



# STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: March 20, 2024

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**PLANNER:** John Ciampa, Contract Planner

**SUBJECT:** **Conditional Use Permit (CUP) 23-427, Pronto Cucina Italiana Full Alcohol**, a request for an existing restaurant to expand alcohol sales from beer and wine (ABC Type 41 License) to full range alcohol for on-site consumption (ABC Type 47 License) at 221 Avenida Del Mar, Suite B, and finding the project is categorically exempt from the California Environmental Quality Act under Section 15301 (Class 1: Existing Facilities).

## **REQUIRED FINDINGS**

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

***Conditional Use Permit, Zoning Ordinance Section 17.36.020, to allow the sale of beer, wine, liquor, and spirits for on-site consumption.***

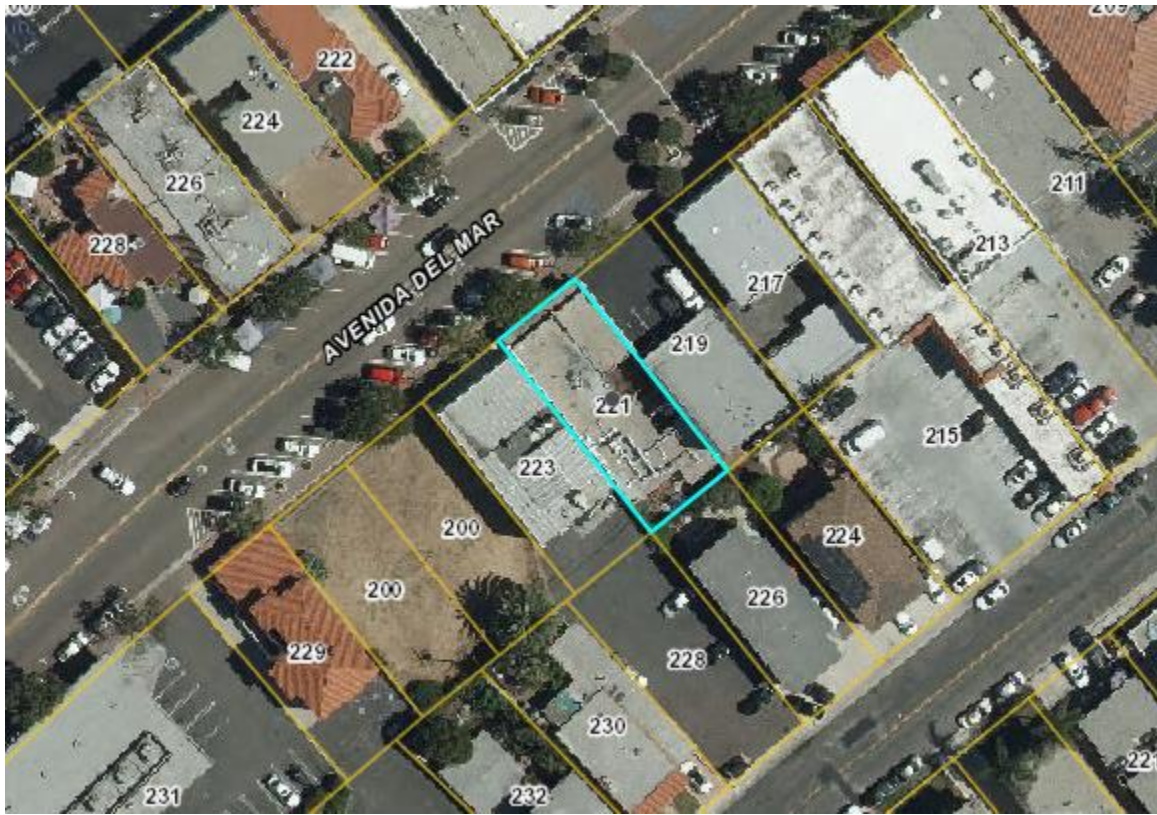
- a. The proposed use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all the applicable provisions of this title, the San Clemente General Plan and the purpose and intent of the zone in which the use is being proposed.
- b. The site is suitable 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 subject site is a 4,268 square-foot lot located in the City's downtown Mixed Use 3.0 zoning district, Architectural and Central Business Overlay Districts, and the Visitor Serving Commercial Overlay District within the Coastal Zone (MU3.0-A-CB/VSCD-CZ). The property consists of a 2,490 square-foot commercial building that was constructed in 1949 and contains two commercial suites. Suite A is operated by Pronto Italian Market which sells specialty Italian goods including full range alcohol for off-site consumption. Suite B is operated by the same owner that runs the restaurant Pronto Cucina Italiana. Both businesses have operated since 2021 and are uses permitted by right in the MU3.0-

CB/VSCD-CZ zoning district as they are visitor serving uses. The building is considered legal non-conforming to parking because it was developed in 1949 prior to the establishment of parking standards for the City and there are no on-site parking spaces. Patrons of the restaurant utilize public street parking or one of the public parking lots in the vicinity. Image 1 below is an aerial view of the site.

