

Stephen L. Vagnini
Monterey County Recorder
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City of Salinas

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3/29/2011
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When recorded, return to:

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

DOCUMENT: 2011017960



Titles: 1/ Pages: 12

Fees	45.00
Taxes	
Other	
AMT PAID	\$45.00

SPACE ABOVE FOR RECORDER'S USE ONLY

Title of Document

CONDITIONAL USE PERMIT NO. 2010-017

City of Salinas Community Development Department

WHEREAS, the Planning Manager has found, on the basis of the application, plans, materials, and use, that the proposed use conforms to the intent of the Salinas Zoning Code and the Salinas General Plan; that specific conditions stipulated by the Planning Manager deemed necessary in the public interest will be met; that the use and structure will not constitute a nuisance on adjoining properties or in the surrounding area; that the proposed use are exempt from the California Environmental Quality Act, as amended; notice has been mailed or delivered to all owners of real property as shown on the latest equalized assessment roll within 300 feet of the subject property at least 10 days prior to the Planning Manager's intended date of approval of this Permit.

NOW, THEREFORE, the Planning Manager hereby grants and issues Conditional Use Permit No. 2010-017 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: Peninsula Petroleum, LLC

FOR USE: Off-sale alcohol-related use limited to beer and wine at an existing convenience store with gas pumps.

ON PROPERTY LOCATED AT: 417 North Main Street

ASSESSOR'S PARCEL NO.: 003-201-013-000

ZONING DISTRICT: MAF – FG-2 (Mixed Arterial Frontage – North Main Street/Soledad Street Focused Growth Overlay)

ENVIRONMENTAL REVIEW ACTION & DATE: Class 1 Categorical Exemption (Existing Facilities) per Section 15301 of the California Environmental Quality Act (CEQA) Guidelines; February 23, 2011

EXPIRATION DATE: None, once properly established, unless the subject off-sale alcohol-related 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 (Type 21, off-sale beer and wine) at an existing 1,676 square-foot convenience store with gas pumps 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 requirements dated December 21, 2010

LIMITATIONS ON USE

2. Alcohol sales shall be limited to the sale of beer and wine only. Hard liquor and/or other spirits shall not be sold.
3. 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.
4. No alcoholic beverage shall be displayed within five (5) feet of the cash register or the front door of the permitted premises unless displayed in a permanently affixed cooler.
5. No advertisement of alcoholic beverages shall be displayed at or located on motor fuel islands, nor shall self-illuminated advertising for alcoholic beverages be located on buildings or windows.
6. No alcoholic beverages shall be consumed on the premises.
7. No sale or distribution of alcoholic beverages shall be made from a drive-up or walk-up window.
8. No display of alcoholic beverages shall be made from an ice tub.
9. 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.

10. The premises shall be maintained free of litter at all times.
11. 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.
12. No 40-ounce containers of beer shall be sold, in accordance with the Police Department requirements (Exhibit "D").
13. 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.
14. The Planning Manager 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 Planning Commission, 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.
15. 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.
16. 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, as may be amended from time to time, and except as authorized for a Service Station use in accordance with Zoning Code Section 37-50.260(b) of the Salinas Municipal Code, as may be amended from time to time.

CRIME PREVENTION REQUIREMENTS

17. Prior to the issuance of any building permit for tenant improvements, the applicant shall consult with the Police Department regarding crime prevention and security. Written confirmation from the Police Department demonstrating compliance with this condition shall be submitted to the Community Development prior to commencement of use.

PARKING REQUIREMENTS

18. The existing 11 off-street parking spaces for the existing convenience store with gas pumps shall be maintained.
19. All off-street parking and loading areas shall be graded, paved, drained, landscaped, striped, and maintained in accordance with *Article V, Division 2: Parking, Loading, and Outdoor Lighting* of the Salinas City Code.

SIGNS

20. A Sign Permit issued in accordance with *Article V, Division 3: Signs* of the Salinas City Code, shall be required for all signs.
21. 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.

