

STAFF REPORT
PLANNING COMMISSION

FILE NO.: CP10-024

Submitted: 05/17/2010

PROJECT DESCRIPTION:

Conditional Use Permit request to allow off-sale of alcohol (beer and wine only) in an existing approximately 14,052 square-foot retail store/pharmacy tenant space in a shopping center on an approximately 14.0 gross acre site.

Existing Zoning	CP-Commercial Pedestrian Zoning District
San José 2020 General Plan	Neighborhood/Community Commercial
Envision San José 2040 General Plan	Neighborhood/Community Commercial in Kooser Road/Meridian Avenue Urban Village
Council District	9
Annexation Date	January 16, 1958
SNI	N/A
Historic Resource	N/A
Redevelopment Area	N/A
Specific Plan	N/A

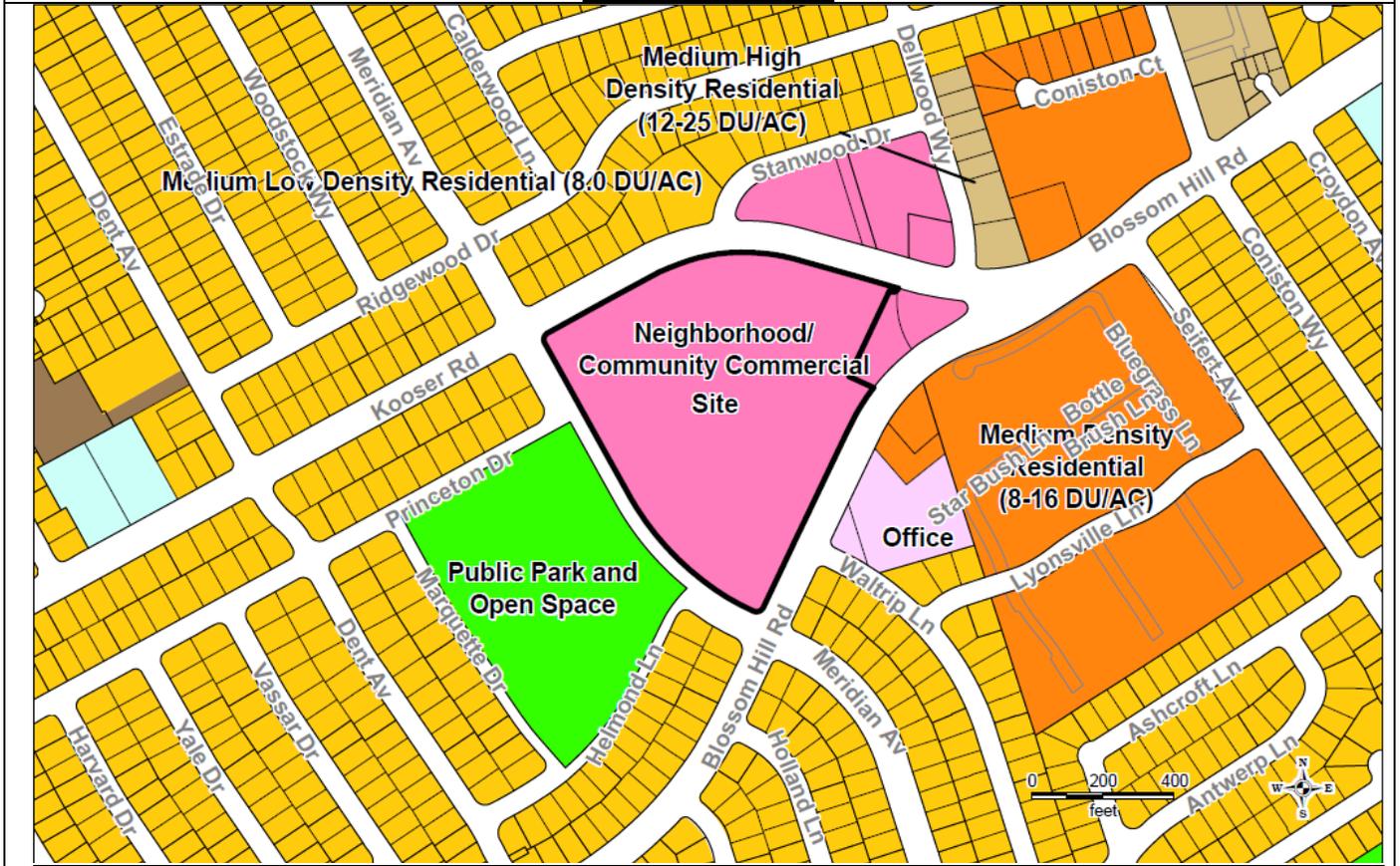
LOCATION: The south side of Kooser Road 500 feet westerly of Blossom Hill Road (1376 Kooser Road).

