



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: December 12, 2012 REPORT NO. HO-12-099
ATTENTION: Hearing Officer
SUBJECT: ARCO AMPM CUP
PROJECT NUMBER: 284881
LOCATION: 915 Camino Del Rio South
APPLICANT/
OWNERS: A.S. Investment Limited Corp

SUMMARY

Issue(s): Should the Hearing Officer approve a Conditional Use Permit to upgrade an existing Type 20 license (beer and wine) to a Type 21 (general liquor) within an existing convenience store within the Mission Valley Community Planning area?

Staff Recommendation - APPROVE Conditional Use Permit No. 1060152.

Community Planning Group Recommendation - On October 3, 2012, the Mission Valley Community Planning Group recommended approval of the project by a vote of 13-1-0 with no conditions.

Environmental Review - The proposed activity is exempt from CEQA pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines. This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on July 23, 2012, and the opportunity to appeal that determination ended on August 9, 2012.

BACKGROUND

The project proposes a Conditional Use Permit to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,730 square-foot convenience store located at 915 Camino Del Rio South in the MV-CO-CV Zone of the Mission

Valley Planned District, Mission Valley Community Plan Area. The convenience store is associated with an existing service station. The current owner of the convenience store has been in business since 1989, selling beer and wine with the current Type 20 license. Surrounding the site are commercial services and hotels to the west and east, commercial office establishments to the south, and Interstate-8 to the north.

DISCUSSION

The project proposes to upgrade its existing Type 20 liquor license to a Type 21. No new development is proposed with this application. Hours of operation will be limited from 6:00 a.m. to 2:00 a.m. seven days a week. The Conditional Use Permit includes a 20-year expiration period from the date of approval. The property currently maintains previously conforming rights for the sales of beer and wine as the outlet was established in 1989, prior to the adoption of the Alcohol Beverage Ordinance.

The pending Alcohol Beverage Control (ABC) license (Type 21) is defined as “off sale” which would require all of the alcohol sold at the store to be consumed off the premises. Alcoholic beverage outlets are permitted by right as a “Limited Use” pursuant to SDMC section 141.0502(b) of the Land Development Code (LDC). A Limited Use may be permitted by right in the zone if the alcohol beverage outlet meets all of the development regulations and location criteria of a separately regulated use. Alcoholic beverage outlets that do not comply with the location criteria of this section may still be permitted with a Conditional Use Permit pursuant to SCMC section 141.0502(c).

Section 141.0502(b) determines when the limited sale of alcohol is permitted by right or, when a Conditional Use Permit is required in accordance with a Process Three (Hearing Officer) decision. The limited sale of alcohol requires a Conditional Use Permit in the following instances:

- Within a census tract, or within 600 feet of a census tract, where the general crime rate exceeds the citywide average general crime rate by more than 20 percent.
- Within a census tract, or within 600 feet of a census tract, where the ratio of alcohol beverage outlets exceeds the standards established by California Business and Professional Code section 23958.4.
- In an adopted Redevelopment Project Area.
- Within 600 feet of a public or private accredited school, public park, a playground or recreational area, a *church* except those established in accordance with Section 141.0404(a), a hospital, or a San Diego County welfare district office.
- Within 100 feet of a residentially zoned property.

A Conditional Use Permit is required for the subject project because the general crime rate exceeds the citywide average general crime rate by more than 20 percent, and the sales of alcohol is in a census tract where the ratio of alcoholic beverage outlets exceeds the standards established by the California Business and Professions Code (Section 23958.4)

Statistics provided by the San Diego Police Department (SDPD) for Federal Census Tract No. 93.04 shows the census tract to be 623.2-percent of the citywide average (Attachment 11). Census Tract No. 93.04 allows up to nine alcoholic beverage outlets where 54 exist today.

The existing use of the site as a convenience store associated with a service station with the off-site sale of beer and wine as an accessory use is consistent with the existing commercial use of the property and compatible with the commercial land use designation of the community plan. The convenience store has been established and selling beer and wine since 1989 and has encountered very few calls for police services according to the SDPD records.

The SDPD made the necessary finding of public need or convenience to recommend approval of the project. The SDPD has determined that the proposed upgrade from a Type 20 to a Type 21 liquor license at the proposed site would not be detrimental to the public health, safety, and welfare and would not increase the existing number of alcohol licenses within census tract 93.04. The existing Type 20 license was approved prior to the Alcohol Beverage Ordinance effective date and a Conditional Use Permit was not required. The permit prepared for this project includes various conditions and restrictions relevant to achieving compliance with the regulations of the Municipal Code. These conditions include restrictions for providing adequate illumination, signs to restrict loitering, maximum alcohol sales area allowed, and provisions to maintain security at the site

The San Diego Police Department's Vice Unit will work with the applicant and the Department of Alcoholic Beverage Control to place additional conditions on the alcohol license to minimize the law enforcement concerns, if necessary.

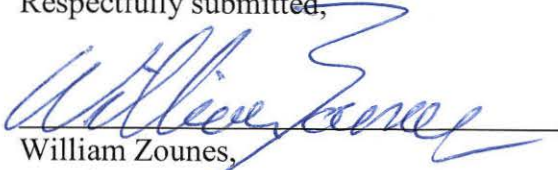
CONCLUSION

Staff has determined that the project complies with the development regulations of all applicable sections of the Land Development Code. Staff has determined that the required findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Staff recommends approval of the project as proposed.

