue / Description	Date
1.	Planning dept. correction	06/30/2020

ERRORS & OMISSIONS: It is the contractor's responsibility, prior or during construction, to notify the designer in writing of any perceived errors or omissions in the plans and specifications of which a contractor, throughly knowledgeable with the building codes and methods of construction, should reasonably be aware. Written instructions addressing such errors or omissions shall be received from the designer prior to the contractor or the contractor's subcontractors proceeding with the work and all work related to the errors and omissions. The contractor will be responsible for any defects in construction if these procedures are not followed.

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PROJECT INFO

Project Name	Risen Bakery and Grill
Project #	
Scale	
Date	03/16/2020
Drawn by	

SHEET TITLE

N/A

TITLE SHEET

SHEET NUMBER

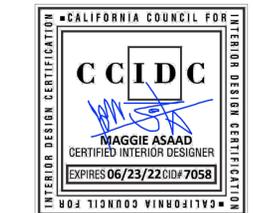
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CONSULTANT(S)

STAMP(S)



PROJECT

Risen Bakery and Grill
 1600 W. 9TH ST.

REVISION(S)

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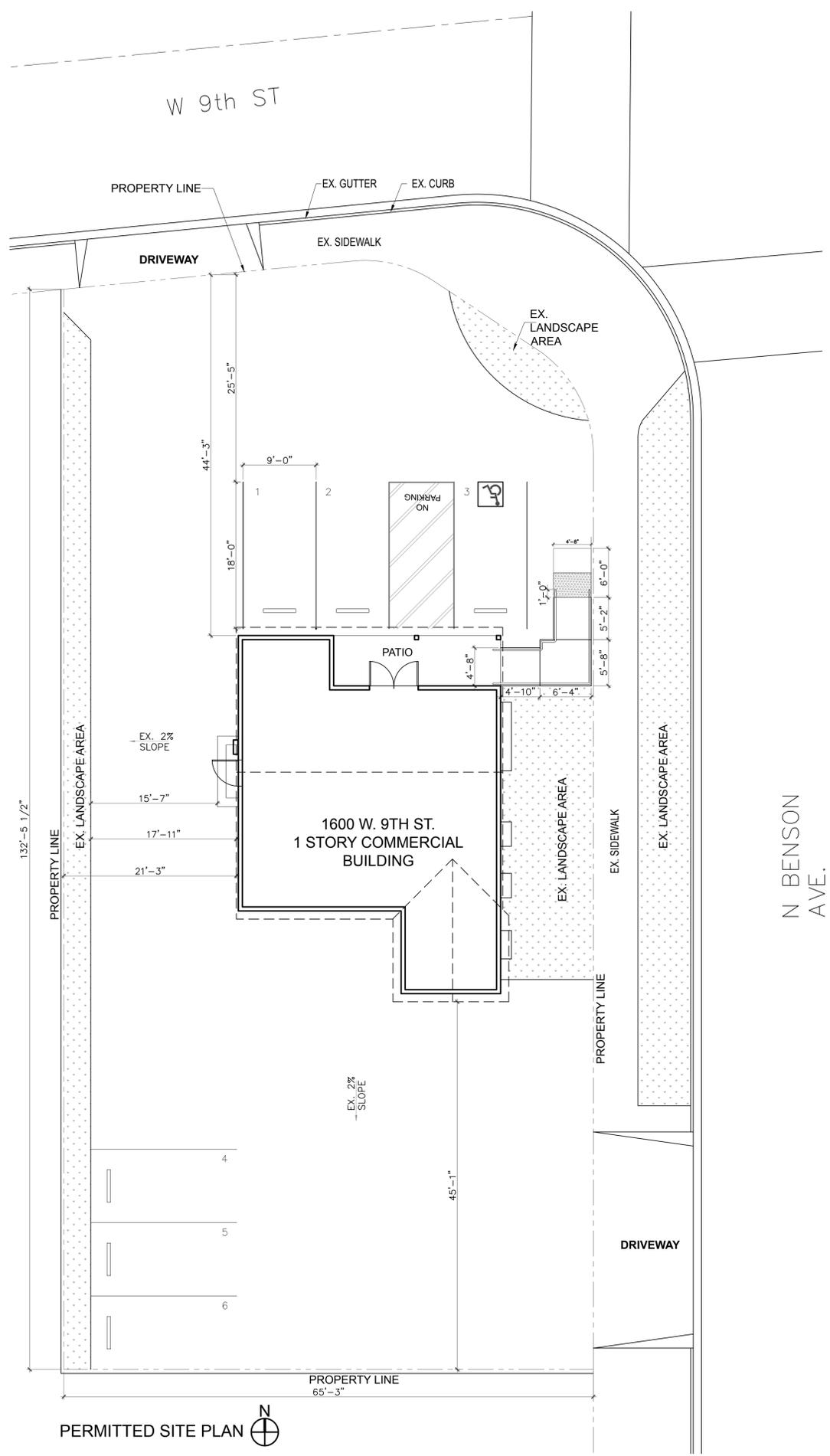
SHEET TITLE

1/8"

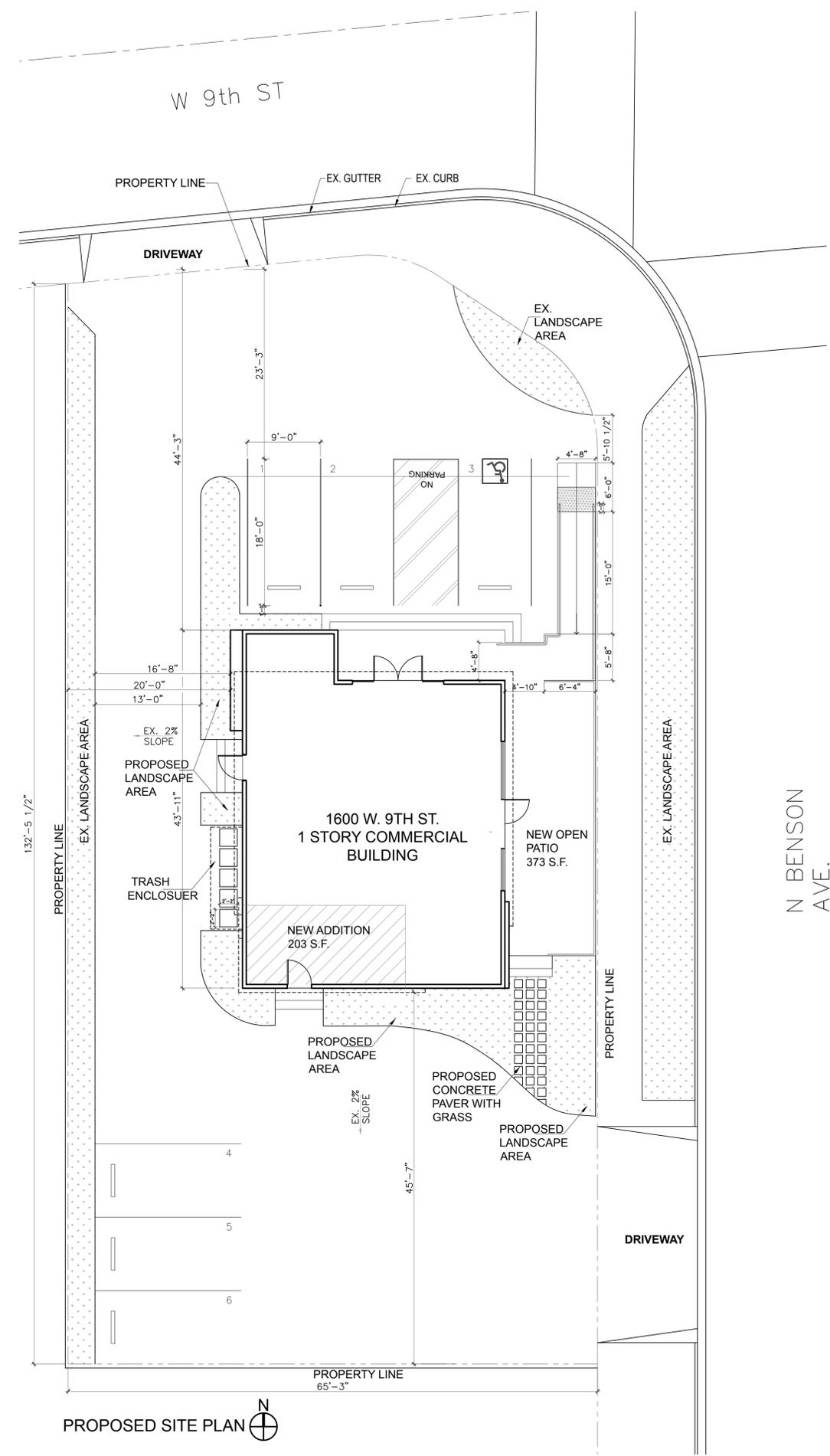
**PERMITTED &
 PROPOSED
 SITE PLAN**

SHEET NUMBER

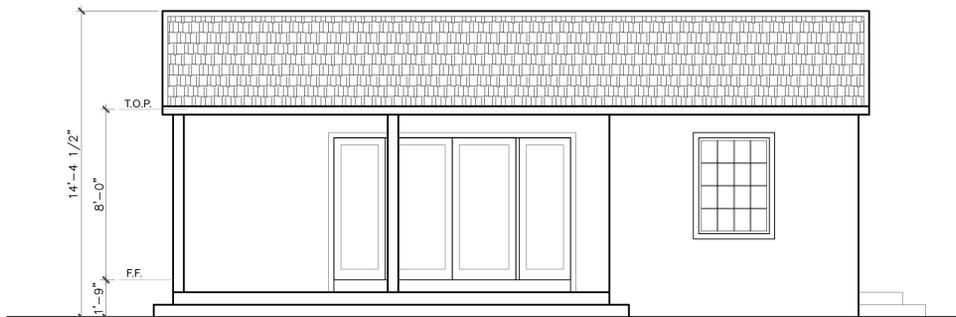
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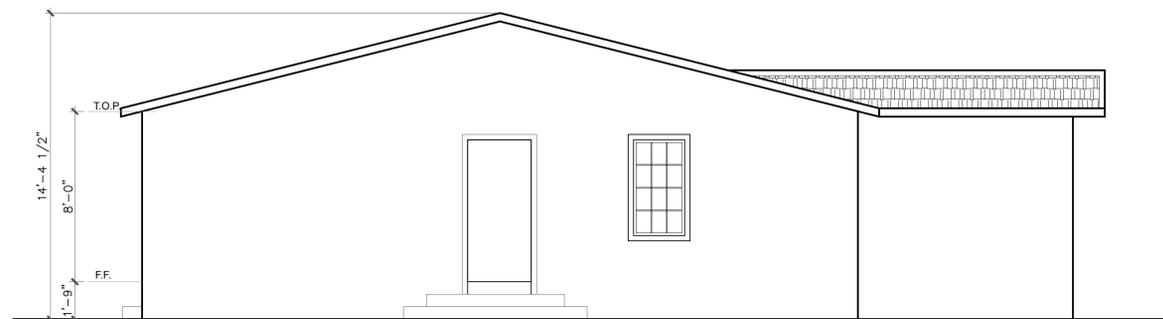
PERMITTED SITE PLAN



