



THE CITY OF SAN DIEGO

## Report to the Hearing Officer

DATE ISSUED: July 21, 2021 REPORT NO. HO-21-034

HEARING DATE: July 28, 2021

SUBJECT: TOTAL WINE & MORE CUP, Process Three Decision

PROJECT NUMBER: [682509](#)

OWNER/APPLICANT: California Fine Wines and Spirit LLC

### SUMMARY

Issue: Should the Hearing Officer approve a Conditional Use Permit to allow the sale of alcoholic beverages for off-site and limited on-site consumption within an existing 28,150 square-foot retail building located at 8740 Rio San Diego Drive in the Mission Valley Community Plan area?

#### Staff Recommendation:

1. Approve Conditional Use Permit No. 2559737.

Community Planning Group Recommendation: On April 7, 2021, the Mission Valley Community Planning Group voted 13-1-2 recommend approval of the proposed project, subject to a positive determination of approval by the San Diego Police Department.

Environmental Review: This project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Section 15301, Existing Facilities. The project would operate within an existing building and there is no physical expansion of use. This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on June 18, 2021, and the opportunity to appeal that determination ended July 2, 2021.

### BACKGROUND

The project is an application for a Conditional Use Permit (CUP) for an Alcoholic Beverage Outlet to allow the sale of beer, wine and distilled spirits in accordance with Types 21 and 42 Alcohol Beverage Control (ABC) licenses in an existing, vacant 28,150-square-foot retail tenant space within an existing shopping center at 8740 Rio San Diego Drive. The site is south of Friars Road, west of Qualcomm Way, east of Gill Village Way, and on the north side of Rio San Diego Drive (Attachment 1). The

storefront formerly housed an office supply store and the applicant is currently in the process of acquiring the necessary ABC licenses. The 2.12-acre project site is in the RMX-2 Zone; Community Plan Implementation Type A (CPIOZ-A); Parking Standards Transit Priority Area; Transit Area Overlay; Transit Priority Area; Airport Influence Area (Review Area 2 –Montgomery Field and San Diego International Airport (SDIA)); Federal Aviation Administration (FAA) Part 77 Notification area (Montgomery and SDIA) overlays of the Mission Valley Community Plan area. The site is designated as Mixed Use – High Density in the Mission Valley Community Plan (Community Plan) (Attachment 2). The project site is currently improved with a shopping center. Tenant spaces in the center include other retail, including furniture and department stores, hair salon, urgent care, restaurants, banking, and the subject currently vacant retail space. Surrounding uses include residential development to the west and south, and office and hotel use to the east, and the Civita development a mixed-used development, is located to the north, on the other side of Friars Road.

On April 15, 2021 the San Diego Police Department (SDPD) provided their recommendation to approve the project and provided conditions relating to the operation of the Alcoholic Beverage Outlet (Attachment 5).

## DISCUSSION

### Development Regulations and Location Criteria

The project proposes a CUP for the following licenses:

- Type 21 (General Liquor) ABC license: A Type 21 ABC license is an “off-sales” general liquor license, which does not allow alcohol sold at the store to be consumed on the premises.
- Type 42 (On-Sale Beer & Wine – Public Premises) ABC license: A Type 42 ABC license is defined as an “on-sale” license that authorizes the sale of beer and wine for consumption on- or off- the premises where sold. No distilled spirits may be on the premises. Minors are not allowed to enter and remain. Food service is not required.

In order to accommodate the mix of licenses, the interior of the premises would include three defined tasting areas ranging in size from approximately 150 square feet for each of the small tasting areas to 708 square feet for a “Wine Education Room” with 40 seats. Those three areas are where on-site consumption can occur, delineated from the general Type 21 area for the standard off-sales areas (Attachment 11).

The purpose of the underlying RMX-2 Zone is to provide a mix of uses with a focus on residential uses. The RMX zones support residential employment through the inclusion of shopkeeper units, small-scale artisan or production spaces, live/work units, or amenities for home employment and small businesses. Residential development shall be the primary use, and secondary uses can be non-residential or residential. Alcoholic Beverage Outlets are permitted with a CUP and subject to regulations set forth in San Diego Municipal Code (SDMC) Section [141.0502](#). An Alcoholic Beverage Outlet that does not comply with the limited use requirements of SDMC Section 141.0502(b), including certain location criteria per SDMC section 141.0502(b)(1), may still be permitted with a CUP decided in accordance with Process Three subject to the regulations in SDMC section 141.0502(c). SDMC section 141.0502(c) also requires a recommendation from the San Diego Police Department (SDPD) (Attachment 10).

Staff reviewed the project for conformance to applicable development regulations and land use policies and determined the proposed Alcoholic Beverage Outlet at this location requires a CUP because the project site does not meet certain location criteria set forth in SDMC section 141.0502(b)(1). Specifically, staff has made the following determinations:

**1. Within a census tract, or within 600 feet of a census tract, where the general crime rate exceeds the citywide average general crime rate more than 20 percent.**

The premise is within Census Tract (CT) No. 93.04 and is within the Eastern Division's patrolling responsibility. The reported crime rate for 2020 within CT No. 93.04 was 614.7%. A CT is considered to have "high crime" if the crime rate exceeds 120 percent of the city-wide average per the San Diego Police Department Conditional Use Permit Recommendation. The project is located within a "high crime" CT.

**2. Within a Census Tract, or within 600 feet of a Census Tract, where the ratio of Alcoholic Beverage Outlets exceeds the standard established by the California Business and Professions Code Section 23958.4.**

The subject property is in CT No. 93.04 which, based on the California Business and Professions Code Section 23958.4, permits four off-sale and ten on-sale Alcoholic Beverage Outlets. There are currently twelve existing off-sale and seventy existing on-sale Alcoholic Beverage Outlets within CT No. 93.04. This project would increase the number of active licenses by three, and would continue to exceed the standard in this CT.

**3. In an adopted Redevelopment Project Area.**

The subject property is not located within a Redevelopment Project Area.

**4. Within 600 feet of a public or private accredited school, a public park, playground or recreational area, church, hospital, or a San Diego County Welfare District Office.**

The project site is not located within 600 feet of any such areas.

**5. Within 100 feet of residentially Zoned property.**

The shopping center itself abuts the RM-3-9 Zone to the south and west, but the retail storefront is not located within 100 feet of residentially zoned properties.

Community Plan Consistency

The current Mission Valley Community Plan (Community Plan), approved in 2019, designates the site as Mixed Use – High Density, which allows for a variety of employment-based uses that serve residents and workers in the community, with residential uses strongly encouraged in both horizontal and vertical formats. The site was developed with a shopping center in the 1990s, when the site was designated for "Multi-use Development" in the Mission Valley Community Plan that was then in effect. That earlier land use was characterized as large-scale real estate projects which are implemented as part of a comprehensive development plan, and the shopping center provided, and continues to provide, retail opportunities to multi-unit residential developments to the immediate south and west of the shopping center. The center includes surface parking and a mix of retail

shops, restaurants, and banks. The proposal adds to this mix of retail uses and would occupy an existing vacant storefront and is consistent with the existing uses of the site. No development is proposed with the project. The Community Plan does not specifically address the sale of alcohol or Alcoholic Beverage Outlets; however, the sale of alcohol products is defined as a commercial retail use in the Land Development Code and is permitted as a limited use or with approval of a CUP. While the existing shopping center development does not conform with the recently approved land use designation as it is not a high density, mixed used project, the proposed sale of beer, wine and distilled spirits within the existing shopping center is consistent with the land use of the site as it was developed, and it does provide a service for nearby residents, enhancing the horizontal mixed use for those residents. Additionally, the recently adopted community plan redesignation of the site for mixed-use development was intended to occur either through total redevelopment of existing sites, or the creation of new uses coupled with existing buildings of differing uses, not to prohibit or impede the continued use of existing developments in their current form.

The underlying RMX-2 Zone is to provide a mix of uses with a focus on residential uses. The RMX zones support residential employment through the inclusion of shopkeeper units, small-scale artisan or production spaces, live/work units, or amenities for home employment and small businesses. Residential development shall be the primary use, and secondary uses can be non-residential or residential. Alcoholic Beverage Outlets are permitted subject to a CUP and subject to regulations set forth in SDMC Section 141.0502. The San Diego Police Department (SDPD) has provided their recommendation for the approval of the subject CUP and proposed conditions for the project that include, but are not limited to, hours of operation, advertising, and training for employees. The proposed Alcohol Beverage Outlet use is in general conformance with the land use designation and the intent of the Community Plan as the outlet is a secondary use for nearby residential uses.

#### Alcohol Sales-Project Analysis

As explained above, the proposed Alcoholic Beverage Outlet at this location requires a CUP because the project site does not meet certain location criteria of SDMC section 141.0502(b)(1). Approval of this application would allow the sale of alcohol to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The project has been reviewed by City staff and the SDPD for conformance to the applicable development regulations and land use policies. The SDPD supports the proposed CUP to allow the Alcoholic Beverage Outlet use, subject to conditions pertaining to the sale of alcohol and operations (Attachment 5). All Police Department conditions have been included in the permit. City staff supports the proposed Alcoholic Beverage Outlet at this location based on the commercial nature of the primary use of the site, and its location within a commercial building and shopping center. The operation of an Alcoholic Beverage Outlet to provide the sale of beer, wine and distilled spirits for consumption off- and on- premises is consistent with commercial uses of the existing shopping center and permitted by the underlying RMX-2 Zone. Furthermore, both staff and SDPD concluded that if the permit were appropriately conditioned, the proposed alcohol sales would not have an adverse impact on the surrounding neighborhood.

Staff is recommending approval of the project as conditioned by staff and the SDPD as it has been determined the business will not be detrimental to the public health, safety and welfare if the proposed conditions are implemented to ensure the project will not impact the surrounding area.

The CUP includes conditions that limit the hours of sales, limit advertising, prohibit machines or video game devices on the premises, prohibit loitering and graffiti, and provide for a well-lit area, with the objective to reduce the potential loitering and criminal activity on the property. Additionally, the CUP includes a 10-year expiration. The permit could be extended through the appropriate review and decision process and may be subject to additional conditions at that time.

### Conclusion

Staff has reviewed the application for the CUP for the off- and on-site consumption sale of beer, wine, and distilled spirits, and has determined that the project complies with all applicable regulations and policy documents. The project is consistent with the development standards in effect for this site per the adopted SDMC and the Community Plan. Furthermore, the permit has been conditioned to ensure the proposed sale of beer, wine and distilled spirits at this location would not be detrimental to the public health, safety, and welfare. Therefore, staff recommends the Hearing Officer approve the CUP.