ALTERNATIVES

1. Approve Conditional Use Permit No. 1060152, with modifications or;
2. Deny Conditional Use Permit No. 1060152, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,



William Zounes,
Development Project Manager

Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Project Data Sheet
5. Project Site Plan
6. Draft Permit with Conditions
7. Draft Resolution with Findings
8. Ownership Disclosure Statement
9. Project Chronology
10. SDPD Conditional Use Permit Recommendation
11. Environmental Exemption



Aerial Photo

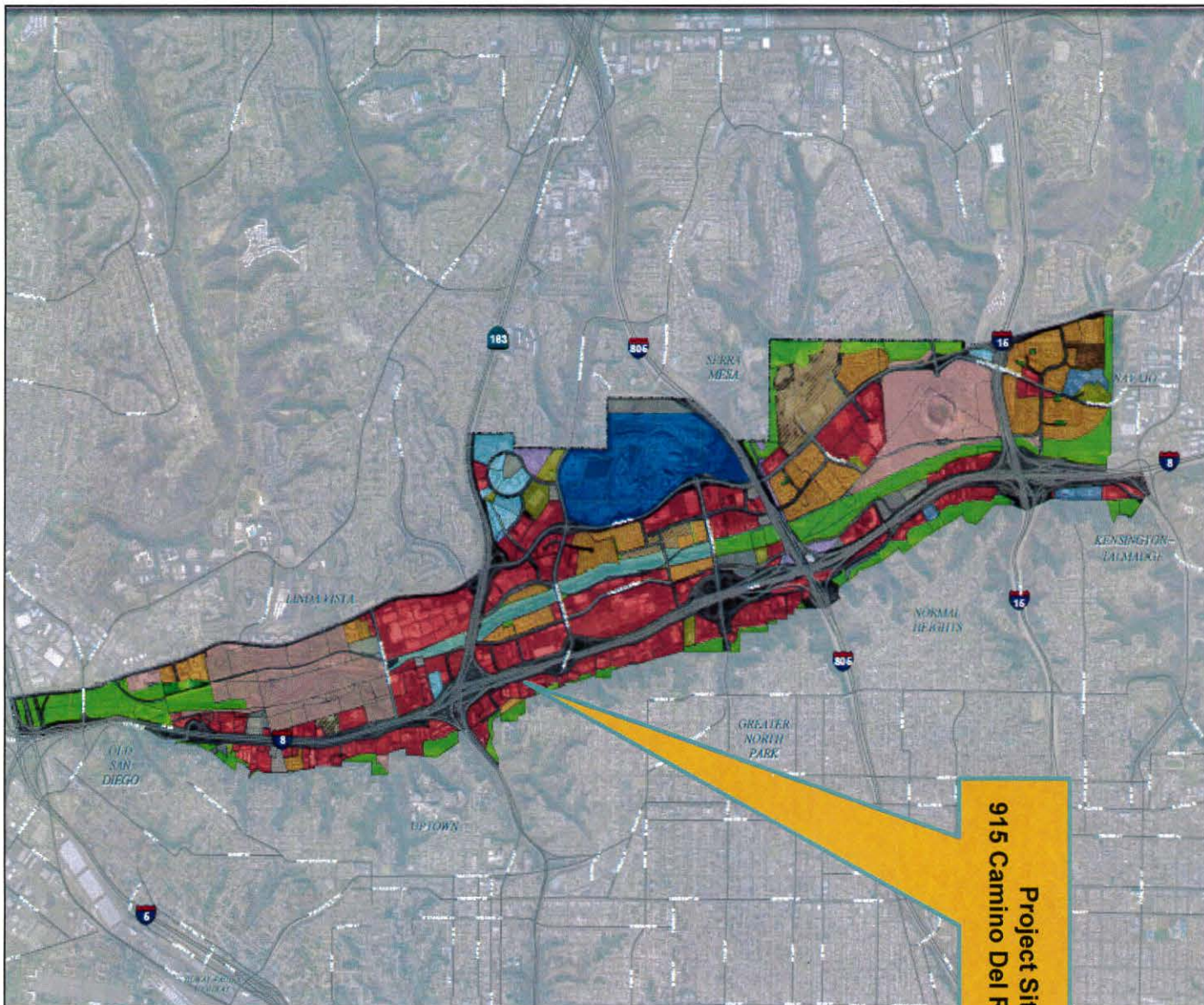
ARCO AMPM CUP – PROJECT NUMBER 284881

915 Camino Del Rio South



Project Site
915 Camino Del Rio South

ATTACHMENT 1- AERIAL PHOTOGRAPH



Mission Valley

Existing Conditions

Land Use

Legend

- Single-Family Residential
- Multi-Family Residential
- Multi-Family Residential under construction
- Group Quarters
- Commercial
- Commercial (under construction)
- Commercial Recreation
- Industrial, Warehouse/Storage
- Stand and General Industrial
- Communication Utilities, Parking
- Institutional, Mission
- Schools
- Parks, Open Space
- Private Recreation
- Undeveloped
- Flood Hazard of Water

