

STAFF REPORT
PLANNING COMMISSION

FILE NO.: CP10-016 & ABC10-003

Submitted: 06/04/2010

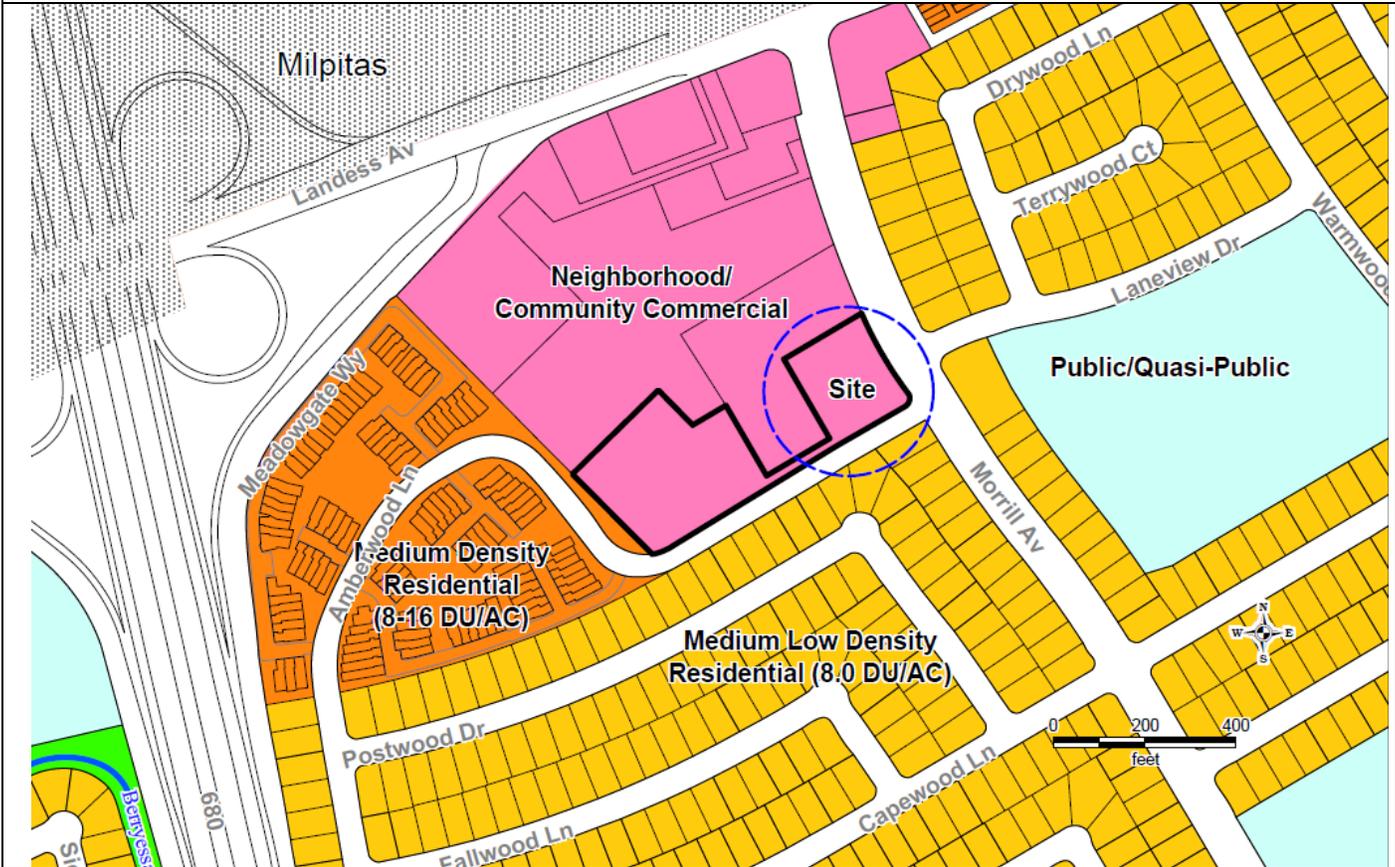
PROJECT DESCRIPTION: Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol for an existing general retail store/pharmacy in an existing approximately 20,317 square-foot tenant space in a shopping center on an approximately 13.2 gross-acre site.

| | |
|--------------------|-----------------------------------|
| Existing Zoning | CG-Commercial General |
| Proposed Zoning | No change |
| General Plan | Neighborhood/Community Commercial |
| Council District | 4 |
| Annexation Date | June 23, 1960 |
| SNI | None |
| Historic Resource | No |
| Redevelopment Area | None |
| Specific Plan | N/A |

