



STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: September 16, 2015

PLANNER: Sean Nicholas, Associate Planner 

SUBJECT: **Conditional Use Permit 15-278, Kiosk Carts and VIP Alcohol at the Outlets at San Clemente,** a request for a full range of alcohol for the VIP area associated with guest relations on the second floor between buildings 17A and 19 of the Outlets at San Clemente, and for small outdoor retail kiosk carts throughout the outlet shopping center.

REQUIRED FINDINGS

Prior to approval of the proposed project, the following findings shall be made. The draft Resolution (Attachment 1) and analysis section of this report provide an assessment of the project's compliance with these findings.

Conditional Use Permit, Section 17.16.060 to allow a full range of alcohol for indoor/outdoor on-site consumption in the designated VIP area within the guest service portion of the project, and small retail kiosk carts throughout the outlet mall.

- a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of the Zoning Ordinance, the San Clemente General Plan, and the purpose and intent of the zone in which the use is being proposed.
- b. The site is suitable for the type and intensity of use that is proposed.
- c. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity.
- d. The proposed use will not negatively impact surrounding land uses.

BACKGROUND

The applicant/owner, Craig Realty Group, is proposing to serve a full range of alcohol for their VIP guests visiting the Outlets at San Clemente. The alcoholic beverages are not for sale, and will only be permitted in the VIP guest service area and adjacent outdoor balcony and patio areas on the second floor of buildings 17A and 19, see Attachment 3 for images of areas. There is no live entertainment associated with this request. The applicant is also requesting small retail kiosk carts for a variety of areas within the main outlet mall portion of the site.

Site Data

The subject site is over 36 acres and is the Regional Commercial (RC1) zoning designation of the Marblehead Coastal Specific Plan. The site is the Outlets at San Clemente commercial center. The site is bordered by the I-5 freeway, additional regional commercial zoned property in the Marblehead Coastal Specific Plan, the Marblehead Coastal residential area (Sea Summit), and the Los Molinos industrial area. Providing a full range of alcohol in the VIP area and the kiosk carts require approval of a Conditional Use Permit.

Development Management Team Meeting

The City's Development Management Team (DMT) reviewed the project and the Building and Engineering Division's had no comments or conditions of approval on the project.

Noticing

Public notification was completed in accordance with State Law and Municipal Code regulations. Staff has not received public input regarding the proposed request.

PROJECT DESCRIPTION

The applicant requests the ability to serve a full range of alcohol to their VIP guests in the guest services area of the project. Image 1 below identifies the area within the Outlets at San Clemente where this approval would apply. The VIP area is only upstairs and the area highlighted does include both indoor and outdoor areas.

The applicant is also proposing to have up to ten (10) retail kiosk carts located throughout the Phase I portion, and up to 25 carts once the outlet facility reaches full buildout. At buildout there is a potential of 35 locations where a cart could be located. Each cart is about 44 square feet in size, made of wood, and is approximately eight feet tall. As part of the Site Improvements, infrastructure for the carts was installed and located throughout the shopping center. Image 2 highlights the areas where infrastructure exists and carts could be located (all of the circled Xs).

The VIP area and kiosk carts will only be utilized during normal business hours of 10:00 a.m. to 9:00 p.m. most days of the year, but may vary during the holiday season.

