



STAFF REPORT

SAN CLEMENTE ZONING ADMINISTRATOR

Meeting Date: March 5, 2020

PLANNER: Erin Guy, Community Development Technician

SUBJECT: **Minor Conditional Use Permit (MCUP) 19-470, Pronto Italian Market,** a request to consider the sale of beer and wine for off-site consumption at 221 Avenida Del Mar, Suite A.

LOCATION: 221 Avenida Del Mar, Suite A

ZONING/GENERAL PLAN: Mixed Use 3.0 and Architectural, Pedestrian, and Coastal Zone Overlays (MU 3.0-A-P-CZ)

PROJECT SUMMARY:

- The project site is a two-unit commercial building located at 221 Avenida Del Mar and the subject business is located in Suite A. Suite B is tenanted by Pronto Italian Deli (formerly Tina and Vince’s Italian Deli), a restaurant with an existing MCUP for the sale of beer and wine for on-site consumption (MCUP 09-047). The two suites are owned and operated by the same owner, but are intended to operate as two separate businesses. The suites share an internal employee door that allows employees access to an employee restroom and storage closet. There is no interior connection that allows public access between suites. Customers must completely exit one business in one suite onto Avenida Del Mar to enter the other business in the adjacent suite. The subject tenant space is approximately 500 square feet. The site is surrounded by commercial properties to the north, east, and west, and mixed use residential units to the south. Figure 1 on the following page illustrates the subject suite.

Figure 1 – 221 Avenida Del Mar, Suite A



- Pronto Italian Market is a new specialty foods retail store. The applicant proposes the retail sale of beer and wine for off-site consumption in conjunction with the sale of other retail items, such as specialty food products and kitchen wares. Proposed hours of operation are Monday through Friday from 10:00 a.m. to 7:00 p.m., and Saturdays from 10:00 a.m. to 3:00 p.m. The proposed market does not include any dining areas and would not permit consumption of alcoholic beverages in Suite A.
- Suite A previously operated as a general retail office supplies and computer repair store. The new use as a general retail specialty food market requires the same parking ratio as the previous business. The proposed alcohol sales does not increase the required parking demand.
- Zoning Ordinance Section 17.40.030 requires Zoning Administrator Approval of a MCUP to allow for the retail sale of beer and wine for off-site consumption only.
- The proposed sale of beer and wine also requires the approval of a Type 20 ABC License. The applicant has applied for this license with the California Department of Alcoholic Beverage Control (ABC). Staff also conducted an on-site inspection of the project site with an ABC representative.
- In regards to the Coastal Zone, this project falls within the Coastal Exclusion Order Geographic Exclusion Area.
- Staff believes that the proposal complies with required findings for the MCUP for the following reasons:
 - The proposal does not include any on-site seating or on-site consumption of beer and wine, and therefore does not intensify the nature of the retail use.
 - The request does not alter seating capacity or intensify the retail use of the location. Hours of operation are similar in nature to nearby retail uses, and

- operating hours are proposed to end at 7:00pm on weekdays, and 3:00pm on Saturdays. The business does not propose to operate on Sundays.
- The proposed alcohol sales must comply with applicable codes, and operate according to best management practices.
 - The proposed sale of beer and wine for off site consumption is ancillary to the retail sales, and is allowable for off-site consumption only.
 - The proposed use is consistent with existing and permitted uses in the area, including the San Clemente Wine Company and Rancho Capistrano Winery, both of which permit accessory retail sales of beer and wine for off-site consumption.
 - The City of San Clemente Certified Land Use Plan Policy LU-24, Ground Floor Retail, states, *“In pedestrian-oriented environments, including but not limited to the VSCD, require retail uses to be located on the ground floor [...] to provide convenience and good visibility for shoppers. Whenever possible, require off-street parking to be screened and located on the side or at the rear of buildings”*. The proposed project includes a pedestrian oriented retail store located on the ground floor, convenient to pedestrian foot traffic. Therefore, the proposed project is consistent with LUP Policy LU-24.

RECOMMENDATION

Staff recommends that the Zoning Administrator:

1. Determine the project is Categorically Exempt from the requirements of the CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities); and
2. Adopt Resolution ZA 20-009, approving Minor Conditional Use Permit 19-470, Pronto Italian Market, subject to conditions of approval.