**Image 1 – Aerial View of Project Site**



***Development Management Team Meeting***

The City's Development Management Team (DMT) reviewed the project on January 18, 2024, and recommends approval with conditions included in Attachment 1, Exhibit A.

***Noticing***

Public notices were distributed and posted per City and State requirements. Staff has received no public comment on this item to-date.

**PROJECT DESCRIPTION**

Pronto Cucina Italiana is requesting a CUP to allow the sale of full range alcohol for on-site consumption (ABC Type 47 License). The applicant intends to complement its Italian

food with the sale of unique Italian specialty drinks. Pronto Cucina Italiana would operate under the same general hours of 12:00 pm to 11:00 pm Monday through Sunday. The owner is processing applications concurrently with both the City and Alcohol Beverage Control (ABC) to obtain the necessary approvals.

## **PROJECT ANALYSIS**

### ***Conditional Use Permit***

The CUP process is intended to encourage uses to be located in a manner that is: 1) consistent with the City's zones; 2) sensitive to community and neighborhood identity; and 3) minimizes impacts to adjacent uses. Per Zoning Ordinance Section 17.40.020, a CUP is required to allow the sale of beer, wine, liquor, and spirits (ABC Type 47 License) for on-site consumption. The restaurant has operated with a Type 41 License for the sale of beer and wine for on-site consumption for three years and now requests to expand its ability to serve a full range of alcohol with its meals.

The City's Code Compliance Department, the Orange County Sheriff's Department, and the Department of Alcoholic Beverage Control reviewed the application and have no issues or concerns with Pronto Cucina Italiana's request to allow full-range alcohol sales for on-site consumption. The restaurant must continue to comply with all code requirements, including, but not limited to, Fire Code, California Building Code, ABC, and the San Clemente Municipal Code. The requirements mandate employees receive service training to avoid the sale of alcoholic beverages to minors. For these reasons, staff supports the request for the sale of beer, wine, liquor, and spirits for on-site consumption for Pronto Cucina Italiana.

The project can be found to meet the findings for approval, in that no physical changes to the site are required since the restaurant is an established use and the request is limited to the sale of full alcohol for on-site consumption. Additionally, the subject site was designed and approved for commercial uses, such as restaurants that sell full alcohol, and the project does not intensify the parking demand for the existing use pursuant to the San Clemente Municipal Code's parking standards.

## **GENERAL PLAN CONSISTENCY**

Attachment 3 summarizes how the proposed use is consistent with applicable General Plan policies.

## **ENVIRONMENTAL REVIEW/COMPLIANCE (CEQA)**

The Planning Division completed an initial environmental assessment of the project per the California Environmental Quality Act (CEQA). Staff recommends the Planning Commission determine the project is Categorically Exempt from CEQA pursuant to CEQA Guidelines Section 15301 (Class 1: Existing Facilities) and because the project is limited to

the Pronto Cucina Italiana expansion of alcohol service from beer and wine to full range alcohol for on-site consumption in a restaurant (ABC Type 47 License).

### **CALIFORNIA COASTAL COMMISSION REVIEW**

The project is located in the Coastal Zone; however, it is not development under the California Coastal Act and, therefore, does not require review by the California Coastal Commission.

### **ALTERNATIVES:**

The Planning Commission may take any of the following actions:

1. Approve the application(s).
2. Modify the conditions of approval to effect desired changes prior to approval.
3. Deny the application(s). If the Commission wishes to pursue this option, the hearing would need to be continued to allow the appropriate resolution(s) to be prepared.

### **RECOMMENDATION**

Staff recommends that the Planning Commission:

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 PC 24-005, approving Conditional Use Permit (CUP) 23-427, Pronto Cucina Italian Full Alcohol, subject to attached conditions of approval.