Image 1: Area where Alcohol request is limited to

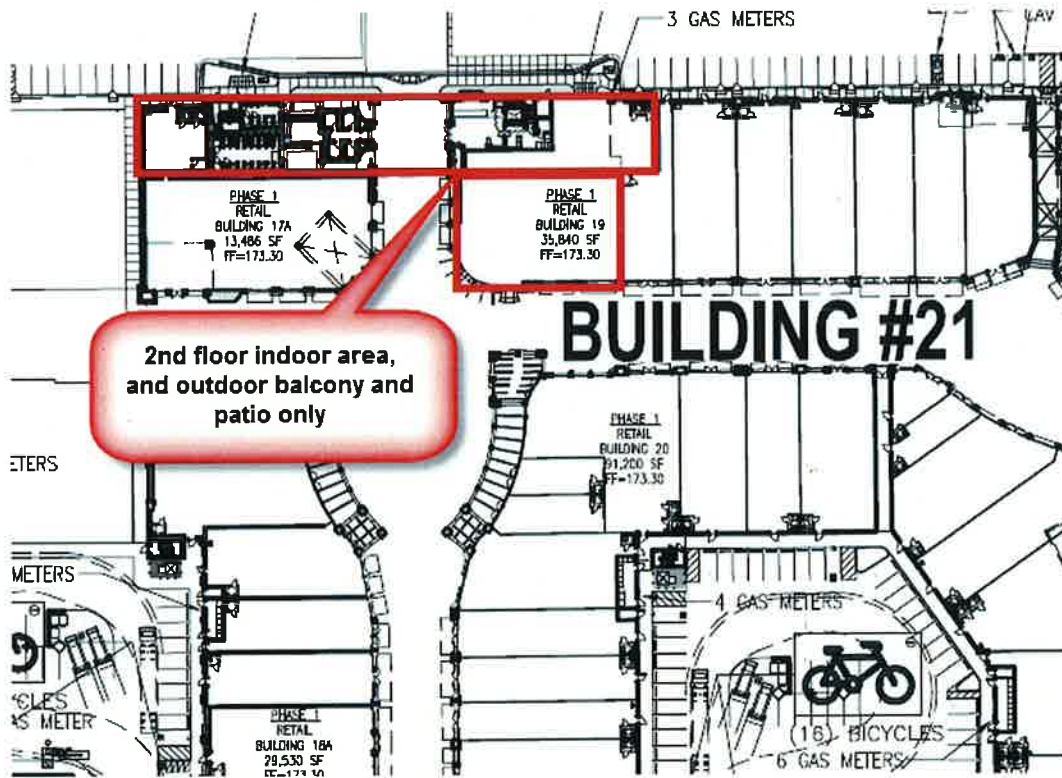


Image 2: Areas where kiosk carts could be located

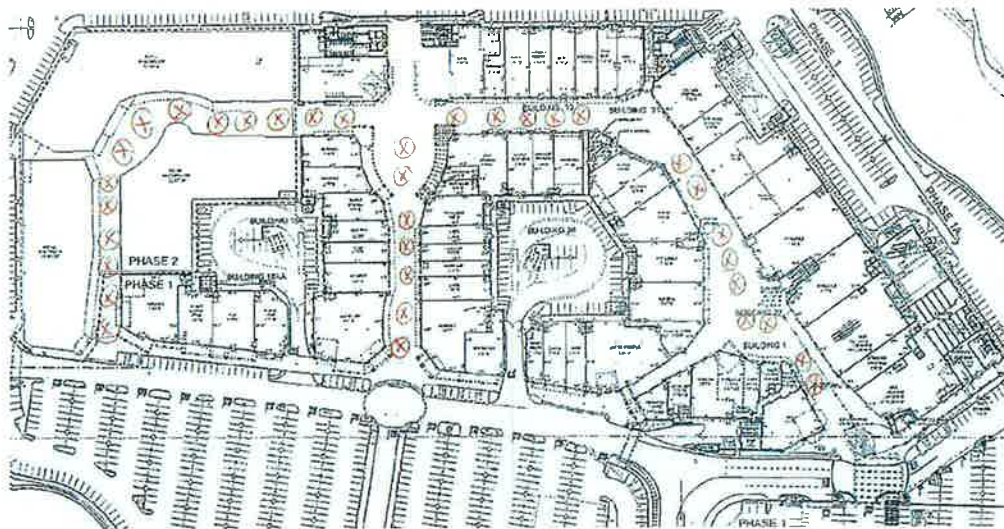


Image 3: Proposed Kiosk Carts

PROJECT ANALYSIS

Conditional Use Permit

The applicant is requesting to serve a full range of alcohol in the VIP area and have the kiosk carts out to serve the public during normal business hours. At no time will alcohol or kiosk carts be allowed outside of normal business hours, unless approved as a component of a Special Activity Permit. Staff has reviewed the request for both alcohol and the kiosk carts, and is supportive of the proposed uses, in that:

- The proposal for alcohol is limited to a very small area of the development, and will not be open for everyone in the general public, this is only for the owners VIP guests.
- The proper infrastructure has been installed throughout the development to support the kiosk carts and will not create any trip hazards or unsafe conditions.
- Both uses are ancillary to the primary use of an outlet mall and the multiple restaurant facilities within and will be surrounding the mall.

GENERAL PLAN CONSISTENCY

Table 1 summarizes how the proposed use is consistent with adopted policies outlined in the City of San Clemente General Plan.

Table 1 - General Plan Consistency

Policies and Objectives	Consistency Finding
<p>LU-2.01. Quality. We require that new development protect community character by providing architecture, landscaping and urban design of equal or greater quality than surrounding development, and by respecting the architectural character and scale of adjacent buildings.</p>	<p>Consistent. Staff continues to monitor the development and ensure a high level of architectural quality. Additionally the kiosk carts are high quality design and fit the character of Marblehead Coastal Commercial being its own Spanish Village within the great Spanish Village by the Sea.</p>
<p>ED-4.08. Other Commercial Districts. We require initiatives, investments, and development approvals for commercial districts other than those described in policies ED 4.01 through 4.05 to contribute to the vision of these areas as primarily serving the day-to-day retail shopping, services, and dining needs of residents of adjacent and nearby neighborhoods.</p>	<p>Consistent. The VIP area will serve a select and distinct group of individuals visiting the outlet mall, and the kiosk carts will fit within the character of the development.</p>

ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA):

The Planning Division processed and completed an initial environmental assessment for this project in accordance with the California Environmental Quality Act (CEQA). The Planning Division has determined the project is categorically exempt from CEQA as a Class 1 exemption pursuant to CEQA Guidelines Section 15301 because the project consists of negligible expansion and alterations to an existing facility.

ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES

1. The Planning Commission can concur with staff and approve the project as conditioned.

This action would result in the applicant being able to have a full range of alcohol within the VIP area and retail kiosk carts throughout the outlet mall.

2. The Planning Commission can, at its discretion, add, modify or delete provisions of the proposed project or conditions.