Attachments:

1. Resolution ZA 20-009
Exhibit A – Conditions of Approval
2. Location Map
3. Project Narrative
4. Project Plans

RESOLUTION NO. ZA 20-009

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING MINOR CONDITIONAL USE PERMIT 19-470, PRONTO ITALIAN MARKET, TO ALLOW THE SALE OF BEER AND WINE FOR OFF-SITE CONSUMPTION AT A SPECIALITY FOODS RETAIL STORE, LOCATED AT 221 AVENIDA DEL MAR, SUITE A

WHEREAS, on December 3, 2019, an application was submitted by applicant Donatella Polizzi of 3760 Elmira Avenue, Claremont, CA, 91711, and deemed complete on January 30, 2020 for Minor Conditional Use Permit 19-470, a request to allow the sale of beer and wine for off-site consumption at a specialty foods retail store, located at 221 Avenida Del Mar A. The subject site is in the Mixed Use 3 zoning district of the general plan and the Architectural, Coastal, and Pedestrian Overlay Zones. The site's legal description is Lot 11, Tract 779, Block 17 and Assessor's Parcel Number 058-112-20; 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 results in a negligible expansion or intensification of the existing retail use; and

WHEREAS, on January 9, 2020 and January 30, 2020 the City's Development Management Team (DMT) reviewed the proposed project for compliance with the General Plan, Zoning Ordinance, and other applicable City ordinances and codes and recommends approval, subject to conditions; and

WHEREAS, in accordance with City and State requirements, notice of the public hearing was published in the *San Clemente Times* newspaper on February 20, 2020, posted at the project site, and mailed to all property owners within 300 feet of the subject parcel; and

WHEREAS, on March 5, 2020, 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). This exemption covers, but is not limited to, 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. This exemption covers negligible expansions beyond the existing facilities and use. Here, the proposed project involves negligible or no expansion of an approved use in that retail sales are a permitted use by right in the Mixed Use 3 zoning district, and the proposed project includes no proposal for on-site seating or on-site consumption of any kind. Thus, the project qualifies for the Class 1 exemption.

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, given the proposed use is consistent with General Plan policies and Zoning regulations, which were studied and addressed in the General Plan EIR. Development of the site is limited by standards for density, setbacks, lot coverage, parking, height, etc. 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. 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) 19-470, 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 this title, the San Clemente General Plan, and the Certified Land Use 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 for off-site consumption is ancillary to a retail use permitted in the MU3 Zoning District, and is permitted with the approval of a MCUP.
 2. The General Plan Land Use Policy LU-11.10, Unique Commercial Character, encourages, *“unique, locally-based businesses and services that help maintain and enhance Downtown’s unique village character”* within the Del Mar/T-Zone Focus Area. The proposed project includes the addition of the retail sale of beer and wine for off-site consumption at a specialty Italian foods retail store, meeting the intent of unique and locally based businesses.

Therefore, the project is consistent with General Plan goals and policies specific to the Del Mar/T-Zone focus area.

3. The General Plan Land Use Element Goal for Mixed Use Areas is to, *“Promote and support development in areas designated for Mixed Use that is attractively designed, adds vitality and pedestrian activity, enhances economic opportunities, reduces vehicle trips and associated air pollution and offers convenient and affordable housing opportunities for all income levels”*. The proposed project encourages pedestrian activity in that it adds products to an existing retail opportunity that promotes pedestrian activity as a specialty foods store, and reduces vehicle trips by expanding product availability at the existing retail store. Therefore, the proposed project is consistent with the General Plan Mixed Use goals.
 4. The City of San Clemente Certified Land Use Plan Policy LU-24, Ground Floor Retail, states, *“In pedestrian-oriented environments, including but not limited to the VSCD, require retail uses to be located on the ground floor [...] to provide convenience and good visibility for shoppers. Whenever possible, require off-street parking to be screened and located on the side or at the rear of buildings”*. The proposed project includes a pedestrian oriented retail store located on the ground floor, convenient to pedestrian foot traffic. Therefore, the proposed project is consistent with LUP Policy LU-24.
- 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 for off-site consumption is ancillary to a retail use permitted in the MU3 Zoning District, and is permitted with the approval of a MCUP.
 2. The primary function of Suite A is as a retail use, and the proposed project does not expand the gross floor area or propose seating areas of any kind.
 3. The proposed use does not result in an increase of the required amount of on-site parking spaces.
- C. The proposed use will not be detrimental to the public health, safety, or welfare, or materially injurious to properties and improvement in the vicinity, in that:
1. The proposed sale of beer and wine for off-site consumption is ancillary to a retail use permitted in the MU3 Zoning District, and is permitted with the approval of a MCUP.
 2. The proposed hours of operation are consistent with other retail uses in the area such as the San Clemente Wine Company at 212 1/2 Avenida Dal Mar, which closes at 9:00 p.m. Monday – Thursday and at 10:00 p.m. Friday - Saturday. The proposed operating hours are more restrictive than similar existing uses, and are not proposed past 7:00 p.m. on weekdays, and not proposed past 3:00 p.m. on Saturdays. They do not propose and operations on Sundays. The proposed hours are consistent with the hours of retail sales,