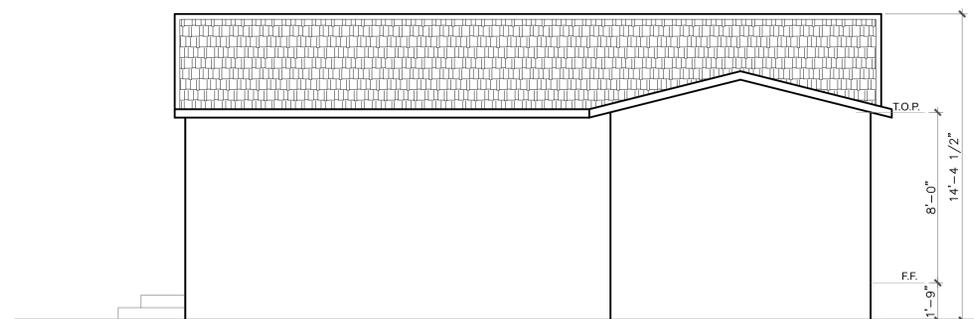
PROPOSED SITE PLAN



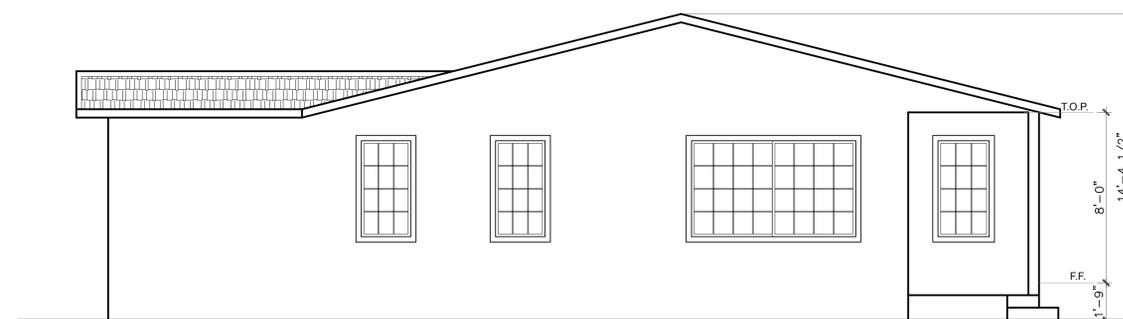
PERMITTED NORTH ELEVATION



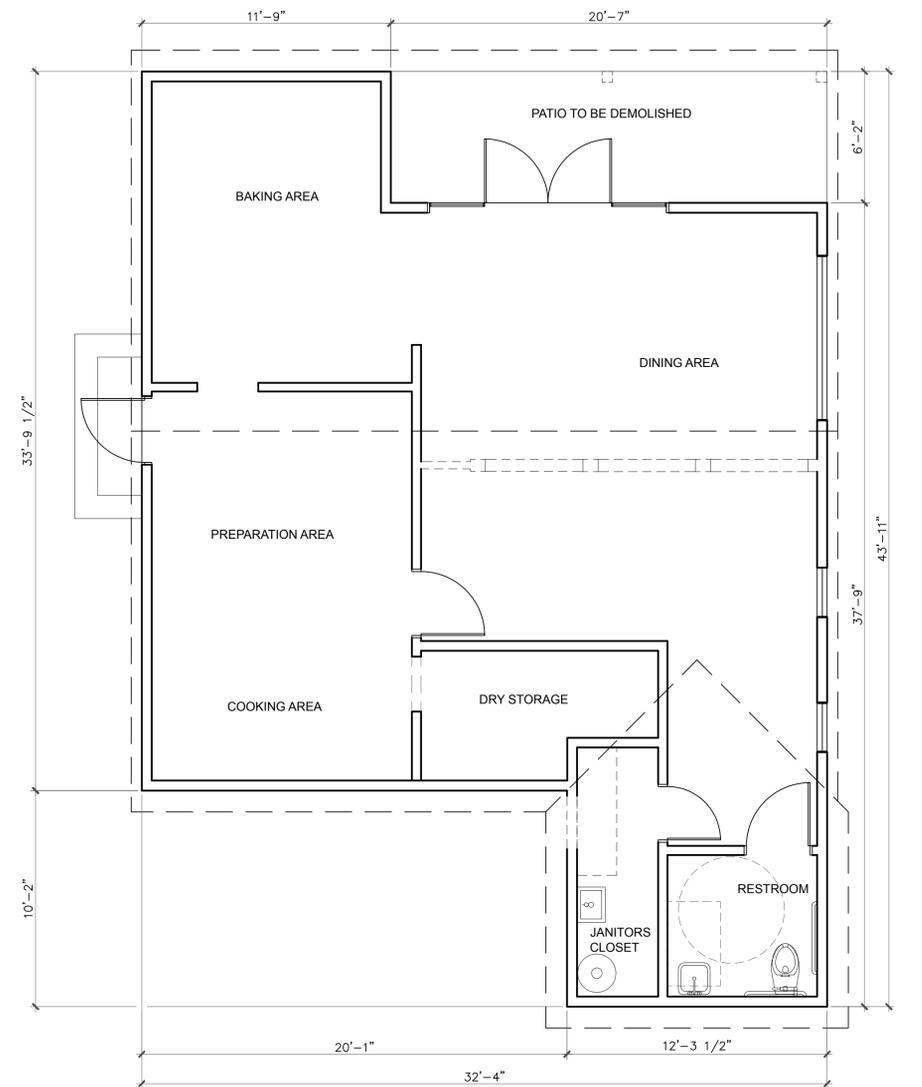
PERMITTED WEST ELEVATION



PERMITTED SOUTH ELEVATION



PERMITTED EAST ELEVATION



PERMITTED & DEMO FLOOR PLAN

WALL LEGEND:

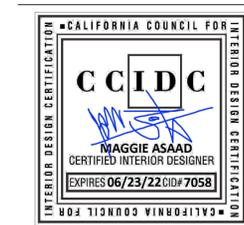
	EX. WALL TO REMAIN
	EX. WALL TO BE DEMOLISHED



MAGGIE ASAAD
DESIGNER
200 N MINNESOTA AVE. #3
GLENORA, CA 91741
INFO@GOGO-INTERIORS.COM
T: (626) 782-1905

CONSULTANT(S)

STAMP(S)



PROJECT

Risen Bakery and Grill
1600 W. 9TH ST.

REVISION(S)

No.	Issue / Description	Date
1.	Planning dept. correction	06/30/2020

ERRORS & OMISSIONS: It is the contractor's responsibility, prior or during construction, to notify the designer in writing of any perceived errors or omissions in the plans and specifications of which a contractor, thoroughly knowledgeable with the building codes and methods of construction, should reasonably be aware. Written instructions addressing such errors or omissions shall be received from the designer prior to the contractor or the contractor's subcontractors proceeding with the work and all work related to the errors and omissions. The contractor will be responsible for any defects in construction if these procedures are not followed.

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PROJECT INFO

Project Name	Risen Bakery and Grill
Project #	
Scale	
Date	03/16/2020
Drawn by	

SHEET TITLE

PERMITTED FLOOR PLANS & ELEVATIONS

SHEET NUMBER

A1



MAGGIE ASAAD
 DESIGNER
 200 N MINNESOTA AVE. #3
 GLENDORA, CA 91741
 INFO@GOGO-INTERIORS.COM
 T: (626) 782-1905

CONSULTANT(S)

STAMP(S)



PROJECT

Risen Bakery and Grill
 1600 W. 9TH ST.

