staff report

Agenda Item No. D -1

To: City of Imperial Planning Commission

From: Othon Mora, Community Development Director

Date: December 13, 2021

Subject: **Conditional Use Permit Request #21-11**
Restaurant and Bar
2393 Highway 86

Summary:

Applicant:	Stewart Namao, A & S East, Inc.
Project Location:	2393 Highway 86, APN 064-352-004
Project Description:	Conditional Use Permit (CUP) to allow for the operation of a restaurant/bar
Zoning:	C-2 General Commercial
General Plan:	General Commercial
Environmental:	Categorically Exempt
Recommendation:	Approve, Subject to Conditions

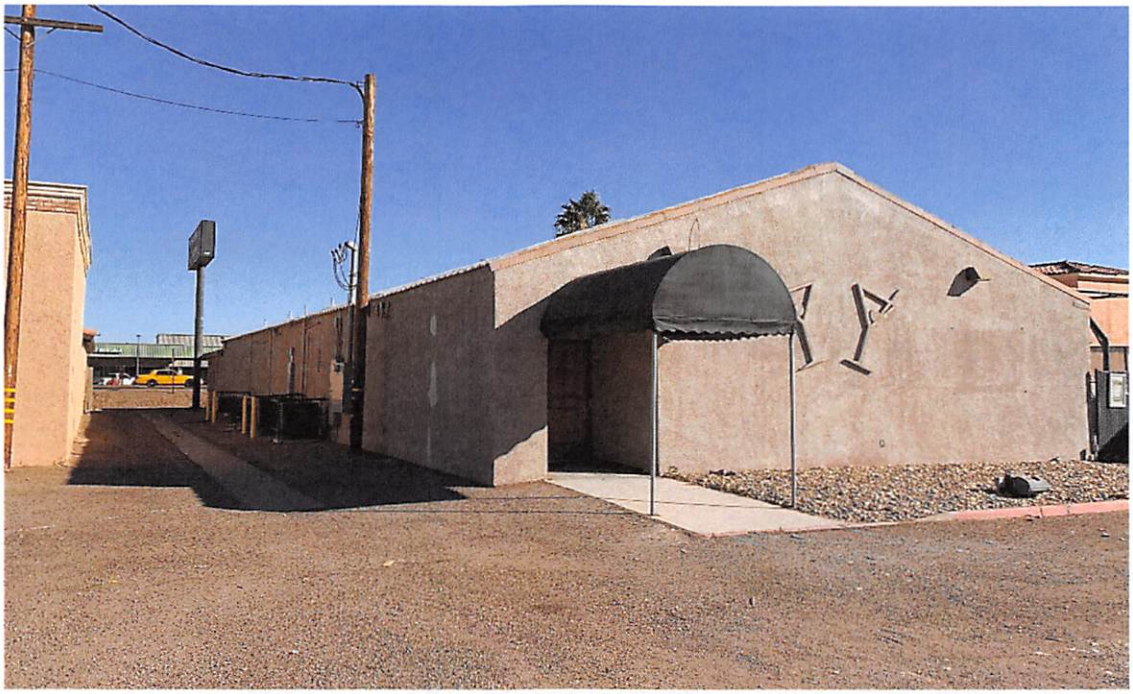
Background

The applicant is proposing to operate a restaurant and nightclub offering the sale of alcohol, beer and wine for on-site consumption. The restaurant will have private dining areas, patio seating, and bar seating with a capacity of one hundred guests. The planned hours of operation are 10:00 AM to 2:00 AM Monday – Saturday and 9:00 AM to 2:00 AM on Sundays. The establishment will feature live entertainment both indoors and outdoors and the applicant understands the requirements outlined in the Noise Element for outdoor entertainment events and any permitting processes required.

