



# STAFF REPORT SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: September 20, 2018

**PLANNER:** Kyle Webber, Planning Intern *MSK Arkye Webber*

**SUBJECT:** Minor Conditional Use Permit 18-461, Thai Dara 2, a request to sell beer and wine at an existing restaurant.

**LOCATION:** 641 Camino De Los Mares, Suite D110

**ZONING/GENERAL PLAN:** Community Commercial 4 Zoning District (CC4)

**PROJECT SUMMARY:**

- The subject property is located in a commercial shopping center north of the I-5 freeway, and surrounded by commercial uses. The nearest residential use is located over 130-feet away from the site, separated by parking lot, commercial buildings, and open space.
- The applicant, Thai Dara 2, operates a restaurant in a 964 square-foot suite (“D110”) of a one-story commercial building. There are two other restaurant tenants in the building.
- The restaurant has an approved business license for a restaurant with 14 seats. The daily operating hours are 11:00 a.m. to 3:00 p.m. and 4:30 p.m. to 9:00 p.m.
- The applicant proposes to sell beer and wine for on-site consumption indoors in conjunction with restaurant operations. No exterior building or site changes are proposed as part of this request.

**Figure 1 – Existing Site Conditions**



- Zoning Ordinance Table 17.36.020 requires Zoning Administrator approval of a Minor Conditional Use Permit (MCUP) to allow restaurants to have accessory sales of beer and wine for on-site consumption.
- The proposed sale of beer and wine also requires approval of a Type 41 alcohol sales license from the California Department of Alcoholic Beverage Control.
- Staff believes the proposed use meets required findings for MCUP approval because:
  - The proposed on-site sale of beer and wine for indoor consumption is ancillary to the restaurant use permitted in the CC2 Zoning District.
  - The restaurant is approximately 130 feet away from the nearest residential use.
  - The proposed use maintains the primary function of this portion of the building as a restaurant use and does not expand the use.
  - The applicant does not propose to increase seating; therefore, no additional parking is required.
  - The proposed use will comply with applicable codes.
  - The proposed use is consistent with existing and permitted uses in the area.
  - Orange County Sheriff's Department and the Code Compliance division do not have concerns with the request.
- The project is Categorical Exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant CEQA Guidelines Section 15301 (Class 1: Existing Facilities). The project is exempt because the beer and wine sales are not an expansion of the existing use.
- Public comments have not been received on this item.

## **RECOMMENDATION**

Based on the information in the staff report and subject to the required findings and conditions of approval, staff recommends that the Zoning Administrator:

1. Determine the project is Categorical Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities); and
2. Adopt Resolution ZA 18-035, approving Minor Conditional Use Permit (MCUP) 18-461, Thai Dara 2.

### ***Attachments:***

1. Resolution ZA 18-037  
Exhibit A - Conditions of Approval
2. Location Map
3. Photos  
Plans (under separate cover)

# ATTACHMENT 1

## RESOLUTION NO. ZA 18-035

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR CONDITIONAL USE PERMIT 18-461, THAI DARA 2, TO ALLOW THE SALE OF BEER AND WINE FOR INDOOR CONSUMPTION AT AN EXISTING RESTAURANT LOCATED AT 641 CAMINO DE LOS MARES, UNIT D110

WHEREAS, on July 6, 2018 an application was submitted by Rungchaval Sukitjavanich, 641 Camino De Los Mares Unit D110, San Clemente, CA 92573, for Minor Conditional Use Permit (MCUP) No. 18-461, and deemed complete on August 22, 2018; a request to allow the sale of beer and wine at an existing restaurant, located at 641 Camino De Los Mares, Unit D110. The restaurant is located in the Community Commercial Zone (CC 4). The permit would allow for indoor consumption of beer and wine. The legal description for the site is portion of Lot 7 and portion of Lot 6 of Tract 5951 and the Assessor's Parcel Number is 675-071-37; 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 the Zoning Administrator determine the project to be found categorically exempt from the requirements pursuant to the CEQA Guidelines section 15301 as a Class 1 exemption because the proposed project would result in an operational change only, with no expansion of the existing use; and

WHEREAS, on August 2, 2018 and August 30, 2018, the City's Development Management Team (DMT) reviewed the proposed project and determined it complies with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes; and

WHEREAS, on September 20, 2018 the Zoning Administrator of the City of San Clemente held a duly noticed public hearing on the subject application, considered written and oral comments, and facts and evidence presented by the applicant, City staff, and other interested parties.

NOW, THEREFORE, The Zoning Administrator of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Zoning Administrator hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Zoning Administrator as fully set forth in this resolution.

