



# **PLANNING COMMISSION**

## **AGENDA REPORT**

VIII.4

MEETING DATE: FEBRUARY 14, 2011

ITEM NUMBER:

**SUBJECT: AMENDMENT TO ZONING APPLICATION ZA-02-55A1: MINOR CONDITIONAL USE PERMIT FOR SUTRA LOUNGE  
1870 HARBOR BOULEVARD, SUITE A-200**

**DATE: FEBRUARY 3, 2011**

**FOR FURTHER INFORMATION CONTACT: MEL LEE, AICP, SENIOR PLANNER  
(714) 754-5611 (mlee@ci.costa-mesa.ca.us)**

### **PROJECT DESCRIPTION**

Zoning Application ZA-02-55A1 is a proposed amendment to the minor conditional use permit for Sutra Lounge, including the following:

- (1) Change from a Type 47 State Alcoholic Beverage Control (ABC) license (on-sale general, eating place) to a Type 48 ABC license (on-sale general, public premise);
- (2) Remove condition of approval number 8 requiring the establishment to provide food service; and
- (3) Revise the floor plan to demolish the existing kitchen and expand the seating area for the nightclub.

### **APPLICANT**

The applicant is Peter Buffa, representing Richard Kelly Holdings, LLC, and Greenlaw Partners, the property owners.

### **RECOMMENDATION**

Approve by adoption of Planning Commission resolution, subject to conditions of approval.

MEL LEE, AICP  
Senior Planner

KHANH NGUYEN  
Asst. Development Services Director

## **BACKGROUND**

### ***Project Site/Environs***

Sutra Lounge ("Sutra") is located on the upper level of Triangle Square shopping center, within the City's downtown redevelopment area. The property is bounded on all sides by major streets and commercial businesses. Sutra occupies an approximately 8,580 square-foot space, formerly occupied by Sfuzzi Restaurant.

Sutra is located on the Plaza Level with two other restaurants – Yardhouse and the former Chronic Cantina, which is currently vacant. According to the applicant, two additional sit-down restaurants, Saddle Ranch and El Corazon, are in negotiations to occupy the vacant spaces on this level (refer to attached Plaza Level floor plan).

### ***History of Planning Actions***

Please see Table A for a more detailed chronology of events.

On August 29, 2002, the Zoning Administrator approved Zoning Application ZA-02-55 for a full-service restaurant named Sutra Lounge, which was originally proposed to be named Fugu Restaurant. The approval was for a minor conditional use permit to allow a restaurant with the following:

1. Sale of alcoholic beverages for on-site consumption after 11:00 p.m.
2. Live entertainment and dancing.

On June 23, 2008, the Planning Commission modified Zoning Application ZA-02-55 to recognize the operational changes from a full-service restaurant to a nightclub.

### ***Status of Triangle Square Traffic Management Plan***

During the Commission's review of Conditional Use Permit PA-10-29 for 24-Hour Fitness on November 15, 2010, the Planning Commission requested that the applicant prepare a comprehensive traffic management plan for Triangle Square for the Commission's review. The applicant is in the process of preparing the plan, which will be submitted separately from this report.

### ***Sutra Timeline***

The major dates related to the approval, construction, opening and operation of Sutra is summarized in the Table A below.

<b>Table A – Sutra Lounge Timeline</b>	
<b>August 2002</b>	Approval of ZA-02-55 granted by Zoning Administrator.
<b>December 2002</b>	Permits for demolition and interior remodel work issued by Building Safety Division.
<b>February 2003</b>	Demolition and construction work commences.
<b>October 2003</b>	Construction work continues after a new contractor is hired to complete the project.

<b>June 2004</b>	Sutra opens to the public. A separate public entertainment permit for live entertainment is also issued by the City, subject to annual renewals. <sup>1</sup>
<b>June 2008</b>	<p>Planning Commission conducted a review of Sutra's zoning application, initiated by staff, and added several conditions of approval to address issues raised by the Police Department in relation to the operation of the establishment. To address these issues, the minor conditional use permit, as well as the subsequent public entertainment permit, are modified with additional conditions of approval, including:</p> <ul style="list-style-type: none"> <li>• <i>Live entertainment and dancing shall be suspended at the establishment no later than two weeks from the effective date of this resolution, until such time the business owner has demonstrated to the City Manager and Police Chief that the establishment shall operate in compliance with the conditions of approval of the existing public entertainment permit, as stated in the City Manager's letter dated September 25, 2007. The live entertainment and dancing activities shall not recommence until such time the City Manager provides written acknowledgement that the conditions of approval of the public entertainment permit have been met and authorizes the live entertainment and dancing activities. The Planning Commission shall review the minor conditional use permit six months after the live entertainment and dancing activities recommence.</i></li> <li>• <i>Prior to the recommencement of live entertainment and dancing activities, all management personnel and employees that serve alcoholic beverages shall receive Responsible Beverage Service (RBS) training. Documentation of the RBS training shall be provided to the Development Services Director. In addition, all future management personnel and employees that serve alcoholic beverages shall receive RBS training prior to serving any alcoholic beverages.</i></li> <li>• <i>The minor conditional use permit may be referred to the Planning Commission for modification or revocation if the conditions of approval have not been complied with; if the use is operated in violation of applicable laws or ordinances; or if in the Development Services Director's opinion, any of the findings upon which the approval was based are no longer applicable.</i></li> <li>• <i>In respect to the bottle service as outlined in condition of approval number one of the public entertainment permit, the prohibition of said service shall be suspended for 60 days from the effective date of this resolution. After 60 days, the Police Chief and City Manager shall evaluate the effectiveness of the locking cap mechanism for the bottle service. If the Police Chief and City Manager determine that the locking cap mechanism is ineffective, bottle service shall cease immediately. If the locking cap mechanism is deemed to be effective, bottle service may continue with the locking cap mechanism.</i></li> </ul> <p>A copy of the Planning Commission resolution containing the above conditions is attached to this report for reference (<u>Attachment 2</u>).</p>
<b>January 2009</b>	A six month review of Sutra's modified minor conditional use permit is conducted by the Planning Commission. Sutra is determined to be operating in compliance with the additional conditions.

<sup>1</sup> A copy of Sutra's current Public Entertainment Permit, which was issued by the City Manager's office on November 23, 2010, is attached to this report for reference (Attachment 3).

<b>April 2009</b>	Zoning Application ZA-09-08 approved by the Zoning Administrator for Sutra to use an adjacent 1,861 square foot tenant space as a VIP "White" Room.
<b>September 2010</b>	Sutra conducted an outdoor Labor Day weekend special event which generated several complaints from nearby residents related to excessive noise, customers parking on nearby streets, and intoxicated patrons. In response, Sutra management met with City staff to review the concerns and develop additional measures to minimize complaints in the future. <sup>2</sup>
<b>November 2010</b>	Public Entertainment Permit (PEP) approved.
<b>January 2011</b>	Current application to amend Sutra's minor conditional use permit filed.

