



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5th Floor

Long Beach, CA 90802

(562) 570-6194

FAX (562) 570-6068

December 15, 2016

CHAIR AND PLANNING COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Accept Categorical Exemption CE 16-254 and approve a Conditional Use Permit (CUP) request to allow the sale of beer and wine for on-site consumption at an existing movie theater located at 2025 E. 4th Street within the Commercial Neighborhood Pedestrian (CNP) zone. (District 2)

APPLICANT: Jan Van Dijs
2025 E. 4th Street, Unit E
Long Beach, CA 90814
(Application 1610-13)

DISCUSSION

The subject site, the Art Theatre Building, is located at 2025 E. 4th Street, between Cherry Avenue and St. Louis Avenue (Exhibit A – Location Map). The site is located within the Commercial Neighborhood Pedestrian (CNP) zone and is currently developed with a 6,000-square-foot-building, known as the Art Theatre (Exhibit B – Plans & Photographs). The applicant and tenant is requesting approval of a Conditional Use Permit (CUP) to allow the sale of beer and wine for on-site consumption at an existing movie theater that also serves food. The typical hours of operation at the subject theatre will be from 1:00 p.m. to 12:00 a.m., seven days a week. The sale of alcoholic beverages is requested up to 12:00 a.m.

The applicant is requesting approval for beer and wine to be sold and served from a service counter located in the lobby of the building. Guests will be able to purchase an alcoholic beverage at a service counter separate from the concession counter and within the auditorium through point of sale transactions prior to and during the feature presentation. During the feature presentation, customers will have the ability to order alcoholic beverages by using a call service button available at each seat within the auditorium. As conditioned, the sale of alcohol will be limited to two drinks per transaction. The service counter will not have fixed seats, but will be limited to the sale of beer and wine. As no additional bar seating is proposed in the theatre, as part of this proposal there is no impact on the required parking for the site. (Exhibit B – Plans & Photographs).

In considering a CUP application for the sale of beer and wine at this location, staff evaluated the number of existing alcohol licenses in the subject Census Tract (5768.01) in which the theatre is located, as well as the total number of reported crimes in the subject Police Reporting District. Section 21.52.201 of the Zoning Regulations requires that a new CUP for alcohol sales not be approved in a reporting district with an over concentration of alcohol sales, as recommended by the California Department of Alcoholic Beverage Control (ABC), and that the use shall not be in a reporting district with a high crime rate as reported by the Long Beach Police Department (LBPD). The theatre is not located in a high crime area per LBPD; however, it is in an over-concentrated district for on-site alcohol sales. In the subject census tract (5768.01), four licenses for on-site alcohol sales are allowed; there are currently nine active licenses. (Exhibit C – Map of Existing Alcohol License).

Staff consulted with the LBPD for this application and they expressed no opposition to approval of this permit provided that the applicant incorporates security measures such as lighting and security cameras, as conditioned. These measures have been included as Conditions #17 and #18. Staff believes that the approval of this Conditional Use Permit application will have minimal impact on the surrounding land uses because of the low crime rate, the low number of calls for service and because the conditions of approval recommended for the project will require the implementation of a number of operational measures designed to reduce any potential negative effects from the proposed alcohol sales. Staff recommends that the Planning Commission approve the CUP subject to conditions (Exhibit D – Findings and Conditions of Approval).

PUBLIC HEARING NOTICE

A Notice of Application was sent to the local community groups on October 28, 2016, and Public Hearing Notices were distributed on November 21, 2016, in accordance with the provision of the Zoning Ordinance. At the time of writing this report, staff has received no inquiries on this project.

ENVIRONMENTAL REVIEW

In accordance with the Guidelines for Implementation of the California Environmental Quality Act, Categorical Exemption (CE 16-254) was issued for the proposed project (Exhibit E).

