

RESOLUTION NO. 21136 (N.C.S.)

**A RESOLUTION APPROVING A CONDITIONAL USE PERMIT TO ESTABLISH AND
OPERATE AN ALCOHOL RELATED USE CONSISTING OF A BEER AND WINE
OFF-SALE LICENSE (TYPE 20) AT AN EXISTING SERVICE STATION AND
CONVENIENCE STORE WITH GAS PUMPS USE LOCATED AT 201 MONTEREY
STREET IN THE MIXED USE – CENTRAL CITY OVERLAY – DOWNTOWN CORE
AREA (MX-CC-DC) ZONING DISTRICT
(CUP 2016-019)**

WHEREAS, on January 18, 2017, the Salinas Planning Commission, at the request of the Applicant, 3D Investment Group, Incorporated, held a duly noticed public hearing to consider Conditional Use Permit 2016-019 to establish and operate an alcohol related use consisting of a beer and wine off-sale license (Type 20) at an existing service station and convenience store with gas pumps located at 201 Monterey Street (Assessor's Parcel Number 002-231-018-000); 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

WHEREAS, the Planning Commission denied Conditional Use Permit 2016-019 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) (see Planning Commission Resolution 2017-01); and

WHEREAS, the Applicant, 3D Investment Group, Incorporated, appealed the Planning Commission determination on January 30, 2017 pursuant to Zoning Code Section 37-60.1280 of the Salinas Zoning Code; and

WHEREAS, the City Council held a duly noticed public hearing on March 7, 2017 to consider the Planning Commission denial of Conditional Use Permit 2016-019; and

WHEREAS, on March 7, 2017, the City Council continued the public hearing to March 21, 2017 to consider the Planning Commission denial of Conditional Use Permit 2016-019; and

WHEREAS, the City Council has reviewed and considered the Staff Reports of both March 7, 2017 and March 21, 2017 and meeting minutes, public testimony, and related environmental review regarding the project.

NOW, THEREFORE, BE IT RESOLVED that the Salinas City Council approves the Conditional Use Permit because it could 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 approval:

1. *The project has been found to be Exempt pursuant to Sections 15061(b)(3) and 15301 of the California Environmental Quality Act (CEQA) Guidelines;*

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. The proposed project can be seen with certainty 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 service station and convenience store with gas pumps use.

2. *The proposed location of the use is 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 Mixed Use by the 2002 Salinas General Plan. Per the General Plan, Mixed Use provides for a mixture of retail, commercial, office and residential uses in the same building, parcel, or area. The proposed project is consistent with General Plan Goals and Policies.

As shown on the official Zoning Map, the site is located in the base MX-CC-DC (Mixed Use – Central City Overlay – Downtown Core Area) District. Per Section 37-30.230, the purpose of the Mixed Use District is to provide opportunities for commercial uses that emphasize retail and service activities and promote compact development that is intended to be pedestrian-oriented with buildings close to and oriented to the sidewalk. The proposed off-sale alcohol related use would comply with the provisions of the Zoning Code because the use would 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 not 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 three schools. Residences are located adjacent to the east across Lodge Alley, to the east of the subject site. The City Council has determined that the proposed off-sale alcohol use would not be detrimental to the public health, safety, and welfare of the area and neighborhood residences.

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

The site is designated Mixed Use by the 2002 Salinas General Plan. Per the General Plan, Mixed Use provides for a mixture of retail, commercial, office and residential uses in the same building, parcel, or area. The proposed off-sale alcohol related use is consistent with General Plan Goal CD-2, as it does encourage the design, maintenance, and revitalization of neighborhoods that enhance the quality of life.

Conditions have been recommended for this permit to ensure that, when implemented, the project will conform and comply with the provisions of the Salinas Zoning Code and will not be detrimental to the adjacent neighborhood. Per Zoning Code Section 37-50.030(f), conditions required for an off-sale alcohol-related use include, but are not limited to the following: alcohol shall not be sold between the hours of 10:00 p.m. and 6:00 a.m. and coolers containing alcoholic beverages shall be locked between the hours of 10:00 p.m. and 6:00 a.m.; the premises shall be maintained free of litter at all times; and, 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 use.

