



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: May 22, 2013 REPORT NO. HO 13-050

ATTENTION: Hearing Officer

SUBJECT: 7-ELEVEN BALBOA AVENUE
PROJECT NUMBER: 288497

LOCATION: 7807 Balboa Avenue

APPLICANT: 7-Eleven, Inc

SUMMARY

Issue(s): Should the Hearing Officer approve a Conditional Use Permit to allow the sales of beer and wine in accordance with a Type 20 liquor license within a convenience store in the Kearny Mesa Community Plan area?

Staff Recommendation - APPROVE Conditional Use Permit No. 1012289.

Community Planning Group Recommendation – On October 17, 2012 the Kearny Mesa Community Planning Group voted 9-0-0 to recommend approval of the project with no conditions.

Environmental Review - The proposed activity is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (existing facility) of the State CEQA Guidelines in that allows for alterations to existing private or public facilities, involving negligible or no expansion of use. This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on February 27, 2013, and the opportunity to appeal that determination ended on March 13, 2013.

BACKGROUND

The project proposes the sales of beer and wine within a 2,200 square-foot 7-Eleven convenience store currently completing construction. The 0.52-acre site is located at 7807 Balboa Avenue within the IL-3-1 Zone within the Kearny Mesa Community Plan. The site is surrounded by commercial retail establishments. Previous to the construction of the convenience store, a Union 76 service station existed and was approved under Conditional Use Permit (CUP) No. 85-0699. The preexisting CUP was rescinded and no longer governs the property. The redevelopment of the site included the 7-Eleven convenience store with associated service station (four fuel

pumps) approved ministerially in accordance with the underlying IL-3-1 zone and San Diego Municipal Code section 141.0801 (Automobile Service Stations). The convenience store was issued construction permits on June 15, 2012.

DISCUSSION

Project Description

The project proposes the off-site sales of beer and wine within a 2,200 square-foot convenience store. A Conditional Use Permit for the off-site sale of alcoholic beverages is permitted pursuant to Section 141.0502(c) of the Land Development Code. The sales of beer and wine will be limited between the hours of 8:00 a.m. to 12:00 midnight, Monday through Sunday as conditioned by the San Diego Police Department (SDPD) and LDR-Planning review (Attachment 6). The convenience store will be open 24 hours a day seven days a week.

Section 141.0502 determines when the off-site 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 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 the California Business and Professional Code section 23958.4.
- In an adopted Redevelopment Project Area.
- Within 600 feet of a public or private accredited school, a public park, a playground or recreational area, a church except those established in association 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 site because the property is within a census tract where the general crime rate exceeds the citywide average general crime rate by more than 20 percent and the ratio of alcohol beverage outlets exceeds the standards established by the California Business and Professional Code section 23958.4.

The project is located within Federal Census Tract No. 0085.11. Statistics provided by the San Diego Police Department (SDPD) for Federal Census Tract No. 0085.11 shows the area to be 381.9-percent of the city crime rate with alcohol related crime rate of 152-percent (Attachment 12). Census Tract No. 0085.11 allows up to one alcoholic beverage outlets where 28 exist. The San Diego Police Department (SDPD) reviewed the proposed project and found that the project provides a public convenience and necessity and recommends approval with recommendations and conditions for the Conditional Use Permit (Attachment 6). Conditions within the permit include but are not limited to the time restriction for the sale of beer and wine advertising

requirements for beer and wine, security assurance, and that no more than 15-percent of the square footage of the premises will only be used for the display of alcoholic beverages. All SDPD recommendations and conditions are included in the draft permit (Attachment 6, SDPD Recommendations). The SDPD'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.

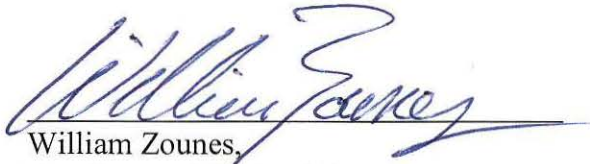
CONCLUSION

Staff has determined that the project complies with the development regulations of all applicable sections of the Land Development Code. Staff has also considered the alcohol beverage outlet statistics from the Department of Alcoholic Beverage Control and the recommendation and conditions from the SDPD-Vice Operations. 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. 1012289, with modifications or;
2. Deny Conditional Use Permit No. 1012289, if the findings required to approve the project cannot be affirmed.