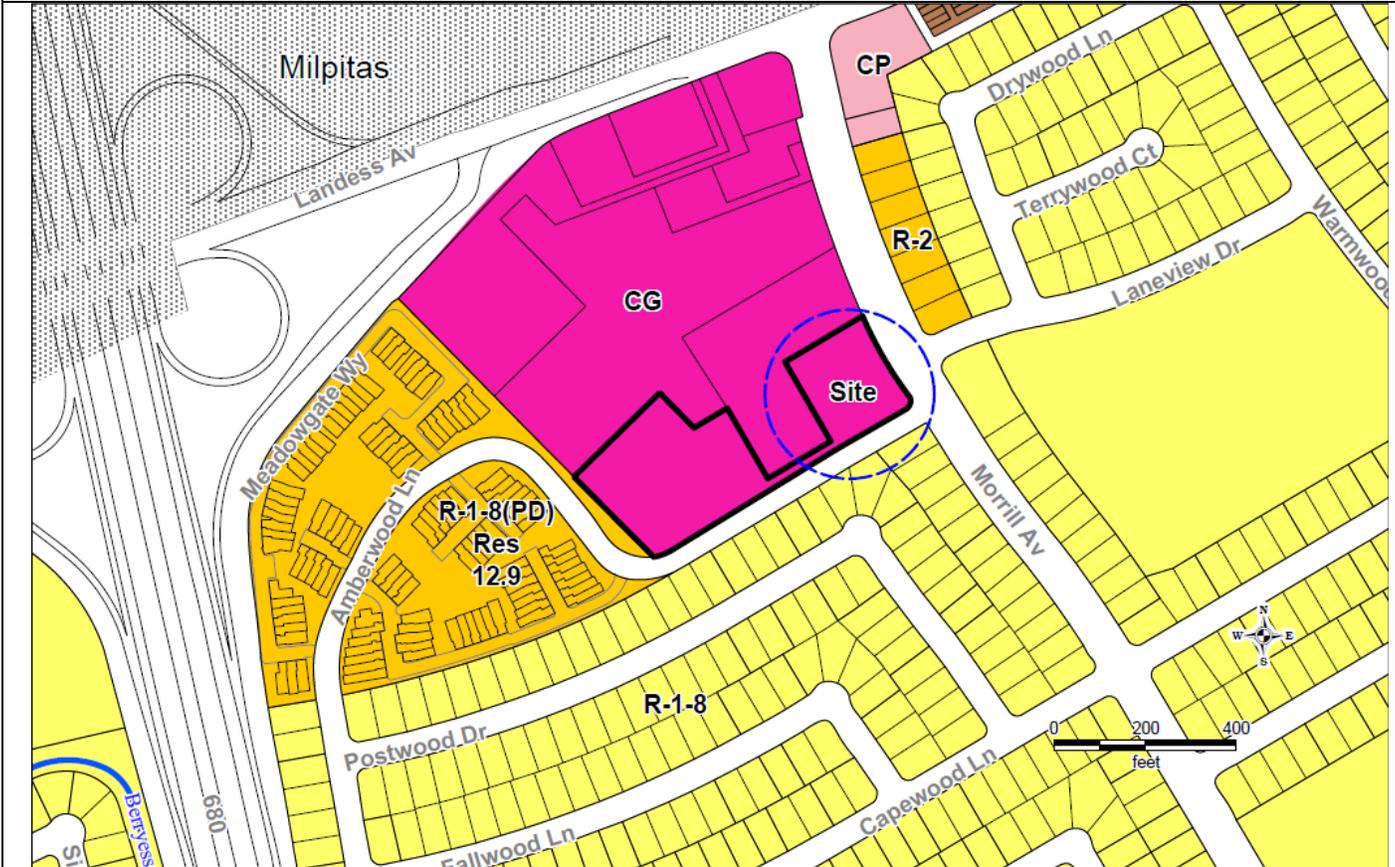
LOCATION: Approximately 100 feet westerly of the northwest corner of Morrill Avenue and Amberwood Lane (2105 Morrill Avenue).



GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends that the Planning Commission deny the requested Conditional Use Permit and not grant a Determination of Public Convenience or Necessity, as mandated by the Municipal Code, and include the facts and findings as included in the attached Resolution for the following reasons:

1. The proposed off-sale of alcohol at the subject site would lead to a grouping of four (4) off-sale establishments within a 500-foot radius of the subject site; and
2. The subject site is located within 150 feet of a residence; and
3. The proposed off-sale of alcohol will adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding areas; and
4. The off-sale of alcohol will not enhance or facilitate the vitality of an existing commercial area without presenting a significant impact on public health or safety.

BACKGROUND

On June 4, 2010, Daniel Kramer, on behalf of Walgreens, requested a Conditional Use Permit (File No. CP10-016) to allow off-sale of alcoholic beverages (beer and wine) at an existing general retail store/pharmacy in an existing approximately 20,317 square-foot tenant space in a shopping center on an approximately 13.2 gross-acre site in the CG-Commercial General Zoning District.

Per data from the Department of Alcohol Beverage Control, the site is located in a census tract of over-concentration of off-sale establishments. For this reason a Determination of Public Convenience or Necessity (PCN) is required. The San José Municipal Code allows concurrent processing of a Conditional Use Permit application for off-sale with an application for a Determination for PCN (File No. ABC10-003). If the Planning Commission's decision is appealed, the concurrent applications would then be scheduled for a new public hearing with the City Council.

The subject site is located approximately 100 feet westerly of the northwest corner of Morrill Avenue and Amberwood Lane (2105 Morrill Avenue). It is accessed from Morrill Avenue. The subject tenant space is located within a shopping center that is surrounded by commercial uses to the north, and residential uses west, east and south.

Project Description

The approximately 15,465 square-foot existing tenant space is part of a larger existing approximately 175,428 square-foot shopping center. The proposal is for off-sale of alcohol at an existing general retail store/pharmacy. The applicant has indicated that the retail store intends to add the off-sale of alcohol, limited to beer and wine, to the array of items for sale. The applicant's statement and plans show that the proposed alcohol sales area represents less than 5% of the total sales area. There is no proposed expansion of building area. The store does not currently operate past 12:00 midnight nor is it requesting to operate past midnight.

Community Engagement

Notices for a community meeting on the project were sent out to property owners and tenants within a 1,000-foot radius of the subject site, and a community meeting was held on February 24, 2011 at the Berryessa Branch Library, San José. Planning staff and the applicant waited more than half-an hour beyond the scheduled start of the meeting time to ensure that those community members interested in discussing the project in person with the applicant and staff would have the opportunity to do so. However, no community members attended the meeting. Additionally, as of the date of writing this staff report, staff has not received any correspondence from community members on the subject proposal.

ANALYSIS

In order for the existing retail store to be able to sell beer and wine at the subject location, the applicant needs to obtain a Conditional Use Permit and be granted a Determination of Public Convenience or Necessity. An approval of one without the other is of no value in ultimately facilitating the off-sale alcohol use. For this reason, this staff report links the two required applications together for concurrent consideration. The primary issues for this project include: 1) conformance with the Zoning Ordinance requirements for approval of a Conditional Use Permit and 2) requirements for a Determination of Public Convenience or Necessity. Additionally, the proposal is reviewed for conformance with the San José 2020 General Plan and the California Environmental Quality Act (CEQA).