4. *The proposed conditional use would comply with the provisions of the Salinas Zoning Code, including any specific conditions required for the proposed use;*

Conditions have been recommended for this permit to ensure that, when implemented, the project will conform and comply with the provisions of the Salinas Zoning Code. Per Zoning Code Section 37-50.030(f), conditions required for an off-sale alcohol-related use include, but are not limited to the following: alcohol shall not be sold between the hours of 10:00 p.m. and 6:00 a.m. and coolers containing alcoholic beverages shall be locked between the hours of 10:00 p.m. and 6:00 a.m.; the premises shall be maintained free of litter at all times; and, 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 use.

The proposed location is on a Mixed Use zoned property. The proposed off-sale alcohol-related use at an existing service station and convenience store with gas pumps use (Salinas Gas) will be subject to conditions of approval including, but not limited, to the following requirements pursuant to Zoning Code Section 37-50.030(f)(3):

- No alcoholic beverages shall be consumed on the premises.
- No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.
- No display of alcoholic beverages shall be made from an ice tub.
- 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. ***The Alcohol-Related use would not 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 proposed location is in an area of “undue concentration” in regards to a crime reporting district that has a 20 percent greater number of reported crimes. The Police Department’s most recent 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 132 are 356 reported crimes in 2014, 425 in 2015, and 336 in 2016. Although in an area of undue concentration, the Salinas Police Department does not object to the issuance of a Type 20 alcohol license at this location subject to conditions of approval including, but not limited, to the following requirements:

- Digital surveillance system shall be provided with high quality cameras focused on the location of the in-store stocked alcohol, at points of sales transactions, at entrance/exits of the store and the parking lot, with the capability to store the digital images captured. The video/photos shall be made to the police upon request.
- Ample lighting shall be provided in parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance equipment.
- No unsecured alcohol may be placed near the entrances and exits of the store.

The site is developed with an existing service station and convenience store with gas pumps use (Salinas Gas) and is zoned for mixed-use purposes. Conditions are set forth in the Conditional Use Permit so that the proposed off-sale alcohol-related use would not adversely affect the welfare of the surrounding neighborhood, which include the requirement that ample lighting to be provided in parking lots, exterior areas of entrances/exits and situated in areas to enhance video surveillance equipment. No sale of alcohol shall occur between the hours of 10:00 p.m. and 6:00 a.m. and coolers containing alcoholic beverages shall be locked between the hours of 10:00 p.m. and 6:00 a.m.

6. ***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 be served by the issuance of the alcohol license by the ABC.***

The proposed location is on a Mixed Use zoned property within an existing service station and convenience store with gas pumps use (Salinas Gas). The California Department of Alcohol Beverage Control (ABC) shows eight (8) active off-sale licenses located within Census Tract 13 (CT 13). The proposed off-sale alcohol use would increase the number of off-sale outlets to a total of nine (9) off-sale licenses in CT 13, would exceed the maximum number of two (2) off-sale outlets specified by the ABC in August 2016. The proposed off-sale alcohol-related use at an existing service station and convenience store with gas pumps use (Salinas Gas) will be subject to conditions of approval including, but not limited, to the following requirements pursuant to Zoning Code Section 37-50.030(f)(3):

- No alcoholic beverages shall be consumed on the premises.
- No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.
- No display of alcoholic beverages shall be made from an ice tub.
- 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.

Public convenience would be served by the issuance of the license by the ABC because customers would be able to complete their shopping needs without having to travel to a range of retail outlets.

PASSED AND APPROVED this 21st day of March 2017, by the following vote:

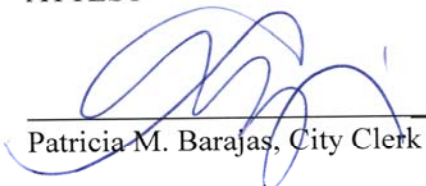
AYES: Councilmembers Craig, Davis, McShane, Villegas and Mayor Gunter

NOES: Councilmembers Barrera and De La Rosa

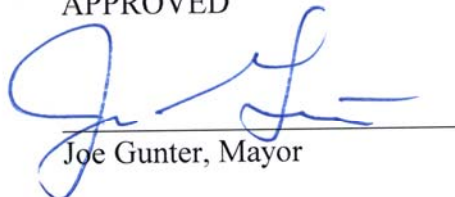
ABSENT: None

ABSTAIN: None

ATTEST


Patricia M. Barajas, City Clerk

APPROVED


Joe Gunter, Mayor