Single-Family - single family detached housing units, on lots smaller than 1 acre.
Multi-Family - Attached housing units, two or more units per structure. Includes duplexes, townhouses, condominiums, apartments, and SROs in Cities City.
Group Quarters - includes dormitories, convalescent or retirement homes not associated with or within a health care facility, nursing homes, or half-way houses.
Commercial - includes, restaurants, neighborhood, and specialty shopping centers, office buildings, hotels, motels, auto dealerships, vehicle trade, and more from road, which may include car wash (i.e. residential on top of commercial, or residential units adjacent to commercial establishments).
Industrial - heavy industry, light industry, which includes industrial parks, office/industrial uses clustered into a center. Light industry general - usually along major streets or clustered in certain areas, which includes manufacturing uses such as lumber, furniture, paper, rubber, stone, clay, and glass, as well as light industrial uses as auto repair services and recycling centers. Warehousing/public storage - usually large buildings located near thorough, industrial or semi-commercial areas.
Communication and Utilities/Parking - TV and radio broadcasting stations, relay towers, electrical power generating plants, water and sewage treatment facilities and similar parking lots. Transit Centers included.
Institutional - hospitals, churches, libraries, post offices, police and fire stations, and other public services, such as cultural facilities, museums, art galleries, social service agencies, human societies, and historic sites.
Schools - includes public and private schools, colleges, and universities.
Park - Community parks with recreation areas and centers containing one or more of the following activities: tennis or basketball courts, baseball diamonds, soccer fields, or swings. Smaller neighborhood parks with a high level of use are also included as active parks.
Private Recreation - May include clubhouse, recreation areas, pools, tennis courts etc. within and associated with residential development if a separate parcel exists. Also includes Golf Courses.
Open Space - includes wildlife and nature preserves, lands set aside for open space, and parks with limited development and access.
Undeveloped - Vacant land that is either graded or not graded.



City of San Diego
 Planning Department
 September 3, 2003

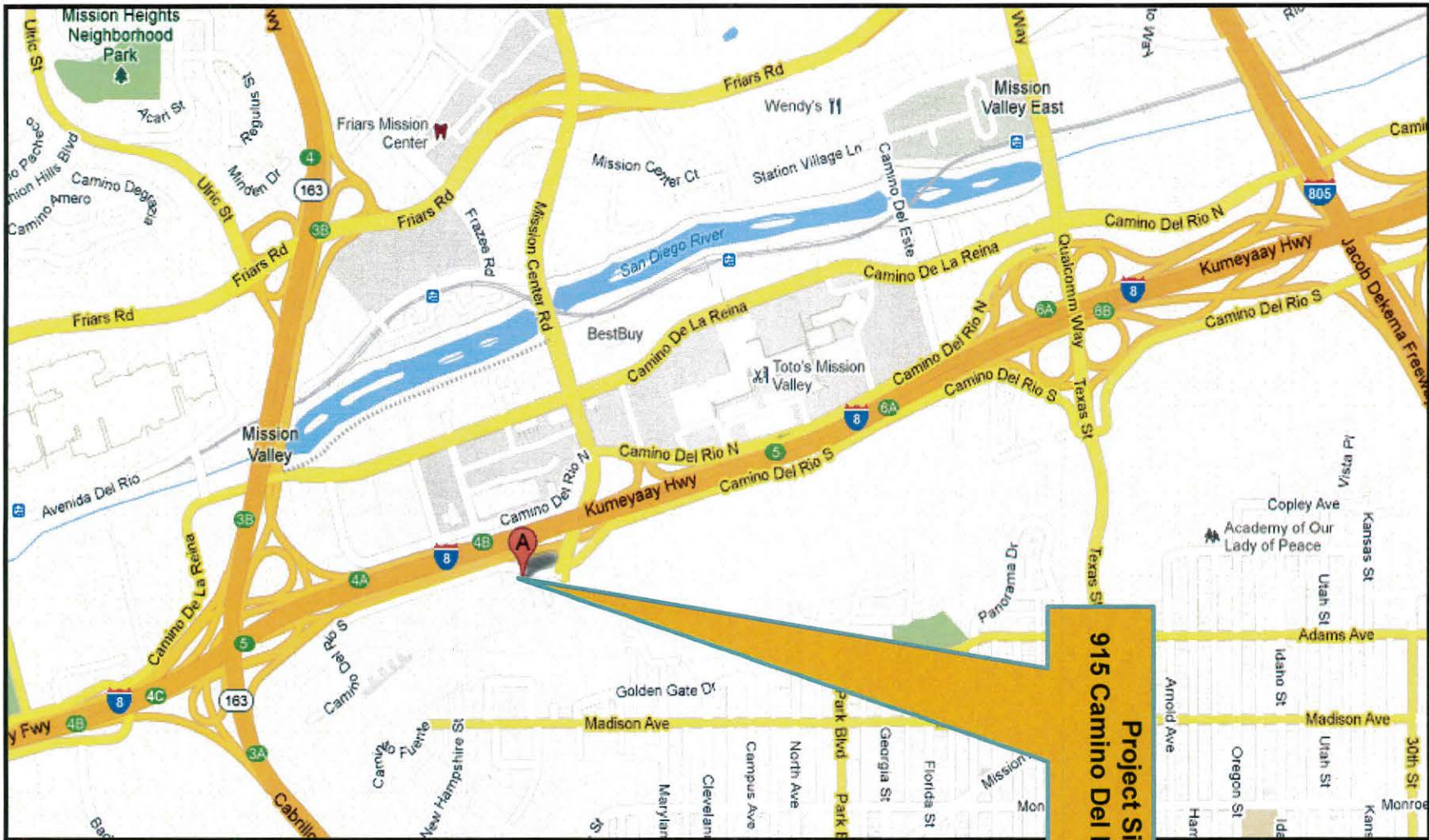


ATTACHMENT 2 – Community Plan Land Use Map

Project Site
 915 Camino Del Rio South



Community Land Use Map
ARCO AMPM CUP- PROJECT NUMBER 284881
915 Camino Del Rio South