Zoning Ordinance Findings for the Off-Sale of Alcohol

A Conditional Use Permit may be issued pursuant to the applicable provisions of the Zoning Ordinance for the off-sale of any alcoholic beverages only if the decision-making body first makes the following three special findings applicable to the off-sale of alcoholic beverages:

1. For such use at a location closer than five hundred (500) feet from any other use involving the off-sale of alcoholic beverages, situate either within or outside the City, that the proposed location of the off-sale of alcoholic beverages use would not result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one-thousand (1,000) foot radius from the proposed location.

Analysis of Required Finding. There are three (3) other existing businesses located within 500 feet of the proposed use that provide alcoholic beverages for off-site consumption: California Ranch Supermarket, Ernie's Liquors, and Target. The proposed use together with existing facilities would result in a total of four (4) such establishments within a 1000-foot radius from the proposed location, but would not result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one-thousand (1,000) foot radius from the proposed location.

2. For such use at a location closer than five hundred (500) feet from any other use involving the off-sale of alcoholic beverages, situate either within or outside the City, where the proposed location of the off-sale of alcoholic beverages use would result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one thousand (1,000) foot radius from the proposed location, that the resulting excess concentration of such uses will not:
 - a. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or

- b. Impair the utility or value of property of other persons located in the vicinity of the area; or
- c. Be detrimental to public health, safety or general welfare.

Analysis of Required Finding. As stated above, the proposed use will not result in more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one thousand (1,000) foot radius of the proposed location, therefore this finding is not applicable.

3. For such a use at a location closer than five hundred (500) feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university, or closer than one hundred fifty (150) feet from any residentially zoned property, that the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect such residential, child care center, public park, social service agency, residential care facility, residential service facility and/or school use.

Analysis of Required Finding. The subject site is not located closer than five hundred (500) feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university. The subject site is located within 150 feet of at least seven (7) residentially zoned properties. The closest residential parcel is approximately 80 feet from the building in which the retail store tenant space is located. The store entrance is approximately 200 feet from an existing residence across Morrill Avenue. Said entrance faces away from any residential and is oriented toward the parking lot of the center at the eastern end of the tenant space. The location of this entrance is situated and oriented that it should adversely affect the residential in the area.

Zoning Ordinance Findings for all Conditional Use / Planned Development Permits

To approve a Conditional Use Permit the Planning Commission must also make the following findings applicable to all Conditional Use Permits. They are as follows:

1. The proposed use at the location requested will not:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility of value of the property of other persons located within the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare.

The proposed off-sale use would be detrimental to the welfare of persons residing or working in the surrounding area in that an additional off-sale of alcohol establishment on the subject site would add to the over-concentration in the subject census tract as well as adding a fourth off-sale establishment within a 500-foot radius of the subject site without providing any offsetting improvements to the welfare of persons residing or working in the surrounding area such as access to a full-service grocery store that sells fresh meat and produce.

Based on the above analysis of the three required findings for off-sale of alcohol an additional off-sale of alcohol establishment would contribute to the existing over-concentration of establishment by having at least four (4) within 500 feet of the subject site. Additionally, the subject site is located within 150 feet of residential zoned property and access to the site is within 150 feet with few barriers between the

residential homes and the subject site. Combined with the analysis of the findings for all conditional uses, staff has concluded that an additional off-sale establishment at the proposed location would adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, and be detrimental to public health, safety or general welfare in that there are a sufficient number of alcohol outlets in the general area, more specifically three outlets within the shopping center, provided through general retailers, and not in the context of healthful food options or full-service grocery stores.

Finding of Public Convenience or Necessity

As of January 1995, the State of California Legislature implemented AB2897 by amending the Business and Professions Code (Section 23958) to require the Department of Alcohol Beverage Control (ABC) to deny an application for a liquor license “if issuance of that license would tend to create a law enforcement problem, or if the issuance would result in or add to an undue concentration of liquor licenses,” unless the City makes a Determination of Public Convenience or Necessity. Undue concentration is defined as follows:

- a) The premises of the proposed license is are located in an area that has 20% more reported crimes than the average number of reported crimes for the City as a whole, or
- b) The premises of the proposed license are located in a census tract where the ratio of existing retail on-sale/retail off-sale licenses to population in the census tract exceeds the ratio in the County as a whole.

The attached Police Department memorandum indicates that the project site is not located within an area of high crime; however, per data from ABC, the census tract in which the subject site is located does have an over-concentration of off-sale licenses. For ABC to be able to issue a license for this off-sale use, the City must grant a Determination of Public Convenience or Necessity, (PCN). The analysis of the proposal is based on the required findings.

Title 6 of the San José Municipal Code specifies that the Planning Commission, or the City Council on appeal, may issue a PCN only after first making the four specified factual findings identified below:

1. The proposed use is not located within a Strong Neighborhoods Initiative or Neighborhood Revitalization area or other area designated by the city for targeted neighborhood enhancement services or programs, or located within an area in which the chief of police has determined that the proposed use: (a) would be detrimental to the public health, safety, or welfare of persons located in the area, or (b) would increase the severity of existing law enforcement or public nuisance problems in the area.

Analysis of Required Finding: The proposed use is not located within a Strong Neighborhoods Initiative or Neighborhood Revitalization area. The Police Department did not state the subject property is located within an area where the proposed use would be detrimental to the public or increase the severity of public nuisance or existing law enforcement problems.

2. The proposed use would not lead to the grouping of more than four off-sale uses within a one thousand-foot radius from the proposed use.

Analysis of Required Finding: The proposed use would not lead to a grouping of more than four off-sale uses within a one thousand-foot radius from the proposed use.

3. The proposed use would not be located within 500 feet of a school, day care center, public park, social services agency, or residential care or service facility, or within 150 feet of a residence.

Analysis of Required Finding: The proposed use is located within 150 feet of a residence, and therefore, not consistent with this required finding which must be made in order to grant a favorable determination.

4. Alcohol sales would not represent a majority of the proposed use.

Analysis of Required Finding: Less than a majority of the approximately 20,317 square-foot tenant space is proposed to be used for the off-sale of alcohol.