The Planning Commission can add, delete, or modify conditions addressing the hours of operation, or the number of kiosk carts allowed. This action would result

in any modifications being incorporated accordingly into the Resolution. Certain changes may result in the applicant appealing the decision to the City Council.

3. The Planning Commission can recommend denial of the proposed project.

This action would not allow the applicant to serve a full range of alcohol within the VIP area or have the kiosk carts throughout the outlet mall, and could result in the applicant filing an appeal with the City Council.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission approve Conditional Use Permit 15-278, Kiosk Carts and VIP Alcohol at the Outlets at San Clemente, subject to the attached Resolution and Conditions of Approval.

Attachments:

1. Resolution No. PC 15-049
Exhibit A - Conditions of Approval
Exhibit B- Approved location of VIP area alcohol
2. Location Map
3. Letter and information from applicant

RESOLUTION NO. PC 15-049

**A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF SAN CLEMENTE, APPROVING CONDITIONAL USE PERMIT (CUP) 15-278,
KIOSK CARTS AND VIP ALCOHOL AT THE OUTLETS AT SAN CLEMENTE, A
PUBLIC HEARING TO CONSIDER A REQUEST TO ALLOW A FULL RANGE OF
ALCOHOL FOR ON-SITE CONSUMPTION IN THE DESIGNATED VIP AREA AND FOR
KIOSK CARTS LOCATED AT
101 WEST AVENIDA VISTA HERMOSA**

WHEREAS, on August 11, 2015, an application was submitted, and deemed complete on August 27, 2015, by Craig Realty Group, 4100 MacArthur Blvd. Suite 100, Newport Beach, CA, 92660, a public hearing to consider a request to allow a full range of alcohol for on-site consumption in the designated VIP area and kiosk carts throughout the Outlet mall. The Outlets at San Clemente is located at 101 West Avenida Vista Hermosa within the Regional Commercial (RC1) zoning designation of the Marblehead Coastal Specific Plan. The legal description is Lot 327, of Tract 8817, Assessor's Parcel Number 691-422-13; and

WHEREAS, on August 27, 2015, the City's Development Management Team reviewed the application for compliance with the General Plan, Zoning Ordinance, and other applicable requirements; and

WHEREAS, the Planning Division has completed an initial environmental assessment of the above matter in accordance with the California Environmental Quality Act (CEQA) and recommends that the Planning Commission determine the project categorically exempt from CEQA pursuant to Guidelines Section 15301, as a Class 1 exemption because the project consists of minor expansion to an existing facility, involving negligible or no expansion of use beyond that existing at the time of the determination; and

WHEREAS, on September 16, 2015, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application, and considered evidence presented by the applicant, City staff, and other interested parties.

NOW THEREFORE, the Planning Commission of the City of San Clemente hereby resolves as follows:

Section 1: The project is categorically exempt from CEQA Pursuant to Section 15301, as a Class 1 exemption because the project consists of minor expansion and alterations to an existing facility, involving negligible or no expansion of use beyond that existing at the time of the determination.

Section 2: With regard to Conditional Use Permit 15-278 ("CUP 15-278"), the Planning Commission finds as follows:

- A. The proposed on-site consumption of alcohol in the VIP area and kiosk carts are permitted within the subject zone pursuant to the approval of a Conditional Use Permit. The proposed use complies with all the applicable provisions of the Zoning Ordinance, Specific Plan, and the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed in that the area associated with this alcohol request is limited to only the VIP area shown in Exhibit B of this Resolution, and will only be provided during normal business hours. The kiosk carts are of a high quality design and are common ancillary uses within shopping centers of this size. Both uses are consistent with the primary use of a retail outlet mall.
- B. The site is suitable for the type and intensity of use that is proposed in that the area is limited for the VIP's to have alcohol and is separated from the general retail area of the mall. The kiosk carts are spread out throughout the development and will not impact exiting or fire access, and with Phase I only 10 will be install, with a total of 25 carts at full buildout.
- C. The proposed use will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity in that the use will remain an outlet mall and these are ancillary to that function. The alcohol service will not increase occupancy nor affect exiting, and sufficient exiting is provided for the VIP area consistent with the current code. The kiosk carts are spread out and have been reviewed for exiting and fire access and building and OCFA do not have concerns regarding the proposal.
- D. The proposed use will not negatively impact surrounding land uses in that all ABC requirements will be met and the VIP area is well separated from the general retail portion of the development. The retail kiosk will provide an ancillary shopping experience to the outlet mall and will not impact exiting or fire access. All uses are limited to normal operating hours of the outlet mall.

Section 3: The Planning Commission of the City of San Clemente hereby approves CUP 15-278, Kiosk Carts and VIP Alcohol at the Outlets at San Clemente, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit 1 and incorporated herein in full by reference.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on September 16, 2015.