### ***Attachments:***

1. Resolution No. PC 24-005  
Exhibit A - Conditions of Approval
2. Location Map
3. General Plan Consistency
4. Restaurant Floor Plan
5. Photos

RESOLUTION NO. PC 24-005

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 23-427, PRONTO CUCINA ITALIANA FULL ALCOHOL, LOCATED AT 221 AVENIDA DEL MAR SUITE B AND FINDING THE PROJECT IS CATEGORICALLY EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT UNDER SECTION 15301 (CLASS 1: EXISTING FACILITIES)

WHEREAS, on December 5, 2023, an application was submitted by Donatella Polizzi, 221 Avenida Del Mar, Suite B, San Clemente, CA 92672 for Conditional Use Permit (CUP) 23-427 and deemed complete on January 22, 2024; a request to allow the sale of full alcohol for on-site consumption at Pronto Cucina Italiana located at 221 Avenida Del Mar, Suite B, in the Mixed Use 3.0 Zone, Architectural Overlay, Central Business Overlay District, and Coastal Zone/Visitor Serving Commercial District (MU-3-A-CB/CZ-VSCD) in the City's downtown. The site's legal description is Tract 779, Block 17 of Lot 11 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 that the Planning Commission determine the project is Categorically Exempt from CEQA pursuant to State CEQA Guidelines Section 15301 (Class 1: Existing Facilities). This is recommended because the project is limited to the Pronto Cucina Italiana's expansion of alcohol sales from beer and wine (ABC Type 41 License) to full range alcohol for on-site consumption for a restaurant establishment (ABC Type 47 License); and

WHEREAS, on January 18, 2024, 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, while the proposed project is located in the Coastal Zone, it is not development under the California Coastal Act and does not require review by the California Coastal Commission; and

WHEREAS, on March 20, 2024, the Planning Commission 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 Planning Commission of the City of San Clemente does hereby resolve as follows:

Section 1. Incorporation of Recitals.

The Planning Commission hereby finds that all of the facts in the Recitals are true and correct and are incorporated and adopted as findings of the Planning Commission 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 Planning Commission, and the facts outlined below, the Planning Commission 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. This exemption covers, but is not limited to, interior or exterior alterations, additions to existing structures that will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. Here, the proposed project consists of allowing the sale of full range alcohol for on-site consumption for a restaurant. The project does not change the existing general use of the site. 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. Selling full range alcohol for restaurants in the MU3.0 zoning district requires a discretionary review to ensure potential impacts are mitigated. The subject zone allows a variety of uses, beyond restaurants, such as retail, hair salons, offices, markets etc. that are operating in the vicinity. There are no unusual circumstances surrounding the project that result in a reasonable possibility of a significant effect on the environment. There are no especially sensitive resources (endangered species, wetlands, etc.) on the project site or in the vicinity. 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, and the project will not cause a substantial adverse change in the significance of a historical resource. The project is located in a developed mixed-use zone with no historical resources adjacent to the property. Thus, the Class 1 exemption applies, and no further environmental review is required.

### Section 3. Conditional Use Permit Findings

With respect to Conditional Use Permit (CUP) 23-427 for the full alcohol sales for on-site consumption for an existing restaurant, the Planning Commission finds as follows:

- 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 Title 17, the San Clemente Municipal Code, the San Clemente General Plan, and the purpose and intent of the zone in which the use is being proposed, in that:

1. The restaurant's sale of full alcohol for on-site consumption is conditionally permitted and is a consistent use in the Mixed Use (MU3.0) Zoning District; and
  2. The use will remain a restaurant which will be compatible with the mix of uses in the Mix Use 3.0 zone and will serve the residences in the vicinity.
- B. The restaurant's proposed sale of full alcohol for on-site consumption is consistent with General Plan Policy LU-11.10 in that the project to allow the sale of full alcohol for Pronto Cucina Italiana encourages the locally based business in the downtown to enhance the unique village character. The use is sensitive to nearby residential properties in that it is limited to the sale of full alcohol for on-site consumption and does not include amplified sound or live entertainment. Additionally, the request contributes to the mix of uses in the downtown serve the nearby residential uses, community, and visitors.
- C. The site is suitable for the type and intensity of use that is proposed, in that:
1. No physical changes to the site are required since the restaurant is an established use, and the request is limited to the sale of full alcohol for on-site consumption; and
  2. The subject site was designed and approved for commercial uses, such as restaurants that sell full alcohol; and
  3. The project does not intensify the parking demand for the use.
- D. 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 City's Code Compliance Department, the Orange County Sheriff's Department, and the Department of Alcoholic Beverage Control, support the request and have no issues with the existing restaurant and its alcohol sales; and
  2. The restaurant must continue to comply with all code requirements, including but not limited to the Fire Code, California Building Code, Alcoholic Beverage Control (ABC), and the San Clemente Municipal Code, including requirements for employees to receive Responsible Alcoholic Beverage Service Training to avoid the sale of alcoholic beverages to minors for consumption.
- E. The proposed use will not negatively impact surrounding land uses, in that:
1. The use sale of full range alcohol is only for on-site consumption; and

- 2. The restaurant’s authorization to sell full range alcohol is conditioned with limited hours of operation from 12:00 pm to 11:00 pm Monday through Sunday; and
- 3. The project does not intensify the parking demand for the use.

Section 4. Planning Commission Approval.