The Planning staff report for the Commission's review of ZA-02-55 can be found on the City website at the links below:

June 23, 2008 (original Commission review):

<http://www.ci.costa-mesa.ca.us/council/planning/2008-06-23/062308ZA0255ReviewAddDocs.pdf>

January 12, 2009 (six-month Commission review):

<http://www.ci.costa-mesa.ca.us/council/planning/2009-01-12/011209ZA0255ReviewSuppl.pdf>

### ***Review of Proposed Amendment by Planning Commission***

Typically, amendments to minor conditional use permits are reviewed by the Zoning Administrator and do not require a public hearing, although notice to the surrounding property owners is provided. Based on the history of this establishment and the past reviews conducted by the Planning Commission, the request is being forwarded to the Planning Commission and noticed as a public hearing item.

### **ANALYSIS**

#### ***Proposed Interior Alterations to Sutra***

Sutra currently occupies a lease space of 8,580 square feet which includes a main bar, lounge area, kitchen, walk-in cooler, storage facilities, and the adjacent 1,861 square foot VIP White Room.

The proposed tenant improvement plan accomplishes the following objectives:

- Eliminate Sutra's kitchen area to allow additional seating for guests;
- Increase the restroom capacity with new facilities;
- Create a more spacious environment for club patrons;
- Improve ingress and egress for the club;
- Remove the underutilized food service component, especially in light of two full-service restaurants potentially establishing at Triangle Square (Saddle Ranch Restaurant and El Corazon Restaurant).

<sup>2</sup> A separate Special Event Permit was issued by the City to Sutra for this event.

The proposed plan involves demolition of the existing kitchen, dishwashing area, and walk-in cooler (approximately 2,594 square feet). A new bar, additional seating, and restroom facilities are proposed in this area.

The VIP White Room will no longer be used by the Sutra patrons and is proposed to be divided to serve as a storage area for Sutra and future leasable area for the new restaurant tenant (Saddle Ranch).

There are no proposed changes to conditions of approval related to the public entertainment permit nor bottle service restrictions.

### ***Justification for Approval***

Staff supports approval of the proposed amendment for the following reasons:

- Sutra's operations as they pertain to hours of operation, specifically, the 2:00 a.m. closing time, is to remain unchanged. Sutra will be required to continue to close at 2:00 a.m. per the current conditions of approval.
- No modifications to the bottle service restrictions. As part of the Commission's review of Sutra, a condition restricting the service of full bottles of liquor to Sutra Patrons was imposed at the request of the Police Department, which involved the use of a bottle cap locking mechanism. Condition of approval no. 10 requires that bottle service shall only be provided in conjunction with a bottle cap locking mechanism. The Police Department may evaluate whether or not the locking cap mechanism is effectively being provided for the bottle service on a periodic basis.
- The operation of Sutra will continue to be subject to the current conditions of approval, as well as several new conditions of approval, to ensure that the operation is compatible with surrounding properties and uses. It is staff's opinion that the proposed amendment, with the recommended conditions of approval, will be consistent with the other uses in the immediate vicinity. Compliance with the conditions of approval will allow this use to operate with minimal impact on surrounding properties and uses.
- Sutra's Public Entertainment Permit will continue to be subject to annual review and renewal. Code requires live entertainment and dancing to be subject to approval of a Public Entertainment Permit (PEP), which is evaluated by the Police, Fire, and Development Services Departments. Approval of live entertainment is subject to satisfactory compliance with conditions of approval for the PEP, which are in addition to those conditions contained in ZA-02-55.
- The Police Department has reviewed the applicant's request and has no concerns with the proposed amendments to the minor conditional use permit. On February 1, 2011, the Police Department confirmed that they have no objections to the change in ABC license type or the removal of the kitchen and cessation of food service for Sutra. The applicant has also indicated that they will modify the exterior main doors of the nightclub to address noise concerns.

- The net increase in occupant load will be subject to all applicable Building and Fire Safety Codes. The net increase in occupant load from the proposed interior alterations is approximately 100 persons for an overall occupant load of 399 persons (299 person occupant load existing). The proposed modifications will be required to comply with all applicable Building and Fire Safety Codes to prevent overcrowding and ensure patron safety.

## **ENVIRONMENTAL DETERMINATION**

If approved, the project would be exempt from the provisions of the California Environmental Quality Act under Section 15301 for Existing Facilities. If the use is denied, they would be exempt from the provisions of the California Environmental Quality Act (CEQA) Section 15270(a) for projects which are disapproved.

## **GENERAL PLAN AND REDEVELOPMENT PLAN CONFORMITY**

The General Plan permits a wide range of commercial uses within the General Commercial land use designation. Uses allowed in the Triangle Square Master Plan are the same uses permitted or conditionally permitted in the PDC (Planned Development Commercial) zone. Uses not encouraged in the Downtown Redevelopment Project Area are heavy commercial uses such as motor vehicle repair and service uses. With the recommended conditions of approval, the use and proposed modifications are considered consistent with Objective LU-1F.2 of the General Plan Land Use Element and the Redevelopment Plan.

## **ALTERNATIVES**

The Commission has the following alternatives:

1. **Approve the amendment** to the minor conditional use permit with the recommended conditions of approval to ensure any impacts to the adjacent properties and uses is minimized; or
2. **Deny the amendment** to the minor conditional use permit. If the amendment is denied, the applicant could not submit substantially the same request for six months; however, the applicant can continue to operate Sutra as allowed under the current minor conditional use permit.

## **CONCLUSION**

It is staff's opinion that the proposed use, with the recommended conditions of approval, will be consistent with the City's Zoning Code, General Plan and Redevelopment Plan, and will minimize any adverse impacts to surrounding properties. Staff believes that the proposal does not involve significant changes to Sutra's operations. Therefore staff recommends approval of the applicant's request.

- Attachments:
1. Draft Planning Commission Resolutions
  2. Planning Commission Resolution No. PC-08-52
  3. Copy of Sutra's Public Entertainment Permit
  4. Applicant's Description of the Use
  5. Location Map
  6. Plans

cc:

Development Services Director  
Deputy City Attorney  
City Engineer  
Transportation Svs. Manager  
Fire Protection Analyst  
Lt. Robert Sharpnack, Police Department  
Officer Julian Trevino, Police Department  
Staff (4)  
File (2)

Peter Buffa  
2824 Nevis Circle  
Costa Mesa, CA 92626

Richard Kelly Holdings, LLC  
1870 Harbor Boulevard, Suite A200  
Costa Mesa, CA 92627

Greenlaw Partners  
4440 Von Karman, Suite 350  
Newport Beach, CA 92660

File: 021411ZA0255Revision

Date: 020311

Time: 1:15 p.m.