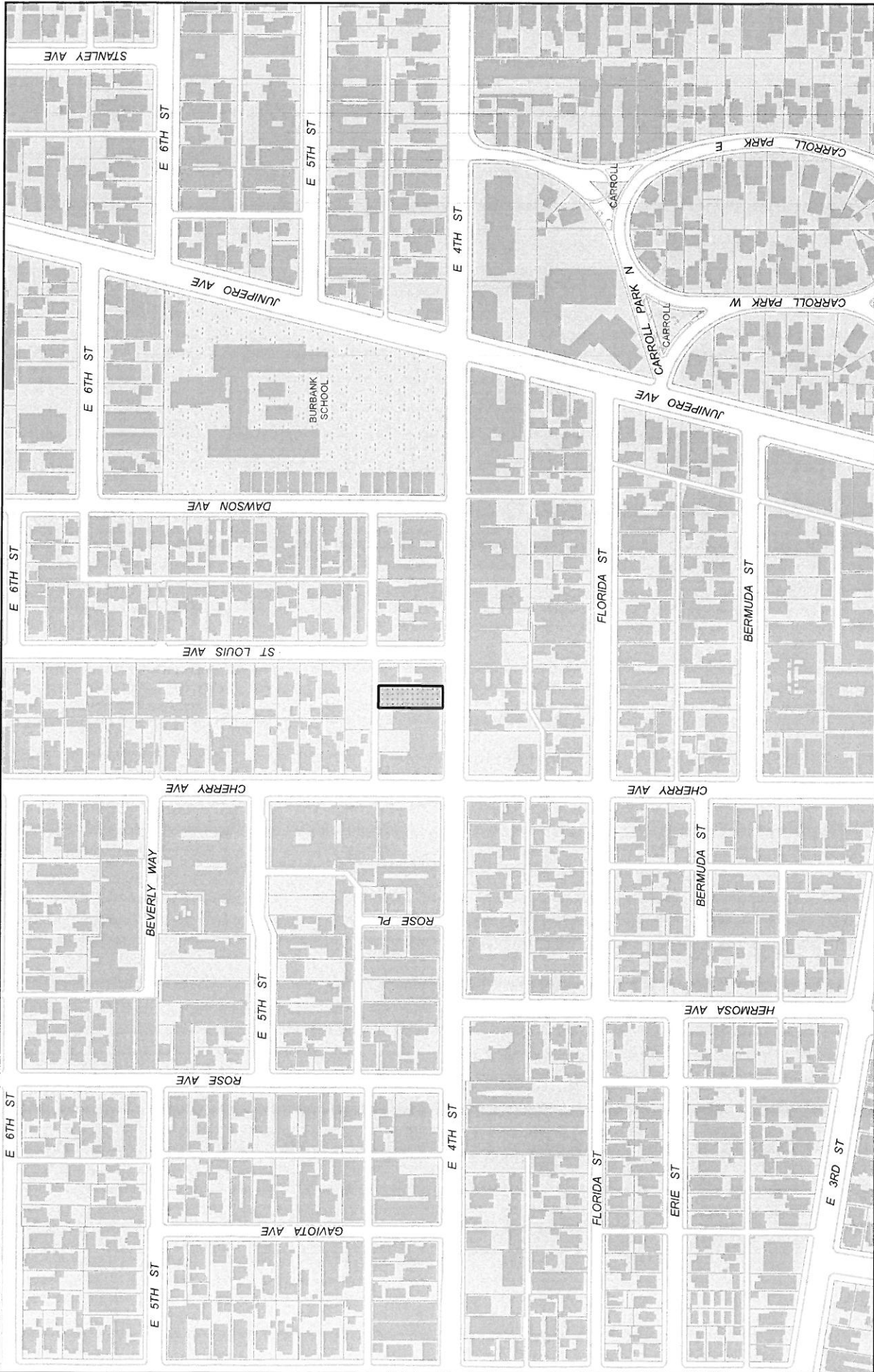


Exhibit A



Subject Property:
 2025 E 4th St
 Application No.1610-13
 Council District 2
 Zoning Code : CNP Overlay HL



**CONDITIONAL USE PERMIT
FINDINGS**

**2025 E. 4th Street
Application No. 1610-13
December 15, 2016**

Pursuant to Section 21.25.206 of the Long Beach Municipal Code, a Conditional Use Permit can be granted only when positive findings are made consistent with the following criteria set forth in the Zoning Ordinance. These findings and staff analysis are presented for consideration, adoption and incorporation into the record of proceedings:

- 1. THE APPROVAL IS CONSISTENT WITH AND CARRIES OUT THE GENERAL PLAN, ANY APPLICABLE SPECIFIC PLANS SUCH AS THE LOCAL COASTAL PROGRAM AND ALL ZONING REGULATIONS OF THE APPLICABLE DISTRICT;**

The project site is located in Land Use District #8P– Pedestrian-Oriented Retail Strip District. LUD #8P is intended to preserve areas of small-scale neighborhood serving retail and personal service uses where shoppers arrive by foot, or park a car and walk to several destinations. The proposed sales of alcoholic beverages at an existing theatre are consistent with the requirements of this district; therefore the principal use of the site is consistent with the General Plan. No specific plan applies to the subject site. The project is consistent with the zoning regulations of the CNP zoning district, as the on-site sale of alcoholic beverages at an existing theatre is allowed through the Conditional Use Permit process in this district.