Based on the foregoing recitals and findings, and the written and oral comments, facts, and evidence presented, the City of San Clemente Planning Commission approves Conditional Use Permit 23-427, Pronto Cucina Italiana Full Alcohol, subject to the Conditions of Approval set forth in Exhibit A.

PASSED AND ADOPTED at a regular meeting of the City of San Clemente Planning Commission on March 20, 2024.

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Cameron Cosgrove, Chair

CERTIFICATION:

I HEREBY CERTIFY this Resolution was adopted at a regular meeting of the City of San Clemente Planning Commission on March 20, 2024, carried by the following roll call vote:

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

Attest:

\_\_\_\_\_  
Jonathan Lightfoot,  
Secretary of the Planning Commission



CONDITIONS OF APPROVAL  
 CONDITIONAL USE PERMIT 23-427,  
 PRONTO CUCINA ITALIANA FULL ALCOHOL

**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 acknowledgment 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 (including any property owners and managers, and their designees) shall defend (with counsel acceptable to the City), 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 City's costs upon request by the City. 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 | The 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.  | All          |
| 1.5 | Use of the subject property shall conform to all occupancy requirements, including posting of signs related to the maximum occupancy limitations.   | Code<br>Comp |

1.6 Conditional Use Permit 23-427 shall be deemed to have expired if within three years of approval the project is not commenced, or the project permitted by the approved application has lapsed, as defined by Zoning Ordinance Section 17.12.150. Planning