Aerial Map

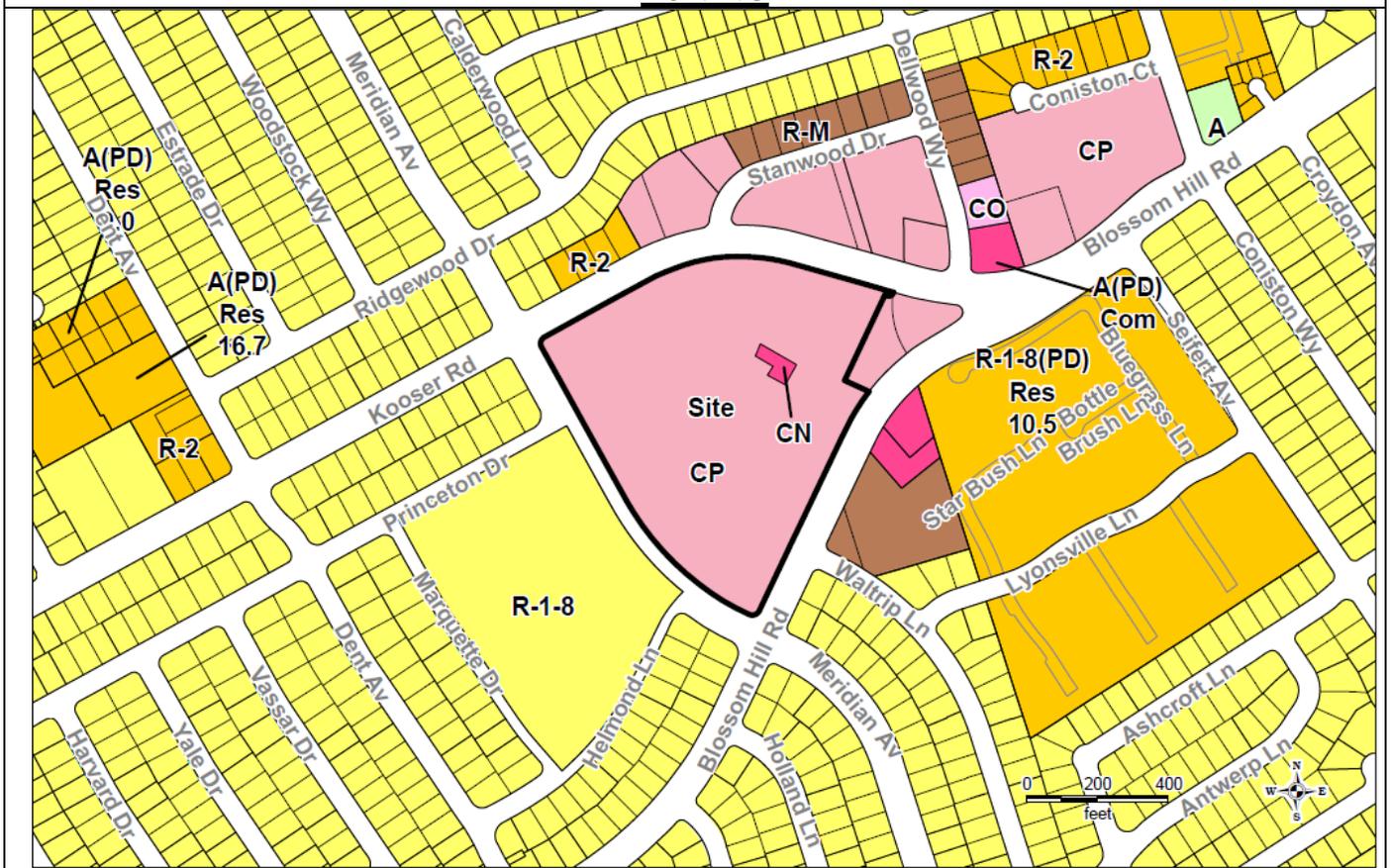
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GENERAL PLAN



ZONING



RECOMMENDATION

Planning staff recommends the Planning Commission deny the proposed Conditional Use Permit for off-sale of alcoholic beverages (beer and wine only) for the following reasons:

1. The proposed off-sale of alcohol at the subject site would lead to a grouping of five (5) off-sale establishments within a 1,000-foot radius of the subject site;
2. 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;
3. 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;
4. The proposed off-sale of alcohol is not needed to enhance an already viable existing shopping center;
and
5. The number of off-sale establishments in the area already offer convenience for the neighborhood.

BACKGROUND

On May 17, 2010, Pan Cal Princeton Plaza, LLC (in behalf of Walgreens) applied for a Conditional Use Permit to allow the off-sale of alcoholic beverages (beer and wine only) at an existing approximately 14,052-square-foot retail store/pharmacy tenant space on an approximately 14.0 gross acre site in the CP-Commercial Pedestrian Zoning District. A Conditional Use Permit is required pursuant to the San José Municipal Code (Zoning Ordinance) for the off-sale of alcohol.

The subject tenant space, Walgreens, is part of a neighborhood shopping center (Princeton Plaza Mall) on the south side of Kooser Road 500 feet westerly of Blossom Hill Road (1376 Kooser Road). The shopping center includes various restaurants, personal service establishments, and retail stores, including a liquor store (Wine Rack & Liquor at 1375 Blossom Hill Road).

The shopping center site is triangularly shaped and bounded by Meridian Avenue on the southwest, Kooser Avenue on the north, and Blossom Hill Road on the southeast. Surrounding development to the north includes duplexes and various commercial uses. To the west of the shopping center, there are single-family residences and DeAnza Park. A senior housing development, a few commercial uses and condominiums are located to the south across Blossom Hill Road.

