



## STAFF REPORT SAN CLEMENTE PLANNING COMMISSION

Date: July 2, 2014

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**PLANNER:** Amber Gregg, Associate Planner *AG*

**SUBJECT:** **Conditional Use Permit 14-210 Los Golondrinas**, a request to consider a restaurant larger than 1,500 square feet at 821 Via Suerte, Suite 102 & 103 within the Commercial zoning district of the Talega Specific Plan. The legal description is Lot 5 of Tract 16936, Assessor's Parcel Number 701-372-01.

### **REQUIRED FINDINGS**

Prior to approval of the proposed project, the below findings shall be made. The draft Resolution, provided as 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***

- 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 Chapter 17 of the Zoning Ordinance, the General Plan, the Talega Specific 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, Arturo Galindo III, is requesting to open a Los Golondrinas restaurant in Talega Village Center. Mr. Galindo is proposing to combine two suites for the business. The suites were previously occupied by two separate food establishments, Juice It Up and a frozen yogurt store. Although there is no alcohol proposed at the facility, the Talega Specific Plan requires all restaurant larger than 1,500 square feet to obtain a Conditional Use Permit.

Surrounding land uses include neighborhood serving commercial uses such as restaurants, coffee shop, grocery store and service uses. The nearest residence is approximately 500 feet away in a residential community to the north of Avenida Vista Hermosa.

This project was noticed according to City and State law and to date, staff has received no input from the public on this request.

### **PROJECT DESCRIPTION**

This is a request to establish a take-out restaurant in an existing shopping center, greater than 1,500 square feet. The proposed project combines two units into one, 1,986 square foot space. Proposed operating hours are 7:30a.m.-8:00p.m. daily. The floor plan proposes no indoor seating; the center does have outdoor patio seating that can be utilized by patrons. The previous uses did not provide indoor seating either.

### **PROJECT ANALYSIS**

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

Section 504.C of the Talega Specific Plan requires Planning Commission approval of a CUP for restaurants larger than 1,500 square feet. Staff believes the request, as conditioned, meets required CUP findings for the following reasons:

1. A restaurant use is permitted in the Talega Specific Plan and the project complies with all applicable development standards.
2. The proposed request is similar to the previous food uses and will not be as impactful as exiting restaurants in the center that have received CUP's since alcohol is not proposed and the hours of operation are proposed to end at 9pm where other restaurant have approval till 11 p.m.
3. The proposed use will have to comply with all health and safety, and building code requirements.
4. The proposed request does not increase the number of parking spaces.

### **GENERAL PLAN CONSISTENCY**

The proposed use is consistent with the Land Use Element of the City's General Plan. General Plan Policy LU-2.03. Neighborhood Compatibility. We require that commercial projects abutting residential neighborhoods be designed and operated to protect residents

from the effects of noise, light, odors, vibration traffic, parking and other operational impacts. The proposed hours of operation and the distance from adjacent residential uses will ensure there are not negative effects.

### **ENVIRONMENTAL REVIEW**

The Planning Division completed an Environmental Checklist for the above referenced project in accordance with the California Environmental Quality Act (CEQA). It was determined by staff that the project has been adequately addressed in previously prepared Final Supplemental Environmental Impact Report (FSEIR) for Talega Specific Plan, certified December 2001, for Talega Specific Plan Amendment 98-05. The FSEIR incorporates by reference analysis and mitigation as addressed in previously prepared Final EIR 84-02 for the Talega Specific Plan certified by the City of San Clemente in August, 1988, along with four addenda certified by the City in 1998 through 1999. The FSEIR (State Clearinghouse Number 99031048) addresses impacts of approved modifications to the General Plan and Talega Specific Plan, updates previous studies and provides new analysis or new mitigation measures as determined necessary. The proposed project is consistent with the General Plan and Specific Plan as amended by GPA and SPA 98-05 respectively.

### **ALTERNATIVES; IMPLICATIONS OF ALTERNATIVES**

1. The Planning Commission can concur with staff and recommend approval of the proposed project.

*This action would result in the approval of the proposed project and the applicant being allowed to establish a take-out restaurant larger than 1,500 square feet.*

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

*This action would result in any modifications being incorporated into the proposed project and included in the conditions of approval, if needed.*

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

*This action would result in the denial of the application. The applicant would be able to appeal to the City Council.*

**RECOMMENDATION**

**STAFF RECOMMENDS THAT** the Planning Commission approve Conditional Use Permit 14-210, Las Golondrinas, subject to the attached Resolution and Conditions of Approval.