Section 2. CEQA Findings.

Based upon its review of the entire record, including the Staff Report, any public comments or testimony presented to the Zoning Administrator, and the facts outlined below, the Zoning Administrator hereby finds and determines that the proposed project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities).

The Class 1 exemption specifically exempts from further CEQA review the operation, repair, maintenance, and minor repair of existing public or private structures, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposed project involves negligible or no expansion of an approved restaurant because the applicant is not proposing any physical additions or alterations to the existing site, including no intensification of indoor seating. The primary use of the site as a restaurant is being maintained and the proposed use will occur in a developed commercial area where there are no impacts to sensitive environmental resources.

Furthermore, none of the exceptions to the use of the Class 1 categorical exemption identified in State CEQA Guidelines section 15300.2 apply. The project will not result in a cumulative impact from successive projects of the same type in the same place, over time. There are no unusual circumstances surrounding the project that result in a reasonable possibility of a significant effect on the environment. The project will not damage scenic resources, including trees, historic buildings, rock outcroppings, or similar resources. The project does not include any hazardous waste sites. Thus, the Class 1 exemption applies, and no further environmental review is required.

### Section 3. Minor Conditional Use Permit Findings

With respect to Minor Conditional Use Permit MCUP 18-461, the Zoning Administrator finds as follows:

- A. The proposed use is permitted within the subject zone pursuant to the approval of a Minor 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, in that:
  1. The proposed sale of beer and wine is ancillary to a restaurant use and permitted in the CC 4 Zoning District with a MCUP.
  2. The project maintains the primary restaurant use in the suite, and does not expand the floor area or seating.
  3. The project supports the General Plan Economic Development Policy ED-2.03, which states, "*We give high priority to initiatives, investments, and the allocation of municipal resources that help businesses remain and prosper in San Clemente.*"
- B. The site is suitable for the type and intensity of use that is proposed, in that:
  1. The proposed sale of beer and wine is ancillary to an existing permitted

- restaurant use.
2. The project maintains the primary restaurant use in the suite, and does not expand the floor area or seating.
  3. The proposed use does not result in an increase of the required amount of on-site parking spaces.
  4. The restaurant is approximately 130 feet away from the nearest residential use.
- 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:
1. The proposed sale of beer and wine is ancillary to a permitted restaurant use.
  2. The City's Code Compliance Division, the Orange County Sheriff's Department and California Department of Alcoholic Beverage Control (ABC) do not have concerns with the indoor beer and wine service. The proposed use is conditioned to ensure the use incorporates best management practices, including a requirement for restaurant employees to receive Alcoholic Beverage Service Training.
  3. The restaurant is approximately 130 feet away from the nearest residential use.
  4. The City's Development Management Team reviewed the proposed use for consistency with the General Plan, the Zoning Ordinance, and other applicable City provisions, including, but not limited to, the California Building Code and Orange County Fire requirements, and supports the proposed use subject to attached conditions.

#### Section 4. Zoning Administrator Approval

Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Minor Conditional Use Permit MCUP 18-461, subject to the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Zoning Administrator on September 20, 2018

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Cecilia Gallardo-Daly, Zoning Administrator