and do not coincide with the hours of existing restaurants and bars which serve alcohol for on-site consumption later in the evenings and on weekends.

D. The proposed use will not negatively impact surrounding land uses, in that:

1. The proposed sale of beer and wine for off-site consumption is ancillary to a retail use permitted in the MU3 Zoning District, and is permitted with the approval of a MCUP.
2. The primary function of the Suite is as a retail use, and the proposed project does not expand the gross floor area or propose seating areas of any kind.
3. The proposed hours of operation are consistent with other retail uses in the area such as the San Clemente Wine Company at 212 1/2 Avenida Dal Mar, which closes at 9:00 p.m. Monday – Thursday and at 10:00 p.m. Friday - Saturday. The proposed operating hours are more restrictive than similar existing uses, and are not proposed past 7:00 p.m. on weekdays, and not proposed past 3:00 p.m. on Saturdays. They do not propose and operations on Sundays. The proposed hours are consistent with the hours of retail sales, and do not coincide with the hours of existing restaurants and bars which serve alcohol for on-site consumption later in the evenings and on weekends.

Section 4. Zoning Administrator Approval

Based on the foregoing recitals and findings above, and the written and oral comments, facts, and evidence presented, the City of San Clemente Zoning Administrator approves Minor Conditional Permit 19-470, Pronto Italian Market, 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 March 5, 2020.

Cecilia Gallardo-Daly, Zoning Administrator

CONDITIONS OF APPROVAL
MINOR CONDITIONAL USE PERMIT 19-470, PRONTO ITALIAN MARKET

1.0 GENERAL CONDITIONS OF APPROVAL

- 1.1 Within 30 days of receipt of the signed conditions of approval, the applicant shall submit to the City Planner a signed acknowledgement concurring with all conditions of approval on a form to be provided by the City, unless an extension is granted by the City Planner. Planning
- 1.2 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. Planning
- 1.3 Use and development of this property shall be in substantial conformance with the approved plans, material boards and other applicable information submitted with this application, and with these conditions of approval. Any modifications to the project shall be reviewed by the City Planner in accordance with Zoning Ordinance Section 17.12.180. Planning
- 1.4 The applicant shall comply with all applicable current and future provisions of the San Clemente Municipal Code, adopted ordinances, and state laws. Planning
- 1.5 Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations. Code Compliance
- 1.6 Pursuant to section 17.12.150(C) of the Zoning Ordinance, the use allowing the sale of beer and wine for off-site consumption Planning

shall be deemed to have lapsed, and MCUP 19-470 shall be deemed to have expired, ninety (90) days after the date the sale of beer and wine for off-site consumption ceases operation and/or the business closes at such location.