ATTACHMENT 3- Project Location Map



Project Location Map

ARCO AMPM CUP- PROJECT NUMBER 284881
915 Camino Del Rio South



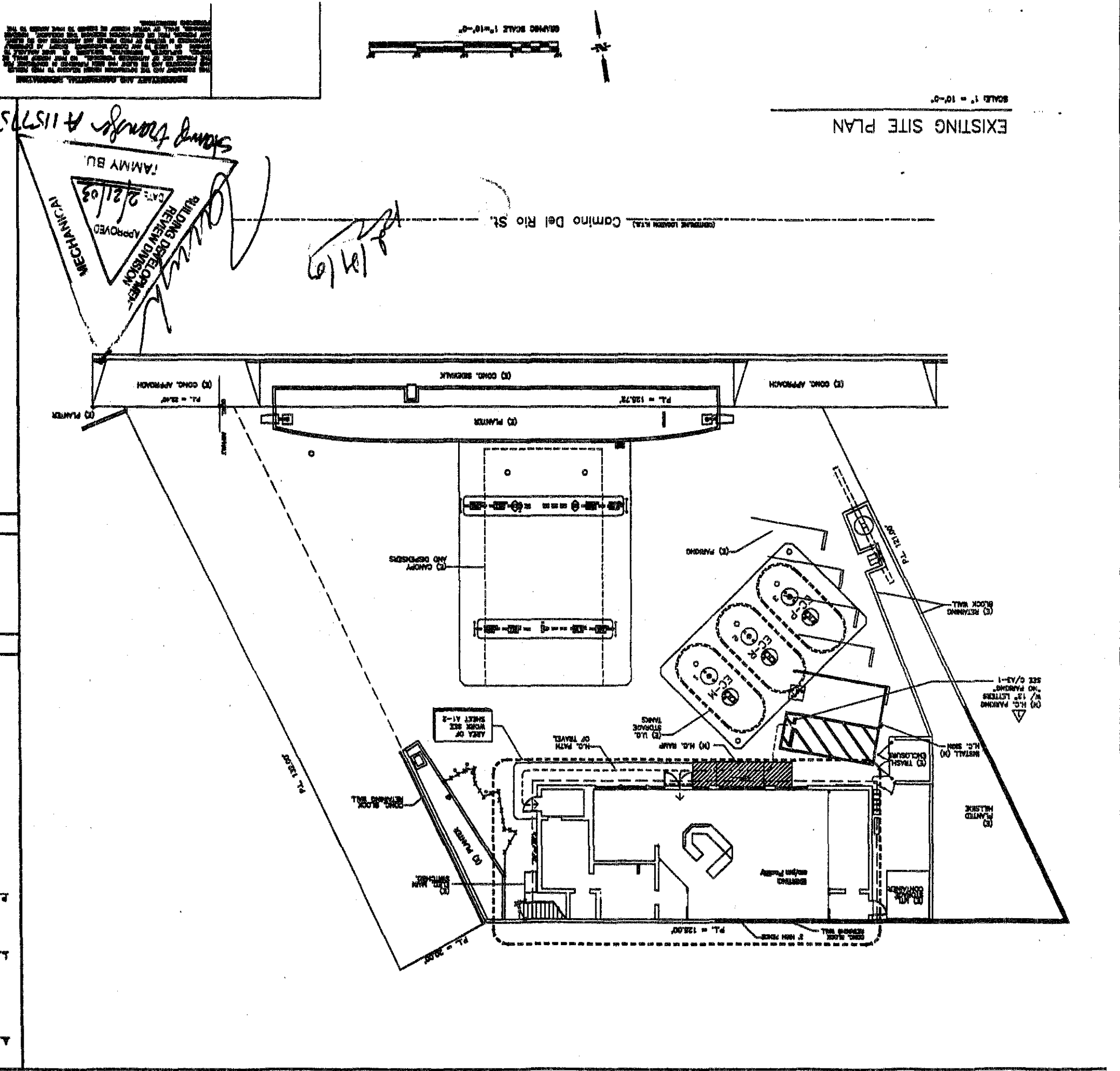
PROJECT DATA SHEET

PROJECT NAME:	Arco AMPM CUP	
PROJECT DESCRIPTION:	Conditional Use Permit to upgrade an existing Type 20 license (beer and wine) to a Type 21 (general liquor) within an existing convenience store	
COMMUNITY PLAN AREA:	Mission Valley	
DISCRETIONARY ACTIONS:	Conditional Use Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	Commercial Use	
<u>ZONING INFORMATION:</u>		
ZONE: MV-CO-CV		
HEIGHT LIMIT: None		
LOT SIZE: 0.34-acres.		
FLOOR AREA RATIO: None		
FRONT SETBACK: 15 feet		
SIDE SETBACK: 10 feet		
STREETSIDE SETBACK: 10 feet		
REAR SETBACK: 8 feet		
PARKING: In accordance with Ch. 14, Art. 2, Div. 5		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	I-8	I-8
SOUTH:	Commercial/ MV-CO-CV	Office building
EAST:	Commercial/ MV-CO-CV	Restaurant/offices
WEST:	Commercial/ MV-CO-CV	Restaurant/hotel
DEVIATIONS OR VARIANCES REQUESTED:	None	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On October 3, 2012, the Mission Valley Community Planning Group recommend approval of the project by a vote of 13-1-0 with no conditions.	