**4.0 PRIOR TO ISSUANCE OF BUILDING PERMITS**

4.1 The working drawings shall include within the first four pages a list of all conditions of approval included in this resolution if a permit is required. Planning

**7.0 OPERATIONAL CONDITIONS OF APPROVAL**

**Businesses Selling Alcoholic Beverages**

7.1 The sale of beer, wine, liquor and spirits for on-site consumption shall be limited to the hours of 12:00 pm to 11:00 pm, Monday through Sunday. Any proposed change to the alcohol sales hours shall require an amendment to Conditional Use Permit (CUP) 23-427. Planning \*

7.2 All employees shall 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. Training shall be provided as soon as practical following the hire date of each employee. Evidence of such training shall be maintained on-site during business hours and made available for inspection by any city official upon request. (SCMC Section 17.16.070). Code Comp

7.3 A manager shall be on the premises at all times, and available to respond to issues raised by representatives from the Orange County Sheriff's Department, Orange County Fire Authority, or City of San Clemente Code Compliance, during the hours of operation when alcohol sales are provided. Code Comp

7.4 These conditions of approval shall be posted 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 alcohol sales, when applicable. Code Comp

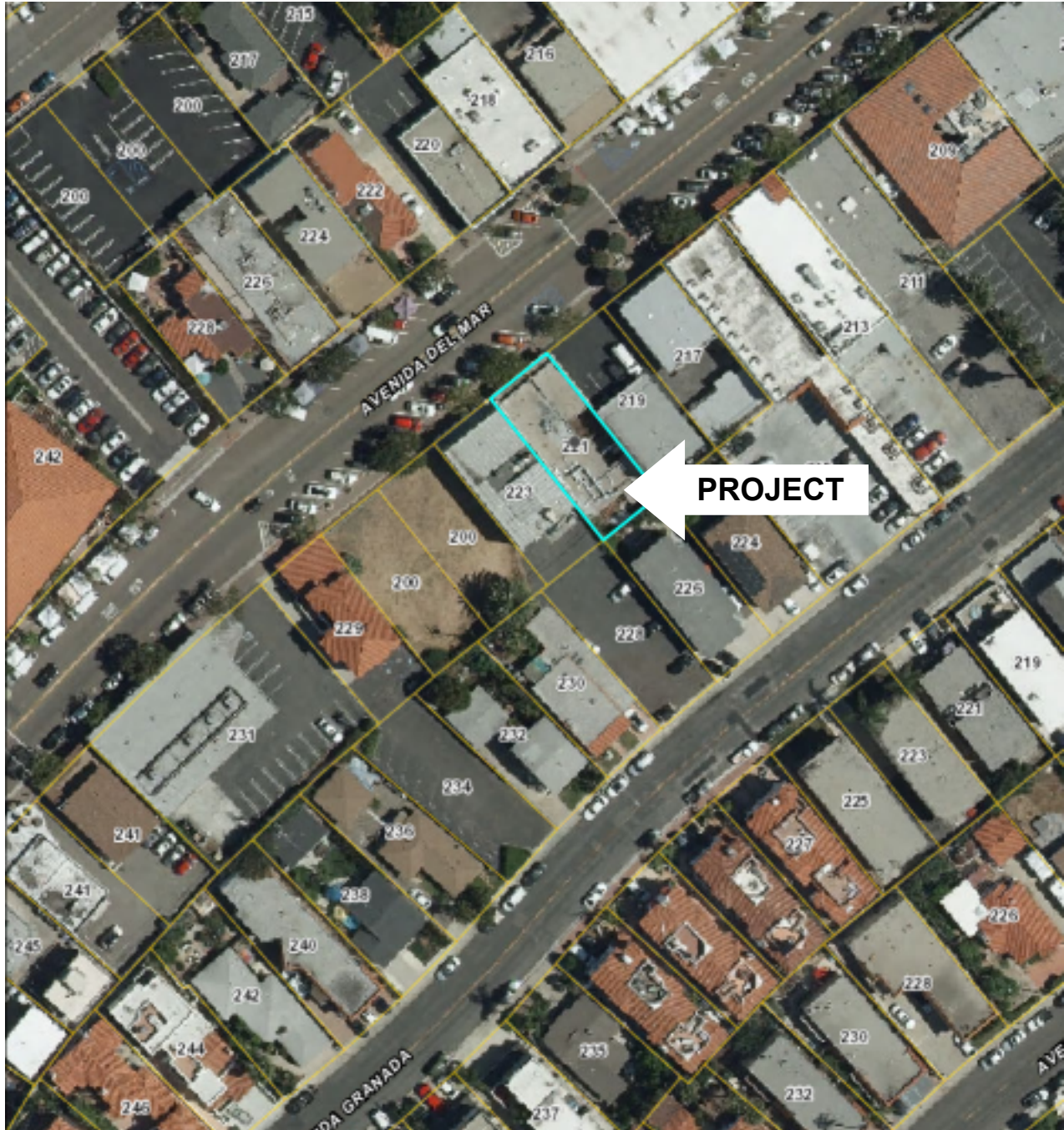
7.5 The use of amplified sound (including the electronically amplified sound of live music, human voice, or other sound within a business, restaurant, bar, or other commercial establishment) is not permitted under this permit and would require submittal and approval of an additional application for a Conditional Use Permit to allow for amplified sound and entertainment. This prohibition does not include televisions, radios, or reasonable background or ambient music. Code Comp


