

# SALINAS PLANNING COMMISSION

## Staff Report

City of Salinas  
Community Development  
Department  
65 West Alisal Street  
Salinas, CA 93901  
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Director:  
*Megan Hunter*

Planning Manager:  
*Courtney Grossman*

Planning Commission:  
*John Meeks, Chairperson  
George Anzo  
Richard Giffin  
Brad Griffin  
Matthew Huerta  
Jyl Lutes  
Matt Nohr, Vice Chairperson*



**DATE:** May 17, 2017  
**TO:** Planning Commission  
**FROM:** Courtney Grossman, Planning Manager  
**BY:** Bobby Latino, Assistant Planner

**SUBJECT:** CONDITIONAL USE PERMIT 2017-005; A REQUEST TO CHANGE AN EXISTING OFF-SALE ALCOHOL USE FROM BEER AND WINE (TYPE 20) TO GENERAL (TYPE 21) AT AN EXISTING CONVENIENCE STORE LOCATED AT 980 ACOSTA PLAZA IN THE CR-AR (COMMERCIAL RETAIL – AIRPORT OVERLAY) ZONING DISTRICT

### RECOMMENDATION

Staff recommends that the Planning Commission deny Conditional Use Permit 2017-005: a request to change an existing off-sale alcohol use from beer and wine (Type 20) to general (Type 21) at an existing convenience store located at the above referenced address. The project site is located in an area of undue concentration due to high crime in the Police Reporting District.

### BACKGROUND

This item was considered by the Commission at the May 3, 2017 meeting. See the attached Staff Report and Minutes dated May 3, 2017 for additional background information. Staff received a petition against the project prior to the meeting. At the May 3, 2017 meeting, public comments were received as follows:

1. Al Espindola, resident, supported staff's recommendation for denial due to crime.
2. Richelle Santoya, Sunrise House Prevention, supported staff's recommendation for denial due to crime.
3. Miguel Ramirez, Sun Street Centers, spoke against the project.

4. Maria, resident, spoke against the project.
5. Greg Banks, resident, respected people's opinions.
6. Phil Lundell, consultant to applicant, spoke in favor of the project.
7. Eddie Jabeer Barakat, applicant, spoke in favor of his project.

Following the public hearing, Commissioner Huerta motioned that a neighborhood meeting should be held and then return to the Planning Commission on May 17, 2017. The motion was seconded by Commissioner Nohr, which was followed by an affirmative 3:2 vote. As of the date of preparation of the Staff Report, a meeting had not occurred. Staff will update the Commission regarding the meeting at the May 17, 2017 hearing.

The project was continued from the May 3, 2017 Planning Commission hearing to the May 17, 2017 Planning Commission hearing; therefore, no further public noticing was required.

#### Conditions of Approval

Pursuant to Zoning Code Section 37-50.030(f)(3), if the Planning Commission determines that the public convenience or necessity would be served by the approval of the proposed CUP and the subsequent issuance of an alcohol license by ABC, the CUP would contain the following conditions of approval:

1. Alcohol shall not be sold between the hours of 10:00 p.m. and 6:00 a.m. Coolers containing alcoholic beverages shall be locked between the hours of 10:00 p.m. and 6:00 a.m.
2. No alcoholic beverages shall be consumed on the premises.
3. No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.
4. No display of alcoholic beverages shall be made from an ice tub.
5. No "single-serving" or "one-can" sales of alcoholic beverages shall be made from the premises. A sign to this effect in English and Spanish shall be maintained at the cashier station at all times.
6. No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
7. All business owners and managers shall complete a program certified by the Department of Alcoholic Beverage Control (ABC) as a qualified responsible beverage service (RBS) program prior to the commencement of the Type 21 use. Failure of managers to obtain training shall be the

liability of the owner. The owner shall maintain on the premises a file containing the certificates of training and shall present the file and its contents upon request by the City at any time during normal business hours. The provisions of this section regarding responsible beverage training shall be suspended upon a finding by the City Planner that the training is not reasonably available.

Additional conditions have been added, including those recommended by the Salinas Police Department, relating to undue concentration such as additional security measure to be implemented by Applicant and his/her employees, buffering of neighboring uses, exterior lighting, hours of operation, and coin- or token-operated amusement games that may be imposed pursuant to Zoning Code section 37-50.030(f)(5):

1. An electronic age verification scanner shall be installed, maintained, and utilized for all off-sale alcohol sales.
2. Signs shall be posted at the location in English and Spanish with regard to prohibitions of open containers and loitering at the location, and no loitering will be tolerated.
3. No single 40 oz. containers of beer may be sold from premises.
4. Sales of wine shall be in containers of at least 750 ml.
5. The number of cooler doors allocated to beer and wine shall be limited to four (4) cooler doors. Coolers without doors shall be limited to 32 lineal feet.
6. Digital surveillance system with high quality cameras focused on the location of the in-store stocked alcohol, at points of sales transactions, and at entrance/exits of the store and the parking lot, with the capability to store the digital images captured. Surveillance video/photos shall be made available to police upon request.
7. Ample lighting shall be provided in parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance equipment.
8. No coin operated video or arcade games and no adult magazines or videos shall be sold.
9. No pay telephone booths shall be permitted on the premises.
10. Any alcohol license violation and/or suspension by the Alcohol Beverage Control Board or significant criminal activity, in the opinion of the City Police

Chief, shall constitute grounds for review and modification or revocation of this use Permit in accordance with Section 37-60.640: Expiration-transferability, recordation, rescission, revocation, of the Salinas Zoning Code.

## **ENVIRONMENTAL REVIEW**

The environmental impacts of the project have been analyzed in accordance with the California Environmental Quality Act (CEQA). The project has been determined to be exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines. The proposed project is exempt because the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing significant effect on the environment. Where it can be seen that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Additionally, the project is exempt from CEQA under Section 15301 *Existing Facilities*, because there is negligible expansion of the existing convenience store. If the CUP application is denied, no environmental review finding is required per Section 15270 of the CEQA Guidelines.

## **FINDINGS**

The Planning Commission may deny an application for a Conditional Use Permit for an off-sale alcohol related use in area of "undue concentration" provided the Planning Commission establishes the findings set forth in the attached Planning Commission Resolution.

## **TIME CONSIDERATION**

The project was deemed complete on April 14, 2017. Final action is required within 60 days by June 13, 2017 pursuant to the Permit Streamlining Act (California Government Code Section 65950(a)(3)).

## **ALTERNATIVES AVAILABLE TO THE COMMISSION**

The Planning Commission has the following alternative:

Find the use Categorically Exempt from the California Environmental Quality Act (CEQA), and approve Conditional Use Permit 2017-005 subject to the Planning Commission's One-for-One policy. Staff notes that findings for approval would need to be established by the Planning Commission.

## **CONCLUSION**

Staff recommends that the Planning Commission deny Conditional Use Permit 2017-005

pursuant to the Planning Commission's established policy regarding alcohol related uses, based on the following:

1. The subject site is located in an area of undue concentration with respect to crime (the crime rate for the subject PRD is 174% over the 120% rate thus considered undue concentrated for crime).
2. The subject site is adjacent to residences, approximately 98 feet away. The subject site is within close proximity to a school (approximately 377 feet away) and a park (approximately 457 feet away).
3. The public convenience or necessity will not be served by the upgrade of an alcohol license and the approval of an alcohol-related Conditional Use Permit at the proposed location. Laurel Heights Shell Station sells alcohol and is approximately 100 feet away.

COURTNEY GROSSMAN

Planning Manager

BY:



Bobby Latino

Assistant Planner

Attachments: Proposed Planning Commission Resolution Denying CUP 2017-015  
Draft Conditional Use Permit (CUP 2017-005), including the following exhibits:  
Exhibit "A" Vicinity Map  
Exhibit "B" Site Plan  
Exhibit "C" Floor Plan  
Exhibit "D" Police Department Memorandum dated February 15, 2017  
Planning Commission Staff Report dated May 3, 2017  
Planning Commission Minutes Dated May 3, 2017  
Areas of Undue Concentration of Off-Sale Licenses and Reported Crimes  
(Combined) in Salinas  
Census Tracts with Undue Concentration of Off-Sale Alcohol Licenses  
Police Reporting Districts with Undue Concentration of 20% Greater Number of  
Reported Crimes than the Average Number of Reported Crimes  
Map of Off-Sale Alcohol Licenses for Census Tract 106.08 (CT 106.08)  
California Department of Alcoholic Beverage Control List of Off-Sale Licenses  
in Census Tract 106.08 dated March 29, 2017  
California Department of Alcoholic Beverage Control Number of Licenses  
Authorized by Census Tract  
Table: Off-sale alcohol license CUP's since 2010

**SALINAS PLANNING COMMISSION  
RESOLUTION NO. 2017-**

Resolution Denying a Conditional Use Permit to request a change to an existing off-sale alcohol use from beer and wine (Type 20) to general (Type 21) at an existing convenience store use located at 980 Acosta Plaza in the CR-AR (Commercial Retail – Airport Overlay) Zoning District  
(CUP 2017-005)

**WHEREAS**, on May 3, 2017, the Salinas Planning Commission, at the request of the Applicant, Eddie Jaber Barakat, held duly noticed public hearings to consider Conditional Use Permit 2017-005 to request a change to an existing off-sale alcohol use from beer and wine (Type 20) to general (Type 21) at an existing convenience store use located at 980 Acosta Plaza (Assessor's Parcel Number 004-611-018-000); and

**WHEREAS**, on May 3, 2017 the Planning Commission continued Conditional Use Permit 2017-005 to the May 17, 2017 Commission meeting; and

**WHEREAS**, the Planning Commission weighed the evidence presented at the May 3 and 17, 2017 public hearings, including the Staff Reports which are on file at the Community Development Department together with the record of environmental review; and

**NOW, THEREFORE, BE IT RESOLVED** that the Salinas Planning Commission denies Conditional Use Permit 2017-005 because it could not establish the findings required by Zoning Code Section 37-60.520 (for a Conditional Use Permit) and Zoning Code Section 37-50.030 (for an off-sale alcohol use located in an area of undue concentration) and herein adopts the following as the basis for its determination of denial:

- 1. *The proposed location of the use is not in accordance with the objectives of the Salinas General Plan, this Zoning Code and the purposes of the district in which the site is located;***

The site is designated Retail by the 2002 Salinas General Plan. Per the General Plan, Retail provides for the variety of retail uses such as retail stores, restaurants, hotels, personal services, business services and financial services. The proposed off-sale alcohol related use is inconsistent with General Plan Goal CD-2, as it does not encourage the design, maintenance, and revitalization of neighborhoods that enhance the quality of life.

As shown on the official Zoning Map, the site is located in the base CR-AR (Commercial Retail – Airport Overlay) District. Per Section 37-30.180, the purpose of the Commercial Retail District is to allow for a wide range of retail stores, restaurants, hotels and motels, commercial recreation, personal services, business services, offices, financial services, mixed us residential, and/or limited residential uses. Furthermore, purposes of the Commercial Districts are to create a suitable environment for various types of commercial uses and protect them from

the adverse effects of incompatible uses while minimizing the impact of the commercial development on adjacent residential districts. The proposed off-sale alcohol related use would not comply with the provisions of the Zoning Code because the use would not provide for orderly integration of alcohol-related uses in accordance with the purpose of the alcohol license review regulations pursuant to Zoning Code Section 37-50.030.

The proposed off-sale alcohol-related use would adversely affect the welfare of the surrounding neighborhood. The proposed location is in a neighborhood with a mix of residential, commercial, and public and semipublic uses including a school, recreation center, and park (Jesse G. Sanchez School, Bread Box Recreation Center, and Sanborn Neighborhood Park), which are located 377, 194, and 457 feet from the subject site respectively. Residences are located adjacent to the north and across Acosta Plaza, to the east of the subject site. Considering the high crime statistics and the character of land uses in the surrounding neighborhood, the proposed off-sale alcohol use would be detrimental to public health, safety, and welfare of the area and neighborhood residences.

**2. *The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained are not consistent with the Salinas General Plan and would be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, and detrimental to properties or improvements in the vicinity or the general welfare of the City of Salinas;***

The site is designated Retail by the 2002 Salinas General Plan. Per the General Plan, Retail provides for the variety of retail uses such as retail stores, restaurants, hotels, personal services, business services and financial services. The proposed off-sale alcohol related use is inconsistent with General Plan Goal CD-2, as it does not encourage the design, maintenance, and revitalization of neighborhoods that enhance the quality of life.

The proposed off-sale alcohol-related use would adversely affect the welfare of the surrounding neighborhood. The proposed location is in a neighborhood with a mix of residential, commercial, and public and semipublic uses including a school, recreation center, and park (Jesse G. Sanchez School, Bread Box Recreation Center, and Sanborn Neighborhood Park), which are located 377, 194, and 457 feet from the subject site respectively. Residences are located adjacent to the north and across Acosta Plaza, to the east of the subject site. Considering the high crime statistics and the character of land uses in the surrounding neighborhood, the proposed off-sale alcohol use would be detrimental to public health, safety, and welfare of the area and neighborhood residences.

The Planning Commission finds that the proposed change of an existing Type 20 off-sale alcohol license to a Type 21 off-sale alcohol license would be detrimental to the public health, safety, or welfare because it would intensify an existing alcohol

use in an area with high crime statistics and incompatible character of land uses in the surrounding neighborhood.

- 3. *The proposed conditional use would not comply with the provisions of the Salinas Zoning Code, including any specific conditions required for the proposed use;***

The proposed off-sale alcohol related use would not comply with the provisions of the Zoning Code because the use would not provide for orderly integration of alcohol-related uses in accordance with the purpose of the alcohol license review regulations pursuant to Zoning Code Section 37-50.030.

- 4. *The Alcohol-Related use would adversely affect the welfare of the area and of surrounding residentially zoned neighborhoods, giving due consideration to the distance of the proposed use from other Alcohol-Related uses, residentially zoned property, public schools, public playgrounds, and other similar uses; and giving further consideration to crime rates, calls for emergency services, and residential densities in the surrounding area; and***

The subject alcohol related use would adversely affect the welfare of the area and surrounding residential neighborhood due to the close proximity of other nearby off-sale alcohol outlets and the combination of residences, schools, and parks. The off-sale alcohol outlet is adjacent to the subject site (approximately 100 feet away) and residences are adjacent to the subject site (approximately 98 feet away). The closest school is approximately 377 feet away and the closest park is approximately 457 feet away. The close proximity of adversely affected uses and undue concentration due to the high number of crimes, render the proposed location unsuitable for a change to intensify an existing off-sale alcohol outlet.

- 5. *The location of the proposed Off-Sale Alcohol-Related use is located within an area of undue concentration (as defined by Business and Professions Code Sections 23958.4 and administered by the State Department of Alcoholic Beverage Control), pursuant to Business and Professions Code Sections 23817.7, the public convenience or necessity would not be served by the issuance of the alcohol license by the ABC.***

The proposed location is in an area of “undue concentration” in crime reporting district that has a 20 percent greater number of reported crimes. The Police Department’s 2014 average for statistics for Police Reporting Districts (PRDs) is 104.71 reported crimes. Adding 20%, this amounts to approximately 125.652 reported crimes. Crime statistics for PRD 64 are 219 reported crimes. The Planning Commission finds that intensifying an existing off-sale alcohol outlet in an area of undue concentration of crimes reported would result in a negative impact on the surrounding neighborhood.

The California Department of Alcohol Beverage Control (ABC) shows three (3) active off-sale licenses located within Census Tract 106.08 (CT 106.08). The proposed change of an existing off-sale alcohol use would not increase the number of off-sale outlets or exceed the maximum number of six (6) off-sale outlets specified by the ABC.

The Planning Commission does not support the proposed change of an existing Type 20 beer and wine off-sale alcohol license to a Type 21 general off-sale alcohol license due to the high crime statistics and finds that public convenience or necessity would not be served by the issuance of the license by the ABC due to the number of reported crimes. The existing alcohol outlets sufficiently meet public convenience or necessity.

**PASSED AND ADOPTED** this 17th day of May 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THIS IS TO CERTIFY that the foregoing is a full, true, and correct copy of a Resolution of the Planning Commission of the City of Salinas, that said Resolution was passed and adopted by the affirmative and majority vote of said Planning Commission at a meeting held on May 17, 2017 and that said Resolution has not been modified, amended, or rescinded, and is now in full force and effect.

SALINAS PLANNING COMMISSION

Date: \_\_\_\_\_

\_\_\_\_\_  
Courtney Grossman  
Secretary

\\SalSvr44\\DeptPvt\\ComDev\\robert\\Documents\\CUPs\\CUP 2017-005 (980 Acosta Plaza)\\CUP 2017-005 (5-17-17) PC Reso.docx

When recorded, return to:

CITY OF SALINAS  
Community Development Department  
65 West Alisal Street, Salinas, CA 93901  
Attn: Bobby Latino, Assistant Planner

SPACE ABOVE FOR RECORDER'S USE ONLY

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Title of Document

## **CONDITIONAL USE PERMIT NO. 2017-005**

### **City of Salinas**

### **Community Development Department**

**WHEREAS**, the Salinas Planning Commission, at public hearings duly noticed and held on May 3 and 17, 2017, found that the proposed location of the use is in accordance with the objectives of the Salinas Zoning Code and the purposes of the zoning district in which the site is located; that the location of the use and the proposed conditions under which it would be operated and maintained will be consistent with the Salinas General Plan and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, nor detrimental to properties or improvements in the vicinity or the general welfare of the City of Salinas; that the use and will comply with the provisions of the Salinas Zoning Code, including the specific conditions required for the proposed use; that the proposed off-sale alcohol-related use will neither adversely affect the welfare of the area nor of surrounding residentially zoned neighborhoods, giving due consideration to the distance of the proposed use from other off-sale alcohol-related uses, residentially zoned property, public schools, public playgrounds, and other similar uses; and giving further consideration to crime rates, calls for emergency services, and residential densities in the surrounding area; that although the proposed off-sale alcohol-related use is located within an area of undue concentration (as defined by Business and Professions Code Sections 23958.4 and 23817.5, and administered by the State Department of Alcoholic Beverage Control), pursuant to Business and Professions Code Section 23817.7, the public convenience or necessity would be served by the issuance of the alcohol license by the ABC; and that this conditional use has been reviewed and evaluated in accordance with the California Environmental Quality Act and is considered Exempt to CEQA.

