



CITY OF SALINAS PLANNING COMMISSION REPORT

DATE: SEPTEMBER 15, 2021

TO: PLANNING COMMISSION

FROM: COURTNEY GROSSMAN, PLANNING MANAGER

BY: THOMAS WILES, SENIOR PLANNER

TITLE: **CONDITIONAL USE PERMIT 2021-022; REQUEST TO ESTABLISH AND OPERATE AN ALCOHOL RELATED USE CONSISTING OF AN OFF-SALE GENERAL LICENSE (TYPE 21) WITHIN AN EXISTING 115,300 SF RETAIL SALES BUILDING (TARGET) LOCATED AT 1640 NORTH MAIN STREET IN THE HARDEN RANCH SHOPPING CENTER IN THE IN THE CR-SP-1 (COMMERCIAL RETAIL – HARDEN RANCH SPECIFIC PLAN OVERLAY) DISTRICT**

RECOMMENDED MOTION:

A motion to approve a resolution finding the project exempt pursuant to Sections 15061(b)(3) and 15301 of the CEQA Guidelines, affirming the findings, and approving Conditional Use Permit 2021-022.

RECOMMENDATION:

Approve a resolution finding the project exempt pursuant to Sections 15061(b)(3) and 15301 of the CEQA Guidelines, affirming the findings, and approving Conditional Use Permit 2021-022.

EXECUTIVE SUMMARY:

The Target Corporation is requesting approval to establish and operate an alcohol related use consisting of an off-sale general license (Type 21) within an existing 115,300 square foot retail sales building (Target) located at the 683,762 square foot Harden Ranch Shopping Center.

DISCUSSION:

Background:

The Target Corporation is requesting approval to establish and operate an alcohol related use consisting of an off-sale general license (Type 21) at an existing retail sales use (Target) located at the Harden Ranch Shopping Center (ABC License No. 610279). A Type 21 off-sale alcohol license includes sales of beer, wine, and spirits. Per the Applicant, the Dayton Hudson Corporation which is listed as the property owner in County records is the same as The Target Corporation. Alcohol display would be located in the eastern portion of the existing 115,300 square-foot retail building (see attached Site and Floor Plan).

The property is located in the Harden Ranch Shopping Center in the CR-SP-1 (Commercial Retail – Harden Ranch Specific Plan Overlay) Zoning District. The shopping center consists of 683,762 square feet. The following provides an overview of the land uses and zoning districts adjacent to the project site:

North:	Commercial / Commercial Retail – Harden Ranch Specific Plan Overlay (CR-SP-1)
South:	Commercial / Commercial Retail – Harden Ranch Specific Plan Overlay (CR-SP-1)
East:	Residential / Residential High Density – Harden Ranch Specific Plan Overlay (R-H-1.8-SP-1)
West:	Commercial / Commercial Retail – Harden Ranch Specific Plan Overlay (CR-SP-1)

ANALYSIS:

Undue Concentration

Concerning off-sale alcohol-related uses, “undue concentration” is defined per California Business and Professions Code Section 23958.4 as either: (1) 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 is located, or (2) the premises are located in a crime reporting district that has a 20 percent greater number of reported crimes (i.e., the most recent yearly compilation by the local law enforcement agency of reported offenses of criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny, theft, and motor vehicle theft, combined with all arrests for other crimes, both felonies and misdemeanors, except traffic violations) than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the local law enforcement agency.

The proposed location is within Census Tract 1.03 (CT 1.03). Per ABC, there are currently two (2) active off-sale licenses within CT 1.03 which are shown below:

<u>Name of Licensee</u>	<u>Address</u>	<u>Distance from Project site</u>
1. Harden Ranch Shell (Type 20)	1764 North Main Street	1,370 feet
2. Walmart (Type 21)	1800 North Main Street	1,200 feet

Per ABC, three (3) off-sale licenses are allowed in CT 1.03. Currently, the subject Census Tract (CT 1.03) is not undue concentrated with regards to the number of off-sale alcohol licenses (3 allowed, 2 active). Approval of the proposed Type 21 off-sale alcohol license would not result in the subject property to be classified as undue concentrated in the number of off-sale alcohol licenses (3 allowed, 3 active). The attached Map of Off-sale Alcohol Licenses from 2019 shows the location of the proposed off-sale alcohol license in relation to other off-sale alcohol licenses. The closest off-sale license to the project site is located at 1546 North Main Street (Safeway), which is located in Census Tract 0002.00 and is approximately 410 feet to the south. Per the map, there are four (4) off-sale ABC licenses located within a ½-mile radius of the project site, including the three (3) above referenced locations (Harden Ranch Shell, Walmart, and Safeway), and a Type 21 license located at 1962 North Main Street (Save Mart) in CT 105.06. The average distance to off-sale alcohol outlets in CT 1.03 is 1,285 feet, which is greater than the average of 843 feet for approved off-sale alcohol CUP's in a Census Tract (CT) since 2010 (see table below).