MAINTENANCE

22. 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

23. 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.
24. 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.
25. This Permit may be subject to water and sanitary sewer allocations. The Permittee will proceed at their own risk as water and sanitary sewer allocation may not be available at the time requested.

MODIFICATION OF APPROVED USE AND PLANS

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

VIOLATION; REVOCATION

27. 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 Planning Manager 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

28. 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

29. 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 The 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

30. 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.
31. The Permittees 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.
32. 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.
33. 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 Planning Manager provided the modification is substantially in compliance with the original approval and conditions.


NOTICE OF CHALLENGE LIMITATIONS

34. 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 Planning Manager on March 1, 2011 and shall become effective on the following date unless appealed to the Salinas Planning Commission in accordance with Article VI, Division 17: Appeals:

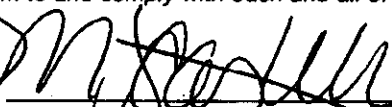
Effective Date: March 15, 2011


Courtney Grossman
Planning Manager

(Signatures Listed Below 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: 3-18-11


M.J. Castelo, Managing Member A.K.A.
3030 Fuels LLC, Applicant and Property Owner
Manuel J. Castelo

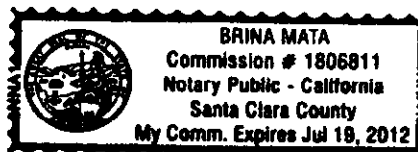
STATE OF CALIFORNIA
COUNTY OF MONTEREY SANTA CLARA

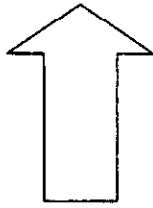
On MARCH 18, 2011, before me, BRINA MATA, Notary Public, personally appeared MANUEL J. CASTELO, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their 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.