REVISION(S)

No.	Issue / Description	Date
1.	Planning dept. correction	06/30/2020

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PROJECT INFO

Project Name **Risen Bakery and Grill**

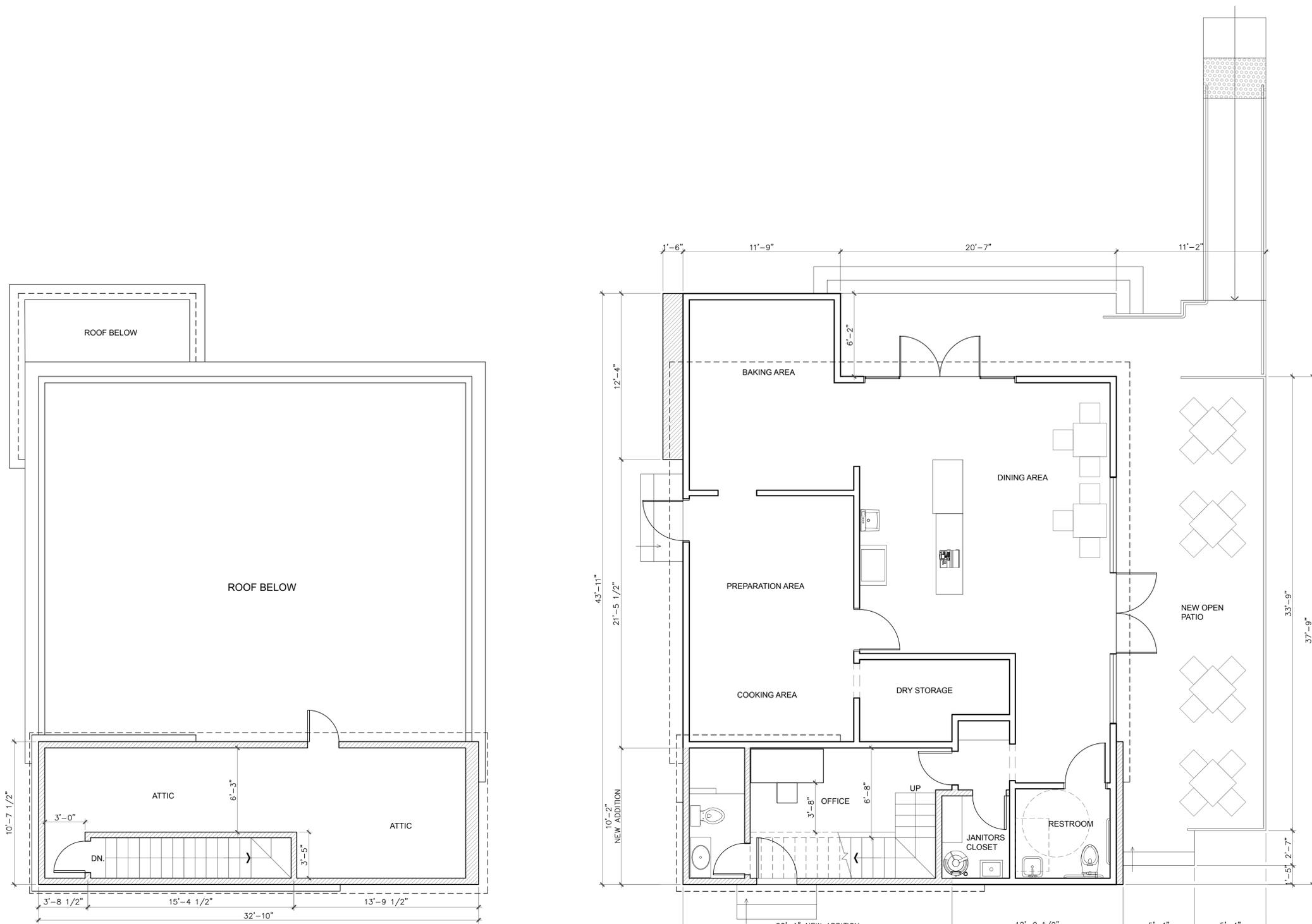
Project #

Scale

Date **03/16/2020**

Drawn by

SHEET TITLE



PROPOSED UPPER FLOOR PLAN **WALL LEGEND:**
 ——— EX. WALL TO REMAIN
 ——— NEW WALL

PROPOSED FIRST LEVEL FLOOR PLAN **WALL LEGEND:**
 ——— EX. WALL TO REMAIN
 ——— NEW WALL

**PROPOSED
 1ST & 2ND LEVEL
 FLOOR PLAN**

SHEET NUMBER



MAGGIE ASAAD
 DESIGNER
 200 N MINNESOTA AVE. #3
 GLENDORA, CA 91741
 INFO@GOGO-INTERIORS.COM
 T: (626) 782-1905

CONSULTANT(S)

STAMP(S)



PROJECT

Risen Bakery and Grill
 1600 W. 9TH ST.

REVISION(S)

No.	Issue / Description	Date
1.	Planning dept. correction	06/30/2020

ERRORS & OMISSIONS: It is the contractor's responsibility, prior or during construction, to notify the designer in writing of any perceived errors or omissions in the plans and specifications of which a contractor, through diligent knowledge with the building codes and methods of construction, should reasonably be aware. Written instructions addressing such errors or omissions shall be received from the designer prior to the contractor or the contractor's subcontractors proceeding with the work and all work related to the errors and omissions. The contractor will be responsible for any defects in construction if these procedures are not followed.

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PROJECT INFO

Project Name **Risen Bakery and Grill**
 Project # _____
 Scale _____
 Date **03/16/2020**
 Drawn by _____

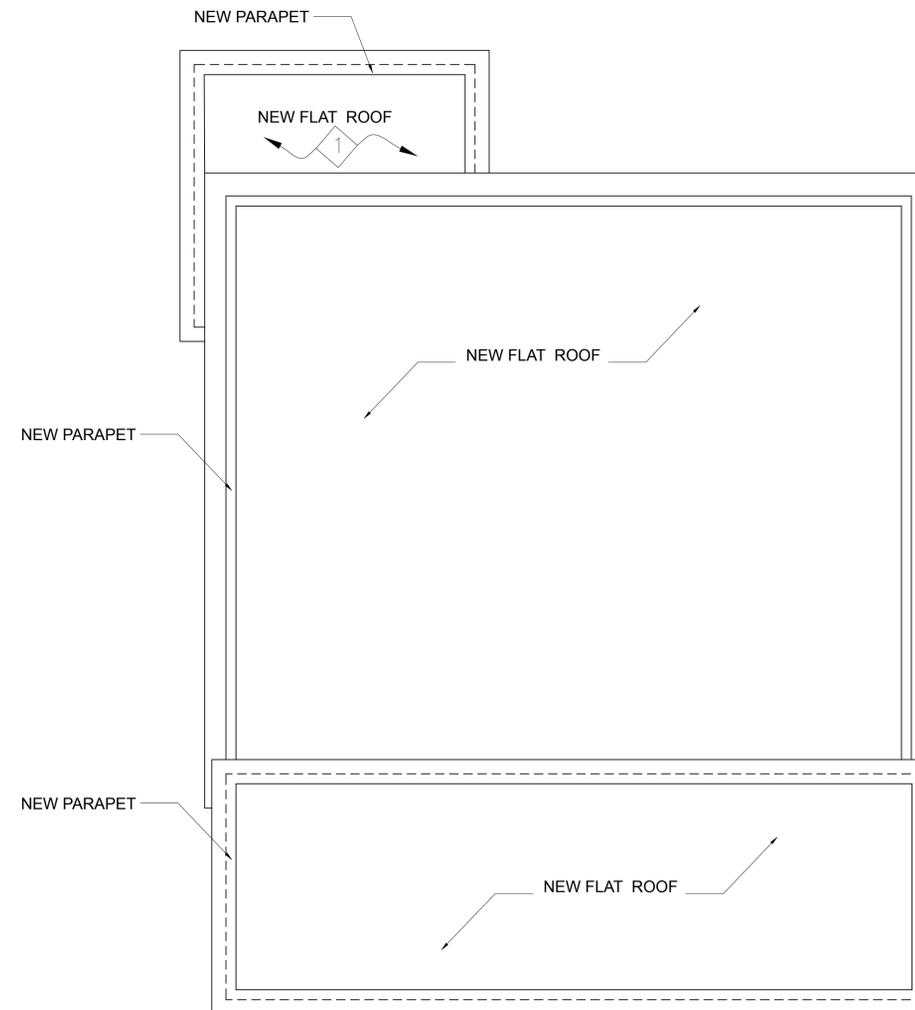
SHEET TITLE

1/4"