### ALTERNATIVES

1. Approve Conditional Use Permit No. 2559737 with modifications.
2. Deny Conditional Use Permit No. 2559737, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

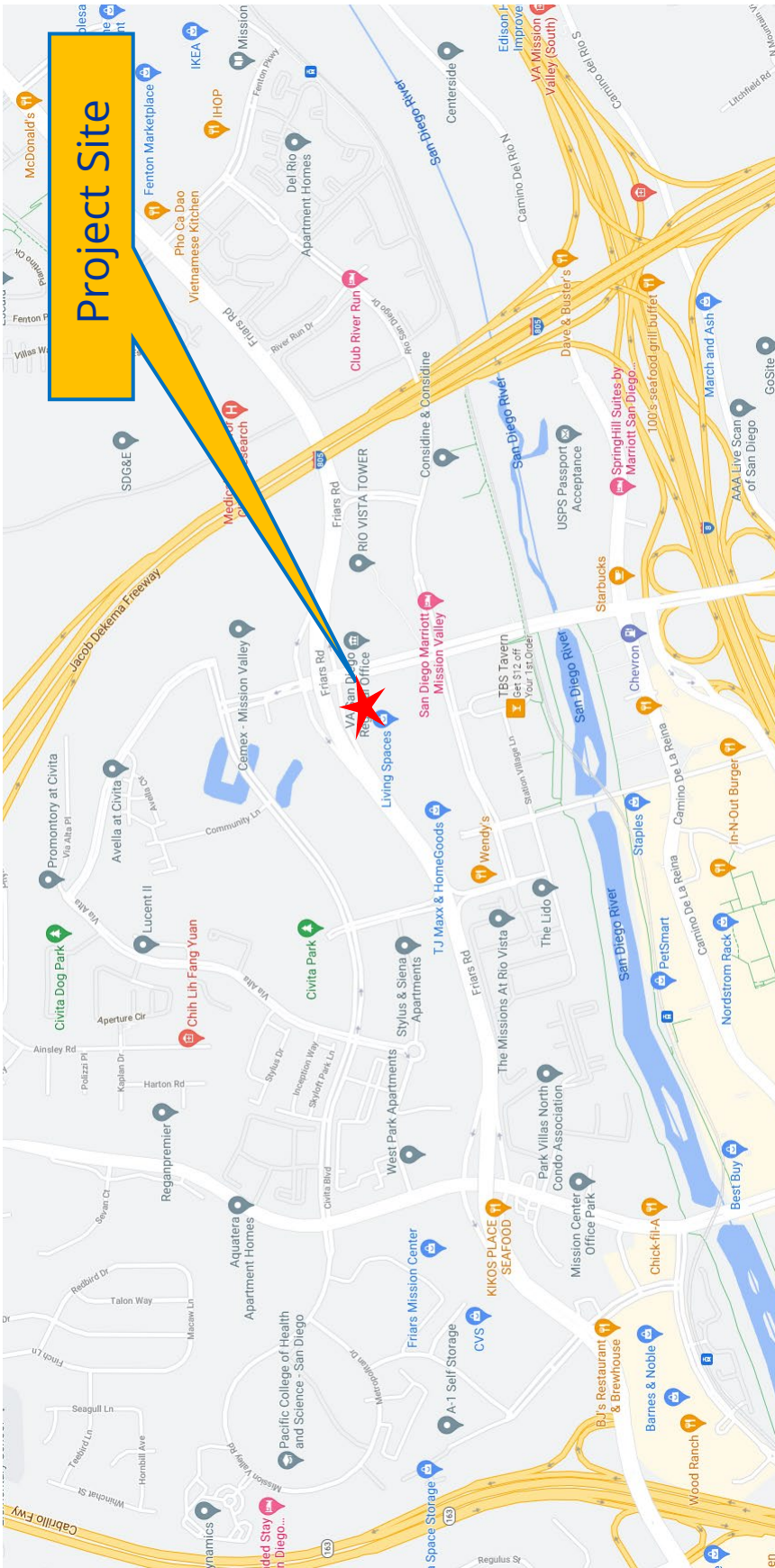
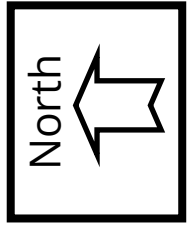


---

Martha Blake, Development Project Manager

### Attachments:

1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Draft Resolution with Findings
5. Draft Permit with Conditions
6. Environmental Exemption
7. Community Planning Group Recommendation
8. Ownership Disclosure Statement
9. Map with Census Tract and Alcohol Licenses
10. San Diego Police Department Recommendation
11. Project Plans

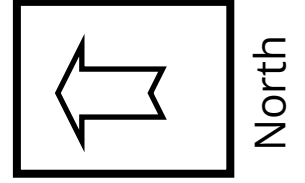


# Project Location Map

Total Wine and More  
PROJECT NO. 682509

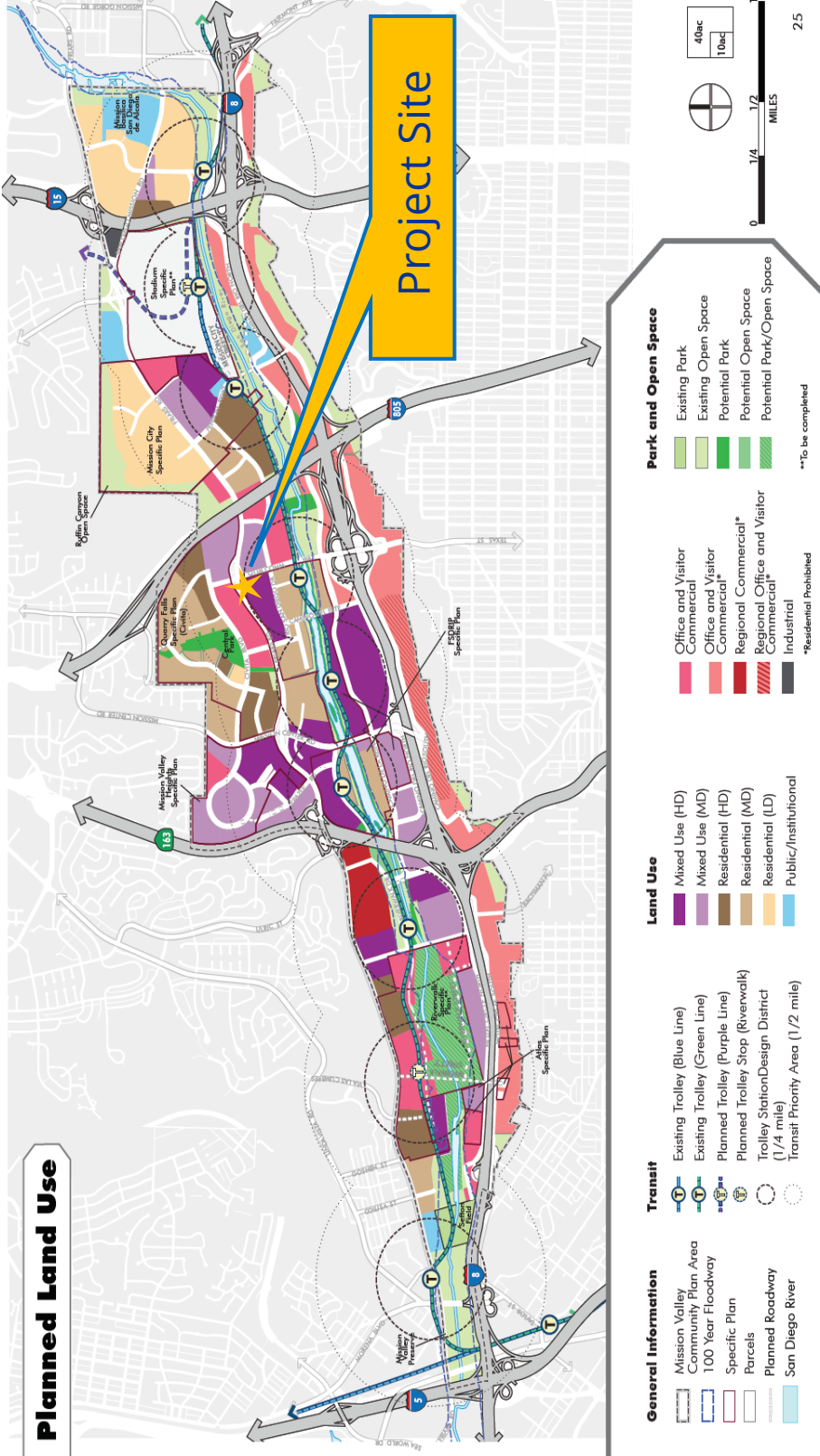




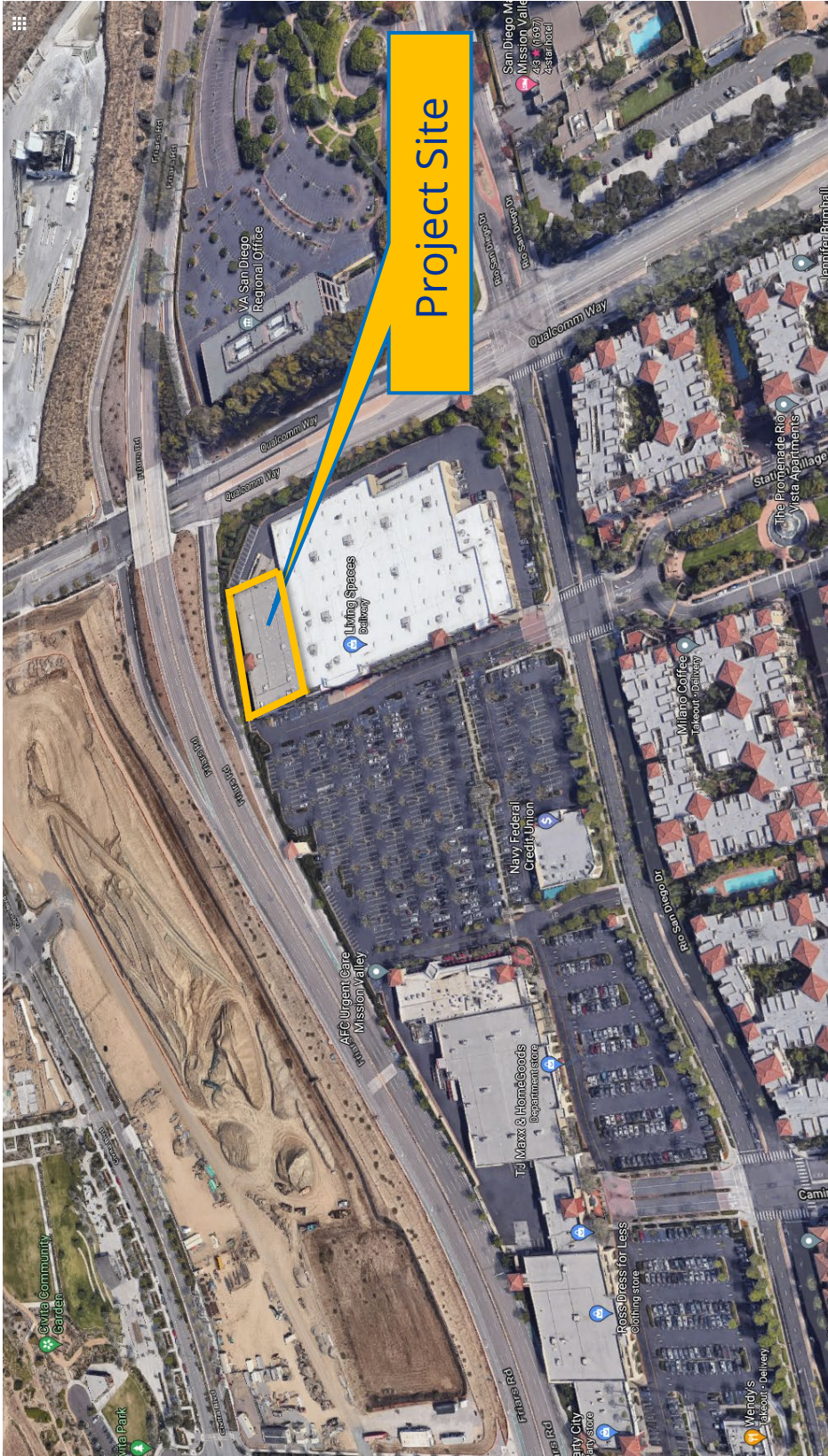


# Land Use Map

Total Wine and More  
PROJECT NO. 682509







## Aerial Photo

Total Wine and More  
PROJECT NO. 682509





HEARING OFFICER RESOLUTION NO. [REDACTED]  
CONDITIONAL USE PERMIT NO. 2559737  
**TOTAL WINE & MORE - PROJECT NO. 682509**

WHEREAS, California Fine Wines and Spirit LLC, a California limited liability company, Owner/Permittee, filed an application with the City of San Diego for a permit to operate an Alcoholic Beverage Outlet within an existing 28,150-square-foot retail building, conditioned upon the issuance of Type 21 and Type 42, licenses from the State Department of Alcoholic Beverage Control, as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 2559737, on portions of a 2.12-acre site;

WHEREAS, the project site is located at 8740 Rio San Diego Drive in the RMX-2 Zone; Community Plan Implementation Type A (CPIOZ-A); Parking Standards Transit Priority Area; Transit Area Overlay; Transit Priority Area; Airport Influence Area (Review Area 2 –Montgomery Field and San Diego International Airport (SDIA)); Federal Aviation Administration (FAA) Part 77 Notification area (Montgomery and SDIA) overlays of the Mission Valley Community Plan area;

WHEREAS, the project site is legally described as Parcel A: Lots 2 through 5 inclusive of Rio Vista West Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 13148, filed in the Office of the County Recorder of San Diego County, September 20, 1994; and Parcel B: Non-exclusive easements for ingress and egress, access, parking, vehicular, and pedestrian traffic purposes over a Portion of Lot 1 of Map 13148 as more fully contained in that certain reciprocal easement and operation agreement recorded December 23, 1994 as File No. 1994-0728195, Official Records, subject to the conditions therein contained in said document;

WHEREAS, on June 18, 2021 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 Guidelines Section 15301, Existing Facilities as the use will be located in an existing building, and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

WHEREAS, on July 28, 2021, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 2559737 pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the Hearing Officer of the City of San Diego, that it adopts the following findings with respect to Conditional Use Permit No. 2559737:

**A. CONDITIONAL USE PERMIT [SDMC Section 126.0305]**

**1. Findings for all Conditional Use Permits:**

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

The project proposes a Conditional Use Permit (CUP) to allow the operation of an Alcoholic Beverage Outlet for the sale of beer, wine and distilled spirits for off-site consumption in accordance with a Type 21 Alcoholic Beverage Control (ABC) license, and a Type 42 ABC license which allows for on-site consumption of beer and wine, within an existing, approximately 28,150-square-foot retail building located within a shopping center at 8740 Rio San Diego Drive in the RMX-2 Zone; Community Plan Implementation Type A (CPIOZ-A); Parking Standards Transit Priority Area; Transit Area Overlay; Transit Priority Area; Airport Influence Area (Review Area 2 – Montgomery Field and San Diego International Airport (SDIA)); Federal Aviation Administration (FAA) Part 77 Notification area (Montgomery and SDIA) overlays of the Mission Valley Community Plan area.