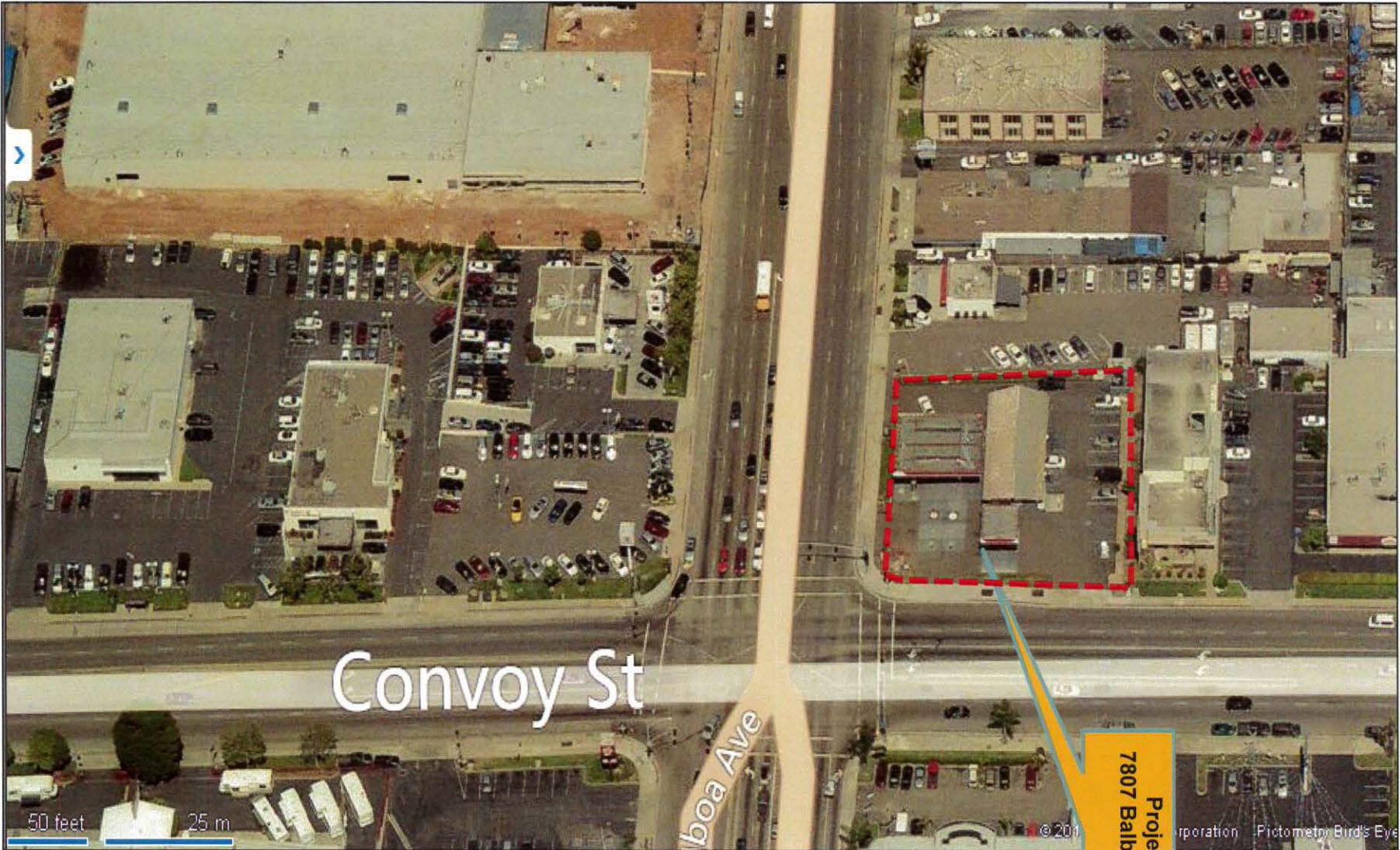
Respectfully submitted,



William Zounes,
Development Project Manager

Attachments:

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

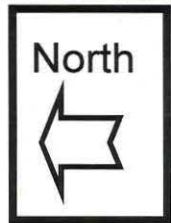


Attachment 1
Aerial Photograph of Site

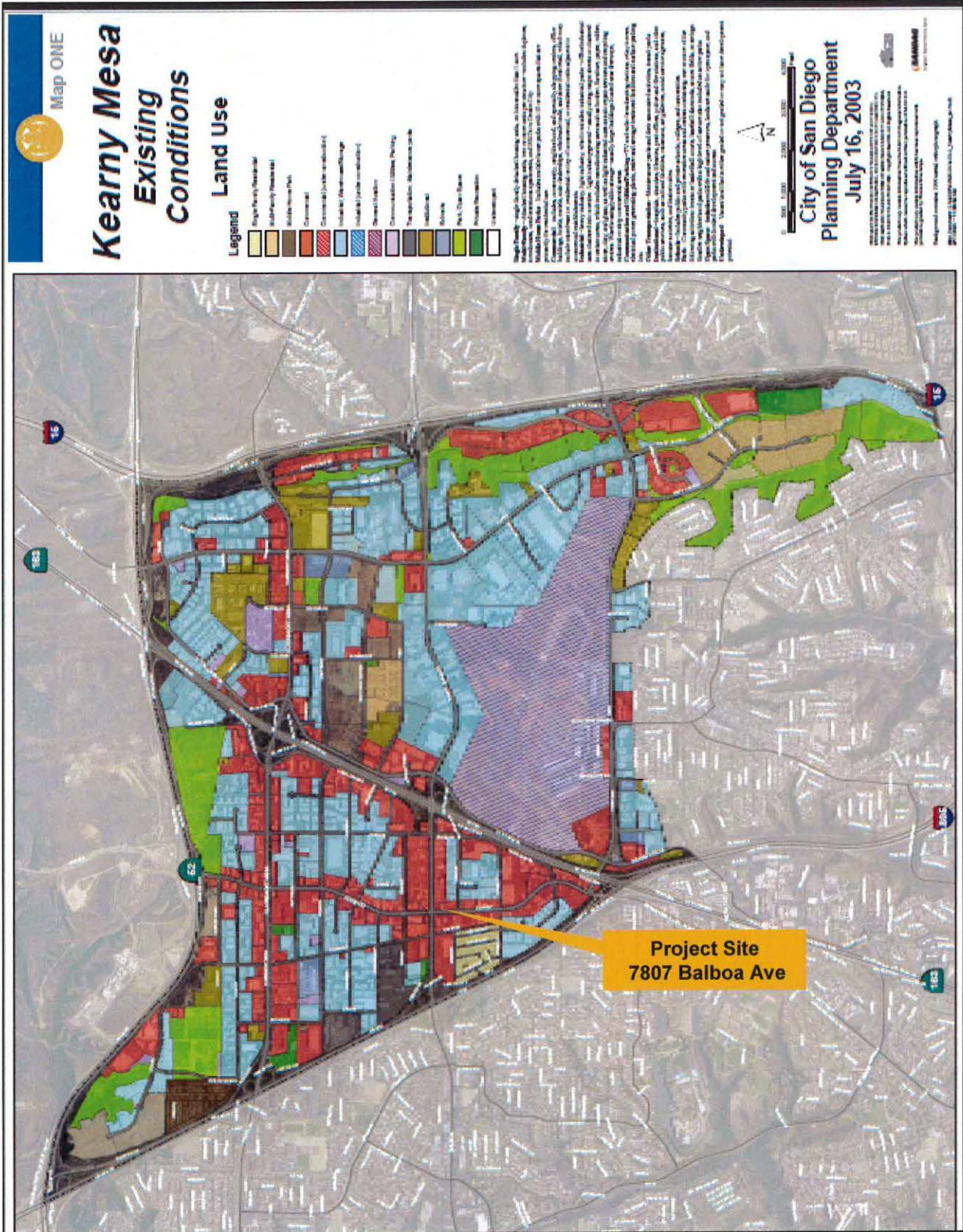


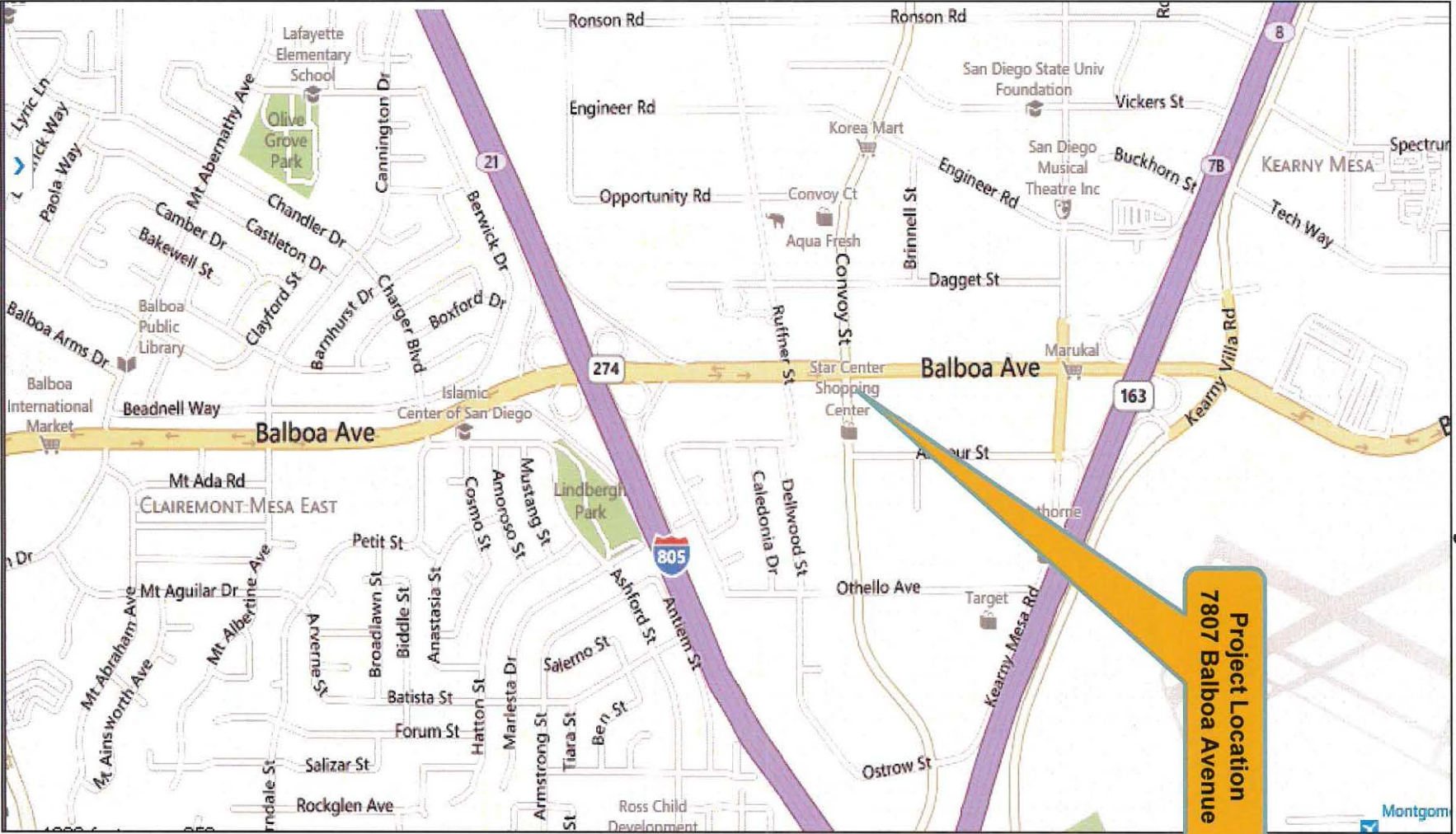
Aerial Photograph (Birds Eye)

7-Eleven Balboa Avenue - Project No. 288497
7807 Balboa Avenue



Project Site
7807 Balboa Avenue





Attachment 3
Project Location Map

PROJECT DATA SHEET

PROJECT NAME:	7-Eleven Balboa Avenue	
PROJECT DESCRIPTION:	Conditional Use Permit to allow the sales of beer and wine in accordance with a Type 20 liquor license within a convenience store .	
COMMUNITY PLAN AREA:	Kearny Mesa	
DISCRETIONARY ACTIONS:	Conditional Use Permit	
COMMUNITY PLAN LAND USE DESIGNATION:	General Commercial	
<u>ZONING INFORMATION:</u>		
ZONE: IL-3-1 Zone HEIGHT LIMIT: N/A LOT SIZE: 0.52-acres FLOOR AREA RATIO: 2.0 FRONT SETBACK: 15/20 feet SIDE SETBACK: 25 feet STREETSIDE SETBACK: 15/20 feet REAR SETBACK: 0/15 feet PARKING: 12 spaces		
<u>ADJACENT PROPERTIES:</u>	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	General Commercial, IL-3-1	Commercial retail, restaurants
SOUTH:	General Commercial, IL-3-1	Commercial retail
EAST:	General Commercial, IL-3-1	Commercial retail, restaurants
WEST:	General Commercial, IL-3-1	Commercial retail, restaurants
DEVIATIONS OR VARIANCES REQUESTED:	None	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On October 17, 2012 the Kearny Mesa Community Planning Group voted 9-0-0 to recommend approval of the project with no conditions.	

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: 24002350

**CONDITIONAL USE PERMIT NO. 1012289
7-ELEVEN BALBOA AVENUE PROJECT NO. 288497
HEARING OFFICER**

This Conditional Use Permit No. 1032755 is granted by the Hearing Officer of the City of San Diego to VRE BALBOA, LLC, Owner and 7-ELEVEN, INC., A TEXAS CORPORATION, Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0502 and 126.0303. The 0.52-acre site located at 7807 Balboa Avenue in the IL-3-1 Zone of the Kearny Mesa Community Plan. The project site is legally described as: Lot 6 of Metro Court Tract Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 5362, filed in the Office of the County Recorder of San Diego County, March 27, 1964;

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner and Permittee to operate an alcoholic beverage outlet to sell beer and wine within a convenience store conditioned upon the issuance of a Type 20 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 May 22, 2013, on file in the Development Services Department.

The project shall include:

- a. Operation of an alcoholic beverage outlet within a convenience store conditioned upon the issuance of a Type 20 license from the State Department of Alcoholic Beverage Control;
- b. Sales of alcoholic beverage shall be permitted between the hours of 8:00 a.m. and 12:00 midnight each day of the week.

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 June 6, 2016.
2. This Conditional Use Permit (CUP) shall expire on June 6, 2038. Prior to the expiration date of this CUP, the Owner/Permittee may submit a new CUP application to the City Manager for consideration with review and a decision by the appropriate decision maker at that time. The request for consideration shall be made at least 60 calendar days prior to the expiration of this Conditional Use Permit. An application for an extension shall be considered in accordance with Process Two if there is no record in the City of San Diego Police Department or other department or with any other governmental agency of any violations of the State of California Department of Alcoholic Beverage Control rules, regulations, and orders or of any violation of city, county, state or federal law, code, regulation or policy related to prostitution, drug activity or other criminal activity on the premises. An application for an extension shall be considered in accordance with Process Three if there is a record of violations as described in Section 141.0502(c)(7)(B).
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. 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.