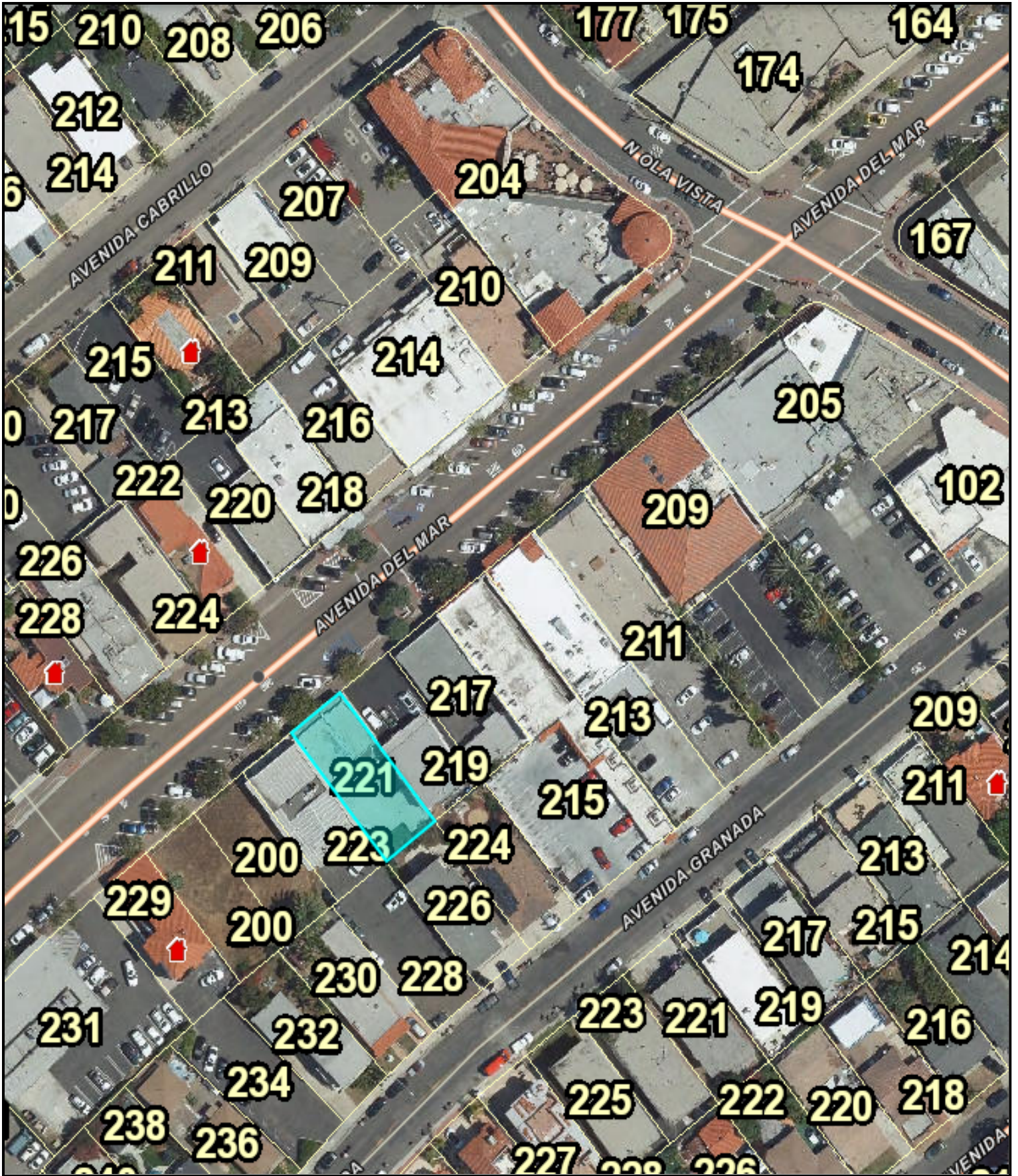
- 1.8 The sale of beer and wine for on-site consumption is not permitted with this approval. This approval is limited to the sale of beer and wine for off-site consumption only. Dining and/or seating areas are not permitted for Suite A. Planning **
- 7.0 **OPERATIONAL CONDITIONS OF APPROVAL**
- 7.3 The sale of beer and wine for off-site consumption shall be limited to the hours of 10:00 a.m. to 7:00 p.m. Monday through Friday, and 10:00 a.m. to 3:00 p.m. on Saturdays. Any proposed change in the hours of operation shall require an amendment to Minor Conditional Use Permit 19-470. Planning **
- 7.3 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]* Code Compliance
- 7.17 The Applicant (including any property owners and managers, and their designees) shall use her/his best judgment and best management practices to ensure all commercial activities on the premises will be conducted in a manner that will not be disruptive to neighbors. The property owner/business owner(s) shall be responsible for ensuring compliance with the San Clemente Municipal Code (SCMC), and all conditions of approval contained herein. The Applicant (including any property owners and managers, and their designees) hereby understands that noncompliance with regulations and conditions of approval, shall be immediate grounds for citation pursuant to SCMC Section 8.52.030(Y), which states, "It is declared a public nuisance for any person owning, leasing, occupying or having charge or possession of any premises in this City to maintain such premises in such manner that ... A structure, improvement, property, and/or land use is not in compliance with terms and/or conditions of any City of San Clemente issued permit or approval," and any subsequent revision of this section of the code. *[Citation - Section 8.52.030(Y) of the SCMC]* Code Compliance **

