

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. 2018-007
(Supersedes CUP's 1966-021, 2010-017, and 2011-012)
City of Salinas
Community Development Department

WHEREAS, the Salinas Planning Commission, at a public hearing duly noticed and held on May 15, 2019, found that the proposed location of the use and structure 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, structure, 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 and structure; 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. 2018-007 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: J.R. Beard - LHB & Associates

PROPERTY OWNER: 3030 Fuels, LLC

FOR USE: Demolition and reconstruction of an existing Convenience Store with Gas Pumps and modify an existing off-sale alcohol related use.

ON PROPERTY LOCATED AT: 417 North Main Street

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

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

ENVIRONMENTAL REVIEW ACTION & DATE: Exempt per CEQA Section 15303(c) (*New Construction or Conversion of Small Structures*) on May 15, 2019.

EXPIRATION DATE: None, once properly established, unless the uses authorized herein cease operation for a continuous period of six (6) months or more.

RIGHT TO OPERATE/DEVELOP

1. The Permittee shall have the right to:
 - a. Demolish an existing 1,676 square-foot convenience store (Shell) and a 1,180 square-foot fueling canopy with four (4) fuel dispensers and retain an existing carwash structure;
 - b. Construct a new 3,035 square-foot convenience store with 1,462 square-feet of gross retail space with 10 off-street parking spaces;
 - c. Construct a new 3,200 square-foot canopy, including the installation of two (2) additional fuel dispensers (six (6) total); and
 - d. Modify an existing off-sale alcohol related use (Off-sale Beer and Wine) to be relocated within the new 3,035 square-foot convenience store.

Located 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" Conceptual Site Plan (Sheet A-1)

Exhibit "C" Parking Site Plan and Parking Area Calculation Plan (Sheet A-1.1)
Exhibit "D" Conceptual Floor Plan (Sheet A-2)
Exhibit "E" Conceptual Exterior Elevations (Sheet A-3)
Exhibit "F" Conceptual Canopy Exterior Elevations (Sheet A-4)
Exhibit "G" Demolition Site Plan (Sheet C-1)
Exhibit "H" Grading and Drainage Site Plan (Sheet C-2)
Exhibit "I" Existing Conditions Landscape Plan (Sheet L1.0)
Exhibit "J" Conceptual Planting Plan (Sheet L2.0)
Exhibit "K" Engineer's Report, dated April 8, 2019
Exhibit "L" Police Department Comments, dated April 16, 2018

LIMITATIONS ON USE

2. Retail space on the subject property shall not exceed 1,462 square-feet pursuant to Zoning Code Section 37-50.350.
3. Alcohol sales shall be limited to the sale of beer and wine only. Hard liquor and/or other spirits shall not be sold.
4. 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.
5. The premises shall be maintained free of litter at all times.
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. No self-illuminated advertising for alcoholic beverages shall be located on buildings or windows.
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 alcohol related 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.

12. An electronic age verification scanner shall be installed, maintained, and utilized for all off-sale alcohol sales.
13. 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.
14. No single 40 oz. containers of beer may be sold from the premises.
15. Sales of wine shall be in containers of at least 750 ml.
16. The number of cooler doors allocated to beer and wine shall be limited to four (4) cooler doors. Coolers without doors allocated to beer and wine shall be limited to 32 lineal feet.
17. 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.
18. Surveillance video/photos shall be made available to police upon request.
19. Ample lighting shall be provided in parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance equipment.
20. No coin operated video or arcade games and no adult magazines or videos shall be sold.
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 City Planner 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 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.
25. This Conditional Use Permit supersedes Conditional Use Permits 1966-021 (CUP 1966-021), 2010-017 (CUP 2010-017), and 2011-012 (CUP 2011-012) which are no longer in force and effect.

NPDES REQUIREMENTS

26. The development shall conform to all National Pollutant Discharge Elimination System (NPDES) and Low Impact Development (LID) requirements and standards in effect and required by the City Engineer when building permits are issued. The project will require a Storm Water Control Plan (SWCP) that identifies Stormwater Development Standards (SWDS) Compliance to be incorporated into the project (see attached Exhibit "K").

FIRE PROTECTION REQUIREMENTS

27. All applicable requirements of the Salinas Fire Department including those items identified in Titles 19, 24 and 25 of the California Administrative Code must be met and may include, but not be limited to, provisions for fire alarm systems, fire extinguishers, sprinkler systems, emergency vehicle access and installation of fire hydrants.

PARKING REQUIREMENTS

28. A minimum of ten (10) on-site parking spaces shall be provided including one (1) on-site parking space designated for people with disabilities in accordance with *Article V, Division 2: Parking, Loading, and Outdoor Lighting*. Bicycle parking (rack) shall be provided in accordance with Zoning Code Section 37-50.400.
29. 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.

CRIME PREVENTION REQUIREMENTS

30. Prior to establishment of use, the Applicant or successor-in-interest should consult with the Police Department regarding crime prevention and security (See Exhibit "L").

SIGNS

31. A Sign Permit issued in accordance with *Article V, Division 3: Signs* of the Salinas City Code, shall be required for all new signs.
32. All price signs shall be in compliance with Zoning Code Section 37-50.620(f)(1).
33. All Island Canopy Signs shall be in compliance with Zoning Code Section 37-50.620(f)(2).
34. 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.