- 2. THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE SURROUNDING COMMUNITY INCLUDING PUBLIC HEALTH, SAFETY OR GENERAL WELFARE, ENVIRONMENTAL QUALITY OR QUALITY OF LIFE; AND**

In accordance with the California Environmental Quality Act (CEQA) and the CEQA Guidelines, a Categorical Exemption (CE 16-254) was prepared for this project and is attached for further reference.

Through incorporation of the conditions of approval, which are included to minimize loitering, the proposed sale of beer and wine for on-site consumption will not be detrimental to the surrounding community. No physical expansion of the building is proposed.

- 3. THE APPROVAL IS IN COMPLIANCE WITH THE SPECIAL CONDITIONS FOR SPECIFIC CONDITIONAL USES, AS LISTED IN CHAPTER 21.52.**

Section 21.52.201 states that the following conditions shall apply to all alcoholic beverage sales uses requiring a Conditional Use Permit:

- A. The operator of the use shall provide parking for the use equivalent to the parking required for new construction regardless of the previous use as to legal nonconforming rights.**

Per Municipal Code Section 21.52.201A for alcohol sales, parking shall be provided for the use equivalent to the requirement for new construction regardless of the status of previous grandfathered rights. The required parking ratio for the theatre is one space per every 3.3 fixed seats. Currently the theatre has no on-site parking on the subject site. However, given the fact that the building was built as a theatre with no parking and the proposed use is for the sale of alcohol with no exterior square footage being proposed, no additional parking is required.

B. The operator of the use shall provide night lighting and other security measures to the satisfaction of the Chief of Police.

The theatre currently has exterior lighting and provides adequate lighting throughout the exterior of the theatre, throughout the common box office area, and along the path of travel leading to and from the theatre. Staff consulted with the Long Beach Police Department on this application and as appropriately conditioned, the LBPDP had no objections to the request.

C. The operator of the use shall prevent loitering or other activity in the parking lot that would be a nuisance to adjacent uses and/or residential neighborhoods.

As appropriately conditioned, the operator shall prevent loitering and other potential nuisances along the common areas serving the use during and after the hours of operation.

D. The use shall not be in a reporting district with more than the recommended maximum concentration of the applicable on or off-premise sales use, as recommended by the Long Beach Police Department, except: (1) locations in the greater downtown area; or (2) stores of more than 20,000 square feet of floor area, and also providing fresh fruit, vegetables, and meat, in addition to canned goods.

In consideration of a Conditional Use Permit application for the sale of alcoholic beverages, staff evaluates the number of existing alcohol licenses in the subject Census Tract as well as the total number of reported crimes and calls for service in the subject Police Reporting District.

Section 21.52.201 of the zoning regulations requires that the use shall not be in a reporting district with an over-concentration of alcohol sales, as recommended by the California Department of Alcoholic Beverage Control (ABC), and that the use shall not be in a reporting district with a high crime rate as reported by the Long Beach Police Department. The project is not located in a high crime area per LBPDP; however it is in an over-concentrated district for alcohol sales. In the subject census tract (5768.01), four alcohol licenses for on-site sales are

permitted, and nine are currently active. Staff consulted with LBPD for this application and they expressed no opposition to approval of this permit provided that the applicant incorporate security measures such as lighting and security cameras. Therefore, staff is requesting Planning Commission approve this finding.

- E. The use shall not be located within 500 feet of a public school or public park, except: (1) locations in the greater downtown area; or (2) stores of more than 20,000 square feet of floor area, and also providing fresh fruit, vegetables, and meat in addition to canned goods.**

The theatre is located approximately 430 feet from an existing elementary school. The theatre has been in operation from 2008 to present with no adverse effects in the community noted or reported. The proposed Conditional Use Permit for beer and wine for on-site consumption along with conditions of approval will ensure that security measures and operational limitations are in place to prevent any potential impacts. As such, there is little probability that adverse effects will result from the establishment of alcohol sales with incorporation of security measures such as security cameras. Staff recommends that the Planning Commission waive this requirement in light of the benefits incurred by the community through inclusion of the Conditional Use Permit.