Restaurant Bar

FRONT VIEW

FRONT EAST ENTRANCE

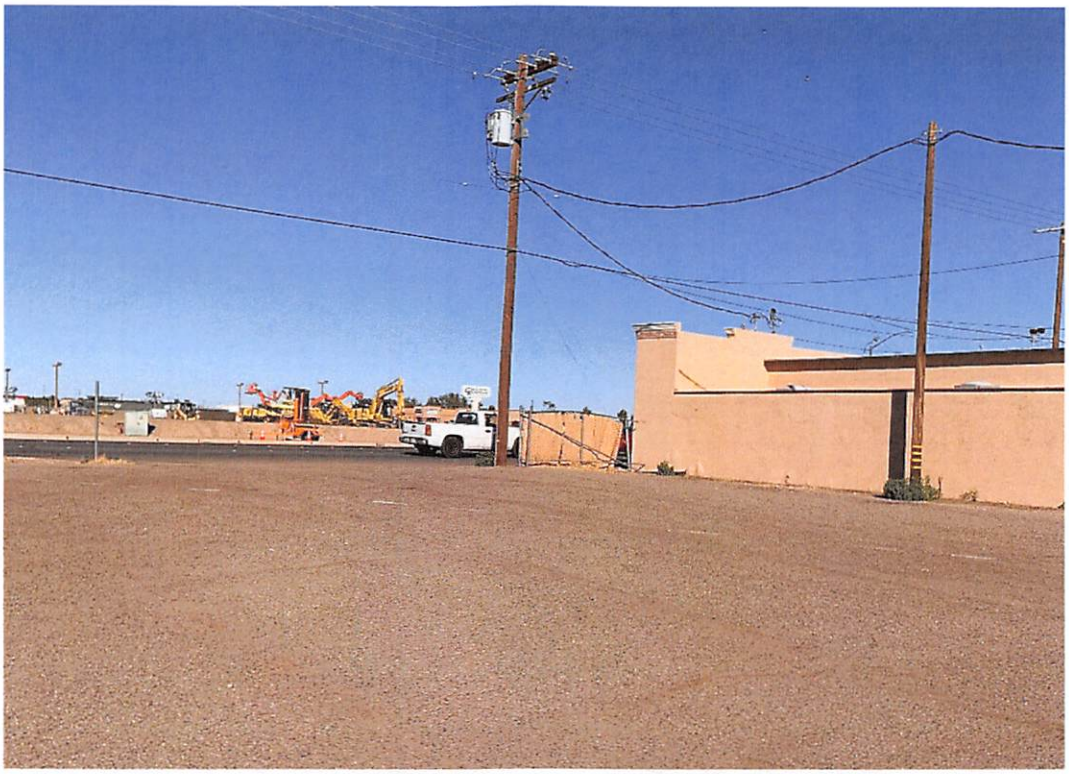


BACK ENTRANCE

BACK VIEW OF ENTRANCE AND PATIO

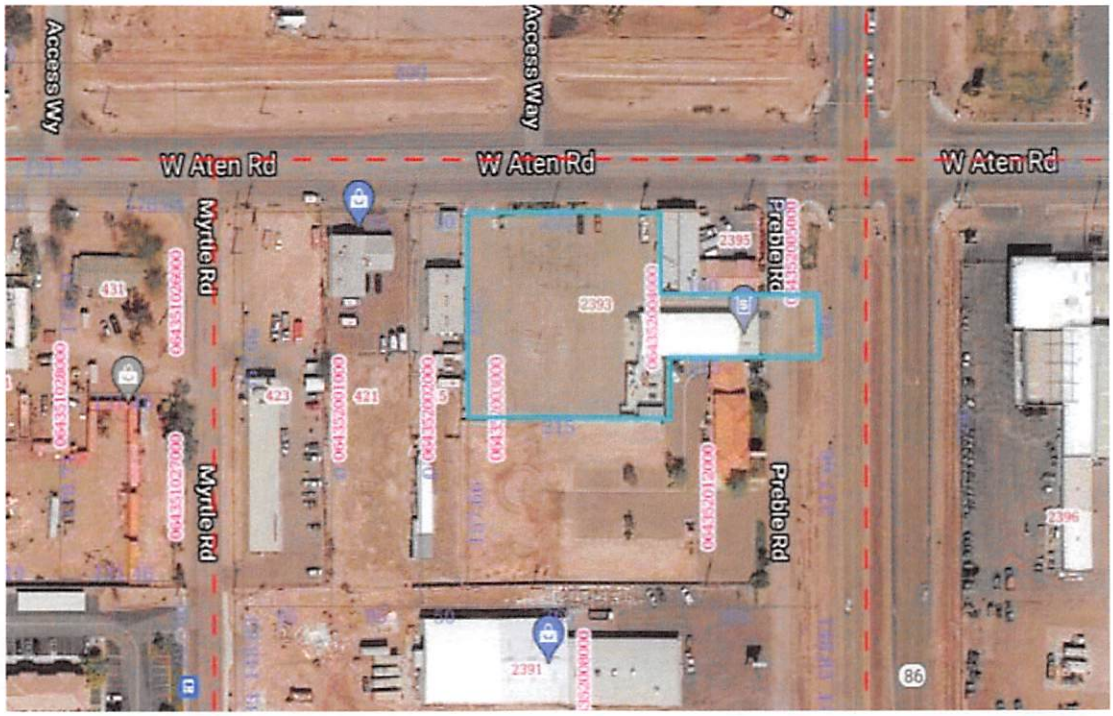
PARKING LOT AND LIGHTING

PARKING LOT ABUTTING ATEN ROAD



PARKING LOT NORTH EXIT

Vicinity Map



Discussion/Analysis

The subject site is zoned C-2 General Commercial, which is intended as an area for the location of highway oriented retail and wholesale business services. Restaurants/Bars are conditionally permitted in this zone.

Environmental Compliance

The project is categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301 of the Guidelines.

Evaluation

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Imperial Zoning Ordinance. Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a CUP. The required findings are listed below in ***bold italics***, followed by an evaluation:

1. ***That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.***

   The subject site is located within a general commercial zone which is intended to provide retail service and wholesale commercial activities.

2. ***That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.***

   The proposed location is ideal for the facility as it is surrounded by a dental office and and a construction office. The project will be compatible with the adjacent land uses and will not adversely affect residents.

3. ***That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.***

   With the Conditions of Approval put in place, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site.

4. ***That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.***

   The proposed facility complies with all provisions of the Zoning Ordinance.

Public Notification

The public hearing scheduled for December 22, 2021 was duly noticed in the Imperial Valley Press, a newspaper of general circulation on December 12, 2021 and a Notice of Public Hearing was sent to all property owners within 300-feet of the property.

Recommendation

Staff recommends the Planning Commission conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, staff recommends that the Planning Commission approve the Conditional Use Permit (CUP) application to allow for the use and operation of a restaurant and bar.

Attachments

- RESO 21-16
- Conditions of Approval
- Site Plans

Respectfully Submitted,

Othon Mora, MCM, CBO
Community Development Director

RESOLUTION NO. PC2021-16

A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL, APPROVING A CONDITIONAL USE PERMIT FOR MONA LISA COCKTAILS & CUISINE SUBJECT TO THE ATTACHED CONDITIONS

WHEREAS, Stewart Namao, submitted an application for the operation of a restaurant and nightclub; and

WHEREAS, the subject site is located within a C-2 General Commercial Zone and nightclubs with alcoholic beverages and/or entertainment are conditionally allowed uses within that zone; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on December 22, 2021, to hear testimony for and against the proposed Conditional Use Permit; and