11. 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/DESIGN REQUIREMENTS:

12. Pool or billiard table, football, or pinball games, arcade style video and electronic games, or coin-operated amusement devices are not permitted on the premises with an alcoholic beverage outlet.

13. Exterior public pay phones that permit incoming calls are not permitted on the premises, adjacent public sidewalks, or areas under the control of the owner or operator.

14. The owner or operator shall provide illumination, at a minimum level of 0.4 footcandles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. The illumination shall be in operation during all hours of darkness while the outlet is open for business so that persons standing on or near the premises at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.

15. The sign area pertaining to or referencing alcoholic sales or beverages shall not exceed 630 square inches.

16. The owner or operator shall list a business address and telephone number in the AT&T/San Diego telephone directory or other similarly distributed directory.

17. A maximum of 33 percent of the square footage of the windows and doors of the premises may bear advertising or signs of any sort, and all advertising and signs shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.

18. The owner or operator shall maintain the premises, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. The owner or operator shall eliminate graffiti within 48 hours of application.

19. The owner or operator shall provide trash receptacles, conveniently located for use by patrons, inside and outside the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. At least one 13-gallon trash receptacle shall be located inside the premises. At least one 32-gallon trash receptacle shall be located outside the alcoholic beverage outlet, and at least one additional 32-gallon trash receptacle shall be located in the parking areas under the control of the owner or operator.

20. The owner or operator shall post a copy of the Conditional Use Permit conditions in the licensed premises in a place where they may be readily viewed by any member of the general public or any member of a government agency. The Conditional Use Permit shall include a date

on which the permit will expire and become void. This date shall not be less than 25 years from the approval date of the Conditional Use Permit.

POLICE DEPARTMENT REQUIREMENTS: .

21. The permittee(s) shall post and maintain a professional quality sign facing the premises parking lot that reads as the following: NO LOITERING, NO LITERING, NO DRINKING OF ALCOHOLOIC 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.

22. The site shall include a video surveillance system that monitors, records and stores for a minimum of 15 days, the interior, exterior and parking lot controlled by the convenience store and readily accessible to law enforcement.

23. No more than 15-percent of the square footage of the premises will be used for the display of alcoholic beverages.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

- Wine shall not be sold in containers of less than 750 milliliters and shall not have an alcoholic content greater than 15-percent by volume, except for "Dinner Wines" which have been aged two years or more.
- Beer, malt beverages or wine cooler products, regardless of container size, must be sold in multi-unit quantities of no less than three (3).

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.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on May 22, 2013.

Permit Type/PTS Approval No.: CUP No. 1012289
Date of Approval: May 22, 2013

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.**

Owner

By _____

VRE BALBOA, LLC

Permittee

By _____

7-Eleven, Inc., a Texas corporation

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

HEARING OFFICER
RESOLUTION NO. HO-XXXX
CONDITIONAL USE PERMIT NO. 1012289
7-ELEVEN BALBOA AVENUE PROJECT NO. 288479

WHEREAS, VRE BALBOA, LLC, Owner and 7-ELEVEN, INC., A TEXAS CORPORATION permittee, filed an application with the City of San Diego for a permit to operate an off-sales alcoholic beverage outlet within a convenience store conditioned upon the issuance of a Type 20 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), on portions of a 0.52-acre site;

WHEREAS, the project site is located at 7807 Balboa Avenue in the IL-3-1 Zone of the Kearny Mesa Community Plan;

WHEREAS, the project site is legally described as Lot 6 of Metro Court Tract Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 5362, filed in the Office of the County Recorder of San Diego County, March 27, 1964;

WHEREAS, on May 22, 2013, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1012289 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on February 27, 2013, 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 May 22, 2013.

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 for a Type 20 liquor license to allow the sales of beer and wine within a convenience store on a site developed with a service station. The site is located at 7807 Balboa Avenue in the IL-3-1 Zone.

The site is designated General Commercial within the Kearny Mesa Community Plan which is primarily located within western Kearny Mesa between I-805 and SR-163 along the Clairemont Mesa Boulevard, Convoy Street and, Balboa Avenue corridors. These areas are developed with a mixture of uses, including automobile sales and repair centers, restaurants, fast food outlets, and furniture stores. The

Kearny Mesa Community Plan does not specifically speak to the sales of beer and wine within a convenience store. However, a goal of the General Commercial designation is to allow a broad array of uses, including commercial uses (i.e. retail and office) and industrial uses. Additionally, the community plan envisions opportunities for commercial uses that serve commuters traversing Kearny Mesa. Currently general commercial retail and restaurants surround the site. The site was previously developed with a service station with mini-mart. The site has been redeveloped with a similar use conducive to retail establishments which surround the property.

The proposed use, the limited sales of alcoholic beverages within a convenience store, implements a recommendation of the Community Plan encouraging a broad array of uses. 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 for a Type 20 liquor license to allow the “off- sales” of beer and wine within a convenience store on a site developed with a service station. The site is located at 7807 Balboa Avenue in the IL-3-1 Zone within the Kearny Mesa Community Plan.

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- sales” of beer and wine 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 other commercial establishments and the surrounding commercial traffic. The San Diego Police Department supports the limited sale of beer and wine as conditioned by the Conditional Use Permit to ensure that the sale of alcoholic beverages is maintained as an incidental part of the store. Conditions within the permit restrict the hours that beer and wine can be sold, beer and wine advertising requirements, security obligations, and that no more than 15-percent of the square footage of the premises will be used for the display of alcoholic beverages. All Police Department recommendations have been added to the draft permit as conditions or recommended conditions to the Department of Alcoholic Beverage Control (ABC). The San Diego Police Department’s Vice Unit will work with the applicant and the ABC to place additional conditions on the alcohol license to minimize the law enforcement concerns, if necessary. The SDPD has determined that the proposed off-sales of beer and wine at the proposed site would not be detrimental to the public health, safety, and welfare.

The project was determined to be exempt from the California Environmental Quality Act (CEQA) 15301 (Existing Facilities). Therefore, the proposed development will 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 for a Type 20 liquor license to allow the “off- sales” of beer and wine within a convenience store on a site developed with a service station. The site is located at 7807 Balboa Avenue in the IL-3-1 Zone within the Kearny Mesa Community Plan.