The current Mission Valley Community Plan (Community Plan), approved in 2019, designates the site as Mixed Use – High Density, which allows for a variety of employment-based uses that serve residents and workers in the community, with residential uses strongly encouraged in both horizontal and vertical formats. The site was developed with a shopping center in the 1990s, when the site was designated for “Multi-use Development” in the Mission Valley Community Plan that was then effect. That earlier land use was characterized as large-scale real estate projects which are implemented as part of a comprehensive development plan, and the shopping center provided, and continues to provide, retail opportunities to multi-unit residential developments to the immediate south and west of the shopping center. The center includes surface parking and a mix of retail shops, restaurants, and banks. The proposal adds to this mix of retail uses and would occupy an existing vacant storefront and is consistent with the existing uses of the site. No development

is proposed with the project. The Community Plan does not specifically address the sale of alcohol or Alcoholic Beverage Outlets; however, the sale of alcohol products is defined as a commercial retail use in the Land Development Code and is permitted as a limited use or with approval of a CUP. Alcoholic beverage outlets that do not meet all the locational criteria for alcohol sales as a limited use under San Diego Municipal Code Section 141.0502, as is the case with the project, may be approved with a Process Three CUP.

While the existing shopping center development does not conform with the recently approved land use designation as it is not a high density, mixed used project, the proposed sale of beer, wine and distilled spirits within the existing shopping center is consistent with the land use of the site as it was developed, and it does provide a service for nearby residents, enhancing the horizontal mixed use for those residents. Additionally, the recently adopted community plan redesignation of the site for mixed-use development was intended to occur either through total redevelopment of existing sites, or the creation of new uses coupled with existing buildings of differing uses, not to prohibit or impede the continued use of existing developments in their current form.

The San Diego Police Department (SDPD) has provided its recommendation for the approval of the subject CUP with proposed conditions for the project that include, but are not limited to, hours of operation, advertising, and training for employees. The proposed Alcoholic Beverage Outlet use is in conformance with the land use and the intent of the Community Plan. Therefore, based on the above, the proposed development will not adversely affect the applicable land use plan.

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

The primary use on the site is a commercial shopping center, in a currently vacant storefront. No development is proposed, only tenant improvements to accommodate a new tenant. The operation of an Alcoholic Beverage Outlet within the center is allowed in the RMX-2 Zone with a CUP at this location. The proposed Alcoholic Beverage Outlet at this location requires a CUP because the project site does not meet certain location criteria set forth in SDMC section 141.0502(b)(1), as the project site is 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. Additionally, there are currently 12 off-sale and 70 on-sale Alcoholic Beverage Outlets in the census tract, where 4 off-sale and 10 on-sale licenses is the standard set by the California Business and Professions Code. However, the CUP includes conditions provided by the staff and San Diego Police Department (SDPD) so that the alcohol sales and use would not have a negative impact on the surrounding neighborhood. The conditions include, but are not limited to, hours of operation, advertising, and loitering. The conditions stipulated as part of the CUP minimize any potential harm to public health, safety and welfare.

The CUP also includes conditions that prohibit arcade games or video game devices on the premises, prohibit loitering and graffiti, and prohibit public pay phones. Additionally, all retail employees are to be trained in ABC regulations through the Licensee Education on Alcohol and Drugs (LEAD) program and theft deterrence policies against the sale of alcoholic beverages to those under 21 years of age or intoxicated persons. Furthermore, the project is subject to all federal, state, and other local codes related to alcohol beverage sales, which would further ensure that the subject Alcoholic Beverage Outlet would not have an adverse impact on the public health, safety, and welfare. Additionally, it was determined that the proposed project was categorically exempt under CEQA, concluding that there were no significant environmental impacts as a result of the project. Based on the above, the proposed development will not be detrimental to the public health, safety, and welfare.

**c. 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 is a request for a CUP to allow the operation of an Alcoholic Beverage Outlet in accordance with an ABC license Types 21 and 42 in an existing, vacant retail location. The 2.12-acre site is located at 8740 Rio San Diego Drive in the RMX-2 Zone; Community Plan Implementation Type A (CPIOZ-A); Parking Standards Transit Priority Area; Transit Area Overlay; Transit Priority Area; Airport Influence Area (Review Area 2 –Montgomery Field and San Diego International Airport (SDIA)); Federal Aviation Administration (FAA) Part 77 Notification area (Montgomery and SDIA) overlays of the Mission Valley Community Plan area.

A Type 21 ABC license is defined as Off-Sale General, which authorizes the sale of beer, wine, and distilled spirits for off-site consumption. A Type 42 ABC license is defined as On-Sale Beer and Wine and authorizes the sale of beer and wine for consumption on or off the premises where sold. The interior of the premises will include three defined tasting areas where the on-site consumption can occur, delineated from the general Type 21 area of the standard off-sales areas.

The underlying RMX-2 Zone is to provide a mix of uses with a focus on residential uses. The RMX zones support residential employment through the inclusion of shopkeeper units, small-scale artisan or production spaces, live/work units, or amenities for home employment and small businesses. Residential development shall be the primary use, and secondary uses can be non-residential or residential. The RMX-2 Zone allows Alcoholic Beverage Outlets with a CUP and subject to regulations set forth in SDMC Section 141.0502.

The CUP for the project includes various conditions and corresponding exhibits of approval relevant to achieve compliance with the SDMC relative to lighting, loitering, litter, graffiti, and advertising. Although the project site does not meet certain location criteria set forth in SDMC section 141.0502(b)(1) because the project site is 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, and there are currently 12 off-sale and 70 on-sale Alcoholic Beverage Outlets in the census tract, where 4 off-sale and 10 on-sale licenses is the standard set by the California Business and Professions Code, the conditions of approval are required to minimize any potential harm to public health, safety, and welfare. No variance or deviations are requested as part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

**d. The proposed use is appropriate at the proposed location.**

The project is a request for a CUP to allow the operation of an Alcoholic Beverage Outlet in accordance with an ABC license Types 21 and 42 in an existing, vacant 28,150-square-foot retail location. The project site is within the RMX-2 Zone, within an existing shopping center in the Mission Valley Community Plan area.

The current Mission Valley Community Plan (Community Plan), approved in 2019, designates the site as Mixed Use – High Density, which allows for a variety of employment-based uses that serve residents and workers in the community, with residential uses strongly encouraged in both horizontal and vertical formats. The site was developed with a shopping center in the 1990s, when the site was designated for “Multi-use Development” in the Mission Valley Community Plan that was then effect. That earlier land use was characterized as large-scale real estate projects which are implemented as part of a comprehensive development plan, and the shopping center provided, and continues to provide, retail opportunities to multi-unit residential developments to the immediate south and west of the shopping center. The center includes surface parking and a mix of retail shops, restaurants, and banks. The proposal adds to this mix of retail uses and would occupy an existing vacant storefront and is consistent with the existing uses of the site.

The Community Plan does not specifically address the sale of alcohol or Alcoholic Beverage Outlets; however, the sale of alcohol products is defined as a commercial retail use in the Land Development Code and is permitted as a limited use or with approval of a CUP.

The underlying RMX-2 Zone is to provide a mix of uses with a focus on residential uses. The RMX zones support residential employment through the inclusion of shopkeeper units, small-scale artisan or production spaces, live/work units, or amenities for home employment and small businesses. Residential development shall be the primary use, and secondary uses can be non-residential or residential, and allows Alcoholic Beverage Outlets with a Conditional Use Permit and subject to regulations set forth in SDMC Section 141.0502.

The CUP includes conditions so that alcohol sales would not have a negative impact on the surrounding neighborhood. Although the project site does not meet certain location criteria set forth in SDMC section 141.0502(b)(1), such 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, and there are currently

12 off-sale and 70 on-sale Alcoholic Beverage Outlets in the census tract, where 4 off-sale and 10 on-sale licenses is the standard set by the California Business and Professions Code, the conditions of approval minimize any potential harm to public health, safety, and welfare. The CUP includes conditions addressing the hours of operation and that prohibit machines or video game devices on the premises, prohibit loitering, requires graffiti cleanup, and limits advertising. Additionally, all retail employees are to be trained in ABC regulations (LEAD), theft deterrence policies against the sale of alcoholic beverages to those under 21 years of age or intoxicated persons.

The sale of beer, wine and distilled spirits is consistent with the commercial nature of the existing center in which the outlet is proposed. The proposed Alcoholic Beverage Outlet is consistent with the underlying Mixed Use – High Density, which allows for a variety of employment-based uses that serve residents and workers in the community. The RMX-2 allows for this type of use at this location with a CUP. Therefore, based on the commercial retail nature of the existing shopping center, and conditions of approval, the proposed development would be appropriate at the proposed location.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 2559737 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. 2559737, a copy of which is attached hereto and made a part hereof.

---

Martha Blake  
Development Project Manager  
Development Services

Adopted on: July 28, 2021

IO#: 24008823

DRAFT

**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**

INTERNAL ORDER NUMBER: 24008823

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 2559737  
**TOTAL WINE & MORE CUP - PROJECT NO. 682509**  
HEARING OFFICER

This Conditional Use Permit No. 2559737 is granted by the Hearing Officer of the City of San Diego to California Fine Wines and Spirit LLC, a California limited liability company, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0502 and 126.0305. The 2.12-acre site is located at 8740 Rio San Diego Drive, in the RMX-2 Zone; Community Plan Implementation Type A (CPIOZ-A); Parking Standards Transit Priority Area; Transit Area Overlay; Transit Priority Area; Airport Influence Area (Review Area 2 – Montgomery Field and San Diego International Airport (SDIA)); Federal Aviation Administration (FAA) Part 77 Notification area (Montgomery and SDIA) overlays of the Mission Valley Community Plan area. The project site is legally described as: Parcel A: Lots 2 through 5 inclusive of Rio Vista West Unit No. 1, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 13148, filed in the Office of the County Recorder of San Diego County, September 20, 1994; and Parcel B: Non-exclusive easements for ingress and egress, access, parking, vehicular, and pedestrian traffic purposes over a Portion of Lot 1 of Map 13148 as more fully contained in that certain reciprocal easement and operation agreement recorded December 23, 1994 as File No. 1994-0728195, Official Records, subject to the conditions therein contained in said document.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate an alcoholic beverage outlet 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 July 28, 2021, on file in the Development Services Department.