**ATTACHMENT 1**  
**DRAFT RESOLUTIONS**

RESOLUTION NO. PC-11-

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF COSTA MESA APPROVING ZONING APPLICATION  
ZA-02-55A1**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Peter Buffa, authorized agent for Richard Kelly Holdings, LLC, and Greenlaw Partners requesting approval of Zoning Application ZA-02-55A1, an amendment to the minor conditional use permit for Sutra Lounge located at 1870 Harbor Boulevard, Suite A200, in a PDC zone, including the following:

- Change from a Type 47 State Alcoholic Beverage Control (ABC) license (on-sale general, eating place) to a Type 48 ABC license (on-sale general, public premise);
- Remove condition of approval number 8 requiring the establishment to provide food service;
- Revise the floor plan to demolish the existing kitchen and expand the seating area for the nightclub; and

WHEREAS, on August 29, 2002, the Zoning Administrator approved Zoning Application ZA-02-55 for a full-service restaurant with sale of alcoholic beverages for on-site consumption after 11:00 p.m. and with live entertainment and dancing; and

WHEREAS, on June 23, 2008, the Planning Commission modified Zoning Application ZA-02-55 to recognize the operational changes from a full-service restaurant to a nightclub; and

WHEREAS, on November 23, 2010, the City Manager approved Public Entertainment Permit PEP10-0014 which is be subject to an annual renewal. The approval of live entertainment and dancing is subject to satisfactory compliance with conditions of approval for the PEP, which are in addition to those conditions contained in Zoning Application ZA-02-55; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 14, 2011 with all persons having the opportunity to speak for and against the proposed amendments to the minor conditional use permit.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", the Planning Commission hereby **APPROVES** ZA-02-55A1 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for ZA-02-55A1 and upon applicant's compliance with each and all of the conditions contained in Exhibit "B" as well as with compliance of all applicable federal, state, and local laws. With exception to conditions of approval as required by Public Entertainment Permit PEP10-0014, Exhibit "B" contains all of the conditions of approval for Zoning Application ZA-02-55 in their entirety, including any subsequent modifications/amendments. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

**PASSED AND ADOPTED this 14th day of February, 2011.**

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Chair  
Costa Mesa Planning Commission



## EXHIBIT "A"

**FINDINGS (APPROVAL)**

- A. The proposed project complies with Costa Mesa Municipal Code Section 13-29(e) because:
1. A compatible and harmonious relationship exists between the proposed use and existing buildings, site development, and uses on surrounding properties.
  2. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of the site development such as automobile and pedestrian circulation.
  3. The proposed use will comply with the performance standards as prescribed in the Zoning Code.
  4. The proposed use is consistent with the General Plan and Redevelopment Plan.
  5. The planning application is for a project-specific case and does not establish a precedent for future development.
  6. The cumulative effect of all the planning applications have been considered.
- B. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) with regard to the minor conditional use permit amendment in that the proposed amendment, with the recommended conditions of approval, is substantially compatible with developments in the same general area. Granting the proposal will not be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to properties or improvements within the immediate neighborhood. Specifically, no modifications to Sutra's hours of operation, is proposed. The operation of Sutra will continue to be subject to the current conditions of approval, as well as several new conditions of approval to ensure that the operation is compatible with surrounding properties and uses. The Police Department has reviewed the applicant's request and has no concerns with the proposed amendments to the minor conditional use permit. The interior modifications proposed by the applicant will be subject to all applicable Building and Fire Safety Codes to prevent overcrowding and ensure patron safety.
- C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines; and the City's environmental procedures, and has been found to be exempt from CEQA under Section 15301 for Existing Facilities.
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

## EXHIBIT "B"

**CONDITIONS OF APPROVAL**

*(Updated per Planning Commission's action to modify the MCUP on June 23, 2008 and per amendment request ZA-02-55A1 on February 14, 2011)*

- Plng.
1. The below conditions of approval shall supersede the previous conditions of approval for ZA-02-55.
  2. The use shall be limited to the type of operation as described in the staff report. Any change in the operational characteristics including, but not limited to, the hours of operation and additional services provided, shall require review by the Planning Division and may require an amendment to the conditional use permit, subject to either Zoning Administrator or Planning Commission approval, depending on the nature of the proposed change. The applicant is reminded that Code allows the Planning Commission to modify or revoke any planning application based on findings related to public nuisance and/or noncompliance with conditions of approval [Title 13, Section 13-29(o)].
  3. Hours of operation shall be between the hours of 9:00 p.m. and 2:00 a.m., seven days a week. Any change to the operational characteristics including, but not limited to, hours of operation, etc., shall require approval of an amendment to the minor conditional use permit.
  4. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
  5. There shall be no sales of alcoholic beverages for off-site consumption.
  6. Music or other entertainment shall not be audible beyond the area under the control of the licensee.
  7. Valet parking (if provided) shall comply with the requirements of Planning Application PA-93-14.
  8. A copy of the conditions of approval shall be kept on the premises and presented to any authorized City Official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.
  9. All sales and service staff, within 90 days of hire, shall complete Responsible Beverage Service (RBS) training with a provider approved by the California Department of Alcoholic Beverage Control. A copy of the training certificates shall be kept on premises and presented to any authorized City official upon request.
  10. Bottle service shall only be provided in conjunction with a bottle cap locking mechanism. The Police Department may evaluate whether or not the locking cap mechanism is effectively being provided for the bottle service on a periodic basis.
  11. Live entertainment, amplified music and/or dancing may only be permitted subject to City issuance of a public entertainment permit.

12. Parking for patrons and employees of the business shall occur on-site. Employee or patron parking on public streets or adjacent properties shall be considered a violation of the terms of approval of the minor conditional use permit.
13. If parking shortages or other parking-related problems arise, the applicant shall institute whatever operational measures are necessary to minimize or eliminate the problem.

**RESOLUTION NO. PC-11-**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE  
CITY OF COSTA MESA DENYING ZONING APPLICATION  
ZA-02-55A1**

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, an application was filed by Peter Buffa, authorized agent for Richard Kelly Holdings, LLC, and Greenlaw Partners requesting approval of Zoning Application ZA-02-55A1, an amendment to the minor conditional use permit for Sutra Lounge located at 1870 Harbor Boulevard, Suite A200, in a PDC zone, including the following:

- Change from a Type 47 State Alcoholic Beverage Control (ABC) license (on-sale general, eating place) to a Type 48 ABC license (on-sale general, public premise);
- Remove condition of approval number 8 requiring the establishment to provide food service;
- Revise the floor plan to demolish the existing kitchen and expand the seating area for the nightclub; and

WHEREAS, on August 29, 2002, the Zoning Administrator approved Zoning Application ZA-02-55 for a full-service restaurant with sale of alcoholic beverages for on-site consumption after 11:00 p.m. and with live entertainment and dancing; and

WHEREAS, on June 23, 2008, the Planning Commission modified Zoning Application ZA-02-55 to recognize the operational changes from a full-service restaurant to a nightclub; and

WHEREAS, on November 23, 2010, the City Manager approved Public Entertainment Permit PEP10-0014 which is be subject to an annual renewal. The approval of live entertainment and dancing is subject to satisfactory compliance with conditions of approval for the PEP, which are in addition to those conditions contained in Zoning Application ZA-02-55; and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on February 14, 2011 with all persons having the opportunity to speak for and against the proposed amendments to the minor conditional use permit.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A", and subject to the conditions contained in Exhibit "B", the Planning Commission hereby **DENIES** ZA-02-55A1 with respect to the property described above.

**PASSED AND ADOPTED this 14th day of February, 2011.**

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Chair  
Costa Mesa Planning Commission

**EXHIBIT "A"**

**FINDINGS (DENIAL)**

- A. The proposed project does not comply with Costa Mesa Municipal Code Section 13-29(e) because:
  - 1. A compatible and harmonious relationship does not exist between the proposed use and existing buildings, site development, and uses on surrounding properties.
  - 2. The proposed use is not consistent with the General Plan or Redevelopment Plan.
  