**NOW, THEREFORE**, the Salinas Planning Commission hereby grants and issues Conditional Use Permit No. 2017-005 pursuant to *Article VI, Division 8: Conditional Use Permits*, of Chapter 37 of the Salinas City Code and upon the following terms and conditions and not otherwise, to wit:

**ISSUED TO:** Eddie Jaber Barakat

**PROPERTY OWNER:** Dennis R. Smith and Yang Son Smith Trust

**FOR USE:** Establish and operate an off-sale alcohol related use consisting of an off-sale general license (Type 21) at an existing convenience store.

**ON PROPERTY LOCATED AT:** 980 Acosta Plaza

**ASSESSOR'S PARCEL NO.:** 004-611-018-000

**ZONING DISTRICT:** CR-AR (Commercial Retail –Airport Overlay)

**ENVIRONMENTAL REVIEW ACTION & DATE:** Exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) and 15301 on May 17, 2017.

**EXPIRATION DATE:** None, once properly established, unless the subject off-sale alcohol use ceases operation for a continuous period of six (6) months or more.

#### **RIGHT TO OPERATE/DEVELOP**

1. The Permittee shall have the right to operate an off-sale alcohol related use consisting of an off-sale general license (Type 21) at an existing convenience store on the above-described property in accordance with the following exhibits incorporated herein by reference and made a part of this Permit:

**Exhibit "A" Vicinity Map**

**Exhibit "B" Site Plan**

**Exhibit "C" Floor Plan**

**Exhibit "D" Police Department Memorandum, dated February 15, 2017**

#### **LIMITATIONS ON USE**

2. Alcohol shall not be sold between the hours of 10:00 p.m. and 6:00 a.m. Coolers containing alcoholic beverages shall be locked between the hours of 10:00 p.m. and 6:00 a.m.
3. The premises shall be maintained free of litter at all times.
4. No alcoholic beverages shall be consumed on the premises.
5. No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.

6. No display of alcoholic beverages shall be made from an ice tub.
7. No "single-serving" or "one-can" sales of alcoholic beverages shall be made from the premises. A sign to this effect in English and Spanish shall be maintained at the cashier station at all times.
8. No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
9. All business owners and managers shall complete a program certified by the Department of Alcoholic Beverage Control (ABC) as a qualified responsible beverage service (RBS) program prior to the commencement of the Type 21 use. Failure of managers to obtain training shall be the liability of the owner. The owner shall maintain on the premises a file containing the certificates of training and shall present the file and its contents upon request by the City at any time during normal business hours. The provisions of this section regarding responsible beverage training shall be suspended upon a finding by the City Planner that the training is not reasonably available.
10. An electronic age verification scanner shall be installed, maintained, and utilized for all off-sale alcohol sales.
11. Signs shall be posted at the location in English and Spanish with regard to prohibitions of open containers and loitering at the location, and no loitering will be tolerated.
12. No single 40 oz. containers of beer may be sold from the premises.
13. Sales of wine shall be in containers of at least 750 ml.
14. The number of cooler doors allocated to beer and wine shall be limited to four (4) cooler doors. Coolers without doors shall be limited to 32 lineal feet.
15. Digital surveillance system with high quality cameras focused on the location of the in-store stocked alcohol, at points of sales transactions, and at entrance/exits of the store and the parking lot, with the capability to store the digital images captured.
16. Surveillance video/photos shall be made available to police upon request.
17. Ample lighting shall be provided in parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance equipment.
18. No coin operated video or arcade games and no adult magazines or videos shall be sold.

19. No pay telephone booths shall be permitted on the premises
20. Any alcohol license violation and/or suspension by the Alcohol Beverage Control Board or significant criminal activity, in the opinion of the City Police Chief, shall constitute grounds for review and modification or revocation of this use Permit in accordance with Section 37-60.640: Expiration-transferability, recordation, rescission, revocation, of the Salinas Zoning Code.
21. The City Planner may conduct a review of this Permit after inauguration, and may require modifications, if appropriate. The Planning Manager may also schedule a review by the Salinas, at a public hearing, if considered necessary. In the event that a public hearing is necessary, the Permittee shall reimburse the City of Salinas for all costs and expenses required to prepare for and conduct said hearing.
22. If the subject off-sale alcohol-related use ceases operation for a continuous period of six (6) months or more, this Conditional Use Permit shall become null and void.
23. No outdoor storage, display, or sale of merchandise of any kind will be permitted except as authorized subject to the issuance of a Temporary Use of Land Permit in accordance with the Salinas Municipal Code.

## **CRIME PREVENTION REQUIREMENTS**

24. Prior to the use being established, the applicant should consult with the Police Department regarding crime prevention and security (See Exhibit "D").

## **SIGNS**

25. A Sign Permit issued in accordance with *Article V, Division 3: Signs* of the Salinas City Code, shall be required for all signs. Verification of permits for existing signs shall be required prior to operation and issuance of any new Sign Permits.
26. No canvas signs, banners, pennants, flags, streamers, balloons or other temporary or wind signs; no mobile, A-frame, or portable signs; no roof or canopy signs extending above a building roof; no signs that resemble any official marker erected by the city, state or any governmental agency, or that by reason of position, shape, color or illumination would conflict with the proper functioning of any traffic sign or signal or would be a hazard to vehicular or pedestrian traffic; no signs which produce odor, sound, smoke, fire or other such emissions; and no animated, flashing, moving or rotating

signs shall be permitted unless permitted in accordance with *Article 5, Division 3: Signs of the Salinas Zoning Code*, as may be amended from time to time.

## **NONCONFORMING USE**

27. The nonconforming off-sale alcohol use associated with the Type 20 ABC license #569930 at the subject location shall be surrendered and all associated entitlements shall cease.

## **MAINTENANCE**

28. All parking areas, driveways, other paved surfaces, accessways and grounds shall be regularly maintained and kept free of weeds, litter, and debris. All traffic signs and pavement markings shall be clear and legible at all times. All landscaped areas shall be maintained free of weeds, trash, and debris, and all plant material shall be continuously maintained in a healthy, growing condition. All exterior building and wall surfaces shall be regularly maintained, and any damage caused by weathering, vandalism, or other factors shall be repaired in conformance with the terms and conditions of this Permit.

## **PERMIT NOT TO SUPERSEDE OTHER REQUIRED LICENSING OR PERMITS**

29. The issuance of this Permit is required in addition to the issuance of an alcoholic beverage sales license from the State Alcoholic Beverage Control Board.
30. The issuance of this Permit shall not relieve the Permittee of any requirement to obtain permits or licensing from any county, regional, state or federal agencies. If applicable, a City Business License shall be obtained prior to commencement of use.

## **MODIFICATION OF APPROVED USE AND PLANS**

31. Any modification to the terms and conditions of this Permit are subject to the issuance of a new Permit. The City Planner may approve minor modifications to this Permit if the City Planner finds the modification to be in substantial compliance with the original approval.

## **VIOLATION; REVOCATION**

32. Use of the property shall be conducted in such a way that it does not constitute a nuisance to the use and enjoyment of surrounding properties or the City. Any permittee, person, firm, corporation, whether as principal, agent, employee or otherwise, violating, causing or maintaining the violation

of any of the provision of this Permit shall be guilty of a misdemeanor or an infraction, as charged. Alternatively, any violation of this Permit may be prosecuted administratively pursuant to the City's Administrative Remedies Ordinance and/or other applicable laws, regulations or codes. Upon determination by the City Planner that there are reasonable grounds for revocation of this Permit, a revocation hearing shall be set to be heard before the Salinas Planning Commission in accordance with *Article VI, Division 18: Enforcement and Penalties* of the Salinas Zoning Code or such codes as may be subsequently adopted.

## **SUBSTANTIAL ACTION TIME LIMIT**

33. This Permit shall expire one year after its effective date unless:
  - a. The use is established in conformance with the provisions of the Zoning Code; or
  - b. The City Planner determines that substantial action has commenced to carry out the terms and intent of the Conditional Use Permit.

## **PERMIT VALIDATION**

34. Pursuant to Zoning Code Section 37-60.530, this Permit shall be null and void and all terms and conditions shall have no force or effect unless this Permit is signed by the Permittee(s) and returned to City of Salinas Community Development Department within 90 days of approval. ***It is the applicant's responsibility to track the 90-day expiration date. No notice will be sent.***

## **STANDARD CONDITIONS**

35. Pursuant to **Salinas City Code Section 1-8.1: Civil action enforcement**, and **Section 1-8.2: Liability for costs**, permittee shall reimburse the City of Salinas for all costs and expenses (including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, and court costs) incurred by the City in enforcing the provisions of this Permit.
36. The applicant(s) shall defend, indemnify, and hold harmless the City of Salinas or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the City, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul, the approval of this project/use. The City shall promptly notify the applicant(s) of any such claim, action, or proceeding. The City shall cooperate in the defense. Nothing contained in this condition shall prohibit the City from participation in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith.

37. Notwithstanding any of the provisions in this permit, all improvements and uses shall comply with all other ordinances and regulations of the City of Salinas and all local, state and federal laws and regulations.
38. No further development other than that shown on this permit or attached exhibits shall be allowed unless or until an amendment to this permit has been approved. Requests for a minor modification of an approved permit may be granted by the City Planner provided the modification is substantially in compliance with the original approval and conditions.

#### **NOTICE OF CHALLENGE LIMITATIONS**

39. Code of Civil Procedure Section 1094.6 requires all Court challenges to the decision to grant this Permit be initiated within 90 days of the final decision of the City in this matter.

#### **EXECUTIONS**

**THIS CONDITIONAL USE PERMIT** was approved by action of the Salinas Planning Commission on May 17, 2017, and shall become effective on the following date unless appealed to the City Council of the City of Salinas in accordance with Article VI, Division 17: Appeals:

Effective Date: May 30, 2017

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Courtney Grossman  
Planning Manager, City of Salinas

(Signatures Listed Below on Pages 8 through 9 Must Be Notarized)

**THIS CONDITIONAL USE PERMIT** is hereby accepted upon the express terms and conditions hereof, and the undersigned Permittee agrees to strictly conform to and comply with each and all of this Permit's terms and conditions.

Dated: \_\_\_\_\_

Eddie Jaber Barakat  
Permittee

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

On \_\_\_\_\_ 201\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**CONSENT** is hereby granted to the Permittee to carry out the terms and conditions of this Conditional Use Permit.

Dated: \_\_\_\_\_

Dennis R. Smith

Dennis R. Smith and Yang Son Smith Trust  
Property Owner

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

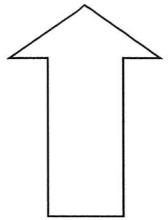
On \_\_\_\_\_ 201\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

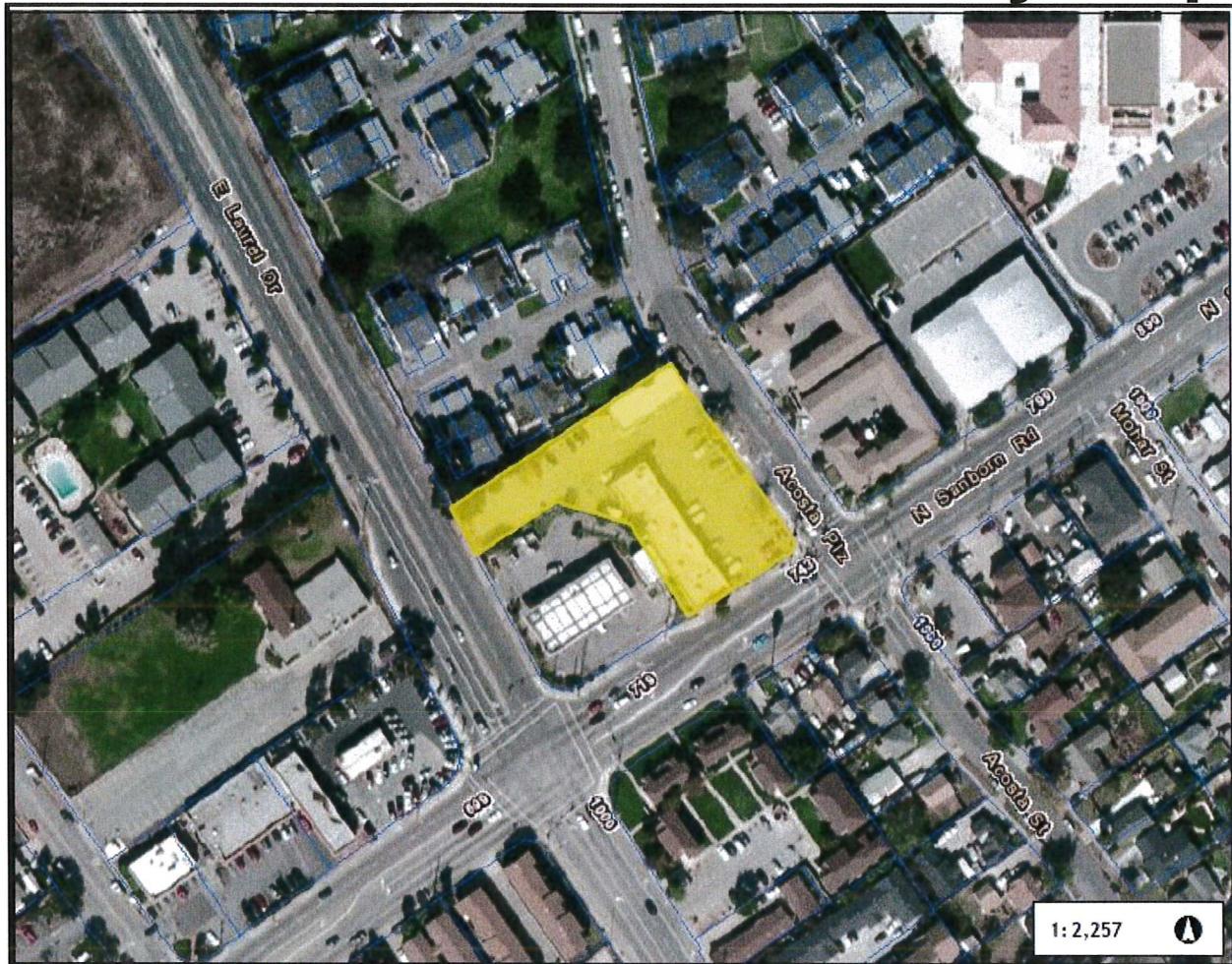
Signature \_\_\_\_\_

\\\SalSvr44\\DeptPvt\\ComDev\\robert\\Documents\\CUPs\\CUP 2017-005 (980 Acosta Plaza)\\CUP 2017-005 (980 Acosta Plaza).docx