One of the required findings for a Determination of Public Convenience and Necessity (PCN) above, Finding 3 cannot be made by the Planning Commission. Therefore, in accordance with and as mandated by the Municipal Code, the Planning Commission must deny the requested Determination of Public Convenience or Necessity.

General Plan Conformance

The subject site is designated Neighborhood/Community Commercial on the San José 2020 General Plan Land Use/Transportation Diagram. The site is developed as a retail commercial shopping center building. The proposed use is consistent with the General Plan land use designation in that commercial uses including uses associated with a pharmacy/convenience store in an existing retail tenant space promote commercial activity within the City of San José.

Environmental Review (CEQA)

Under the provisions of Section 15301(a) (Existing Facilities) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project only involves minor interior improvements to the existing retail space. No physical expansion of the building is proposed by this permit application.

CONCLUSION

The location of the proposed off-sale of alcohol is situated in an existing general retail store/pharmacy in a tenant space in a neighborhood shopping center. Within 150 feet of the subject tenant space there is one (1) existing off-sale of alcohol establishment, and there are two (2) additional existing off-sale establishments within 500 feet of the subject tenant space. All three (3) existing off-sale establishments and the proposed fourth (4th) off-sale establishment are within the same shopping center. The proposed off-sale establishment is within 150 feet of residences on Amberwood Lane, and within 150 feet of residences on Morrill Avenue. As was discussed above, relative to the required findings to support a Conditional Use Permit and Determination of Public Convenience or Necessity, given the existing concentration of off-sale establishments in the immediate area and the context in which the alcohol is being sold, general retail, convenience retail, or where a majority of the floor area is devoted to the sale of alcohol, staff concludes that the approval of this request would adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding areas well as add nothing to enhance or facilitate the vitality of an existing commercial area without presenting a significant impact on public health or safety.

PUBLIC OUTREACH

In addition to the community meeting held on February 24, 2011, per the provisions of City Council Policy 6-30: Public Outreach, notices of the public hearing for this project were sent to all property owners and tenants within 1,000 feet of the subject site. The Planning Commission Agenda is posted on the City of San José website, which includes a copy of the staff report, and staff has been available to discuss the project with members of the public.

Project Manager: Jenny Nusbaum **Approved by:**  **Date:** 03/14/2011

| Owner: | Applicant: | Attachments: |
|---|--|---|
| Gabriel H Chiu, Trustee & Et Al, Chiu Family Trust 10898 Inspiration Circle Dublin, CA 94568 | Walgreens c/o Daniel Kramer Haas Najarian, LLP 58 Maiden Lane, Floor 2 San Francisco, CA 94108 | Draft Resolution & legal description Map of off-sale establishments within 1,000 feet of subject tenant space San José Police Dept. Memorandum Plans |

RESOLUTION NO. 11-___

Resolution of the Planning Commission of the City of San José denying a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol, of any type, at an existing general retail store/pharmacy (Walgreens) in an existing approximately 20,317 square-foot tenant space in a shopping center on an approximately 13.2 gross-acre site.

FILE NOS. CP10-016 & ABC10-003

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SAN JOSÉ:

WHEREAS, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on June 4, 2010 applications (File Nos. CP10-016 & ABC10-003) were filed for a Conditional Use Permit and Determination of Public Convenience or Necessity to allow off-sale of alcohol, limited to beer and wine, at an existing general retail store/pharmacy, on that certain real property (hereinafter referred to as “subject property”), situate in the CG Commercial General Zoning District, located approximately 100 feet westerly of the northwest corner of Morrill Avenue and Amberwood Lane (2105 Morrill Avenue).

WHEREAS, the subject property is all that real property described in Exhibit “A,” which is attached hereto and made a part hereof by this reference as if fully set forth herein; and

WHEREAS, pursuant to and in accordance with Chapter 20.100 of Title 20 of the San José Municipal Code, this Planning Commission conducted a hearing on said application, notice of which was duly given; and

WHEREAS, at said hearing, this Planning Commission gave all persons full opportunity to be heard and to present evidence and testimony respecting said matter; and

WHEREAS, at said hearing this Planning Commission received and considered the reports and recommendation of the Director of Planning, Building and Code Enforcement; and

WHEREAS, at said hearing, this Planning Commission received in evidence a plan for the subject property entitled, "Walgreens Store Morrill Avenue, San Jose, CA" dated August 14, 1996 and received June 4, 2010. Said plan is on file in the Department of Planning, Building and Code Enforcement and is available for inspection by anyone interested herein, and said

development plan is incorporated herein by this reference, the same as if it were fully set forth herein; and

WHEREAS, said hearing was conducted in all respects as required by the San José Municipal Code and the rules of this Planning Commission;

NOW, THEREFORE:

After considering evidence presented at the Public Hearing, the Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Neighborhood/Community Commercial on the adopted San José 2020 General Plan Land Use/Transportation Diagram.
2. The project site is located in the CG-Commercial General Zoning District.
3. Under the provisions of Section 15301 of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from environmental review.
4. The project proposes the off-sale of alcohol, limited to beer and wine, at an approximately 20,317 square-foot existing general retail store/pharmacy located within an approximately 175,428 square-foot commercial building complex.
5. The project includes no exterior modifications to the existing building.
6. The subject tenant space is located within a shopping center that is surrounded by commercial uses to the north, and west, residential uses west of the shopping center, and residential uses east and south of the subject tenant space, across Morrill Avenue and Amberwood Lane respectively.
7. No increase in parking demand results from this proposed project.
8. The subject retail establishment currently closes at 10:00 p.m. but can be open until midnight as-of-right.
9. The subject store proposes to utilize no more than 5 percent of the floor area for the sale of beer and wine.
10. The Police Department memorandum indicates that the project site is not located within an area of high crime.
11. The proposed site *is* located within a census tract that has an overconcentration of off-sale licenses.
12. The proposed use would not lead to the grouping of more than four off-sale establishments within a one thousand-foot radius from the proposed use.