OUTDOOR LIGHTING

35. Exterior lighting may be installed in accordance with Zoning Code Section 37-50.480 under the following limitations:
 - a. No floodlighting will be allowed on any structure.
 - b. Parking lot lighting shall be shielded to confine light spread to within the site boundaries and shall not exceed 25 feet in height.
 - c. Prior to the issuance of a Building Permit, the applicant shall submit a detailed lighting plan for review and approval by the Community Development Department.

BUILDING MATERIALS AND COLORS

36. Prior to issuance of a building permit, all exterior building materials and colors shall be identified on the building plans, and a colors and materials board (8 ½" X 11" maximum size and no greater than ½" in thickness) and brush out boards for each paint color (8 ½" X 11" maximum size and no greater than 1/16" in thickness) shall be submitted by the Applicant for review and approval by the Community Development Department.

LANDSCAPING

37. On-site landscaping shall comply with the requirements of *Article V, Division 4* of the Salinas Zoning Code, including, but not limited to, standards, drought resistant plants and turf, irrigation, parking lot landscaping and installation and maintenance. Prior to the issuance of a Building Permit, the applicant shall submit detailed final landscape and irrigation plans for review and approval by the Community Development Department. The landscape and irrigation plans shall include the following:
- a. Landscape plans shall show the location, type, size, and names of all plant materials and ground covers.
 - b. Irrigation plans shall show size and location of irrigation pipe, heads, bibs, and backflow devices.
 - c. Vines shall be planted along the exterior screen walls to discourage graffiti and to soften the impact of the walls facing public right-of-ways.
 - d. Planters located along the street frontage shall have a landscaped berm with a minimum height of 32 inches and maximum height of 42 inches (for landscape screening of on-street parking areas only).
 - e. Shrubs located within an Area of Unrestricted Visibility shall be maintained and trimmed to three feet in height within the fifteen-foot visibility triangles at the driveways.
 - f. All landscape islands within the parking area shall include a minimum of one 15-gallon tree.
 - g. Trees shall be double-staked.
 - h. Planters adjacent to the buildings shall be landscaped with shrubs of a minimum of 5-gallon size, 1-gallon containers for mass planting, and groundcover.
 - i. Exposed soil shall be landscaped with drought resistant groundcover that will propagate and take root quickly. A minimum two-inch layer of mulch shall be applied except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contraindicated.
 - j. Turf shall be limited to 25% of the total landscaping area. No turf shall be permitted in areas with a dimension of less than eight (8) feet, or on slopes exceeding ten-percent.

- k. Two (2) street trees shall be provided behind the public sidewalk per City Standard Plan No. 11 in accordance with Public Work standards.

RECYCLING AND SOLID WASTE DISPOSAL AREA

- 38. 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

- 39. 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.

PUBLIC IMPROVEMENTS

- 40. All existing damaged and hazardous sidewalks, and unused driveways shall be reconstructed to City standards prior to issuance of a Certificate of Occupancy.
- 41. Public improvements to serve the development shall be reviewed and approved by the City Engineer and shall be installed in accordance with City standards. All utilities shall be installed underground with details to be included on the final improvement plans.

UTILITIES/EQUIPMENT SCREENING

42. All new utility lines shall be placed underground and all new power transformers shall be placed underground where permitted by the utility company. Where transformers must be pad-mounted above ground, they shall be located away from the general public view or shall be effectively concealed by landscaping or a screen fence of a design approved by the utility company and the City Planner.
43. All new mechanical equipment and appurtenances (i.e. gas, water meters, electrical boxes, HVAC systems, refrigeration equipment, etc.), building or ground mounted, shall be screened from public view and adjacent properties. Roof vents shall be painted to blend with roof materials. Details shall be shown on the final construction and/or land plans and are subject to the approval of the City Planner.
44. The Applicant, or successor-in-interest shall eradicate graffiti painted or marked on the facility within seventy-two (72) hours of occurrence pursuant to Municipal Code Section 5-03.19(a)(4).

PERMIT NOT TO SUPERSEDE OTHER REQUIRED LICENSING OR PERMITS

45. The issuance of this Permit is required in addition to the issuance of a new or maintenance of an existing alcoholic beverage sales license from the State Alcoholic Beverage Control Board.
46. 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.
47. 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.
48. A Certificate of Compliance / Lot Line Adjustment providing for the consolidation of the two (2) lots shall be approved by the City Planner and recorded by the County Recorder prior to issuance of any building permits.

MODIFICATION OF APPROVED USE AND PLANS

49. 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

50. 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

51. This Permit shall expire one year after its effective date unless:
 - a. A building permit has been issued and construction diligently pursued;
 - b. A certificate of occupancy has been issued;
 - c. The use is established in conformance with the provisions of the Zoning Code; or
 - d. The City Planner determines that substantial action has commenced to carry out the terms and intent of the Conditional Use Permit.

PERMIT VALIDATION

52. 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

53. 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.
54. 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.

55. 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.
56. 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

57. 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 15, 2019, 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 29, 2019

Courtney Grossman
Planning Manager, City of Salinas

(Signatures Listed Below on Pages 12 and 13 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: _____

J.R. Beard, LHB & Associates
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: _____

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

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WITNESS my hand and official seal.

Signature _____

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