**CONDITIONAL USE PERMIT
CONDITIONS OF APPROVAL**

2025 E. 4th Street

Application No. 1610-13

Date: December 15, 2016

1. The use permitted on the subject site, in addition to the other uses permitted in the CNR zoning district, shall be to allow the sale of beer and wine for on-site sale and consumption at an existing movie theater located at 2025 E. 4th Street.
2. This permit and all development rights hereunder shall terminate one year from the effective date of this permit unless construction is commenced or a time extension is granted, based on a written and approved request submitted prior to the expiration of the one year period as provided in Section 21.21.406 of the Long Beach Municipal Code.
3. This permit shall be invalid if the owner(s) and/or applicant(s) have failed to return written acknowledgment of their acceptance of the conditions of approval on the *Conditions of Approval Acknowledgement Form* supplied by the Planning Bureau. This acknowledgment must be submitted within 30 days from the effective date of approval (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date).

Special Conditions:

4. Patrons shall be required to show valid identification to verify age at the point of sale for alcohol.
5. Alcoholic beverages shall dispensed, sold, and served in containers that are easily distinguishable from non-alcoholic beverage containers.
6. All sales or service of alcoholic beverages in the licenses premises shall be made only from the service counter or servers.
7. Orders from patrons seated in theater seats must be made to the server serving the area and the alcoholic beverages ordered must be personally delivered to the patron by the server who took the order.
8. Soliciting servers shall not carry a supply of unordered alcoholic beverages.
9. The petitioner shall post and maintain professional quality signs measuring 12 inches by 12 inches with lettering no smaller than 2 inches in height that read, "No Alcoholic Beverages Beyond This Point" at all premise exits.

10. The petitioner shall not share profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge or cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks. This does not include ticket sales or any other fee for the standard movie theater use.
11. The sale of alcoholic beverages shall stop one hour prior to the close of the business and shall be subject to State law, which prohibits the sale of alcohol between 2 a.m. to 6 a.m.
12. Windows shall not be obscured by placement of signs, dark window tinting, shelving, racks or similar obstructions.
13. A numbering address sign shall be located at the side of the building, to the satisfaction of the Long Beach Police Department.
14. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
15. The permittee shall maintain full compliance with all applicable laws, ABC laws, ordinances, and stated conditions. In the event of a conflict between the requirements of this permit, Conditional Use Permit, or Alcoholic Beverage Control license, the more stringent regulation shall apply.
16. The sale of alcoholic beverages for consumption off-premises is strictly prohibited.
17. The operator of the approved use shall prevent loitering along the common areas serving the use during and after hours of operation. The operator must clean the sidewalk areas of trash and debris on a daily basis. Failure to comply with this condition shall be grounds for permit revocation. If loitering and/or noise problems develop, the Director of Development Services may require additional preventative measures such as, but not limited to, private security guards.
18. The operator shall install exterior video security cameras and adequate video surveillance to cover the lower level area, area leading to the ticket booth, and area leading to the entry of the auditorium. The cameras shall record video for a minimum of 30 days and be made available to the LBPD upon request. A Public Internet Protocol (IP) address and user name/password to allow LBPD to view recorded video from the cameras over the Internet. The operator shall also provide the Police Department the ability to view live stream video surveillance. All video security cameras shall be installed to the satisfaction of the Police Chief, Director of Technology Services, and Director

of Development Services.

19. The sale of alcoholic beverages shall not be sold within the auditorium until plans for new theatre seating have been reviewed and approved to incorporate adequate access paths and call service button features.