Comparison to Off-sale Alcohol Conditional Use Permits Since 2010

	Distance to residentially zoned property (feet)	Distance to public schools (feet)	Distance to parks/ playgrounds (feet)	Average Distance to off-sale alcohol outlets in CT (feet)	Alcohol outlets in Census Tract (% - allowed/ active)	Crime rate in PRD (%) (120% = undue concentration)	No. of crimes reported
Average	492	1,911	1,908	843	119%	146%	55.85
Minimum	0	450	400	1,200	40%	29%	2
Maximum	3,200	5,800	5,400	1,370	800%	386%	259
CUP 2021-022	340	1,400	2,000	1,285	100%	269%	180

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 PRD 221 where the project 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.

Salinas Police Department reports an average of 55.85 reported crimes across all PRD's in the City of Salinas for 2020, the most recent date of PRD records. Adding 20%, the formula allows for no more than 67.02 reported crimes within this PRD to avoid the “undue concentration” designation. The 2020 Salinas Police Department (SPD) crime statistics indicate 180 reported crimes in PRD 221,

which exceeds the 67.02 threshold, indicating that it is appropriate to label the site within an area of undue concentration. Per the Police Department comments, this is well above the average crime rate. Staff notes that the Salinas Police Department however, does not object to the approval of Conditional Use Permit 2021-022 with conditions of approval (see attached Salinas Police Department memorandum dated July 5, 2021). The project site is located within an area of undue concentration due to crime. Should the Planning Commission determine to approve the CUP, it must first establish a finding that Public Convenience or Necessity is served with the approval of the off-sale alcohol use at this location. The Commission could determine that public convenience or necessity 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

Proximity to Residences, Parks, and Schools

The closest residences and residentially-zoned land is located approximately 340 feet to the east of the primary entrance of the alcohol related use (103 Harden Parkway). The nearest park is Northgate Park (1600 Seville Street), which is located approximately 2,000 feet to the southwest of the subject site. The nearest public school is Harden Middle School (1561 McKinnon Street), which is located approximately 1,400 feet southeast from the subject site.

The subject property is located less than the average distance to residences, residentially-zoned properties and other public schools than the other CUP applications (approved, denied, or expired) since 2010. However, the project site is separated from nearby residences and schools by a parking lot, solid wall, the length of pedestrian access to the primary entrance of the alcohol related use, and in the case of public schools by Harden Parkway. The subject property is above average with regards to its location to parks and playgrounds in comparison with other off-sale alcohol CUP applications.

The project site is located in a Census Tract that if this is CUP is approved, would result in the maximum number of allowed off-sale alcohol outlets. As shown on the above table, the average level of undue concentration for Conditional Use Permits processed since 2010 is 119%. The crime rate for the subject PRD is 278% over the average rate considered as undue concentration for crime (278% vs. 120%).

One-for-One Policy

In the past, a One-for-One policy was typically applied to off-sale licenses located in areas of undue concentration. A One-for-One policy would require the elimination of one existing, active off-sale alcohol-related use located 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). The One-for-One Policy was originally established in 2007 by the City Council to limit the number of off-sale alcohol outlets in the City by requiring new outlets to retire an existing license within the City. However, the policy was eliminated by City Council on July 9, 2013.

The table below shows the completed 45 Conditional Use Permit (CUP) applications for alcohol related uses that have been processed since 2011. Per the table below, five (5) off-sale alcohol

related CUP's located in an area of undue concentration have been required to comply with the City's one-for-one policy. However, since 2013, no alcohol related use CUP located in an area of undue concentration has been required to comply with the one-for-one policy. The City Council approved an appeal of the Planning Commission's denial of CUP 2018-005 and did not require the Applicant of that CUP to comply with a one-for-one requirement.