**North**

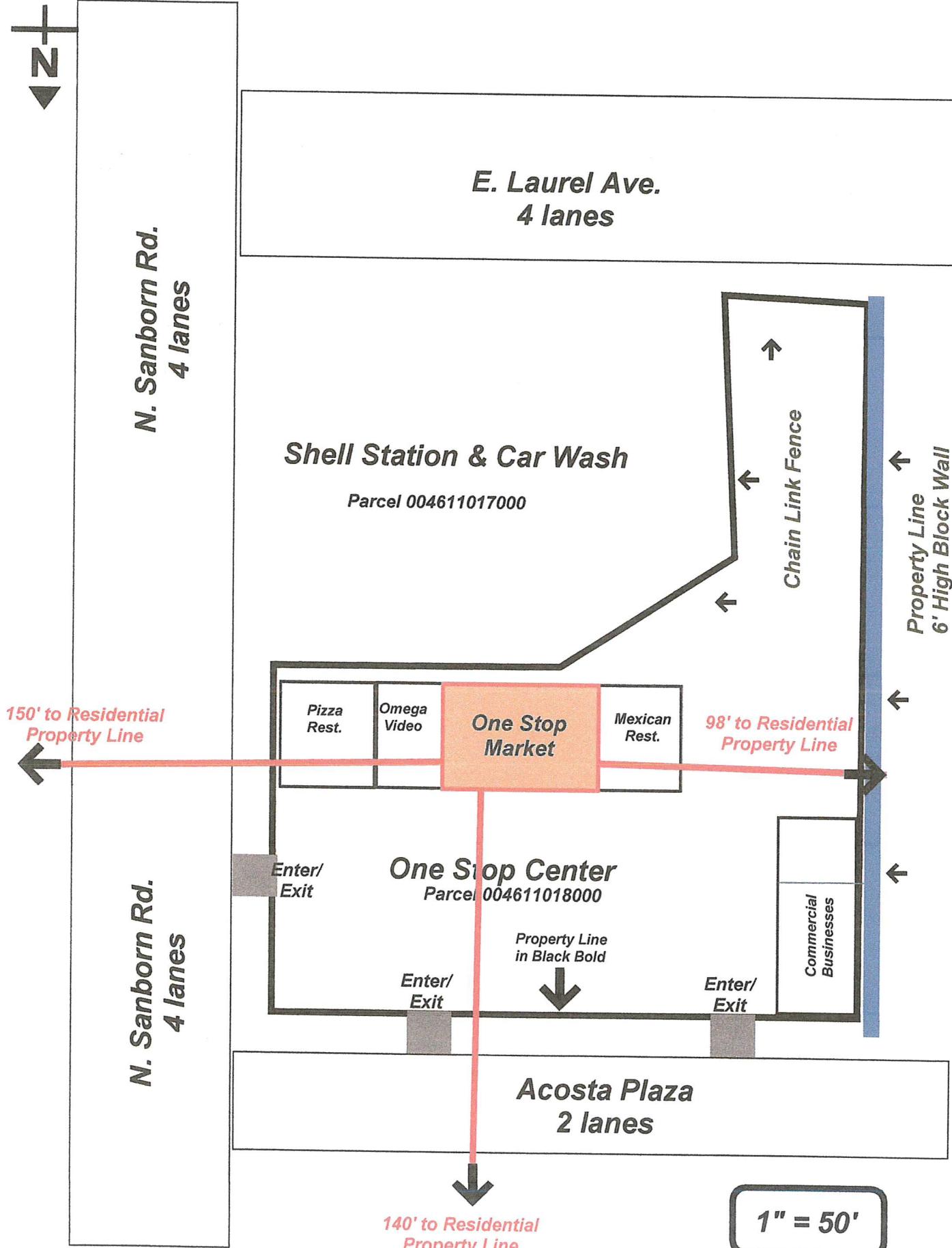
**Vicinity Map**



## **CONDITIONAL USE PERMIT 2017-005**

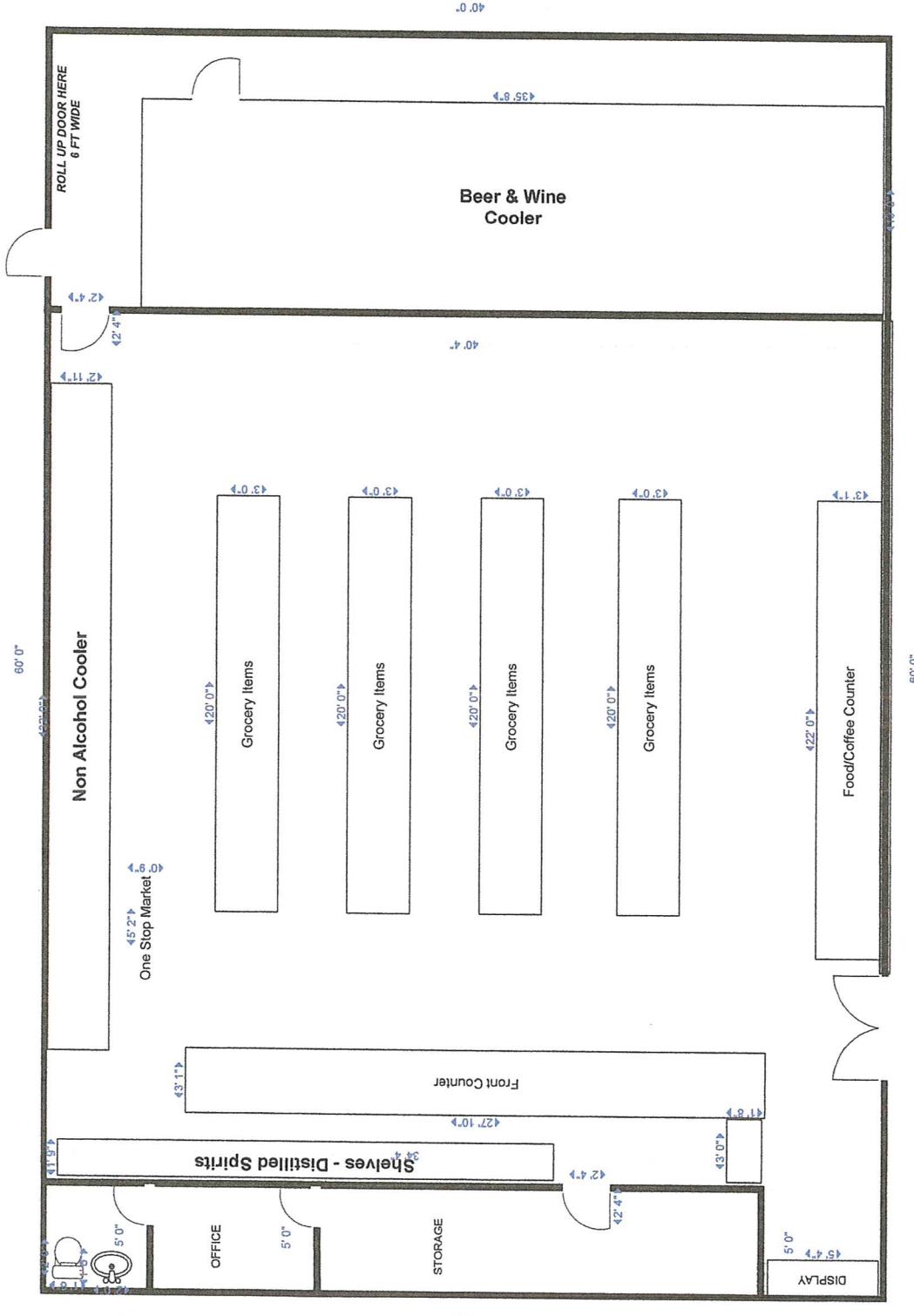
### **980 Acosta Plaza**

**Exhibit A**



**Exhibit B**

ONE STOP MARKET  
980 ACOSTA PLAZA



Scale 1" = 8'

# Exhibit C



**CITY OF SALINAS**  
**POLICE DEPARTMENT**  
**MEMORANDUM**

DATE: February 15, 2016 → 2017

TO: Bobby Latino, Associate Planner

FROM: Sergeant Heath Johnson

SUBJECT: CUP 2017-005 (One Stop Market, 980 Acosta Plz)



I have researched information for CUP 2017-005 regarding the One Stop Market at 980 Acosta Plaza Salinas, with an existing type 20 off-sale of beer and wine license, upgrading to a type 21 general license to include off-sale of distilled spirits.

This location is located in Police Reporting District (PRD) #064. The police department's statistics office provided me with an overall 2014 average crime rate of 104.71 per PRD. According to the police department's statistics office, the crime statistics for 2014 for PRD #064 is 219, which is well above the PRD average.

CITY OF SALINAS PRD 064	
YEAR 2014	
Murder	1
Robbery	8
Burglary	20
Rape	0
Aggravated Assault	18
Simple Assault	32
Stolen Vehicles	35
Larceny	17
Part Two Crimes	85
Arson	3
<b>TOTAL</b>	<b>219</b>
**all charges include attempted**	

PRD #064 encompasses an area that contains a strip mall consisting of retail business, such as a Pizzeria, a video store, a Taqueria, a small boutique store and a hair salon. These businesses are all within the same parking lot and are located on the south-west corner of N. Sanborn Rd. and

Exhibit D

Acosta Plaza. This shopping area is adjacent to the Acosta Plaza Townhomes (Laurel Townhome Association), which is home to hundreds of families.

A large number of the crimes committed in this PRD are for Part II crimes. Part II crimes are a variety of crimes such as Forgery, Embezzlement, Fraud, Vandalism, Prostitution, Drug Abuse, DUI, Public Intoxication, Loitering, and others.

The Salinas Police Department does not object to the approval of CUP 2017-005, Subject to the following recommendations:

- Digital surveillance system with **high quality** cameras focused on the location of the restaurant bar, at points of sales transactions, entrances/exits of the store and the Parking lot, with the capability to store the digital images captured. The video/photos to be made available to police upon request.
- Ample lighting in the parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance equipment.

# SALINAS PLANNING COMMISSION

## Staff Report

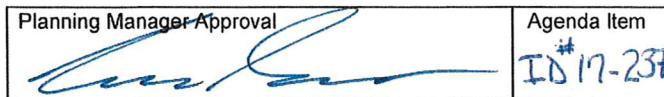
City of Salinas  
Community Development  
Department  
65 West Alisal Street  
Salinas, CA 93901  
(831) 758-7206  
(831) 758-7215 fax

Director:  
*Megan Hunter*

Planning Manager:  
*Courtney Grossman*

Planning Commission:

*John Meeks, Chairperson  
George Anzo  
Richard Giffin  
Brad Griffin  
Matthew Huerta  
Jyl Lutes  
Matt Nohr, Vice Chairperson*



**DATE:** May 3, 2017  
**TO:** Planning Commission  
**FROM:** Courtney Grossman, Planning Manager  
**BY:** Bobby Latino, Assistant Planner

**SUBJECT:** CONDITIONAL USE PERMIT 2017-005; A REQUEST TO CHANGE AN EXISTING OFF-SELL ALCOHOL USE FROM BEER AND WINE (TYPE 20) TO GENERAL (TYPE 21) AT AN EXISTING CONVENIENCE STORE LOCATED AT 980 ACOSTA PLAZA IN THE CR-AR (COMMERCIAL RETAIL – AIRPORT OVERLAY) ZONING DISTRICT

### **RECOMMENDATION**

Staff recommends that the Planning Commission deny Conditional Use Permit 2017-005: a request to change an existing off-sale alcohol use from beer and wine (Type 20) to general (Type 21) at an existing convenience store located at the above referenced address. The project site is located in an area of undue concentration due to high crime in the Police Reporting District.

### **BACKGROUND**

#### The Property and Proposed Project

Eddie Jaber Barakat is requesting approval of a Conditional Use Permit (CUP) to change an existing off-sale alcohol use from beer and wine (Type 20) to general (Type 21) at an existing convenience store located at 980 Acosta Plaza. Beer and wine will continue to be stored in an existing 360 square foot cooler in the north side of the building and distilled spirits are proposed to be sold from behind the front counter on the south side of the building. The existing off-sale alcohol use is a nonconforming use because it is not regulated by a Conditional Use Permit. The use was established on February

8, 1983 with license #134616 (Type 20). In 1983, a Conditional Use Permit (CUP) was not required for off-sale alcohol uses. The business was sold and the license was subsequently transferred (person to person) on April 27, 1995 with license #306868 (Type 20) and the business was sold again and the license subsequently transferred (person to person) again to the Applicant on July 26, 2016 with license #569930 (Type 20).

The property is located in the Commercial Retail – Airport Overlay (CR-AR) Zoning District. The following provides an overview of the land uses and zoning districts adjacent to the project site:

- North: Multifamily dwellings / R-M-3.6 - AR (Residential Medium Density – Airport Overlay)
- South: Single-family detached dwellings/ CR-AR (Commercial Retail – Airport Overlay)
- East: Multifamily dwellings / R-M-3.6 - AR (Residential Medium Density – Airport Overlay)
- West: Service station / CR-AR (Commercial Retail – Airport Overlay)

For purposes of the proposed change of off-sale Type 20 to Type 21 alcohol license, per Salinas City Code Section 37-50.030(c), a CUP is required for all alcohol-related uses (including changes of existing alcohol license types as administered by the state of California Alcoholic Beverage Control Department), with a limited exception for cases as provided in Section 37-50.030(g), none of which are applicable here. Following City approval of the Conditional Use Permit, the Applicant would be required to obtain a Type 21 (Off-Sale General) Alcohol License from the State Department of Alcoholic Beverage Control (ABC).

#### Planning Commission Policy Regarding Alcohol-Related Uses

On April 20, 2016, the Planning Commission requested a study session regarding alcohol license processing following a pair of Planning Commission decisions that were overturned by the City Council. The Planning Commission indicated a concern that the final outcomes involving Conditional Use Permits for alcohol licenses in areas of undue concentration needed additional clarity. At a September 21, 2016 study session, the Planning Commission requested staff to provide a summary of past practice for which Conditional Use Permit decisions were based. Zoning Code findings for alcohol-related Conditional Use Permits require consideration of the following: distance of the proposed use from other alcohol-related uses, residentially zoned property, public schools, public playgrounds, and other similar uses; and giving further consideration to crime rates, calls for emergency services, and residential densities in the surrounding area. An up-to-date summary of alcohol CUPs from 2010 to the present is attached in a table “Off-sale alcohol license CUPs since 2010.”

At a follow up October 19, 2016 Study Session, the Planning Commission determined that a One-for-One policy should be required for off-sale licenses located in areas of undue concentration. A One-for-One policy requires elimination of one existing, active off-sale alcohol-related use within City limits to be either from an area of "undue concentration" (based on either the number of retail off-sale ABC licenses or the number of reported crimes) or a nonconforming use (i.e., without a Conditional Use Permit). A One-for-One option could include a provision allowing the Permittee to obtain and transfer a "surrendered" (non-active) ABC license that has been out of operation for more than 180 days from the date of approval of the CUP, provided such license is located in the City of Salinas and is from an area of area of "undue concentration." In effect, a One-for-One requirement results in a no net gain in the number of off-sale licenses. See Analysis below for additional One-for-One Policy discussion.

## **ANALYSIS**

### Undue Concentration

There are two ways to measure "undue concentration". The proposed location is within Census Tract 106.08 (CT 106.08) which is currently not undue concentrated pursuant to statewide guidelines. For this purpose, "undue concentration" is a formula defined in California Business and Professions Code Section 23958.4(a)(3) where the ratio of off-sale retail licenses to population in the census tract or census division in which the premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the premises are located, as determined by ABC based on the number of existing retail off-sale ABC licenses.

There are three (3) active off-sale licenses within CT 106.08, which are shown on the attached Map and ABC Off-sale Licenses for Census Tract 106.08. The map is focused on the licenses within City limits. The closest off-sale license to the project site is located at 705 North Sanborn Road (Shell Service Station), which is adjacent to the site. Per ABC, six (6) off-sale licenses are allowed in CT 106.08 (see attached Number of Licenses Authorized by Census Tract). With this proposal, no increase to the existing three (3) off-sale licenses would change in CT 106.08. The application would not be considered undue concentrated based on number of outlets and the application would not further the Planning Commission's One-for-One goal.

Undue concentration is also measured by crime statistics where, as here, the crimes reported in the Police Reporting District (PRD) exceed 20% of that measured city-wide. State law allows the City to analyze off-site alcohol sales proposals for undue concentration based on reported crimes in police PRD 64 where the proposed site is located. For this analysis, "undue concentration" is analyzed under a different provision of state law, California Business and Professions Code Section 23958.4(a)(1), as a premises located in a crime reporting district that has a 20% greater number of reported crimes than the average number of crimes reported by the police department across all

PRD's. This is measured by examining the most recent yearly statistics of violent and non-violent enumerated crimes, both felonies and misdemeanors (except traffic violations) with the average number of reported crimes from all PRD's within the jurisdiction. Staff notes that the crimes do not need to be alcohol related for purposes of calculating undue concentration. Salinas Police Department reports an average of 104.71 reported crimes across all PRD's for 2014, the most recent date of PRD records. Adding 20%, the formula allows for no more than 125.652 reported crimes within this PRD to avoid the "undue concentration" designation. The 2014 Salinas Police Department (SPD) crime statistics indicated 219 reported crimes in PRD 64, which exceeds the 125.652 threshold, indicating that it is appropriate to label the site within an area of undue concentration based on crime. Salinas Police Department however, does not object to the approval of Conditional Use Permit 2017-005 with conditions of approval (see attached Salinas Police Department memorandum dated February 15, 2017).

#### Proximity to Residences, Parks, and Schools

The closest residences are located to the immediate north of the subject site, across Acosta Plaza to the east, across North Sanborn Road to the south. The nearest residentially zoned land is adjacent to the north approximately 98 feet (measured by closest exterior wall of the subject suite where the alcohol related facility is located to the nearest property line of the site containing a residential dwelling unit or zone). Other commercial uses are located on-site in the existing shopping center and to the west is a service station (Shell), which has an off-sale alcohol use. The nearest park is Sanborn Neighborhood Park (901 North Sanborn Road), which is located approximately 457 feet to the northeast of the subject site (measured by closest exterior wall of the subject suite where the alcohol related facility is located to the nearest property line of the site containing a park). The nearest public school is Jesse G. Sanchez School (901 North Sanborn Road), which is located approximately 377 feet northeast from the subject site (measured by closest exterior wall of the subject suite where the alcohol related facility is located to the nearest property line of the site containing a school). The nearest recreational facility is the Bread Box Recreation Center (745 North Sanborn Road), which is located approximately 194 feet to the northeast of the subject (measured by closest exterior wall of the subject suite where the alcohol related facility is located to the nearest property line of the site containing a recreation facility).

Comparison to other Off-sale Alcohol Conditional Use Permits Since 2010

	Distance to residentially zoned property (feet)	Distance to public schools (feet)	Distance to parks/ playgrounds (feet)	Distance to off-sale alcohol outlets (feet)	Alcohol outlets in Census Tract (% - allowed/proposed)	Crime rate in PRD (%) (120% = undue concentration)	No. of crimes reported
Average	483.53	1914.88	1842.53	850.82	178%	158%	169
Minimum	0	450	400	100	40%	25%	26
Maximum	3,200	5,800	5,400	290	800%	399%	403
CUP 2017-005	98	377	457	100	50%	174%	219

The subject property is located less than the average distance to residentially zoned properties than the other CUP applications (approved, denied, or expired) since 2010. Residential uses are located adjacent to the north of the subject property and across Acosta Plaza. The subject property is less than the average distance and actually the closest to a public school in comparison with other off-sale alcohol CUP applications. The subject property is less than the average distance to a park in comparison with other off-sale alcohol CUP applications. The project is 194 feet away from a recreational facility (Bread Box Recreation Center). The project site is much closer to residences, schools, and parks in comparison with other off-sale alcohol CUP applications. Lastly, the subject property is adjacent to a site with an off-sale alcohol outlet, Laurel Heights Shell Station (705 North Sanborn Road) approximately 100 feet away.