Chair

TO WIT:

I **HEREBY CERTIFY** that the foregoing resolution was duly adopted at a regular meeting of the Planning Commission of the City of San Clemente on September 16, 2015, and carried by the following roll call vote:

AYES: COMMISSIONERS:
NOES: COMMISSIONERS:
ABSTAIN: COMMISSIONERS:
ABSENT: COMMISSIONERS:

Secretary of the Planning Commission

EXHIBIT A

**CONDITIONS OF APPROVAL*
CONDITIONAL USE PERMIT 15-278, KIOSK CARTS AND VIP ALCOHOL AT THE
OUTLETS AT SAN CLEMENTE**

1. The applicant or the property owner or other holder of the right to the development entitlement(s) or permit(s) approved by the City for the project, if different from the applicant (herein, collectively, the "Indemnitor") shall indemnify, defend, and hold harmless the City of San Clemente and its elected city council, its appointed boards, commissions, and committees, and its officials, employees, and agents (herein, collectively, the "Indemnitees") from and against any and all claims, liabilities, losses, fines, penalties, and expenses, including without limitation litigation expenses and attorney's fees, arising out of either (i) the City's approval of the project, including without limitation any judicial or administrative proceeding initiated or maintained by any person or entity challenging the validity or enforceability of any City permit or approval relating to the project, any condition of approval imposed by City on such permit or approval, and any finding or determination made and any other action taken by any of the Indemnitees in conjunction with such permit or approval, including without limitation any action taken pursuant to the California Environmental Quality Act ("CEQA"), or (ii) the acts, omissions, or operations of the Indemnitor and the directors, officers, members, partners, employees, agents, contractors, and subcontractors of each person or entity comprising the Indemnitor with respect to the ownership, planning, design, construction, and maintenance of the project and the property for which the project is being approved. The City shall notify the Indemnitor of any claim, lawsuit, or other judicial or administrative proceeding (herein, an "Action") within the scope of this indemnity obligation and request that the Indemnitor defend such Action with legal counsel reasonably satisfactory to the City. If the Indemnitor fails to so defend the Action, the City shall have the right but not the obligation to do so and, if it does, the Indemnitor shall promptly pay the City's full cost thereof. Notwithstanding the foregoing, the indemnity obligation under clause (ii) of the first sentence of this condition shall not apply to the extent the claim arises out of the willful misconduct or the sole active negligence of the City. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)_____

2. Thirty (30) days after project approval, the owner or designee shall submit written consent to all of these imposed conditions of approval to the Community Development Director or designee. *[Citation – City Attorney Legal Directive/City Council Approval June 1, 2010]* (PIng.)_____

3. Prior to the issuance of building permits, if any are necessary, the applicant or designee shall include within the first four pages of the working drawings a list of all conditions of approval imposed by the final approval for the project. *[Citation – City Quality Assurance Program]* (PIng.) (Bldg.)_____

- 4. The project shall be develop in conformance with the site plan, floor plans, elevations, details, and any other applicable submittals approved by the Planning Commission on September 16, 2015, subject to the Conditions of Approval.

Any deviation from the approved site plan, floor plans, elevations, details, or other approved submittal shall require that the owner or designee submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the City Planner or designee. If the City Planner or designee determines that the deviation is significant, the owner or designee shall be required to apply for review and obtain the approval of the Zoning Administrator. *[Citation - Section 17.12.180 of the SCMC]* (PIng.)_____

- 5. CUP 15-278 shall become null and void if the use is not commenced within three (3) years from the date of the approval thereof. Since the use does not require the issuance of a building permit, the use shall not be deemed to have commenced until the date that the ABC permit is issued. *[Citation - Section 17.12.150.A.1 of the SCMC]* (PIng.)_____

A use shall be deemed to have lapsed, and CUP 15-278 shall be deemed to have expired 90 days after the use ceases operation. *[Citation - Section 17.12.150.C.1 of the SCMC]* (PIng.)_____

- 6. The owner or designee shall have the right to request an extension of CUP 15-278 if said request is made and filed with the Planning Division prior to the expiration date as set forth herein. The request shall be subject to review and approval by the final decision making authority that ultimately approved or conditionally approved the original application. *[Citation - Section 17.12.160 of the SCMC]* (PIng.)_____

- 7. The hours in which alcohol can be served in the VIP area, and the kiosk carts can be utilized is during normal business hours, unless approved for extended hours through the Special Activity Permit process.

■■ (PIng.)_____

- 8. The owner or designee shall obey all rules, regulations and conditions imposed upon the project through, but not limited to, the Alcoholic Beverage Commission (ABC) and relevant State laws. Revocation of, or sale of said ABC license to another person at another location, shall render this Use Permit null and void. Prior to any sale of the ABC license, the owner or designee shall notify the Community Development Department of the sale. *[Citation – Division 9 (Alcoholic Beverages), Business and Professions Code, State of California]* (PIng.)_____