- \* Denotes a modified Standard Condition of Approval
- \*\* Denotes a project-specific Condition of Approval



# LOCATION MAP

Pronto Cucina Italiana Full Alcohol  
221 Avenida Del Mar, Suite B



No scale 

**General Plan Consistency**

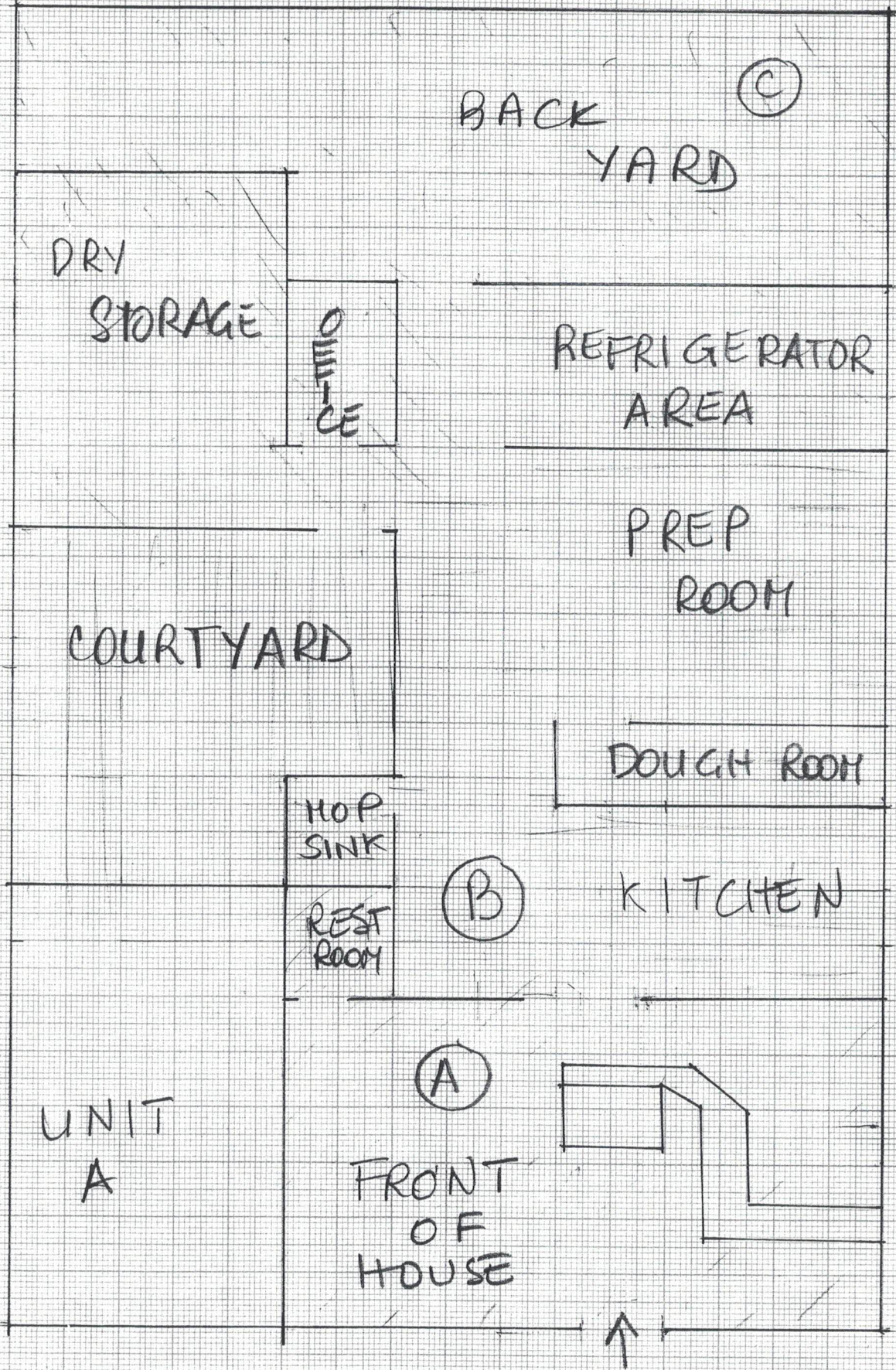
<b>Policies and Objectives</b>	<b>Consistency Finding</b>
<p>1. Mixed Use Land Use Element Goal states, "Achieve the City's Vision by establishing and maintaining balance of uses that provides distinct and vibrant commercial and industrial areas offering a range of retail, service and employment uses that complement rather than compete with one another"</p>	<p>Consistent. Permitting the restaurant to sell full range alcohol allows the use to better serve visitors and residences of the City's downtown Mixed Use 3.0 zoning district.</p>
<p>2. LU-3.03. Ground Floor Retail. In pedestrian-oriented environments, we require retail uses to be located on the ground floor to provide convenience and good visibility for shoppers. Whenever possible, we require off-street parking to be screened and located on the side or at the rear of buildings.</p>	<p>Consistent. Pronto Cucina Italiana with the sale of full range alcohol is a ground floor restaurant that is pedestrian-oriented to serve residents and visitors of the downtown.</p>
<p>3. Del Mar/T-Zone Focused Area and Downtown Core goal "Preserve and where appropriate, improve the Del Mar/T-Zone so that it serves as the symbolic, functional, historic and physical center of the City; emphasizing its use as a pedestrian-oriented commercial and residential "village" providing for the needs of residents and visitors."</p>	<p>Consistent. The proposed expansion of the Pronto Cucina Italiana to sell full range alcohol enhances a distinct service to the downtown as a unique restaurant. The use is sensitive to nearby residential properties in that does not include amplified sound or live entertainment. Allowing the sale of full alcohol contributes to the unique use to serve the nearby residential uses and community.</p>

5. LU-11.10. Unique Commercial Character. We encourage unique, locally-based businesses and services that help maintain and enhance Downtown's unique village character.

Consistent. The project allows the sale of full alcohol for Pronto Cucina Italiana which encourages the unique locally-based business in the downtown to enhance the village character. The use is sensitive to nearby residential properties in that it does not include amplified sound or live entertainment. Additionally, the request contributes to the mix of uses in the downtown serve the nearby residents and visitors.