The project site is located in a Census Tract 106.08, which results in only half (50%) the number of allowed off-sale alcohol outlets, with no net increase in off-sale alcohol outlets. The crime rate for the subject PRD is 174%, which is 54% above 120, the standard set by state law indicating undue concentration.

One-for-One Policy

The applicant is proposing to change the existing license type from Type 20 to Type 21, which would result in no additional licenses within the subject Census Tract and the City of Salinas. Therefore, the application would not result in the loss or addition of any new alcohol licenses and not implicate the Planning Commission's One-for-One policy.

ABC Licensing "Public Convenience and Necessity"

As previously noted, the existing license is not regulated by a Conditional Use Permit and is not required to adhere to the standard conditions imposed on typical off-sale alcohol licenses. The new license type would subject this outlet to conditions. Following CUP approval, the applicant will be required to obtain a change of license type from ABC in order to conduct off-site sales of alcohol; however, state law prohibits such a license

without specific findings from the Planning Commission. State law dictates that ABC shall deny an application in an area of undue concentration unless the local governing body (such as the Planning Commission) determines that "public convenience or necessity would be served by the issuance" (Cal. Business & Professions Code §23958.4(b)(2)).

### Conditions of Approval

The City generally requires a CUP for alcohol-related uses (Salinas City Code §37-50.030) and may lawfully regulate through its land use and zoning authority the potentially negative social and environmental effects of alcohol serving businesses. In this regard, the City's Zoning Code imposes a variety of specific requirements for alcohol-related uses and for all alcohol-related uses located in areas of undue concentration, which are discussed in turn below.

Pursuant to Zoning Code Section 37-50.030(f)(3), if the Planning Commission determines that the public convenience or necessity would be served by the approval of the proposed CUP and the subsequent issuance of an alcohol license by ABC, the CUP would contain the following conditions of approval:

1. No alcoholic beverages shall be consumed on the premises.
2. No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.
3. No display of alcoholic beverages shall be made from an ice tub.
4. No "single-serving" or "one-can" sales of alcoholic beverages shall be made from the premises. A sign to this effect in English and Spanish shall be maintained at the cashier station at all times.
5. No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
6. All business owners and managers shall complete a program certified by the Department of Alcoholic Beverage Control (ABC) as a qualified responsible beverage service (RBS) program prior to the commencement of the Type 21 use. Failure of managers to obtain training shall be the liability of the owner. The owner shall maintain on the premises a file containing the certificates of training and shall present the file and its contents upon request by the City at any time during normal business hours. The provisions of this section regarding responsible beverage training shall be suspended upon a finding by the City Planner that the training is not reasonably available.

Additional conditions could be added, including those recommended by the Salinas Police Department, relating to undue concentration such as employee security, buffering of neighboring uses, exterior lighting, hours of operation, and coin- or token-operated amusement games that may be imposed pursuant to Zoning Code section 37-50.030(f)(5):

1. An electronic age verification scanner shall be installed, maintained, and utilized for all off-sale alcohol sales.
2. Signs shall be posted at the location in English and Spanish with regard to prohibitions of open containers and loitering at the location, and no loitering will be tolerated.
3. No single 40 oz. containers of beer may be sold from premises.
4. Sales of wine shall be in containers of at least 750 ml.
5. Digital surveillance system with high quality cameras focused on the location of the in-store stocked alcohol, at points of sales transactions, and at entrance/exits of the store and the parking lot, with the capability to store the digital images captured. Surveillance video/photos shall be made available to police upon request.
6. Ample lighting shall be provided in parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance equipment.
7. No coin operated video or arcade games and no adult magazines or videos shall be sold.
8. No pay telephone booths shall be permitted on the premises.
7. Any alcohol license violation and/or suspension by the Alcohol Beverage Control Board or significant criminal activity, in the opinion of the City Police Chief, shall constitute grounds for review and modification or revocation of this use Permit in accordance with Section 37-60.640: Expiration-transferability; recordation; rescission; revocation, of the Salinas Zoning Code.

#### **ENVIRONMENTAL REVIEW**

The environmental impacts of the project have been analyzed in accordance with the California Environmental Quality Act (CEQA). The project has been determined to be exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3)

of the CEQA Guidelines. The proposed project is exempt because the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing significant effect on the environment. Where it can be seen that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Additionally, the project is exempt from CEQA under Section 15301 *Existing Facilities*, because there is negligible expansion of the existing convenience store. If the CUP application is denied, no environmental review finding is required per Section 15270 of the CEQA Guidelines.

## **FINDINGS**

The Planning Commission may deny an application for a Conditional Use Permit for an off-sale alcohol related use in area of "undue concentration" provided the Planning Commission establishes the findings set forth in the attached Planning Commission Resolution.

## **TIME CONSIDERATION**

The project was deemed complete on April 14, 2017. Final action is required by June 13, 2017 pursuant to the Permit Streamlining Act.

## **ALTERNATIVES AVAILABLE TO THE COMMISSION**

The Planning Commission has the following alternative:

Find the use Categorically Exempt from the California Environmental Quality Act (CEQA), and approve Conditional Use Permit 2017-005 subject to the Planning Commission's One-for-One policy. Staff notes that findings for approval would need to be established by the Planning Commission.

## **CONCLUSION**

Staff recommends that the Planning Commission deny Conditional Use Permit 2017-005 pursuant to the Planning Commission's established policy regarding alcohol related uses, based on the following:

1. The subject site is located in an area of undue concentration with respect to crime (the crime rate for the subject PRD is 174% over the 120% rate thus considered undue concentrated for crime).
2. The subject site is adjacent to residences, approximately 98 feet away. The subject site is within close proximity to a school (approximately 377 feet away) and a park (approximately 457 feet away).

3. The public convenience or necessity will not be served by the upgrade of an alcohol license and the approval of an alcohol-related Conditional Use Permit at the proposed location. Laurel Heights Shell Station sells alcohol and is approximately 100 feet away.

COURTNEY GROSSMAN  
Planning Manager

BY:

  
\_\_\_\_\_  
Bobby Latino  
Assistant Planner

Attachments: Proposed Planning Commission Resolution Denying CUP 2017-015  
Draft Conditional Use Permit (CUP 2017-005), including the following exhibits:  
Exhibit "A" Vicinity Map  
Exhibit "B" Site Plan  
Exhibit "C" Floor Plan  
Exhibit "D" Police Department Memorandum dated February 15, 2017  
Areas of Undue Concentration of Off-Sale Licenses and Reported Crimes  
(Combined) in Salinas  
Census Tracts with Undue Concentration of Off-Sale Alcohol Licenses  
Police Reporting Districts with Undue Concentration of 20% Greater Number of  
Reported Crimes than the Average Number of Reported Crimes  
Map of Off-Sale Alcohol Licenses for Census Tract 106.08 (CT 106.08)  
California Department of Alcoholic Beverage Control List of Off-Sale Licenses  
in Census Tract 106.08 dated March 29, 2017  
California Department of Alcoholic Beverage Control Number of Licenses  
Authorized by Census Tract  
Table: Off-sale alcohol license CUP's since 2010

\SalSvr44\DeptPvt\ComDev\robertl\Documents\CUPs\CUP 2017-005 (980 Acosta Plaza)\CUP 2017-005 PC Staff Report.docx

**SALINAS PLANNING COMMISSION  
RESOLUTION NO. 2017-**

Resolution Denying a Conditional Use Permit to request a change to an existing off-sale alcohol use from beer and wine (Type 20) to general (Type 21) at an existing convenience store use located at 980 Acosta Plaza in the CR-AR (Commercial Retail – Airport Overlay) Zoning District  
(CUP 2017-005)

**WHEREAS**, on May 3, 2017, the Salinas Planning Commission, at the request of the Applicant, Eddie Jaber Barakat, held a duly noticed public hearing to consider Conditional Use Permit 2017-005 to request a change to an existing off-sale alcohol use from beer and wine (Type 20) to general (Type 21) at an existing convenience store use located at 980 Acosta Plaza (Assessor's Parcel Number 004-611-018-000); and

**WHEREAS**, the Planning Commission weighed the evidence presented at said public hearing, including the Staff Report which is on file at the Community Development Department together with the record of environmental review; and

**NOW, THEREFORE, BE IT RESOLVED** that the Salinas Planning Commission denies Conditional Use Permit 2017-005 because it could not establish the findings required by Zoning Code Section 37-60.520 (for a Conditional Use Permit) and Zoning Code Section 37-50.030 (for an off-sale alcohol use located in an area of undue concentration) and herein adopts the following as the basis for its determination of denial:

**1. *The proposed location of the use is not in accordance with the objectives of the Salinas General Plan, this Zoning Code and the purposes of the district in which the site is located;***

The site is designated Retail by the 2002 Salinas General Plan. Per the General Plan, Retail provides for the variety of retail uses such as retail stores, restaurants, hotels, personal services, business services and financial services. The proposed off-sale alcohol related use is inconsistent with General Plan Goal CD-2, as it does not encourage the design, maintenance, and revitalization of neighborhoods that enhance the quality of life.

As shown on the official Zoning Map, the site is located in the base CR-AR (Commercial Retail – Airport Overlay) District. Per Section 37-30.180, the purpose of the Commercial Retail District is to allow for a wide range of retail stores, restaurants, hotels and motels, commercial recreation, personal services, business services, offices, financial services, mixed us residential, and/or limited residential uses. Furthermore, purposes of the Commercial Districts are to create a suitable environment for various types of commercial uses and protect them from the adverse effects of incompatible uses while minimizing the impact of the commercial development on adjacent residential districts. The proposed off-sale alcohol related use would not comply with the provisions of the Zoning Code because the use would not provide for orderly integration of alcohol-related uses

in accordance with the purpose of the alcohol license review regulations pursuant to Zoning Code Section 37-50.030.

The proposed off-sale alcohol-related use would adversely affect the welfare of the surrounding neighborhood. The proposed location is in a neighborhood with a mix of residential, commercial, and public and semipublic uses including a school, recreation center, and park (Jesse G. Sanchez School, Bread Box Recreation Center, and Sanborn Neighborhood Park), which are located 377, 194, and 457 feet from the subject site respectively. Residences are located adjacent to the north and across Acosta Plaza, to the east of the subject site. Considering the high crime statistics and the character of land uses in the surrounding neighborhood, the proposed off-sale alcohol use would be detrimental to public health, safety, and welfare of the area and neighborhood residences.

- 2. *The proposed location of the conditional use and the proposed conditions under which it would be operated or maintained are not consistent with the Salinas General Plan and would be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, and detrimental to properties or improvements in the vicinity or the general welfare of the City of Salinas;***

The site is designated Retail by the 2002 Salinas General Plan. Per the General Plan, Retail provides for the variety of retail uses such as retail stores, restaurants, hotels, personal services, business services and financial services. The proposed off-sale alcohol related use is inconsistent with General Plan Goal CD-2, as it does not encourage the design, maintenance, and revitalization of neighborhoods that enhance the quality of life.

The proposed off-sale alcohol-related use would adversely affect the welfare of the surrounding neighborhood. The proposed location is in a neighborhood with a mix of residential, commercial, and public and semipublic uses including a school, recreation center, and park (Jesse G. Sanchez School, Bread Box Recreation Center, and Sanborn Neighborhood Park), which are located 377, 194, and 457 feet from the subject site respectively. Residences are located adjacent to the north and across Acosta Plaza, to the east of the subject site. Considering the high crime statistics and the character of land uses in the surrounding neighborhood, the proposed off-sale alcohol use would be detrimental to public health, safety, and welfare of the area and neighborhood residences.

The Planning Commission finds that the proposed change of an existing Type 20 off-sale alcohol license to a Type 21 off-sale alcohol license would be detrimental to the public health, safety, or welfare because it would intensify an existing alcohol use in an area with high crime statistics and incompatible character of land uses in the surrounding neighborhood.

3. ***The proposed conditional use would not comply with the provisions of the Salinas Zoning Code, including any specific conditions required for the proposed use;***

The proposed off-sale alcohol related use would not comply with the provisions of the Zoning Code because the use would not provide for orderly integration of alcohol-related uses in accordance with the purpose of the alcohol license review regulations pursuant to Zoning Code Section 37-50.030.

4. ***The Alcohol-Related use would adversely affect the welfare of the area and of surrounding residentially zoned neighborhoods, giving due consideration to the distance of the proposed use from other Alcohol-Related uses, residentially zoned property, public schools, public playgrounds, and other similar uses; and giving further consideration to crime rates, calls for emergency services, and residential densities in the surrounding area; and***

The subject alcohol related use would adversely affect the welfare of the area and surrounding residential neighborhood due to the close proximity of other nearby off-sale alcohol outlets and the combination of residences, schools, and parks. The off-sale alcohol outlet is adjacent to the subject site (approximately 100 feet away) and residences are adjacent to the subject site (approximately 98 feet away). The closest school is approximately 377 feet away and the closest park is approximately 457 feet away. The close proximity of adversely affected uses and undue concentration due to the high number of crimes, render the proposed location unsuitable for a change to intensify an existing off-sale alcohol outlet.

5. ***The location of the proposed Off-Sale Alcohol-Related use is located within an area of undue concentration (as defined by Business and Professions Code Sections 23958.4 and administered by the State Department of Alcoholic Beverage Control), pursuant to Business and Professions Code Sections 23817.7, the public convenience or necessity would not be served by the issuance of the alcohol license by the ABC.***

The proposed location is in an area of "undue concentration" in crime reporting district that has a 20 percent greater number of reported crimes. The Police Department's 2014 average for statistics for Police Reporting Districts (PRDs) is 104.71 reported crimes. Adding 20%, this amounts to approximately 125.652 reported crimes. Crime statistics for PRD 64 are 219 reported crimes. The Planning Commission finds that intensifying an existing off-sale alcohol outlet in an area of undue concentration of crimes reported would result in a negative impact on the surrounding neighborhood.

The California Department of Alcohol Beverage Control (ABC) shows three (3) active off-sale licenses located within Census Tract 106.08 (CT 106.08). The

proposed change of an existing off-sale alcohol use would not increase the number of off-sale outlets or exceed the maximum number of six (6) off-sale outlets specified by the ABC.

The Planning Commission cannot support the proposed change of an existing Type 20 beer and wine off-sale alcohol license to a Type 21 general off-sale alcohol license due to the high crime statistics and finds that public convenience or necessity would not be served by the issuance of the license by the ABC due to the number of reported crimes. The existing alcohol outlets sufficiently meet public convenience or necessity.

**PASSED AND ADOPTED** this 3rd day of May 2017 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THIS IS TO CERTIFY that the foregoing is a full, true, and correct copy of a Resolution of the Planning Commission of the City of Salinas, that said Resolution was passed and adopted by the affirmative and majority vote of said Planning Commission at a meeting held on May 3, 2017 and that said Resolution has not been modified, amended, or rescinded, and is now in full force and effect.

SALINAS PLANNING COMMISSION

Date: \_\_\_\_\_

Courtney Grossman  
Secretary

\\SalSvr44\\DeptPvt\\ComDev\\robert\\Documents\\CUPs\\CUP 2017-005 (980 Acosta Plaza)\\CUP 2017-005 PC Reso.docx

When recorded, return to:

CITY OF SALINAS  
Community Development Department  
65 West Alisal Street, Salinas, CA 93901  
Attn: Bobby Latino, Assistant Planner

SPACE ABOVE FOR RECORDER'S USE ONLY

---

Title of Document

## **CONDITIONAL USE PERMIT NO. 2017-005**

### **City of Salinas**

### **Community Development Department**

**WHEREAS**, the Salinas Planning Commission, at a public hearing duly noticed and held on May 3, 2017, found that the proposed location of the use is in accordance with the objectives of the Salinas Zoning Code and the purposes of the zoning district in which the site is located; that the location of the use and the proposed conditions under which it would be operated and maintained will be consistent with the Salinas General Plan and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the neighborhood of such use, nor detrimental to properties or improvements in the vicinity or the general welfare of the City of Salinas; that the use and will comply with the provisions of the Salinas Zoning Code, including the specific conditions required for the proposed use; that the proposed off-sale alcohol-related use will neither adversely affect the welfare of the area nor of surrounding residentially zoned neighborhoods, giving due consideration to the distance of the proposed use from other off-sale alcohol-related uses, residentially zoned property, public schools, public playgrounds, and other similar uses; and giving further consideration to crime rates, calls for emergency services, and residential densities in the surrounding area; that although the proposed off-sale alcohol-related use is located within an area of undue concentration (as defined by Business and Professions Code Sections 23958.4 and 23817.5, and administered by the State Department of Alcoholic Beverage Control), pursuant to Business and Professions Code Section 23817.7, the public convenience or necessity would be served by the issuance of the alcohol license by the ABC; and that this conditional use has been reviewed and evaluated in accordance with the California Environmental Quality Act and is considered Exempt to CEQA.

**NOW, THEREFORE**, the Salinas Planning Commission hereby grants and issues Conditional Use Permit No. 2017-005 pursuant to *Article VI, Division 8: Conditional Use Permits*, of Chapter 37 of the Salinas City Code and upon the following terms and conditions and not otherwise, to wit:

**ISSUED TO:** Eddie Jaber Barakat

**PROPERTY OWNER:** Dennis R. Smith and Yang Son Smith Trust

**FOR USE:** Establish and operate an off-sale alcohol related use consisting of an off-sale general license (Type 21) at an existing convenience store.

**ON PROPERTY LOCATED AT:** 980 Acosta Plaza

**ASSESSOR'S PARCEL NO.:** 004-611-018-000

**ZONING DISTRICT:** CR-AR (Commercial Retail –Airport Overlay)

**ENVIRONMENTAL REVIEW ACTION & DATE:** Exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) and 15301 on May 3, 2017.