The project shall include:

- a. The operation of an Alcoholic Beverage Outlet within an existing 4,754 square-foot market, conditioned upon the issuance of a Type 21 and Type 42 license from the State Department of Alcoholic Beverage Control;
- 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 August 11, 2024.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on August 11, 2031. The Owner/Permittee may request that the expiration date be extended in accordance with SDMC section 141.0502(c)(7).
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/DESIGN REQUIREMENTS:**

13. The automobile, motorcycle and bicycle parking spaces must be constructed in accordance with the requirements of the SDMC. All on-site parking stalls and aisle widths shall be in compliance with requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose, unless otherwise authorized in writing authorized by the appropriate City decision maker in accordance with the SDMC.
14. Owner/Permittee shall post a copy of the CUP 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.
15. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.
16. Pool or billiard tables, foosball or pinball games, arcade style video and electronic games, or coin-operated amusement devices are not permitted on the premises.
17. 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/Permittee.
18. The Owner/Permittee shall provide illumination, at a minimum level of 0.4-foot candles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the Owner/Permittee. 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.
19. 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, except for any advertising prohibited by law. 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.
20. The Owner/Permittee of the alcoholic beverage outlet shall post a prominent, permanent sign or signs stating, "No loitering, consumption of alcoholic beverages, or open alcoholic beverage containers are allowed, in the parking area, or on the public sidewalks adjacent to the premises, violators are subject to arrest." The sign shall be at least two square feet with two-inch block lettering. The sign shall be in English and Spanish.
21. The Owner/Permittee shall list a business address and telephone number in the Pacific Bell/San Diego telephone directory or other similarly distributed directory.
22. The Owner/Permittee 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/Permittee. 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/Permittee.

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

24. The hours of operation shall be between 8 AM and midnight.

25. The Conditional Use Permit shall include a date on which the permit will expire and become void. This date shall not be less than 10 years from the approval date of the Conditional Use Permit.

**POLICE DEPARTMENT REQUIREMENTS:**

26. No sales, service, or consumption of alcoholic beverages except between the hours of 8:00 AM and midnight.

27. Loitering will be prohibited.

28. No public pay phones will be permitted on the premise or adjacent and under the control of the applicant.

29. No arcade games of any type will be allowed/maintained inside the premise.

30. Video surveillance shall be recording and available to law enforcement upon request covering the interior and public access points of the premises. Upon request of law enforcement video surveillance shall not be deleted, voided or destroyed. Recordings shall be maintained for a minimum of 30 days absent a request of law enforcement.

31. Litter and any unauthorized graffiti will be removed promptly.

32. All retail employees are trained in ABC regulations (LEAD), theft deterrence and policies against the sale of alcoholic beverages to those under 21 years of age, transient and/or intoxicated.

**INFORMATION ONLY:**

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary 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 July 28, 2021 and HO-XXXX.

DRAFT

Permit Type/PTS Approval No.: Conditional Use Permit No. 2559737  
Date of Approval: July 28, 2021

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

\_\_\_\_\_  
Martha Blake  
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.

**California Wine & Spirits,  
a California limited liability company**  
Owner

By \_\_\_\_\_  
NAME:  
TITLE:

Permittee

By \_\_\_\_\_  
NAME:  
TITLE:

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



THE CITY OF SAN DIEGO

Date of Notice: June 18, 2021

# NOTICE OF RIGHT TO APPEAL ENVIRONMENTAL DETERMINATION

DEVELOPMENT SERVICES DEPARTMENT

SAP No. 24008823

---

**PROJECT NAME / NUMBER:** Total Wine and More CUP / 682509

**COMMUNITY PLAN AREA:** Mission Valley

**COUNCIL DISTRICT:** 7

**LOCATION:** The project is located at 8740 Rio San Diego Drive, San Diego CA.

**PROJECT DESCRIPTION:** Conditional Use Permit (CUP) for the sale of alcoholic beverages for off-site consumption with an ABC Type 21 license, and 3 on-site consumption areas for instructional tasting/samples with ABC Type 42 license and Type 86 license, at a 28,150 square-foot existing building located at 8740 Rio San Diego Drive. The 2.12 -acre site is in the RMX-2 Zone, ALUC (Mont), AIA (Rev 2-Mont. & SDIA), FAA (SDIA & Mont), CPIOZ-A, PSTPA, RTPA, TAOZ, and within in a TPA in Mission Valley Community Plan.

**ENTITY CONSIDERING PROJECT APPROVAL:** City of San Diego Hearing Officer

**ENVIRONMENTAL DETERMINATION:** 15301 (Existing Facilities)

**ENTITY MAKING ENVIRONMENTAL DETERMINATION:** City of San Diego Hearing Officer

**STATEMENT SUPPORTING REASON FOR ENVIRONMENTAL DETERMINATION:** The City of San Diego conducted an environmental review that determined that the project would not have the potential to cause a significant effect on the environment. Since the project would operate within an existing building and is not expanding a use the project meets the criteria set forth in CEQA Section 15301 and the exceptions listed in CEQA Section 15300.2 would not apply.

**DEVELOPMENT PROJECT MANAGER:** Martha Blake  
**MAILING ADDRESS:** 1222 First Avenue, MS 501, San Diego, CA 92101-4153  
**PHONE NUMBER / EMAIL:** 619-446-5375 / Mblake@sandiego.gov

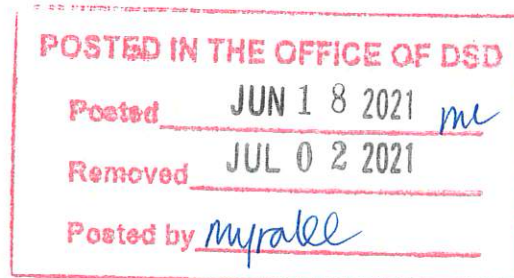
---

On June 18, 2021 the City of San Diego made the above-referenced environmental determination pursuant to the California Environmental Quality Act (CEQA). This determination is appealable to the City Council. If you have any questions about this determination, contact the City Development Project Manager listed above.

Applications to appeal CEQA determinations made by staff (including the City Manager) to the City Council must be filed in the office of the City Clerk within 10 business days from the date of the posting of this Notice so the final day to file an appeal is July 2, 2021. During the Statewide "Safer-at-Home" directive to reduce the spread of COVID-19, beginning March 19, 2020, appeals to the City Clerk must be filed by email or US Mail as follows:

- 1) Appeals filed via E-mail: Send the appeal by email to [Hearings1@sandiego.gov](mailto:Hearings1@sandiego.gov); your email appeal will be acknowledged within 24 hours. The [appeal application can be obtained here](#). You must separately mail the appeal fee by check payable to the City Treasurer to: City Clerk/Appeal, MS 2A, 202 C Street, San Diego, CA 92101. The appeal filing fee must be postmarked within 5 business days of the date the appeal is filed.
- 2) Appeals filed via US Mail: Send the appeal by US Mail to City Clerk/Appeal, MS 2A, 202 C Street, San Diego, CA 92101. Appeals filed by US Mail must have a United States Postal Service (USPS) postmark by the appeal deadline to be considered valid. The [appeal application can be obtained here](#). You must separately mail the required appeal fee by check payable to the City Treasurer to: City Clerk/Appeal, MS 2A, 202 C Street, San Diego, CA 92101. The appeal filing fee must be postmarked within 5 business days of the date the appeal is filed.

This information will be made available in alternative formats upon request.



**MINUTES OF THE REGULAR MEETING OF THE  
MISSION VALLEY PLANNING GROUP**

**April 7, 2021**

Via Zoom/Virtual Meeting

**Members Present:**

Steve Abbo, Michelle Addington, Ken Calloway, Kaye Durant, Rachel Erwin, Jonathan Frankel, Elizabeth Leventhal, Andrew Michajlenko, Keith Pittsford, Marco Sessa, Pete Shearer, Colton Speas, Josh Weiselberg. Alan Grant, Kathy McSherry, Marissa Feliciano, Michael Sherman

**Members Absent:** Cameron Bucher, Derek Hutsel, John La Raia

**City/Government Staff:** Anthony Hackett, Officer Dave Gibson, Mayor Todd Gloria, Nancy Graham

**Guests:** Rob Hutsel, Rachel Gregg, Phil Prath, Gina Austin, Kathleen Lippett, Carol Kelley, Vince Schwitzer

**A. CALL TO ORDER**

Jonathan Frankel called the regular meeting of the Mission Valley Planning Group (MVPG) to order at 12:02 via Zoom.

Verify Quorum: 17 members were present, constituting a quorum.

**B. PLEDGE OF ALLEGIANCE**

None

**C. INTRODUCTIONS / OPENING REMARKS/REPORT OF THE CHAIR**

Jonathan Frankel welcomed everyone to the meeting and reminded all there would be a record of the meeting made.

**D. APPROVAL OF MINUTES**

**Ken Calloway moved to approve the minutes of the March 3, 2021 meeting; \_Michelle Addington seconded the motion. Minutes were approved \_17\_-0-\_\_\_ with Steve Abbo, Michelle Addington, Ken Calloway, Kaye Durant, Rachel Erwin, Jonathan Frankel, Elizabeth Leventhal, Andrew Michajlenko, Keith Pittsford, Marco Sessa, Pete Shearer, Colton Speas, Josh Weiselberg. Alan Grant, Kathy McSherry, Marissa Feliciano, Michael Sherman approving**

**Anthony Hackett:** 100 day district newsletter issues supporting rental assistance program, extreme heat, potholes, encampments, Councilmember Campillo and Mayor Todd Gloria will have a zoom meeting, link will be shared in chatbox. Councilmember Campillo supports Measure C.

Officer Gibson: Crime stats 1 street robbery, assault with deadly weapon with a frying pan, assault with deadly weapon with knife at Mission Valley Trolley suspect in custody, strongarm robbery at Nordstrom Rack, 13 auto thefts. 9 batteries, 2 residences broken into, 6 business broken into, 21 cars broken into, 11 vandalism, Dragnet issue last Sunday, cars were impounded and citations issued. If anyone sees a car starting to stage and report immediately.

Rob Hutsel: Conrad Prebys organization has given a million dollar grant with the River Coalition

Jonathan Frankel commended Anthony Hackett for assistance with parking issues in Escala

#### **F. Membership Committee – Michele Addington**

1. Open positions on the MVPG Board 3 vacancies, property owner, residence or property tax payer. Anyone that would like to join can email either Jonathan or Michelle.

#### **G. Treasurer's Report – Elizabeth Leventhal**

1. Reported that the balance remains the same; \$1,344.16.

#### **H. Information Items**

Mayor Todd Gloria joined the meeting with information regarding infrastructure improvements and means to combat homelessness in Mission Valley

Most time is being spent on Covid 19. Train EMTs, Firefighters and Life Guards to administer vaccine. Mobile efforts and Balboa Park vaccine sites. Moved to Orange Tier today. Permitting outdoor dining on a permanent basis post Covid with advice and assistance.

Economy 45 million dollar budget deficit when he took office and we are now at 80 million and next year 150 million budget deficit. The city has received 306 million dollars from the federal government relief bill. All will be used for the next two years and be as frugal as possible. April 15<sup>th</sup> will be the new budget proposal by the Mayor.

Convention Center held over 4000 homeless persons in the last year. 1300 were placed in permanent houses. Remaining 600 in the Center have been transitioned to other shelters.

It is now being used to house unaccompanied minors 1400 to date. Mostly girls but some younger male siblings through July 15<sup>th</sup>. Transition in 30 days and close in July.

New encampment policy to clean up not at night or during inclement weather. Leads will be homeless assistance and fewer police officers.

Homeless Outreach Team, PATH, with social worker dedicated to District 7

Budget will be introduced April 15, 2021, updating City Climate Action Plan and will be good for Mission Valley, working on new electricity and gas franchise, closes April 15.

Questions from the Board:

Matt Griffin will follow up on any items not addressed.

Jonathan Frankel hopes the City will support the County's EIFD.

Rob Hutsel, supports the EIFD, and San Diego River taskforce, homeless issues and works with PATH on the Riverbed. Mayor Gloria asks where the River Park has made good use of Clean SD and he will keep that in mind in budget issue.

Michael Sherman, concern is where does the Mayor sit on Home Depot permit. Council makes this decision. The MVPG has supported this project. Mayor encourages the questions to Council Campillo as the council makes the decisions.

Kathleen Lippett question about code update April 7, 2020, path of travel was codified. Path of travel seems to be reserved for Cannabis Outlets, wonder why it was changed. Was the public aware of this changed done in April 2020. These processes are discussed for various other processes in Claremont and Pacific Beach housing near transit centers where path of travel is also used.

Meet your Mayor zoom meeting on April 17<sup>th</sup> at 11:00 am with Councilman Campillo. Link will be shared by Matt Griffin in the chat.