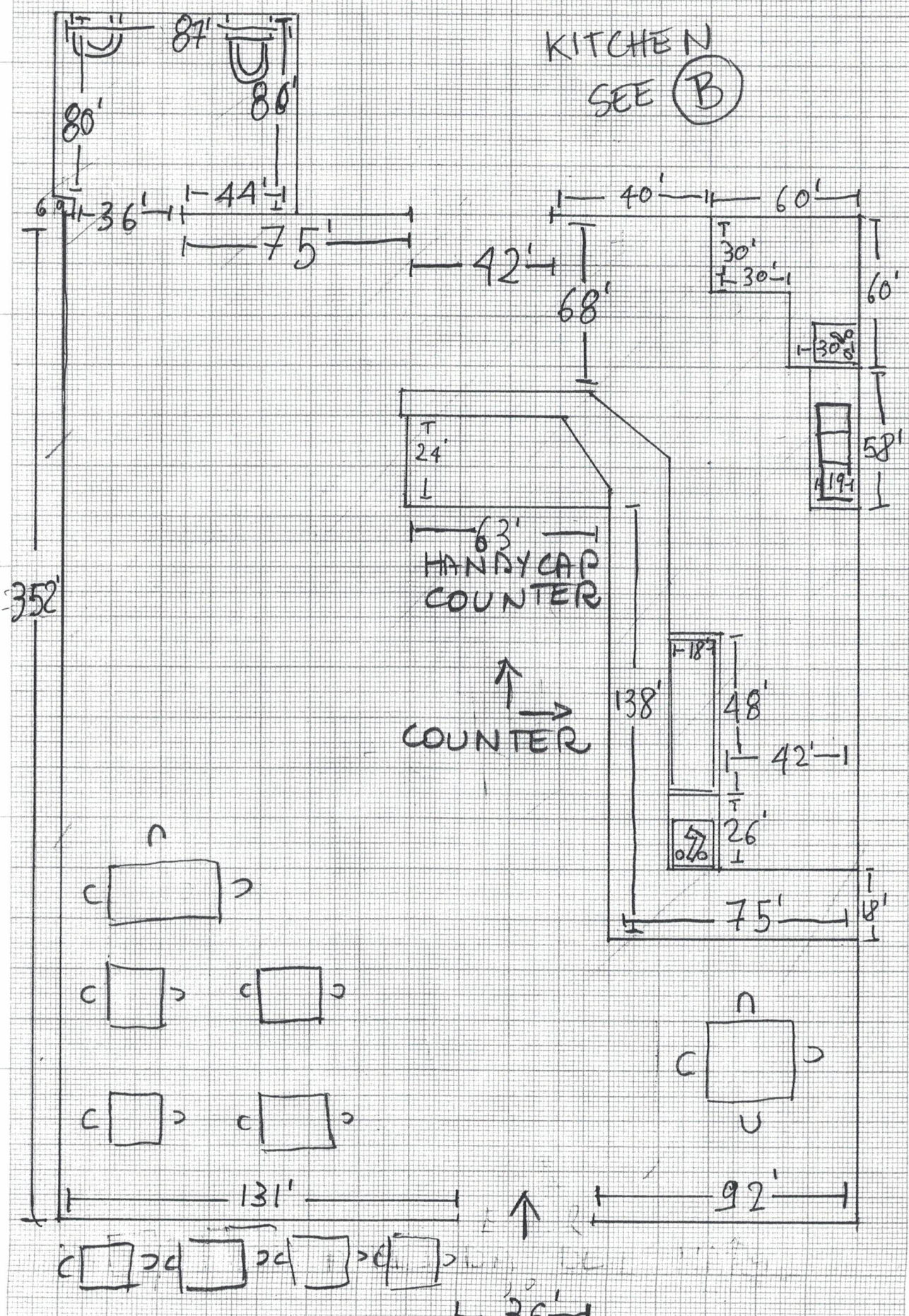


OVERALL





(A)





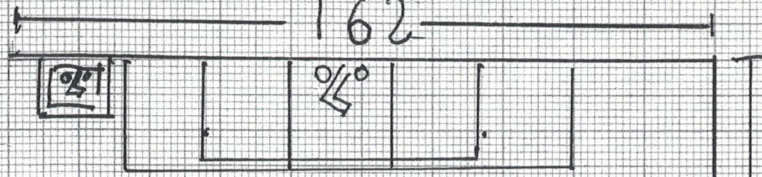
(B)

REFRIGERATORS

TO OFFICE - STORAGE

AREA

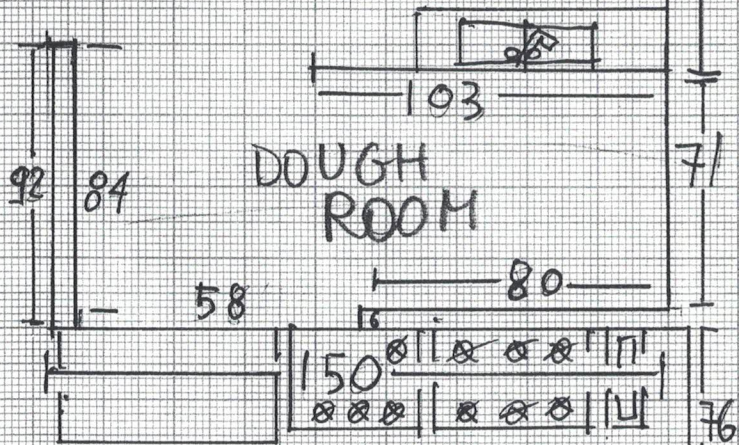
162



PREP ROOM

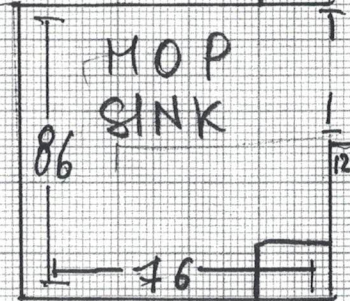
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38  
96  
82  
19  
15  
6 + 21