WHEREAS, upon hearing and considering all testimony and arguments, examining the environmental study, analyzing the information submitted by staff and considering any written and oral comments received, the Planning Commission considered all facts relating to the project; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial as follows:

A) That the foregoing recitations are true and correct; and

B) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES Conditional Use Permit #21-11** subject to the conditions of approval outlined in Exhibit A and based on the following findings:

1. The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act.

2. The initial environmental assessment shows that there is no substantial evidence that the proposed land use will have a significant impact on the environment.

3. The project meets all the requirements per section 24.19.340 of the Imperial Zoning Ordinance for granting said conditional use permit as follows:

1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

The subject site is located within a C-2 General Commercial zone which is intended as an area for the location of highway oriented retail service and wholesale commercial activities.

2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.

   The proposed location is ideal for the facility as it is surrounded by dentist office to the south and a construction office to the north. The project will be compatible with the adjacent land uses and will not adversely affect residents.

3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

   With the Conditions of Approval put in place, the proposed project will not be detrimental to the public health, safety or welfare of those within the vicinity of the project site.

4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.

   The proposed facility complies with all provisions of the Zoning Ordinance.

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 22nd day of December, 2021.

_____
Mark Hammerness, Chairman

ATTEST:

_____
City Clerk

RESOLUTION PC2021-16
EXHIBIT A

CONDITIONS OF APPROVAL

CONDITIONAL USE PERMIT #21-11
Mona Lisa Cocktails & Cuisine
2393 Highway 86

1. This Conditional Use Permit is granted for the sole purpose of a nightclub at 2393 Highway 86. All nightclub activities shall be restricted to inside the building. The owner/operator must first obtain a temporary use permit for any special events held inside the building, within the parking, or other areas of the property. No additional uses are allowed regardless of whether or not it is permitted by right through the Zoning Ordinance.

2. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control (ABC) license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.