The site is designated for General Commercial within the Kearny Mesa Community Plan which in general, recommends broad array of uses. The proposed sales of alcoholic beverages within a convenience store will be in accordance with the San Diego 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 development regulation deviations are being proposed with this application. For the reasons above 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 for a Type 20 liquor license to allow the “off- sales” of beer and wine within a convenience store on a site developed with a service station. The site is located at 7807 Balboa Avenue in the IL-3-1 Zone within the Kearny Mesa Community Plan.

The proposed use, to sell beer and wine as an accessory use within a convenience store, is consistent with the existing commercial use of the property and implements the General Commercial land use designation of the Community Plan. The convenience store is not located near a church, school, residential zone, or park and is located in a zone which allows the sales of beer and wine in association with the issuance of a Conditional Use Permit. The San Diego Police Department (SDPD) made the public necessity or convenience determination to recommend approval of the project. The SDPD staff has determined that the proposed sales of beer and wine is a component of the convenient store and is not the principal sales product. The SDPD has determined that the proposed off-sales of beer and wine at the proposed site would not be detrimental to the public health, safety, and welfare. The permit prepared for this project includes various recommendations which include but are not limited to time of night and day beer and wine can be sold, beer and wine advertising limitations, security requirements, and that no more than 15-percent of the square footage of the convenience store will be used for the display of alcoholic beverages.

The proposed use is located within a newly developed convenience store with service station. The SDPD has determined the proposed use is appropriate at this location due to the proximity to other alcohol beverage outlets and the fact the site is not located near schools, near a residential zone, or public parks in the area, therefore the proposed use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1012289 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. 1012289, a copy of which is attached hereto and made a part hereof.

William Zounes
Development Project Manager
Development Services

Adopted on: May 22, 2013

Job Order No. 24002350



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Own

statement

Approval Type: Check appropriate box for type of approval (s) requested:
[] Neighborhood Use Permit [] Coastal Development Permit
[] Neighborhood Development Permit [] Site Development Permit [] Planned Development Permit [X] Conditional Use Permit
[] Variance [] Tentative Map [] Vesting Tentative Map [] Map Waiver [] Land Use Plan Amendment • [] Other

Project Title

Alc. bev. outlet permit (beer & wine off-sale) application for 7 Eleven conven. store

Project No. For City Use Only

288 497

Project Address:

7807 Balboa Avenue, San Diego CA 92111

Part 1 - To be completed when property is held by individual(s)

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 owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names 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 individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. 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 [X] Yes [] No

Name of Individual (type or print):

[] Owner [] Tenant/Lessee [] Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature : Date:

Name of Individual (type or print):

[] Owner [] Tenant/Lessee [] Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature : Date:

Name of Individual (type or print):

[] Owner [] Tenant/Lessee [] Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature : Date:

Name of Individual (type or print):

[] Owner [] Tenant/Lessee [] Redevelopment Agency

Street Address:

City/State/Zip:

Phone No: Fax No:

Signature : Date:

Project Title: _____

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? TX Corporate Identification No. 45-2794603
 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):
VRE Balboa, LLC.

Owner Tenant/Lessee

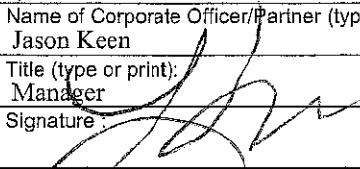
Street Address:
502 North Carroll Ave Suite 120

City/State/Zip:
South Lake TX

Phone No: (817.912.0523 Fax No: (817.912.0550

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

Title (type or print):
Manager

Signature:  Date: 08/27/12

Corporate/Partnership Name (type or print):
7-Eleven, Inc.

Owner Tenant/Lessee

Street Address:
One Arts Plaza-1722 Routh Street, Suite 1000

City/State/Zip:
Dallas, TX 75201

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: _____

**Attachment 8
Project Chronology**

**Project Chronology
7-Eleven Balboa Avenue
Project No. 288497**

Date	Action	Description	City Review Time	Applicant Response
9/7/12	First Submittal	Project Deemed Complete and distributed		
11/13/12	First Submittal Assessment Letter out		67 days	
1/15/13	Second submittal In	Normal Submittal		63 days from First Assessment Letter
3/5/13	Second Submittal Assessment Letter out		59 days	
3/12/13	Third submittal In	Normal Submittal		41 days from second Assessment Letter
3/22/13	Third Submittal Assessment Letter out		14 days	
5/22/13	Hearing Officer Hearing		31 days	
TOTAL STAFF TIME**			5 month 21 days	
TOTAL APPLICANT TIME**				3 months 14 days
TOTAL PROJECT RUNNING TIME**		From Deemed Complete to HO Hearing	9 months 7 days	

**Based on 30 days equals to one month.

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

PREMISE ADDRESS: 7807 Balboa Avenue, San Diego, CA 92123

TYPE OF BUSINESS: 7- Eleven Inc.

FEDERAL CENSUS TRACT: 0085.11

NUMBER OF ALCOHOL LICENSES ALLOWED: 1

NUMBER OF ALCOHOL LICENSES EXISTING: 30

CRIME RATE IN THIS CENSUS TRACT: 356.8%
(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:

The applicant is applying for a Conditional Use Permit for a 7-Eleven Convenience Store with a Type 20 Beer & Wine license. 7807 Balboa Avenue, formerly a Union 76 gas station mini-mart is a redeveloped 7-Eleven convenience store / gas station located at the southeast corner of Balboa Avenue & Convoy St. The 7-Eleven store has a redeveloped L-shaped parking and is located within a business district which includes several car dealerships and other retail stores. Currently, the 7-Eleven is open for business and has no existing alcohol license.

7-Eleven has an established and recognized business plan, and the sale of alcohol is an accessory and not the primary commodity.

Between 12/22/2011 and 10/16/2012, there were two (2) calls for service at the location which resulted in a total police out of service time(OST) of 0.58 hours. This census tract is considered high crime at 356.8% (considered high crime is it exceeds 120% of city-wide average).

The license will add to the number of licenses in the area. There are currently thirty (30) alcohol license existing in this census tract and one (1) allowed.