### **I. Action Items**

Phil Prath, Gina Austin and Vince Schwitzer Lawyer and architect for applicant. CUP Availability permit for Cannabis Outlet, at 2605 Del Rio South, previous CUP was rescinded and the developer is seeking another CUP to replace previous CUP

Comments from: Ken Calloway, said it was phrased that there were no odor complaints, there have been no odor complaints at the owners facilities,

Elizabeth Leventhal, requested where the closest Cannabis facility are: closest to the west SDRC near 163 and the closest to the east is March and Ash near the 805

Marco Sessa, is this an amendment to the previous CUP or a new CUP, where is the verification of deletion of previous CUP Gina Austin, Legal Group. There is no formal process to show that the previous CUP was rescinded. The city would not recommend approval unless there was an open permit. 2700 sq feet will be set aside and sit empty, is that for expansion? Gina: originally in order to meet the DID overlay, the 2700 square feet was necessary, so the DID has gone away but they don't want to amend the permit and slow down the process. It will remain empty. It would be a violation of the CUP if it is used.

Judy Strain, building size says the outlet is 2600 square feet and 8700 square feet of vacant space and is part of 15 to 16000 sq feet of office. Who are the existing tenants. Applicant owns the building and leases to offices that are comfortable to be near cannabis outlets.

Ken Calloway, that there are one to the west and one to the east and two others in the area, Phil explains that there are two council districts. Jonathan Frankel asks to clarify that this will not exceed the 4 total in District 7, that is correct.

Jonathan Frankel explains the CUP findings, the land use plan, the CUP will not be detrimental to health and safety.

Elizabeth Leventhal just because we can approve, doesn't mean we should.



Ken Calloway, a personal objection however he is not convinced the underage activity is not far enough away.

Jonathan Frankel made the motion to approve, Kaye Durant seconded the motion. Ken Calloway and Elizabeth Leventhal oppose the CUP, 14 members approve vote is 14-2-1 to approve. Steve Abbo recused himself from this action item due to personal interest in the application.

Pete Shearer left the call.

Steve Rawlings made a presentation for a CUP for Total Wine and More in the previous Office Depot, store is 23000 square feet. Floor plan will have 3 areas for tasting. One room will be set up as classroom. Total Wine and More has 200+ stores in US, 28 stores in CA and these will be the first two in San Diego. Fifty to seventy five employees are full time and will live within a few miles of the store. These stores are destination stores due to variety and scarcity of wines. Met with SDPD and will have a report into the CUP and met with Councilman Campillo.

Questions: Ken Calloway different type of facility, taking wineries to the market. The store must have a type 42 license which requires only onsite servings limited to those areas. Cigars will also be sold and state license and regulated by Federal government. Typically only complaint is availability of outlets, serving to minors and inebriated patrons. Must be 21 to enter the store. The employees are trained to observe and handle these types of issues.

Elizabeth Leventhal, due you know the number of permits allowed and operating. There are 10 existing off sale licenses in the census track. ABC allows 4 in the census track without getting approval for public convenience and necessity and they are typically over saturated due to the type of commercial activities in the areas.

Josh Weinberg says the store might draw to the small businesses around the site.

Marco Sessa must recuse himself from the vote.

Jonathan Frankel asks is zoning is not allowed by right but through the CUP. SDPD separate application for the finding of public convenience and necessity. Det Sgt Ben McKurry and will put together a recommendation for any modifications or requirements.. Should be submitted by end of April 2021.

Jonathan Frankel cycle review process is in place and SDPD and after that is going to hearing. That is correct, cycle review process is complete, just waiting on SDPD and MVPG comments.

Kathleen Lippett states there are 12 off sales CUP in the census track.

Ken Calloway asks what the census track and ABC number of permits allowed. And how that effects the MVPG. Jonathan Frankel states that licenses are regulated by crime rates and ABC licenses. SDPD can say that the license can be supported due to the excess of licenses.

The state ABC used to have total control of licenses, in the 1980's the cities took back the licenses.

Steve Rawlings explains that the number of licenses is arbitrary and after that number is reached, it must have a CUP. It's a common issue due to the concentration of commercial activities.

Public convenience and necessity will be made by SDPD.

Elizabeth Leventhal, since the SDPD has not made a recommendation, she makes a motion to continue the item subsequent to information from SDPD on the public convenience and necessity.

Kaye Durant asks to modify the motion to approve the motion contingent upon positive determination of approval by SDPD.

Elizabeth has withdrawn her motion

Kaye Durant makes a motion to recommend approval of the CUP subject to positive determination by the SDPD of public convenience and necessity.

Michelle Addington seconds the motion.

13 in favor Elizabeth Leventhal opposes. Marco Sessa and Steve Abbo recuse themselves due to financial interest in the building and competitive store in the area.. Final vote is 13-1-2

## **J. Committee/Community Reports:**

### **1. Subcommittee Reports:**

#### **a. Standing Committees:**

- 1) Design Advisory Board – normally meets the Monday prior to the MVPG meeting at 3:30 p.m. at the Mission Valley Library- Andrew Michajlenko  
No meeting last month and none in the coming month

#### **b. Ad Hoc Committees**

1) Public Health, Safety and Welfare – Elizabeth Leventhal thanks Mayor Gloria on his attention on homeless. County Board of supervisors voted to support County wide homeless issue.

- 2) MV Stadium Redevelopment - Kaye Durant Old stadium is down and new stands are rising. SDSU is in discussion with MLS to have soccer at the new Aztec stadium.

### **1. Community Reports**

a. San Diego River Coalition – Alan Grant-Normally meets the third Friday of each month at 3:00 p.m. at the Mission Valley Library. No meetings scheduled.

b. Community Planning Chairs Meeting –Michele Addington/Jonathan Frankel Councilmember Joe La Cava, District 1, discussed Updates on 600-24, no specifics yet. Development services is going to online totally. Library master plan is being updated and a community outreach will be done by email at <https://supportmylibrary.org/master-plan/>

### **2. Miscellaneous Mail/Items-For the Good of the Order – none**

**K. Adjournment:** Meeting was adjourned at 1:29\_\_ P.M. Next Regular Meeting Date – May 5, 2021at noon with location likely to be electronic (Zoom).

---

Kaye Durant for Cameron Bucher, Secretary

	<b>City of San Diego Development Services</b> 1222 First Ave., MS 302 San Diego, CA 92101 (619) 446-5000	<h1 style="margin: 0;">Ownership Disclosure Statement</h1>	<b>FORM DS-318</b>  October 2017
---	---	--	--

**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 ☒ Conditional Use Permit ☐ Variance  
☐ Tentative Map ☐ Vesting Tentative Map ☐ Map Waiver ☐ Land Use Plan Amendment • ☐ Other \_\_\_\_\_

**Project Title:** Total Wine & More **Project No. For City Use Only:** \_\_\_\_\_

**Project Address:** 8740 Rto San Diego Drive, San Diego, CA

**Specify Form of Ownership/Legal Status (please check):**

☐ Corporation ☐ Limited Liability -or- ☐ General - What State? \_\_\_\_\_ Corporate Identification No. \_\_\_\_\_  
☒ Partnership ☐ Individual

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter 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), applicant(s), and other financially interested persons of the above referenced property. A financially interested party includes any individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver or syndicate with a financial interest in the application. If the applicant includes a corporation or partnership, include the names, titles, addresses of all individuals owning more than 10% of the shares. If a publicly-owned corporation, include the names, titles, and addresses of the corporate officers. (A separate page may be attached if necessary.) If any person is a nonprofit organization or a trust, list the names and addresses of **ANY** person serving as an officer or director of the nonprofit organization or as trustee or beneficiary of the nonprofit organization. A signature is required of at least one of the property owners. 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.

**Property Owner**

Name of Individual: RVS Retail LP, c/o George Yermacos, V.P. Director of Property Management ☒ Owner ☐ Tenant/Lessee ☐ Successor Agency

Street Address: 5465 Morehouse Drive, Suite 260

City: San Diego State: CA Zip: 92121

Phone No.: 658-220-7212 Fax No.: \_\_\_\_\_ Email: george@sudprop.com

Signature: [Signature] Date: MARCH 31, 2021

Additional pages Attached: ☐ Yes ☒ No

**Applicant**

Name of Individual: California Fine Wines & Spirits, LLC ☐ Owner ☒ Tenant/Lessee ☐ Successor Agency

Street Address: 8600 Rockledge Drive, Suite 150

City: Bethesda State: MD Zip: 20817

Phone No.: 301-834-1543 Fax No.: \_\_\_\_\_ Email: CHuntzinger@totalwine.com

Signature: [Signature] Date: MARCH 29, 2021

Additional pages Attached: ☐ Yes ☐ No

**Other Financially Interested Persons**

Name of Individual: \_\_\_\_\_ ☐ Owner ☐ Tenant/Lessee ☐ Successor Agency

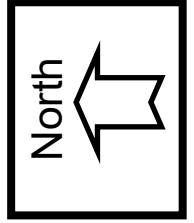
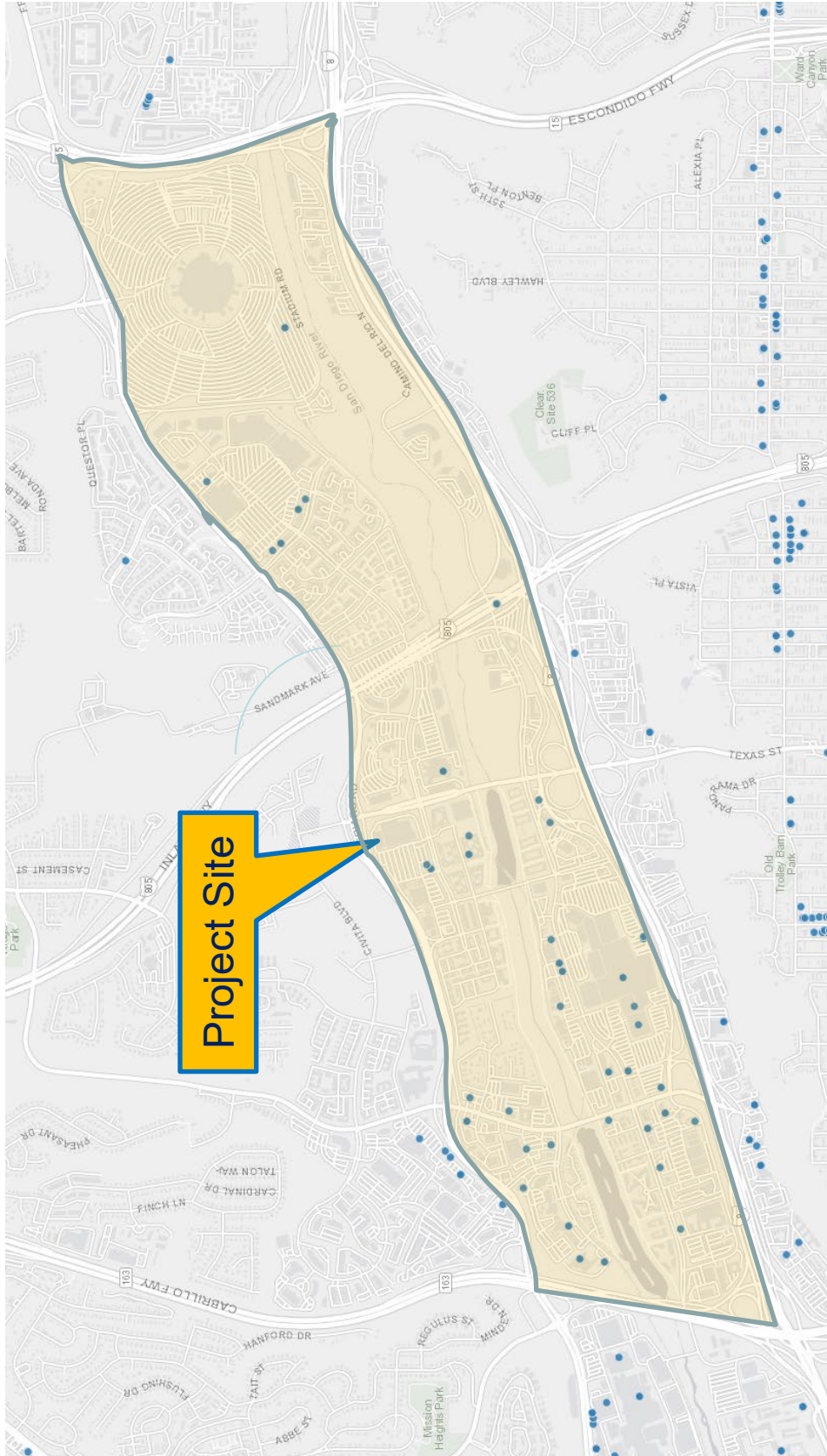
Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_ Email: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Additional pages Attached: ☐ Yes ☐ No



## Liquor Licenses within Census Tract 93.04

Total Wine and More/ 8740 Rio San Diego Drive

PROJECT NO. 682509



## SAN DIEGO POLICE DEPARTMENT CONDITIONAL USE PERMIT RECOMMENDATION

PREMISE ADDRESS: 8740 Rio San Diego, San Diego CA 92108

TYPE OF BUSINESS: Liquor store (Type 21)/Tasting Room (Type 42)

FEDERAL CENSUS TRACT: 93.04

NUMBER OF ALCOHOL LICENSES ALLOWED: Off-Sale: 4/On-Sale: 10

NUMBER OF ALCOHOL LICENSES EXISTING: Off-Sale: 12/On-Sale: 70 (over-concentrated)

CRIME RATE IN THIS CENSUS TRACT: 614.7% - High Crime  
(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 premises is located within census tract 93.04. The reported crime rate for 2020 within Census Tract 93.04 was 614.7% and the alcohol crime rate was 163.7%.