- 7.18 The Applicant (including any property owners and managers, and their designees) shall ensure that discharge of wastewater and other pollutants is prohibited from entering the storm drain system. Applicant must prevent pollutants (e.g. sediment, trash, food waste etc.) and any wastewater used during cleanup from entering the storm drain system. Code Compliance WQ **
- 7.19 The Applicant (including any property owners and managers, and their designees) shall abide by all applicable laws, including Orange County Health Department and the California Department of Alcoholic Beverage Control (ABC) laws. Code Compliance OCHealth ABC **
- 7.20 The Applicant (including any property owners and managers, and their designees) shall post these conditions of approval in a conspicuous location clearly visible to employees to ensure they are informed of and adhere to requirements and policies for all operations of the business, including but not limited to any live entertainment, dancing activity, or alcohol service, when applicable. Code Compliance OCSD **
- 7.21 The Applicant (including any property owners and managers, and their designees) understands and agrees that no temporary signage is part of this review, nor is any such signage approved or permitted by this permit. All temporary signage shall comply with Zoning Ordinance Table 17.84.030A & Section 17.84.030(H), and any applicable Master Sign Programs. Applicant understands and agrees that as a condition of approval of this permit that Applicant is aware of the City's temporary sign regulations and that compliance with those regulations is a term of the subject permit's approval by the City. As such, any violation of the City's regulations related to window, banner, or temporary signs shall constitute a violation of SCMC Section 8.52.030(Y), as discussed in accompanying conditions of approval. [Citation - Section 17.16.240.D of the SCMC] Code Compliance **
- 7.23 The Applicant (including any property owners and managers, and their designees) understands and acknowledges that the use of amplified sound, including the electronically amplified sound of music, human voice, or other sound within a business, restaurant, bar or other commercial establishment is not permitted except under a conditional use permit (CUP) granted by the City. This prohibition does not include televisions, radios, or reasonable background or ambient music. Code Compliance **

- 7.24 The Applicant (including any property owners and managers, and their designees) shall be responsible for ensuring that no loud and excessive noise-generating activities on the subject property in connection with loading or unloading any vehicle or the opening and destruction of bales, boxes, crates and containers are conducted between the hours of ten (10:00) p.m. and seven (7:00) a.m. [Citation - Section 8.48.070(O) of the SCMC] Code Compliance **

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

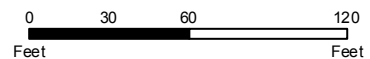
- * Denotes a modified standard Condition of Approval.
- ** Denotes a project specific Condition of Approval