3. Hours of service shall be limited to 10:00 A.M. to 2:00 A.M. Monday to Saturday and 9:00 A.M. to 2:00 A.M Sundays.

4. No Parking Signs shall be installed along the East side of Preble Road.

5. The proprietor/owner shall be responsible for the removal of all graffiti from the walls, fences, pavement, or buildings within 72 hours of its appearance on the property.

6. Indoor and Outdoor onsite live entertainment will mirror the hours of operation for the business outlined in condition of approval #3. The "indoor" onsite live entertainment must meet all the requirements outlined in the City of Imperial's Noise Element.

7. Indoor and Outdoor live entertainment events will need to obtain a "Special Events" permit from the Community Services Department, two weeks prior to any type of outdoor entertainment via the "Special Events" permit required for outdoor entertainment events of any nature.

8. No alcoholic beverages shall be consumed outside of the enclosed building or a designated patio.

9. The proprietor/owner shall be responsible for maintaining the parking lot and adjacent areas free of litter at all times.

10. No "adult entertainment" uses as defined in the Imperial Municipal Code shall be allowed on the premises.

11. The applicant shall provide security guards. All security guards are subject to approval of the Imperial Police Department.

12. Security cameras shall be installed with full view of all entrances and exits. Security cameras shall be capable of night vision. Live video feed and video recordings shall be made available to the Police Department upon request.

13. A "Right Turn Only" sign shall be installed at the north driveways.

14. The Developer/Applicant shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.

15. The Developer/Applicant shall pay all applicable impact and capacity fees.

16. The Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.

17. The Applicant shall agree to defend, indemnify and hold harmless the City of Imperial and its agents, including consultants, officers and employees from any claim, action or proceeding against the City or its agents, including consultants, officers and employees to attack, set aside, void, or annul the approval of the Conditional Use Permit. This indemnification obligation shall include, but not be limited to, damages, costs, expenses, attorney's fees, or expert witness costs that may be asserted by any person or entity, including the Property Owner/Applicant arising out of or in connection with the approval of the Conditional Use Permit, including any claim for private attorney general fees claimed by, or awarded to any party from the City.

18. All conditions of approval for this Conditional Use Permit shall be reprinted and included as a plan sheet(s) with the building permit plan check sets submitted for review and approval. These conditions of approval shall be on, at all times, all grading, landscaping, and construction plans kept on the project site. It is the responsibility of the Applicant to ensure that the project contractor is aware of, and abides by, all conditions of approval. Prior approval from the Planning Department must be received before any changes are constituted in site design, grading, building design, building colors or materials, landscape material, etc.

19. All storage of materials waiting or to be worked on shall be stored within the building during the time that the business is not open for business. There shall be no outdoor storage of materials.

20. Fire Department

- The fire area exceeds 5,000 square feet (464 m2).
- The fire area has an occupant load of 100 or more.
- The fire area is located on a floor other than a level of exit discharge serving such occupancies.
- The structure exceeds 5,000 square feet (465 m2), contains more than one fire area containing a Group A-2 occupancy, and is separated into two or more buildings by fire walls of less than 4- hour fire-resistance rating without openings

Imperial County Fire Department would like to express that the cigar lounge not be an allowed use under CUP 21-11. If this use is allowed Imperial County Fire Department has a list of requirement and conditions that may affect other uses of A-2 occupancy.

Commercial cooking operations shall be provided with an automatic fire extinguishing system in accordance with the California fire code 904.3 through 904.3.5.

Fire alarm systems shall be provided with an occupant load is 300 or more persons.

Fire access lanes shall be unobstructed width of not less than 20 feet wide, with markings where required by ICFD official(s). Vertical Clearances of not less 13 feet 6 inches. Gates shall have approved means of emergency operation. Electric gates shall be listed in accordance with UL 325 and have Knox key switch provided.

Fire extinguisher placement and location shall be revised to provide coverage of 75 feet of travel distance between fire extinguisher and floor space.

A Knox Box shall be required for building and location and shall be determined by Imperial County Fire Department.

Pyrotechnics including, but not limited to fireworks displays, flame torches, open flame lanterns, sparklers and any kind of explosive material for any event inside or outside shall be prohibited. Special events and professional displays of pyrotechnics will be required to obtain approval and necessary permit(s) from Imperial County Fire Department and other agencies before any such use.

Special events may require additional permits, approvals, and inspections. This includes but not limited to stages, sound equipment, lighting, production equipment, etc. Special events shall require approval from Imperial County Fire Department and include detailed site plans and detailed description of the event for review.