The subject property is not located in an alcohol restricted sales area because the census tract in which the site is located is not over-concentrated with off-sale of alcohol establishments per data from the State Department of Alcoholic Beverage Control (there are two off-sale establishments in operation in the census tract). Additionally, the site is not in a high-crime area per data from the San José Police Department (see attached Police Memo). For these reasons, a Determination of Public Convenience or Necessity is not required. It should be noted that the north side of Kooser Road is in a different Census Tract and is deemed to be over-concentrated.

Permit History

Development of the shopping center, including the subject building, was approved in 1963 with a building permit. Remodeling and additions to the shopping center were approved with Site Development Permits in the 1980s. A Conditional Use Permit (File No. CP95-012) that was approved in 1995 permitted the addition of a drive-through use and associated façade improvements to the existing retail store/pharmacy tenant space.

ANALYSIS

The key issues analyzed for the proposed Conditional Use Permit include the project's conformance with the following: 1) San José 2020 General Plan and the Envision San José 2040 General Plan; 2) Zoning Ordinance required findings for off-sale of alcohol, 3) Zoning Ordinance Findings for all Conditional Use Permits, and 4) CEQA.

General Plan Conformance

The subject Conditional Use Permit application was submitted and deemed complete when the San José 2020 General Plan was in effect and therefore is considered a pipeline project. The site is designated Neighborhood/Community Commercial on the San José 2020 General Plan Land Use/Transportation Diagram and Neighborhood/Community Commercial in Kooser Road/Meridian Avenue Urban Village on the Envision San José 2040 General Plan Land Use/Transportation Diagram. The site is developed as a retail tenant space in a commercial shopping center building. The proposed use is consistent with the General Plan land use designation under both the 2020 and 2040 General Plans in that commercial uses including uses associated with a retail store in an existing retail tenant space promote commercial activity within the City of San José.

Zoning Ordinance Requirements

Zoning Ordinance Findings for the Off-Sale of Alcoholic Beverages

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:

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 and one (1) additional such business within 1,000 feet of the proposed use for a total of four (4) establishments that currently provide alcoholic beverages for off-site consumption within a 1,000-foot radius from the proposed location. Therefore, the addition of the proposed off-sale use would result in a total of more than four (4) establishments, more specifically a total of five (5) establishments that provide alcoholic beverages for off-site consumption within a 1,000-foot radius from the proposed location, and this finding cannot be made.

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 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. The resulting excess concentration of such uses may further adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in the vicinity of the area, or be detrimental to public health, safety or general welfare. The proposed off-sale use would add to the concentration in the subject census tract as well as adding a fifth (5th) off-sale establishment within a 1,000-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 provides the full range of grocery items, including but not limited to fresh unprocessed meat and produce.

The attached Police Department memorandum indicates that the project site is not located within an area of high crime. Per data from the Department of Alcohol Beverage Control, the site is not located in a census tract of undue-concentration of off-sale establishments. For these reasons, the Police have indicated that they are neutral about this proposal.

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 use is also not located within 150 feet of a residentially zoned property. The nearest residentially zoned property is approximately 300 feet from the subject tenant space on Kooser Road, and the path of travel for that residentially zoned property is more than 300 feet from the subject publicly accessible tenant space entrance. Therefore, this finding is not applicable.

Zoning Ordinance Findings for Conditional Use Permits

To approve any type of Conditional Use Permit, the Planning Commission must also make all of the following findings:

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.
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this Title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and
 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.

Analysis of Required Findings.

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 concentration in the subject census tract as well as adding a second off-sale establishment within the same retail center and a total of five off-sale establishment within a 1,000-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 unprocessed meat and produce. In addition, the proposed off-sale use would be detrimental to public health and general welfare for the reasons stated above.

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 concentration of establishments by having at least five (5) within 1,000 feet of the subject site. Additionally, the subject site is located within approximately 300 feet of residentially zoned property and access to the tenant space for the proposed off-sale use is within 400 feet with few barriers between the residences 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 currently four (4) outlets within 1,000 feet of the subject tenant space.

With respect to findings number 2 and 3 above, these particular findings can be made since the site is generally well landscaped and maintained in accordance with previously issued Site Development Permits, and the addition of an off-sale use to an existing retail use where no new physical development is also proposed does not have direct impacts to traffic or utility infrastructure or public facilities. In summary, since finding number 1 cannot be made, the proposal does not meet the necessary findings to approve the proposed Conditional Use Permit.

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 expansion of the building is proposed by this application.

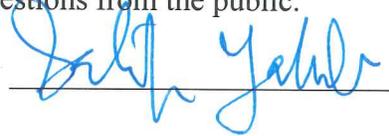
Conclusion

The proposed off-sale of alcohol establishment is situated in an existing retail tenant space in a shopping center. There are four (4) existing off-sale establishments within 1,000 feet of the subject tenant space. As was discussed above, relative to the required findings to support a Conditional Use Permit, given the existing excessive concentration of off-sale establishments in the immediate area and the context in which the alcohol is being sold, including retail without the provision of fresh meat and produce, 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 area. Additionally it would be detrimental to public health, safety or general welfare 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 that provides the full range of grocery items, including but not limited to fresh meat and produce.