**Attachments:**

1. Resolution No. 14-027  
Exhibit A - Conditions of Approval
2. Location Map
3. Site Plan
4. Photographs

**RESOLUTION NO. PC 14-027**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY  
OF SAN CLEMENTE, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT 14-  
210 LAS GOLONDRINAS, A REQUEST TO ALLOW A RESTAURANT GRATER  
THAN 1,500 SQUARE FEET IN THE TALEGA VILLAGE CENTER AT  
821 VIA SUERTE SUITE 102 & 103**

**WHEREAS**, on May 27, 2014 a complete application was submitted Arturo Galindo III, 3130 South Sycamore Street, Santa Ana, CA 92707, for a request to consider a Conditional Use Permit for a restaurant larger than 1,500 square feet; and

**WHEREAS**, the Planning Division completed an Environmental Checklist for the above referenced project in accordance with the California Environmental Quality Act (CEQA). It was determined by staff that the project has been adequately addressed in previously prepared Final Supplemental Environmental Impact Report (FSEIR), certified December 2001, for Talega Specific Plan Amendment 98-05. The FSEIR incorporates by reference analysis and mitigation as addressed in previously prepared Final EIR 84-02 certified by the City of San Clemente in August, 1988, along with four addenda certified by the City in 1998 through 1999. The FSEIR (State Clearinghouse Number 99031048) addresses impacts of approved modifications to the General Plan and Talega Specific Plan, updates previous studies and provides new analysis or new mitigation measures as determined necessary. The proposed project is consistent with the General Plan and Specific Plan as amended by GPA and SPA 98-05 respectively; and

**WHEREAS**, on July 2, 2014, the Planning Commission of the City of San Clemente held a duly noticed public hearing on the subject application and considered evidence presented by City staff, the project applicant and other interested parties.

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

**Section 1:** Pursuant to CEQA and the CEQA Guidelines, a Final Subsequent Environmental Impact Report (FSEIR) was prepared and certified in December 2001, for the Talega Specific Plan as amended by SPA 98-05. After reviewing the previously certified FSEIR and addendums and the Initial Study on the present projects, the Planning Commission finds that the present proposal is within the scope of the program evaluated in the previously adopted environmental documents, which adequately describe the activity for the purposes of CEQA, that no additional significant environmental effects will result from the project, that no additional mitigation measures or alternatives are required, and that, per Section 15168 of the CEQA Guidelines, no additional environmental documentation is required. All records pertaining to preparation, review and comment on the FSEIR and subsequent addendums are contained in the Planning Division of the City of San Clemente.

**Section 2:** The Planning Commission finds and determines as follows with regard to Conditional Use Permit 14-210:

- A. The proposed commercial use is permitted within the subject zone pursuant to the approval of a Conditional Use Permit and complies with all of the applicable provisions of the Talega Specific Plan as amended by SPA 98-05, the Talega Area Plan as amended by AM ARP 98-82, the goals and objectives of the San Clemente General Plan, and the purpose and intent of the zone in which the development is being proposed in that the proposed project provides restaurant use that is consistent with the goals of creating a pedestrian-oriented, neighborhood serving community in the Talega Village Center.
- B. The site is suitable for the type and intensity of development that is proposed in that Planning Area H1 is designated for mixed use including commercial, open space, recreation and multi-family development, and a restaurant is a permitted use in the land use designation.
- C. The proposed development, as conditioned, will not be detrimental to the public health, safety or welfare, or materially injurious to properties and improvements in the vicinity, in that the proposed restaurant would have to comply with the Department of Health and Safety as well as the California Building Code.
- D. The proposed development, as conditioned, will not be unsightly or create disharmony with its locale and surroundings. The exterior of the building is not proposed to be modified.

**Section 3:** The Planning Commission of the City of San Clemente hereby adopts a resolution approving Conditional Use Permit 14-210, Las Golondrinas, subject to the above Findings, and the Conditions of Approval attached hereto as Exhibit A.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of San Clemente on July 2, 2014.

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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 July 2, 2014 and carried by the following roll call vote:

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

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Secretary of the Planning Commission

EXHIBIT A

CONDITIONS OF APPROVAL  
CONDITIONAL USE PERMIT 14-210, LOS GOLONDRINAS

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. This project is approved subject to the provisions of a Final Supplemental Environmental Impact Report (FSEIR) 98-05 (certified December 2001) and the mitigation measures adopted with FSEIR as the Mitigation Monitoring and Reporting Program, included by reference with these conditions of approval.  
 ■■ (PIng.)\_\_\_\_\_

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 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. Signage is not part of this review. Any signage for this proposed development shall require the owner or designee to submit for review and obtain approval of a Sign Permit or Master Sign Program in accordance with the City's Sign Ordinance.  
*[Citation - Section 17.16.240.D & 17.16.250.D of the SCMC]* (PIng.)\_\_\_\_\_