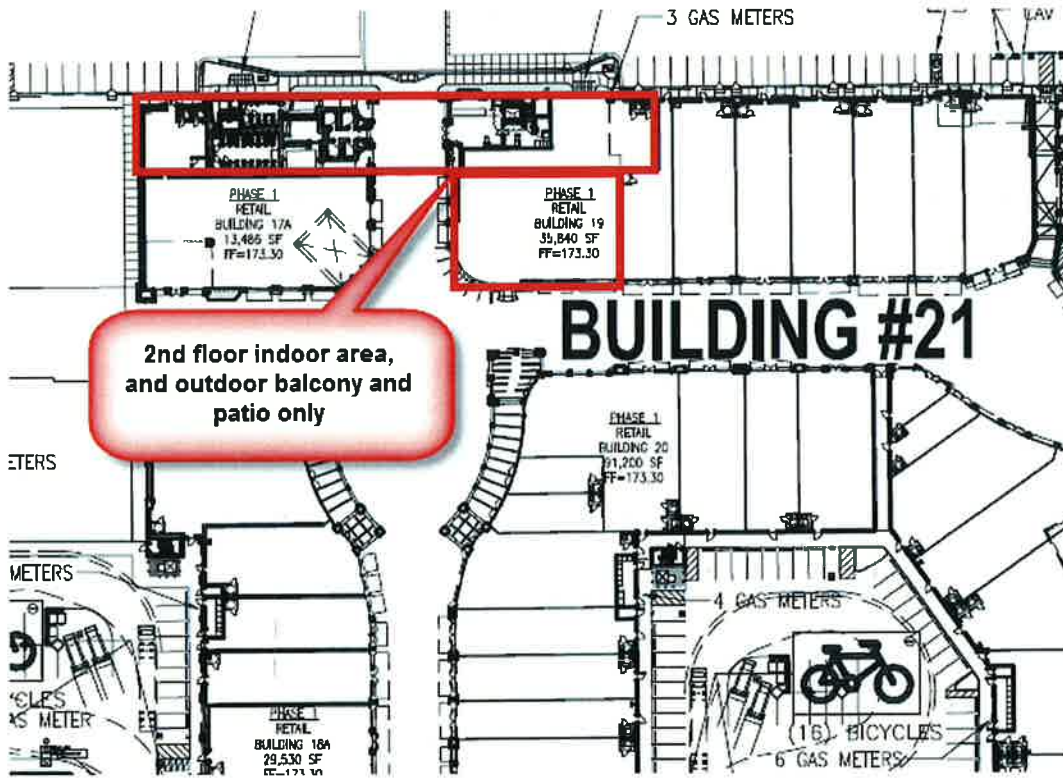
- 9. The owner or designee shall be responsible for ensuring that all employees receive “Responsible Alcoholic Beverage Service” training as offered through programs established by the Orange County Health Care Agency and Alcoholic

Beverage Control of the State of California. Evidence of such training and the training records of all employees shall be maintained on-site during business hours, and made available for inspection upon request. *[Citation - Section 17.16.070.K of the of the SCMC]* (PIng.)_____

- * All Conditions of Approval are Standard, unless indicated as follows:
 - Denotes a modified Standard Condition of Approval
 - ■ Denotes a project-specific Condition of Approval

EXHIBIT B

Approved location of VIP area alcohol





LOCATION MAP

CUP 15-278, Kiosk Carts and VIP Alcohol at the Outlets at San Clemente
101 West Avenida Vista Hermosa



**CRAIG REALTY GROUP**

August 5, 2015

To: Sean Nicholas-City of San Clemente

From: Steve Craig

Cc: Donna Balderrama
Susan Jennrich
Lori Smith

Re: Conditional Use Permit for Cart Program & VIP Lounge alcohol at the Outlets at San Clemente

CART PROGRAM

The Outlets at San Clemente is proposing a cart program with retail carts located throughout the common area of the center. We plan to start with (10) carts in Phase I and would anticipate no more than (25) carts throughout the center at full build out. The 5'x 9' carts (photo and dimensions/plan attached) are movable. The attached site plan shows all the potential locations based on electricity availability.

Typical cart tenants occupying these units will sell merchandise such as sunglasses, cell phone accessories, clothing/shoes & related accessories, watches & costume jewelry, plants/flowers, home décor, makeup & beauty products, hair accessories, pet supplies, sports apparel, pre-packaged food items, souvenirs and gift items. All product and displays must be kept on the cart. Carts are required to be manned and operational all mall hours except in the event of inclement weather. During non-mall hours they are closed up and secured. Cart tenants must adhere to the same requirements as store tenants in that they must provide proof of insurance, security deposits, business licenses and seller's permits. They must maintain the same high end aesthetics that we require of all our tenants. Cart tenants are not allowed to "hawk" their products to customers.

A cart program as seen at many shopping centers adds to the overall shopping experience of the customers. With a cart program we are able to offer an even larger selection of items that might not otherwise be available to our customers.