PUBLIC OUTREACH

A community meeting was held on March 12, 2012 at Vineland Branch Library. There were four community members in attendance at the meeting as well as the Chief of Staff for Council District 9. They stated that the DeAnza Park's nearby location to the existing retail establishments that sell alcoholic beverages has already created many problems in the park. In particular, three residents in attendance commented that the existing liquor store (Wine Rack) in the subject shopping center in a tenant space across from the park facilitated the means for teenagers and homeless people to buy inexpensive alcoholic beverages and drink them in the park (the fourth community member was the Wine Rack owner). The availability of alcoholic beverages for sale had created various issues associated with litter, vagrancy, maintenance, and safety in the park. The residents stated that they had to pick up empty bottles in their front yards and often encounter homeless families and teenagers drinking alcohol in the park at night. One of the residents commented that the existing availability of alcoholic beverages for sale had definitely impacted the use of the park. The operator of the Wine Rack liquor store, located in the subject shopping center was also at the meeting. He stated he did not see Walgreens significantly adding to his competition. However, the next day staff received an e-mail correspondence from him opposing the proposal.

A sign was posted on-site to notify the public of the proposed conditional use, and a notice of this Planning Commission public hearing was mailed to the owners and tenants of all properties located within 500 feet of the project site and posted on the City website. This staff report is also posted on the City's website, and staff has been available to respond to questions from the public.

Project Manager: Jenny Nusbaum **Approved by:**  **Date:** 03/13/2012

Owner/Developer's Contact: Pan Cal Princeton Plaza, LLC 4125 Blackford Ave, Suite 200, San Jose, CA 95117 Daniel Kramer, Haas Najarian, LLP 58 Maiden Lane, Floor 2, San Francisco, CA 94108	Attachments: Draft Permit Resolution Plan Set Public Correspondence
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RESOLUTION NO. _____

Resolution of the Planning Commission of the City of San José denying a Conditional Use Permit to allow off-sale of alcohol, for a retail store/pharmacy in an existing approximately 14,052-square-foot tenant space in a shopping center on an approximately 14.0 gross acre site at the south side of Kooser Road 500 feet westerly of Blossom Hill Road (1376 Kooser Road).

FILE NO. CP10-024

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 May 17, 2010 application (File No. CP10-024) was filed for a Conditional Use Permit to allow off-sale of alcohol, beer and wine only, in a 14,052-square-foot retail store/pharmacy tenant space, on that certain real property (hereinafter referred to as "subject property"), situate in the CP-Commercial Pedestrian Zoning District, located at the south side of Kooser Road 500 feet westerly of Blossom Hill Road (1376 Kooser Road) at the Princeton Plaza Mall;

and

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, 1376 Kooser Road, San Jose, CA," dated October 27, 2009. 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. This site has a designation of Neighborhood/Community Commercial in Kooser Road/Meridian Avenue Urban Village on the adopted Envision San José 2040 General Plan Land Use/Transportation Diagram.
3. The project site is located in the CP-Commercial Pedestrian Zoning District.
4. The proposed use is located within the 14.0 acre Princeton Plaza Shopping Center originally constructed in 1963.
5. The shopping center site is a roughly triangularly shaped area bounded by Meridian Avenue, Kooser Avenue and Blossom Hill Road.
6. Remodeling and additions to the shopping center were approved with Site Development Permits in the 1980s.
7. The project proposes the off-sale of alcohol, beer and wine only, for an existing retail store/pharmacy (Walgreens) in an existing approximately 14,052 square foot tenant space near the Kooser Road frontage.
8. The project includes no exterior modifications to the existing building.
9. A Conditional Use Permit (File No. CP95-012) that was approved in 1995 permitted the addition of a drive-through use and associated façade improvements to the existing retail store/pharmacy tenant space.
10. Surrounding development to the north across Kooser Road includes duplexes and various commercial uses.
11. To the south-west of the shopping center, across Meridian Avenue, there are single-family residences and DeAnza Park.
12. A senior housing development, a few commercial uses and condominiums are located to the south-east across Blossom Hill Road.
13. The nearest residentially zoned property is approximately 300 feet from the subject tenant space on Kooser Road, and has a direct view of the subject store entrance.
14. No increase in parking demand results from this proposed project.
15. The subject retail establishment can be open until midnight as-of-right.
16. Alcohol sales would represent no more than five percent (5%) of the proposed use.
17. The Police Department memorandum indicates that the project site is not located within an area of high crime.
18. The proposed site is not located within a census tract that has an over-concentration of off-sale licenses.
19. The opposite side of Kooser Road is located in a different census tract that is over-concentrated and contains three (3) off-sale establishments within 1,000 feet of the subject site.

20. There is one additional off-sale establishment located in the same shopping center.
21. The proposed use would lead to the grouping of more than four off-sale establishments within 1,000 feet. More specifically, five (5) within a one thousand-foot radius from the proposed use, and four (4) within a 500-foot radius from the proposed use.
22. The project site is not located within 500 feet of a school.
23. The project site is not located within 150 feet of a residentially zoned property.
24. Alcohol sales would not represent a majority of the proposed use.
25. 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.

Based on the above stated facts, the Planning Commission concludes and finds that based on the three (3) required findings in the subsection below, in regard 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 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 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 not located closer than one hundred fifty (150) feet from a residentially zoned property.