SUGGESTED CONDITIONS:

The following conditions, in addition to the 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 8:00 AM and 12:00 Midnight each day of the week.
2. Beer, malt beverages or wine cooler products, regardless of container size, must be sold in multi-unit quantities of no less than three (3).
3. Wine shall not be sold in bottles or containers smaller than 750 ml and shall not have an alcoholic content greater than 15% by volume, except for "Dinner Wines" which have been aged two years or more.
4. 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.
5. 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.
6. There shall be no amusement machines or video game devices on the premises at any time.
7. No pay telephone will be maintained on the interior or exterior of the premises.
8. No loitering on the premises and if necessary a security guard to control enforcement of this provision.
9. Proper illumination will be maintained in the parking lot.
10. A security camera is to be positioned to cover the main entrance for facial recognition.
11. 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 _____

SC. VANDERKAM
Name of SDPD Vice Sergeant (Print)

6/531-2349
Telephone Number

[Signature]
Signature of SDPD Vice Sergeant

10/23/12
Date of Review

Minutes of the Meeting of the Kearny Mesa Planning Group

October 17, 2012

Serra Mesa/Kearny Mesa Library
9005 Aero Drive, San Diego, CA

Elected Planning Group Members Present: Jay Arnett, Pat Collins, Peter Fayette, Buzz Gibbs, Carl Harry, Mike McNerney, Jeff Sallen, John Turpit, Richard Vernon

Guests and Staff: Michael Adams, Greg Locke, Kenneth Nakayama,

The Meeting was brought to order at 12:00 PM by Buzz Gibbs, Chairman of the Planning Group who acted as the Chair of the Meeting. A quorum was not present. Minutes of the September 18, 2012 meeting were distributed but action was delayed until a quorum would be present.

The Chair then offered the floor to anyone to make a public comment. Police Lieutenant Rick O'Hanlon, from Eastern Division, based here in Kearny Mesa, introduced himself to the group. He is filling as the Community Affairs Officer for the area as that position is temporarily open at this time. He briefly discussed some of the police issues in the area. Many years ago as one of his assignments Rick was a Community affairs Officer for Kearny Mesa.

A quorum was now present and the Chair asked for any changes or comments and the approval of the Minutes. The Minutes were approved as written by a vote of 8-0-1.

The Chair then presented a summary of mail and other items received since the last meeting. He reported on one issue that is being discussed at CPC, adding additional areas, mostly canyons, to Designated Parklands. The CPC issue is whether these should be Dedicated and Designated Parklands. None of these areas are in Kearny Mesa. A special interest group is lobbying to change these areas from Designated to Dedicated Parkland, which takes a public vote to change to another use other than parkland. There does not seem to be any issue with the use of these areas as parkland, just what they should be labeled. There was information received about applying for "block grants" but nothing seemed appropriate for Kearny Mesa. For Elected Planning Group members the City offers training in Community Planning Groups online, called ECOW. Completing an ECOW provides City Attorney indemnification for actions brought against elected planning group members for actions by the group. Closing mail the Chair informed the group that a runway reconstruction project, runway 10L/28R, the longer and instrument landing runway, will begin about October 1 for four-five weeks. This will reduce traffic but more aircraft will be using the shorter runway 10R/28L that will cause more noise in the residential areas like Royal Highlands.

The Chair proceeded with the first agenda item which was to select a replacement for Elected Planning Group member Carl Harry who is changing positions at the County and will not be doing properties in Kearny Mesa. Greg Locke, from the County Real Estate Department, has been attending meetings and would like to replace Carl on the Elected Planning Group representing the County. Upon a motion made and seconded, the group voted unanimously, 9-0-0, to have Greg replace Carl on the Elected Planning Group.

The next agenda item was action on a CUP for San Diego Christian Fellowship. The Chair reported that the applicant requested that this item be postponed to the next meeting as they still are in discussion with City staff on some crucial issues.

The next agenda item was a the amendment of a CUP for the 7-11 Service Station at 7807 Balboa Avenue to allow the sale of alcohol, Type 20, for off site consumption. Type 20 is beer and wine. William Adams presented the amendment for 7-11. He showed a powerpoint of the site that was recently completely redeveloped, changing from a 1960s era Union service station to the new 7-11 c-store with gas sales and upgraded landscaping. He discussed the security measures and training that 7-11 provides its employees regarding alcohol sales, He commented that almost all 7-11s have such alcohol sales. After some discussion and upon a motion made and seconded, the group voted unanimously, 9-0-0, to recommend the CUP amendment for Type 20 Alcohol sales.

Kenny Nakayama gave a brief update from Councilmember Lori Zapf's office. He commented that after the October elections and with the seating of the new council members, the council district boundaries changes will be in effect. A ninth council district is being added. Kearny Mesa will be staying in District 6 with Lorie Zapf but Serra Mesa, Linda Vista and Mission Valley will be moving to District 7. Kenny also informed the group that he will be reassigned to a different community when the district changes are in effect. He expects Ernie Navarro may be named as our representative.

The Chair closed the meeting with the request that members talk to people they know in the area who might be interested in becoming involved in the planning group. Elections will be coming up in March and a few current members will be reaching their term limits. We will need some new candidates.

There being no further business the meeting adjourned.

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.: 288497

PROJECT TITLE: 7-Eleven Balboa Avenue

PROJECT LOCATION-SPECIFIC: 7807 Balboa Avenue, San Diego, CA 92111 (Lot 6 of Metro Court Tract Unit No. 1 Map 5362)

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

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: Conditional Use Permit (CUP) to Amend CUP number 85-0669 to allow off site Alcohol Sales (Type 20 Alcohol License) and remodel of an existing convenience store located at 7807 Balboa Avenue. The project site is zoned IL-3-1, within Federal Aviation Administration Part 77 Noticing Area within the Kearny Mesa Community Plan area.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: William Adams
 525 B Street Suite 1500
 San Diego, CA 92101
 619-233-8200

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: Section 15301 – existing facilities
- STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT This project is exempt because only the use of existing facilities would change and no exterior physical changes would occur and as a result no environmental impacts would occur. In addition the project is exempt because it meets the criteria set forth in CEQA section 15301 – existing facilities and where the project would not involve an expansion of use and the exceptions listed in CEQA section 15300.2 would not apply.