EXISTING SITE PLAN

SCALE 1" = 10'-0"

GRAPHIC SCALE 1"=10'-0"



NO.	DATE	REVISIONS
1	02-18-03	BY WEST COAST PRODUCTS, LTD. WATER REVISIONS
2	02-18-03	REV. FOR BLUE DEPARTMENT
3		PROJECT RELEASE
4		NO. REVISED
5		COUNT. REVISED

02-18-03

REGISTERED PROFESSIONAL ENGINEER
PAIRICK O. FIEDLER
 No. C-38123
 Exp. 3-31-2005
 CIVIL
 STATE OF CALIFORNIA

- NO STRUCTURAL WORK TO BE PERFORMED UNDER THIS PERMIT
- THIS PROJECT SHALL COMPLY WITH THE 2001 EDITION OF THE CALIFORNIA BUILDING CODE (TITLE 24), WHICH ADOPTS THE 1997 UBC, 2000 UBC, 2000 IRC AND THE 1998 MFC.
- PARKING & BUILDING ENTRANCE H.C. ACCESS MEETS TITLE 24.
- ALL THE TRAVEL/DESIGN/CONTRACTOR IS RESPONSIBLE CHANGE OF THE RECORD, I CERTIFY THAT NO ALTERATIONS/RESPONSE HAVE BEEN PERFORMED AFTER THE PERMIT WAS ISSUED AND THE LAST REVISION WAS SIGNED.
- ALL THE TRAVEL/DESIGN/CONTRACTOR IS RESPONSIBLE CHANGE OF THE RECORD, THE FOLLOWING DEPARTMENT ACCESS FEATURES WILL NOT BE MADE FULLY ACCESSIBLE AS PART OF THIS PERMIT PER THE APPROVED IMPLICATIONS OF SECTION 11804.1 CHAPTER 11.

- BUILDING DEPARTMENT NOTES**
- A1-1 EXISTING SITE PLAN
 - A1-2 EXISTING FLOOR PLAN
 - A1-2a PROPOSED FLOOR & ELECTRICAL PLAN
 - A2-1 CONSTRUCTION NOTES AND DETAILS
 - A4-1 EXISTING RESTROOM

- DRAWING INDEX**
- 1. RETAIL NEW SIGN MOUNTAIN EXTERIOR
 - 2. REPLACE EXISTING SIGN CONCRETE AND (1) CONCRETE
 - 3. MOUNT ELECTRICAL AS REQUIRED
 - 4. PROVIDE H.C. PARKING AND ADA ACCESSIBILITY AS SHOWN

PROJECT REGULATIONS

REPLACE SIGN FOUNTAIN IN SHADE AREA

REMOVE SIGN & CURBS / PER SIGNAGE

USE	AREA	AREA
1. FLOOR	100	100
2. SECOND FLOOR	100	100

PROJECT INFORMATION

APPLICANT: WEST COAST PRODUCTS, LTD.
 1 CENTERPOINTE DRIVE
 LA PALMA, CA 90623-1066
 PHONE NO. (714) 879-1200

LAND OWNER: WEST COAST PRODUCTS, LTD.
 1 CENTERPOINTE DRIVE
 LA PALMA, CA 90623-1066
 PHONE NO. (714) 879-1200

BILLING

DATE: 02/18/03
 PROJECT: 03037

Fried Fiedler and Associates
 232 WEST THIRD STREET
 PALM BEACH, FL 33480
 PHONE: (561) 832-1817
 FAX: (561) 832-1817
 E-MAIL: FRIED@FIEDLER.COM

Fairst Oasis Fountain Program
 9155 Camino Del Rio
 San Diego, California
 Existing amp Facility

West Coast Products, LLC
 Retail Marketing Division
 4 Centerpointe Drive
 La Palma, CA 90623-1066 (714) 670-5300



RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24001341

CONDITIONAL USE PERMIT NO. 1060152
ARCO AMPM CUP PROJECT NO. 284881
HEARING OFFICER

This Conditional Use Permit No. 1060152 is granted by the Hearing Officer of the City of San Diego to A.S. INVESTMENT LIMITED CORP, Owner and Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0502 and 126.0303. The 0.34-acre site is located at 915 Camino Del Rio South in the MV-CO-CV Zone of the Mission Valley Planned District, Mission Valley Community Plan Area. The project site is legally described as: That portion of Lot 1 of Map 6238, filed in the office of the County Recorder of San Diego County on November 27, 1968, formerly that portion of Lot 1112 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe in 1870;

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee A.S. INVESTMENT LIMITED CORP, to upgrade an alcoholic beverage outlet from Type 20 (beer and wine sales) to a Type 21 (general liquor) alcoholic beverage license conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control and subject to the City's land use regulations described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated December 12, 2012, on file in the Development Services Department. The project shall include:

- a. The operation of an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control. Hours of operation are from 6:00 a.m. to 2:00 a.m. each day of the week.
- b. Off-street parking;

- c. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by November 25, 2015.
2. This Conditional Use Permit [CUP] for the upgrade from a Type 20 to a Type 21 Alcohol beverage license shall expire on December 27, 2032.
3. The utilization of this CUP is contingent upon the approval of a license to sell alcohol at this location by the California Department of Alcoholic Beverage Control [ABC]. The issuance of this CUP does not guarantee that the ABC will grant an alcoholic beverage license for this location.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies

including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).