**EXPIRATION DATE:** None, once properly established, unless the subject off-sale alcohol use ceases operation for a continuous period of six (6) months or more.

#### **RIGHT TO OPERATE/DEVELOP**

1. The Permittee shall have the right to operate an off-sale alcohol related use consisting of an off-sale general license (Type 21) at an existing convenience store on the above-described property in accordance with the following exhibits incorporated herein by reference and made a part of this Permit:

**Exhibit "A" Vicinity Map**

**Exhibit "B" Site Plan**

**Exhibit "C" Floor Plan**

**Exhibit "D" Police Department Memorandum, dated February 15, 2017**

#### **LIMITATIONS ON USE**

2. The premises shall be maintained free of litter at all times.
3. No alcoholic beverages shall be consumed on the premises.
4. No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.
5. No display of alcoholic beverages shall be made from an ice tub.
6. No "single-serving" or "one-can" sales of alcoholic beverages shall be made from the premises. A sign to this effect in English and Spanish shall be

maintained at the cashier station at all times.

7. No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
8. All business owners and managers shall complete a program certified by the Department of Alcoholic Beverage Control (ABC) as a qualified responsible beverage service (RBS) program prior to the commencement of the Type 21 use. Failure of managers to obtain training shall be the liability of the owner. The owner shall maintain on the premises a file containing the certificates of training and shall present the file and its contents upon request by the City at any time during normal business hours. The provisions of this section regarding responsible beverage training shall be suspended upon a finding by the City Planner that the training is not reasonably available.
9. An electronic age verification scanner shall be installed, maintained, and utilized for all off-sale alcohol sales.
10. Signs shall be posted at the location in English and Spanish with regard to prohibitions of open containers and loitering at the location, and no loitering will be tolerated.
11. No single 40 oz. containers of beer may be sold from the premises.
12. Sales of wine shall be in containers of at least 750 ml.
13. Digital surveillance system with high quality cameras focused on the location of the in-store stocked alcohol, at points of sales transactions, and at entrance/exits of the store and the parking lot, with the capability to store the digital images captured.
14. Surveillance video/photos shall be made available to police upon request.
15. Ample lighting shall be provided in parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance equipment.
16. No coin operated video or arcade games and no adult magazines or videos shall be sold.
17. No pay telephone booths shall be permitted on the premises
18. Any alcohol license violation and/or suspension by the Alcohol Beverage Control Board or significant criminal activity, in the opinion of the City Police Chief, shall constitute grounds for review and modification or revocation of this use Permit in accordance with Section 37-60.640: Expiration-

transferability; recordation; rescission; revocation, of the Salinas Zoning Code.

19. The City Planner may conduct a review of this Permit after inauguration, and may require modifications, if appropriate. The Planning Manager may also schedule a review by the Salinas, at a public hearing, if considered necessary. In the event that a public hearing is necessary, the Permittee shall reimburse the City of Salinas for all costs and expenses required to prepare for and conduct said hearing.
20. If the subject off-sale alcohol-related use ceases operation for a continuous period of six (6) months or more, this Conditional Use Permit shall become null and void.
21. No outdoor storage, display, or sale of merchandise of any kind will be permitted except as authorized subject to the issuance of a Temporary Use of Land Permit in accordance with the Salinas Municipal Code.

## **CRIME PREVENTION REQUIREMENTS**

22. Prior to the use being established, the applicant should consult with the Police Department regarding crime prevention and security (See Exhibit "D").

## **SIGNS**

23. A Sign Permit issued in accordance with *Article V, Division 3: Signs* of the Salinas City Code, shall be required for all signs. Verification of permits for existing signs shall be required prior to operation and issuance of any new Sign Permits.
24. No canvas signs, banners, pennants, flags, streamers, balloons or other temporary or wind signs; no mobile, A-frame, or portable signs; no roof or canopy signs extending above a building roof; no signs that resemble any official marker erected by the city, state or any governmental agency, or that by reason of position, shape, color or illumination would conflict with the proper functioning of any traffic sign or signal or would be a hazard to vehicular or pedestrian traffic; no signs which produce odor, sound, smoke, fire or other such emissions; and no animated, flashing, moving or rotating signs shall be permitted unless permitted in accordance with *Article 5, Division 3: Signs* of the Salinas Zoning Code, as may be amended from time to time.

## **NONCONFORMING USE**

25. The nonconforming off-sale alcohol use associated with the Type 20 ABC

license #569930 at the subject location shall be discontinued and all associated entitlements shall cease.

## **MAINTENANCE**

26. All parking areas, driveways, other paved surfaces, accessways and grounds shall be regularly maintained and kept free of weeds, litter, and debris. All traffic signs and pavement markings shall be clear and legible at all times. All landscaped areas shall be maintained free of weeds, trash, and debris, and all plant material shall be continuously maintained in a healthy, growing condition. All exterior building and wall surfaces shall be regularly maintained, and any damage caused by weathering, vandalism, or other factors shall be repaired in conformance with the terms and conditions of this Permit.

## **PERMIT NOT TO SUPERSEDE OTHER REQUIRED LICENSING OR PERMITS**

27. The issuance of this Permit is required in addition to the issuance of an alcoholic beverage sales license from the State Alcoholic Beverage Control Board.
28. The issuance of this Permit shall not relieve the Permittee of any requirement to obtain permits or licensing from any county, regional, state or federal agencies. If applicable, a City Business License shall be obtained prior to commencement of use.

## **MODIFICATION OF APPROVED USE AND PLANS**

29. Any modification to the terms and conditions of this Permit are subject to the issuance of a new Permit. The City Planner may approve minor modifications to this Permit if the City Planner finds the modification to be in substantial compliance with the original approval.

## **VIOLATION; REVOCATION**

30. Use of the property shall be conducted in such a way that it does not constitute a nuisance to the use and enjoyment of surrounding properties or the City. Any permittee, person, firm, corporation, whether as principal, agent, employee or otherwise, violating, causing or maintaining the violation of any of the provision of this Permit shall be guilty of a misdemeanor or an infraction, as charged. Alternatively, any violation of this Permit may be prosecuted administratively pursuant to the City's Administrative Remedies Ordinance and/or other applicable laws, regulations or codes. Upon determination by the City Planner that there are reasonable grounds for revocation of this Permit, a revocation hearing shall be set to be heard before the Salinas Planning Commission in accordance with Article VI,

*Division 18: Enforcement and Penalties* of the Salinas Zoning Code or such codes as may be subsequently adopted.

## **SUBSTANTIAL ACTION TIME LIMIT**

31. This Permit shall expire one year after its effective date unless:
  - a. The use is established in conformance with the provisions of the Zoning Code; or
  - b. The City Planner determines that substantial action has commenced to carry out the terms and intent of the Conditional Use Permit.

## **PERMIT VALIDATION**

32. Pursuant to Zoning Code Section 37-60.530, this Permit shall be null and void and all terms and conditions shall have no force or effect unless this Permit is signed by the Permittee(s) and returned to City of Salinas Community Development Department within 90 days of approval. ***It is the applicant's responsibility to track the 90-day expiration date. No notice will be sent.***

## **STANDARD CONDITIONS**

33. Pursuant to **Salinas City Code Section 1-8.1: Civil action enforcement**, and **Section 1-8.2: Liability for costs**, permittee shall reimburse the City of Salinas for all costs and expenses (including but not limited to fees and charges of architects, engineers, attorneys, and other professionals, and court costs) incurred by the City in enforcing the provisions of this Permit.
34. The applicant(s) shall defend, indemnify, and hold harmless the City of Salinas or any of its boards, commissions, agents, officers, and employees from any claim, action or proceeding against the City, its boards, commissions, agents, officers, or employees to attack, set aside, void, or annul, the approval of this project/use. The City shall promptly notify the applicant(s) of any such claim, action, or proceeding. The City shall cooperate in the defense. Nothing contained in this condition shall prohibit the City from participation in a defense of any claim, action, or proceeding if the City bears its own attorney's fees and costs, and the City defends the action in good faith.
35. Notwithstanding any of the provisions in this permit, all improvements and uses shall comply with all other ordinances and regulations of the City of Salinas and all local, state and federal laws and regulations.
36. No further development other than that shown on this permit or attached exhibits shall be allowed unless or until an amendment to this permit has

been approved. Requests for a minor modification of an approved permit may be granted by the City Planner provided the modification is substantially in compliance with the original approval and conditions.

## **NOTICE OF CHALLENGE LIMITATIONS**

37. Code of Civil Procedure Section 1094.6 requires all Court challenges to the decision to grant this Permit be initiated within 90 days of the final decision of the City in this matter.

## **EXECUTIONS**

**THIS CONDITIONAL USE PERMIT** was approved by action of the Salinas Planning Commission on May 3, 2017, and shall become effective on the following date unless appealed to the City Council of the City of Salinas in accordance with Article VI, Division 17: Appeals:

Effective Date: May 16, 2017

---

Courtney Grossman  
Planning Manager, City of Salinas

(Signatures Listed Below on Pages 8 through 9 Must Be Notarized)

**THIS CONDITIONAL USE PERMIT** is hereby accepted upon the express terms and conditions hereof, and the undersigned Permittee agrees to strictly conform to and comply with each and all of this Permit's terms and conditions.

Dated: \_\_\_\_\_

Eddie Jaber Barakat  
Permittee

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

On                            201, before me,                           , Notary Public, personally appeared                           , who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_

**CONSENT** is hereby granted to the Permittee to carry out the terms and conditions of this Conditional Use Permit.

Dated: \_\_\_\_\_

Dennis R. Smith

Dennis R. Smith and Yang Son Smith Trust  
Property Owner

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

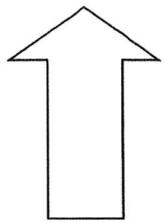
On \_\_\_\_\_ 201\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

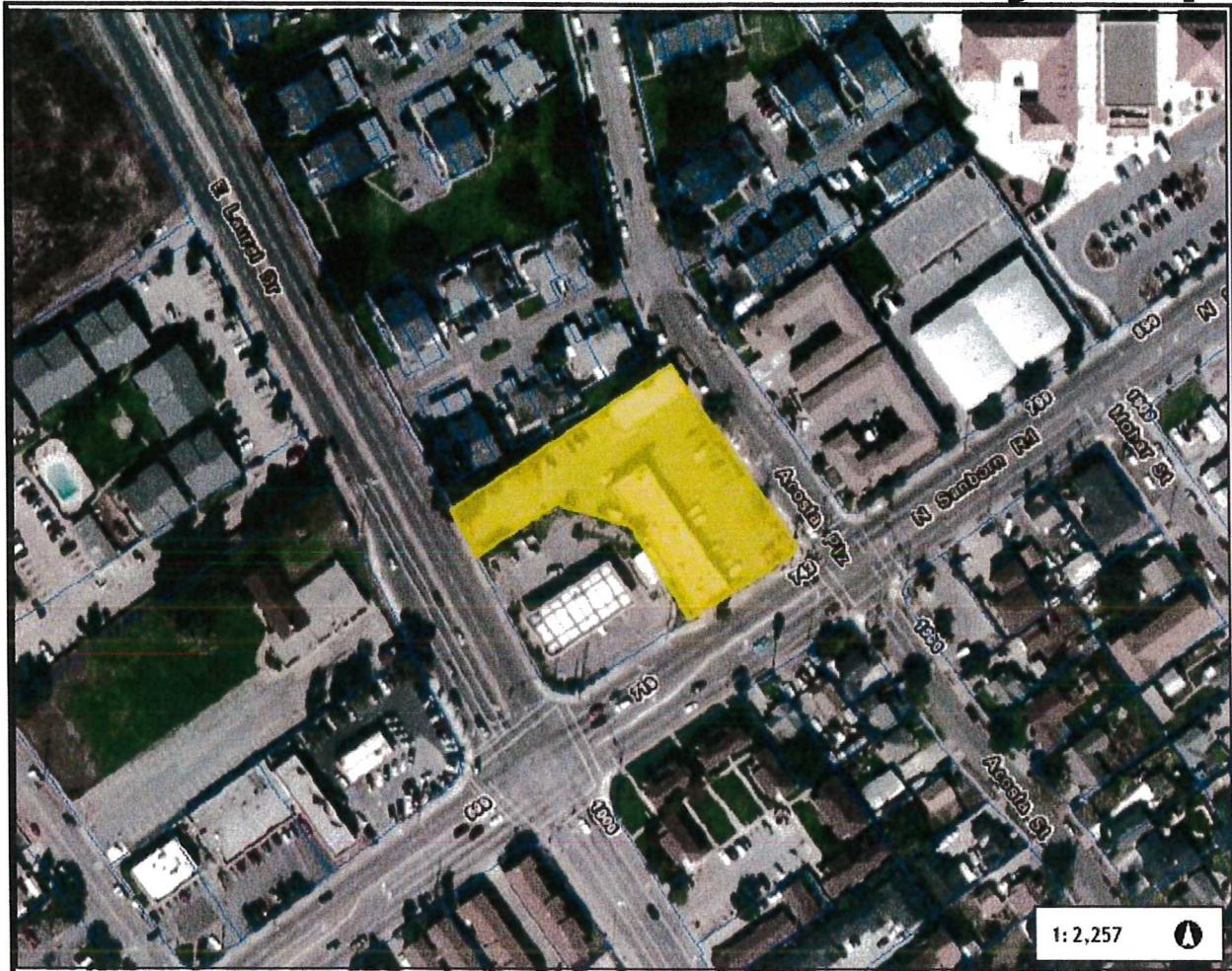
Signature \_\_\_\_\_

\\\SalSvr44\\DeptPvt\\ComDev\\robert\\Documents\\CUPs\\CUP 2017-005 (980 Acosta Plaza)\\CUP 2017-005 (980 Acosta Plaza).docx



**North**

**Vicinity Map**



## **CONDITIONAL USE PERMIT 2017-005**

### **980 Acosta Plaza**

**Exhibit A**

NE

N. Sanborn Rd.  
4 lanes

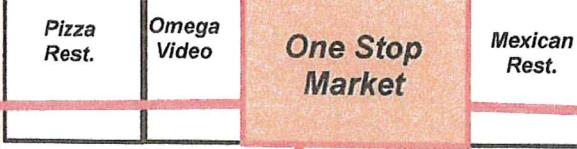
E. Laurel Ave.  
4 lanes

**Shell Station & Car Wash**

Parcel 004611017000

150' to Residential  
Property Line

98' to Residential  
Property Line



Enter/  
Exit



N. Sanborn Rd.  
4 lanes

**One Stop Center**  
Parcel 004611018000

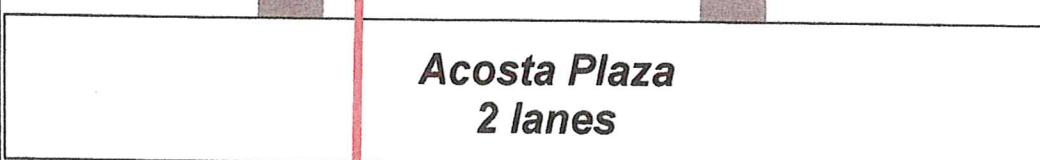
Property Line  
in Black Bold

Enter/  
Exit

Enter/  
Exit

Commercial  
Businesses

Property Line  
6' High Block Wall



140' to Residential  
Property Line

1" = 50'

**Exhibit B**

ONE STOP MARKET  
980 ACOSTA PLAZA

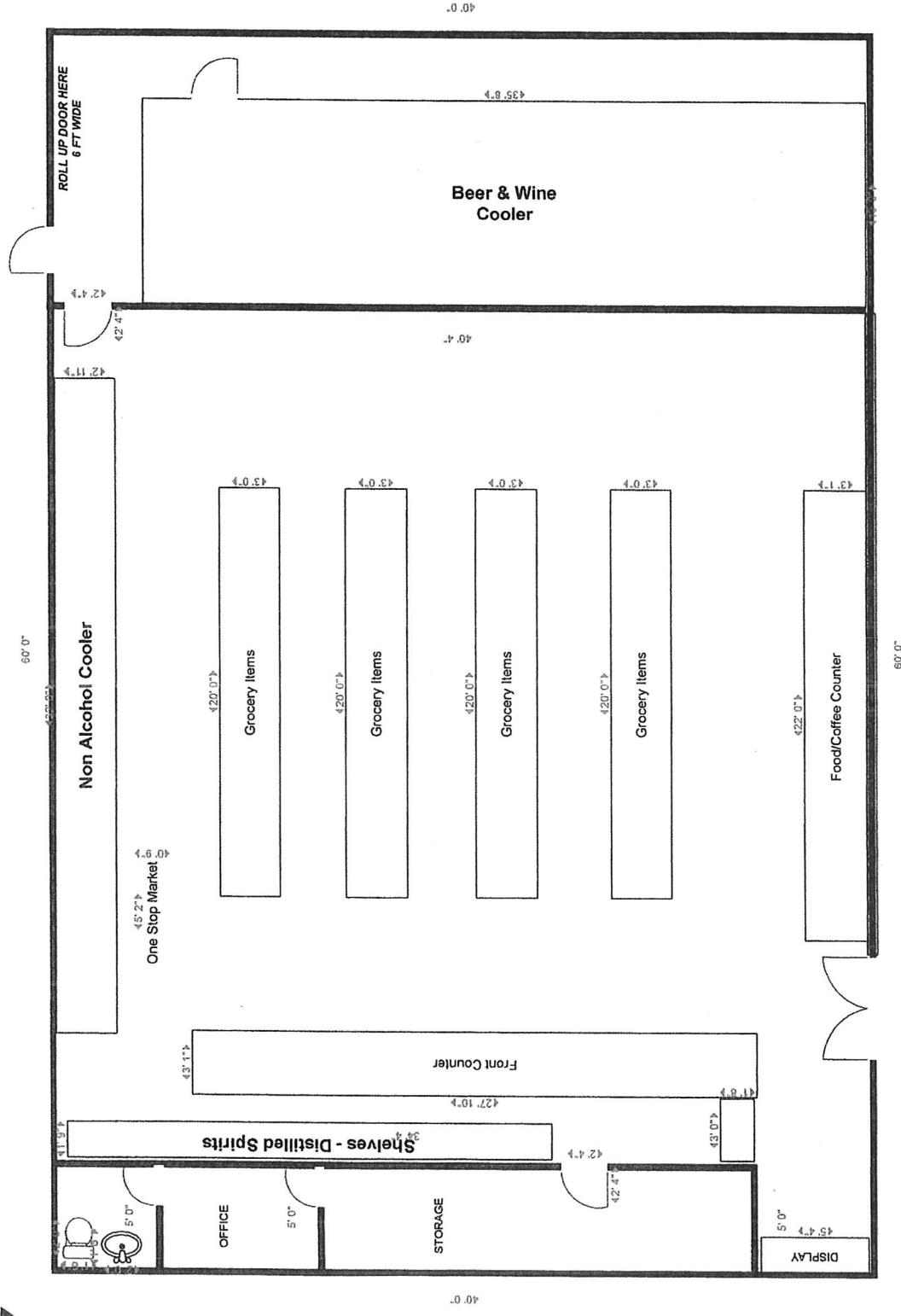


Exhibit C



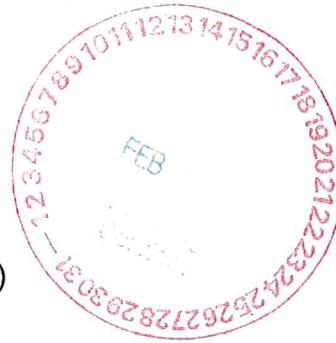
**CITY OF SALINAS**  
**POLICE DEPARTMENT**  
**MEMORANDUM**

DATE: February 15, 2016 ~~— 2017~~

TO: Bobby Latino, Associate Planner

FROM: Sergeant Heath Johnson

SUBJECT: CUP 2017-005 (One Stop Market, 980 Acosta Plz)



I have researched information for CUP 2017-005 regarding the One Stop Market at 980 Acosta Plaza Salinas, with an existing type 20 off-sale of beer and wine license, upgrading to a type 21 general license to include off-sale of distilled spirits.