VIP LOUNGE ALCOHOL

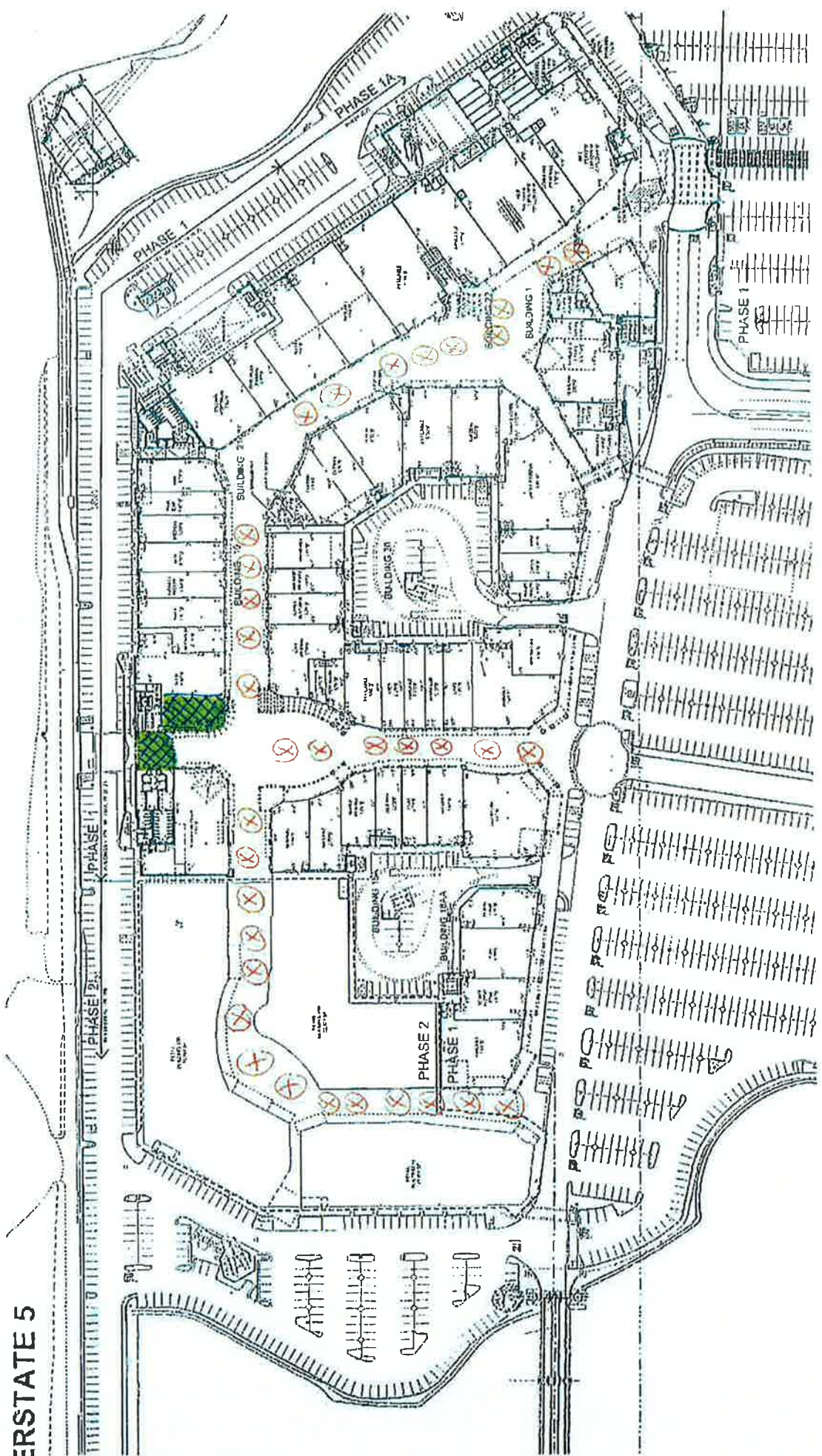
Outlets at San Clemente will also offer a VIP Lounge to special guests and dignitaries. When events/meetings are held in this area (highlighted on the attached plan), full range alcohol will be served.

Please let us know if you need any additional information in addition to the attached applications and attachments.

VIP Lounge
 alcohol served
 (upper level only)

NOTE: This shows areas where electricity is available for a cart. However we do not propose having 35 carts. We are starting with 10 carts in phase 1 and do not anticipate having more than 20-25 carts throughout the entire center at any given time.