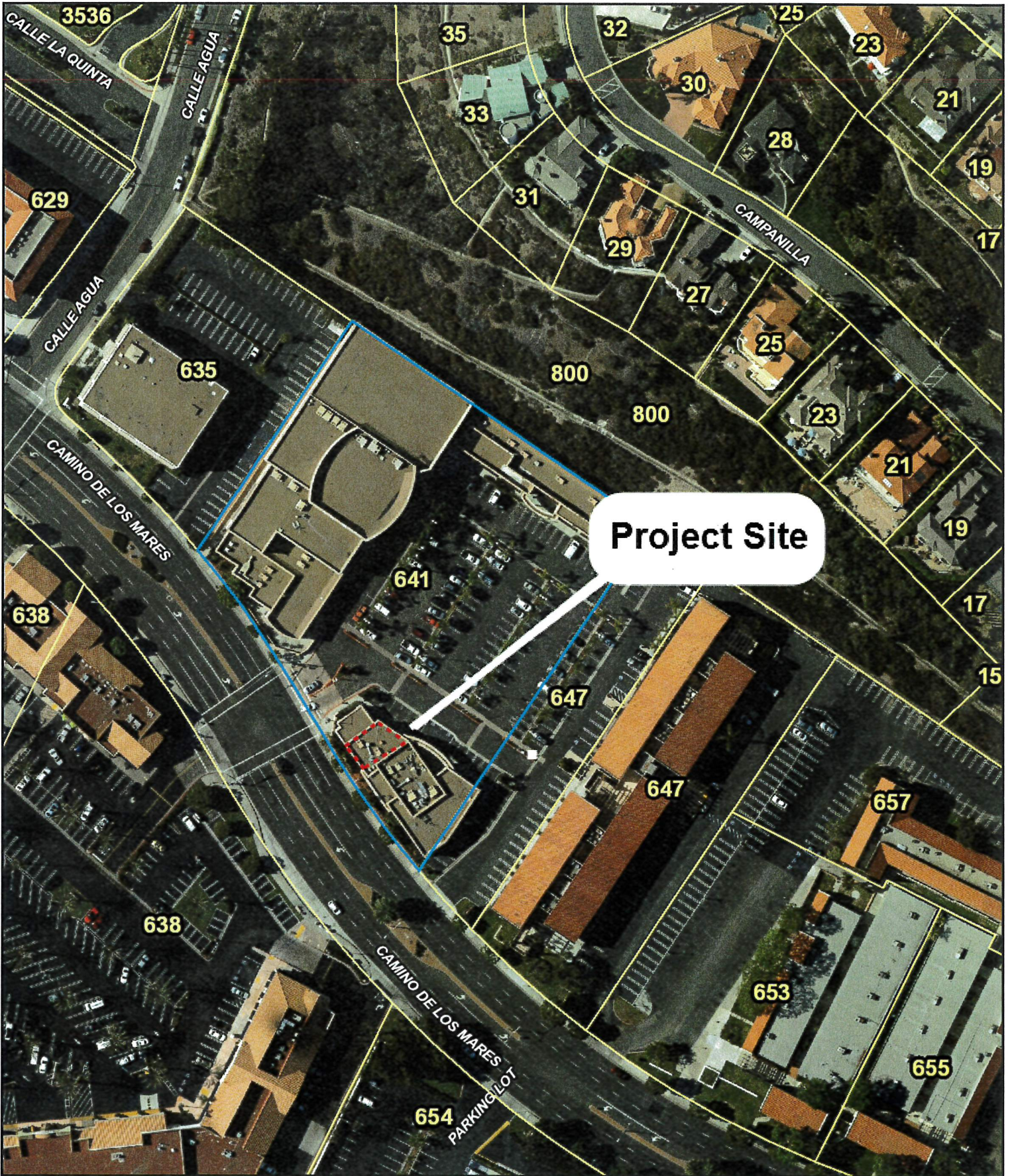
CONDITIONS OF APPROVAL  
MINOR CONDITIONAL USE PERMIT MCUP 18-461, THAI DARA 2

1. The applicant shall defend, indemnify, and hold harmless the City of San Clemente and its officers, employees, and agents from and against any claim, action, proceeding, fines, damages, expenses, and attorneys' fees, against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval of the City concerning this project, including but not limited to any approval or condition of approval of the City Council, Planning Commission, or City Planner. Applicant shall pay all costs, The City shall promptly notify the applicant of any claim, action, or proceeding concerning the project and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. If the applicant fails to so defend the matter, the City shall have the right, at its own option, to do so and, if it does, the applicant shall promptly pay the City's full cost of the defense. (PIng.)\_\_\_\_\_
2. Within thirty days after project approval, the owner or designee shall submit written consent to all of these imposed conditions to the Community Development Director or designee. The owner or designee understands that the resolution will be of no force or effect unless such written consent is submitted to the City. *[Citation – City Attorney Legal Directive]* (PIng.)\_\_\_\_\_
3. 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.)\_\_\_\_\_
4. The applicant shall comply with all applicable provisions of the San Clemente Municipal Code, adopted ordinances, and applicable state laws. (PIng.)\_\_\_\_\_
5. The property owner, applicant, or designee shall be responsible for immediately resolving any problems associated with the activity and/or issues of concern raised by neighbors. ■■ (PIng.)\_\_\_\_\_
6. The sale of beer and wine for indoor on-site consumption shall be limited to the operating hours of 11:00 a.m. to 9:00 p.m. daily. ■■ (PIng.) \_\_\_\_\_
12. A manager shall be on the premises, and available to respond to issues raised by the Orange County Sheriff's Department, Orange County Fire Authority, or City of San Clemente Code Compliance, during the hours of operation when alcohol service is occurring. ■■(Code Compliance)\_\_\_\_\_