	Project Number	Status	Type	Address	Approval Date	Approval Body	1:1 Req?	Off-sale?
1.	CUP 2010-004	Approved	Off-Sale Alcohol	970 Work St.	4/19/2011	City Council	Yes	
2.	CUP 2010-006	Expired	Off-Sale Alcohol	1532 N. Main St.	6/14/2011	City Council	Yes	
3.	CUP 2010-007	Approved	Off-Sale Alcohol	615 W. Laurel Dr.	6/6/2010	Planning Commission	Yes	
4.	CUP 2010-013	Approved	Off-Sale Alcohol	306 N. Main St.	10/12/2010	City Planner	No	
5.	CUP 2010-018	Approved	On Site Alcohol	242 Williams Rd.	8/2/2011	City Planner		No
6.	CUP 2011-005	Denied	Off-Sale Alcohol	575 N. Sanborn Rd.	N/A			
7.	CUP 2011-009	Approved	Off-Sale Alcohol	1375 N. Davis Rd.	6/1/2011	Planning Commission	Yes	
8.	CUP 2011-010	Approved	Off-Sale Alcohol	1800 N. Main St.	6/14/2011	City Council	Yes	
9.	CUP 2011-022	Approved	On-Sale Alcohol	1730 N. Main St.	10/10/2011	City Planner		No
10.	CUP 2011-023	Withdrawn	Off-Sale Alcohol	1730 N. Main St.	N/A			
11.	CUP 2012-001	Approved	On-Sale Alcohol	1391 N. Davis Rd.	2/12/2012	City Planner		No
12.	CUP 2012-003	Approved	On-Sale Alcohol	1748 N. Main St.	3/27/2012	City Planner		No
13.	CUP 2012-005	Denied	Off-Sale Alcohol	8 Williams Rd.	N/A			
14.	CUP 2013-003	Approved	Off-Sale Alcohol	1045 N. Main St.	9/24/2013	City Council	No	
15.	CUP 2013-006	Approved	On-Sale Alcohol	1988 N. Main St.	7/1/2013	City Planner		No
16.	CUP 2014-004	Withdrawn	On-Sale Alcohol	242 Williams Rd.	N/A			
17.	CUP 2014-025	Denied	Off-Sale Alcohol	1532 N. Main St.	N/A			
18.	CUP 2015-004	Approved	On-Sale Alcohol	124 Abbott St.	8/4/2015	City Planner		No
19.	CUP	Approved	On-Sale	1938 N	6/9/2015	City Planner		No

	2015-011		Alcohol	Main St.				
20.	CUP 2015-016	Approved	Off-Sale Alcohol	215 E. Alisal St.	9/16/2015	Planning Commission	No	
21.	CUP 2015-023	Denied	Off-Sale Alcohol	602 Williams Rd.	N/A			
22.	CUP 2015-034	Denied	Off-Sale Alcohol	170 E. Laurel Dr.	N/A			
23.	CUP 2016-002	Withdrawn	On-Sale Alcohol	242 Williams Rd.	N/A			
24.	CUP 2016-005	Approved	On-Sale Alcohol	66 W. Alisal St.	6/7/2016	City Planner		No
25.	CUP 2016-006	Approved	Off-Sale Alcohol	150 Main St.	6/24/2016	City Planner		N/A
26.	CUP 2016-013	Withdrawn	Off-Sale Alcohol	1000 Market St.	N/A			
27.	CUP 2016-019	Approved	Off-Sale Alcohol	201 Monterey St.	3/21/2017	City Council	No	
28.	CUP 2016-020	Approved	On-Sale Alcohol	1000 Davis Rd.	12/12/2016	City Planner		No
29.	CUP 2017-003	Approved	On-Sale Alcohol	350 Northridge Mall	4/7/2017	City Planner		No
30.	CUP 2017-005	Withdrawn	Off-Sale (Type 20 To 21)	980 Acosta Plaza.	N/A			
31.	CUP 2017-014	Withdrawn	On-Sale Alcohol	309 Williams Rd.	N/A			
32.	CUP 2018-001	Approved	On-Sale Alcohol	1600 Northridge Mall	2/27/2018	City Planner		No
33.	CUP 2018-002	Approved	On-Sale Alcohol	723 Alisal St.	10/12/2018	City Planner		No
34.	CUP 2018-003	Expired	On-Sale Alcohol	1220 S. Main St.	2/26/2018	City Planner		No
35.	CUP 2018-005	Approved	Off-Sale Alcohol	1764 N. Main St.	10/2/2019	Planning Commission	No	
36.	CUP 2018-008	Expired	Off-Sale Alcohol	1438 S. Main St.	N/A			
37.	CUP 2018-012	Withdrawn	On-Sale Alcohol	1366 s. Main St.	N/A			
38.	CUP 2018-023	Approved	On-Sale Alcohol	309 Williams Rd.	1/9/2019	City Planner		No
39.	CUP 2018-024	Approved	On-Sale Alcohol	213 Monterey	11/27/2018	City Planner		No