Site plans should contain the following information:

- Where the event is taking place
- Egress and escape routes (approved)
- Emergency vehicle ingress and egress
- Fire protection equipment (fire extinguishers)

- Layout of site (chairs, tables, stages, food, etc.)

Description should contain the following information:

- Type of entertainment
- Time frame
- Emergency contact information (crowd managers)
- Emergency procedures (fire, medical, natural, panic, etc.)

21. The provisions of the permit are to run with the land/project and shall bind the current and future owner(s), successor(s)-in-interest, assignee(s) and/or transferor(s) of said project.

22. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the CUP, or the Planning/Building Department determines that the permitted activities constitute a nuisance, the City shall provide the Permittee with a notice and the opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the CUP, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.

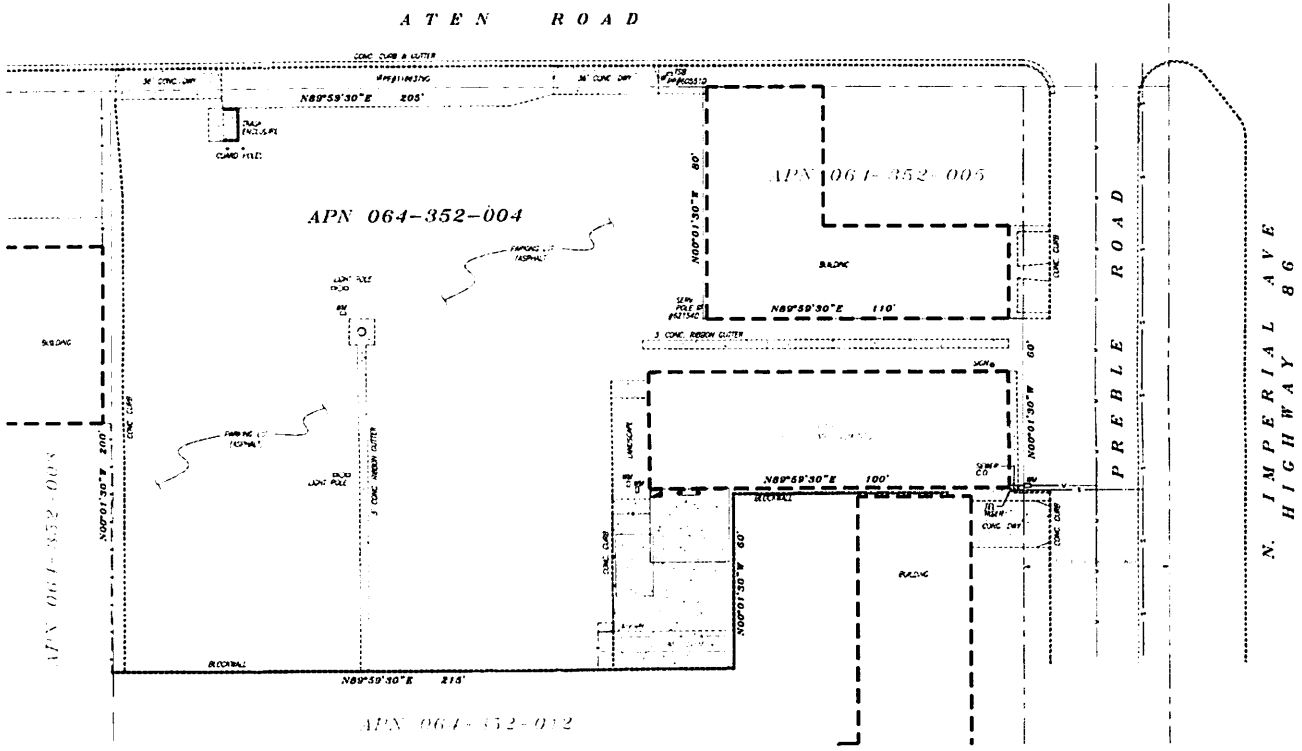
23. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.

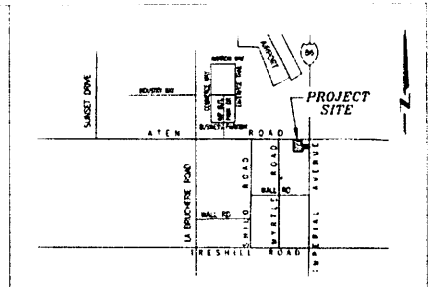
24. Permittee shall not be permitted to maintain a "nuisance", which is anything that: (1) is injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the re-located business.