LEAD AGENCY CONTACT PERSON: Lizzi

TELEPHONE: (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

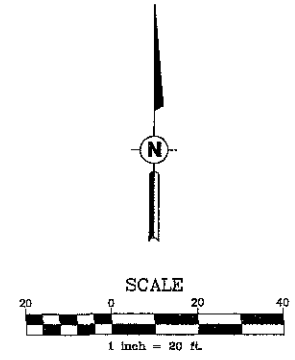
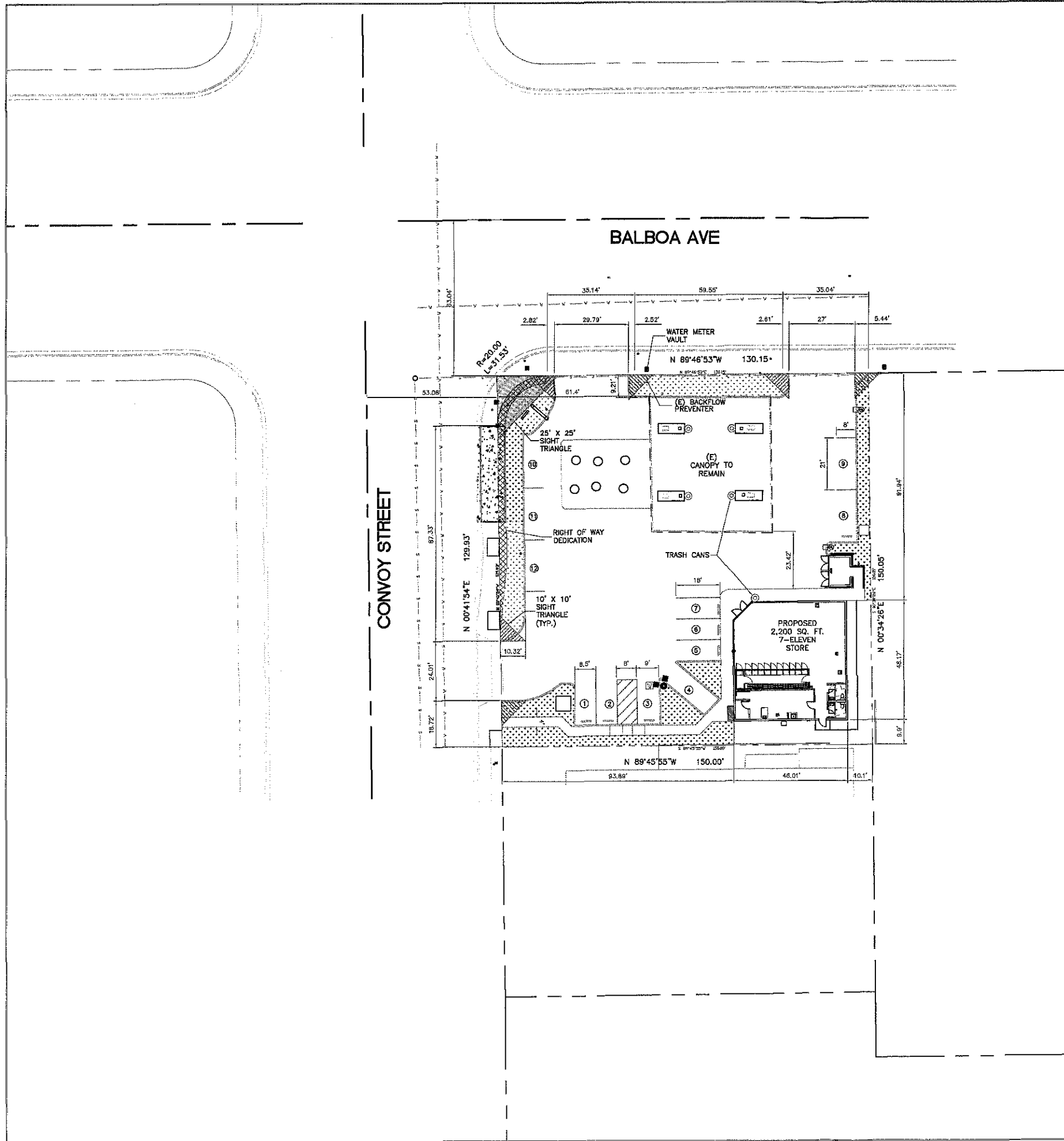
John Gomez / SENIOR PLANNER
 SIGNATURE/TITLE

3/1/2013
 DATE

CHECK ONE:

- SIGNED BY LEAD AGENCY
- SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:



HFA
ARCHITECTS
ENGINEERS
INTERIORS

HARRISON FRENCH
ASSOCIATES, LTD.

809 S.W. A Street, Suite 201
Hesperia, Arkansas 72712
t 479.273.7780
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OF THE PROFESSIONAL ETHICS OF THE
REGISTERED PROFESSIONAL ENGINEER AND ARCHITECT.

7-ELEVEN

7-ELEVEN
7807 BALBOA AVE
SAN DIEGO, CA

PROJ NUMBER: 14-11-00534

ISSUE BLOCK

STORE NO.: 1028336
DOCUMENT DATE: 2/26/2013
CHECKED BY: MTP
DRAWN BY: JAS

SITE
PLAN

SHEET:
C1.0



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7-ELEVEN
7807 BALBOA AVE
SAN DIEGO, CA
JOB NUMBER: 12-11-00594