				St.				
40.	CUP 2018-025	Approved	On-Sale Alcohol	242 Williams Rd.	4/30/2019	City Planner		No
41.	CUP 2018-029	Approved	On-Sale Alcohol	1790 Northridge Mall	2/20/2029	City Planner		No
42.	CUP 2019-009	Approved	On-Sale Alcohol	210 Main St.	8/22/2019	City Planner		Not deter mine d
43.	CUP 2019-020	Approved	On-Sale Alcohol	1582 Constitutio n Blvd.	1/7/2020	City Planner		No
44.	CUP 2020-015	Approved	Off-Sale Alcohol	1264 De La Torre	10/23/2020	City Planner	No (Not Und.)	
45.	CUP 2021-008	Approved	On-Sale Alcohol	1220 S. Main St.	4/2/2021	City Planner		No

ABC Licensing

Following CUP approval, the applicant is required to obtain a license from ABC in order to conduct 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), 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. The premises shall be maintained free of litter at all times.

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. Exception: "single serving" or "one-can" non-chilled or non-refrigerated alcoholic beverages may be sold from those premises with at least eight thousand square feet of gross floor area and located in a shopping center with a minimum of ninety thousand square feet of gross floor area.
6. No alcoholic beverage shall be displayed within five feet of the cash register or the front door of the premises unless displayed in a permanently affixed cooler.
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 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.
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 premises.
12. No malt liquor or fortified wine products (wines with greater than 15% alcohol content) shall be sold.
13. Sales of wine shall be in containers of at least 750 ml.

14. There shall be no coin operated video or arcade games and no adult magazines or videos shall be sold.
15. No pay telephone booths shall be permitted on the premises.
16. 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.

Additional conditions could be added, including those recommended by the Salinas Police Department per the attached comments dated July 5, 2021 (Exhibit “D” of CUP 2021-022):

1. Digital surveillance system with high quality cameras focused on the points of sales, entrances/exits of the business and the parking lot, with the capability to store the digital images captured. The video/photos must be retained for 30 days and be made available to police upon request.
2. Ample lighting in the parking lots, exterior area of entrances/exits and situated in areas to enhance video surveillance equipment.
3. All legal requirements be met so that all parking lots, driveways and buildings be posted and enforceable by the police department for Salinas City Code (SCC) 21-35.
4. Per Municipal Code Section 21-35 (Trespass—Prohibited on posted land), a no-trespassing sign shall be posted on-site stating “It shall be unlawful for any person to enter or go upon or pass over or remain upon any land of another where the owner of such property, or the person entitled to the possession thereof for the time being, or the authorized agent of either, has posted or caused to be posted upon the land printed notices that the land is private property and warning all persons from trespassing thereon.”

Findings:

The Planning Commission may approve an application for Conditional Use Permit to establish and operate an alcohol related use consisting of an off-sale general license (Type 21) alcohol sales for an existing retail sales use (Target) located at the Harden Ranch Shopping Center if all of the findings set forth in the proposed Planning Commission Resolution are established.

CEQA CONSIDERATION:

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 retail sales use.

TIME CONSIDERATION:

The project was deemed complete on September 4, 2021. Final action is required by November 3, 2021 pursuant to the Permit Streamlining Act.

ALTERNATIVES AVAILABLE TO THE COMMISSION:

The Planning Commission has the following alternatives:

1. Affirm the findings set forth in the attached Resolution, find the application exempt from the California Environmental Quality Act (CEQA), and approve Conditional Use Permit 2021-022 with modifications; or
2. Find that the proposal is not appropriate and establish findings at the public hearing stating the reasons for not approving Conditional Use Permit 2021-022.

ATTACHMENTS:

Proposed Planning Commission Resolution

Draft Conditional Use Permit with the following exhibits:

- Exhibit "A" Vicinity Map
- Exhibit "B" Site Plan
- Exhibit "C" Floor Plan
- Exhibit "D" Police Department comments dated July 5, 2021

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

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

Map of PRD's with Undue Concentration of 20% Greater Number of Reported Crimes than the Average Number of Reported Crimes

Map of Off-sale Alcohol Licenses

Cc: The Target Corporation, Applicant
Dayton Hudson Corporation, Property Owner
Beth Aboulafia, Applicant Representative
Sgt. Steve Sparks, Salinas Police Department