13. The Applicant shall ensure that discharge of washwater and other pollutants (e.g. sediment, trash, food waste etc.) is prohibited from entering the storm drain system. ■■(Eng) (Code Compliance) \_\_\_\_\_
14. The Applicant shall post these conditions of approval in a conspicuous location clearly visible to employees to ensure employees are informed of and adhere to requirements and policies for all operations of the business, including but not limited to any alcohol service, when applicable. ■■ (Code Compliance) (Sheriff)\_\_\_\_\_
15. All commercial activities are to occur indoors. ■■ (Code Compliance) \_\_\_\_\_

All Conditions of Approval are standard, unless indicated as follows:

- Denotes a modified standard Condition of Approval.
- Denotes a project specific Condition of Approval

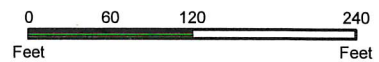


**City of San Clemente**

Project: MCUP 18-461

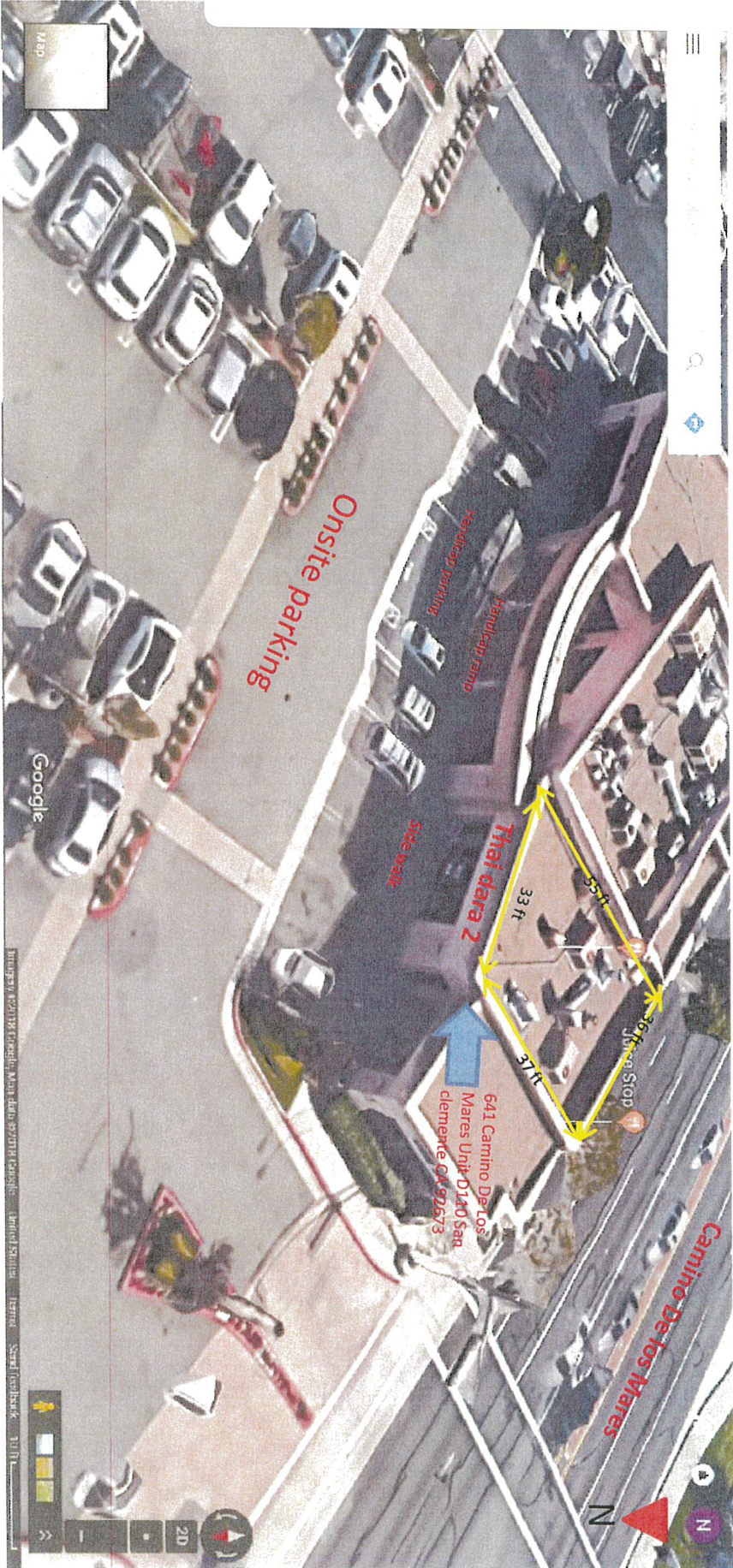
Address: 641 Camino De Los Mares, Suite D110

..... Suite location





ATTACHMENT 3



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