SITE PLAN FOR: APN 064-352-004

2393 HIGHWAY 86, CITY OF IMPERIAL, CA.

IN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA





VICINITY MAP

NOT TO SCALE

PROPERTY OWNER/APPLICANT

APN

064-352-004

LEGAL DESCRIPTION

THE EAST 365 FEET OF LOT 1, AND THE EAST 365 OF THE NORTH 140 FEET OF LOT 4 OF DAVIS SUBDIVISION, IN UNINCORPORATED AREA OF THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA, AS PER MAP NO. 373, ON FILE IN THE OFFICE OF THE COUNTY RECORDER OF IMPERIAL COUNTY.

EXCEPTING THEREFROM THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE EAST LINE OF SAID LOT 4, DISTANT SOUTH 00°01'30" EAST, 140 FEET FROM THE NORTHEAST CORNER OF SAID LOT 4;
THENCE WESTERLY PARALLEL WITH THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 150 FEET;
THENCE NORTHERLY PARALLEL WITH THE EAST LINE OF SAID LOT 4, A DISTANCE OF 60 FEET;
THENCE EASTERLY PARALLEL WITH THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 150 FEET;
THENCE SOUTHERLY ALONG SAID EAST LINE TO THE POINT OF BEGINNING.

ALSO EXCEPTING THEREFROM THAT PORTION THEREOF DESCRIBED AS FOLLOWS:

THE EAST 150 FEET OF LOT 1, AND THE EAST 150 TO THE NORTH 20 FEET OF LOT 4 OF DAVIS SUBDIVISION.

SITE DATA

ADDRESS:	2393 HIGHWAY 86, CITY OF IMPERIAL, CA
EXISTING LOT USE	COMMERCIAL
EXISTING ZONE	-
STORIES	ONE

LEGEND

	PROPERTY LINE
	RIGHT OF WAY LINE
	EXISTING BLOCKWALL
	EXISTING CHAINLINK FENCE
	EXISTING WATERLINE
	EXISTING SEWER LINE
	EXISTING CURB & GUTTER
	EXISTING CONCRETE CURB
	EXISTING CONCRETE AREA
	EXISTING AC PAVEMENT
	EXISTING POWER POLE

SCALE 1" = 20'