**PROPOSED
 ROOF PLAN**

SHEET NUMBER

A3

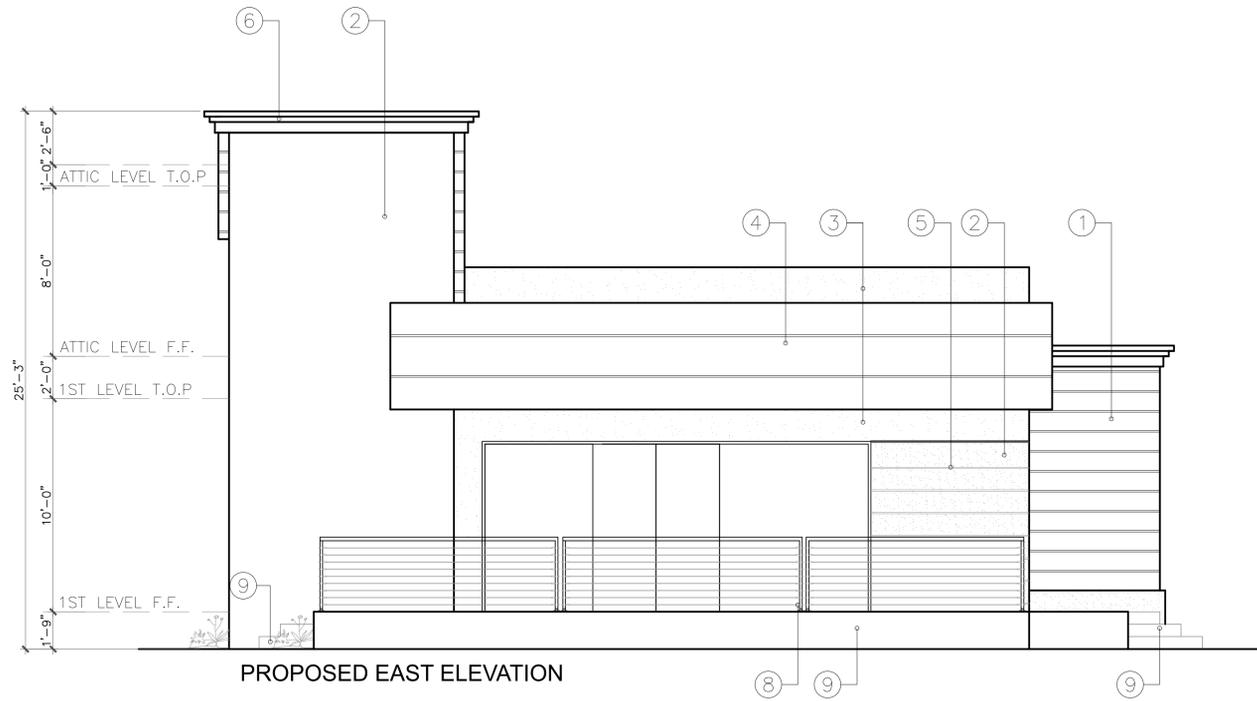
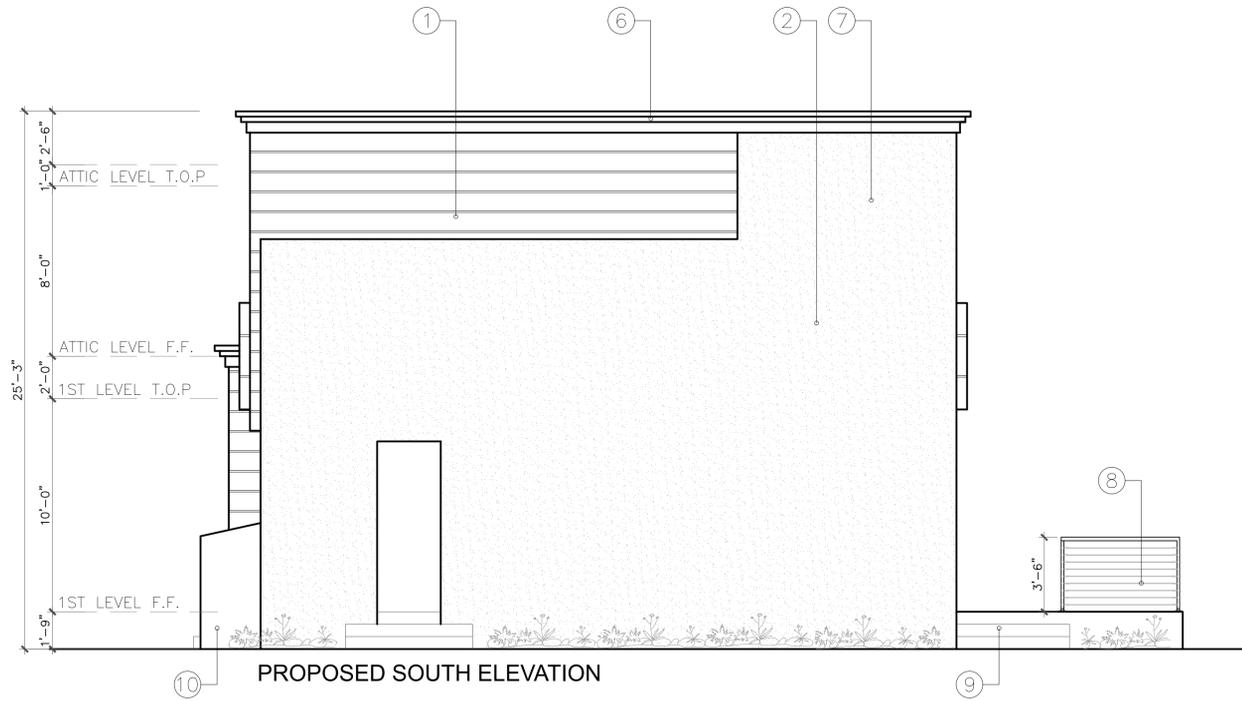
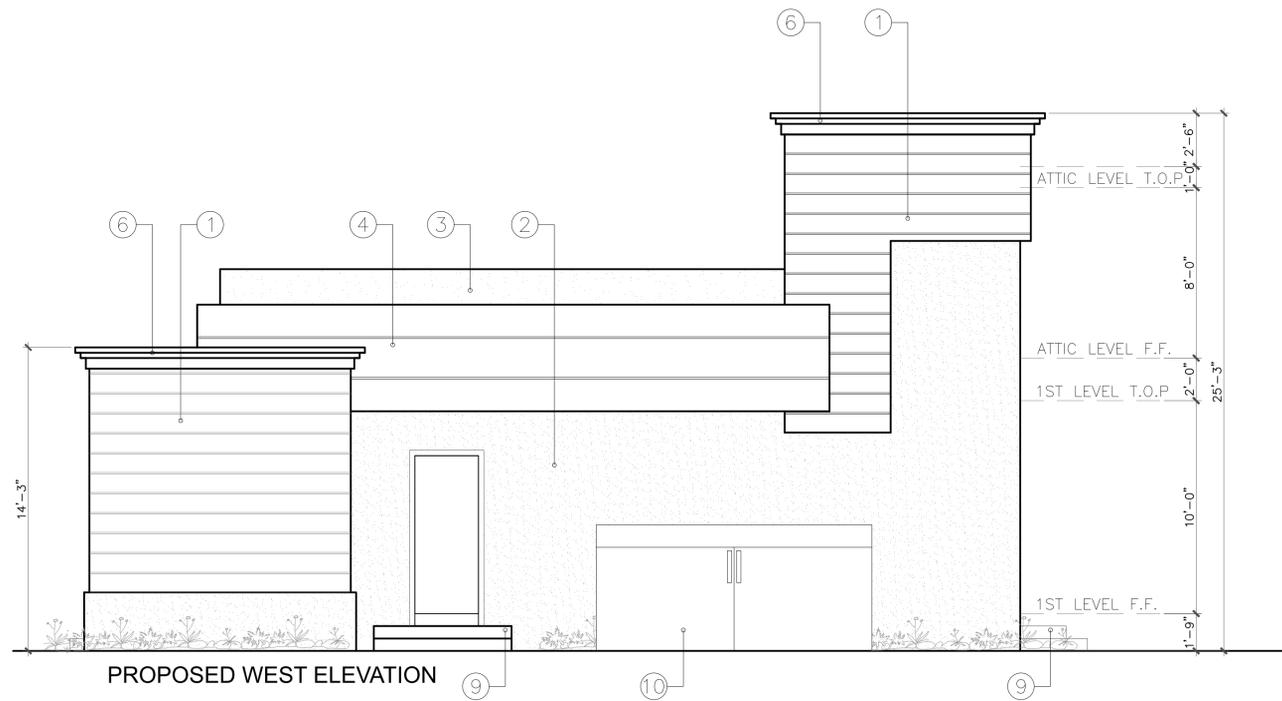
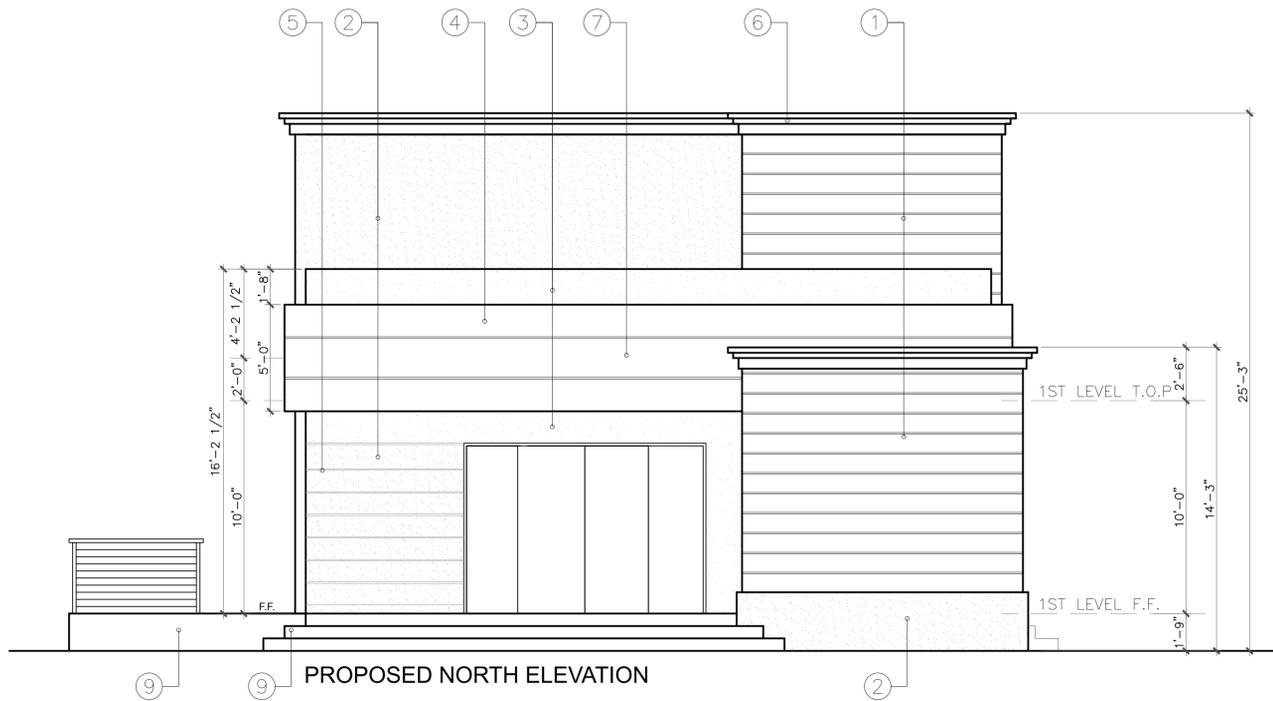


PROPOSED FLOOR PLAN

ELEVATIONS NOTES:

- ① FIBER CEMENT SIDING, COLOR: MOUNTAIN CEDAR ON ALLURA. ESR-1668
- ② STUCCO, PAINT COLOR: "BEHR DARK GREY #N450-7 ASTRONOMICAL MATTE"
- ③ STUCCO, PAINT COLOR: "BEHR LIGHT GREY PLATINUM PPU26-11"
- ④ WHITE METAL PANELS/ T-GROOVE FLUSH WALL METAL PANELS.