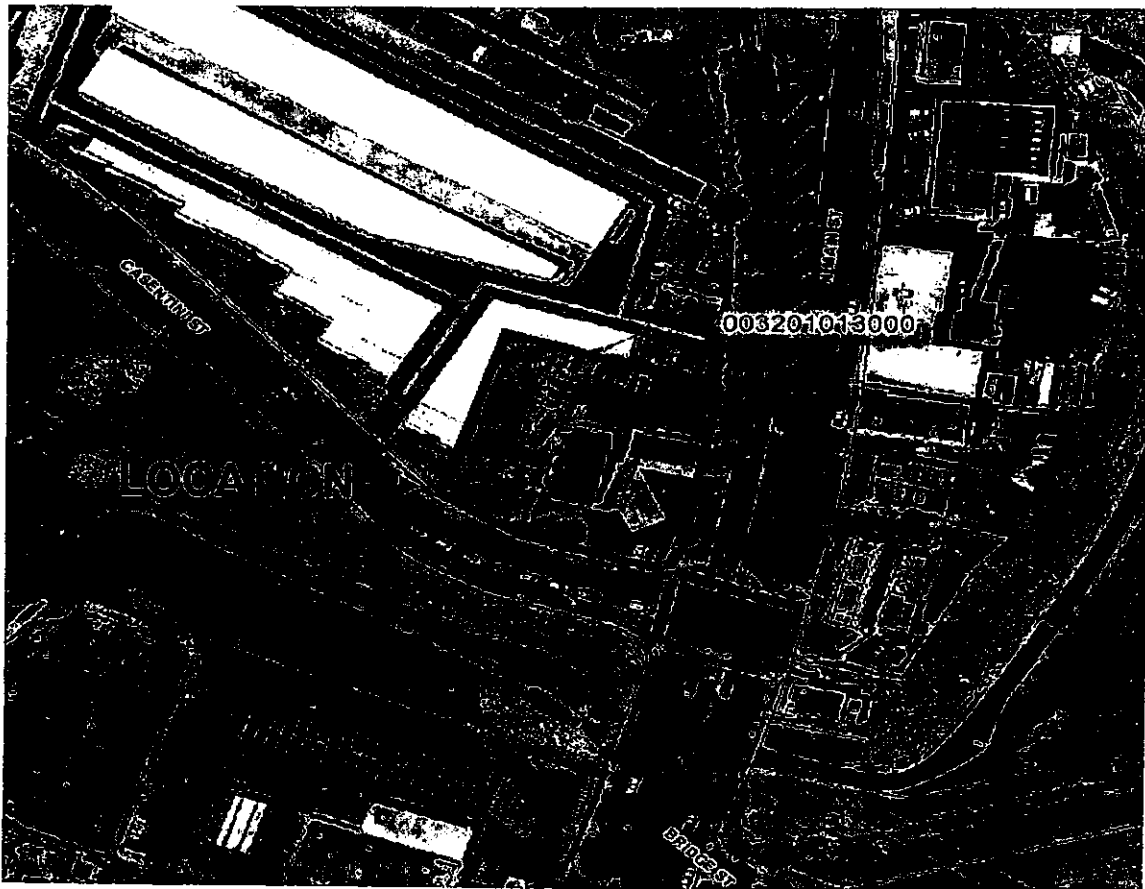
Signature 





North

Vicinity Map



CONDITIONAL USE PERMIT 2010-017
417 North Main Street

Exhibit A