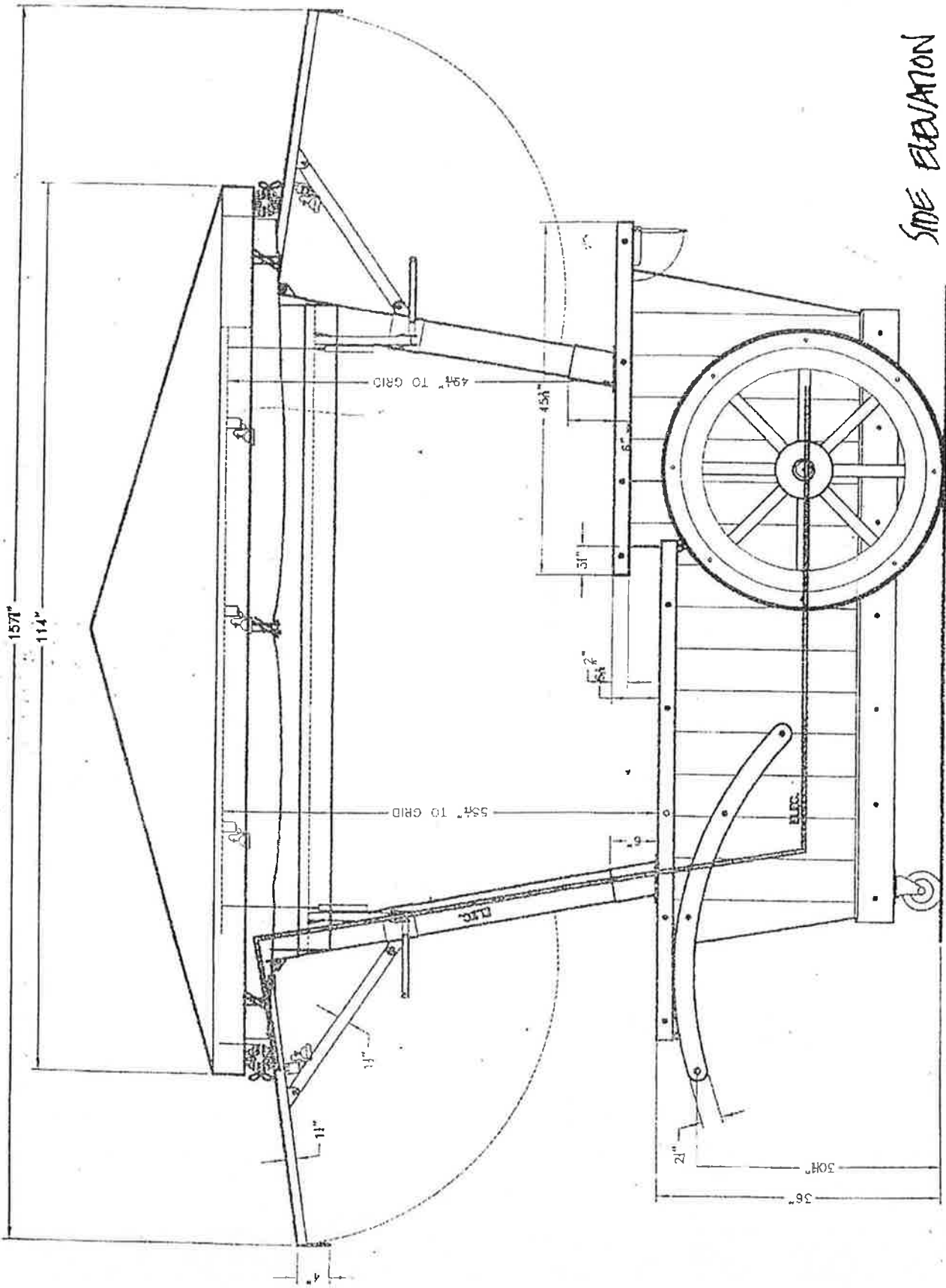
Outlets at San Clemente
 potential cart locations (X)
 23 in phase 1
 12 in phase 2
 35 Total