- ⑤ 1/2" METAL REVEAL.
- ⑥ FOAM CROWN MOLDING SMOOTH STUCCO FINISH, COLOR "BEHR DARK GREY #N450-7 ASTRONOMICAL MATTE"
- ⑦ RESTAURANT SIGN UNDER A SEPARATE PERMIT.
- ⑧ BLACK PMETAL POSTES & HANDRAIL WITH STAINLESS STEEL ROD RAILING.
- ⑨ CONCRETE.
- ⑩ TRASH INCLOSURE.



MAGGIE ASAAD
DESIGNER
200 N MINNESOTA AVE. #3
GLEN DORA, CA 91741
INFO@GOGO-INTERIORS.COM
T: (626) 782-1905



Risen Bakery and Grill
1600 W. 9TH ST.

REVISION(S)		
No.	Issue / Description	Date
1.	Planning dept. correction	06/30/2020

ERRORS & OMISSIONS: It is the contractor's responsibility, prior or during construction, to notify the designer in writing of any perceived errors or omissions in the plans and specifications of which a contractor, through its knowledge with the building codes and methods of construction, should reasonably be aware. Written instructions addressing such errors or omissions shall be received from the designer prior to the contractor or the contractor's subcontractors proceeding with the work and all work related to the errors and omissions. The contractor will be responsible for any defects in construction if these procedures are not followed.

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PROJECT INFO
Project Name: Risen Bakery and Grill
Project #: _____
Scale: _____
Date: 03/16/2020
Drawn by: _____

SHEET TITLE
1/4"
PROPOSED ELEVATIONS

SHEET NUMBER
A4



PLANNING COMMISSION REPORT

ITEM NO. 2

DATE: July 22, 2020

TO: PLANNING COMMISSION

FROM: ROBERT D. DALQUEST, DEVELOPMENT SERVICES DIRECTOR

PREPARED BY: JOSHUA WINTER, ASSOCIATE PLANNER

SUBJECT: **CONDITIONAL USE PERMIT NO. 20-0005 FOR THE ESTABLISHMENT OF A FIREARM RETAILER WITH ACCESSORY GUNSMITHING WITHIN AN APPROXIMATELY 1,400 SQUARE FOOT TENANT SPACE WITHIN THE COMMERCIAL/OFFICE MIXED-USE (C/O-MU) ZONE LOCATED AT 750 N. MOUNTAIN AVENUE (APN: 1007-191-06).**

REQUEST

The applicant is seeking approval of a conditional use permit to establish a firearm retail business with accessory gunsmithing within an existing office building (See Exhibit A – Draft Resolution). The application for the project includes:

Conditional Use Permit No. 20-0005. A Conditional Use Permit is required for a Firearms Establishment within the C/O-MU zone.

SYNOPSIS

<i>Applicant:</i>	Brett and Kristina Swaim
<i>Representative:</i>	Same as Applicant
<i>Property Owner:</i>	Davis and Alice Nemeth (If the CUP is approved, Mr. and Mrs. Swaim will complete the purchase of the property)
<i>Property Location:</i>	750 N. Mountain Ave (1007-191-06)
<i>Existing General Plan Land Use Designation:</i>	Commercial/Office Mixed-Use (C/O-MU)

<i>Existing Zoning Classification:</i>	Commercial/Office Mixed-Use (C/O-MU)			
<i>Site Size:</i>	11,250 square feet			
<i>Building/Suite Size:</i>	2,800 square feet			
<i>Access:</i>	Driveway off North Mountain Avenue and an alley to the rear of the building.			
<i>Existing Conditions:</i>	Existing building and parking.			
<i>Surrounding Land Uses:</i>	Direction	Land Use	General Plan	Zone
	North	Gas Station/ Convenience Store	C/O	C/O-MU
	East	Multi-Family Residential	RM-20	RM-20
	South	Office/ Commercial Uses	C/O	C/O-MU
	West	Commercial/ Restaurant	C/O	C/O-MU
	See Exhibit B – Vicinity Map			
<i>Previous Applications/Entitlements:</i>	N/A			

AUTHORIZATION/GUIDELINES

Upland Municipal Code Section 17.44.040(C) requires the Planning Commission to approve, conditionally approve, or deny all conditional use permit applications.

PUBLIC NOTICE

This project included the following types of notification to the public, in accordance with Upland Municipal Code (UMC) Section 17.46.020.

1. On July 9, 2020, a Notice of Public Hearing was mailed to all property owners within 300 feet of the project site. This resulted in a total of 23 property owners being noticed.
2. On July 10, 2020, the Public Hearing Notice was published in the Inland Valley Daily Bulletin, as well as posted in two physical locations (Upland City Hall and Upland Library).

BACKGROUND

According to building permit records, the existing office building was originally constructed in 1965. The building is 2,800 square feet in size and has contained multiple commercial and office tenants throughout its history. The building currently contains four units, with one of the units being occupied and used as an office for a sanitation company. The remainder three units are currently vacant. With approval

of the proposed firearm retailer, the use will occupy two of the vacant units, with the third anticipated to be leased to another business.

ANALYSIS

General Plan

The project site is located within the “Commercial/Office” General Plan Land Use Designation. The designation is intended to accommodate multi-story office buildings along Foothill Boulevard near San Antonio Hospital, and along Mountain Avenue near the I-10 Freeway, to support regional employment opportunities. Commercial uses are also supported within this designation, and are expected to be integrated into the office complex. The business is a retail establishment and is consistent with the General Plan goals and/or policies as shown in Table 1 below.

Table 1

Goal/Policy	Consistency
Policy LU-1.4 Complete and Balanced Community. Foster new land uses and building types that contribute to City revenues and increase employment while also ensuring the provision of sufficient housing, shopping, civic, cultural, open space, and recreational opportunities.	The business owner provides a retail business that contributes to City revenue and increases shopping opportunities for firearm shoppers in the City and region.
Goal ES-1 A sustainable business environment that supports local entrepreneurial growth and attracts commercial and industrial investment and revitalization.	The action supports entrepreneurial growth by providing a new sales tax revenue generator.

Zoning

The C/O-MU Zone is intended to accommodate multiple story office buildings along Foothill Boulevard near San Antonio Hospital and along Mountain Avenue near the I-10 Freeway to support regional employment opportunities. The zoning designation allows for a variety of retail and office users, and specifically requires the approval of a conditional use permit for a firearm retail business. (See Exhibit C – General Plan and Zoning Map)

Proposed Use, Security and Other Agency Regulations.

Use

The business operation will primarily consist of the sales of firearms, ammunition and accessories. The use will also include assessor gunsmithing, which involves replacing/upgrading firearm parts such as sights, triggers, or other replacement/upgraded parts. The applicant is proposing business operations to occur

Monday through Saturday from 10:00 am to 6:00 pm. The business will employ four full-time staff members, including the business owners. Security measures within the building include steel doors, video cameras, shatterproof displays, and steel bars on windows. (See Exhibit D – Applicant Letter)

Bureau of Alcohol, Tobacco, Firearms and Explosives

The applicant will acquire and maintain a *Federal Firearms License (FFL) Type 1 - Dealer in Firearms Other Than Destructive Devices* through the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The ATF is responsible for licensing persons engaged in manufacturing, importing, and dealing in firearms. ATF also ensures that those who are licensed to engage in those businesses do so in compliance with applicable laws and regulations. To ensure the firearm dealer is in compliance with federal firearms laws, the ATF employs industry operations investigators (IOIs). IOIs conduct inspections of FFLs to ensure compliance with the law and regulations and to educate licensees on the specific requirements of those laws and regulations. Additionally, IOIs review required records of the FFLs to determine and identify individuals potentially associated with diverting firearms to illicit markets or involved in other criminal activity. The ATF has also reviewed the applicant's security plans, which have been approved.

State of California

The State of California regulates firearm dealers primarily through California Penal Code 12070-12086. These Code Sections contain an abundance of regulations for the securing of the firearm retail location (i.e. steel doors, steel window bars), firearm storage and display requirements, as well as requirements for annual inspections.

In order to sell firearms, all employees are required to have extensive background checks and a "Certificate of Eligibility" (COE) in order to sell firearms. A COE certifies the Department of Justice (DOJ) has checked its records and determined the recipient is not prohibited from acquiring or possessing firearms at the time the firearms eligibility criminal background check was performed. A COE is a pre-requisite licensing/permit requirement for all prospective licensed firearms dealers, licensed ammunition vendors, manufacturers, certified instructors, gun show promoters, explosive permit holders, and other firearm related employment activities, including, any agent or employee of a vendor who handles, sells, or delivers firearms and ammunition.

California Penal Code 26700 – 27140 regulates the time, place and manner in which firearms may be sold. Regulations surrounding the sales of firearms include: a 10-day waiting periods for firearms sales, background checks, and firearm safety certificates. The firearm dealer is required to comply with these regulations for all firearm sales.

Site and Floor Plan

The proposed business will occupy the south half of the building, approximately 1,400 square feet. The floor plan includes space for the sales floor, as well as storage area, and employee break space. Notes are included on the floor plan that identify steel doors and shatterproof displays among other design features. (See Exhibit E – Floor Plan and Pictures)

No modifications are proposed to the exterior areas of the existing site. The existing site design has adequate access, and is currently accessed off of Mountain Avenue to a parking lot, and an existing alley to the rear of the building which contains a rear parking lot for employees. Current code requires 1 parking space for every 250 square feet of floor area within the firearm retailer location, resulting in a total of 6 spaces required for the firearm retailer. Current code also requires 1 parking space for every 400 square feet of floor area for office uses resulting in a total of four (4) required parking spaces for remainder office units. This results in a total requirement of 10 parking spaces. The site provides a total of 18 parking spaces. Eight (8) parking spaces are located in the rear off of the alley, and ten (10) parking spaces are located in the front, off of Mountain Avenue. Therefore on-site parking is adequate for the proposed use and current and future uses.