13. Due to the overconcentration of off-sale licenses, the project is subject to the requirements for a Determination of Public Convenience or Necessity for a liquor license for the off-sale of alcoholic beverages. The granting of such a determination requires that four specific findings be made as prescribed by Title 6 of the San José Municipal Code.
14. The proposed use is not within a Strong Neighborhood Initiative area or other area designated by the city for targeted neighborhood enhancement services or programs.
15. The project site is not located within 500 feet of a school, day care center, public park, social services agency, or residential care or service facility.
16. The project building is located adjacent to and within 150 feet, of residentially zoned property to the west, south and east.
17. The above mentioned residential use to the south of the subject building is within 150 feet walking distance to the subject store with no major barriers between the residential and commercial uses.
18. There are three (3) other off-sale establishments within 1,000 feet of the subject site.

Based on the above stated facts, the Planning Commission concludes and finds that based on the four (4) required findings in the subsection below, the Planning Commission is not able to consider granting a determination of Public Convenience and Necessity for the subject liquor license in that:

1. The proposed use is not located within a Strong Neighborhoods Initiative area or other area designated by the city for targeted neighborhood enhancement services or programs, or located within an area in which the chief of police has determined that the proposed use would be detrimental to the public health, safety, or welfare of persons located in the area, or increase the severity of existing law enforcement or public nuisance problems in the area; and
2. The proposed use would not lead to the grouping of more than four off-sale uses within a one thousand-foot radius from the proposed use; and
3. The proposed use would not be located within five hundred feet of a school, day care center, public park, social services agency, or residential care or service facility. The proposed use is within one hundred fifty feet of an existing residence and is therefore not in conformance with the requirements of Title 6 of the SJMC.
4. Alcohol sales would not represent a majority of the proposed use.

Additionally, the Planning Commission concludes and finds, based on the analysis of the above facts in regards to the Conditional Use Permit, that:

1. For the use located closer than five hundred (500) feet from any other use involving the off-sale of alcoholic beverages, situate either within or outside the City, that the proposed location of the off-sale of alcoholic beverages use would not result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one-thousand (1,000) foot radius from the proposed location; and

2. The use is not closer than five hundred (500) feet from any other use involving the off-sale of alcoholic beverages, situate either within or outside the City, where the proposed location of the off-sale of alcoholic beverages use would result in a total of more than four (4) establishments that provide alcoholic beverages for off-site consumption within a one thousand (1,000) foot radius from the proposed location, that the resulting excess concentration of such uses would:
 - a. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the area; or
 - c. Be detrimental to public health, safety or general welfare.
3. The use is not located closer than five hundred (500) feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university. The use is located closer than one hundred fifty (150) feet from a residentially zoned property, and the proposed use is situated and oriented in such a manner that should not adversely affect such residential use.

Finally, based on the above-stated findings, with respect to the Conditional Use Permit, the Planning Commission finds that:

1. The proposed use at the location requested will:
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of the property of other persons located within the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences parking, loading facilities, landscaping and other development features prescribed in this Title, or as is otherwise required in order to integrate said use with the surrounding area.
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
 - b. By other public or private service facilities as are required.

Based on all of the above findings for both applications, this proposal for off-sale of beer and wine is hereby denied.

DENIED this 23rd day of March 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson

ATTEST:

Joseph Horwedel, Secretary

Deputy

NOTICE TO PARTIES

The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.

EXHIBIT "A"

LEGAL DESCRIPTION (STORE #900)

All that certain real property situated in the City of San Jose, County of Santa Clara, State of California, described as follows:

Parcel One:

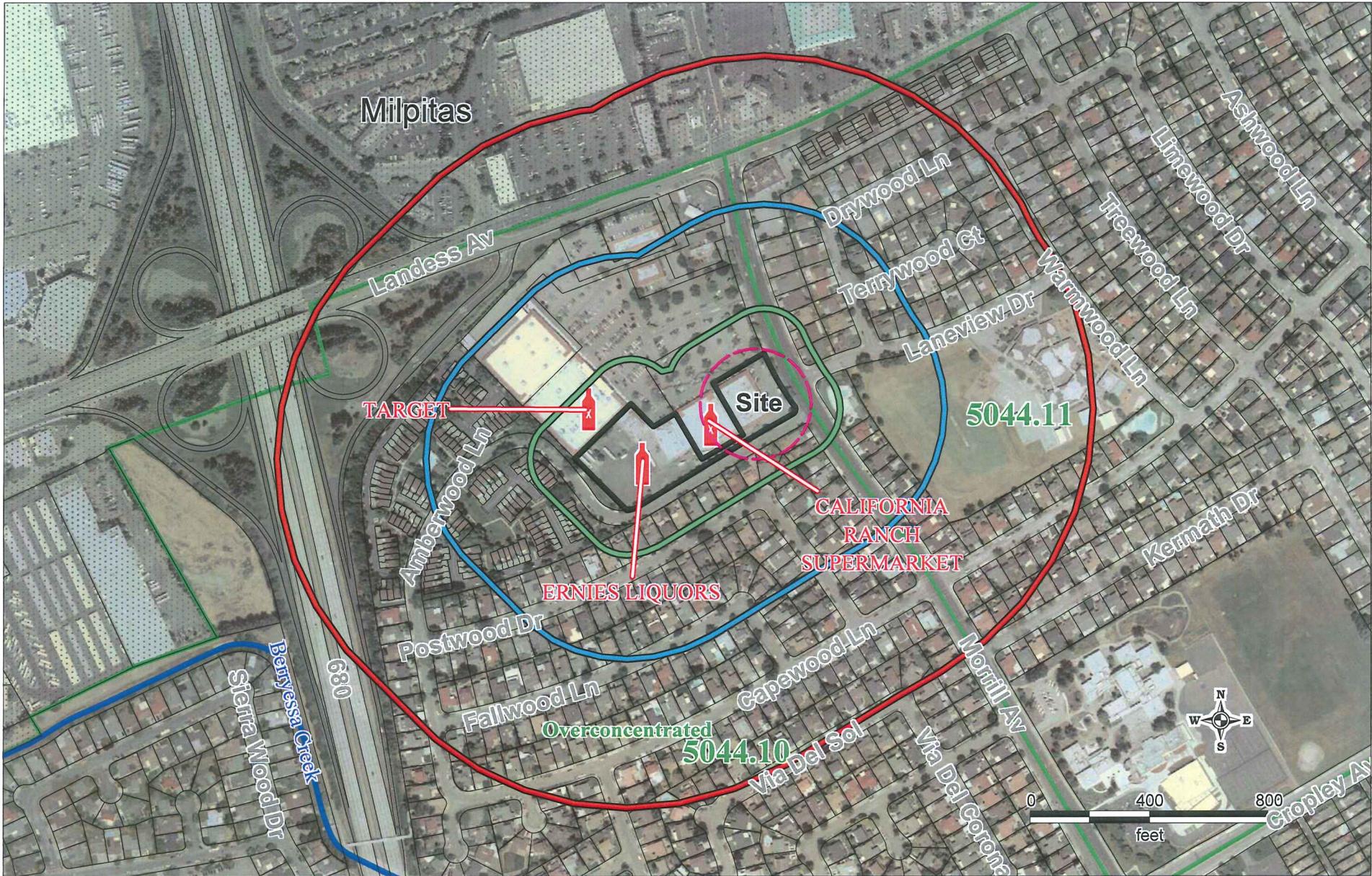
Parcel 1, as shown on that certain Parcel Map filed for record in the office of the Recorder of the County of Santa Clara, State of California on March 8, 1971, in book 279 of Maps page 49.