Standard Conditions:

20. If, for any reason, there is a violation of any of the conditions of this permit or if the use/operation is found to be detrimental to the surrounding community, including public health, safety or general welfare, environmental quality or quality of life, such shall cause the City to initiate revocation and termination procedures of all rights granted herewith.
21. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions that are a part thereof. These specific requirements must be recorded with all title conveyance documents at time of closing escrow.
22. This approval is required to comply with these conditions of approval as long as the use is on the subject site. As such, the site shall allow periodic re-inspections, at the discretion of city officials, to verify compliance. The property owner shall reimburse the City for the inspection cost as per the special building inspection specifications established by City Council (Sec. 21.25.412, 21.25.212).
23. All conditions of approval must be printed verbatim on all plans submitted for plan review to the Department of Development Services. These conditions must be printed on the site plan or a subsequent reference page.
24. The Director of Development Services is authorized to make minor modifications to the approval design plans or the any of the conditions of approval if such modifications shall not significantly change/alter the approved design/project. Any major modifications shall be reviewed by the Zoning Administrator or Planning Commission, respectively.
25. The property shall be developed and maintained in a neat, quiet, and orderly condition and operated in a manner so as not to be detrimental to adjacent properties and occupants. This shall encompass the maintenance of exterior facades of the building, designated parking areas serving the use, fences and the perimeter of the site (including all public parkways).
26. Any graffiti found on site must be removed within 24 hours of its appearance.

27. The applicant shall defend, indemnify, and hold harmless the City of Long Beach, its agents, officers, and employees from any claim, action, or proceeding against the City of Long Beach or its agents, officers, or employees brought to attack, set aside, void, or annul an approval of the City of Long Beach, its advisory agencies, commissions, or legislative body concerning this project. The City of Long Beach will promptly notify the applicant of any such claim, action, or proceeding against the City of Long Beach and will cooperate fully in the defense. If the City of Long Beach fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Long Beach.

Alcohol Beverage Control Conditions

28. At all times when the premises is exercising the privileges of their license, the sale of food, in compliance with Section 23038 of the Business and Profession code, shall be offered and available for purchase.
29. All sales and service of alcoholic beverages for consumption in the theatre seating areas shall be made only from service counter and point of sale in the theater, and shall not be sold, served, or delivered to customers by individual ambulatory vendors, commonly known as "hawkers."
30. Notwithstanding conditions #31 & #32, below, alcoholic beverages may be sold or served by servers in the theatre seating areas under the following conditions:
 - a. Only persons occupying seats in the designated theaters shall be permitted to order and be served alcoholic beverages.
 - b. Orders from patrons seated in these theaters must be made to the servers serving that area, and the alcoholic beverages must be personally delivered to the patron by the servers who took the order
 - c. The servers serving in the theaters shall not carry a supply of unordered alcoholic beverages.
31. No more than two (2) alcoholic beverages shall be sold or served to any one (1) person during any transaction.
32. Alcoholic beverages shall be served in containers which significantly differ in appearance from those containers utilized for non-alcoholic beverages. Containers for beer shall not exceed 16 ounces. This condition does not preclude the service of alcoholic beverages in their original containers.



NOTICE of EXEMPTION from CEQ.

EXHIBIT E

CITY OF LONG BEACH | DEPARTMENT OF DEVELOPMENT SERVICES
333 W. OCEAN BLVD., 5TH FLOOR, LONG BEACH, CA 90802
(562) 570-6194 FAX: (562) 570-6068
lbs.longbeach.gov

TO: Office of Planning & Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: Department of Development Services
333 W. Ocean Blvd, 5th Floor
Long Beach, CA 90802

L.A. County Clerk
Environmental Fillings
12400 E. Imperial Hwy., Room 1201
Norwalk, CA 90650

Project Title: CE-_____

Project Location/Address: 2025 E 4th Street

Project Activity/Description: The Art Theatre of Long Beach is requesting approval of a Type 41 License to serve beer and wine to patrons 21 years of age or older in a mixed age single screen movie theatre.

Public Agency Approving Project: **City of Long Beach, Los Angeles County, California**

Applicant Name: Jan van Dijs

Mailing Address: 425 E 4th Street, Unit E, Long Beach CA 90802

Phone Number: 562-436-5200

Applicant Signature: _____

BELOW THIS LINE FOR STAFF USE ONLY

Application Number: 1610-13 Planner's Initials: JR

Required Permits: Conditional Use Permit

THE ABOVE PROJECT HAS BEEN FOUND TO BE EXEMPT FROM CEQA IN ACCORDANCE WITH STATE GUIDELINES SECTION 15301, Class 1 Existing facilities

Statement of support for this finding: Land Use alteration to existing commercial land use

Contact Person: Jorge Ramirez

Contact Phone: 570-6952

Signature: _____

Date: 12-15-2016