ENVIRONMENTAL ASSESSMENT

The project has been determined to be Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (a), of the CEQA Guidelines. A Class 1 exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of the existing private structure, and involves or no expansion of use beyond that existing at the time of the lead agency's determination.

REQUIRED FINDINGS

In order to approve the project, the Planning Commission is required to make certain findings. Section 1 of the draft resolution contains recommended findings for the Planning Commission's consideration.

TECHNICAL REVIEW COMMITTEE

The Technical Review Committee reviewed the project, and recommended approval, subject to conditions of approval that have been incorporated into the draft resolution. As part of this process, the application was reviewed by the Upland Police Department, who has provided conditions of approval that include requirements for a video surveillance system and the allowance for an inspection of the premises every six (6) months by the Upland Police Department.

RECOMMENDED ACTION

The Planning Division recommends that the Planning Commission adopt a Resolution entitled:

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UPLAND, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 20-0005, FOR THE ESTABLISHMENT OF A FIREARM RETAILER WITH ACCESSORY GUNSMITHING WITHIN AN APPROXIMATELY 1,400 SQUARE FOOT TENANT SPACE WITHIN THE COMMERCIAL/OFFICE MIXED-USE (C/O-MU) ZONE LOCATED AT 750 N. MOUNTAIN AVENUE (APN: 1007-191-06).

MOTION

- Move to find the project is Categorically Exempt from the California Environmental Quality Act (CEQA) pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (a), of the CEQA Guidelines, since the proposed project consists of a negligible change in use within an existing structure.
- Move to approve Conditional Use Permit No. CUP-20-0005 for the establishment of a firearm retailer, based on the findings and subject to the conditions of approval, as set for in the Resolution.

EXHIBITS

- Exhibit A: Draft Resolution
- Exhibit B: Vicinity Map
- Exhibit C: General Plan and Zoning Map
- Exhibit D: Applicant Letter
- Exhibit E: Floor Plan and Pictures

Exhibit A – Draft Resolution



RESOLUTION NO.

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF UPLAND APPROVING CONDITIONAL USE PERMIT NO. 20-0005 FOR THE ESTABLISHMENT OF A FIREARM RETAILER WITH ACCESSOR GUNSMITHING WITHIN AN APPROXIMATELY 1,400 SQUARE FOOT TENANT SPACE WITHIN THE COMMERCIAL/OFFICE MIXED-USE (C/O-MU) ZONE LOCATED AT 750 N. MOUNTAIN AVENUE (APN: 1007-191-06).

Intent of the Parties and Findings

WHEREAS, Brett and Kristina Swaim (Applicant) have filed an application requesting approval of the Project; and

WHEREAS, the Project is considered a project as defined by the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 et seq.; and

WHEREAS, the Development Services Director determined that the Project qualifies for a Categorical Exemption from the provisions of CEQA per Section 15301(d and e), Existing Facilities, of the CEQA Guidelines in that a Class 1 exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of the existing private structure, and involves or no expansion of use beyond that existing at the time of the lead agency's determination; and

WHEREAS, the City of Upland Planning Division on July 10, 2020, posted two (2) true and correct copies of the legal notice at the Upland City Hall Bulletin Board and at the Upland Public Library in accordance with the Upland Municipal Code Section 17.46.020; and

WHEREAS, the City of Upland Planning Division on July 9, 2020, mailed the public hearing notice to each property owner within a 300-foot radius of the project site indicating the date and time of the public hearing in compliance with state law concerning the Project; and

WHEREAS, the City of Upland Planning Division on July 10, 2020, published a legal notice in the Inland Valley Daily Bulletin, a local paper of general circulation, indicating the date and time of the public hearing in compliance with state law concerning the Project; and

WHEREAS, the City of Upland Planning Commission conducted a duly noticed public hearing on July 22, 2020, at which time it received public testimony concerning the Project, and considered the CEQA Exemption for the proposed Project and the project itself.

NOW, THEREFORE, the Planning Commission of the City of Upland hereby finds, determines and resolves as follows:

Section 1. FINDINGS. The Planning Commission hereby makes the following findings and determinations in connection with the approval of the Project:

A. The above Recitals are true and correct.

B. The project is consistent with the following General Plan Policies:

1. Policy LU-1.4 Complete and Balanced Community. Foster new land uses and building types that contribute to City revenues and increase employment while also ensuring the provision of sufficient housing, shopping, civic, cultural, open space, and recreational opportunities.

Fact: The business owner provides a retail business that contributes to City revenue and increases shopping opportunities for firearm shoppers in the City and region.

2. Goal ES-1 A sustainable business environment that supports local entrepreneurial growth and attracts commercial and industrial investment and revitalization.

Fact: The action support entrepreneurial growth as applicant proposes to occupy a currently largely vacant building, and bring a retail business to the City.

C. In accordance with Upland Municipal Code Section 17.44.040 F, the Planning Commission may approve an application for a Conditional Use Permit only if the proposed project complies with applicable standards in the Zoning Ordinance, other City ordinances, the General Plan, and any other applicable community or specific plans, and as supported by all of the following findings:

1. Finding: The location, size, design, and operating characteristics of the proposed use will be compatible with the existing and future land uses near the subject property.

Evidence: The use will operate during typical business hours, consistent with surrounding commercial uses which include restaurant, a gas station/mini-mart, retail and office uses. The design and operation will include multiple security measures to ensure safety for and compatibility with the surrounding uses. The location is accessible to emergency services, and is surrounded primarily by commercial users, with multi-family residential uses to the east.

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

Evidence: The site provides adequate access to emergency and public service vehicles. The building provides adequate space for required security measures, as well as a storage and display area. The site, as existing, provides for adequate parking for the proposed use and any future uses.

3. Finding: The proposed use will not be detrimental to the public health, safety, and welfare of the persons residing or working in the neighborhood of the proposed use.

Evidence: No evidence exists to suggest that the proposed use will be detrimental to or endanger the public health, safety, or general welfare. The project has been appropriately conditioned by the City, including the Police Department to ensure safe and secure operations. The use will be regularly inspected by State and Federal officials to ensure compliance with law.

Section 2. DETERMINATION. In light of the evidence presented at the public hearing and based on the findings set forth above, the Planning Commission hereby finds that the requirements necessary for the approval of Conditional Use Permit No. CUP-20-0005 have been met, subject to all applicable provisions of the Upland Municipal Code, and the following conditions of approval:

10.0 General Conditions

- 10.1 The approved project includes a firearm retailer with accessory gunsmithing within an existing approximately 1,400 square foot tenant space. Expansion of project beyond the scope and nature of the project, which would increase the projected scale of the project, shall not be permitted except upon application for and approval of modification to this approval.
- 10.2 All Ordinances, Policy Resolutions, and Standards of the City in effect at the time this project is approved shall be complied with as a condition of this approval.
- 10.3 Development of the project shall be consistent with the stamped approved plans on file with the City of Upland Planning Division.
- 10.4 Prior to issuance of permits, all tenant improvements shall be subject to plan check with the Planning Division, Building Division, Engineering Division, Public Works Department and Fire Department.
- 10.5 All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash, and debris at all times. Dead, damaged, and/or missing landscaping shall be replaced/replanted, subject to the satisfaction of the Planning Division.

- 10.6 To the maximum extent permitted by law, Applicant must defend, indemnify, and hold City and its elected officials, officers, contractors serving as City officials, agents, and employees ("Indemnitees") harmless from liability for damage and/or claims for damage for personal injuries, including death, and claims for property damage, and with respect to all other actions and liabilities for damages caused or alleged to have been caused by reason of the Applicant's activities in connection with Conditional Use Permit No. CUP-20-0005 ("Project") on the Project site, and which may arise from the direct or indirect operations of the Applicant or those of the Applicant's contractors, agents, tenants, employees or any other persons acting on Applicant's behalf, which relate to the development and/or construction of the Project. This indemnity provision applies to all damages and claims for damage, as described above, regardless of whether or not the City prepared, supplied, or approved the plans, specifications, or other documents for the Project.

In the event of any legal action challenging the validity, applicability, or interpretation of any provision of this approval, or any other supporting document relating to the Project, the Applicant must indemnify, defend and hold harmless the Indemnitees, and each of them, with respect to all liability, costs and expenses incurred by, and/or awarded against, the City or any of the Indemnitees in relation to such action. The City shall have the right to select counsel of its choice that the Applicant reasonably approves. The parties hereby agree to cooperate in defending such action. The City will not voluntarily assist in any such third-party challenge or take any position adverse to the Applicant in connection with such third-party challenge.

- 10.7 Within 15 calendar days of this approval, the Property Owner or Project Applicant, shall submit to the Development Services Department written evidence of agreement with all conditions of this approval before the approval becomes effective. (UMC 17.45.030)
- 10.8 The applicant shall not engage in any construction activities other than between the hours of 7:00 a.m. and 6:00 p.m. on weekdays, except in case of urgent necessity in the interest of public health and safety or as otherwise approved by the Development Services Director.
- 10.9 Termination of approval if either: (1) development has not been diligently commenced and actively pursued to completion thereafter within a two (2) year period from the date of approval (i.e. July 22, 2022); or, (2) if the use approved hereunder is discontinued for a period of one hundred and eighty days or longer; or, (3) non-compliance with any provision of the Upland Municipal (UMC) not specifically waived in compliance with City procedures.

20.0 Planning Division Conditions

- 20.1 The permittee shall acquire and maintain all required other agency licenses/permits (FFL, CA State licenses) which allow for the sale of firearms. At no point shall the business engage in the sale of firearms without valid state and federal licensing.
- 20.2 All steel gates/bars for windows shall be installed on the interior of the building. No steel bars shall be allowed on the exterior.