- B. The information presented does not comply with Costa Mesa Municipal Code Section 13-29(g)(2) with regard to the to the minor conditional use permit in that the proposed use is not compatible with developments in the same general area. Granting the minor conditional use permit will be materially detrimental to the health, safety, and general welfare of the public or otherwise injurious to properties or improvements within the immediate neighborhood.
  
- C. The Costa Mesa Planning Commission has denied Zoning Application ZA-02-55A1. Pursuant to Public Resources Code Section 21080(b)(5) and CEQA Guidelines Section 15270(a) CEQA does not apply to this project because it has been rejected and will not be carried out.
  
- D. The project is exempt from Chapter XII, Article 3, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

**ATTACHMENT 2**  
**PC RESOLUTION NO. PC-08-52**

RESOLUTION NO. PC-08- 52

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF COSTA MESA MODIFYING ZONING APPLICATION ZA-02-55

THE PLANNING COMMISSION OF THE CITY OF COSTA MESA HEREBY RESOLVES AS FOLLOWS:

WHEREAS, on August 29, 2002, the Zoning Administrator approved Zoning Application ZA-02-55, a minor conditional use permit allowing a full-service restaurant currently named Sutra Lounge to serve alcoholic beverages past 11:00 p.m. and have live entertainment and dancing, located at 1870 Harbor Boulevard, Suite A-200, in a Planned Development Commercial (PDC) zone; and

WHEREAS, a review was conducted at a duly noticed public hearing held by the Planning Commission on June 23, 2008; and

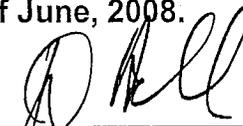
WHEREAS, the purpose of the review is to modify the minor conditional use permit to eliminate live entertainment and dancing, because the current operation of Sutra Lounge has expanded beyond its original approval as a full-service restaurant and operates primarily as a nightclub in the later evening hours.

BE IT RESOLVED that, based on the evidence in the record and the findings contained in Exhibit "A," and subject to the conditions of approval contained within Exhibit "B," the Planning Commission hereby **APPROVES AS MODIFIED** Zoning Application ZA-02-55 with respect to the property described above.

BE IT FURTHER RESOLVED that the Costa Mesa Planning Commission does hereby find and determine that adoption of this Resolution is expressly predicated upon the activity as described in the staff report for Zoning Application ZA-02-55 and upon applicant's compliance with each and all of the conditions as modified in Exhibit "B" as well as with compliance of all applicable federal, state, and local laws. Any approval granted by this resolution shall be subject to review, modification or revocation if there is a material change that occurs in the operation, or if the applicant fails to comply with any of the conditions of approval.

PASSED AND ADOPTED this 23rd day of June, 2008.

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Dorn Hall Chair,  
Costa Mesa Planning Commission



## EXHIBIT "A"

**FINDINGS (MODIFICATION TO CONDITIONS):**

A. The information presented substantially complies with Costa Mesa Municipal Code Section 13-29(g)(2) in that the use is substantially compatible with developments in the same general area, provided the modified conditions of approval are complied with. Granting the minor conditional use permit with the modified conditions of approval, will not be detrimental to the health, safety and general welfare of the public or other properties or improvements within the immediate vicinity. Specifically, Code Section 13-29(o) (Enforcement Authority) allows the Commission to modify a zoning application if the use constitutes a public nuisance, or the use does not comply with the conditions of approval. The modification to this zoning application is necessary because the current operation has expanded beyond its original approval as a full-service restaurant and operates primarily as a nightclub in the later evening hours, resulting in 89 calls for police service between June 1, 2007 and May 14, 2008. Of the 89 incidents, about half (45) involve activity after 11:00 p.m. The bulk of the incidents and calls for police service at Sutra include 27 calls for disturbances, fights, and drunk in public, as well as 15 calls for assault and battery, and 13 arrests for patrons driving under the influence (DUI). As noted in the table above, the Police Department also compared the calls for police service with Chronic Cantina, Pierce Street Annex, and Club Vegas (now closed) and found the overall number of calls for police service to Sutra exceeds the calls to the other establishments. The original approval for Sutra Lounge to serve alcoholic beverages past 11:00 p.m. and have live entertainment and dancing included conditions of approval requiring: (1) that at all times the premises is open for business, the sale and service of alcoholic beverages shall be made only in conjunction with the sale and service of food, and (2) the quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food and meals during the same time period. The ratio of food to alcohol sales for calendar year 2007 indicates an overall 26% food sales to 74% alcohol sales. Additionally, there are other indications that the operation of Sutra Lounge after 10:00 changes to more of a nightclub than a restaurant, specifically, the following:

- Patrons are queued in a line to enter;
- Patrons are required to show identification prior to entering;
- Security and bouncers are provided;
- Food service is limited or entirely eliminated;
- Articles in local newspapers and magazines frequently refer the Sutra Lounge as a nightclub;
- Ticketed events are advertised on Sutra's website.

Granting the minor conditional use permit with the modified conditions of approval will not allow a use, density or intensity, which is not in accordance with the general plan designation for the property.

- B. The use, with the modified conditions of approval, complies with Costa Mesa Municipal Code Section 13-29 (e) because:
- a. The use is compatible and harmonious with uses both on-site as well as those on surrounding properties, provided the modified conditions of approval are complied with.
  - b. Safety and compatibility of the design of the buildings, parking areas, landscaping, luminaries, and other site features including functional aspects of

the site development such as automobile and pedestrian circulation have been considered.

- c. The use, with the modified conditions of approval, is consistent with the General Plan.
- d. The planning application is for a project-specific case and does not establish a precedent for future development.

C. The project has been reviewed for compliance with the California Environmental Quality Act (CEQA), the CEQA Guidelines, and the City environmental procedures, and has been found to be exempt from CEQA under Section 15321 for Enforcement Actions by Regulatory Agencies

D. The project is exempt from Chapter IX, Article 11, Transportation System Management, of Title 13 of the Costa Mesa Municipal Code.

## EXHIBIT "B"

CONDITIONS OF APPROVAL (AS A NIGHTCLUB)

Plng. The following conditions of approval for ZA-02-55 shall continue to be complied with as modified herein:

1. Hours for customer service shall not extend beyond 2:00 a.m. Any change to the operational characteristics including, but not limited to, hours of operation, sales of alcoholic beverages or provision of live entertainment, shall require approval of an amendment to the minor conditional use permit, subject to Zoning Administrator approval.
2. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time. For purposes of calculation of occupant load, any open patio areas shall be considered to be part of the enclosed building area.
3. There shall be no room or designated area reserved for the exclusive use of designated persons or "private club members."
4. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
5. There shall be no sales of alcoholic beverages for off-site consumption.
6. Deleted.
7. Deleted.
8. The restaurant shall remain a "bona fide eating place" as defined by section 23038 of the California Business and Professions Code.
9. Music or other entertainment shall not be audible beyond the area under the control of the licensee.
10. Valet parking shall comply with the requirements of Planning Application PA-93-14.
11. A copy of the conditions of approval shall be kept on the premises and presented to any authorized City Official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.