GRAPHIC SCALE

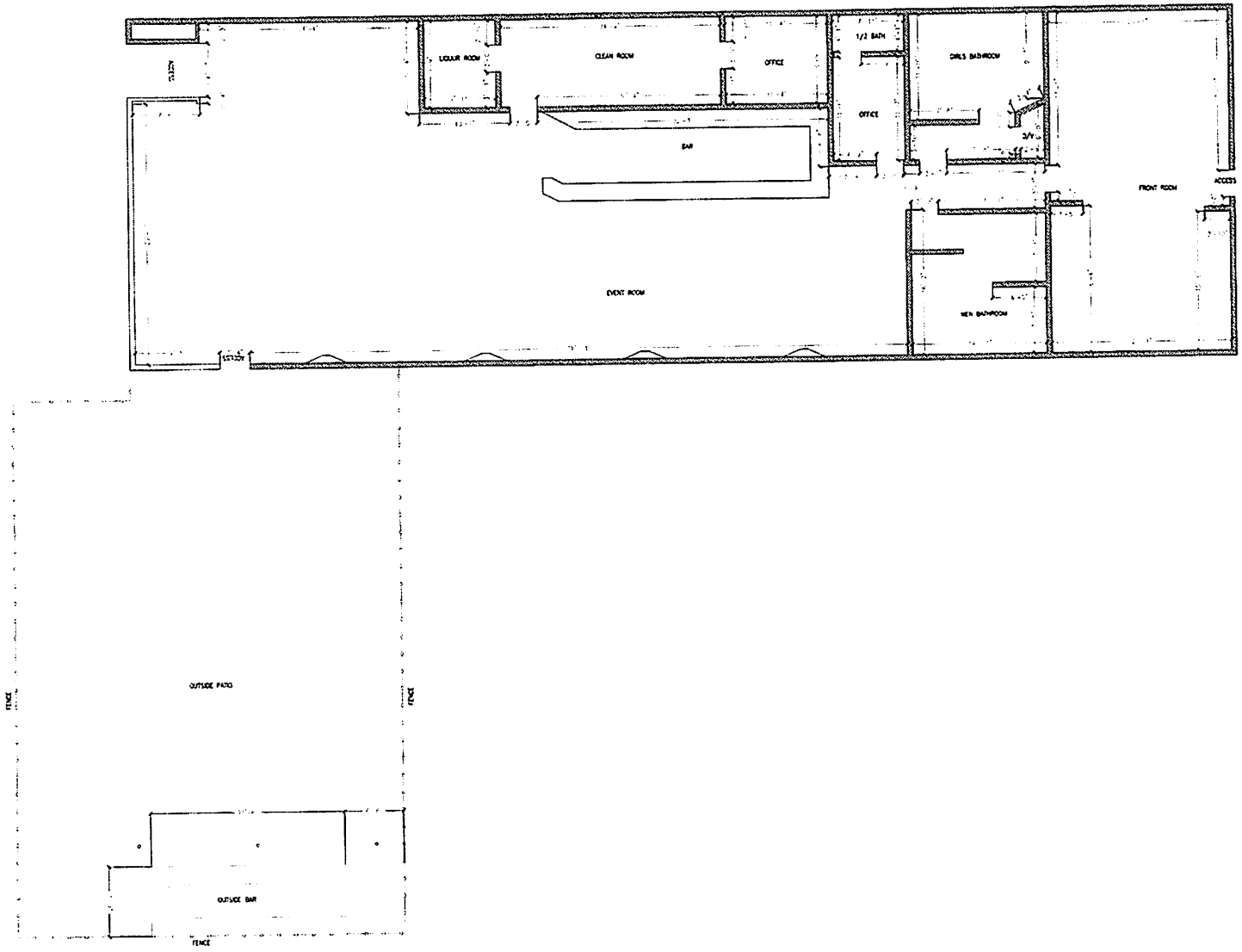
NO.	DESCRIPTION	DATE	BY

2393 HIGHWAY 86, CITY OF IMPERIAL, CA

SITE PLAN

SHEET 1 OF 1

CLIENT | DATE 06.27.2021 | CHK BY | DRW BY



No	REVISIONS	DATE

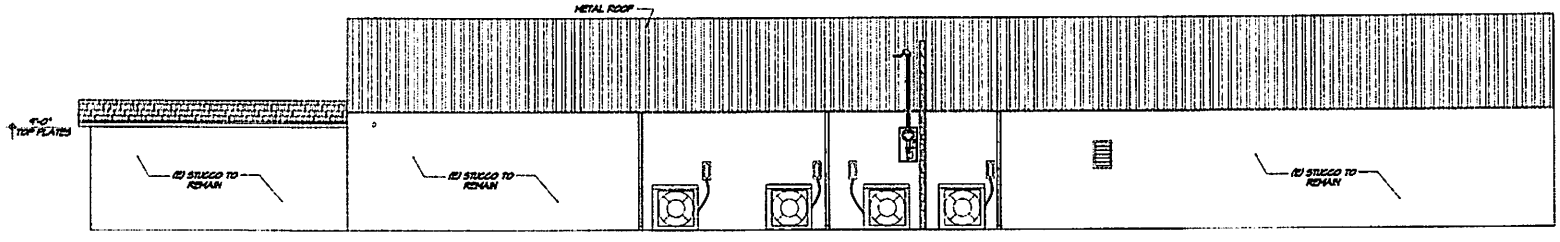
PROJECT DESCRIPTION:

EXISTING FLOOR PLAN

PROJECT ADDRESS:

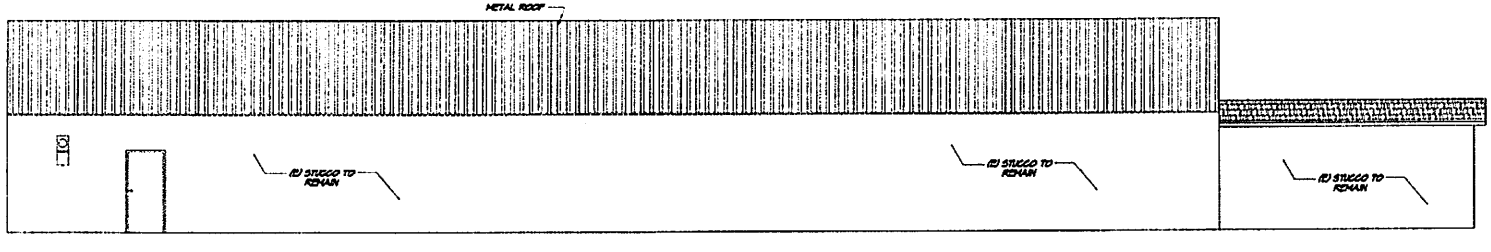
2393 HWY 86
IMPERIAL, CA 92251

PROJECT #:	SHEET:
DATE: 09/23/21	A.100
SCALE: AS NOTED	



(E) NORTH ELEVATION

NOT TO SCALE



(E) SOUTH ELEVATION

NOT TO SCALE

No	REVISIONS	DATE

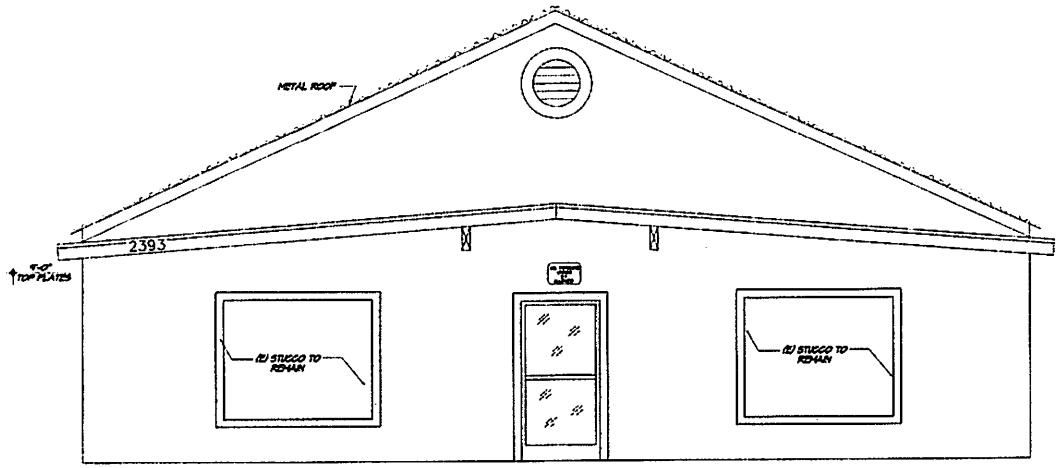
PROJECT DESCRIPTION

EXISTING ELEVATIONS

PROJECT ADDRESS:

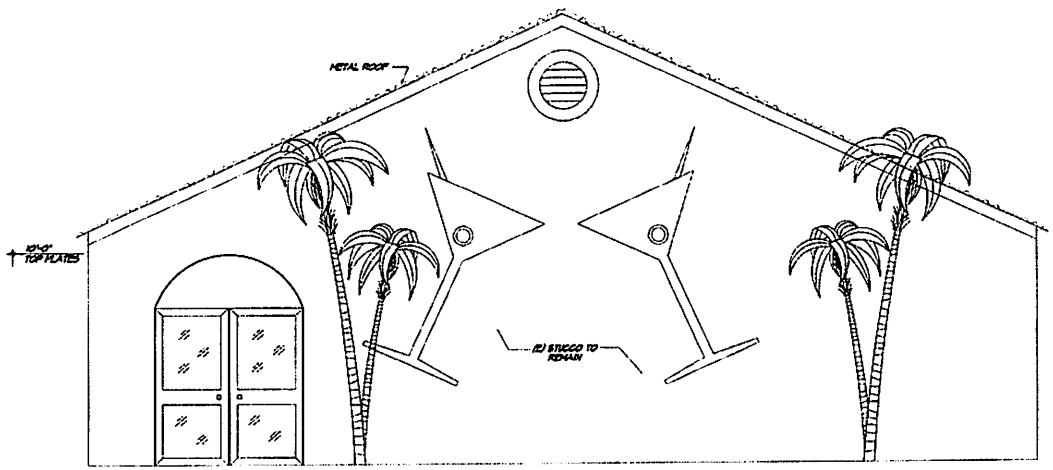
2393 HWY 86
IMPERIAL, CA 92251

PROJECT #:	SHEET:
DATE: 09/23/21	A.200
SCALE: AS NOTED	



EAST ELEVATION

SCALE 3/8" = 1'-0"



WEST ELEVATION

SCALE 3/8" = 1'-0"

No	REVISIONS	DATE

PROJECT DESCRIPTION:

EXISTING ELEVATIONS

PROJECT ADDRESS

2393 HWY 86
IMPERIAL, CA 92251

PROJECT #:	SHEET:
DATE: 09/23/21	A.300
SCALE: AS NOTED	