This location is located in Police Reporting District (PRD) #064. The police department's statistics office provided me with an overall 2014 average crime rate of 104.71 per PRD. According to the police department's statistics office, the crime statistics for 2014 for PRD #064 is 219, which is well above the PRD average.

CITY OF SALINAS PRD 064	
YEAR 2014	
Murder	1
Robbery	8
Burglary	20
Rape	0
Aggravated Assault	18
Simple Assault	32
Stolen Vehicles	35
Larceny	17
Part Two Crimes	85
Arson	3
<b>TOTAL</b>	<b>219</b>

\*\*all charges include attempted\*\*

PRD #064 encompasses an area that contains a strip mall consisting of retail business, such as a Pizzeria, a video store, a Taqueria, a small boutique store and a hair salon. These businesses are all within the same parking lot and are located on the south-west corner of N. Sanborn Rd. and

D  
**Exhibit**

Acosta Plaza. This shopping area is adjacent to the Acosta Plaza Townhomes (Laurel Townhome Association), which is home to hundreds of families.

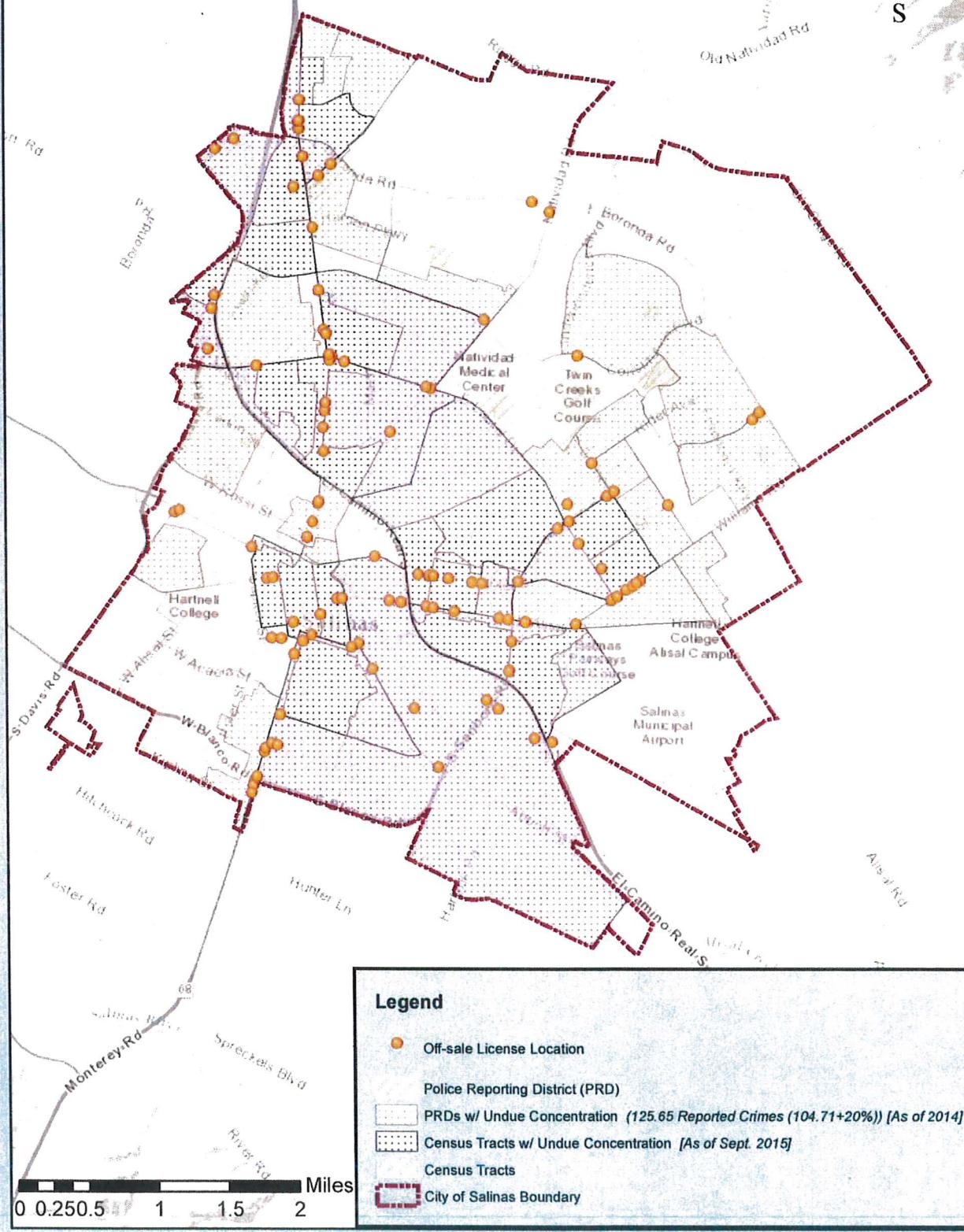
A large number of the crimes committed in this PRD are for Part II crimes. Part II crimes are a variety of crimes such as Forgery, Embezzlement, Fraud, Vandalism, Prostitution, Drug Abuse, DUI, Public Intoxication, Loitering, and others.

The Salinas Police Department does not object to the approval of CUP 2017-005, Subject to the following recommendations:

- Digital surveillance system with **high quality** cameras focused on the location of the restaurant bar, at points of sales transactions, entrances/exits of the store and the Parking lot, with the capability to store the digital images captured. The video/photos to be made available to police upon request.
- Ample lighting in the parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance equipment.

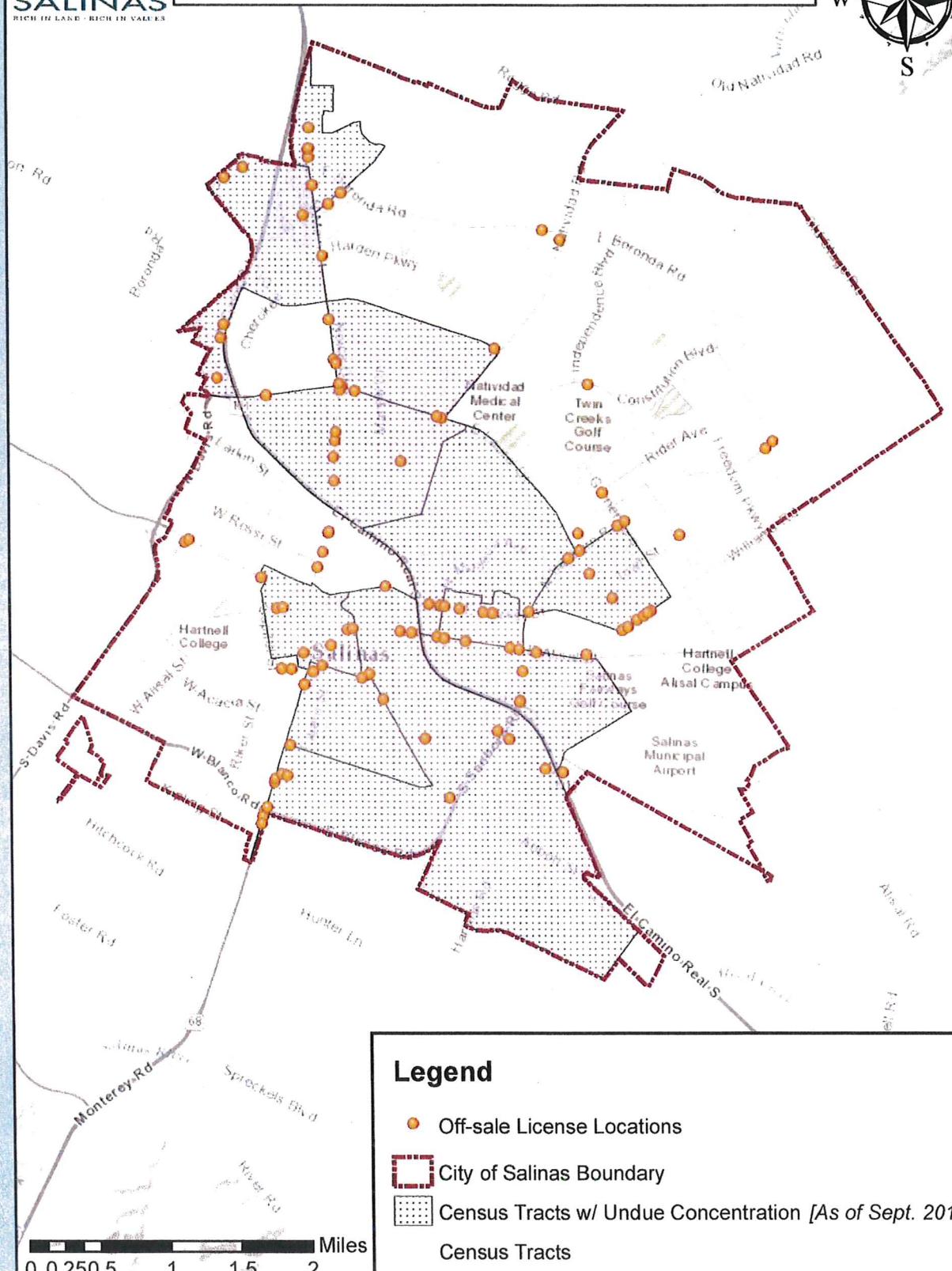


## **Areas of Undue Concentration of Off-sale Licenses and Reported Crimes (Combined)**



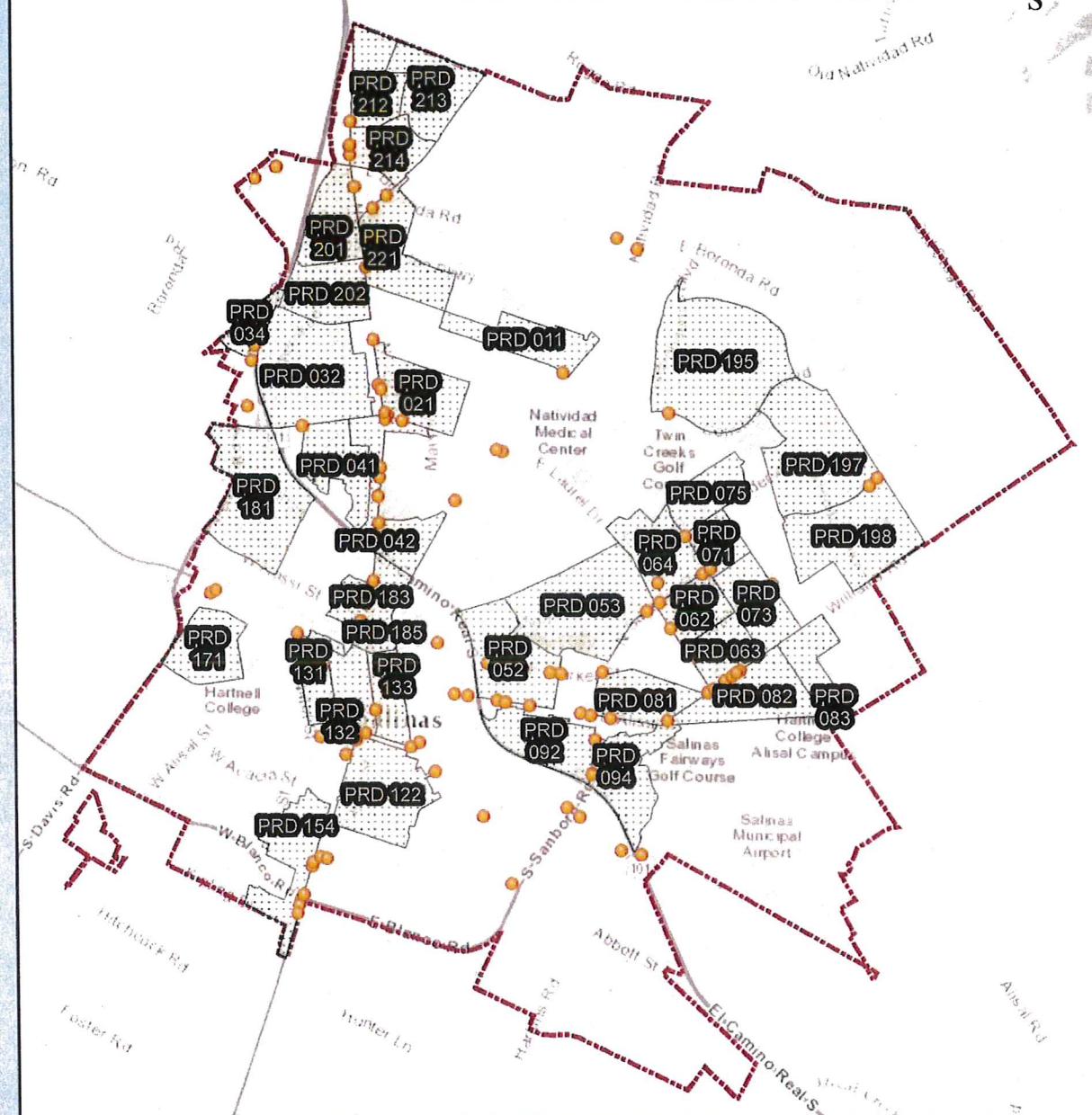


## Census Tracts with Undue Concentration of Off-sale Alcohol Licenses





## Police Reporting Districts with Undue Concentration of 20% Greater Number of Reported Crimes than the Average Number of Reported Crimes



### Legend

- Off-sale License Location
- PRDs w/ Undue Concentration (125.65 Reported Crimes (104.71+20%)) [As of 2014]
- Police Reporting District (PRD)
- City of Salinas Boundary

0 1 Miles


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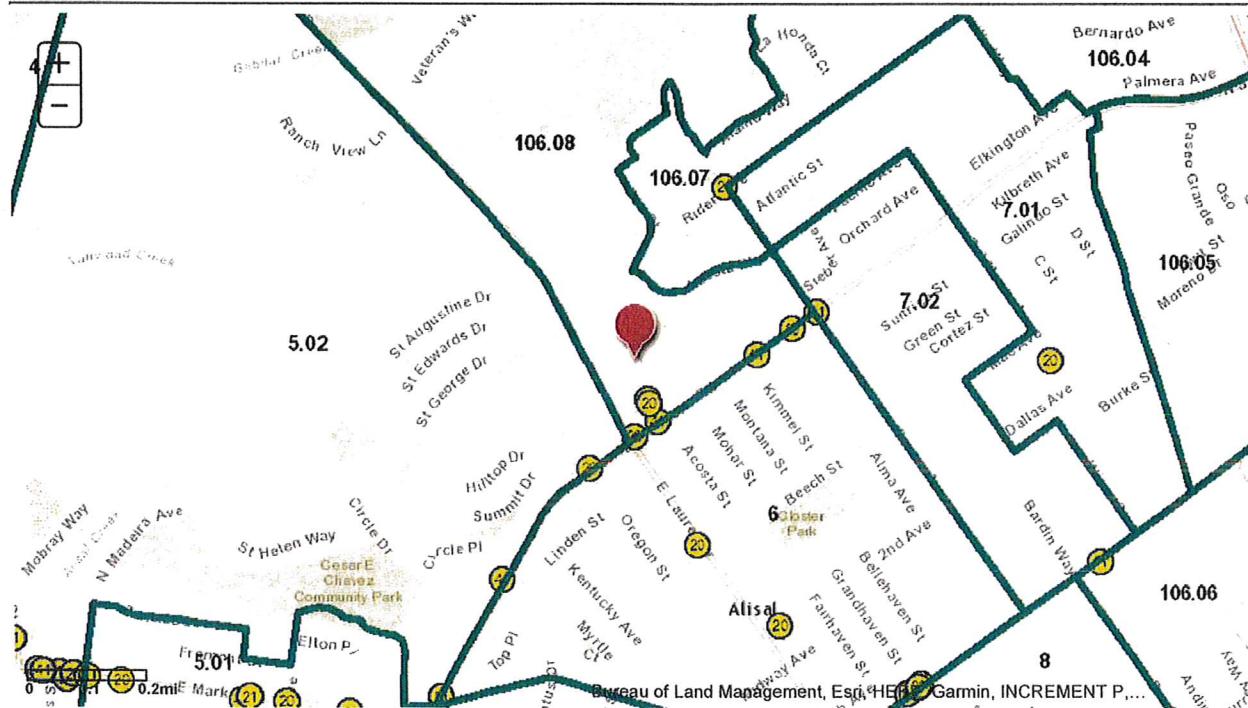
## License Query System - Map Query

Search for a specific

License Number:

Or, locate a general area by entering:

Address:  Census Tract:  City:



Licenses on the map display the license type that is currently issued for it. In the event there is more than one license type issued, the code MU is displayed.