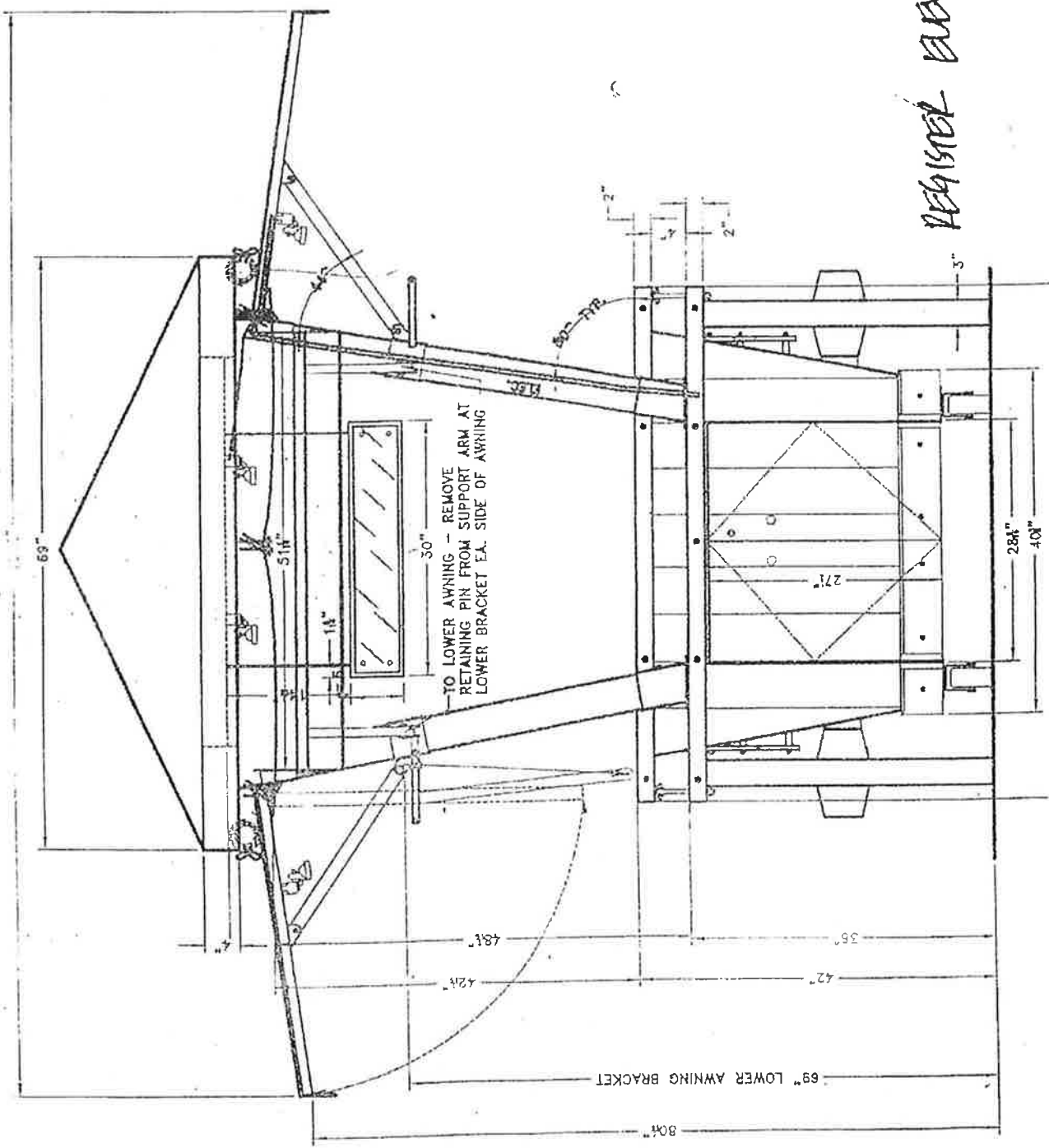
INTERSTATE 5

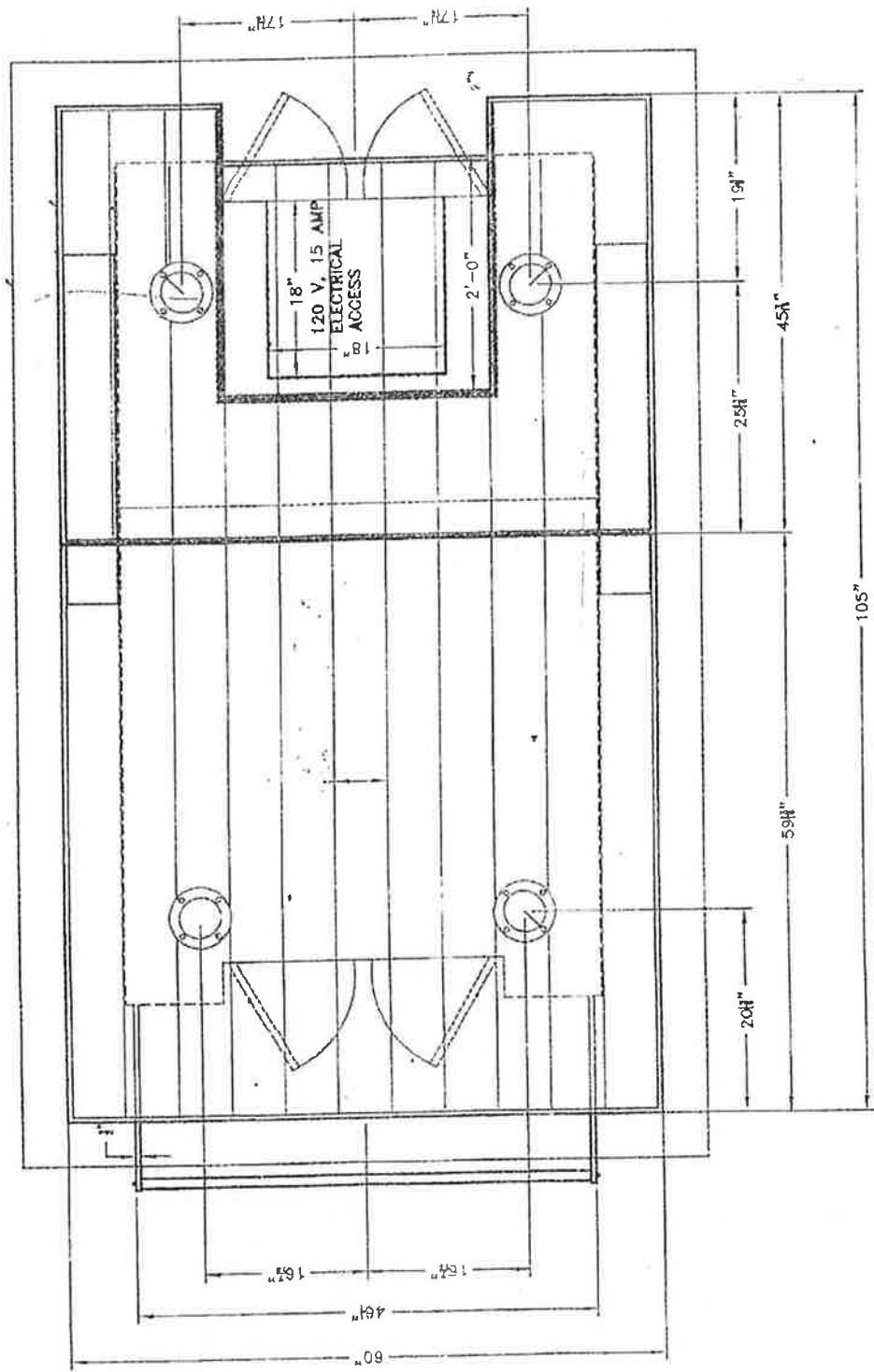


SIDE ELEVATION



REGISTER EVALUATION





PLAN
SCALE 1" = 1'-0"