Parcel Two:

All easements, rights and privileges contained in that certain instrument entitled, "Declaration Establishing Covenants, Conditions and Restrictions and Granting Easements," dated March 4, 1971 by Sutter Hill Development Corporation, a California corporation, recorded March 8, 1971 in Book 9247, page 115, Official Records

Commonly known as 2105-2145 Morrill Avenue
APN: 092-09-012

#900
Morrill & Landess
2105 Morrill Avenue
San Jose, CA



File No: CP10-016, ABC10-003
 District: 4

Nearby Alcohol Off-Sales



Prepared by the Department of Planning,
 Building, and Code Enforcement
 6/7/2010



Memorandum

TO: Jenny Nusbaum
Planning Department

FROM: Officer C. Zarate #3165
San Jose Police Vice Unit

SUBJECT: Walgreens
2105 Morrill Ave. CP10-016

DATE: August 2, 2010

Approved

Date

I have received your request for input regarding Walgreens Ave, San Jose, Ca. 95132. Walgreens is seeking a new Conditional Use Permit to allow the off sale of alcohol (beer and wine). They are applying for a Type 20 Off-Sale ABC license.

Per Business and Professions (B&P) Code Section 23958, the State of California Department of Alcohol Beverage Control shall deny an ABC Application for an ABC License if the issuance of that license would tend to create a law enforcement problem or if it would result in or add to an undue concentration of ABC Licenses, as described in B&P Sections 23958.4 (a)(1) and 23958.4 (a)(3). A location can be unduly concentrated because of its criminal statistics and/or it's proximity to other ABC Licenses. ABC can issue the license per B&P Sections 23958.4 (b)(1), and 23958.4 (b)(2) if the local governing body determines that the public convenience or necessity would be served. The City of San Jose Planning Department or the Planning Commission are the delegated authorities to grant these exceptions.

The location is not currently in a Strong Neighborhood Initiative area or a Neighborhood Revitalization area.

Walgreens is located in San Jose Police Beat W1. The reported crime statistics as defined by B&P Section 23958.4(c) **are not** over the 20% crime index thus the location **is not** considered unduly concentrated per B&P Section 23958.4 (a)(1).

Police Beat Crime Statistics

| Beat | Index Crimes | Arrests | Total | 20% Above Average |
|--------------|--------------|---------|-------|-------------------|
| W1 (2009) | 425 | 235 | 660 | No |
| City Average | 327 | 256 | 583 | |

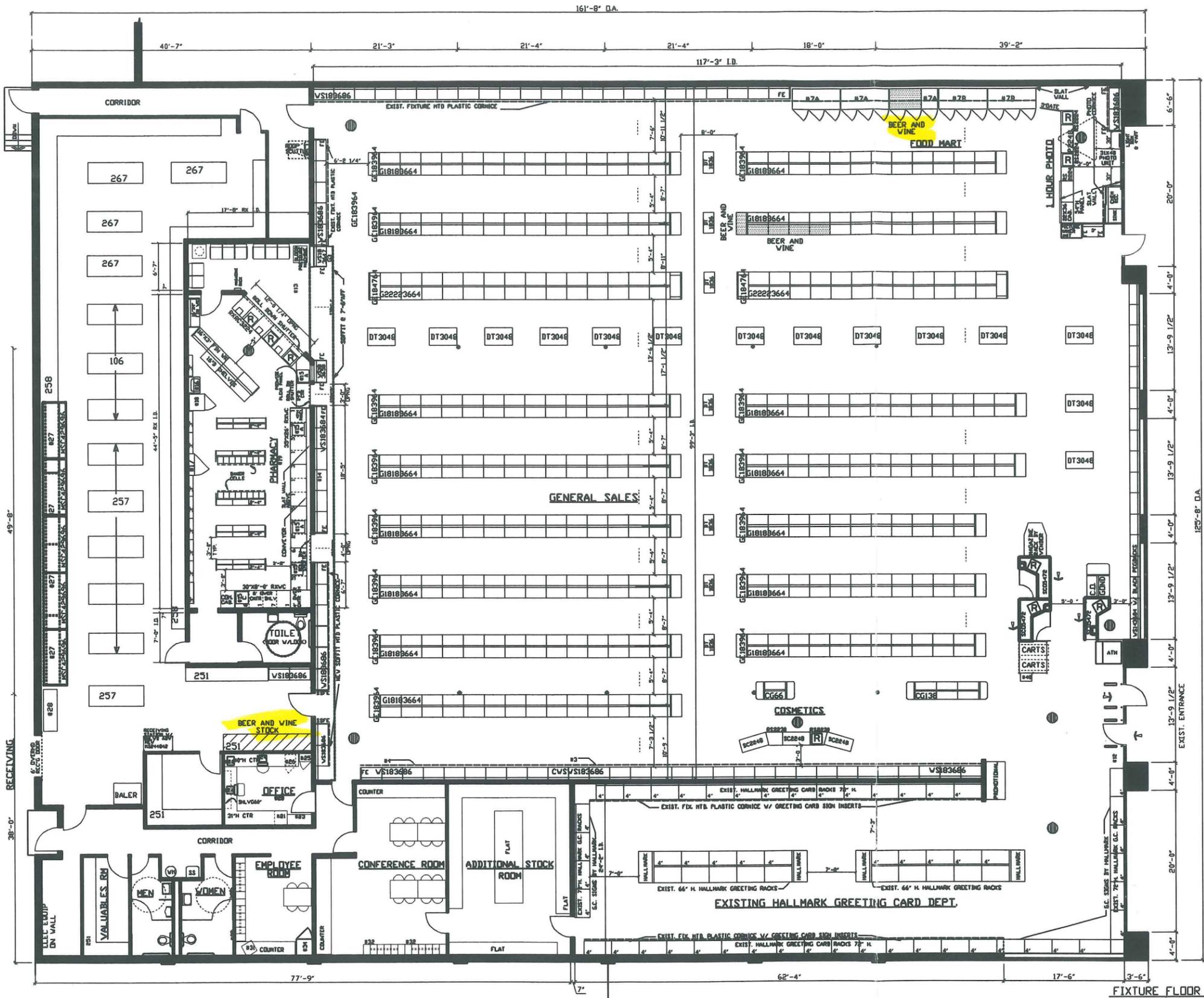
Department of Alcohol Beverage Control (ABC) records indicate Walgreens is in census tract 5044.10 Pursuant to B&P Section 23958.4 (a)(3) ... the ratio of off-sale retail licenses to population in census tract 5044.10 **does** exceed the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