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 the Conditional Use Permit application, this proposal for off-sale of alcohol (beer and wine only) is hereby denied.

DENIED on this 21st day of March 2012, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Chairperson

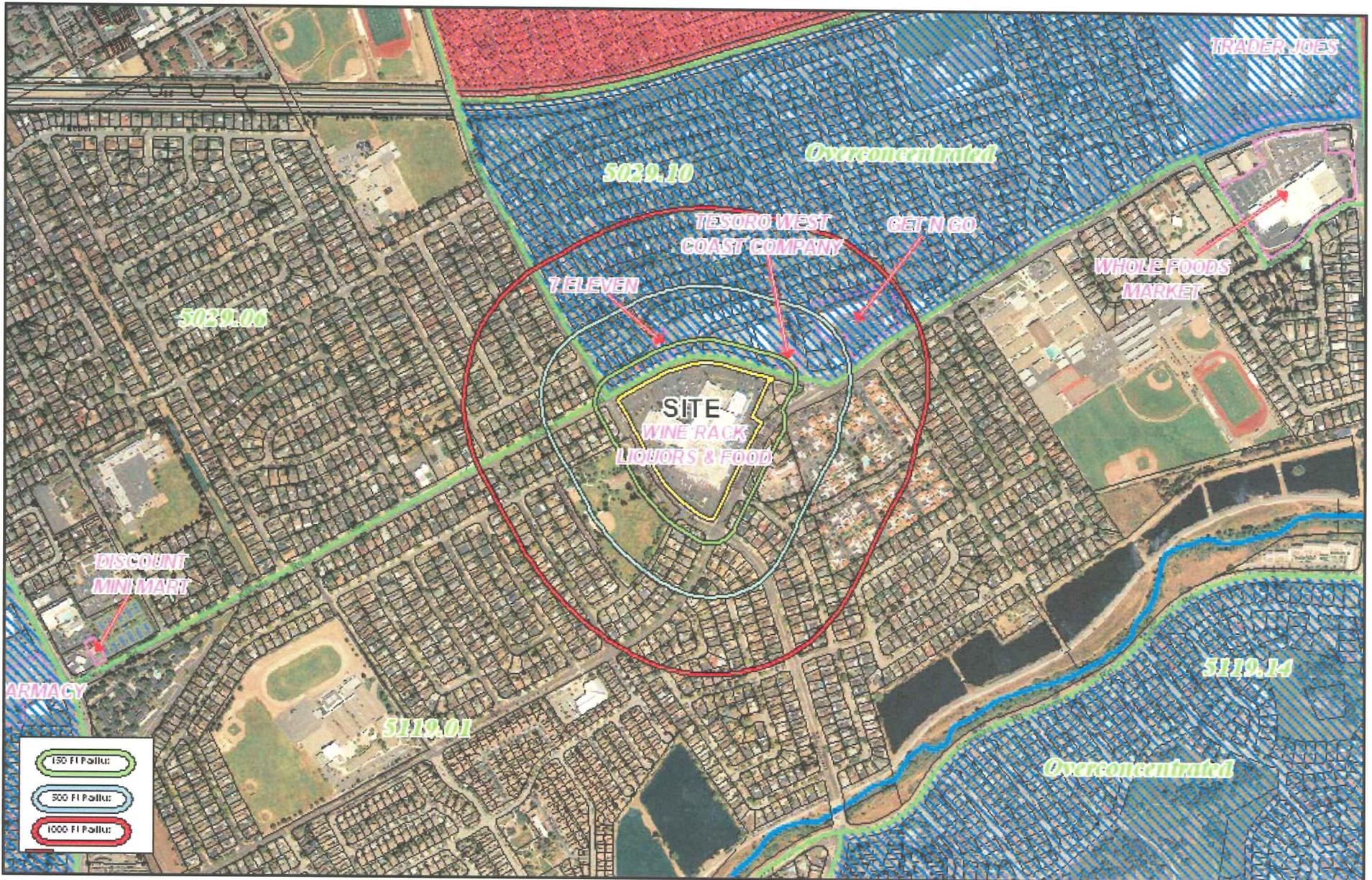
ATTEST:

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.



File No: CP10-024

District: 9

Nearby Alcohol Off-Sales



Prepared by the Department of Planning,
 Building and Code Enforcement
 03/02/2012



Memorandum

TO: Jenny Nusbaum
Planning Department

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

SUBJECT: Walgreens
1376 Kooser Rd CP10-024

DATE: August 2, 2010

Approved

Date

I have received your request for input regarding Walgreens at 1376 Kooser Rd, San Jose, Ca. 95118. 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 A4. 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
A4 (2009)	322	261	583	No
City Average	327	256	583	

Department of Alcohol Beverage Control (ABC) records indicate Walgreens is in census tract 5119.01, Pursuant to B&P Section 23958.4 (a)(3) ... the ratio of off-sale retail licenses to population in census tract 5119.01 **does not** 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 5119.01

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
5119.01	12	6	5	1	No	No

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

Nusbaum, Jenny

From: sandeepgarg@gmail.com on behalf of Admin [admin@bestliquorstore.com]

Sent: Tuesday, March 13, 2012 9:42 AM

To: Nusbaum, Jenny

Subject: Conditional use permit for Walgreens

Hello Jenny,

I just wanted to mention that when I said that Walgreens wouldn't be selling much of the product-line I sell, it didn't mean I don't oppose it. I hope you can understand reasons for a small business owner like me to not want more competition from big guys.