9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and were determined-necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

PLANNING REQUIREMENTS:

13. The sales of alcoholic beverage shall only be permitted between the hours of 6:00 a.m. to 2:00 a.m. each day of the week.
14. The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as the following: "NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST". The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and Spanish.
15. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
16. There shall be no amusement machines or video game devices on the premises at any time.
17. No pay telephone will be maintained on the interior or exterior of the premises.
18. The parking, the exterior of the premises, the adjacent public sidewalks, and all other adjacent areas under the licensee's control shall be illuminated to a level of 0.4 foot candles. The illumination shall be maintained during all hours of darkness that the premises are open for business, so that persons standing on or near the premises at night are identifiable to law enforcement personnel. Illumination shall be directed and shielded so that it does not shine onto others properties.
19. The licensee shall place trash receptacles convenient for use by patrons inside and outside the premises and in the parking area and near adjacent sidewalks and in any other adjacent area under the control of the licensee. At least one 13-gallon receptacle shall be located inside the premises. At least one 32-gallon receptacle shall be located outside the premises, and at least one additional 32-gallon receptacle shall be located in each parking area.
20. The licensee shall conspicuously post a copy of these Conditions at the premises and maintain them visible so they may be viewed by the public or any government official.
21. No loitering on the premises and if necessary a security guard to control enforcement of this provision.
22. A security camera is to be positioned to cover the main entrance for facial recognition.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

23. No single sales of wine coolers, beer, and malt beverages will be allowed.
24. No more that 15-percent of the floor space shall be allocated for the display of alcohol.

INFORMATION ONLY:

- The issuance of this discretionary use permit alone does not allow the immediate commencement or continued operation of the proposed use on site. The operation allowed by this discretionary use permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.

APPROVED by the Hearing Officer of the City of San Diego on December 12, 2012.

Draft

Permit Type/PTS Approval No.: CUP 1060152
Date of Approval: December 12, 2012

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

William Zounes
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

**The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.**

By _____
A.S. Investment Limited Corp

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

HEARING OFFICER
RESOLUTION NO. XXXX
CONDITIONAL USE PERMIT NO. 1060152
ARCO AMPM CUP PROJECT NO. 284881

WHEREAS, A.S. INVESTMENT LIMITED CORP, Owner and Permittee, filed an application with the City of San Diego a permit to upgrade an alcoholic beverage outlet from Type 20 (beer and wine sales) to a Type 21 (general liquor) alcoholic beverage license conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control and subject to the City's land use regulations (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1060152), on portions of a 0.34-acre site;;

WHEREAS, the project site is located at 915 Camino Del Rio South in the MV-CO-CV Zone of the Mission Valley Planned District, Mission Valley Community Plan Area;

WHEREAS, the project site is legally described as that portion of Lot 1 of Map 6238, filed in the office of the County Recorder of San Diego County on November 27, 1968, formerly that portion of Lot 1112 of the Pueblo Lands of San Diego, in the City of San Diego, County of San Diego, State of California, according to Map thereof made by James Pascoe in 1870;

WHEREAS, on December 12, 2012, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1060152 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on July 23, 2012 the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15301 and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated December 12, 2012.

FINDINGS:

Conditional Use Permit - Section 126.0305

- 1. The proposed development will not adversely affect the applicable land use plan.**

The project proposes a Conditional Use Permit to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,730 square-foot convenience store located at 915 Camino Del Rio South in the MV-CO-CV Zone of the Mission Valley Planned District, Mission Valley Community Plan Area.

A goal of the Mission Valley Community Plan is to provide neighborhood/convenience commercial facilities near, or as part of, residential developments. Currently multifamily development is located two miles west of the site. However there are two large hotels near the site where guest commonly visit the store for convenience goods according to the applicant.

The site is located in a Commercial designation within the Mission Valley Community Plan. The plan states that there is a need for necessity goods for convenience of adjacent residential neighborhoods. Therefore, the proposed use, the limited sales of alcoholic beverages within a convenience store, implements a recommendation of the Community Plan. Therefore, the proposed development will not adversely affect the applicable land use plan

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The project proposes a Conditional Use Permit to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,730 square-foot convenience store located at 915 Camino Del Rio South in the MV-CO-CV Zone of the Mission Valley Planned District, Mission Valley Community Plan Area.

Alcoholic beverage sales for off-site consumption has been determined to serve a public convenience or necessity by the San Diego Police Department (SDPD). The SDPD staff has determined that the proposed off-site sales of general liquor is a small component of the convenience store and is not the principal sales product. The products sold at the store vary in diversity and will serve mostly hotel guest and pedestrian traffic. The SDPD supports the off-site sale of alcoholic beverages as conditioned by the Conditional Use Permit to ensure that the sale of alcoholic beverages is maintained as an incidental part of the convenience store. The San Diego Police Department's Vice Unit will work with the applicant and the Department of Alcoholic Beverage Control (ABC) to place additional conditions on the alcohol license to minimize the law enforcement concerns if necessary. The request for an upgraded license will allow the SDPD and the ABC the ability to place additional conditions and or limitation on the license where currently, the license is unrestricted. Further, this Conditional Use Permit serves to further encumber the site with numerous conditions, where currently, none exist.