Authorized and Current ABC Licenses in Census Tract 5044.10

| Census Track | Authorized ABC Licenses as of January 2008 | | Current ABC Licenses as of May 18, 2010 | | Unduly Concentrated | |
|--------------|--|------------|---|------------|---------------------|------------|
| | On - Sale | Off - Sale | On - Sale | Off - Sale | On - Sale | Off - Sale |
| 5044.10 | 6 | 3 | 4 | 5 | No | Yes |

The San Jose Police Department is neutral to the issuance of this permit. Please feel free to contact me at 277-4322 if you have any questions.

Officer Christine Zarate #3165
Administrative Officer
Special Investigations/Vice



FIXTURE FLOOR PLAN

LEGEND

| | |
|--|---------------------|
| | BEER AND WINE SALES |
| | BEER AND WINE STOCK |

BEER/WINE SQUARE FEET

| | |
|------------------------------------|------------|
| TOTAL SALES: | 38 SQ. FT. |
| TOTAL STOCK: | 31 SQ. FT. |
| TOTAL BEER/WINE SQUARE FEET | |
| TOTAL BEER AND WINE SALES: | 38 SQ. FT. |

Facilities Planning and Design
200 WILMOT ROAD DEERFIELD, IL 60015
847-940-2500

PROJECT DATA

| | | |
|----------------------------|---|---|
| TYPE | GENERAL SALES <input checked="" type="checkbox"/> | FOOD MART <input checked="" type="checkbox"/> |
| NEW LOCATION | PHARMACY <input checked="" type="checkbox"/> | BEER <input checked="" type="checkbox"/> |
| NEW LOCATION EXIST'G BLDG. | LIQUOR <input type="checkbox"/> | SECURITY <input type="checkbox"/> |
| REMODEL | 1 HOUR PHOTO <input checked="" type="checkbox"/> | 24 HOUR STORE <input type="checkbox"/> |

SQUARE FOOT AREA SUMMARY

| DEPARTMENT | SALES | STOCK | SERVICE | TOTAL |
|--|--------------|-------------|-------------|-----------------------|
| GEN SALES | EXIST 10840 | 5957 | 1549 | EXIST'G 18346 |
| LIQ. | EXIST | | | |
| BEER | EXIST | | | |
| 1 HR PHOTO | EXIST 225 | | | 225 |
| BSMT. | NEW | | | |
| MEZZ-ANINE | EXIST | | | |
| RX & WAIT'G | EXIST 1046 | | | 1046 |
| FOOD MART | NEW 700 | | | 700 |
| TOTAL EXIST | 12811 | 5957 | 1549 | 20,317 |
| TOTAL NEW | | | | 20,317 SQ. FT. |
| TOTAL AREA- FIRST FLOOR | | | | 20,317 SQ. FT. |
| TOTAL AREA- OTHER LEVELS | | | | 20,317 SQ. FT. |
| GROSS AREA INCLUDING ALL DEPARTMENTS AND ALL LEVELS | | | | 20,317 SQ. FT. |
| RX SHELVING LINEAL FEET | | NEW 94 | | 94 LIN. FT. |
| RX SQUARE FOOT AREA | | 800 | | 800 SQ. FT. |