Sunny

Wine Rack Liquors & Food

March 14, 2012

Jenny Nusbaum
City of San José
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street
San José, CA 95113
(408) 535-7873, Jenny.nusbaum@sanjoseca.gov

Reference: Public Hearing Notice: Conditional Use Permit, 1376 Kooser Road, San Jose, CA 95118

Dear Ms. Nusbaum:

We received notice of a public hearing to consider a Conditional Use Permit at 1376 Kooser Road, allowing off-sale of alcoholic beverages. The following is our reply, as was presented when a similar permit was considered for 5th Quarter Bar, just across the street on Kooser Road. Our concerns are real, and we would appreciate serious consideration of our position.

Let me first identify my interest in the conditional permit. Since 2000, my husband and I have owned three of the eight four-plexes on Stanwood Drive (run parallel to Kooser Road) which view the rear exits of the strip mall. Our business is housing "families." We try our best to make our properties and the community a pleasant and safe place for them to live. While generally the atmosphere is good, through the years we have experienced some problems with the businesses in the strip mall and have worked with owners, San José Police and City Code Enforcement to resolve issues.

Based on our experiences with 5th Quarter, a business already serving alcoholic beverages with extended hours and adding potentially loud late night activities to the use permit, additional such permits would adversely impact current "living" conditions for Stanwood Drive residents and ultimately, our business. We have experienced:

1. Noise complaints by tenants calling at 10:00-12:30 p.m. Music from the bar was too loud, patrons of the bar were too loud, motorcyclists in the bar parking lot loudly revved their engines over extended periods of time. Note: Tenants do not call police. They are fearful of retaliation.
2. During spring through summer months, the bar's "sound proofing" door is not always kept closed and the noise wakes our tenant households—most with small children.
3. Tenants called to complain of loud fights behind the bar—yelling, screaming, breaking glass.
4. Tenants called to inform us of intoxicated bar patrons knocking on their doors after midnight--one asking them to call a cab.
5. On an occasional Sunday morning, we have found bar patrons sleeping on our property lawns and breezeways following their late night activities---with adult sexual paraphernalia.
6. We have cleaned up broken glass and adult beverage containers from our properties, the street and sidewalks.
7. While in the recent past litter has been a problem, it now seems better managed.

The manager of the bar has explained that he cannot control the behavior of the patrons. He has said that above behaviors is the "cost of doing business." One such incident "cost" us business--a resident did not wish to have her children awakened a second time after midnight by bar brawl behavior (patrons fighting behind the bar, police were eventually called)—she gave notice and moved.

Extending business hours to 2:00 a.m. and increasing adult activities **is not favorable to the surrounding family community**. While the list does not represent everyday occurrences, events happen often enough to cause us concern for our tenants' safety and **their right to enjoy peace and quiet**. Please help to keep families safe and the community a nice place to live.

Thank you for taking the time to read and share this communication. I/we welcome your call should the request be reactivated.

Sincerely,

Charlene Morrison Bell and Martin Bell
Owners of 1379, 1381, 1385 Stanwood Drive
2464 El Camino Real, PMB#155
Santa Clara, CA 95051-3097
(408) 249-9798, cmorrison_bell@yahoo.com

INTERIOR HANGING SIGNS

- GENERAL SALES AREA:
ALL SIGNS AND AISLE MARKERS @ 9'-6" AFF
UNLESS OTHERWISE NOTED.
- SIGN 'C' CHECKOUT/THANK YOU
 - SIGN 'E' ENTRANCE/EXIT
 - SIGN 'L' LIQUOR/THANK YOU
 - SIGN 'T' STORE HOURS SIGN
 - SIGN 'GC' GREETING CARD CUBE
 - SIGN 'COS' COSMETIC HANGING CUBE 8' X 8' X 30" @ 8'-0" AFF
 - SIGN 'SB' SAN BRUNO CHECKOUT LANE #
 - SIGN 'N' SAN BRUNO PHOTO
 - PHARMACY DEPARTMENT: REFER TO FIXTURE PLAN FOR REQUIRED SIGNS
 - SIGN 'J' PICK UP PRESCRIPTIONS
 - SIGN 'K' DROP OFF PRESCRIPTIONS
 - SIGN 'D' CONSULTATION WINDOW
- ATTACH SIGNS TO UNDERSIDE OF SOFFIT. REFER TO FIXTURE PLAN FOR SIGN LOCATION. PROVIDE (2) HOLLOW WALL ANCHORS PER SIGN. SCREW THROUGH EXTEND INTO ANCHOR. HANG SIGNS FROM EYEBOULTS WITH "S" HOOKS.