SUGGESTED CONDITIONS:

Due to the extremely high crime rate and alcohol rate coupled with the overconcentration of Off-Sale alcohol licenses and On-Sale alcohol licenses the San Diego Police Department agrees with the issuance of a Conditional Use Permit so long as the following conditions are incorporated:

1. No sales, service, or consumption of alcoholic beverages except between the hours of 8:00 a.m. and Midnight.
2. Loitering will be prohibited.
3. No public pay phones will be permitted on the premise or adjacent and under the control of the applicant.
4. No arcade games of any type will be allowed/maintained inside the premise.
5. Video surveillance shall be recording and available to law enforcement upon request covering the interior and public access points of the premises. Upon request of law enforcement video surveillance shall not be deleted, voided or destroyed. Recordings shall be maintained for a minimum of 30 days absent a request of law enforcement.
6. Litter and any unauthorized graffiti will be removed promptly.
7. All retail employees are trained in ABC regulations (LEAD), theft deterrence and policies against the sales of alcoholic beverages to those under 21 years of age, and/or intoxicated.

174

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE ☒

DENY ☐

Benjamin M. Curry

Name of SDPD Vice Sergeant (Print)

Ben M. Curry

Signature of SDPD Vice Sergeant

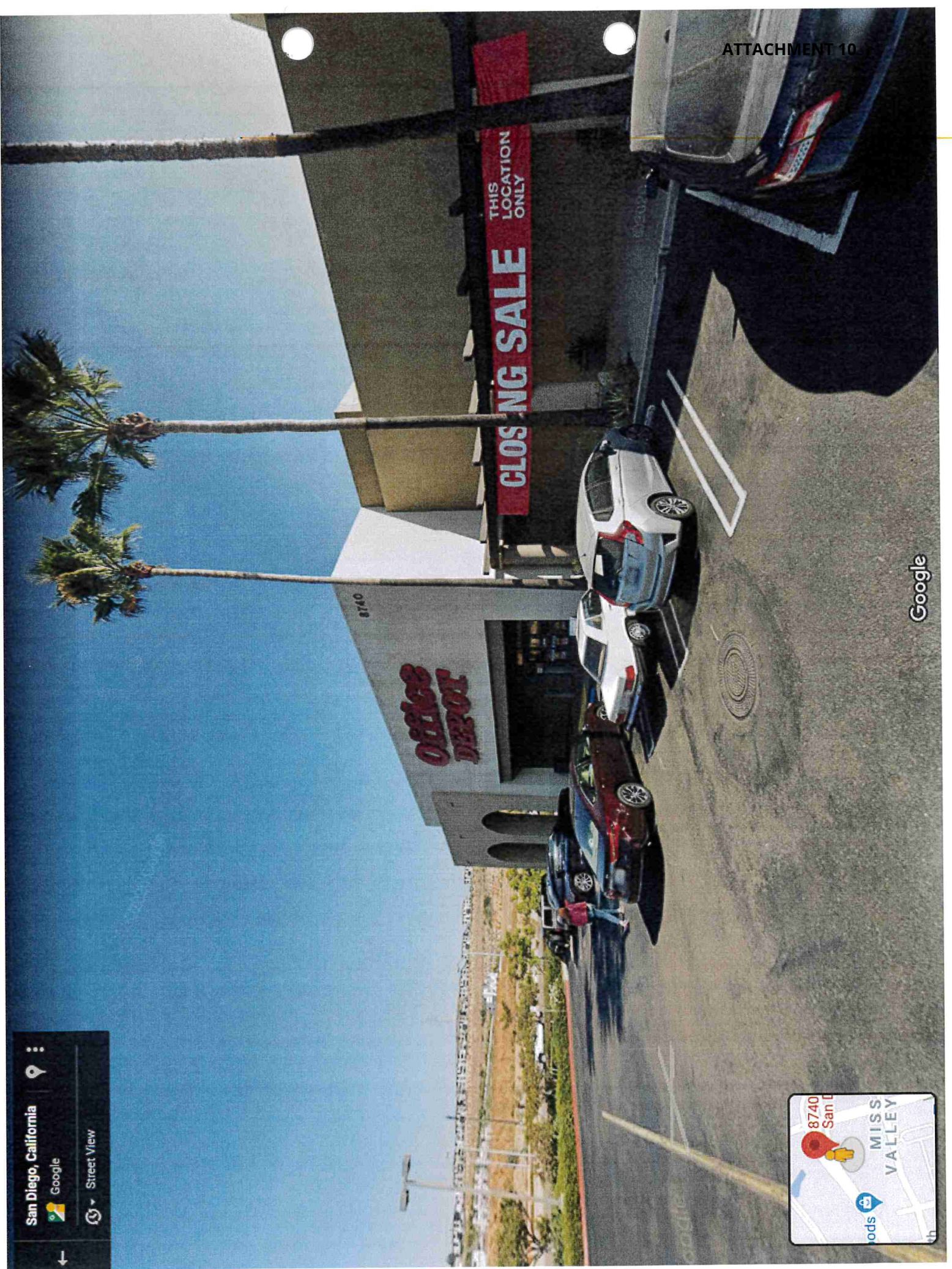
619 531-2973

Telephone Number

4-15-21

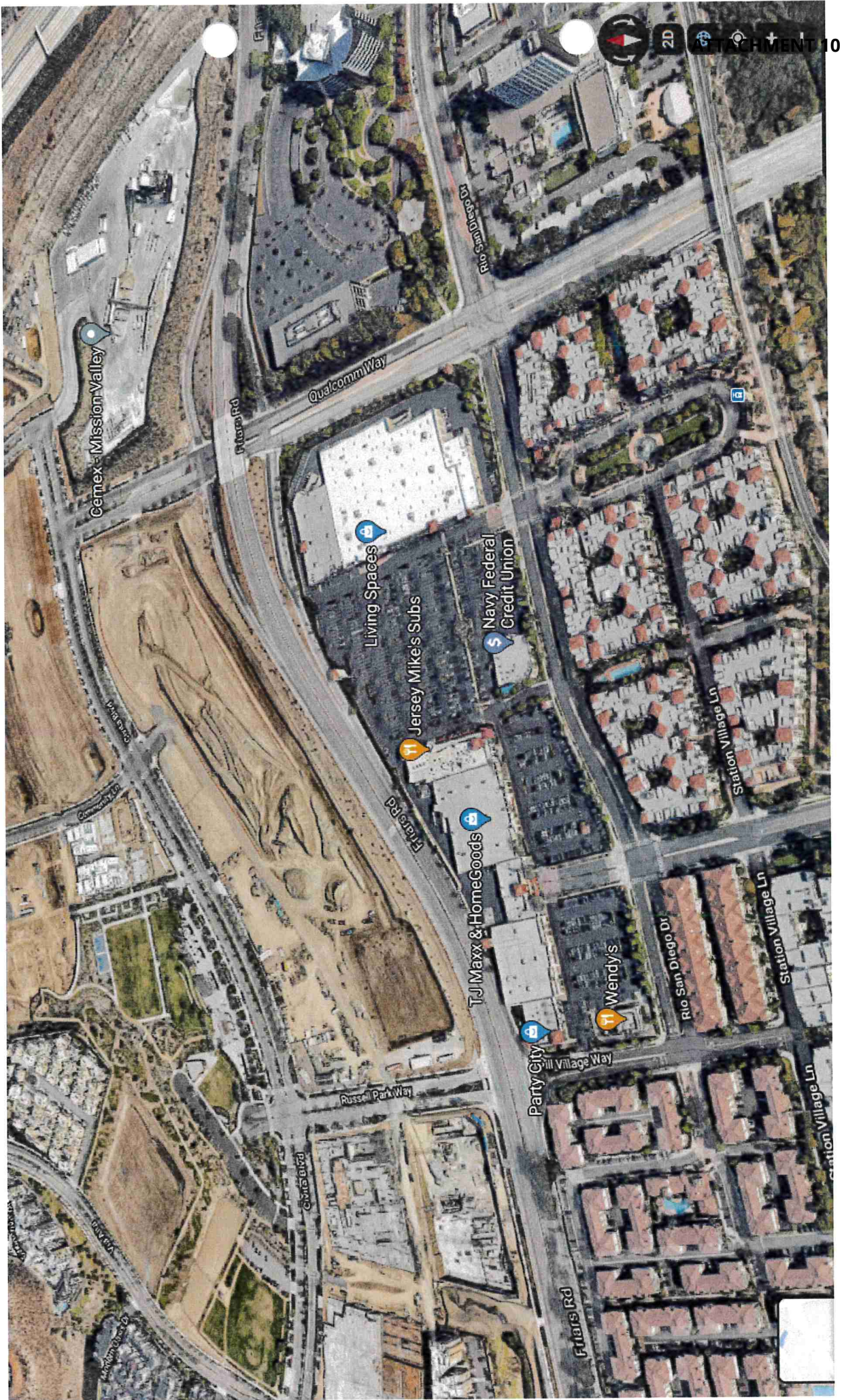
Date of Review





Google







SPENCER Year: 2021 Address: 8740 Rio San Diego, San Diego Ca 92108

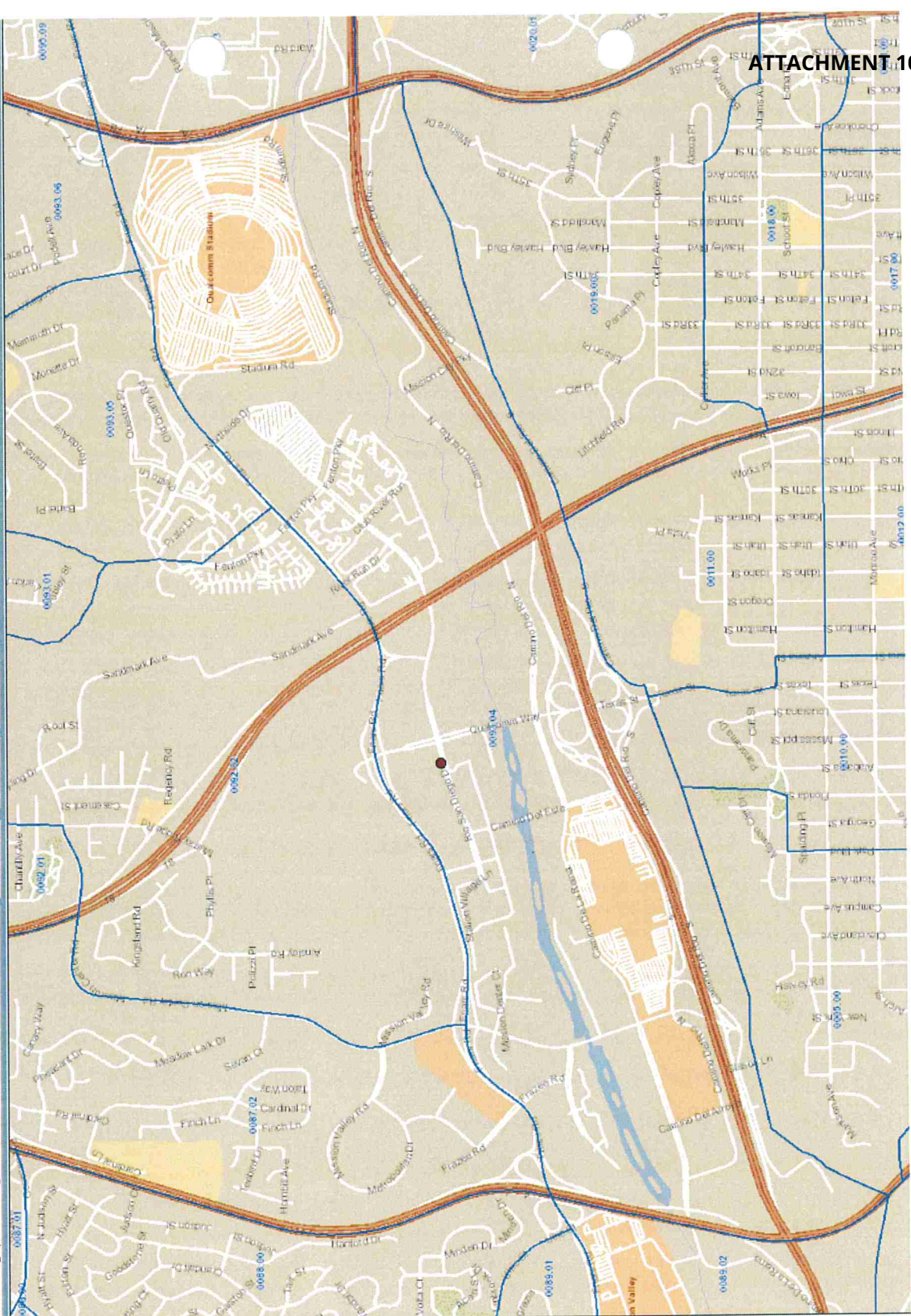
Matched Address

Address	8740 RIO SAN DIEGO DR, SAN DIEGO, CA 92108
MSA/MO Code	41740
State Code	36
County Code	073
Tract Code	0693.04
MSA/MO Name	SAN DIEGO-CHULA VISTA-CARLSBAD, CA
State Name	CALIFORNIA
County Name	SAN DIEGO COUNTY

Census demographic data for the year 2021 are currently unavailable.