City of San Clemente

Project: MCUP 19-470

Address: 221 Avenida Del Mar, Suite A



PRONTO ITALIAN MARKET

IS A SPECIALTY FOOD STORE SPECIALIZED
IN ITALIAN FOOD, BEER AND WINE

B. HOURS

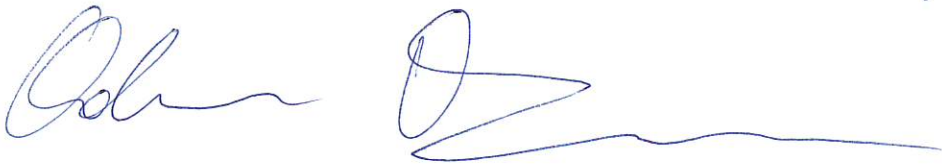
M-F 10:00 / 7:00

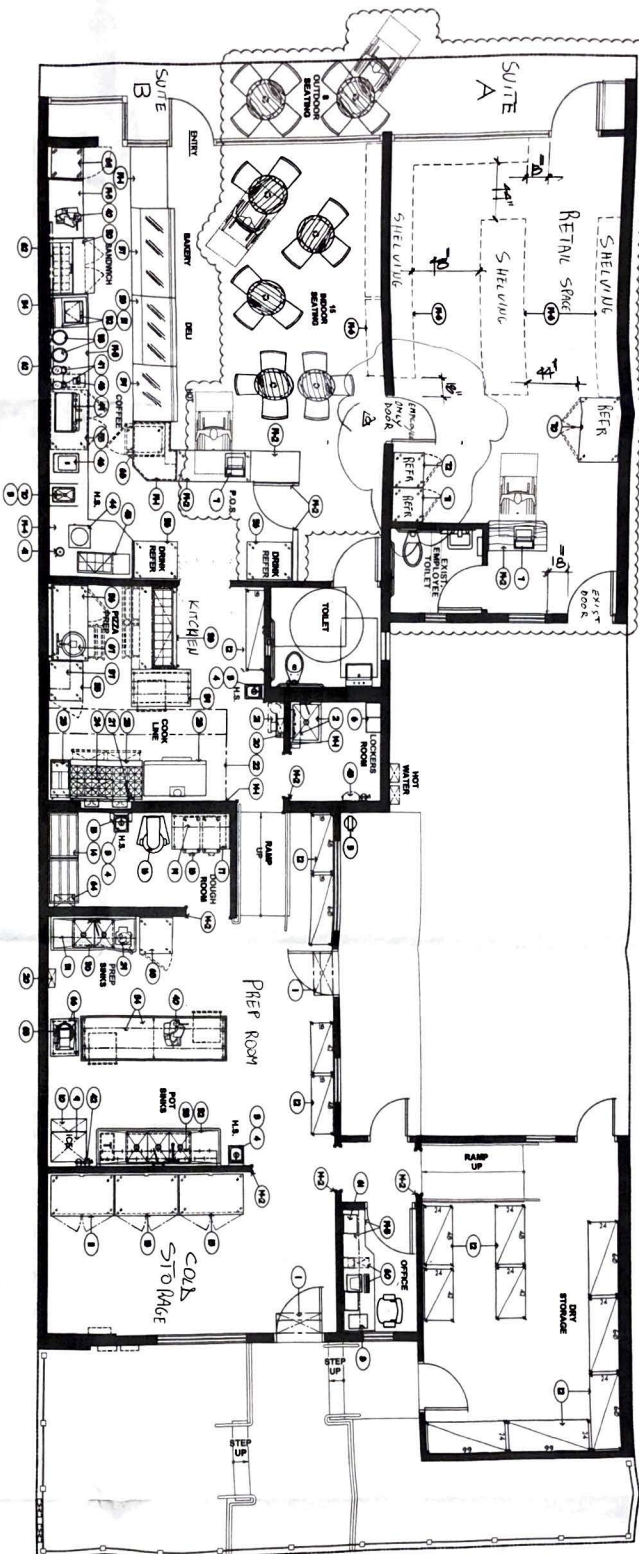
SAT 10:00 / 3:00

N^o OF EMPLOYEE : 3 (Three)

ADRIANO PIAZZA

12/03/2019



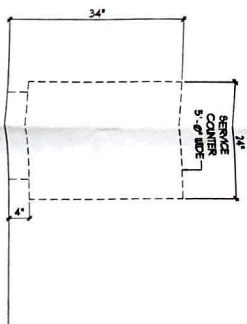
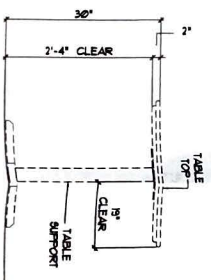


Employee Only Book will display a "Employee Only" sign on the book itself and on top of the book on both sides

FLOOR PLAN

HANDICAP SEATING CALCULATION

- DINING SEATING
- 5 SEATING X 54" = 6/5 REQUIRED
 - 6 SEATING (EXTERIOR) X 54" = 6/4 REQUIRED
- 1 PROVIDED



HANDICAP TABLE DETAIL

SERVICE COUNTER SECTION

PLAN NORTH



SCALE 1/8" = 1'-0"

client: DONATELLA POLIZZI
3760 ELMIRA AVENUE
CLAREMONT, CA 91711

project: DELI RENOVATION
221 AVENIDA DEL MAR, UNIT B
SAN CLEMENTE, CA 92672

KITCHEN FLOOR PLAN,
EQUIPMENT RELATED
DETAILS

CHARLES RAMM
1001 AVONDA POOL
SUITE D-440
SAN CLEMENTE, CA 92672
(949) 448-4482
FAX: (949) 448-4481
WWW.CHARLESRAMM.COM

DATE: 04-2018
SCALE: AS NOTED
DRAWN: CMA
CHECKED: [Signature]
PROJECT: [Signature]

NO. 1
SHEET 1

K-1