GENERAL NOTES

- GENERAL SALES AREA
- SEE PROJECT DATA FOR FIXTURE MANUFACTURER
- SECURITY MIRROR ON SOFFIT OF REAR WALL
- COSMETIC CORNICE
- PLASTIC CORNICE SPECIFIED ON THIS DRAWING TO BE FIXTURE MOUNTED.
- PHOTO CORNICE
- CANDY SCALE SHELF
- REFRIGERATION: 3" SPACE BEHIND CASES
 - A. MASTER-BILT: 3 DOOR MEDIUM TEMP CASE BMG-80 84"V X 34.5"D X 78.5"H
 - B. MASTER-BILT: 3 DOOR LOW TEMP CASE BLG-80 84"V X 34.5"D X 78.5"H
 - C. MASTER-BILT: 2 DOOR MEDIUM TEMP CASE BMG-52 56"V X 34.5"D X 78.5"H
 - D. MASTER-BILT: 2 DOOR LOW TEMP CASE BLG-52 56"V X 34.5"D X 78.5"H
 - E. MASTER-BILT: 2 DOOR BACK-UP BDX TLS-52 56"V X 34.5"D X 78.5"H
 - F. MASTER-BILT: WINE COOLER VMB-580 70"V X 31"D X 76"H
- MASTER-BILT WALK-IN COOLER: PROVIDE
 - #1001 COOLMASTER DOORS
 - 26 3/8" X 73" EACH AND
 - 6 #101 FREEZEMASTER DOORS
 - 26 3/8" X 73" EACH BY ANTHONY.
- DOOR(S) FOR EACH DOOR PROVIDE
 - (7) 1" BEV-D-FLOW GRAVITY SHELVES/ UPPER (5) WITH SLIDES AND LOWER (2) WITH ROLLERS COMPLETE WITH UPRIGHTS
- DOOR(S) FOR EACH DOOR PROVIDE AND (4) 84" POSTS
- DOOR(S) FOR EACH DOOR PROVIDE AT FLOOR LEVEL
- DOOR(S) FOR EACH DOOR PROVIDE (2) 27" ANTHONY WIRE SHELVES
- DOOR(S) FOR EACH DOOR PROVIDE (2) 27" ANTHONY SHELVES AND (4) 36" MERCHANDISER SHELVES
- DOOR(S) FOR EACH DOOR PROVIDE (2) 36" MERCHANDISER SHELVES
- DOOR(S) FOR EACH DOOR PROVIDE (2) 36" MERCHANDISER SHELVES
- DOOR(S) FOR EACH DOOR PROVIDE (2) 36" MERCHANDISER SHELVES
- ICE CHEST BY VENDOR APPROX. 50 X 34 X 78
- RAILINGS TO BE 40"H DOUBLE LINE RAILS W/ DISPLAY PLATFORM ABOVE
- FREE STANDING CHECKOUTS TO HAVE A GATE AND 36"H SIDE SCREEN. PROVIDE A 6"H DARK BROWN VINYL BASE AT ALL CHECKOUTS
- ELECTRONIC ARTICLE SURVEILLANCE SYSTEM

PHARMACY DEPARTMENT:

- RX WAITING ROOM
- (8) SEATS
- TABLE LAMP (WHEN SHOWN)
- MAGAZINE RACK: LOCATE AT 42" AFF
- PIECES OF ARTWORK 22X28 (SEE INTERIOR ELEVATION FOR LOCATION)
- FIXED GLASS PANEL OPENING (SEE ARCH DVGS)
- COMPUTER TERMINAL
- ISA INTERCOM PLUS TERMINAL
- INTERCOM TERMINAL
- ISC TRAINING TERMINAL
- RX SINK AND CABINET
- RX CABINET
- RX REFRIGERATOR
- PROVIDE A CARPETED FLOOR WITH A RUBBER RUNNER. RX UNDERCOUNTER INSERTS:
 - #1 - RX 3 DRAWER VIAL UNIT
 - #2 - RX 3 DRAWER FILE INSERT
 - #3 - RX OPEN UNIT
 - #5 - RX PRINTER CABINET
 - #6 - RX 3 DRAWER FILE INSERT
 - #7 - RX OPEN UNIT W/ CPU SHELF
 - #8 - RX PRINTER UNIT
 - #9 - RX COMMUNICATION CABINET

OFFICE:

- PROVIDE TILED FLOOR & VINYL WALLCOVERING
- UNDER COUNTER SELF UNIT
- COMPUTER PRINTER
- LATERAL FILE
- ADMINISTRATION TERMINAL
- TILL LOCKER
- SAFE

STOCKROOM:

- GRAVITY CONVEYOR
- NEST-A-FLEX CONVEYOR
- POWER ROLLER CONVEYOR
- BALER: 50"V X 34"D X 78"H

EMPLOYEE ROOM:

- TV, VCR & BRACKET PROVIDED BY WALGREENS
- EMPLOYEE LOCKER: (1) 7'V X (1) 6'V X 18"D
- 5'-6"V X 2'D EMPLOYEE COUNTER W/ CABINET
- EMPLOYEE ROOM REFRIGERATOR
- EMPLOYEE ROOM SINK (IN COUNTER)
- 5'-6" MIRROR ON WALL ABOVE COUNTER

MISC:

- ELECTRICAL OUTLET FOR FUTURE USE
- VENDOR RACKS: REMOVE BASE, DECK & SHOES; END PANEL TO REMAIN
- EMPLOYEE TRAINING CABINET & 1 CHAIR
- PROVIDE OPENING FOR ONE-WAY GLASS (SEE INTERIOR ELEVATION FOR LOCATION)

FIXTURE MANUFACTURER

| | | |
|---|---------------------------------------|---|
| KIECHLER/ MYERS <input checked="" type="checkbox"/> | HADIX/ MYERS <input type="checkbox"/> | LOZIER/ STOREKRAFT <input type="checkbox"/> |
|---|---------------------------------------|---|

REVISIONS

| NO. | DATE | BY | DESCRIPTION | CONST. |
|-----|---------|----|--|--------|
| A | 8-13-96 | TS | ENLARGE PHARMACY INTO STOCK AREA. REVOR STOCK ROOM AREA. REQ#264877 | |
| B | 11-6-96 | TS | REV "B" ADDED TO REV "A" NEW 1HR PHOTO (SPEC PROD) RESET REFRIGERATOR AND FIRE EXIT DC | |

CERTIFICATION AND SEAL

I HEREBY CERTIFY THAT THIS PLAN AND SPECIFICATION WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY REGISTERED ARCHITECT OR ENGINEER UNDER THE LAWS OF THE STATE OF CALIFORNIA AS SIGNIFIED BY MY HAND AND SEAL.

PROJECT NAME
2105 MORRILL
SAN JOSE, CALIFORNIA

DRAWING TITLE
FIXTURE FLOOR PLAN

| | |
|---|------|
| EXECUTIVE APPROVAL | DATE |
| EXEC. VICE PRESIDENT DRUG STORE OPERATIONS | |
| SR. VICE PRESIDENT FACILITIES DEVELOPMENT | |

DATE: 8-14-96