Census Demographic Data

☐ User Select Tract



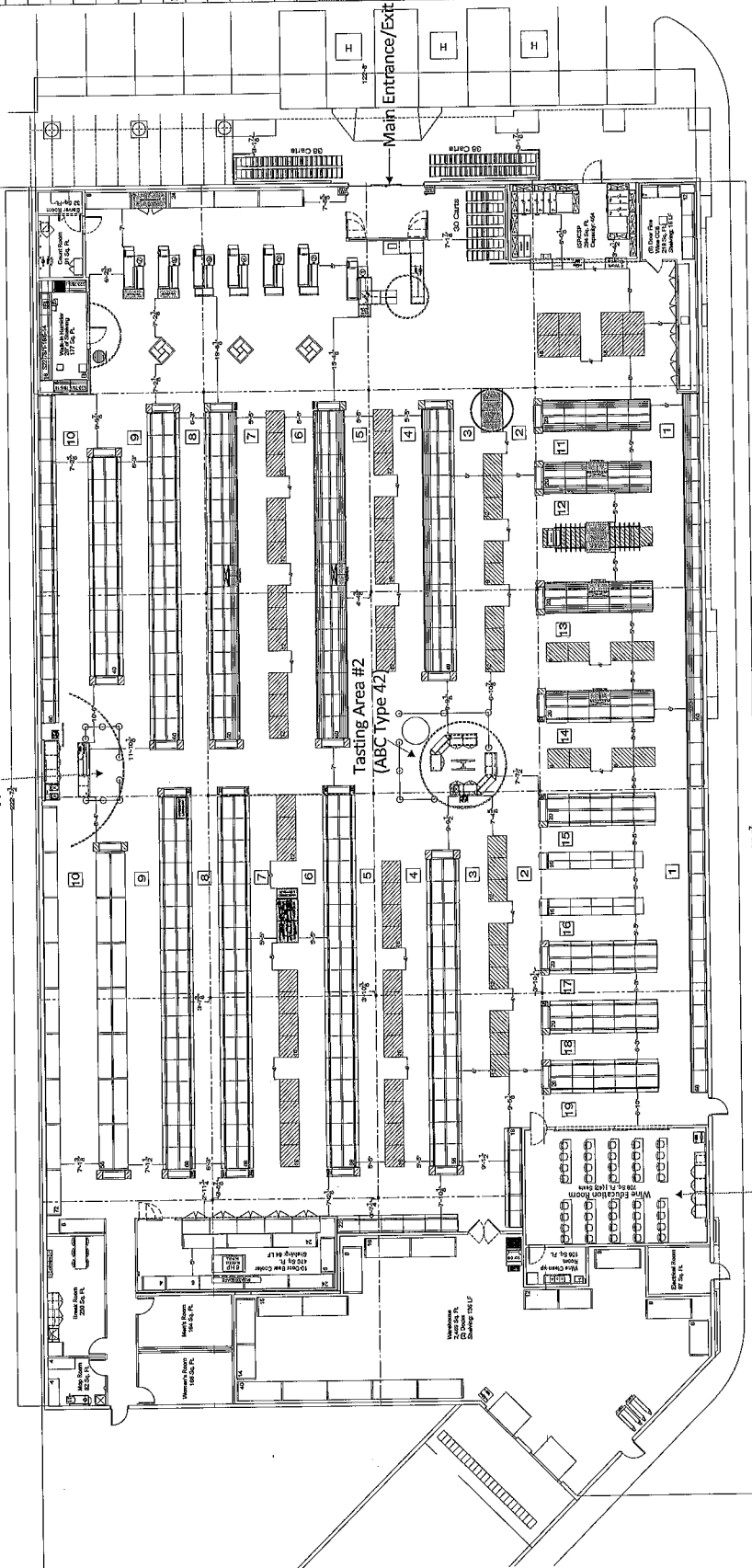
Print

Reset

Search

# Total Wine & More Conditional Use Permit - Floor Plan

Tasting Area #1  
ABC Type 42 License



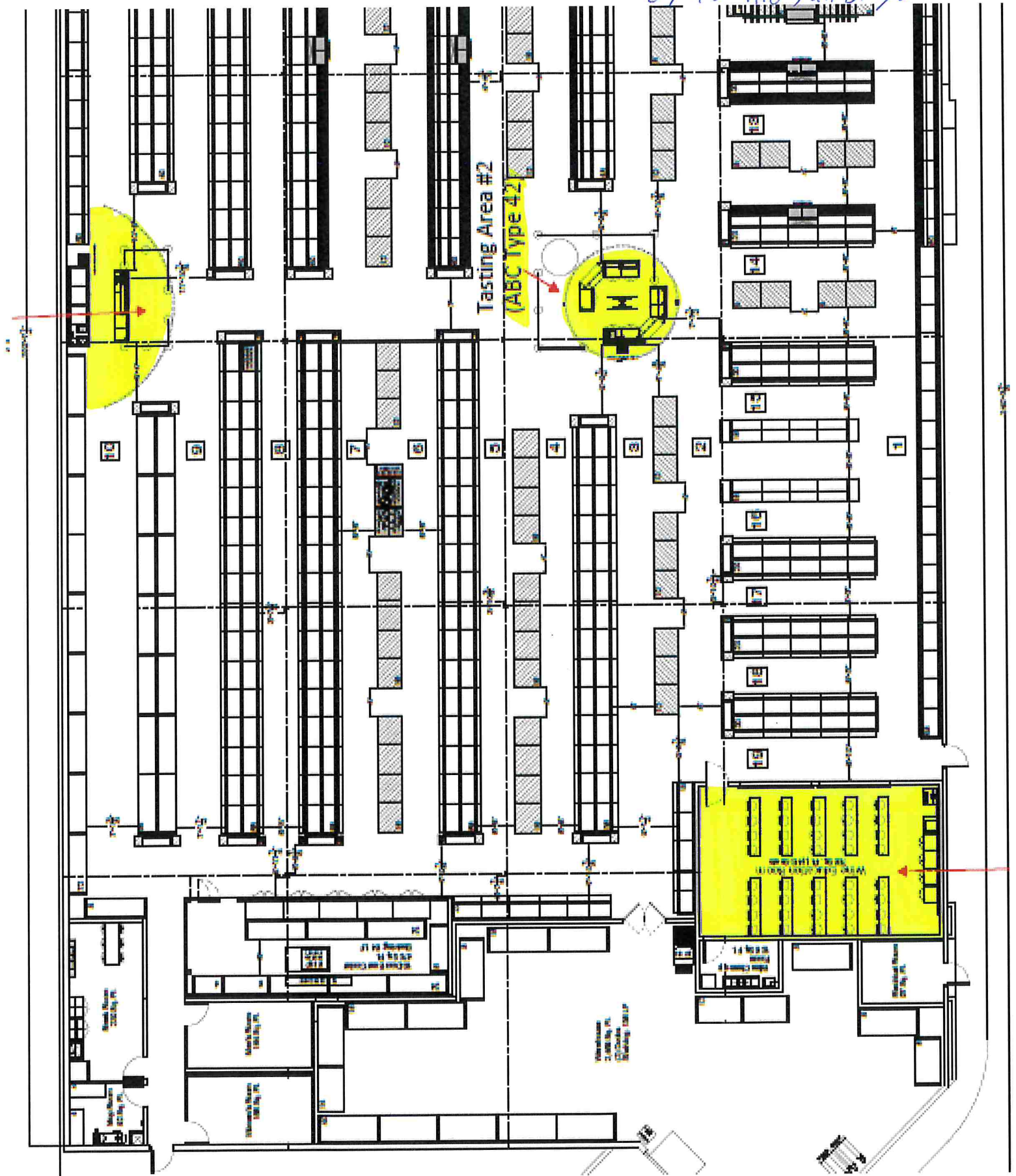
Tasting Area #3  
(ABC Type 42 License)

TENANT IMPROVEMENTS TO BE UNDER SEPARATE PERMIT

8740 Rio San Diego Drive			
PSC PLAN			
Project: Total Wine & More			
Date: 02/25/2025			
Sales Area SF: 23,100		Storage Area SF: 2,469	
Total SF: 25,569			
Clear Ceiling Height:			
MERCHANDISING LINEARS			
Type:	unit	Target	Actual:
Chain Avg. (2019)			
Shelving:			
Laydown Wine Bin	LF	428	676
Stand-up Wine	LF	370	
Stand-up Spirits	LF	418	282
Stand-up Beer	LF	338	369
Stand-up Other	LF	60	
Low & More	LF	64	
Pallet Rack	LF	162	
Shelving Subtotal:		1,869	1,404
Platforms:			
Wine	LF	212	N/A
Spirits	LF	100	N/A
Beer	LF	0	N/A
WOW Display	LF	16	N/A
Platform Subtotal:		328	0
Grand Total:		2,188	1,404
CASE CAPACITY			
Floor Stacking SF	xxx	Case Capacity (4-High)	xxxxxx
Case Capacity	xxxx	Warehouse Rack SF	xxx
Red Storage (above 7') SF	xxxx	Case Capacity (15-High)	xxxxxx
Total Stock Capacity: xxxxxx			
RSP CAPACITY			
Type:	Capacity Per Unit:	Qty:	Actual: Target: +/-
Stationary Racks	20	12	240
Mobile Racks (25' x 48')	40	5	200
Box racks	5 per 1'	0	0
U-Seats	12	2	24
Total Capacity:			464
MISC PLAN DETAILS			
Qty / Size:			
Type:			
Fine Wine CCB	Walk-in - (8) Doors   10' LF		
Beer Cooler	Walk-in - (10) Doors   64' LF		
Humidor	Walk-in - 28' LF		
Wine Education Room	(40) Seats		
Carts	(106)		
Checkstands	(7) Standard   (0) Future		
Signage	Signage - Cart Bikes		
Merch Planner	Compassion 24"		
Architect of Record	A		



8740 Rio San Diego





# Rio Vista - Retail Center

Project Address:  
8740 Rio San Diego Drive  
APN: 438-360-02-00  
Lot Size: 2.12 acres (92,347 sf)  
Building Size: 28,150 SF - Existing  
Year Built: 1996  
Landscape Area: 9,234 SF  
F.A.R.: 30%  
Type of Construction: Wood Frame/Stucco