DOUGH ROOM

KITCHEN



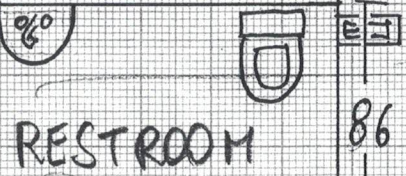
MOP SINK

86

46

12

15



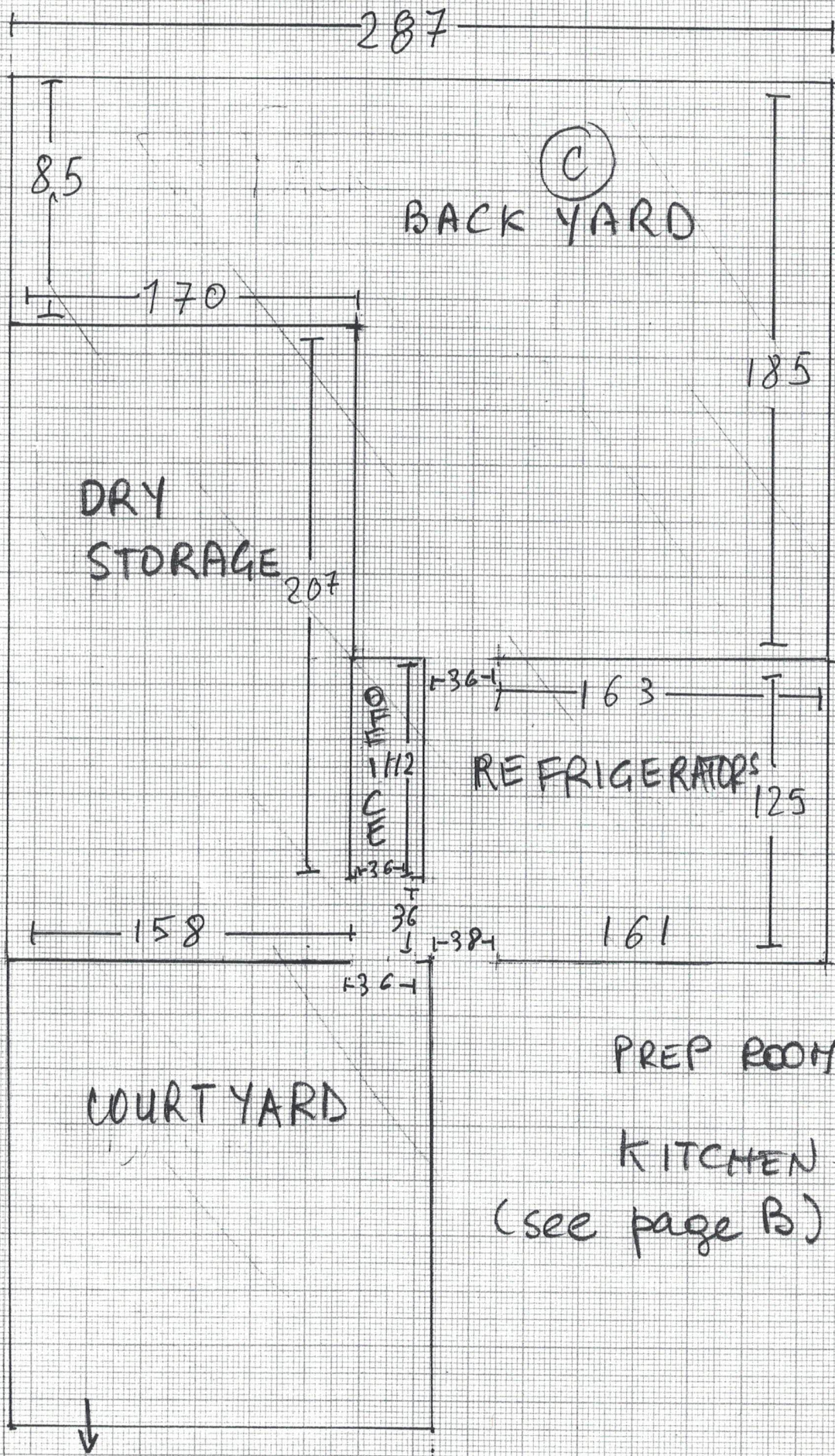
RESTROOM

86

28 42 102

FRONT OF HOUSE





(C)

BACK YARD

DRY STORAGE

REFRIGERATORS

COURTYARD

PREP ROOM

KITCHEN

(see page B)

UNIT A