30.0 Police Department

- 30.1 The approved conditions shall be retained on the premises at all times and produced immediately upon request of the Upland Police Department, and City Planning.
- 30.2 A 6-month review/inspection shall be conducted to ensure permittee's compliance with all operating conditions.
- 30.3 The Developer, builder, contractors, sub-contractors, and any other persons associated with this project shall adhere to the Upland Municipal Code (UMC) dealing with unnecessary noises under section 9.40.100. Furthermore, prior to the beginning of construction to the interior and/or exterior of the premises, a sign shall be posted at the entrance of the property educating everyone entering as to the authorized construction times and failure to comply with such requirements will result in an immediate citation for violating the aforementioned UMC section.
- 30.4 All doors shall be alarmed so as to notify staff when someone is entering or exiting through any point of the business.
- 30.5 All exterior doors shall be equipped with a lighting device capable of providing a minimum of two foot-candle of light at ground level.
- 30.6 All exterior lighting lower than 12 feet from the ground level shall be enclosed in vandal-resistant covers.
- 30.7 At a minimum, internally illuminated address signs/numbers are required for each building, to the satisfaction of the Deputy Fire Marshal and the Chief of Police.
- 30.8 A digital video surveillance system is required at the premise. It is recommended to have a surveillance video/visual media that shall be maintained for a minimum of sixty (60) days and upon request, shall be accessible to law enforcement personnel for viewing, copying and collection purposes during regular business hours. The system shall be able to make license plates discernable. The video system shall cover all

ingress and egress points of the parking lots, the building, and inside of the premises.

- 30.9 Provide UPD with contact information of person responsible for maintaining video equipment/system and who has access to retrieve and copy surveillance video. The surveillance video/visual media shall be remotely accessible to the Upland Police Department.
- 30.10 Signs shall comply with all City of Upland sign requirements (UMC 17.15 et seq.). No more than 50% of the total window area and clear doors shall bear advertising or signs of any sort. Window signs shall be placed and maintained in a manner so that there is a clear and unobstructed view of the interior of the premises from the public sidewalk or entrance to the premises (this applies to all windows of this location).
- 30.11 Signs prohibiting loitering shall be installed to the satisfaction of the Chief of Police. They shall be mounted between six and ten feet above ground. The following must be printed on the sign in letters at least two inches tall: "PC647 (h), UMC I 0.72.010." and "NO LOITERING IS ALLOWED ON OR IN FRONT OF THESE PREMISES." The signs shall be posted on the front, rear, and sides of the building, and shall be clearly visible to patrons of the licensee.
- 30.12 Graffiti abatement by the business owner/licensee shall be immediate and ongoing on the licensed premises, but in no event shall graffiti be allowed unabated on the premises for more than 48 hours. Abatement shall take the form of removal or shall be covered/painted over with a color reasonably matching the color of the existing building, structure, or other surface being abated. Additionally, the business owner/licensee shall notify the City within 24 hours of any graffiti elsewhere on the property not under the business owner/licensee's control so that it may be abated by the property owner.
- 30.13 All landscaping must adhere to the 2' 6' rule (all ground cover landscaping must be maintained no higher than 2' from ground level and all lower tree canopy must be maintained no lower than 6' in height from the ground level).
- 30.14 All landscaped areas shall be maintained in a healthy and thriving condition, free from weeds, trash, and debris at all times.
- 30.15 The applicant shall be responsible for maintaining the area adjacent to the premises over which they have control free of litter.
- 30.16 No endcaps, gondolas, displays, vending machines, posters, or any other merchandise shall be erected within 15 feet laterally of either side of the public access door(s) of the business.

- 30.17 Any vehicles not parked legally may be cited and/or towed if it is in violation of the California Vehicle Code and/or Upland Municipal Code.
- 30.18 Any vehicles not parked legally may be cited and/or towed if it is in violation of the California Vehicle Code and/or Upland Municipal Code.
- 30.19 If any community issues arise, such as noise, odors, parking, crime, etc., the owner/operator shall be responsible for immediate implementation of measures to address the issues, including additional restrictions on the intensity of the use, to the satisfaction of the Development Services Director and/or the Chief of Police.
- 30.20 Violation of any of the aforementioned conditions, will result in immediate revocation of the CUP.

40.0 Building and Safety

- 40.1 The applicant shall obtain building permits for all tenant improvements (i.e. steel doors, etc.), receive a final inspection for said permits and a Certificate of Occupancy prior to the issuance of a Business License.
- 40.2 All tenant improvements shall be in compliance with the 2019 California Building Code.

50.0 San Bernardino County Fire Protection District (SBCoFD)

- 50.1 Building Plans. Building construction plans shall be submitted to the Fire Department for review and approval for any construction work done.
- 50.2 Commercial Addressing. Commercial and industrial developments of 100,000 sq. ft. or less shall have the street address installed on the building with numbers that are a minimum six (6) inches in height and with a three quarter (3/4) inch stroke. The street address shall be visible from the street. During the hours of darkness, the numbers shall be electrically illuminated (internal or external). Where the building is two hundred (200) feet or more from the roadway, additional non-illuminated contrasting six (6) inch numbers shall be displayed at the property access entrances.
- 50.3 Fire Extinguishers. Hand portable fire extinguishers are required. The location, type, and cabinet design shall be approved by the Fire Department.
- 50.4 Inspection by the Fire Department. Permission to occupy or use the building (certificate of Occupancy or shell release) will not be granted until the Fire Department inspects, approves and signs off on the Building and Safety job card for "fire final". Per the California Fire Code, Chapter

105.6.14 and Chapter 56, an operational permit is required for the storage, use or sale of any quantities of explosives.

- 50.5 Permit Expiration. Construction permits, including Fire Condition Letters, shall automatically expire and become invalid unless the work authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. Suspension or abandonment shall mean that no inspection by the Department has occurred within 180 days of any previous inspection. After a construction permit or Fire Condition Letter, becomes invalid and before such previously approved work recommences, a new permit shall be first obtained and the fee to recommence work shall be one-half the fee for the new permit for such work, provided no changes have been made or will be made in the original construction documents for such work, and provided further that such suspension or abandonment has not exceeded one year. A request to extend the Fire Condition Letter or Permit may be made in writing PRIOR TO the expiration date justifying the reason that the Fire Condition Letter should be extended.

60.0 Review/Compliance

- 60.1 If the Development Services Director finds evidence that the conditions of approval have not been fulfilled or the use has or have resulted in a substantial adverse effect to the health, and/or general welfare of users of adjacent or proximate property, or have a substantial adverse impact on public facilities or services, the Development Services Director may refer the conditional use permit back to the Planning Commission for review. If, upon such item the Commission finds that any of the results above have occurred the Commission may modify or revoke the conditional use permit.
- 60.2 The Planning Commission may review the use 90 days, 180 days, and on an annual basis following the date of final inspection, or as needed at the discretion of the Development Services Director, to determine whether the applicant and operators are operating the use in a manner that is compatible with the community. The Planning Commission may establish additional conditions of approval that are necessary to eliminate any issues that arise from the operation of the use that adversely impact the public health, welfare, and safety, or may direct staff to initiate revocation proceedings. The conditional use permit may be revoked if the permittee, his agents or assigns, or employee(s) of the establishment, or any other person connected or associated with the permittee or his business establishment, or any person who is exercising managerial authority of the business establishment has:
- a. Violated any rule, regulation, or condition of approval adopted by the Planning Commission relating to the conditional use permit or

contained in the Upland Municipal Code, or state or federal regulations. Violation of any provision of the Upland Municipal Code (UMC) or the conditions of approval set forth in this resolution, shall be deemed to constitute an infraction of the Upland Municipal Code, and shall be subject to the applicable fines and penalties, including the possibility of revocation of this permit.

- b. Conducted the operation permitted hereunder in a manner contrary to the peace, health, safety, and general welfare of the public, or in a manner which either generates or contributes to noise and/or health/sanitation nuisances, or which results in undesirable activities that negatively affects adjacent properties or creates an increased demand for public services.

Section 3. CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA). The project is Categorically Exempt from environmental proceedings pursuant to Article 19, Section 15301, Existing Facilities, Class 1 (a), of the California Environmental Quality Act Guidelines, since the proposed project consists of a negligible change in use within an existing structure.

Section 4. APPEAL. Pursuant to Upland Municipal Code Section 17.47.040, the decision of the Planning Commission may be appealed to the City Council provided that written notice of the appeal is filed with the City Clerk within ten (10) days following the date the decision was rendered, unless a longer appeal period is specified as part of the project approval. Failure to file a timely appeal shall constitute a waiver of the right of appeal, and the decision of the Planning Commission shall be final.

Section 5. INCONSISTENCY. If any section, division, sentence, clause, phrase or portion of this resolution or the document in the record in support of this resolution is determined by a court of competent jurisdiction to be invalid, unenforceable, unconstitutional or otherwise void, that determination shall not affect the validity of the remaining sections, divisions, sentences, clauses, phrases of this resolution.

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

PASSED, APPROVED and ADOPTED this 22th day of July, 2020.