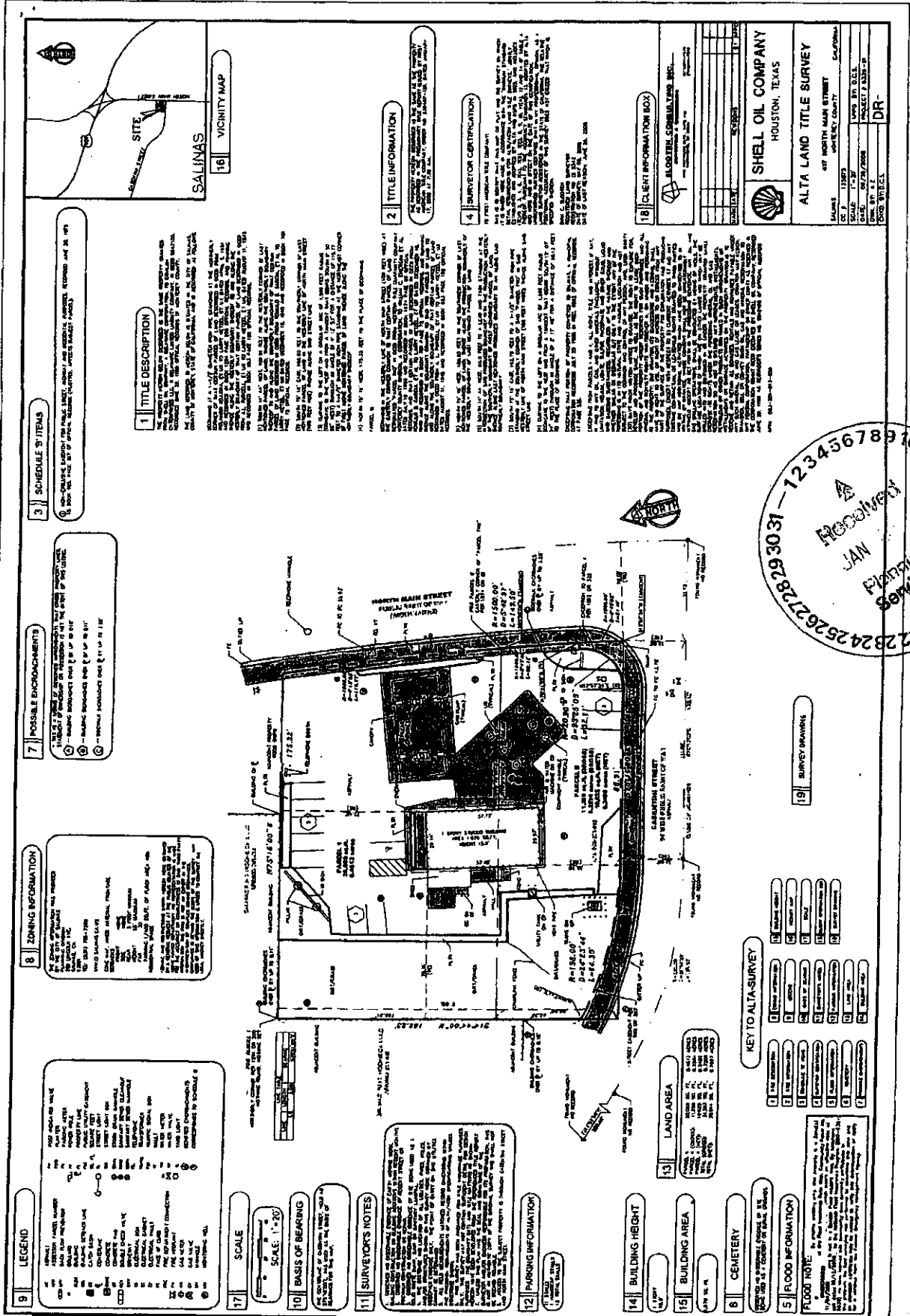


Exhibit B

417 N MAIN ST.
SALINAS, CA 93901

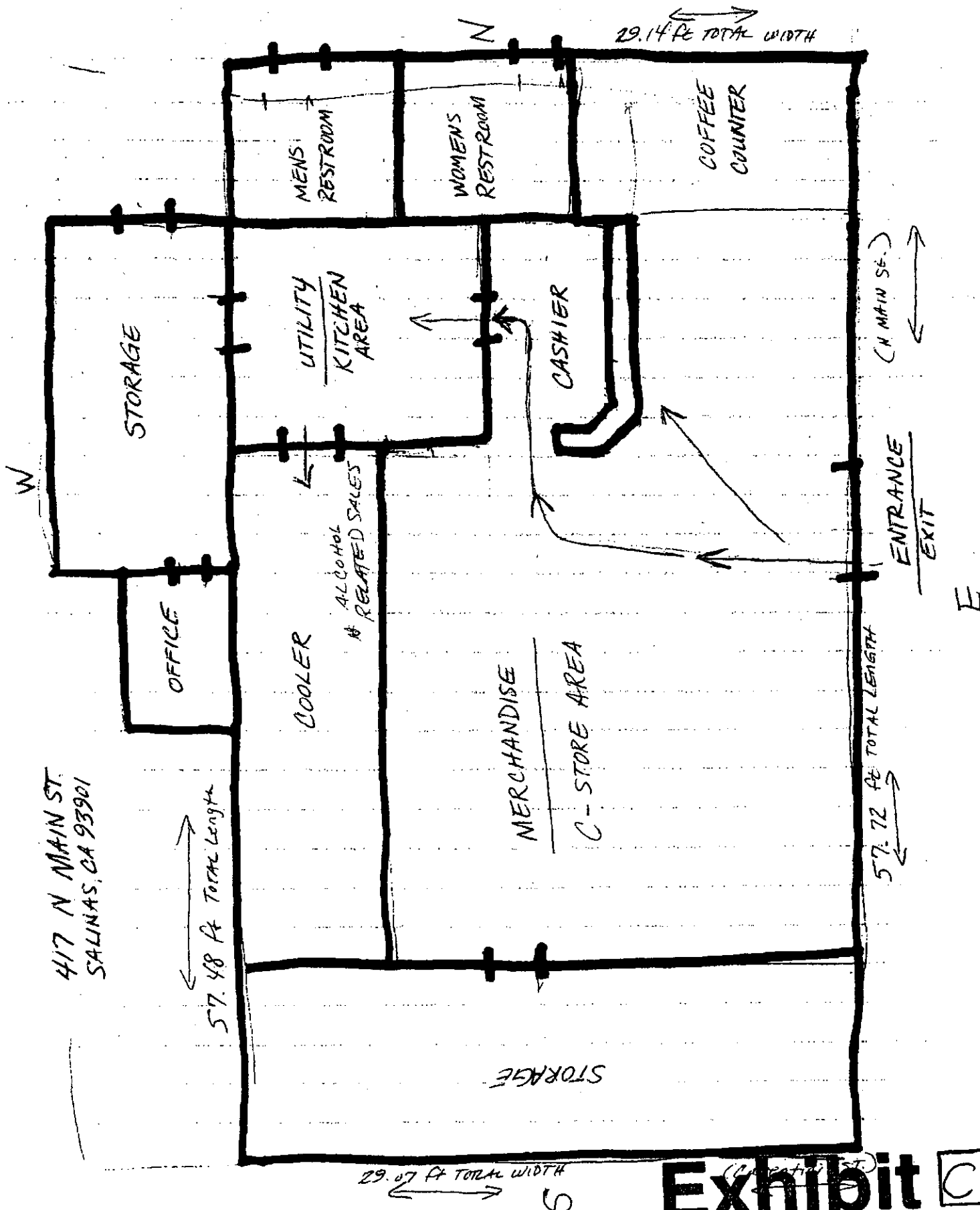
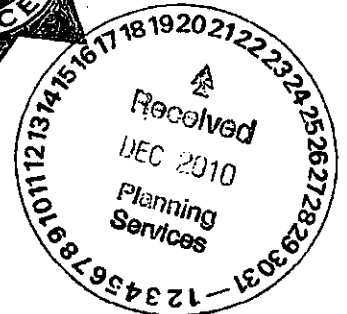