Zoning: RMX-2

Property Owner:  
RVS Retail LP  
c/o Sudberry Properties  
5465 Morehouse Drive, Suite 260  
San Diego, CA 92121

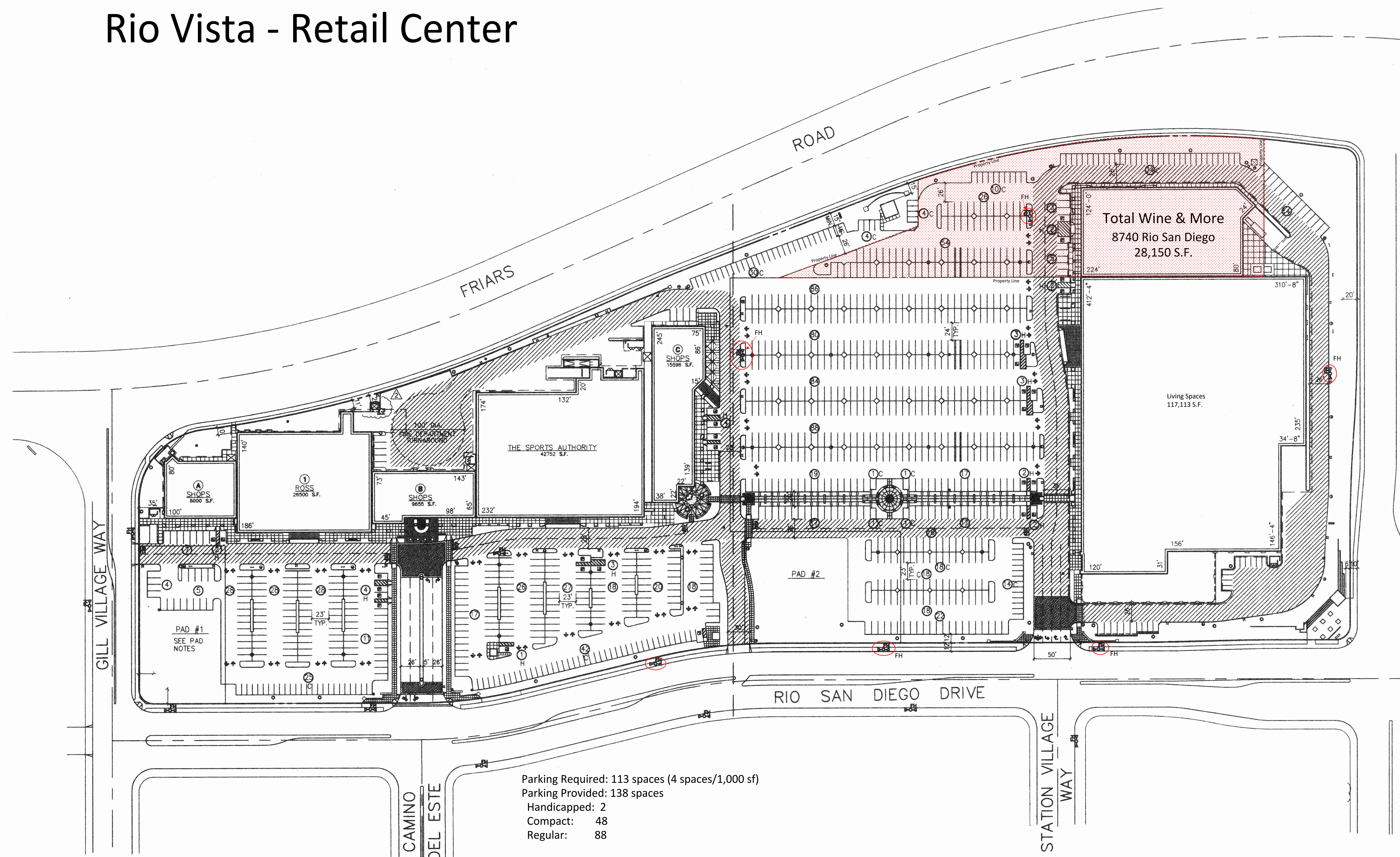
Applicant:  
California Fine Wines & Spirits, LLC  
dba Total Wine and More  
6600 Rockledge Drive, Suite 150  
Bethesda, MD 20817

Project Representative:  
Steve Rawlings  
Rawlings Consulting  
26023 Jefferson Ave., Suite D  
Murrieta, CA 92562

Existing Use: Vacant Retail Building

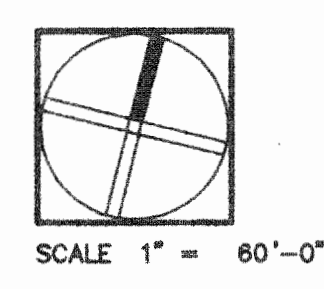
Proposed Use:  
Codnitional Use Permit to allow sales of  
beer, wine & distilled spirits for  
off-site consumption (ABC Type 21 License)  
and 4 specific locations for on-site  
consumption (ABC Type 42 License) at  
a new 28,150 S.F. Total Wine & More store.

Transportation Stops: None  
No existing easements

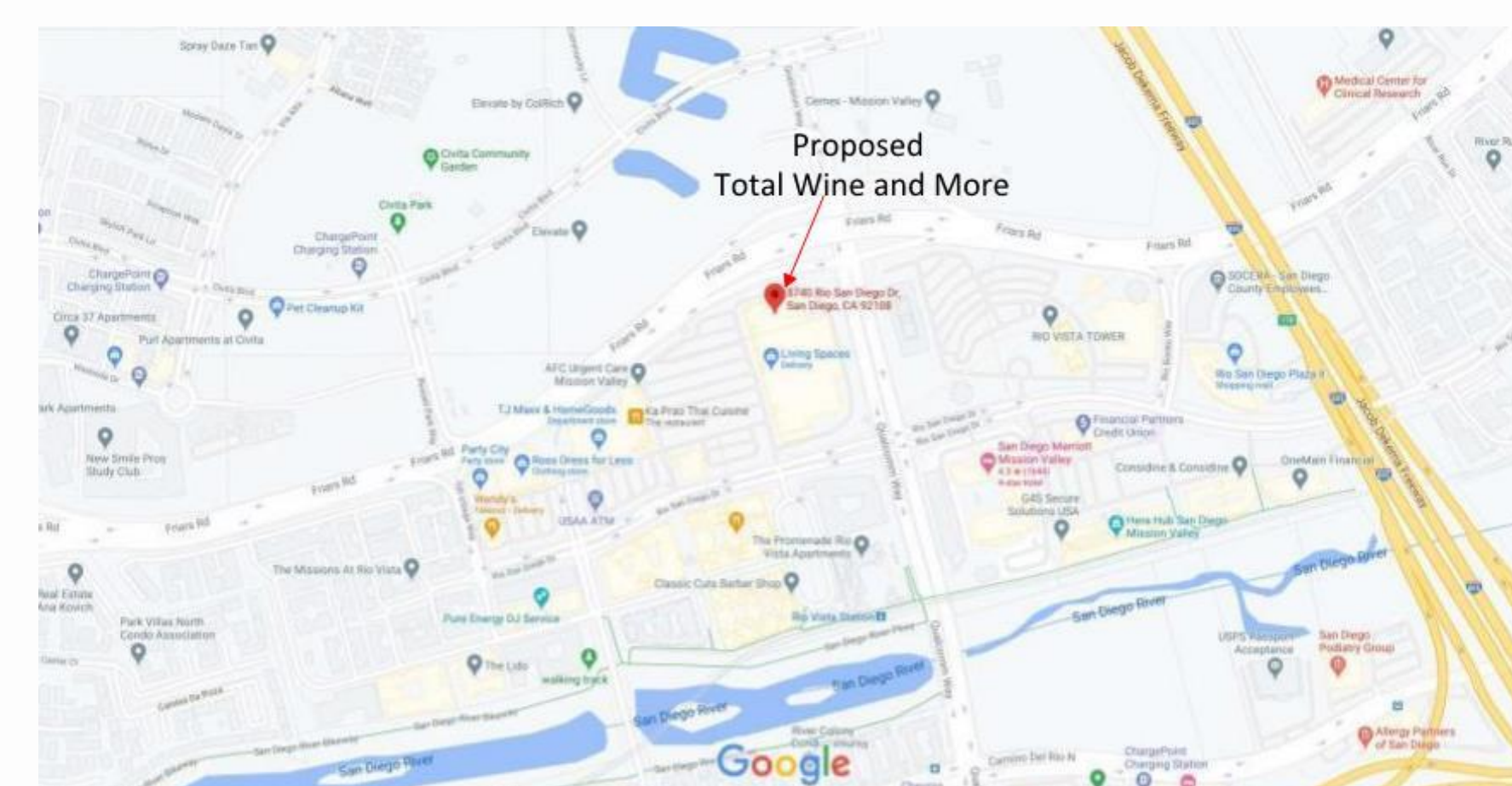


Parking Required: 113 spaces (4 spaces/1,000 sf)  
Parking Provided: 138 spaces  
Handicapped: 2  
Compact: 48  
Regular: 88

- STANDARD PARKING STALL  
9'x20' (9'x18' @ LANDSCAPE AREAS)
- C ○ COMPACT PARKING STALL  
7.5'x15' MIN.
- H ○ HANDICAPPED/ VAN PARKING STALL
- ⦿ COMMERCIAL TYPE FIRE HYDRANT - TO SUPPLY  
1500 GPM @ 20 PSI (RESIDUAL) PER HYDRANT
- ⦿ "NO PARKING - FIRE LANE" SIGN PER  
UFC 10.201 @ ±100' O.C.



Vicinity Map



**Sheet Index**  
Sheet 1: Master Site Plan  
Sheet 2: Floor Plan

SCALE:  
DATE:  
SHEET TITLE:  
**MASTER SITE PLAN**



# Total Wine & More

## Conditional Use Permit

Tasting Area #1  
ABC Type 42 License

Tasting Area #2  
(ABC Type 42)

Tasting Area #3  
(ABC Type 42 License)

# ATTACHMENT 11

8740 Rio San Diego Drive

## PSC PLAN

Project Type: New Store  
Date: 2020-10-30

Sales Area SF: 23,100      Storage Area SF: 2,469

Total SF: 28,150

Clear Ceiling Height:

### MERCHANDISING LINEARS

Type:	u/m	Target:	Actual:	+/-	Chain Avg. (2019)
-------	-----	---------	---------	-----	-------------------

Shelving:

Laydown Wine Bin	LF		428		676
Stand-up: Wine	LF		370		
Stand-up: Spirits	LF		418		282
Stand-up: Beer	LF		328		369
Stand-up: Other	LF		60		
Low & More	LF		64		77
Pallet Rack	LF		192		Incl. In Beer

Shelving Subtotal:      1,860      1,404

Platforms:

Wine	LF		212		N/A
Spirits	LF		100		N/A
Beer	LF		0		N/A
WOW Display	LF		16		N/A

Platform Subtotal:      328      0

Grand Total:      2,188      1,404

### CASE CAPACITY

Floor Stacking SF	xxx	Case Capacity (4-High)	xxxxx
Case Capacity	xxxx	Warehouse Rack SF	xxx
Ret. Storage (above 7') SF	xxxx	Case Capacity (15-High)	xxxxx

Total Stock Capacity:      xxxxx

### ISP CAPACITY

Type:	Capacity Per Unit:	Qty:	Actual:	Target:	+/-
Stationary Racks (14" x 48")	20	12	240		
Mobile Racks (28" x 48")	40	5	200		
Box Racks	5 per 1'	0	0		
U-Boats	12	2	24		

Total Capacity:      464

### MISC PLAN DETAILS

Type:	Qty / Size:
Fine Wine CCB	Walk-In - (9) Doors   19 LF
Beer Cooler	Walk-In - (10) Doors   64 LF
Humidor	Walk-In - 28 LF
Wine Education Room	(40) Seats
Carts	(106)
Checkstands	(7) Standard   (0) Future

Store Designer: John Daurer      Construction PM: Architect of Record:  
Merch Planner:

Sheet 2  
Floor Plan

TENANT IMPROVEMENTS TO BE UNDER SEPARATE PERMIT