The following new conditions of approval shall be complied with:

12. Live entertainment and dancing shall be suspended at the establishment no later than two weeks from the effective date of this resolution, until such time the business owner has demonstrated to the City Manager and Police Chief that the establishment shall operate in compliance with the conditions of approval of the existing public entertainment permit, as stated in the City Manager's letter dated September 25, 2007. The live entertainment and dancing activities shall not recommence until such time the City Manager provides written acknowledgement that the

conditions of approval of the public entertainment permit have been met and authorizes the live entertainment and dancing activities. The Planning Commission shall review the minor conditional use permit six months after the live entertainment and dancing activities recommence.

13. Prior to the recommencement of live entertainment and dancing activities, all management personnel and employees that serve alcoholic beverages shall receive Responsible Beverage Service (RBS) training. Documentation of the RBS training shall be provided to the Development Services Director. In addition, all future management personnel and employees that serve alcoholic beverages shall receive RBS training prior to serving any alcoholic beverages.
14. The minor conditional use permit may be referred to the Planning Commission for modification or revocation if the conditions of approval have not been complied with; if the use is operated in violation of applicable laws or ordinances; or if in the Development Services Director's opinion, any of the findings upon which the approval was based are no longer applicable.
15. In respect to the bottle service as outlined in condition of approval number one of the public entertainment permit, the prohibition of said service shall be suspended for 60 days from the effective date of this resolution. After 60 days, the Police Chief and City Manager shall evaluate the effectiveness of the locking cap mechanism for the bottle service. If the Police Chief and City Manager determine that the locking cap mechanism is ineffective, bottle service shall cease immediately. If the locking cap mechanism is deemed to be effective, bottle service may continue with the locking cap mechanism.

**ATTACHMENT 3**  
**COPY OF SUTRA'S ENTERTAINMENT**  
**PERMIT**



# CITY OF COSTA MESA

P.O. BOX 1200, CALIFORNIA 92628-1200

FROM THE OFFICE OF THE CITY MANAGER

November 23, 2010

Jennifer Jennings  
Triangle Square Ventures, LLC DBA Sutra  
1870 Harbor Blvd. Suite A200  
Costa Mesa, California 92627

**RE: PUBLIC ENTERTAINMENT PERMIT PEP10-0014  
1870 HARBOR BOULEVARD, SUITE A200**

Dear Ms. Jennings:

Staff has reviewed your application for the yearly renewal of your public entertainment permit (PEP) for Sutra Lounge. Based on input from the Police, Fire, and Development Services Departments, your PEP has been approved for an additional year, to expire November 23, 2011, subject to compliance with conditions of approval in Attachment "A". Please also be aware that the approval is subject to continued compliance with the attached conditions associated with approval of Minor Conditional Use Permit ZA-02-55.

Please also be advised that any activities that are not expressly allowed by Minor Conditional Use Permit ZA-02-55 and this Public Entertainment shall require prior City approval of a Special Event Permit. Failure to obtain a Special Event Permit and/or violations of its conditions of approval will jeopardize the future renewal of this Public Entertainment Permit.

If you have any questions regarding this matter, please contact the Chief of Code Enforcement, Willa Bouwens-Killeen at either 714.754.4952 or [wbkilleen@ci.costa-mesa.ca.us](mailto:wbkilleen@ci.costa-mesa.ca.us).

Sincerely,

Allan L. Roeder  
City Manager

Attachments: Conditions of Approval

c: Kimberly Brandt, Dev. Svs. Director  
Kimberly Hall Barlow, City Attorney  
Les Gogerty, Acting Chief of Police  
Lt. Robert Sharpnack, Police Lieutenant  
Willa Bouwens-Killeen, Chief of Code Enforcement  
Mel Lee, Project Planner  
Jim Camp, Greenlaw Partners

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**ATTACHMENT "A"**  
**Public Entertainment Permit PEP10-0014**  
**Conditions of Approval**

1. Alcoholic beverage servers shall be responsible to continuously assess the intoxication level of all the patrons and shall stop serving alcoholic beverages to obviously intoxicated individuals.
2. Each and every security guard working at the location shall possess a valid security guard card issued by the State of California Department of Consumer Affairs.
3. Each and every security guard working at the location shall wear identical clothing which distinguishes them as security officials at the location. The word "Security" shall be printed in clearly legible printing or embroidery on the upper front and rear portion of the shirt worn by the guard.
4. Sutra shall maintain a working digital video system which has as many cameras that are necessary to completely cover all areas of the businesses including the dance floors, all entrances and exits, hallways to the public restrooms used by the patrons, and the outdoor seating area. This surveillance system must continue to be capable of providing real time storage of all video images captured by all cameras at all times during regular business hours. It also must continue to be able to provide for immediate playback of images for the responding officers at or shortly after a particular incident on site. It must also continue to be capable of providing a digital copy of the digital image in an electronic format upon request of any City Official at the Sutra Lounge. It must also continue to be capable of retaining all video images for the preceding 60 days to allow the Police Department to retrieve images for late reported incidents. The management of Sutra shall comply with all demands or requests for surveillance images needed for a case investigation immediately.

**ATTACHMENT "B"**  
**Minor Conditional Use Permit ZA-02-55**  
**Conditions of Approval**

**CONDITIONS OF APPROVAL (AS A NIGHTCLUB)**

Plng. The following conditions of approval for ZA-02-55 shall continue to be complied with as modified herein:

1. Hours for customer service shall not extend beyond 2:00 a.m. Any change to the operational characteristics including, but not limited to, hours of operation, sales of alcoholic beverages or provision of live entertainment, shall require approval of an amendment to the minor conditional use permit, subject to Zoning Administrator approval.
2. The maximum occupancy, as determined by provisions of the Uniform Building Code or other applicable codes, shall be posted in public view within the premises, and it shall be the responsibility of management to ensure that this limit is not exceeded at any time. For purposes of calculation of occupant load, any open patio areas shall be considered to be part of the enclosed building area.
3. There shall be no room or designated area reserved for the exclusive use of designated persons or "private club members".
4. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The applicant and/or business owner shall institute whatever security and operational measures are necessary to comply with this requirement.
5. There shall be no sales of alcoholic beverages for off-site consumption.
6. Deleted.
7. Deleted.
8. The restaurant shall remain a "bona fide eating place" as defined by Section 23038 of the California Business and Professions Code.
9. Music or other entertainment shall not be audible beyond the area under the control of the licensee.
10. Valet parking shall comply with the requirements of Planning Application PA-93-14.
11. A copy of the conditions of approval shall be kept on the premises and presented to any authorized City Official upon request. New business/property owners shall be notified of conditions of approval upon transfer of business or ownership of land.

The following new conditions of approval shall be complied with:

12. Live entertainment and dancing shall be suspended at the establishment no later than two weeks from the effective date of this resolution, until such time the business owner has demonstrated to the City Manager and Police Chief that the establishment shall operate in compliance with the conditions of approval of the existing public entertainment permit, as stated in the City Manager's letter dated September 25, 2007. The live entertainment and dancing activities shall not

recommence until such time the City Manager provides written acknowledgement that the conditions of approval of the public entertainment permit have been met and authorizes the live entertainment and dancing activities. The Planning Commission shall review the minor conditional use permit six months after the live entertainment and dancing activities recommence.