GENERAL NOTES

- GENERAL SALES AREA:
- FIXTURES BY LOZIER/STORE KRAFT. PROVIDE SEISMIC ADAPTERS AS REQUIRED BY CODE OR LOCAL ORDINANCE.
 - SECURITY MIRROR ON SOFFIT OF REAR WALL.
 - PLASTIC CORNICE.
 - CORNICE SPECIFIED ON THIS DRAWING TO BE SOFFIT MOUNTED. CORNICE INSERTS TO CORRESPOND WITH WALL ABOVE AND NOTED AS FOLLOWS: #44-DARK ROSE, #48-BROWN, #4C-DARK BLUE, #4D-DARK RED.
 - PHOTO CORNICE.
 - CANDY SHELF.
 - REFRIGERATION 3" SPACE BEHIND CASES:
 - A. MASTER-BILT 3 DOOR MEDIUM TEMP CASE 84" X 34.5" D X 78.5" H
 - B. MASTER-BILT 3 DOOR LOW TEMP CASE 84" X 34.5" D X 78.5" H
 - C. MASTER-BILT 2 DOOR MEDIUM TEMP CASE 84" X 34.5" D X 78.5" H
 - D. MASTER-BILT 2 DOOR LOW TEMP CASE 84" X 34.5" D X 78.5" H
 - E. MASTER-BILT 2 DOOR BACK-UP BOX TLS-28 56" X 34.5" D X 78.5" H
 - F. MASTER-BILT WINE COOLER WMB-500 70" X 31" D X 76" H
 - MASTER-BILT WALK-IN COOLER PROVIDE:
 - (1) 1100R DOLBYMASTER DOORS 26.75" X 73" EACH AND
 - (2) 5.00R FREEZER DOORS 26.75" X 73" EACH BY ANTHONY.
 - A. DOORS FOR EACH DOOR PROVIDE (2) 26" D FLOW GRAVITY SHELVES UPPER (2) WITH SLIDES AND LOWER (2) WITH ROLLERS. COMPLETE WITH UPRIGHTS.
 - B. DOORS FOR EACH DOOR PROVIDE (2) 26" D ANTHONY SHELVES AND (4) 84" POSTS. DOORS - 1 ROLLER CONVEYOR AT FLOOR LEVEL.
 - C. DOORS FOR EACH DOOR PROVIDE (2) 26" D ANTHONY SHELVES (2) 26" D ANTHONY SHELVES AND (4) 84" POSTS.
 - D. DOORS FOR EACH DOOR PROVIDE (2) 26" D ANTHONY SHELVES (2) 26" D ANTHONY SHELVES AND (4) 84" POSTS.
 - E. DOORS FOR EACH DOOR PROVIDE (2) 26" D ANTHONY SHELVES (2) 26" D ANTHONY SHELVES AND (4) 84" POSTS.
 - F. DOORS FOR EACH DOOR PROVIDE (2) 26" D ANTHONY SHELVES (2) 26" D ANTHONY SHELVES AND (4) 84" POSTS.
 - G. DOORS FOR EACH DOOR PROVIDE (2) MOBILE ICG MERCHANDISERS.
 - ICE CHEST BY VENDOR APPROX. 50 X 34 X 78
 - RAILINGS TO BE 40" DOUBLE LINE RAILS.
 - FREE STANDING CHECKOUTS TO HAVE GATE AND 36" SIDE SCREEN. PROVIDE A 6" H DARK BRONZE WINDOW BASE AT ALL CHECKOUTS.
 - IN-A-MATIC GATE WITH ELECTRIC EYE PHARMACY DEPARTMENT.
 - RX WAITING ROOM:
 - (1) SEATS
 - (2) TABLE LAMP (WHEN SHOWN)
 - (3) PUCES OF ANTHONY TO BE CENTERED ON WALLS 24" FROM C/L TO TOP OF FRAME
 - (4) 17X20 ON SHORT WALL 6" APART
 - (5) EDGES ON LONG WALL 6" APART
 - (6) MACHINE RACK LOCATE AT 42" AFF
 - (7) RX WALL SHOWCASE (SEE INTERIOR ELEV. FOR LOCATION OF GLASS & ARTWORK)
 - FIXED GLASS PANEL OPENING (SEE ARCH DWGS)
 - COMPUTER TERMINAL:
 - 15A INTERCOM PLUS TERMINAL
 - 15B INTERCOM TERMINAL
 - 15C 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 3 DRAWER FILE INSERT
 - #4 - RX 3 DRAWER FILE INSERT
 - #5 - RX 3 DRAWER FILE INSERT
 - #6 - RX 3 DRAWER FILE INSERT
 - #7 - RX OPEN UNIT W/ BAG SHELF
 - #8 - RX PRINTER INSERT
 - #9 - RX COMMUNICATION CABINET

PROJECT DATA		INCLUDED	
TYPE	NEW LOCATION	EXIST'G	NEW
GENERAL SALES	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
FOOD MART	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
LIQUOR	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
SECURITY	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

SQUARE FOOT AREA SUMMARY					
DEPARTMENT	EXIST'G SALES	NEW SALES	STOCK	SERVICE	TOTAL
GEN SALES	EXIST	8748	2090	1337	12175
LIQ.	EXIST				
FOOD	EXIST				
BEER	EXIST				
PHOTO	EXIST				
RX	EXIST	225			225
WAIT'G	EXIST	952			952
FOOD MART	EXIST				
FOOD MART	NEW	700			700

TOTAL EXIST		TOTAL NEW		TOTAL AREA	
SALES	STOCK	SALES	STOCK	SALES	STOCK
10625	2090	1337	14052	14052	0
TOTAL AREA FIRST FLOOR		14052		SQ. FT.	
TOTAL AREA OTHER LEVELS		0		SQ. FT.	
GROSS AREA INCLUDING ALL DEPARTMENTS AND ALL LEVELS		14052		SQ. FT.	
RX SHELVING LINEAL FEET		107		LIN. FT.	
RX SQUARE FOOT AREA		798		SQ. FT.	