6. Window and banner signage is not part of this review. Window or banner signage shall comply with Zoning Ordinance Table 17.84.030A & Section 17.84.030(H), and any applicable Master Sign Programs. *[Citation - Section 17.16.240.D of the SCMC]*  
 (Code Enforce.)\_\_\_\_\_ (PIng.)\_\_\_\_\_

7. Conditional Use Permit 14-210 is also subject to any relevant conditions of approval associated with the development of the Talega Village Center as approved by City Council on May 2, 2006 with Resolution No. 06-27.  
 ■■(PIng.) \_\_\_\_\_

8. A separate Building Permit is required for any proposed tenant improvements. Plans to construct new building, add or alter the existing building configuration, change in use, add or alter structural, mechanical, electrical or plumbing features of the project must be reviewed and approved through a separate building plan check / permit process. *[S.C.M.C – Title 8 – Chapter 8.16- Fire Code, Title 15 Building Construction - Chapters 15.08, 15.12, 15.16, 15.20]*  
 (Bldg.)\_\_\_\_\_

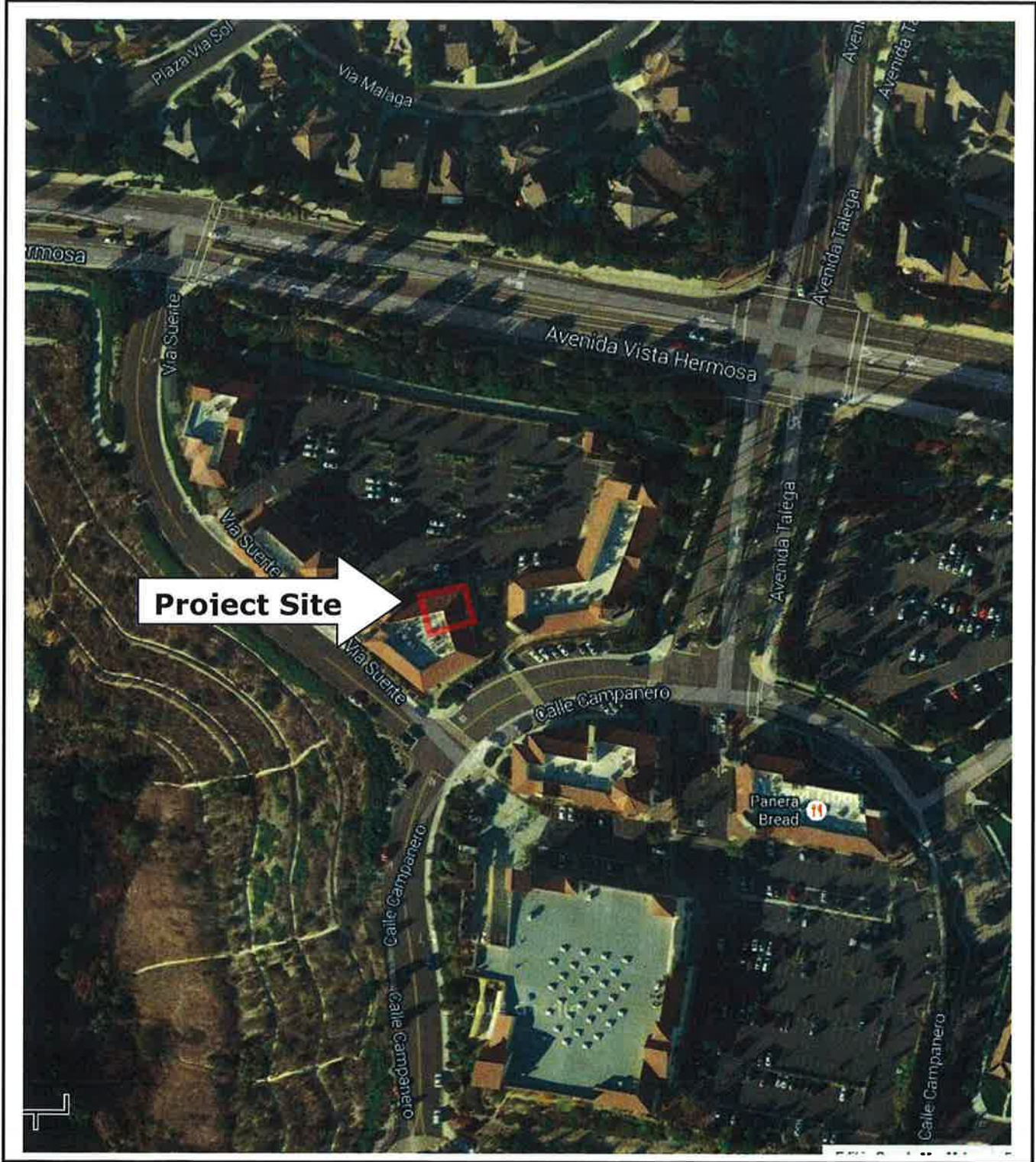
\* All Conditions of Approval are standard, unless indicated as follows:


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



# LOCATION MAP

CUP 14-210, Los Golondrinas  
821 Via Suerte, Suite 102 & 103



No scale 

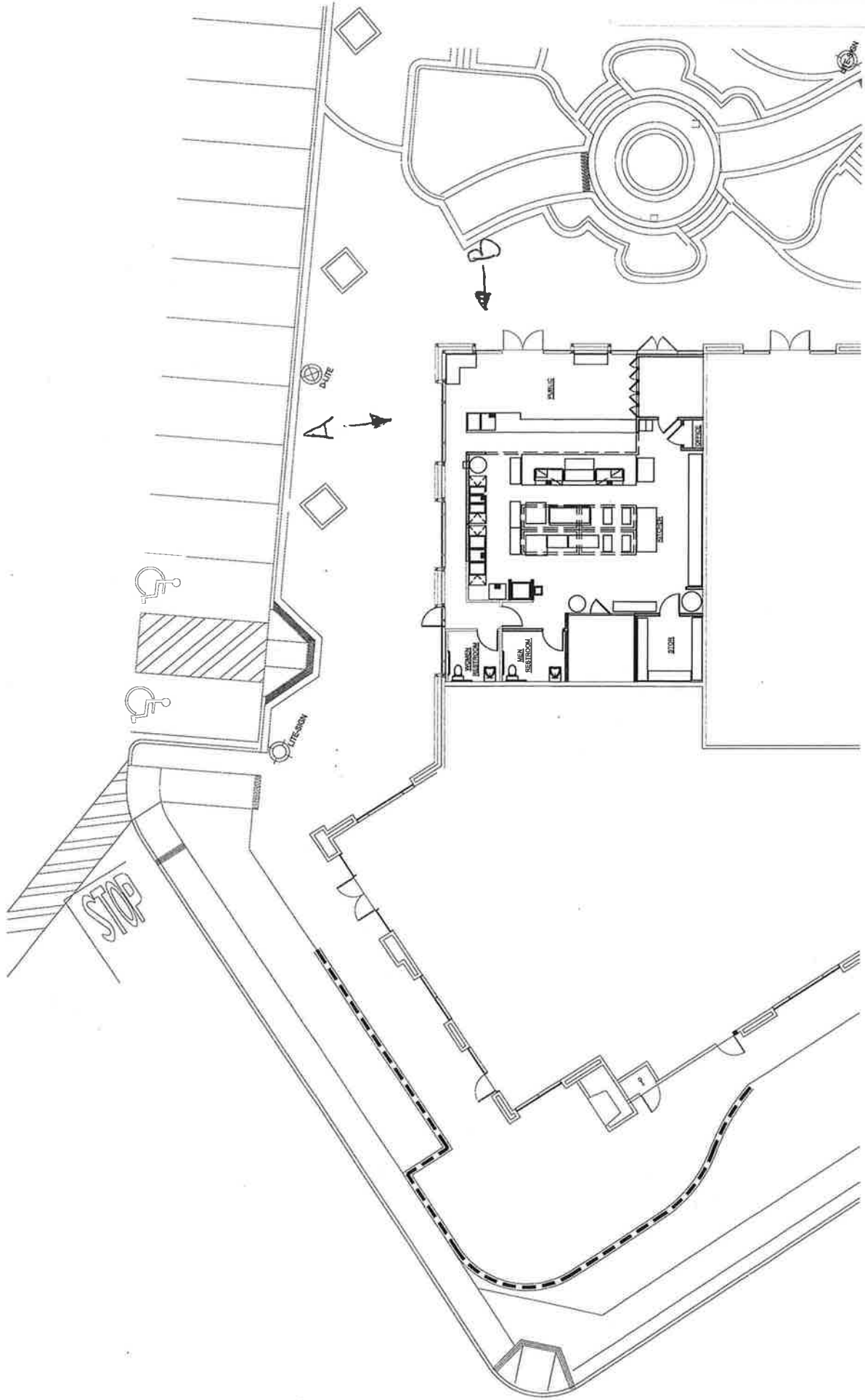


PHOTO SITE MAP