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**California Department of Alcoholic Beverage  
Control**  
**For the County of MONTEREY - (Off-Sale Licenses)**  
**and Census Tract = 106.08**

Report as of 3/28/2017

License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1) <a href="#">395446</a>	ACTIVE	21	4/8/2004	6/30/2017	SAFEWAY INC 1536 CONSTITUTION BLVD SALINAS, CA 93905  Census Tract: 0106.08	SAFEWAY INC #2654	PO BOX 29096, MAIL STOP #6516 PHOENIX, AZ 85038-9096	2708
2) <a href="#">558930</a>	ACTIVE	20	9/22/2015 8:21:54 AM	8/31/2017	VU, NOEL THUY 705 N SANBORN RD SALINAS, CA 93905  Census Tract: 0106.08	LAUREL HEIGHTS SHELL		2708
3) <a href="#">569930</a>	ACTIVE	20	7/26/2016 3:37:37 PM	6/30/2017	BARAKAT, EDDIE JABER 980 ACOSTA PLZ SALINAS, CA 93905-1302  Census Tract: 0106.08	ONE STOP MARKET		2708

- - - End of Report - - -

For a definition of codes, view our [glossary](#).

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
NUMBER OF LICENSES AUTHORIZED  
BY CENSUS TRACT

County Name	County Population	County Ratio On Sale	County Ratio Off Sale	Census Tract #	Census Tract Population	On Sale	Off Sale
MONTEREY	437,178	563	1,014	9.00	5,746	10	5
MONTEREY	437,178	563	1,014	12.00	3,178	5	3
MONTEREY	437,178	563	1,014	13.00	2,548	4	2
MONTEREY	437,178	563	1,014	14.00	2,680	4	2
MONTEREY	437,178	563	1,014	15.00	5,741	10	5
MONTEREY	437,178	563	1,014	16.00	2,642	4	2
MONTEREY	437,178	563	1,014	17.00	3,780	6	3
MONTEREY	437,178	563	1,014	18.01	3,957	7	3
MONTEREY	437,178	563	1,014	18.02	5,078	9	5
MONTEREY	437,178	563	1,014	101.01	4,518	8	4
MONTEREY	437,178	563	1,014	101.02	3,279	5	3
MONTEREY	437,178	563	1,014	102.02	4,386	7	4
MONTEREY	437,178	563	1,014	103.05	4,371	7	4
MONTEREY	437,178	563	1,014	103.06	1,250	2	1
MONTEREY	437,178	563	1,014	104.00	6,481	11	6
MONTEREY	437,178	563	1,014	105.01	6,339	11	6
MONTEREY	437,178	563	1,014	105.04	4,732	8	4
MONTEREY	437,178	563	1,014	105.05	4,892	8	4
MONTEREY	437,178	563	1,014	105.06	4,752	8	4
MONTEREY	437,178	563	1,014	106.03	7,304	12	7
MONTEREY	437,178	563	1,014	106.04	5,512	9	5
MONTEREY	437,178	563	1,014	106.05	4,219	7	4
MONTEREY	437,178	563	1,014	106.06	6,299	11	6
MONTEREY	437,178	563	1,014	106.07	4,430	7	4
MONTEREY	437,178	563	1,014	106.08	3,646	6	3
MONTEREY	437,178	563	1,014	107.01	6,769	12	6
MONTEREY	437,178	563	1,014	107.02	3,911	6	3
MONTEREY	437,178	563	1,014	108.04	5,029	8	4
MONTEREY	437,178	563	1,014	109.00	10,109	17	9
MONTEREY	437,178	563	1,014	110.00	5,933	10	5
MONTEREY	437,178	563	1,014	111.01	5,188	9	5
MONTEREY	437,178	563	1,014	111.02	11,454	20	11
MONTEREY	437,178	563	1,014	112.02	6,868	12	6
MONTEREY	437,178	563	1,014	112.03	7,173	12	7
MONTEREY	437,178	563	1,014	112.04	3,190	5	3
MONTEREY	437,178	563	1,014	113.02	5,813	10	5
MONTEREY	437,178	563	1,014	113.03	3,775	6	3
MONTEREY	437,178	563	1,014	113.04	6,688	11	6
MONTEREY	437,178	563	1,014	114.00	3,778	6	3
MONTEREY	437,178	563	1,014	115.02	1,710	3	1
MONTEREY	437,178	563	1,014	116.02	5,266	9	5
MONTEREY	437,178	563	1,014	116.04	1,913	3	1
MONTEREY	437,178	563	1,014	117.00	3,810	6	3
MONTEREY	437,178	563	1,014	118.01	1,885	3	1
MONTEREY	437,178	563	1,014	118.02	1,830	3	1
MONTEREY	437,178	563	1,014	119.00	4,449	7	4
MONTEREY	437,178	563	1,014	120.00	3,563	6	3
MONTEREY	437,178	563	1,014	121.00	2,263	4	2
MONTEREY	437,178	563	1,014	122.00	2,683	4	2
MONTEREY	437,178	563	1,014	123.02	1,872	3	1
MONTEREY	437,178	563	1,014	124.01	1,682	2	1
MONTEREY	437,178	563	1,014	124.02	2,987	5	2

Off-Sale Alcohol CUP's since 2010

Project No.	Business Name	Address	Action Taken	Final Decision	Action Date	Distance - Residential zones (ft.)	Distance - Public Schools (ft.)	Distance - Parks/Play-grounds (ft.)	Distance - off-sale alcohol outlets (ft.)	Census Tract (Allowed/Proposed)	Census Tract %	Number - crimes reported	Crime Rate	
													(120% = Undue Cont.)	
CUP 2010-004	Salinas AM/PM	970 Work Street	Approved	CC	4/19/2011 06/14/11 (A); 06/14/12 (E)	1,210	3,100	3,480	470	1/8	800%	38%	45	
CUP 2010-006	Walgreen's	1532 North Main Street	Expired	CC	5/5/2010	500	920	2,680	350	4/2	50%	259%	280	
CUP 2010-007	Quik Stop	615 West Laurel Drive	Approved	PC	10/12/2010	0	450	990	1,720	8/7	83%	75%	88	
CUP 2010-013	Chevron	306 North Main Street	Approved	CP	3/15/2011	400	1,700	1,420	900	10/7	70%	39%	37	
CUP 2010-017	Peninsula Petroleum, LLC	417 North Main Street	Approved	CP	12/13/2011	200	1,530	2,240	110	10/7	70%	97%	113	
CUP 2011-005	Walgreen's	575 North Sanborn Road	Denied	CC	6/1/2011	0	1,200	1,000	280	10/12	120%	129%	140	
CUP 2011-009	Wal-Mart	1375 North Davis Road	Approved	PC	6/14/2011	875	3,100	2,690	500	5/7	140%	106%	115	
CUP 2011-010	Wal-Mart	1800 North Main Street	Approved	CC	11/29/2011	0	940	1,250	1,100	4/2	50%	259%	280	
CUP 2011-023	BJ's Restaurant, Inc.	1730 North Main Street	Approved	PC	10/22/2013	790	2,575	3,235	1,100	4/3	75%	235%	254	
CUP 2012-005	Star 1 Food Mart	8 Williams Road	Denied	CC	9/24/2013	80	658	658	850	5/2	40%	158%	181	
CUP 2013-003	Dollar General	1045 North Main Street	Approved	CC	5/27/2015	180	1,882	985	390	7/9	129%	111%	127	
CUP 2014-025	Walgreen's	1532 North Main Street	Denied	CC	11/3/2015	135	1,200	1,585	350	3/3	100%	399%	403	
CUP 2015-016	Valero	215 East Alisal Street	Approved	CC	1/20/2016	0	2,898	1,430	100	2/8	400%	159%	167	
CUP 2015-023	Rite Aid	602 Williams Road	Denied	CC	11/4/2015	0	780	400	1,584	2/6	300%	124%	130	
CUP 2015-025	Alvarado Street Brewery	1315 Dayton Street, Suite E	Approved	PC	4/19/2016	3,200	5,800	5,400	3,400	4/12	300%	25%	26	
CUP 2015-034	Juquilita Market	170 East Laurel Drive	Denied	CC	1/8/2017	300	1,850	1,100	290	10/11	110%	130%	136	
CUP 2016-019	Salinas Gas	201 Monterey Street	Approved	CC	350	1,970	780	970	2/9	450%	340%	356	356	
						483.53	194.88	1842.53	850.82			178%	158%	169
						0	450	400	100			40%	25%	26
						3,200	5,800	5,400	3,400			800%	399%	403
						98	377	457	100			50%	174%	219

**UNOFFICIAL MINUTES  
OF THE  
SALINAS PLANNING COMMISSION**

**May 3, 2017**

The meeting was called to order at 3:33 p.m. in the City Council Chamber Rotunda.

**ROLL CALL**

**PRESENT:** Chairperson Meeks, Commissioners Nohr, Huerta, Giffin, Griffin

**ABSENT:** Commissioners Lutes and Anzo

**STAFF:** Director of Community Development, Megan Hunter; Planning Manager, Courtney Grossman; Senior Planner, Thomas Wiles, Assistant Planner, Bobby Latino; Administrative Aide, Denise Ledezma; Sergeant Heath Johnson

**COMMENTS FROM THE PUBLIC FOR ITEMS NOT ON THE AGENDA**

None

**APPROVAL OF THE MINUTES:** April 5, 2017

Commissioner Nohr motioned to approve the April 5, 2017 minutes. Commissioner Giffin seconded the motion.

**AYES:** Chairperson Meeks, Commissioners Giffin, Griffin, Huerta and Nohr

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Commissioners Anzo and Lutes

**PUBLIC HEARINGS**

1. Conditional Use Permit 2017-005; A request to change an existing off-sale alcohol related use from Beer and Wine (Type 20) to General (Type 21) at an existing convenience store located at 980 Acosta Plaza in the Commercial Retail Airport Overlay.

Assistant Planner, Bobby Latino, presented a PowerPoint presentation for Conditional Use Permit 2017-005. This presentation is available at the Community Development Department.

A petition was received against the project from residents in the surrounding area.

The public hearing was opened at 3:50 p.m. and comments were received from the following:

1. Al Espindola, resident, supported staff's recommendations for denial due to crime.
2. Richelle Santoya, Sunrise House Prevention, supported staff's recommendations for denial due to crime.
3. Miguel Ramirez, Sun Street Centers, spoke against the project.
4. Maria, resident, spoke against the project.
5. Greg Banks, resident, respected people's opinions.
6. Phil Lundell, consultant to applicant, spoke in favor of the project.
7. Eddie Jabeer Barakat, applicant, spoke in favor of his project.

The public hearing was closed at approximately 4:04 p.m.

Sergeant Johnson provided detailed information on crime statistics.

Commissioner Huerta motioned to continue the project and hold a meeting with the applicant and interested parties regarding Conditional Use Permit 2017-005. Commissioner Nohr seconded the motion.

AYES: Commissioners Griffin, Huerta, and Nohr,

NOES: Chairperson Meeks and Commissioner Giffin

ABSTAIN: None

ABSENT: Commissioners Anzo and Lutes

Chairperson Meeks stated that this item will be continued to the May 17, 2017 Planning Commission Meeting.

2. Conditional Use Permit 2017-004 and Variance 2017-001; A request to construct an addition to an existing single family residents and establish a duplex with a two space 50% parking reduction and vary from the requirement for covered garage parking, minimum front yard setback, parking within front yard setback, and a solid masonry wall located at 544 East Market Street #B in the Mixed Arterial Frontage-East Alisal Street/East Market Street (MX-FG5) District.

Senior Planner, Thomas Wiles presented a PowerPoint presentation for Conditional Use Permit 2017-004 and Variance 2017-001. This PowerPoint is on file at the Community Development Department.

AYES: Chairperson Meeks, Commissioners Giffin, Griffin, Huerta, and Nohr

NOES: None

ABSTAIN: None

ABSENT: Commissioners Anzo and Lutes

The public hearing was opened at 4:51 p.m. and comments were received from the following:

1. Steve McShane, resident, spoke in favor of his project.
2. Mark Norris, on behalf of applicant, spoke in favor of project.
3. Al Espindola, resident, spoke in support of staff's recommendation on this project.
4. Greg Banks, resident, provided public comments.
5. Maryann Worden, resident, voiced her concern about space on the property for a yard.

The public hearing was closed at approximately 5:02 p.m.

Commissioner Nohr motioned to approve Conditional Use Permit 2017-004 and Variance 2017-001. Commissioner Griffin seconded the motion.

## **COMMISSION CONSIDERATIONS**

None

## **OTHER BUSINESS**

Mr. Grossman mentioned that he would follow-up with Commissioner Lutes regarding a map for commercial/industrial areas.

## **FOLLOW UP REPORTS**

None

## **FUTURE AGENDA ITEMS**

The next Planning Commission meeting is scheduled on May 17, 2017.

Mrs. Hunter requested the Commissioners acquire training for future projects.

## **COUNCIL CONSIDERATIONS**

Mrs. Hunter stated that the Inclusionary Housing Ordinance is scheduled for City Council on May 16th, 2017. She also mentioned that the Housing Subcommittee met with the Technical Advisory Committee.

## **ATTENDANCE AT NEXT MEETING**

All will attend the next scheduled meeting for May 17, 2016.

## **ADJOURNMENT**

The meeting was adjourned at 5:15 p.m.

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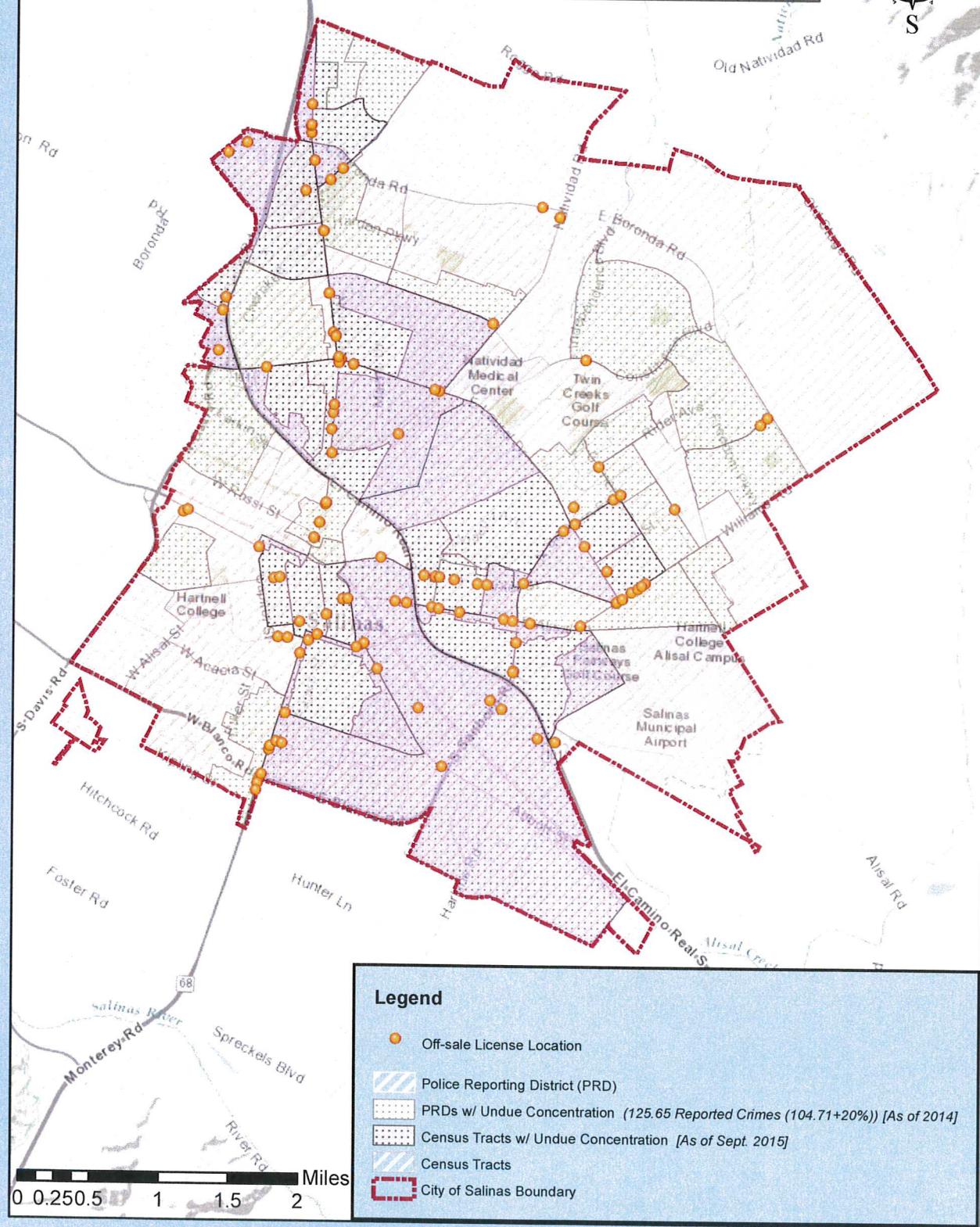
JOHN MEEKS  
Chairperson

