

When recorded, return to:

CITY OF SALINAS
Community Development Department
65 West Alisal Street, Salinas, CA 93901
Attn: Thomas Wiles, Senior Planner

SPACE ABOVE FOR RECORDER'S USE ONLY

Title of Document

CONDITIONAL USE PERMIT NO. 2016-019

City of Salinas

Community Development Department

WHEREAS, the Salinas City Council, at a public hearing duly noticed and held on March 7, 2017, found that the proposed location of the use is in accord 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 evaluated in accordance with the California Environmental Quality Act, as amended; and that the Salinas City Council has reviewed and considered an Exemption to CEQA.

NOW, THEREFORE, the Salinas City Council hereby grants and issues Conditional Use Permit No. 2016-019 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: 3D Investment Group, Incorporated

PROPERTY OWNER: Christopher Dabit, et al.

FOR USE: 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.

ON PROPERTY LOCATED AT: 201 Monterey Street

ASSESSOR'S PARCEL NO.: 002-231-018-000

ZONING DISTRICT: Mixed Use – Central City Overlay – Downtown Core Area (MX-CC-DC)

ENVIRONMENTAL REVIEW ACTION & DATE: Exempt from the California Environmental Quality Act (CEQA) under Section 15061(b)(3) and 15301 on March 7, 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 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 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" Title Sheet, Site Plan, and Floor Plan (Sheet A2.1)

Exhibit "C" Police Department Memorandum dated October 20, 2016

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 alcoholic beverage shall be displayed within five feet of the cash register or within five feet of the front door of the permitted premises.
9. No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
10. 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. Any business established after the effective date of the ordinance codified in this section shall require such training of all owners and managers within ninety days of ownership transfer or hire. 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.
11. An electronic age verification scanner shall be installed, maintained, and utilized for all off-sale alcohol sales.
12. 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.
13. No single 40 oz. containers of beer may be sold from the premises.
14. No malt liquor or fortified wine products (wines with greater than 15% alcohol content) shall be sold.
15. Sales of wine shall be in containers of at least 750 ml.
16. 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.
17. Surveillance video/photos shall be made available to police upon request.
18. Ample lighting shall be provided in parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance

equipment.

19. There shall be no coin operated video or arcade games and no adult magazines or videos shall be sold.
20. No pay telephone booths shall be permitted on the premises
21. 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.
22. 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.
23. 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.
24. 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

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

SIGNS

26. 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.
27. 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.

LANDSCAPING

28. The street tree located along the Monterey Street frontage shall be maintained in accordance with Development and Engineering Services Department standards.

RECYCLING AND SOLID WASTE DISPOSAL AREA

29. A recycling and solid waste enclosure shall be provided with capacity adequate to achieve 50 percent recycling of the total recyclable wastes generated onsite. Instructional signs shall be provided for use of recycling bins and containers. The enclosure shall be constructed with a six-foot high solid masonry walls and screened from public view with a minimum two-foot wide perimeter planter. Colors and materials of the enclosure shall match those of the primary structures (example: exterior plaster - stucco). Doors of the enclosure shall be constructed of a solid material and colored to match the buildings (chain-link fencing with slats is not allowed). The enclosure shall be designed to allow walk-in access without having to open the main enclosure gate. Details of the enclosure need to be shown on the plan. Prior to issuance of a building permit, written confirmation from the City's solid waste service provider, is required to ensure that the recycling and solid waste provisions of the project will meet the service needs of the service provider.

MAINTENANCE

30. 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

31. 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.

32. 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

33. 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

34. 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

35. 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

36. 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

37. 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.
38. 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. For Tentative Maps, this shall also apply when such claim or action is brought within the time period provided for in applicable state and/or local statutes. 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.
39. 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.
40. 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

41. 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 City Council on March 7, 2017, and shall become effective immediately:

Effective Date: March 7, 2017

Courtney Grossman
Planning Manager, City of Salinas

(Signatures Listed Below on Pages 8 through 11 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: _____

Christopher Dabit
Permittee and 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.
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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: _____

Alex Dabit
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 _____

Dated: _____

Maha Nakleh Dabit
Property Owner

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STATE OF CALIFORNIA
COUNTY OF MONTEREY

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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 _____

Dated: _____
Resagia Juarez
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 _____

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