ISSUE BLOCK

NO.	DESCRIPTION	DATE

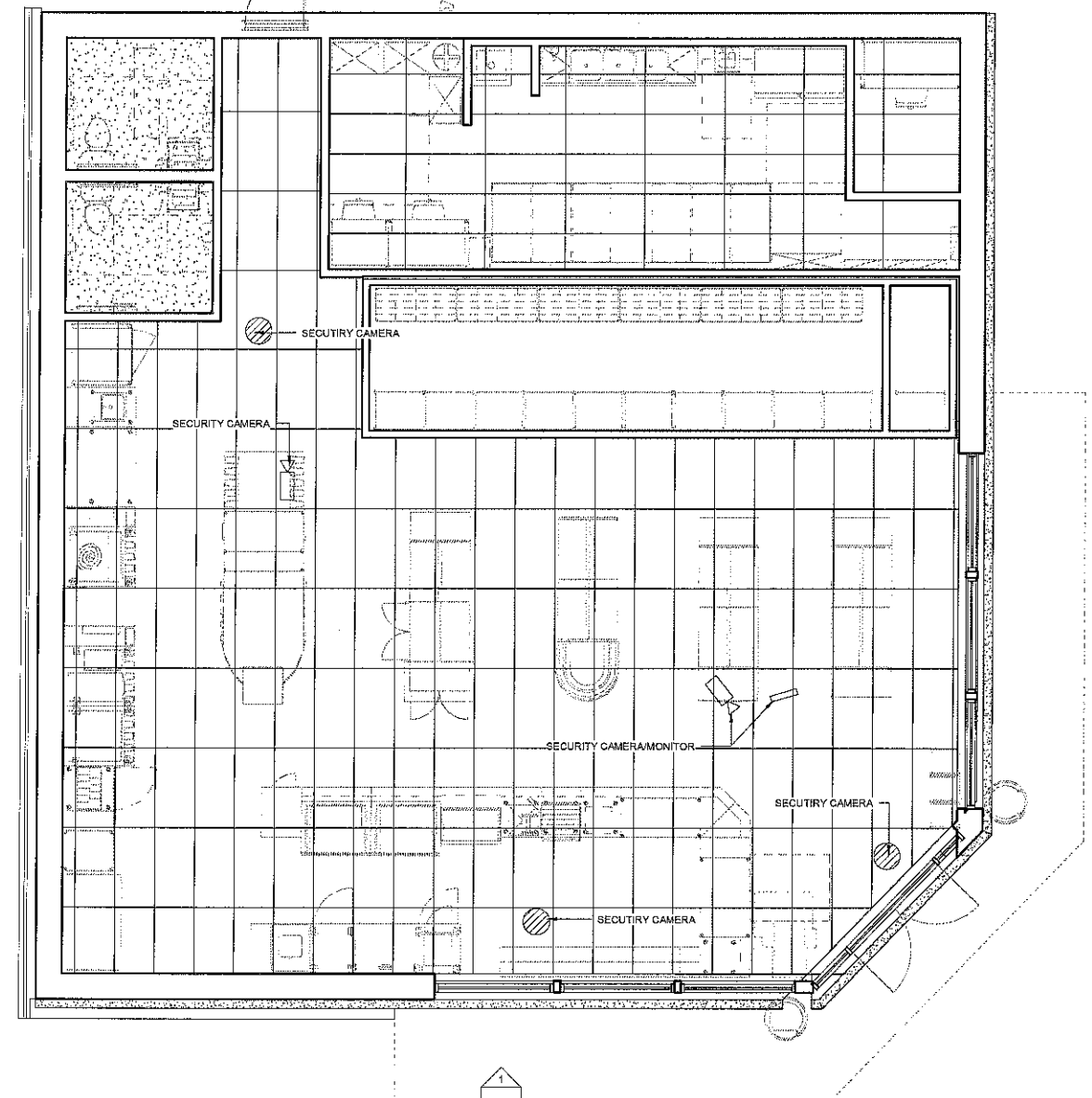
SITE NO.: 1028335
DOCUMENT DATE: 11/26/11
CHECKED BY: CS
DRAWN BY: SLJ

FLOOR PLAN

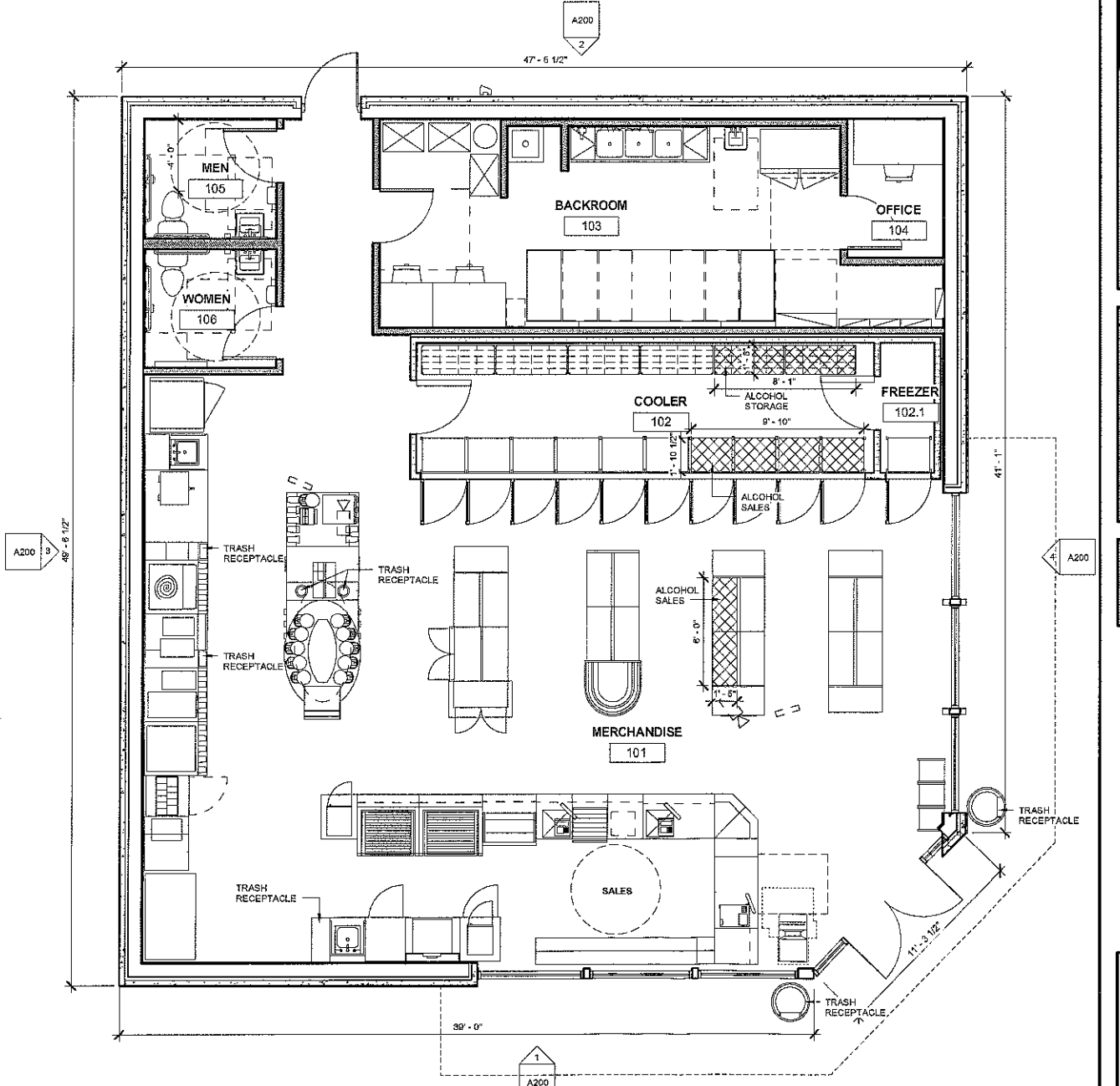
SHEET:
A100

NOTE: ALCOHOL SALES FROM 8 AM TO 12 AM

MERCHANDISE = 1,123SF
SALES = 226 SF
ALCOHOL SALES = 28 SF
ALCOHOL STORAGE = 13 SF
TOTAL ALCOHOL = 41 SF
3% ALCOHOL SALES



2 CUP REFLECTED CEILING PLAN
1/4" = 1'-0"



1 NEW FLOOR PLAN
1/4" = 1'-0"

DISCLAIMER
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11/22/2012 3:41:46 PM
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