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COURTNEY GROSSMAN  
Executive Secretary

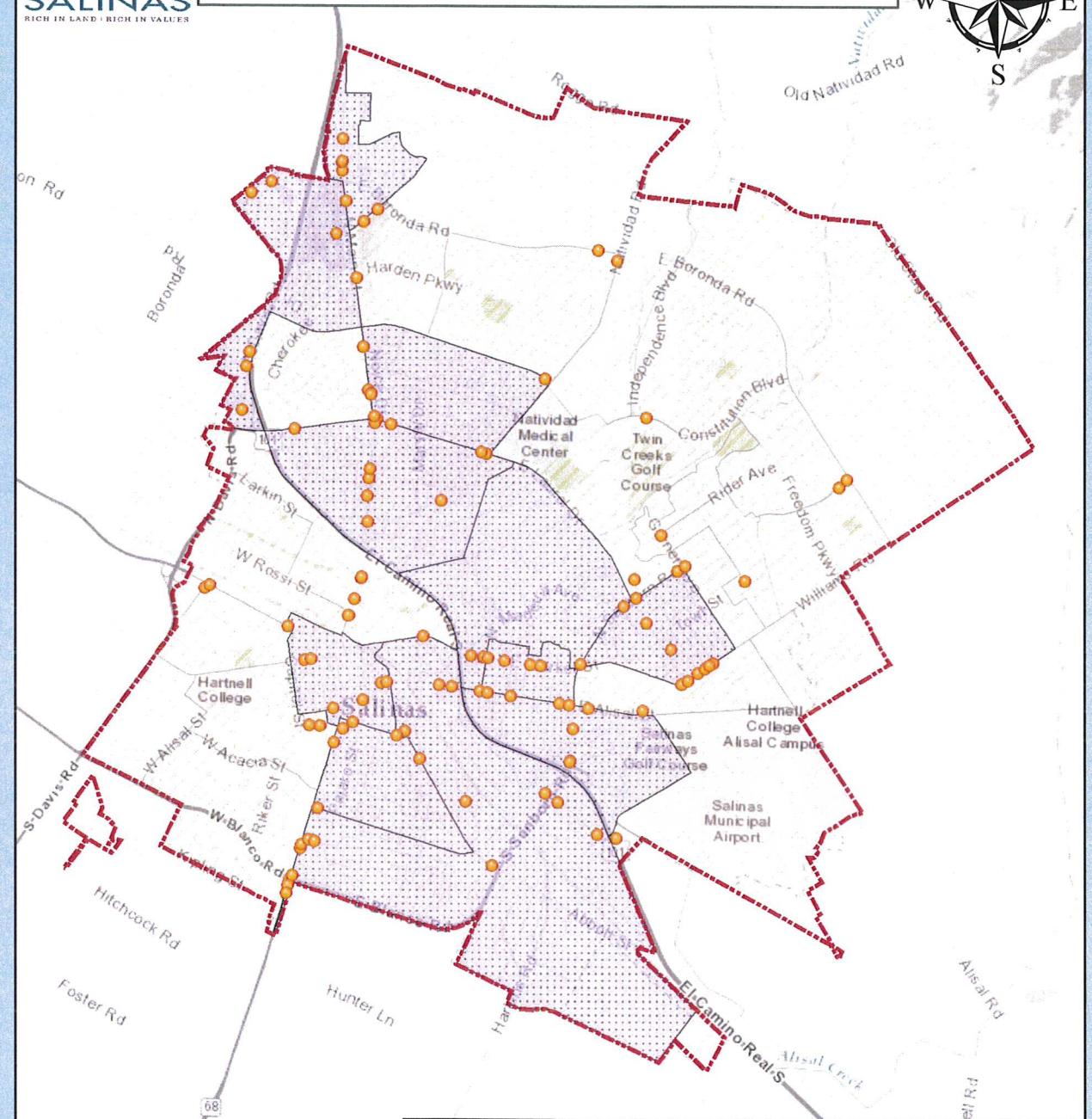


## Areas of Undue Concentration of Off-sale Licenses and Reported Crimes (Combined)





## Census Tracts with Undue Concentration of Off-sale Alcohol Licenses



### Legend

- Off-sale License Locations

- City of Salinas Boundary

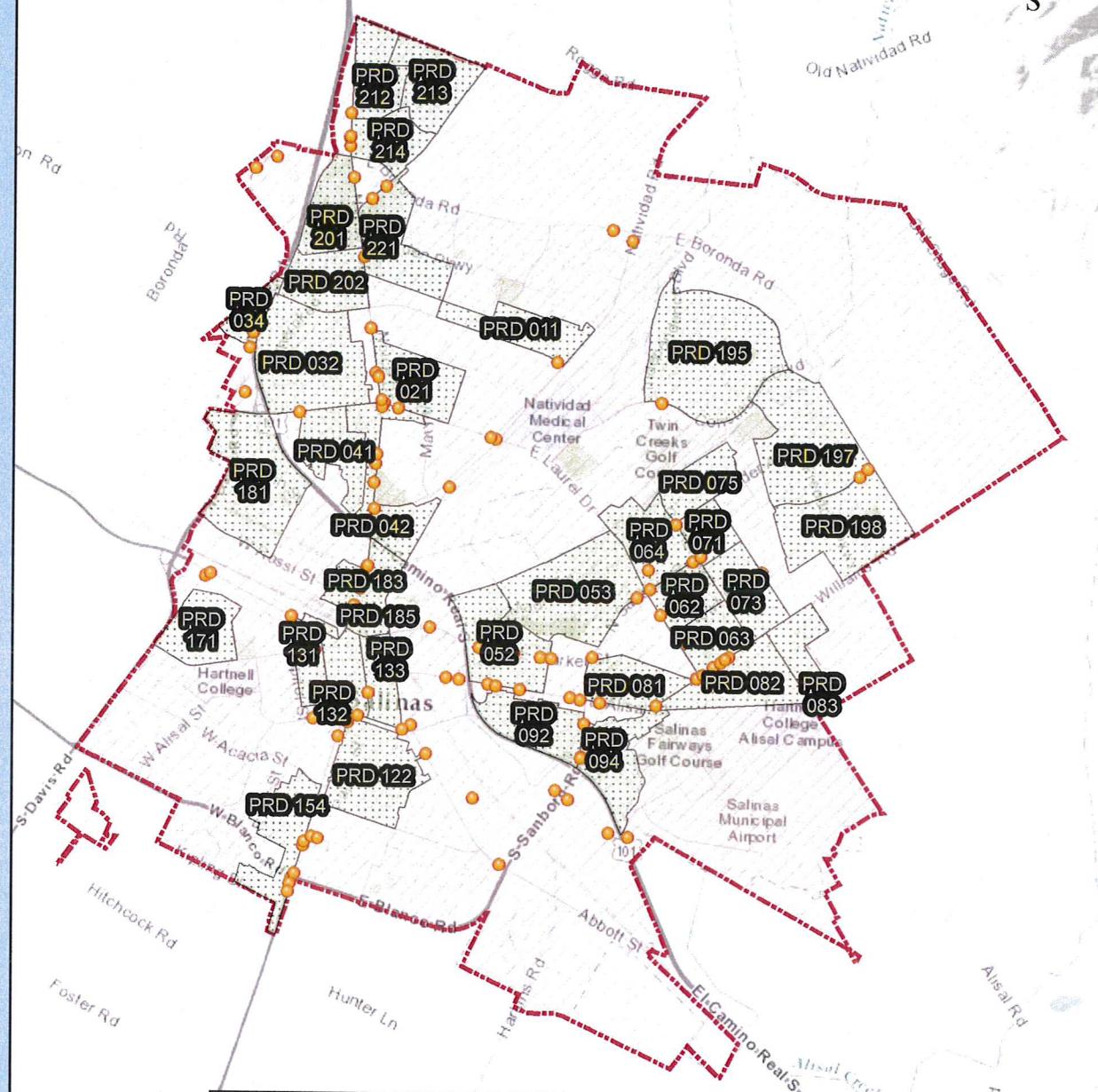
- Census Tracts w/ Undue Concentration [As of Sept. 2015]

- Census Tracts

0 0.25 0.5 1 1.5 2 Miles



## Police Reporting Districts with Undue Concentration of 20% Greater Number of Reported Crimes than the Average Number of Reported Crimes



### Legend

- Off-sale License Location
- PRDs w/ Undue Concentration (125.65 Reported Crimes (104.71+20%)) [As of 2014]
- ▨ Police Reporting District (PRD)
- City of Salinas Boundary

0 1 Miles

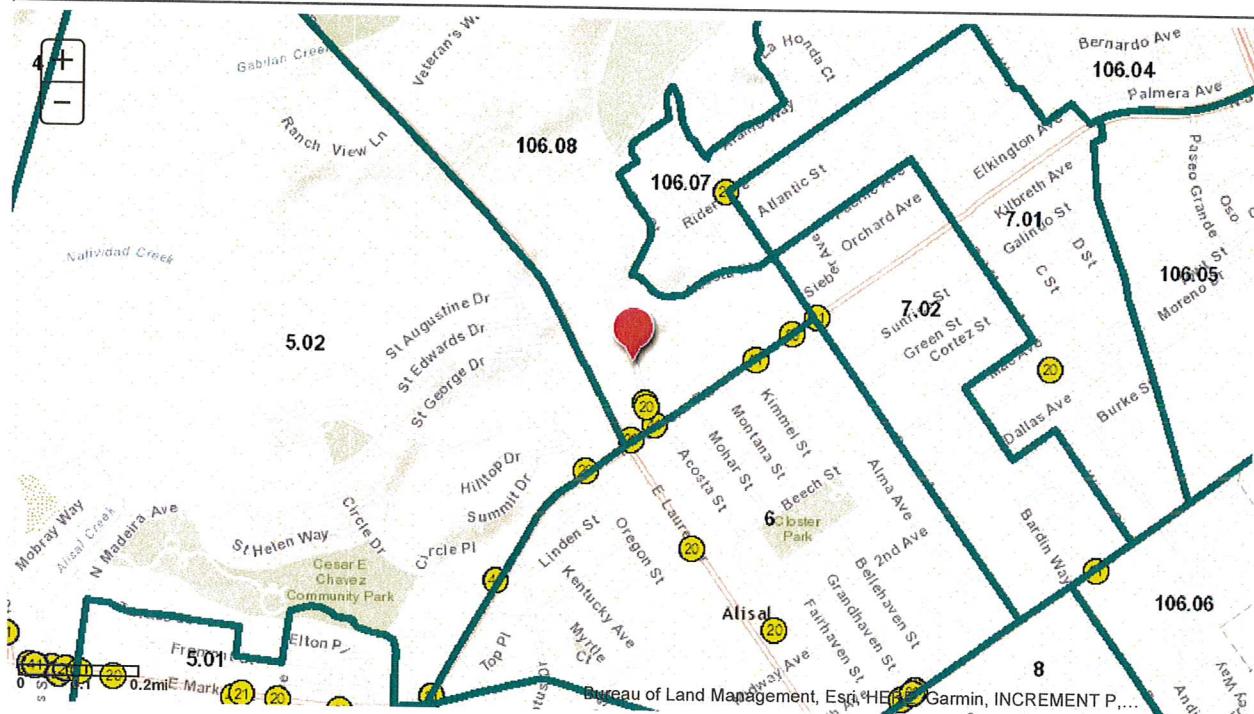


## License Query System - Map Query

## Search for a specific

License Number:

Address:	980 acosta plaza		
Census Tract:	<input type="text"/>	City:	SALINAS
			▼
			Search
			Clear



Licenses on the map display the **license type** that is currently issued for it. In the event there is more than one **license type** issued, the code MU is displayed.



**California Department of Alcoholic Beverage Control**  
**For the County of MONTEREY - (Off-Sale Licenses)**  
**and Census Tract = 106.08**

Report as of 3/28/2017

License Number	Status	License Type	Orig. Iss. Date	Expir Date	Primary Owner and Premises Addr.	Business Name	Mailing Address	Geo Code
1) <a href="#">395446</a>	ACTIVE	21	4/8/2004	6/30/2017	SAFEWAY INC 1536 CONSTITUTION BLVD SALINAS, CA 93905  Census Tract: 0106.08	SAFEWAY INC #2654	PO BOX 29096, MAIL STOP #6516 PHOENIX, AZ 85038-9096	2708
2) <a href="#">558930</a>	ACTIVE	20	9/22/2015 8:21:54 AM	8/31/2017	VU, NOEL THUY 705 N SANBORN RD SALINAS, CA 93905  Census Tract: 0106.08	LAUREL HEIGHTS SHELL		2708
3) <a href="#">569930</a>	ACTIVE	20	7/26/2016 3:37:37 PM	6/30/2017	BARAKAT, EDDIE JABER 980 ACOSTA PLZ SALINAS, CA 93905-1302  Census Tract: 0106.08	ONE STOP MARKET		2708

- - - *End of Report* - - -

For a definition of codes, view our [glossary](#).

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL  
NUMBER OF LICENSES AUTHORIZED  
BY CENSUS TRACT

County Name	County Population	County Ratio On Sale	County Ratio Off Sale	Census Tract #	Census Tract Population	On Sale	Off Sale
MONTEREY	437,178	563	1,014	9.00	5,746	10	5
MONTEREY	437,178	563	1,014	12.00	3,178	5	3
MONTEREY	437,178	563	1,014	13.00	2,548	4	2
MONTEREY	437,178	563	1,014	14.00	2,680	4	2
MONTEREY	437,178	563	1,014	15.00	5,741	10	5
MONTEREY	437,178	563	1,014	16.00	2,642	4	2
MONTEREY	437,178	563	1,014	17.00	3,780	6	3
MONTEREY	437,178	563	1,014	18.01	3,957	7	3
MONTEREY	437,178	563	1,014	18.02	5,078	9	5
MONTEREY	437,178	563	1,014	101.01	4,518	8	4
MONTEREY	437,178	563	1,014	101.02	3,279	5	3
MONTEREY	437,178	563	1,014	102.02	4,386	7	4
MONTEREY	437,178	563	1,014	103.05	4,371	7	4
MONTEREY	437,178	563	1,014	103.06	1,250	2	1
MONTEREY	437,178	563	1,014	104.00	6,481	11	6
MONTEREY	437,178	563	1,014	105.01	6,339	11	6
MONTEREY	437,178	563	1,014	105.04	4,732	8	4
MONTEREY	437,178	563	1,014	105.05	4,892	8	4
MONTEREY	437,178	563	1,014	105.06	4,752	8	4
MONTEREY	437,178	563	1,014	106.03	7,304	12	7
MONTEREY	437,178	563	1,014	106.04	5,512	9	5
MONTEREY	437,178	563	1,014	106.05	4,219	7	4
MONTEREY	437,178	563	1,014	106.06	6,299	11	6
MONTEREY	437,178	563	1,014	106.07	4,430	7	4
MONTEREY	437,178	563	1,014	106.08	3,646	6	3
MONTEREY	437,178	563	1,014	107.01	6,769	12	6
MONTEREY	437,178	563	1,014	107.02	3,911	6	3
MONTEREY	437,178	563	1,014	108.04	5,029	8	4
MONTEREY	437,178	563	1,014	109.00	10,109	17	9
MONTEREY	437,178	563	1,014	110.00	5,933	10	5
MONTEREY	437,178	563	1,014	111.01	5,188	9	5
MONTEREY	437,178	563	1,014	111.02	11,454	20	11
MONTEREY	437,178	563	1,014	112.02	6,868	12	6
MONTEREY	437,178	563	1,014	112.03	7,173	12	7
MONTEREY	437,178	563	1,014	112.04	3,190	5	3
MONTEREY	437,178	563	1,014	113.02	5,813	10	5
MONTEREY	437,178	563	1,014	113.03	3,775	6	3
MONTEREY	437,178	563	1,014	113.04	6,688	11	6
MONTEREY	437,178	563	1,014	114.00	3,778	6	3
MONTEREY	437,178	563	1,014	115.02	1,710	3	1
MONTEREY	437,178	563	1,014	116.02	5,266	9	5
MONTEREY	437,178	563	1,014	116.04	1,913	3	1
MONTEREY	437,178	563	1,014	117.00	3,810	6	3
MONTEREY	437,178	563	1,014	118.01	1,885	3	1
MONTEREY	437,178	563	1,014	118.02	1,830	3	1
MONTEREY	437,178	563	1,014	119.00	4,449	7	4
MONTEREY	437,178	563	1,014	120.00	3,563	6	3
MONTEREY	437,178	563	1,014	121.00	2,263	4	2
MONTEREY	437,178	563	1,014	122.00	2,683	4	2
MONTEREY	437,178	563	1,014	123.02	1,872	3	1
MONTEREY	437,178	563	1,014	124.01	1,682	2	1
MONTEREY	437,178	563	1,014	124.02	2,987	5	2

Off-Sale Alcohol CUP's since 2010