REVISIONS

NO.	DATE	BY	DESCRIPTION	CONST.
D1	3-29-95	JT	REVISE PER MERCH	

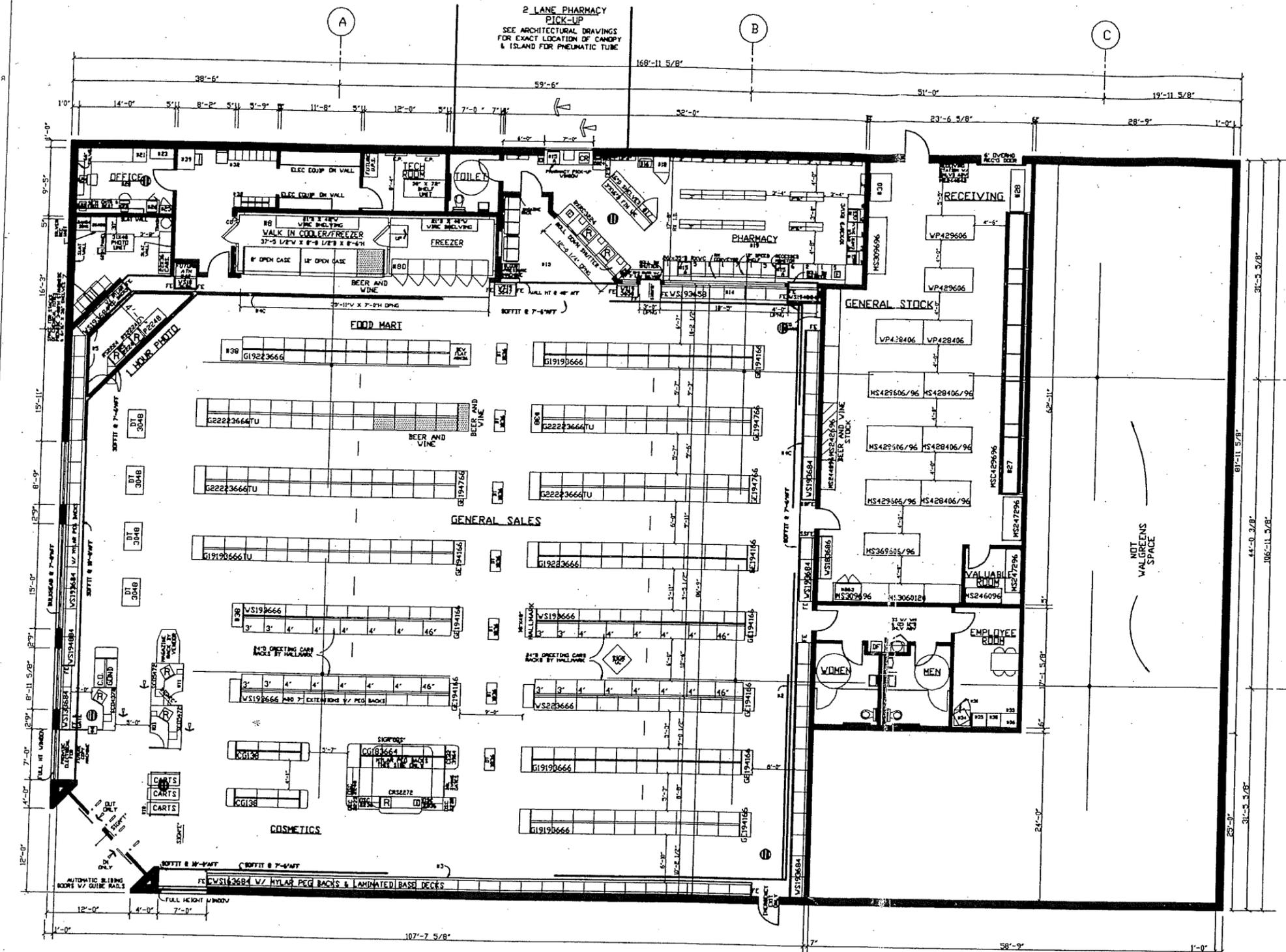
CERTIFICATION AND SEAL

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
**1376 KOOSER RD
SAN JOSE, CA**

DRAWING TITLE
FIXTURE PLAN

DATE: 12-08-94
STORE NO. 056 03378
DRAWN BY: J.TOMARAS
SCALE: 1/8"=1'-0"
CADD NO. F03378D10D
DRAWING NO. D1



LEGEND

	BEER AND WINE SALES
	BEER AND WINE STOCK

BEER/WINE SQUARE FEET
TOTAL SALES 41 SQ. FT.
TOTAL STOCK 18 SQ. FT.

TOTAL BEER/WINE SQUARE FEET
TOTAL BEER AND WINE SALES: 41 SQ. FT.
TOTAL SALES: 9673 SQ. FT.
% SALES FLOOR DEVOTED TO BEER AND WINE = 1.2%

CEILING MOUNTED CCTV CAMERA
 R CHECK OUT