13. Prior to the recommencement of live entertainment and dancing activities, all management personnel and employees that serve alcoholic beverages shall receive Responsible Beverage Service (RBS) training. Documentation of the RBS training shall be provided to the Development Services Director. In addition, all future management personnel and employees that serve alcoholic beverages shall receive RBS training prior to serving any alcoholic beverages.
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15. In respect to the bottle service as outlined in condition of approval number one of the public entertainment permit, the prohibition of said service shall be suspended for 60 days from the effective date of this resolution. After 60 days, the Police Chief and City Manager shall evaluate the effectiveness of the locking cap mechanism for the bottle service. If the Police Chief and City Manager determine that the locking cap mechanism is ineffective, bottle service shall cease immediately. If the locking cap mechanism is deemed to be effective, bottle service may continue with the locking cap mechanism.

(NOTE: On January 15, 2009, Planning Commission confirmed the Police Department's findings that the locking cap mechanism for the bottle service was being effectively provided, allowing for the deletion of condition of approval number 1 for the public entertainment permit approved for Sutra on September 25, 2007.)

**ATTACHMENT 4**  
**APPLICANT'S DESCRIPTION**

January 10, 2011

Mel Lee, Senior Planner  
City of Costa Mesa  
P.O. Box 1200  
77 Fair Drive  
Costa Mesa, California 92628-1200

Dear Mel,

The owners of Sutra Lounge in Triangle Square are seeking a Minor CUP revision, changing the club's liquor license from a Type 47 to a Type 48. As a club that opens for business at 9:00 PM three to four nights a week, Sutra is neither used nor utilized by its customers as a full-service restaurant.

The second part of the application is a site plan revision that would eliminate the club's kitchen area, which will allow Sutra to increase the seating area for its guests, increase its restroom capacity and improve ingress and egress for the club.

Eliminating the club's kitchen area is not only an operational and safety improvement for Sutra but assists the owners of Triangle Square in their efforts to attract two upscale restaurant operations that will total 14,000 square feet. Sutra has neither the ability, nor desire, to compete with two new, full-service restaurants that are open daily for business.

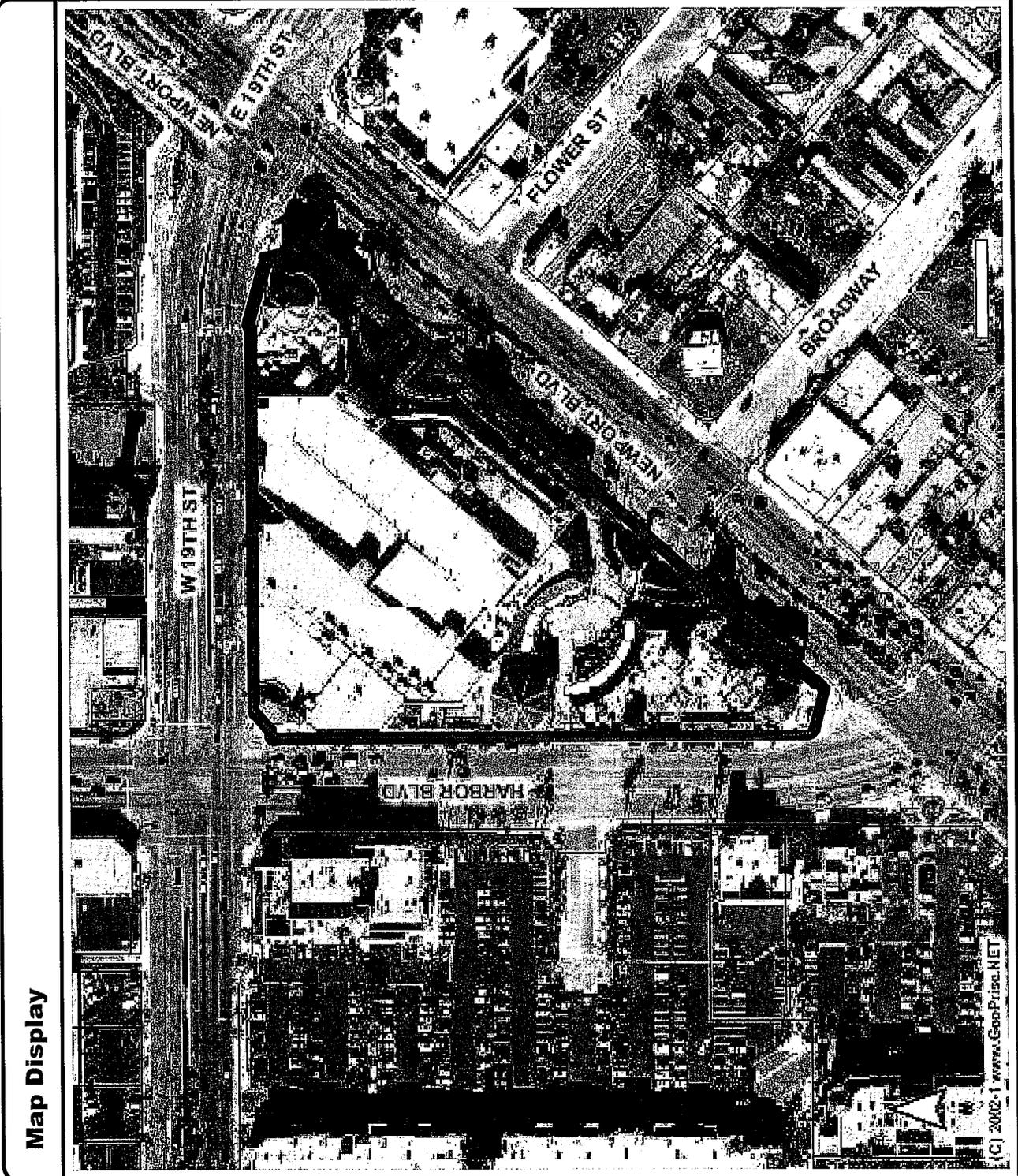
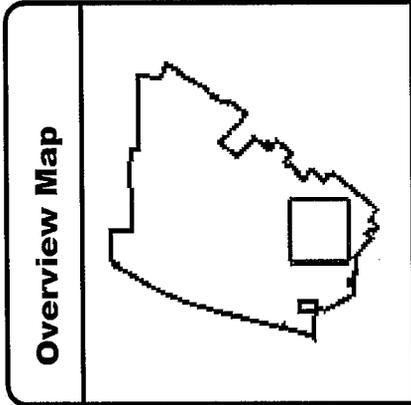
Thank for your time and consideration and please don't hesitate to contact me if you have any questions or need further information.