Robin Aspinall, CHAIR

ATTEST:

Robert D. Dalquest, SECRETARY

I HEREBY CERTIFY that the foregoing Resolution was duly and regularly passed and adopted by the Planning Commission of the City of Upland at a regular adjourned meeting thereof held on the 22nd day of July, 2020, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

Robert D. Dalquest, SECRETARY

Exhibit B – Vicinity Map



EXHIBIT B – VICINITY MAP

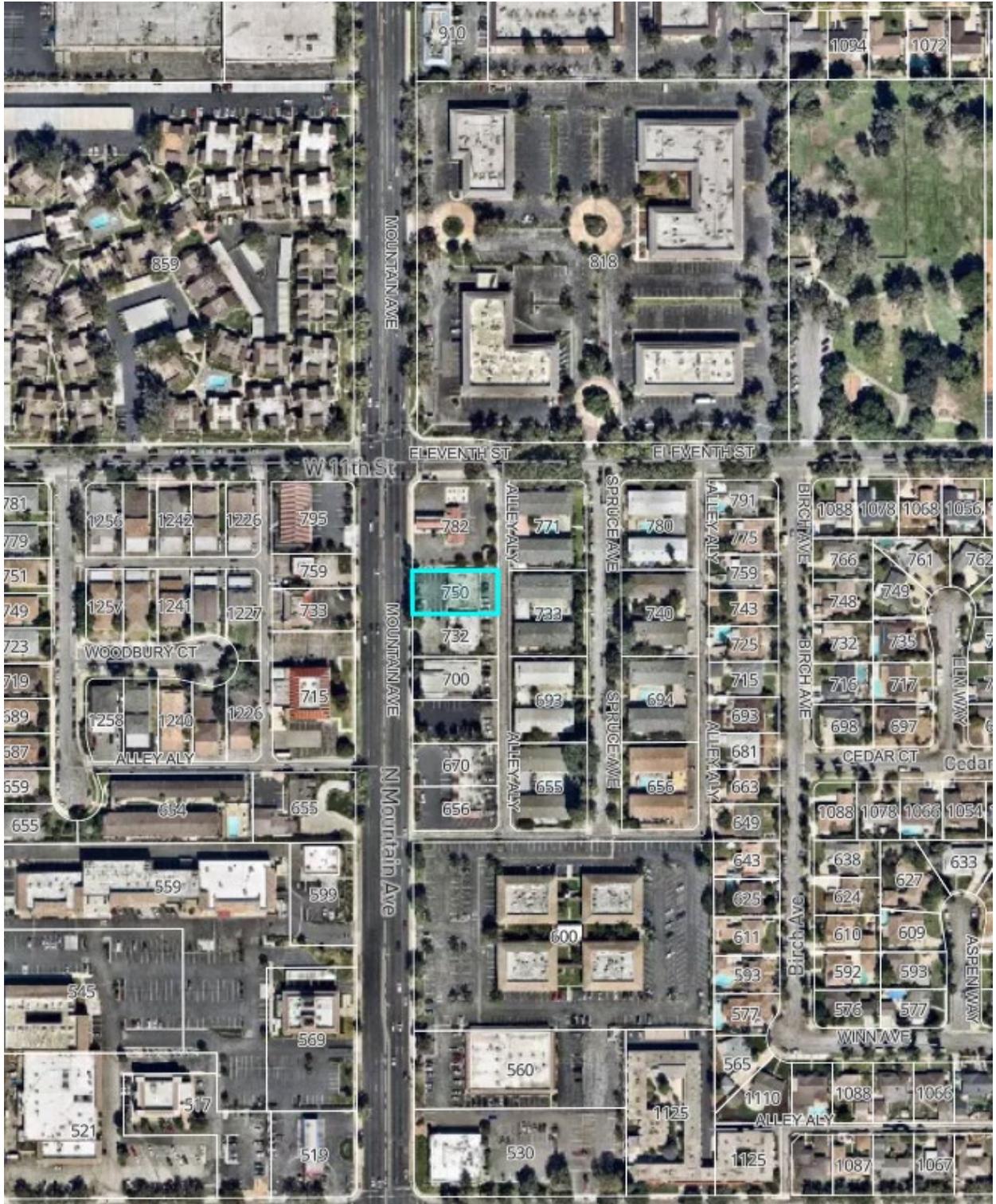


Exhibit C – General Plan and Zoning Map



Exhibit C - General Plan and Zoning Map

General Plan Land Use Map



Exhibit C - General Plan and Zoning Map

Zoning Map

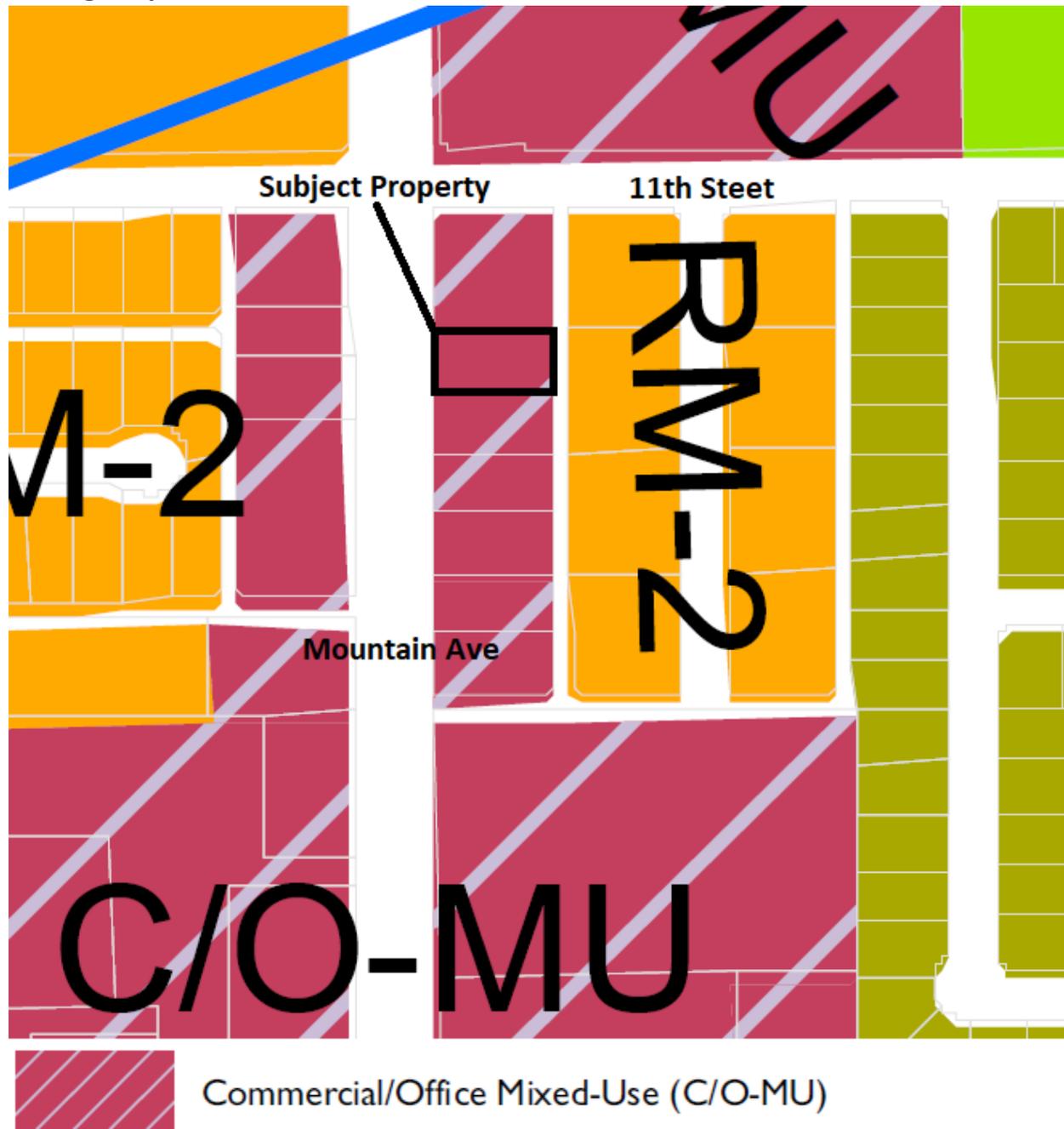


Exhibit D – Applicant Letter



Conditional Use Permit Request

Request Overview

Second Amendment Zone, in Rancho Cucamonga, is requesting a conditional use permit at 750 N Mountain Ave, Upland, CA 91786 for the purpose of utilizing ~1300 sqft as a location for retail sales of firearms. Historically, Bullet Barn has been the go-to place for firearms in Upland, but in January of 2020 they shut down. Our tax contribution to Rancho Cucamonga in the first quarter of 2020 was ~\$50,000 working out of a 200sqft home office. We are looking to take the next step and move to the city of Upland to run a full firearms retail store, including the sale of firearms, safes, clothing, and accessories. We have existing federal, state, and county firearms licenses for the purpose of retail sales that would merely be paperwork to move to the 750 N Mountain location.

History

Our current company has been in business for just over two years, with yearly gross receipts of ~1.2 million (out of our house). We look forward to making Upland our new home, we are anxious to start servicing the residents of Upland with a clean, safe, revenue generating store with a proven track record of excellent customer service, and flying colors through California Department of Justice audits.

Staffing

Once the CUP is approved, we intend to hire 2 employees immediately. Being a firearm retailer, state background checks and certificates of eligibility are required for employment. This is in addition to myself and my wife, for a total of 4 full time employees

Hours of operation

We intend to operate Monday through Saturday, 10am to 6pm.

Site Security

Our security plan has already been submitted to the Bureau of Alcohol, Tobacco, and Firearms. Our ATF rep, Special Agent Derek Smith, has approved our security plan. We designed our security based on the CA Penal Code 12070 – 12086. Essentially, all exterior doors are steel, with deadbolts and standard locks. All windows will have steel bars when the shop is closed. We will have a centralized alarm system covering all ingress/egress points, as well as a secondary video system with data stored both onsite, and on in the cloud. This security plan FAR surpasses any requirements on the state and federal side. We are also going to open our parking lot for law enforcement officials to use as a staging/rest area after hours.

Exhibit E – Floor Plan and Pictures



SPACE AVAILABLE
909-732-3533

751

FRANK COPELAND
Independent
Lincoln Center

FRANK

FRANK



SPACE AVAILABLE
(951) 818-4145
SANITATION TECHNICIAN AGENCY LLC
750 N. Mountain Ave, Suite-A
909-256-3689

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