

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

Resolution approving a Conditional Use Permit to establish and operate an alcohol related use consisting of an off-sale general license (Type 21) alcohol sales at an existing 115,300 retail sales building (Target) located at 1640 North Main Street in the 683,762 square foot Harden Ranch Shopping Center in the Commercial Retail – Harden Ranch Specific Plan Overlay (CR SP-1) Zoning District (CUP 2021-022)

WHEREAS, on September 15, 2021, the Salinas Planning Commission, at the request of the Applicant, The Target Corporation, held a duly noticed public hearing to consider Conditional Use Permit 2021-022 to establish and operate an alcohol related use consisting of an off-sale general license (Type 21) alcohol sales within an existing 115,300 square foot retail sales building (Target) located at 1640 North Main Street in the 683,762 square foot Harden Ranch Shopping Center in the Commercial Retail – Harden Ranch Specific Plan Overlay (CR-SP-1) Zoning District (Assessor's Parcel Number 211-232-002-000); 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

NOW, THEREFORE, BE IT RESOLVED by the Salinas Planning Commission that the Commission finds the project to be Exempt from the California Environmental Quality Act (CEQA) and approves Conditional Use Permit 2021-022; and

BE IT FURTHER RESOLVED that the Salinas Planning Commission adopts the following findings as the basis for its determination, and that the foregoing recitations are true and correct, and are included herein by reference as findings:

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 Retail by the 2002 Salinas General Plan. Per the General Plan, Retail

provides for a variety of uses such as retail stores, restaurants, hotels, personal services, business services and financial services. The proposed use is consistent with General Plan Goals and Policies. Retail sales of beer, wine, and spirits for off-site consumption at the existing retail sales use would provide City residents in the community with opportunities for jobs and shopping, consistent with Land Use Goal LU-1 and Policy LU-1.1.

Per Section 37-50.030(a), the purpose of Alcohol License Review regulations is to provide for the orderly integration of alcohol-related uses in the City. In accordance with Section 37-50.030(c), the proposed off-sale alcohol-related use at 1640 North Main Street would be regulated by a Conditional Use Permit (CUP). As shown on the official Zoning Map, the site is located in the CR – SP-1 (Commercial Retail – Harden Ranch Specific Plan Overlay) District. Per Zoning Code Section 37-30.190(k)(3), the CR district allows a wide range of retail stores, restaurants, hotels and motels, commercial recreation, personal services, business services, offices, financial services, mixed use residential, and/or limited residential uses. The purposes of commercial districts include, but are not limited to, the following: provide appropriately located areas consistent with the General Plan for a full range of office, retail commercial, and service commercial uses needed by residents of, and visitors to, the City and region; and strengthen the City's economic base, and provide employment opportunities close to home for residents of the City and surrounding communities.

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 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;***

The site is designated Retail by the 2002 Salinas General Plan. Per the General Plan, Retail provides for a variety of uses such as retail stores, restaurants, hotels, personal services, business services and financial services. The proposed use is consistent with General Plan Goals and Policies. Retail sales of beer, wine, and spirits for off-site consumption at the existing retail sales use would provide City residents in the community with opportunities for jobs and shopping, consistent with Land Use Goal LU-1 and Policy LU-1.1.

The proposed location is in a neighborhood with a mix of commercial and residential uses. The proposed off-sale alcohol-related use will be subject to conditions of approval specified in the Conditional Use Permit.

4. ***The proposed conditional use will 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: 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.

5. ***The 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 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***

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 project site is located within Census Tract 1.03 (CT 1.03). Per ABC, there are currently two (2) active off-sale licenses within CT 1.03; Harden Ranch Shell a Type 20 license located at 1764 North Main Street and Walmart a Type 21 license located at 1800 North Main Street. Per ABC, three (3) off-sale licenses are allowed in CT 1.03. If the proposed off-sale alcohol license is approved, CT 1.03 would not be undue concentrated due to off-sale alcohol licenses (3 allowed, 3 active). 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 of the project site. There are currently four (4) off-sale ABC licenses located within a ½-mile radius of the proposed location, 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.

The project site is undue concentration due to crime, because the number of reported crime 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 proposed 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 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 indicated 180 reported crimes in the subject 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. Because the proposed site is located within an area of undue concentration due to crime if the Planning Commission desires to approve the proposed CUP it must first establish a finding that Public Convenience or Necessity is served by approving an off-sale alcohol use at this location.

The Salinas Police Department does not object to the approval of Conditional Use Permit 2021-022 per a Police Department memorandum dated July 5, 2021 as long as the following recommended conditions are required, which are included as conditions of approval in the Conditional Use Permit:

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."

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 concerning its location to parks and playgrounds in comparison with other off-sale alcohol CUP applications. For the above reasons, the proposed project will neither adversely affect the welfare of the area nor of surrounding residentially zoned neighborhoods.

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.*

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.

As stated above, the proposed project is located in an area of undue concentration due to crime and not off-sale retail licenses. However, the Salinas Police Department does not object to the approval of Conditional Use Permit 2021-022 as long as their comments stated in their memorandum dated July 5, 2021 are included as conditions of approval in the Permit. 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.

PASSED AND APPROVED this 15th day of September 2021, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

THIS IS TO CERTIFY that the foregoing is a full, true, and correct copy of a Resolution of the Planning Commission of the City of Salinas, that said Resolution was passed and approved by the affirmative and majority vote of said Planning Commission at a meeting held on September 15, 2021, and that said Resolution has not been modified, amended, or rescinded, and is now in full force and effect.

SALINAS PLANNING COMMISSION

Date: _____

Courtney Grossman
Secretary