The permit prepared for this project includes various conditions and corresponding exhibits of approvals relevant to achieving compliance with the regulations of the Municipal Code. These conditions include restrictions for adequate illumination, signs to restrict loitering, maximum alcohol sales area allowed, and provisions to maintain security at the site. The project was determined to be exempt from the California Environmental Quality Act (CEQA) 15301 (Existing facilities) as such, there are no adverse environmental impacts associated with the request. Therefore, the proposed development would not be detrimental to the public health, safety and welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The project proposes a Conditional Use Permit to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,730 square-foot convenience store located at 915 Camino Del Rio South in the MV-CO-CV Zone of the Mission Valley Planned District, Mission Valley Community Plan Area.

The site is designated as Commercial within the Mission Valley Community Plan which in general recommends retail sales of convenience items. The proposed sales of alcoholic beverages within a convenience store will be in accordance with the California Building Code and Municipal Code and is contingent upon the issuance of a license by the State of California Alcohol Beverage Control Board [ABC]. The SDPD has reviewed the project and concluded the proposed use will provide a public convenience or necessity.

No new development is being proposed with this permit, therefore the proposed development will comply with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The project proposes a Conditional Use Permit to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,730 square-foot convenience store located at 915 Camino Del Rio South in the MV-CO-CV Zone of the Mission Valley Planned District, Mission Valley Community Plan Area.


The existing use of the site as a convenience store associated with a service station with the off-site sale of beer and wine as an accessory use is consistent with the existing commercial use of the property and compatible with the commercial land use designation of the community plan. The convenience store has been established and selling beer and wine since 1989 and has encountered very few calls for police services according to the SDPD. The site is within census tract 93.04 which currently has a crime rate of 623.2-percent of the city wide average. Census tract 93.04 allows up to nine alcohol beverage outlets.

There are no residential dwellings within 100 feet from the site or 600 feet from a park, library, and elementary school. The SDPD made the necessary finding of public need or convenience to recommend approval of the project. The SDPD has determined that the proposed upgrade from a Type 20 to a Type 21 liquor license at the proposed site serves a public convenience or necessity would not increase the existing number of alcohol licenses within census tract 93.04. The existing Type 20 license was approved prior to the Alcohol Beverage Ordinance effective date and a Conditional Use Permit was not required at that time. The permit prepared for this project includes various conditions and restrictions relevant to achieving compliance with the regulations of the Municipal Code. These conditions include restrictions for providing adequate illumination, signs to restrict loitering, maximum alcohol sales area allowed, and provisions to maintain security at the site

Staff has determined the proposed upgrade is appropriate at this location due to the existing Type 20 since 1989, has not received violations to its current type 20 license, and the fact the upgrade would not be increasing the number of alcohol licenses; therefore the proposed use is appropriate at the proposed location.

Attachment 7
Draft Resolution with Findings

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1060152 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1060152, a copy of which is attached hereto and made a part hereof.



William Zounes
Development Project Manager
Development Services

Adopted on: December 12, 2012

Job Order No. 24002901

Project Title: Arco AM/PM CUP

Part II - To be completed when property is held by a corporation or partnership

Legal Status (please check):

Corporation Limited Liability -or- General) What State? CA Corporate Identification No. _____
 Partnership

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property with the intent to record an encumbrance against the property. Please list below the names, titles and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all corporate officers, and all partners in a partnership who own the property). A signature is required of at least one of the corporate officers or partners who own the property. Attach additional pages if needed. **Note:** The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process. **Additional pages attached** Yes No

Corporate/Partnership Name (type or print):
A S Investment

Owner Tenant/Lessee

Street Address:
915 Camino De Rio South

City/State/Zip:
San Diego CA 92108

Phone No: (619) 607-8000 Fax No: _____

Name of Corporate Officer/Partner (type or print):
ADIL Alshakh

Title (type or print):
President

Signature: [Signature] Date: 6-5-2012

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : _____ Date: _____

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : _____ Date: _____

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : _____ Date: _____

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : _____ Date: _____

Corporate/Partnership Name (type or print):

Owner Tenant/Lessee

Street Address:

City/State/Zip:

Phone No: _____ Fax No: _____

Name of Corporate Officer/Partner (type or print):

Title (type or print):

Signature : _____ Date: _____

**PROJECT CHRONOLOGY
ARCO AMPM CUP
PROJECT NO. 284881**

Date	Action	Description	City Review Time	Applicant Response
6/29/12	First Submittal	Project Deemed Complete and distributed		
7/23/12	First Submittal Assessment Letter out		24 days	
10/24/12	Second submittal In	Normal Submittal		93 days from First Assessment Letter
11/8/12	Second Submittal Assessment Letter out		15 days	
12/12/12	Hearing Officer Hearing		34 days	
TOTAL STAFF TIME**			2 month 13 days	
TOTAL APPLICANT TIME**				3 months 3 days
TOTAL PROJECT RUNNING TIME**		From Deemed Complete to HO Hearing	5 months 16days	

**Based on 30 days equals to one month.

**SAN DIEGO POLICE DEPARTMENT
CONDITIONAL USE PERMIT RECOMMENDATION**

PREMISE ADDRESS: 915 Camino Del Rio South, San Diego, CA 92108

TYPE OF BUSINESS: Arco Gas Station

FEDERAL CENSUS TRACT: 93.04

NUMBER OF ALCOHOL LICENSES ALLOWED: 9

NUMBER OF ALCOHOL LICENSES EXISTING: 54

CRIME RATE IN THIS CENSUS TRACT: 623.2
(Note: Considered High Crime If Exceeds 120% of City-wide Average)