Exhibit C

Memorandum

City of Salinas



Date: December 21, 2010
To: Thomas Wiles, Senior Planner
From: Ono Solis, Sergeant

SUBJECT: CUP 2010-017 (417 NORTH MAIN ST.)

I have researched information for CUP 2010-017 regarding 417 North Main Street in Salinas. This CUP proposal is regarding the application for a Type 21 Alcohol License that is to be restricted to beer and wine only for an existing convenience store with a gas station.

This location is located in Police Reporting District (PRD) #182. 2009 PRD crime statistics shown below indicate that this location is not located in an undue concentration crime area. The police department's statistics office provided me with an overall 2009 average PRD crime rate of (97) plus 20% (116) for the entire city. The crime rate for PRD #182 has been determined to be 113 by the police department's statistics office.

CITY OF SALINAS PRD 182	
YEAR 2009	
Murder	0
Negligent Manslaughter	0
Forcible Rape	1
Attempt Forcible Rape	0
Robberies/Car-Jacking	5
Aggravated Assault	3
Non-Aggravated Assault	12
Arson	2
Stolen/Recovered Vehicles	15
Burglaries	26
Larcenies	8
Part Two Crimes	41

Total 113

I researched police reports for 417 North Main Street and found that 29 reports were documented from January 2006 through today. These reports primarily consisted of theft, robbery, traffic accidents, and incidents in the parking lot area of the business.

Exhibit D

The crime rate in the PRD where this business is proposed is slightly below the overall City of Salinas average. Based on this information, the Salinas Police Department does not object to the approval of this CUP application as it pertains to the crime data.

The location of this business is located near the area of the city commonly referred to as "Chinatown" which is located in PRD #185. A transient population commonly populates this area where drug use and crime are more prevalent. The crime rate in PRD #185 is 147.6 and is above the overall City of Salinas average. Based on this information the Salinas Police Department does recommend the following restrictions be placed on the CUP 2010-017 pertaining to the sale of beer:

- No single containers of beer are to be sold
- No 40 ounce containers of beer are to be sold

The Police Department also recognizes that every PRD in the City of Salinas has its own geographical and demographic composition that directly affects the crime rate statistics.

END OF DOCUMENT