Regards,



Peter Buffa  
Authorized Agent

**ATTACHMENT 5**  
**LOCATION MAP**

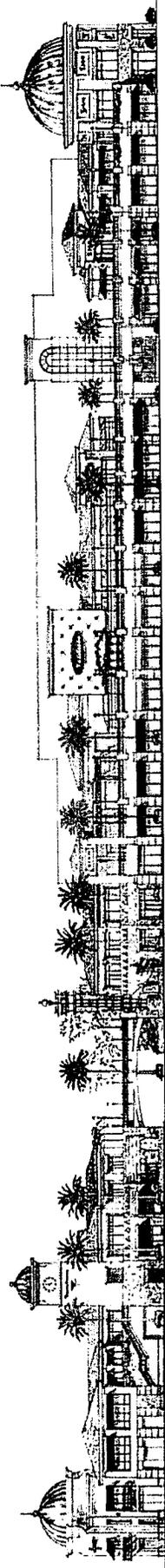
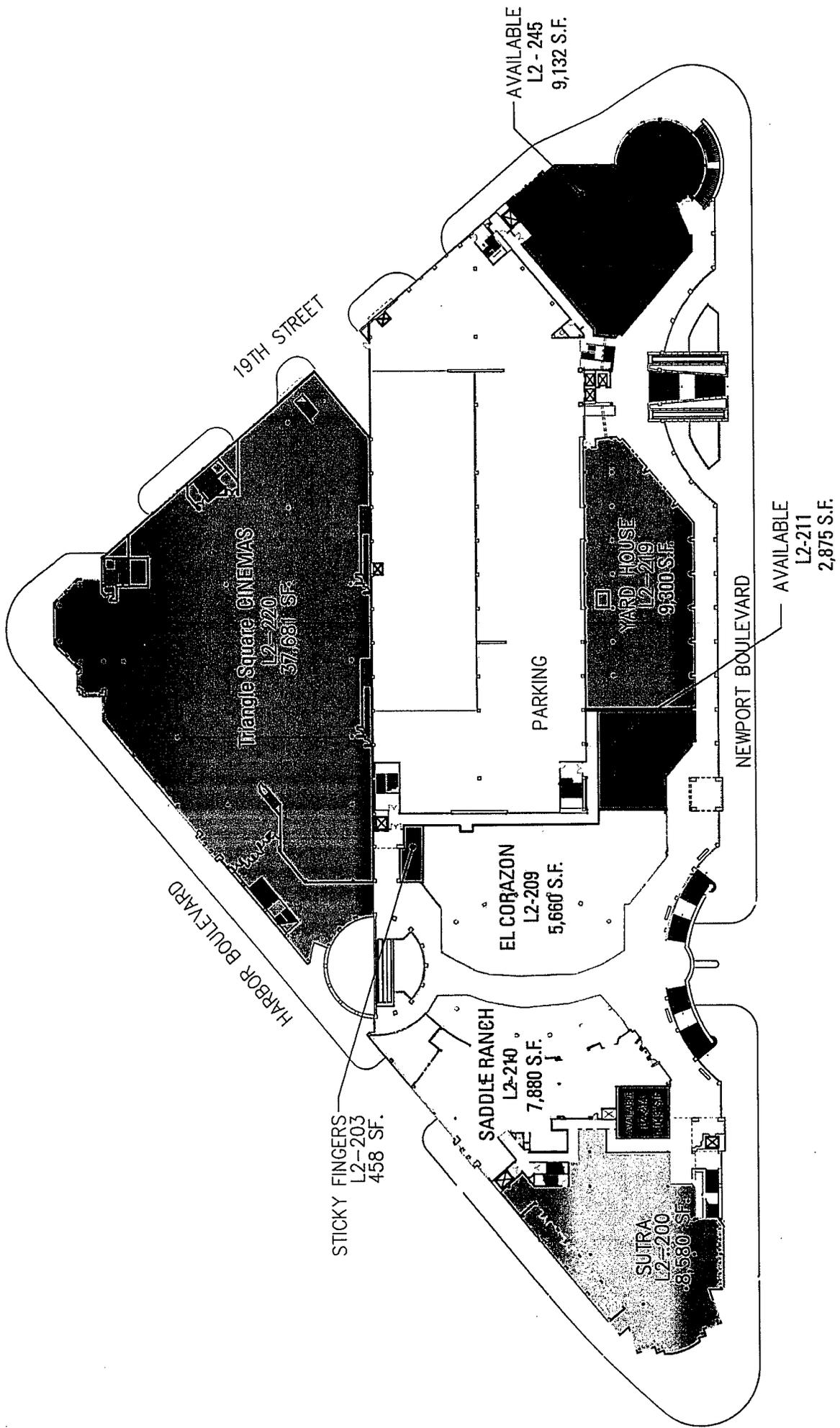


**Legend**

33	Street Names
—	Parcel Lines
Ortho 2008	Level 2
Ortho 2006	Level 2
Parcels	
ROW	Polygon-
	s

**ATTACHMENT 6**  
**PLANS**

# █ FLOOR PLAN - Plaza Level



2A-02-55A1 File

SHEET: T2.0 OF 01

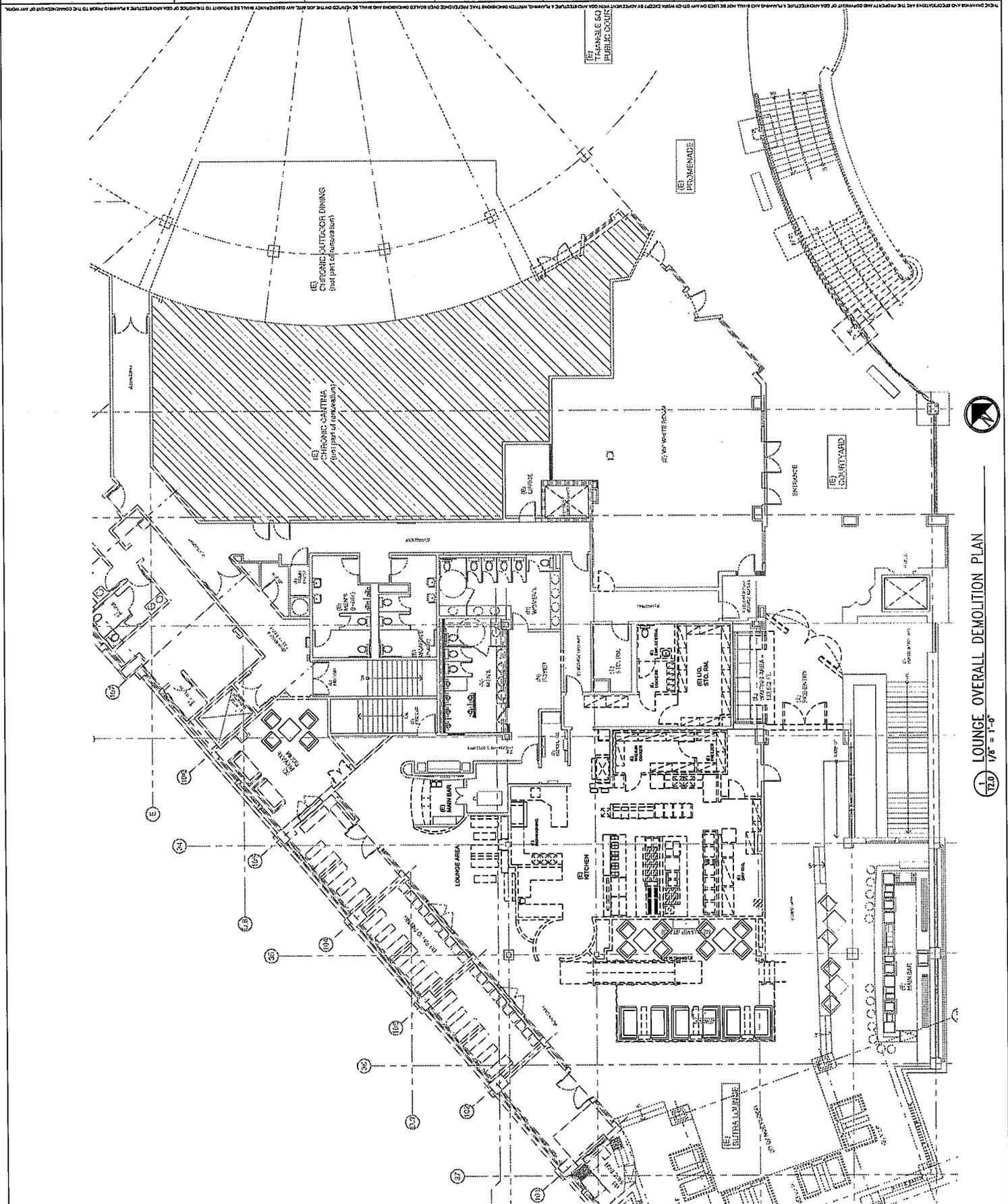
PROJECT TITLE: SUITRA STAGE  
LOUNGE OVERALL  
DEMOLITION PLAN

NO.	DATE	BY	APPD.	REVISION
1	02/11/10	ES		PREP. DEMOLITION CORRECTIONS
2	02/11/10	ES		AGENCY SUBMITTAL
3	02/13/10	ES		AGENCY SUBMITTAL



ARCHITECT: SCDS CONSULTING ARCHITECTS/ENGINEERS  
 APPROVAL OF DESIGN: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 APPROVAL FOR CONSTRUCTION: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 GOAL: \_\_\_\_\_  
 CONSULTANT: \_\_\_\_\_

SCDS  
 Consulting design and architecture  
 William E. Dowling, Architect A.I.A.  
 2518 West 157th Street, Gardena, CA 90249  
 310.221.4489 Fax 310.226.0714  
 ewd@scdsarchitect.com



LOUNGE OVERALL DEMOLITION PLAN  
 1/8" = 1'-0"

SHEET: **T3.0** OF . . .

DATE: \_\_\_\_\_  
 BIDS: \_\_\_\_\_  
 FUR.: \_\_\_\_\_  
 AREA: \_\_\_\_\_

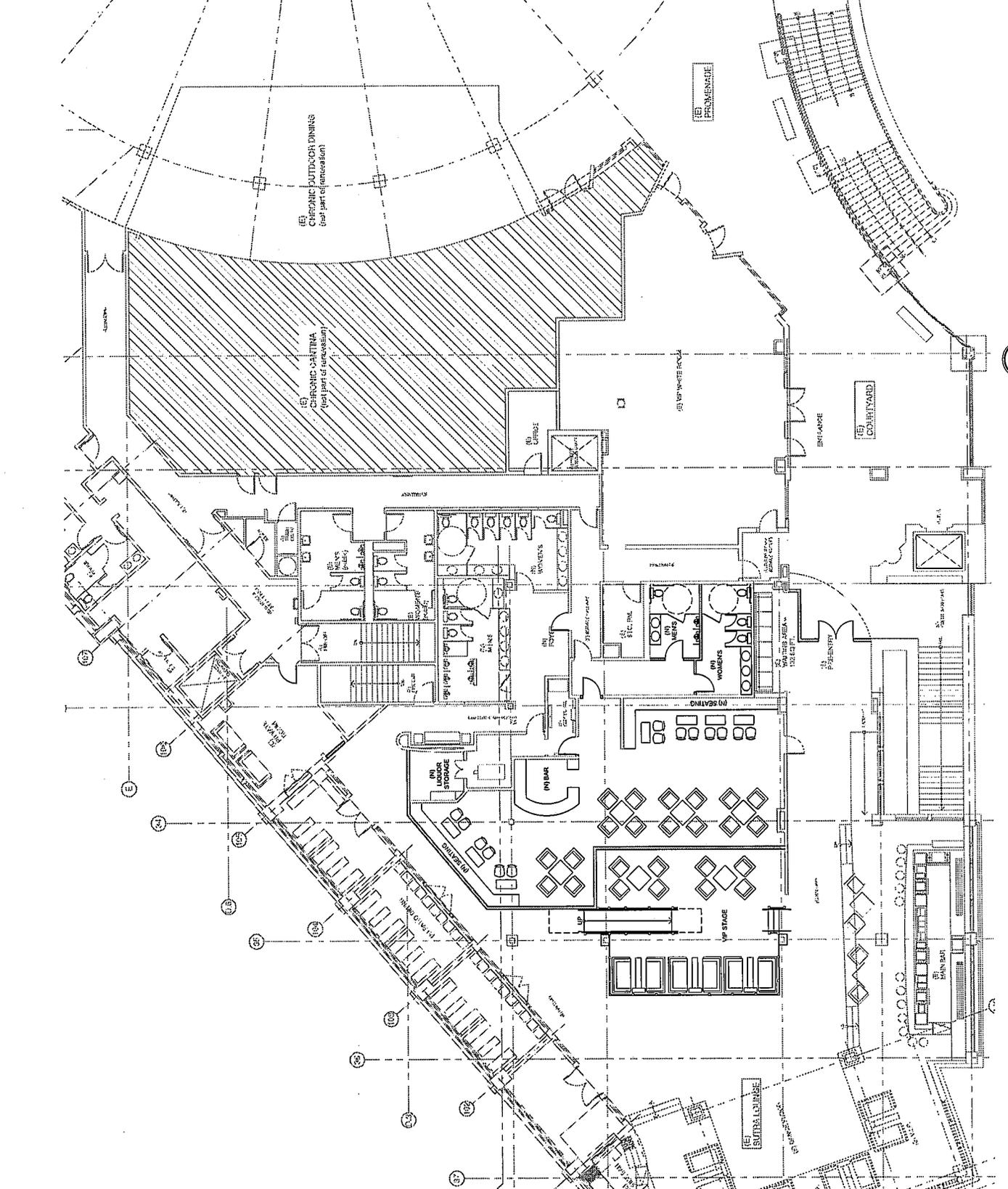
PROJECT TITLE: **SUTRA STAGE**  
 SHEET TITLE: **LOUNGE OVERALL PLAN**

NO.	DATE	BY	REVISION
1	02/11/18	ES	FIRE DEPARTMENT CORRECTIONS
2	02/13/18	ES	AGENCY SUBMITTAL
3	01/24/18	ES	AGENCY SUBMITTAL



ARCHITECT: \_\_\_\_\_  
 CONSULTING ARCHITECT/ENGINEER: \_\_\_\_\_  
 APPROVAL OF DESIGN: \_\_\_\_\_  
 APPROVAL FOR CONSTRUCTION: \_\_\_\_\_  
 DATE: \_\_\_\_\_  
 G.O.A.: \_\_\_\_\_  
 CONSULTANT: \_\_\_\_\_

**SCDS**  
 Consulting design and architecture  
 William E. Dowling, Architect A.I.A.  
 2510 West 157th Street, Gardena, CA 90248  
 310.242.489 310.655.2024  
 wcdowling@scdsarchitect.com



LOUNGE OVERALL PLAN  
 1/8" = 1'-0"

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