THREE OR MORE REPORTED CRIMES AT THIS PREMISE WITHIN PAST YEAR YES NO

IS THE PREMISE WITHIN 600 FEET OF INCOMPATIBLE FACILITY YES NO

IS THE PREMISE WITHIN 100 FEET OF RESIDENTIALLY ZONED PROPERTY YES NO

ABC LICENSE REVOKED AT THIS PREMISE WITHIN PAST YEAR YES NO

HAS APPLICANT BEEN CONVICTED OF ANY FELONY YES NO

WILL THIS BUSINESS BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY,
AND WELFARE OF THE COMMUNITY AND CITY YES NO

COMMENTS/OTHER FACTORS CONSIDERED:

- This Arco Gas Station is located close to the Interstate 8 freeway. It has multiple hotel chains nearby and a mall across the street.
- The business currently has a type 20 alcohol license and is applying for an upgrade to a type 21 license.
- There were three calls for service to the address from January 1, 2011-December 31, 2011 with an outstanding service time of 3.8 hours. I would recommend removing the payphone if that is within your control to avoid unnecessary calls for service to your location.
- This is a high crime area of 623.2% for census tract 93.04. However, this location is directly off a freeway and has a shopping mall within its boundaries.
- You have had no violations on your current Type 20 license.
- You are not adding to the number of licenses in the area. Currently, there are 54 existing and issuance of the Type 21 will not affect this number.
- Public Convenience and Necessity would be met for the hotel guests surrounding your location.

SUGGESTED CONDITIONS:

The following conditions, in addition to their current conditions on the Type 20, should be incorporated into the regulatory licenses and land use for this location:

1. Sales of alcoholic beverages shall be permitted only between the hours of 6:00 AM and 2:00 AM each day of the week.
2. No single sales of alcohol will be allowed.
3. The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as the following: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and in Spanish.
4. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
5. There shall be no amusement machines or video game devices on the premises at any time.
6. No pay telephone will be maintained on the interior or exterior of the premises.
7. No loitering on the premises and if necessary a security guard to control enforcement of this provision.
8. Proper illumination will be maintained in the parking lot.
9. A security camera is to be positioned to cover the main entrance for facial recognition.
10. No more than 15% of floor space shall be allocated for the display of alcohol.

This is a conditional approval of this project pending community/business support.


SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE X

DENY _____

JUWE EPPERSON - DETECTIVE
Name of SDPD Vice Sergeant (Print)

619-531-2274
Telephone Number


Signature of SDPD Vice Sergeant

08-13-12
Date of Review

NOTICE OF EXEMPTION

(Check one or both)

TO: RECORDER/COUNTY CLERK
 P.O. BOX 1750, MS A-33
 1600 PACIFIC HWY, ROOM 260
 SAN DIEGO, CA 92101-2422

FROM: CITY OF SAN DIEGO
 DEVELOPMENT SERVICES DEPARTMENT
 1222 FIRST AVENUE, MS 501
 SAN DIEGO, CA 92101

OFFICE OF PLANNING AND RESEARCH
 1400 TENTH STREET, ROOM 121
 SACRAMENTO, CA 95814

PROJECT NO.: 284881

PROJECT TITLE: Arco AM/PM CUP

PROJECT LOCATION-SPECIFIC: 915 Camino Del Rio South, San Diego, CA 92116 (Portion of Lot 1 of Map 6238)

PROJECT LOCATION-CITY/COUNTY: San Diego/San Diego

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: Conditional Use Permit to allow an alcohol sale license upgrade from Type 20 (beer/wine) to Type 21 (liquor) at an existing convenience store on a 0.34-acre site at 915 Camino Del Rio South in the MV-CO-CV Zone of the Mission Valley Planned District, in the FAA Part 77 area of Mission Valley Community Planning Area of the City and County of San Diego.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: Dan Czarnecki
 7422 Batista Street
 San Diego, CA 92111
 619-602-1548

EXEMPT STATUS: (CHECK ONE)

- MINISTERIAL (SEC. 21080(b)(1); 15268);
 DECLARED EMERGENCY (SEC. 21080(b)(3); 15269(a));
 EMERGENCY PROJECT (SEC. 21080(b)(4); 15269 (b)(c))
 CATEGORICAL EXEMPTION: 15301 (a) existing facilities, interior or exterior alterations.
 STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT: The proposed Conditional Use permit would include removal and replacement of the existing driveway and interior alterations involving wall and partition changes and other interior rearrangement. No environmental affects would occur. Therefore the activity meets the criteria set forth in sections 15301 (a) existing facilities interior or exterior alterations; and the exceptions listed in CEQA section 15300.2 would not apply. In addition, this site is not included on any government code listings of hazardous waste sites.

LEAD AGENCY CONTACT PERSON: Lizzi

TELEPHONE: (619) 619-446-5159

IF FILED BY APPLICANT:

1. ATTACH CERTIFIED DOCUMENT OF EXEMPTION FINDING.
 2. HAS A NOTICE OF EXEMPTION BEEN FILED BY THE PUBLIC AGENCY APPROVING THE PROJECT?
 YES NO

IT IS HEREBY CERTIFIED THAT THE CITY OF SAN DIEGO HAS DETERMINED THE ABOVE ACTIVITY TO BE EXEMPT FROM CEQA


 SENIOR PLANNER
 SIGNATURE/TITLE

7/23/12
 DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
 SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR: