



MILPITAS PLANNING COMMISSION STAFF REPORT

November 19, 2025

APPLICATION:	CONDITIONAL USE PERMIT – 190 W CALAVERAS BLVD. - Conditional Use Permit No. UP25-0005 to allow the sale of alcoholic beverages (beer and wine) consistent with an Alcohol and Beverage Control (ABC) Type 20 License for off-site consumption, at an existing 76 Gas Station on a 0.9-acre parcel in the General Commercial (C2) Zoning District located at 190 W. Calaveras Blvd. The project is categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and on a separate and independent basis, Section 15183 (Projects consistent with a Community Plan, General Plan, or Zoning) (APN: 022-24-030)
RECOMMENDATION:	Staff recommends that the Planning Commission adopt Resolution No. 25-015, approving Conditional Use Permit No. UP25-0005, subject to the attached Conditions of Approval.
LOCATION:	
Address/APN:	190 W. Calaveras Blvd. (APN 022-24-030)
Area of City:	Northeast corner of Calaveras Blvd. and Serra Way
PEOPLE:	
Project Applicant:	Jemma Jorel Lester, representing property owner
Property Owner(s):	Gawfco Enterprises
Project Planner:	Randy Baez, Associate Planner
LAND USE:	
General Plan Designation:	General Commercial (GNC)
Zoning District:	General Commercial (C2)
Site Area:	0.9 acres
ENVIRONMENTAL:	Categorically exempt from environmental review under the California Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section 15301 (Existing Facilities) and Section 15183 (Projects Consistent with a Community Plan, General Plan, or Zoning).

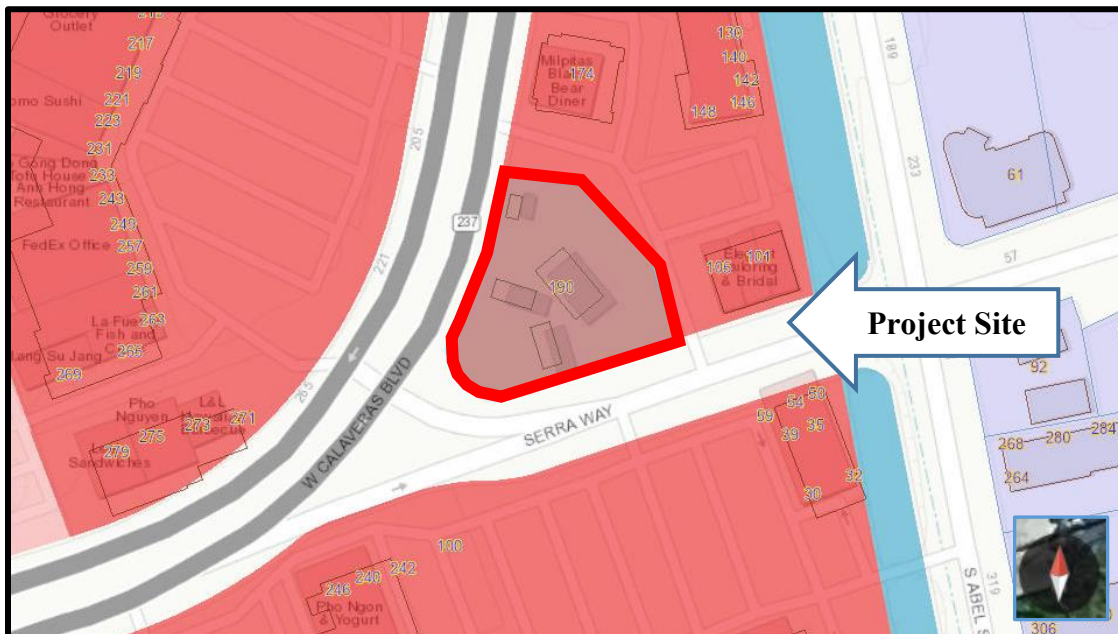
EXECUTIVE SUMMARY

Jemma Jorel Lester (“Applicant”), representing the property owner, is requesting a Conditional Use Permit to allow for off-site sales of Beer and Wine consistent with an Alcoholic Beverage Control (ABC) Type 20 Permit. No exterior modifications are proposed as part of this application. Map 1 demonstrates the location of the existing gas station, and Map 2 demonstrates the subject site and neighboring zoning designation.

Map 1 - Project Location



Map 2 - Zoning Map



BACKGROUND

History

The Project site is currently developed as a 76 Gas Station that was most recently remodeled in 2012. The site is located at the northeastern corner of West Calaveras Boulevard and Serra Way, near the center of Milpitas.

Existing

The existing site is currently developed with a 2,672-square-foot gas station and convenience store with 14 gas pumps under an existing canopy, and an accessory express car wash. The site is accessed from two, two-way drive aisles along both W. Calaveras Blvd. to the west and Serra Way to the south.

The Application

The following is a summary of the applicant's request:

- *Conditional Use Permit:* To allow for the retail sale of beer and wine for off-site consumption consistent with the California Department of Alcoholic Beverage Control (ABC) Type 20 Off-Sale Beer & Wine Permit. The convenience store will operate 24 hours every day, but alcohol sales will be limited to 6:00 a.m. to 2:00 a.m. daily, consistent with State laws.

PROJECT DESCRIPTION

Overview

The Applicant is requesting a Conditional Use Permit (CUP) to allow for off-site sales of beer and wine at an existing gas station convenience store. The existing gas station pumps, canopy, express car wash, and driveways will remain unchanged.

The existing primary gas station building is 2,672-square feet in size and features a snack area, coffee island, coolers and freezers, a cash register area for employees, and two bathrooms. The site currently has 14 off-street parking spaces, with 10 located near the convenience store entrance, and four other spaces located at the corner of the site. One accessible parking space is also located near the building entrance. The gas station also has 14 gas pumps for additional temporary parking.

The convenience store will operate 24 hours every day, while alcohol sales will be limited to 6:00 a.m. to 2:00 a.m. daily. The proposed alcohol sale hours are consistent with State laws regarding off-site sales of alcohol.

Location and Context

The Project site is located on the corner of West Calaveras Blvd. and Serra Way. Primary access to the site can be found along West Calaveras to the west, as well as Serra Way to the south. The site can be accessed near the I-880 Freeway, whose offramp is located approximately a quarter mile away. The site is substantially surrounded by similar commercial uses such as shopping centers to the north, south, east and west.

The following table provides a summary of the Zoning and designated General Plan Land Uses surrounding the site:

Table 1:
Surrounding Zoning and Land Uses

	General Plan	Zoning	Existing Use
Subject Site	General Commercial (GNC)	General Commercial C2	Gas Station
North	General Commercial (GNC)	General Commercial C2	Shopping Center
South	General Commercial (GNC)	General Commercial C2	Shopping Center
East	General Commercial (GNC)	General Commercial C2	Shopping Center
West	General Commercial (GNC)	General Commercial C2	Shopping Center

Alcohol Request

The Applicant is requesting the retail sale of beer and wine for off-site consumption consistent with an Alcohol Beverage Control (ABC) License Type 20. The CUP request was routed to the Milpitas Police Department for review. The Police Department provided conditions of approval to ensure all safety and security measures are met. Conditions include the following:

- “Conspicuous signage will be posted on premises: ‘No Open Containers’, ‘No Consumption of Alcoholic Beverage on the Premises,’ and ‘No Loitering.’”
- “A high-definition security camera system shall supplement the area where the beer and wine are sold to prevent any potential thefts from occurring.”
- “Sales of alcoholic beverages shall only occur between the hours of 6:00 AM and 2:00 AM the following morning. Between the hours of 2:00 AM to 6:00 AM, the store shall secure all alcohol products behind their liquor cabinet or door to reduce the likelihood of any late-night thefts (aka: grab and runs) from occurring.”

The rest of the proposed Project’s required conditions of approval, along with all other reviewing department conditions, can be found in Attachment A (Resolution No. 25-014).

Public Convenience and Necessity

According to ABC, the Project falls above the maximum allotted concentration of liquor licenses for the census tract in which this Project is located (5045.07), which currently authorizes one (1) Off-Sale license permit. The census tract currently has nine (9) active Off-Sale licenses. For ABC to grant another license, the applicant must demonstrate the proposed use would serve the public convenience or necessity, per Business and Professions Code Section 23958.4. The City of Milpitas uses the Conditional Use Permit process to determine if a proposed use would serve the public convenience and necessity. The Police Department has provided conditions of approval that will increase the effectiveness of police personnel, crime prevention efforts and reduce the

likelihood perpetrators are attracted to this area. The Police Department shall also continue to have input with all safety measures as outlined in the conditions of approval.

The City of Milpitas encourages a diverse mix of commercial uses including retail, service, office, entertainment, and assembly uses which includes appropriately sited convenience stores that sell beer and wine for off-site consumption. Currently, four other gasoline service stations within the City of Milpitas sell alcoholic beverages for off-site consumption. However, each of these other gasoline stations are located near the City boundaries, whereas the proposed Project is located centrally within the City. The nearest of the gasoline stations that sell alcoholic beverages is located approximately two miles away. An additional Conditional Use Permit was recently approved in 2024 to allow for an existing gasoline station to sell alcoholic beverages for off-site consumption and is located approximately 1.5 miles away.

This Project meets the finding of public convenience and necessity in that the proposed use for an ABC Type 20 License for off-site beer and wine sales is an ancillary beverage option for customers of an established gas station. Other nearby outlets with similar ABC Licenses may operate primarily as an alcohol sales outlet, such as a liquor store. This Project would allow for alcoholic beverage sales as an accessory use, similar to a grocery store or supermarket. Although there are other nearby outlets with similar ABC Licenses, the proposed Project would be located at least 1.5 miles from any other existing gasoline service stations that sell alcoholic beverages. This use would therefore conveniently allow customers to purchase alcohol while refilling their gas or during travel, which would be a unique convenience for this census tract. This location is also well situated to afford this convenience to a broad cross section of the public, given the site's proximity to the intersection of two major freeways (SR 237 and I 880) as well as being adjacent to Calaveras Boulevard, which is a state highway, a major arterial road through Milpitas, and a connector to I 680. Furthermore, the sales of alcoholic beverages would be considered an ancillary use to the existing convenience store and is not anticipated to negatively affect the nearby and adjacent commercial properties. The nearest public school is Anthony Spangler Elementary, which is located approximately 1,500 feet away. The nearest park is John McDermott Park, located approximately 2,000 feet away. The nearest religious assembly use is St. John the Baptist Catholic Church, located approximately 1,000 feet away.

PROJECT ANALYSIS

General Plan and Zoning Conformance

Milpitas General Plan 2040

The General Plan land use designation of the Project site is General Commercial (GNC). The GNC designation is intended to provide for a wide range of retail sales, and personal and business services accessed primarily by the automobile at a Floor Area Ratio (FAR) up to 0.5. As designed, the Project is in conformance with the policies and standards in the City's General Plan, as demonstrated in the following table:

Table 2:
General Plan Consistency

Policy	Conformance
<i>Goal LU-1</i> <i>Accommodate a well-balanced mix of land uses that meets the diverse needs of Milpitas residents, businesses, and visitors with places to live, work, shop, be entertained and culturally enriched.</i>	Consistent. The proposed Project will not materially change the original commercial use as a gasoline station and will add to the secondary convenience store use with the additional commercial off-sale of beer and wine. This new service will better serve Milpitas residents and visitors. Additionally, this one off-sale alcohol license meets the maximum allowance within the ABC Census Tract.
<i>Policy LU-6-5</i> <i>Promote reinvestment in strip commercial and shopping centers and maintain, revitalize, and redevelop aging and underperforming centers.</i>	Consistent. The proposed Project will reinvest into the existing gas station business by providing an additional service of selling beer and wine for off-site consumption.
<i>CD 6-4</i> <i>Maintain viable neighborhood-serving commercial uses throughout the City in order to serve surrounding neighborhoods and minimize vehicle miles traveled. Encourage a diverse mix of commercial uses including retail, service, office, entertainment, and assembly uses.</i>	Consistent. The proposed Project will continue as the existing gas station, which will help minimize vehicle miles traveled for neighborhood customers as well as those entering and exiting the nearby I-880 Freeway.

Development Standards

The Project site is in the C2 General Commercial Zoning District. The purpose and intent of this zoning district is to provide for the wide range of retail sales and personal and business services primarily oriented to the automobile customer to provide for general commercial needs of the City and to promote stable, attractive commercial development which will afford a pleasant shopping environment. It is intended to include those commercial uses in which shopping may be conducted by people walking to several stores as in a center and may include uses customarily of a single-purpose character served from an immediately parked automobile.

The Project site is an existing gas station that proposes to allow for the retail sale of beer and wine for off-site consumption to provide greater services to its customers. The Applicant worked with staff to conform with all development standards of the 2025 Milpitas Comprehensive Zoning Update Section B.6.030 (Commercial Zones Development Standards. Table 3 demonstrates the Project's consistency with the applicable development standards of the C2 zone.

Table 3:
Summary of C2 Zoning District Development Standards

Standards	C2 Requirements	Existing	Complies
Lot Area, minimum	10,000 sf	0.9 acres	Yes
Lot Width, minimum	100 ft.	~200 ft.	Yes
Front Yard Setback	0 ft.	~20 ft.	Yes
Side Yard Setback	0 ft. minimum 15 ft. when abutting R District	~20 ft.	Yes
Street Side Yard Setback	0 ft.	~62 ft. (gas station convenience store) ~20 ft. (gas pumps)	Yes
Rear Yard Setback	0 ft. 15 ft. when abutting R district	~0 ft.	Yes
Building Height Primary Building (maximum)	35 ft. or 3 stories	~16 ft.	Yes
Parking	1.5 per bay if service bays are included on site; 1 per 250 sq ft of any retail and/or office on site (2,672 sf. / 200 = ~11)	14 spaces Additional 14 spaces at gas pumps	Yes
Floor Area Ratio	0.50	~0.23	Yes
Landscaping	None	landscaped buffers along street frontages	Yes

FINDINGS FOR APPROVAL (OR DENIAL)

A finding is a statement of fact relating to the information that the Planning Commission must consider in making a decision. Findings shall identify the rationale behind the decision to take a certain action. Based on substantial evidence in the public record, Staff has found that the proposed Project is consistent with the General Plan, Zoning Ordinance, and all required findings.

Conditional Use Permit Findings (Section D.4.030.F)

1. The proposed use is consistent with the goals and policies of the General Plan.

The General Plan land use designation of the Project site is General Commercial (GNC). The GNC designation is intended to provide for a wide range of retail sales, and personal and business services accessed primarily by automobile. As designed, the Project is in conformance with the policies and standards in the City's General Plan. The proposed Project will not materially change the original commercial use as a gasoline station and will add to the secondary convenience store use with the additional commercial off-sale of beer and wine.

This new service will better serve Milpitas residents and visitors. Additionally, this one off-sale alcohol license meets the maximum allowance within the ABC Census Tract.

2. *The proposed use is consistent with the goals and policies of any Specific Plan if applicable;*

The Project meets this finding in that the proposed use for an ABC Type 20 License for off-site beer and wine for off-site consumption at an existing convenience store is located within the Milpitas Gateway Main Street Specific Plan. The Specific Plan includes several policies and goals including the vision for the Crossroads District, which is envisioned as a center for commercial, retail, and entertainment. This Project meets that finding by adding an additional service-oriented use or offering to an existing business. The addition of beer and wine sales for off-site consumption will provide another service for nearby customers and will encourage the continuation of retail sales in the area.

3. *The proposed use is appropriate for the zone in which it is located, is compatible with uses allowed in the zone, and complies with all other applicable provisions of this Title;*

With approval of a Conditional Use Permit, the proposed ABC Type 20 license for off-sale of beer and wine will conform with the Milpitas Comprehensive Zoning Update and the development standards and requirements of the General Commercial (C2) Zoning District, per Milpitas Zoning Update Section C.6.050 and as shown above in Table 3. Additionally, as the primary use of the site has not changed and no other physical modifications are proposed, the Project's off-street parking requirement remains unchanged and is therefore in conformance pursuant to Comprehensive Zone Section C.6.050.

4. *The proposed use will not be materially detrimental to the health, safety, and welfare of the public or the property and residents in the vicinity;*

The Project meets this finding in that the proposed use for an ABC Type 20 License for off-site beer and wine for off-site consumption is an ancillary beverage option and complementary service for customers of an existing convenience store at an established gas station. The parking will not be affected as this use is ancillary to the gas station and convenience store use. The proposed beer and wine sales for off-site consumption will provide a public convenience for customers to the gas station. Since the surrounding area is predominantly commercial, the nearest residence is approximately 500 feet away, and the nearest school (Calaveras Hills) is approximately 500 feet away, staff has concluded that the proposed off-sale of alcohol will not be detrimental or injurious to property or improvements in the vicinity. As conditioned, the Project complies with applicable public health and safety requirements, and onsite consumption of alcoholic beverages will not be allowed on the property. Customers purchasing alcohol are required to consume alcoholic beverages off-site, thereby minimizing the potential for crime at the subject property or driving under the influence.

5. *The subject site is physically suitable for the use being proposed, including access and utilities;*

The Project meets this finding in that the proposed use for an ABC Type 20 License for Off-Site beer and wine for off-site consumption is an ancillary beverage option for customers of an existing convenience store at an established gas station. No physical improvements are proposed as part of this Project. Furthermore, the Project meets or exceeds the development standards of the C2 (General Commercial) zoning district of the 2025 Comprehensive Zoning Update, including parking requirements for gasoline service stations.

6. *The design, location, size, and operating characteristics of the proposed use are compatible with existing and reasonably foreseeable future land use and circulation in the vicinity;*

The Project meets this finding in that the proposed use for an ABC Type 20 License for Off-Site beer and wine for off-site consumption is an ancillary beverage option for customers of an existing convenience store at an established gas station. No physical improvements to the site are proposed and therefore will not have any impact on circulation. Furthermore, the sales of beer and wine for off-site consumption is common practice for many gasoline service stations in California. There are currently four active licenses within the City of Milpitas, with the closest being at least one and a half miles away.

7. *The proposed project is in compliance with the provisions of California Environmental Quality Act (CEQA).*

The Project meets this finding in that the proposed use for an ABC Type 20 License for Off-site beer and wine for off-site consumption is an ancillary beverage option for customers of an existing convenience store at an established gas station. No physical improvements are proposed as part of this Project and is therefore considered a negligible expansion of the existing use.

ENVIRONMENTAL REVIEW

The proposed Project is categorically exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and on a separate and independent basis, Section 15183 (Projects consistent with a Community Plan, General Plan, or Zoning).

PUBLIC COMMENT/OUTREACH

Staff provided public notice for the application per City and State public notice requirements. At the time of writing this report, multiple comments were submitted by members of the public. A notice was published in the Milpitas Post on September 30, 2025. In addition, 551 notices were sent to owners and occupants within 1,000 feet of the project site. A public notice was also provided on the project site, on the City's Website, www.milpitas.gov, and posted at City Hall.

RECOMMENDATION

STAFF RECOMMENDS THAT the Planning Commission:

1. Open the Public Hearing to receive comments;
2. Close the Public Hearing; and
3. Adopt Resolution 25-015, approving Conditional Use Permit No. UP25-0005, to allow ancillary sales of beer and wine for off-site consumption consistent with ABC License Type 20, subject to the findings and attached Conditions of Approval.

ATTACHMENTS

A: Resolution 25-015, with Exhibit 1: Conditions of Approval

B: Project Plans

RESOLUTION NO. 25-015

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MILPITAS APPROVING CONDITIONAL USE PERMIT NO. UP25-0005 TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES TYPE-20 (BEER AND WINE) FOR OFF-SITE CONSUMPTION, AT AN EXISTING 76 GAS STATION ON A 0.9-ACRE PARCEL LOCATED AT 190 W. CALAVERAS BOULEVARD (APN: 022-24-030)

WHEREAS, on July 22, 2009 the Planning Commission of the City of Milpitas approved Site Development Permit No. SD08-0010, Environmental Assessment No. EA09-0005, Conditional Use Permit No. UP09-0031, and Administrative Permit No. AD08-0014, which allowed for the demolition and reconstruction of an existing gasoline service station located at 190 W. Calaveras Blvd.; and

WHEREAS, on July 7, 2025, Jemma Jorel Lester of Proper Pour Co., representing property owner Gawfco Enterprises (the “applicant”), submitted an application for a Conditional Use Permit (the “application”), as allowed per the Milpitas Municipal Code (MMC); and

WHEREAS, the Planning Department completed an environmental assessment for the Project in accordance with the California Environmental Quality Act (CEQA), which assessment determined that the Project is exempt from environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 (Existing Facilities) and, as a separate and independent basis, CEQA Guidelines Section 15183 (Projects Consistent with a Community Plan or Zoning); and

WHEREAS, on November 19, 2025, the Planning Commission held a duly noticed public hearing on the subject application, at which all those in attendance were given the opportunity to speak on the Project; and

WHEREAS, the Planning Commission has considered all of the written and oral testimony presented at the public hearing in making its decision; and

NOW, THEREFORE, the Planning Commission of the City of Milpitas hereby finds, determines and resolves as follows:

SECTION 1. Recitals.

The Planning Commission has considered the full record before it, which may include but is not limited to such things as the staff report and other materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

SECTION 2: CEQA Findings.

The Project is exempt from further environmental review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301 for “Existing Facilities” because the project consists of the operation of an existing private structure, involving negligible or no expansion of an existing use. As a separate and independent basis, the Project is exempt from Section 15183 of the CEQA Guidelines as a project consistent with a community plan, general plan or zoning in that it is consistent with the uses established in the Milpitas General Plan and the applicable zoning and there are no project-specific significant effects which are peculiar to this project or its site.

SECTION 3: Conditional Use Permit (Section D.4.030.F)

- 1. The proposed use is consistent with the goals and policies of the General Plan. The project is consistent with this finding as discussed previously in the staff report and demonstrated in the table below:*

Table 2: General Plan Consistency

Policy	Conformance
Goal LU-1 <i>Accommodate a well-balanced mix of land uses that meets the diverse needs of Milpitas residents, businesses, and visitors with places to live, work, shop, be entertained and culturally enriched.</i>	Consistent. <i>The proposed Project will not materially change the original commercial use as a gasoline station and will add to the secondary convenience store use with the additional commercial off-sale of beer and wine. This new service will better serve Milpitas residents and visitors. Additionally, this one off-sale alcohol license meets the maximum allowance within the ABC Census Tract.</i>
Policy LU-6-5 <i>Promote reinvestment in strip commercial and shopping centers and maintain, revitalize, and redevelop aging and underperforming centers.</i>	Consistent. <i>The proposed Project will reinvest into the existing gas station business by providing an additional service of selling beer and wine for off-site consumption.</i>
CD 6-4 <i>Maintain viable neighborhood-serving commercial uses throughout the City in order to serve surrounding neighborhoods and minimize vehicle miles traveled. Encourage a diverse mix of commercial uses including retail, service, office, entertainment, and assembly uses.</i>	Consistent. <i>The proposed Project will continue as the existing gas station, which will help minimize vehicle miles traveled for neighborhood customers as well as those entering and exiting the nearby I-880 Freeway.</i>

2. *The proposed use is consistent with the goals and policies of any Specific Plan if applicable.*

The Project meets this finding in that the proposed use for an ABC Type 20 License for off-site beer and wine for off-site consumption at an existing convenience store is located within the Milpitas Gateway Main Street Specific Plan. The Specific Plan includes several policies and goals including the vision for the Crossroads District, which is envisioned as a center for commercial, retail, and entertainment. This Project meets that finding by adding an additional service-oriented use or offering to an existing business. The addition of beer and wine sales for off-site consumption will provide another service for nearby customers and will encourage the continuation of retail sales in the area.

3. *The proposed use is appropriate for the zone in which it is located, is compatible with uses allowed in the zone, and complies with all other applicable provisions of this Title;*

With approval of a Conditional Use Permit, the proposed ABC Type 20 license for off-sale of beer and wine will conform with the Milpitas Comprehensive Zoning Update and the development standards and requirements of the General Commercial (C2) Zoning District, per Milpitas Zoning Update Section C.6.050 and as shown above in Table 3. Additionally, as the primary use of the site has not changed and no other physical modifications are proposed, the Project's off-street parking requirement remains unchanged and is therefore in conformance pursuant to Comprehensive Zone Section C.6.050.

4. *The proposed use will not be materially detrimental to the health, safety, and welfare of the public or the property and residents in the vicinity;*

The Project meets this finding in that the proposed use for an ABC Type 20 License for off-site beer and wine for off-site consumption is an ancillary beverage option and complementary service for customers of an existing convenience store at an established gas station. The parking will not be affected as this use is ancillary to the gas station and convenience store use. The proposed beer and wine sales for off-site consumption will provide a public convenience for customers to the gas station. Since the surrounding area is predominantly commercial, the nearest residence is approximately 500 feet away, and the nearest school (Calaveras Hills) is approximately 500 feet away, staff has concluded that the proposed off-sale of alcohol

will not be detrimental or injurious to property or improvements in the vicinity. As conditioned, the Project complies with applicable public health and safety requirements, and onsite consumption of alcoholic beverages will not be allowed on the property. Customers purchasing alcohol are required to consume alcoholic beverages off-site, thereby minimizing the potential for crime at the subject property or driving under the influence.

5. The subject site is physically suitable for the use being proposed, including access and utilities;

The Project meets this finding in that the proposed use for an ABC Type 20 License for Off-Site beer and wine for off-site consumption is an ancillary beverage option for customers of an existing convenience store at an established gas station. No physical improvements are proposed as part of this Project. Furthermore, the Project meets or exceeds the development standards of the C2 (General Commercial) zoning district of the 2025 Comprehensive Zoning Update, including parking requirements for gasoline service stations.

6. The design, location, size, and operating characteristics of the proposed use are compatible with existing and reasonably foreseeable future land use and circulation in the vicinity;

The Project meets this finding in that the proposed use for an ABC Type 20 License for Off-Site beer and wine for off-site consumption is an ancillary beverage option for customers of an existing convenience store at an established gas station. No physical improvements to the site are proposed and therefore will not have any impact on circulation. Furthermore, the sales of beer and wine for off-site consumption is common practice for many gasoline service stations in California. There are currently four active licenses within the City of Milpitas, with the closest being at least one and a half miles away.

7. The proposed project is in compliance with the provisions of California Environmental Quality Act (CEQA).

The Project meets this finding in that the proposed use for an ABC Type 20 License for Off-site beer and wine for off-site consumption is an ancillary beverage option for customers of an existing convenience store at an established gas station. No physical improvements are proposed as part of this Project and is therefore considered a negligible expansion of the existing use.

SECTION 4: Public Convenience and Necessity.

As required by Business and Professions Code section 23958.4 for Type 20 licenses in census tracts or census divisions that exceed the ratio of off-sale licenses set by the Department of Alcoholic Beverages and Control, the proposed off-site sales of beer and wine will serve the public convenience or necessity.

According to ABC, the Project falls above the maximum allotted concentration of liquor licenses for the census tract in which this Project is located (5045.07), which currently authorizes one (1) Off-Sale license permit. The census tract currently has nine (9) active Off-Sale licenses.

The City of Milpitas encourages a diverse mix of commercial uses including retail, service, office, entertainment, and assembly uses which includes appropriately sited convenience stores that sell beer and wine for off-site consumption. Currently, four other gasoline service stations within the City of Milpitas sell alcoholic beverages for off-site consumption. However, each of these other gasoline stations are located near the City boundaries, whereas the proposed Project is located centrally to the rest of the City. The nearest of the gasoline stations that sell alcoholic beverages for off-site consumption is located approximately two miles away. An additional Conditional Use Permit was recently approved 2024 to allow for an existing gasoline station to sell alcoholic beverages for off-site consumption and is located approximately 1.5 miles away.

The Police Department has also provided conditions of approval that will increase the effectiveness of police personnel, crime prevention efforts and reduce the likelihood perpetrators are attracted to this area. The Police Department shall also continue to have input with all safety measures as outlined in the conditions of approval.

This Project meets the finding of public convenience and necessity in that the proposed use for an ABC Type 20 License for off-site beer and wine sales is an ancillary beverage option for customers of an established gas station. Although

there are other nearby outlets with similar ABC Licenses, the proposed Project would be located at least one mile and a half from any other existing gasoline service stations that sell alcoholic beverages. This use would therefore conveniently allow customers to purchase alcohol while refilling their gas or during travel, which would be a unique convenience for this census tract. This location is also well situated to afford this convenience to a broad cross section of the public, given the site’s proximity to the intersection of two major freeways (SR 237 and I 880) as well as being adjacent to Calaveras Boulevard, which is a state highway, a major arterial road through Milpitas, and a connector to I 680. Furthermore, the sales of alcoholic beverages would be considered an ancillary use to the existing convenience store and is not anticipated to negatively affect the nearby and adjacent commercial properties.

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the City of Milpitas on November 19, 2025.

Chair

TO WIT:

I HEREBY CERTIFY that the following Resolution was duly adopted at a regular meeting of the Planning Commission of the City of Milpitas on November 19, 2025, and carried by the following roll call vote:

COMMISSIONER	AYES	NOES	ABSENT	ABSTAIN
Chia Ling Kong				
Michael Caulkins				
Mercedes Albana				
Alexander Galang				
Dipak Awasthi				
Parveen Gupta				
Sonia Medina-Ashby				

**CONDITIONS OF APPROVAL
CONDITIONAL USE PERMIT UP25-0005
190 WEST CALAVERAS BOULEVARD, (APN 022-24-030)**

GENERAL CONDITIONS

1. General Compliance. The applicant and owner, including all successors in interest (collectively “Permittee”) shall comply with each and every condition set forth in this Permit. Conditional Use Permit UP25-0005 (collectively “Permit”) shall have no force or effect and no building permit shall be issued unless and until all things required by the below-enumerated precedent conditions have been performed or caused to be performed. **(P)**
2. Modifications to Project. Any deviation from the approved site plan, floor plans, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or designee. If the Planning Director or designee determines that the deviation is significant, the Permittee shall be required to apply for review and obtain approval of the Planning Commission, in accordance with the Zoning Ordinance. **(P)**
3. Effective Date. Unless there is a timely appeal filed in accordance with the Milpitas Zoning Code, the date of approval of this Permit is the date on which the decision-making body approved this Permit. **(P)**
4. Acceptance of Permit. Should Permittee fail to file a timely appeal within twelve (12) calendar days of the date of approval of this Permit, inaction by Permittee shall be deemed to constitute each of the following:
 - a. Acceptance of this Permit by Permittee; and
 - b. Agreement by the Permittee to be bound by, comply with, and to do all things required of or by Permittee pursuant to all of the terms, obligations, and conditions of this Permit.
5. Approved Plans. The Permittee shall develop the approved Project in conformance with the approved plans (dated 10/22/25), sample color and materials board approved by the Planning Commission, in accordance with these Conditions of Approval. **(P)**
6. Permit Expiration. Pursuant to Section D.2.040.K of the Milpitas Comprehensive Zoning Update (CZU), this Permit shall become null and void if the development is not implemented within two (2) years, or for projects submitted with tentative maps, within the time limits of the tentative map. Pursuant to Section D.2.040.K.3 of the Comprehensive Zoning Update of the City of Milpitas, implementation is defined when: **(P)**
 - a. A permit or approval shall not be deemed implemented until the applicant has obtained a grading permit and/or building permit and commenced construction, or where no grading or building permit is required, has commenced the allowed use on the subject site in compliance with the approval; or
 - b. Construction shall be diligently pursued towards completion. If after construction commencement, work is discontinued for a minimum period of two years, the permit or approval shall expire and be deemed void; or
 - c. If a project is phased, each phase shall be subject to a time limit during which construction must commence. Each subsequent phase shall have the same length of time allowed for the previous phase. The time limit for a subsequent phase shall begin when the previous phase commences construction, unless otherwise specified in the permit of approval.
 - d. “Commence construction” shall mean any of the following, whichever occurs soonest:
 - i. Completes a foundation associated with the project;
 - ii. Dedicates any land or easement as required from the approval; or

- iii. Complies with all legal requirements necessary to commence the use or obtains a Certificate of Occupancy permit.

This permit shall become null and void if the work is added to, modified, or otherwise deviated from in any significant way from the approved site plan, building plan, floor plans, or other approved submittals as determined by the Planning Director or designee.

7. Cost and Approval. Permittee shall fully complete and satisfy each and every condition set forth in this Resolution and any other condition applicable to the Project to the sole satisfaction of the City. Additionally, Permittee shall be solely responsible and liable for the cost to satisfy each and every condition. **(P)**
8. Conditions. Each and every condition set forth in this Exhibit, together with all attachments thereto, shall apply to the Project, and continue to apply to the Project, including, without limitations, this Permit, so long as the Permittee is operating under the permits and approvals in this Resolution. **(P)**
9. Previous Approvals. Permittee shall abide and continue to comply with all previous City approvals, permits, or requirements relating to the subject property, unless explicitly superseded or revised by this Permit **(P)**
10. Indemnification. The To the fullest extent permitted by law, Permittee shall indemnify, defend with counsel of the City's choosing, and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to (i) City's approval of the Project, including but not limited to, the approval of the discretionary permits, maps under the Subdivision Map Act, and/or the City's related determinations or actions under the California Environmental Quality Act, and (ii) Permittee's construction, operation, use, or related activity under this Permit. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. Permittee shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. Permittee shall pay to the City upon demand or, as applicable, to counsel of City's choosing, any amount owed pursuant to the indemnification requirements prescribed in this condition. **(P)**
11. Revocation, Suspension, Modification. This Permit may be suspended, revoked, or modified in accordance with Section D.18.070 of the Milpitas Comprehensive Zoning Update. **(P)**
12. Severability. If any term, provision, or condition of this Permit is held to be illegal or unenforceable by the Court, such term, provision, or condition shall be severed and shall be inoperative, and the remainder of this Permit shall remain operative, binding and fully enforceable. **(P)**
13. Conformance. Permittee shall develop the approved Project in conformance with the plans approved by the Planning Commission, and in accordance with these Conditions of Approval. Any deviation from the approved site plan, elevations, materials, colors, landscape plan, or other approved submittal shall require that, prior to the issuance of building permits, the Permittee shall submit modified plans and any other applicable materials as required by the City for review and obtain the approval of the Planning Director or Designee. If the Planning Director or designee determines that the deviation is significant, Permittee shall be required to apply for review and obtain approval of the Planning Commission or City Council, as applicable, in accordance with the Milpitas Zoning Code. **(P)**
14. Response to Conditions of Approval. Permittee shall provide a written response to comments upon submittal for building permit application. The responses should clearly indicate how each condition of approval has been addressed in the plans and shall note the appropriate plan sheet. **(P)**

15. Prior to the issuance of a building permit, the owner or designee shall include within the four first pages of the working drawings for a plan check, a list of all conditions of approval imposed by the final approval of the Project. (P)

Building Safety and Housing

16. Compliance with California Code of Regulations. The Project shall comply with the requirements of the Building Safety and Housing Department and the California Code of Regulations Title 24 and the Milpitas Municipal Code as adopted by the City. Building permits shall be submitted to and approved by the Building Safety and Housing Department prior to start of construction. All California Code of Regulations Title 24 and Milpitas Municipal Code requirements applicable at the time of building permit application must be met in advance of any building permit approvals or related construction. Changes to the site plan and/or building plan require review and approval by the Building Safety and Housing Department. (B)

Police Department

Beer/Wine Sales Hours

17. Per California state law, sales will only occur from 6:00 a.m. to 2:00 a.m. (PD)
18. Between 2:00 a.m. and 6:00 a.m., the business shall not sell, give, deliver, or knowingly provide alcoholic beverages. (PD)

Security Measures

19. Hi-definition surveillance cameras throughout the property. (PD)
20. Surveillance video will be stored for at least 30 days and be made available to law enforcement upon request. (PD)
21. Conspicuous signage will be posted on premises: "No Open Containers", "No Consumption of Alcoholic Beverage on the Premises," and "No Loitering." (PD)
22. No exterior advertising or window signs will advertise beer or wine products. (PD)
23. No beer and wine advertisement located on the motor fuel island. (PD)
24. Employees on duty between 10:00 p.m. and 2:00 a.m. who sell beer/wine will be at least 21 years of age. (PD)
25. Cooler doors containing beer will be locked from 2:00 a.m. to 6:00 a.m. daily. (PD)
26. All customers who appear to be under the age of 30 must present valid identification to purchase alcohol. Alternatively, a 100% ID check policy, requiring all customers to show ID regardless of age, may be implemented. (PD)
27. Point of sale system requires cashier to scan the ID to validate age. No alcohol will be sold if customer is a minor. (PD)
28. The business must comply with ABC requirements. (PD)

Employee Training

29. All employees engaged in the sale of alcohol for off-site consumption must complete store-provided alcohol sales training within 30-60 days of hire. This training will include proper ID verification, recognizing signs of intoxication, and procedures for refusing a sale. Although ABC-approved Responsible Beverage Service (RBS)

certification is not legally required for off-sale clerks, proof of completed training will be kept on file at the store for internal compliance purposes. (PD)

LEGEND

(P) = Planning
(B) = Building
(E) = Engineering
(F) = Fire Prevention
(PD) = Police Department
(CA) = City Attorney
(MM) = Mitigation Measure
(PC) = Planning Commission

NOTICE OF RIGHT TO PROTEST

The Conditions of Project Approval set forth herein include certain fees, dedication requirements, reservation requirements, and other exactions. Pursuant to Government Code Section 66020(d)(1), these Conditions constitute written notice of a statement of the amount of such fees, and a description of the dedications, reservations, and other exactions. You are hereby further notified that the 90-day approval period in which you may protest these fees, dedications, reservations, and other exactions, pursuant to Government Code Section 66020(a), began on date of adoption of this resolution. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such exactions.

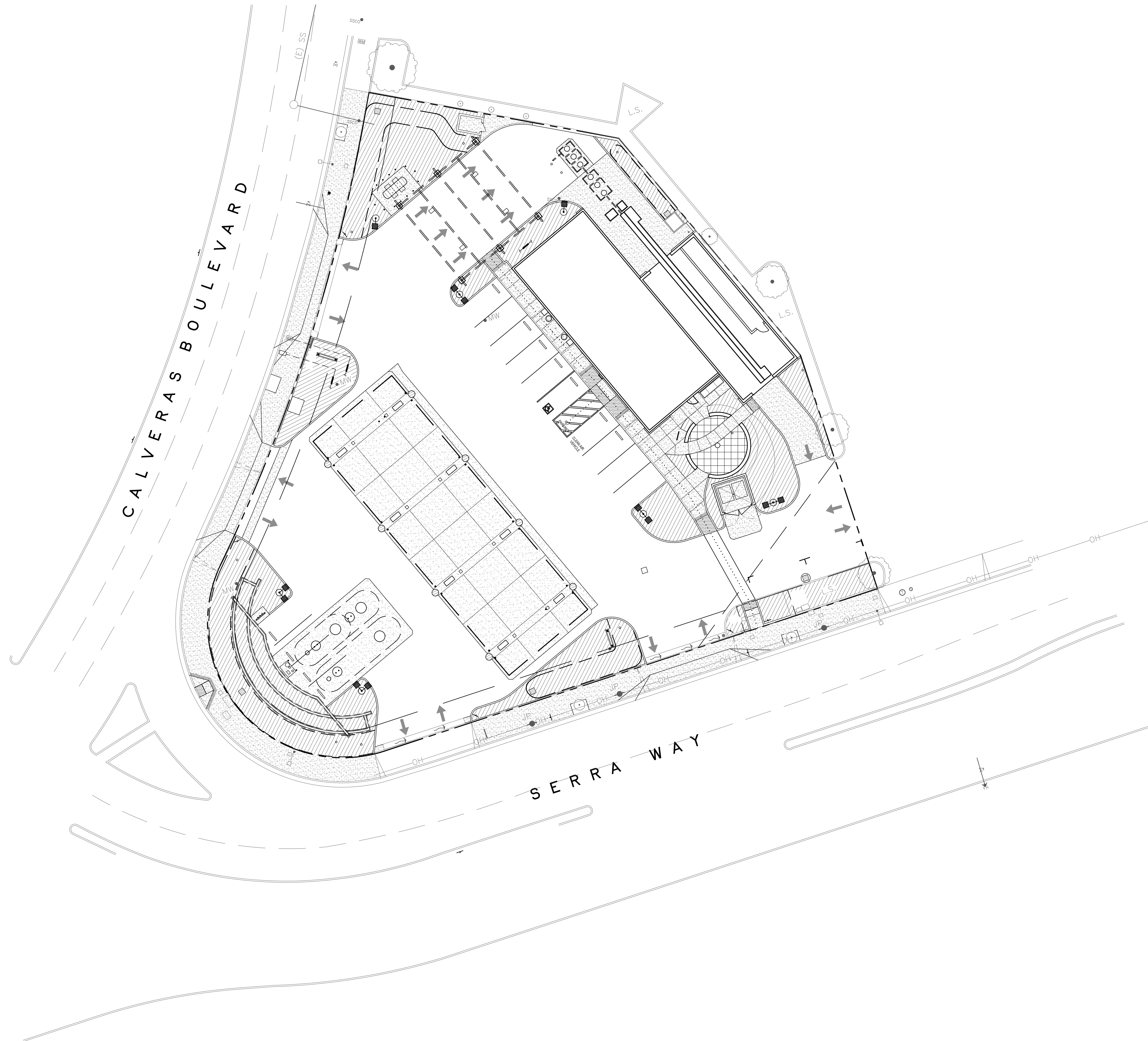
AGREEMENT

Permittee/Property Owner

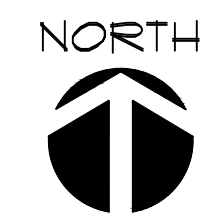
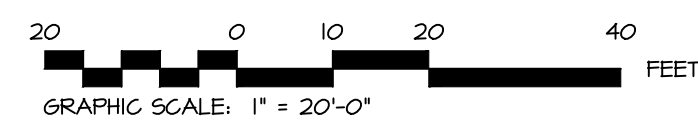
The undersigned agrees to each and every condition of approval and acknowledges the NOTICE OF RIGHT TO PROTEST and hereby agrees to use the project property on the terms and conditions set forth in this Permit.

Dated: _____

Signature of Permittee



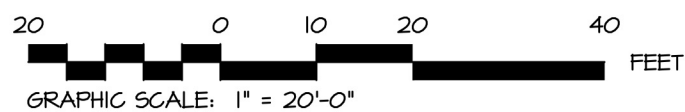
1 SITE PLAN
1" = 20'-0"

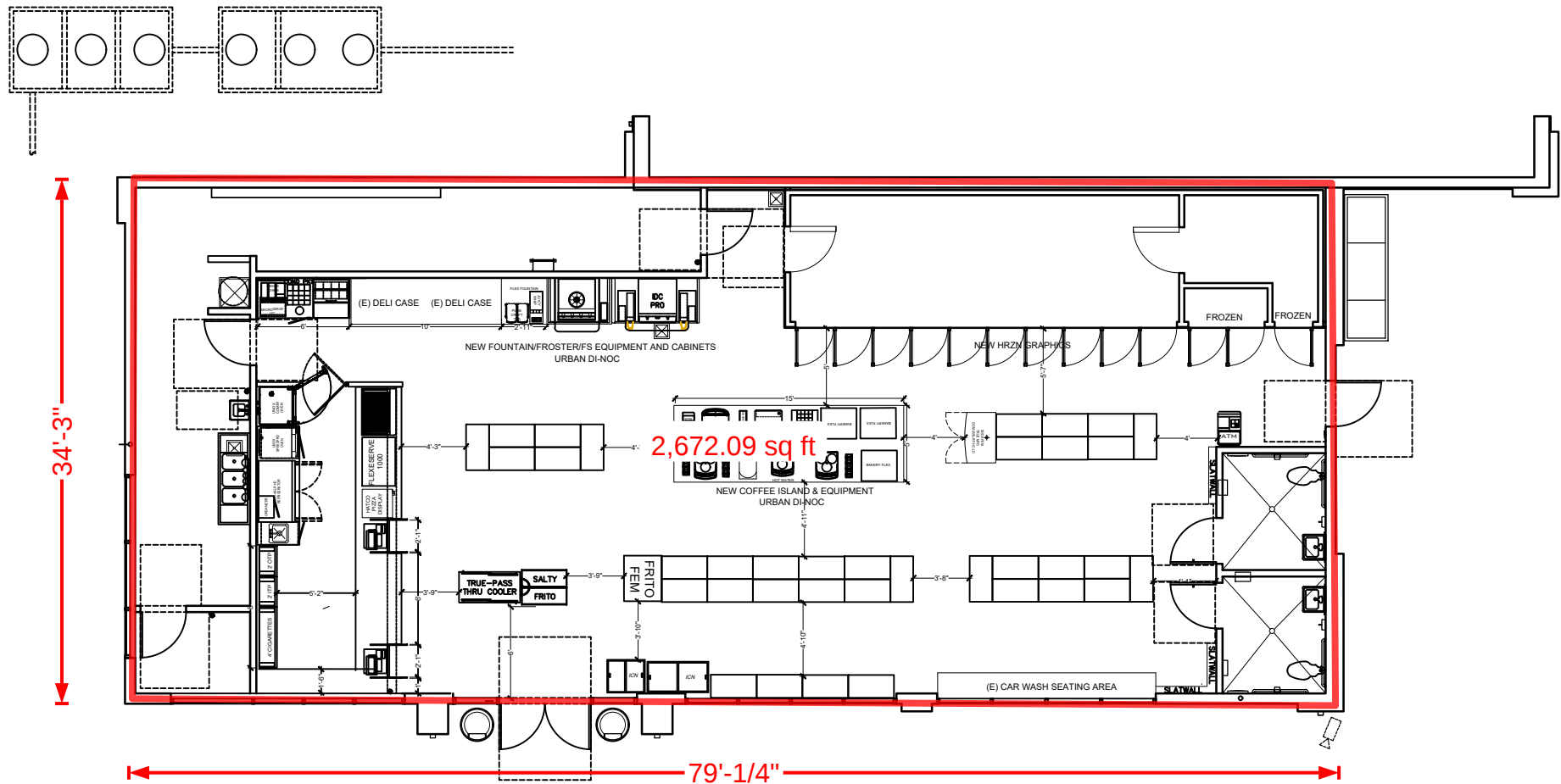


CALVERAS BOULEVARD

SERRA WAY

1 SITE PLAN
1" = 20'-0"





STORE LAYOUT

SCALE: 3/32=1'-0"

WALL LEGEND

- EXISTING WALL TO BE REMAIN
- EXISTING WALL TO BE REMOVED
- NEW WALL

I UNDERSTAND THAT, AS FRANCHISEE, IT IS MY RESPONSIBILITY TO COMPLY WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS PERTAINING TO THE CONSTRUCTION/REMODELING OF THE STORE, INCLUDING, WITHOUT LIMITATION, THE AMERICANS WITH DISABILITIES ACT. I FURTHER UNDERSTAND THAT I AM RESPONSIBLE FOR OBTAINING ALL LICENSES AND PERMITS REQUIRED BY LAW PRIOR TO BEGINNING SUCH CONSTRUCTION.



CIRCLE K WORLDWIDE FRANCHISE
A DIVISION OF ALIMENTATION COUCHE TARD
MAILING ADDRESS: P.O. BOX 52085
PHOENIX, AZ 85072

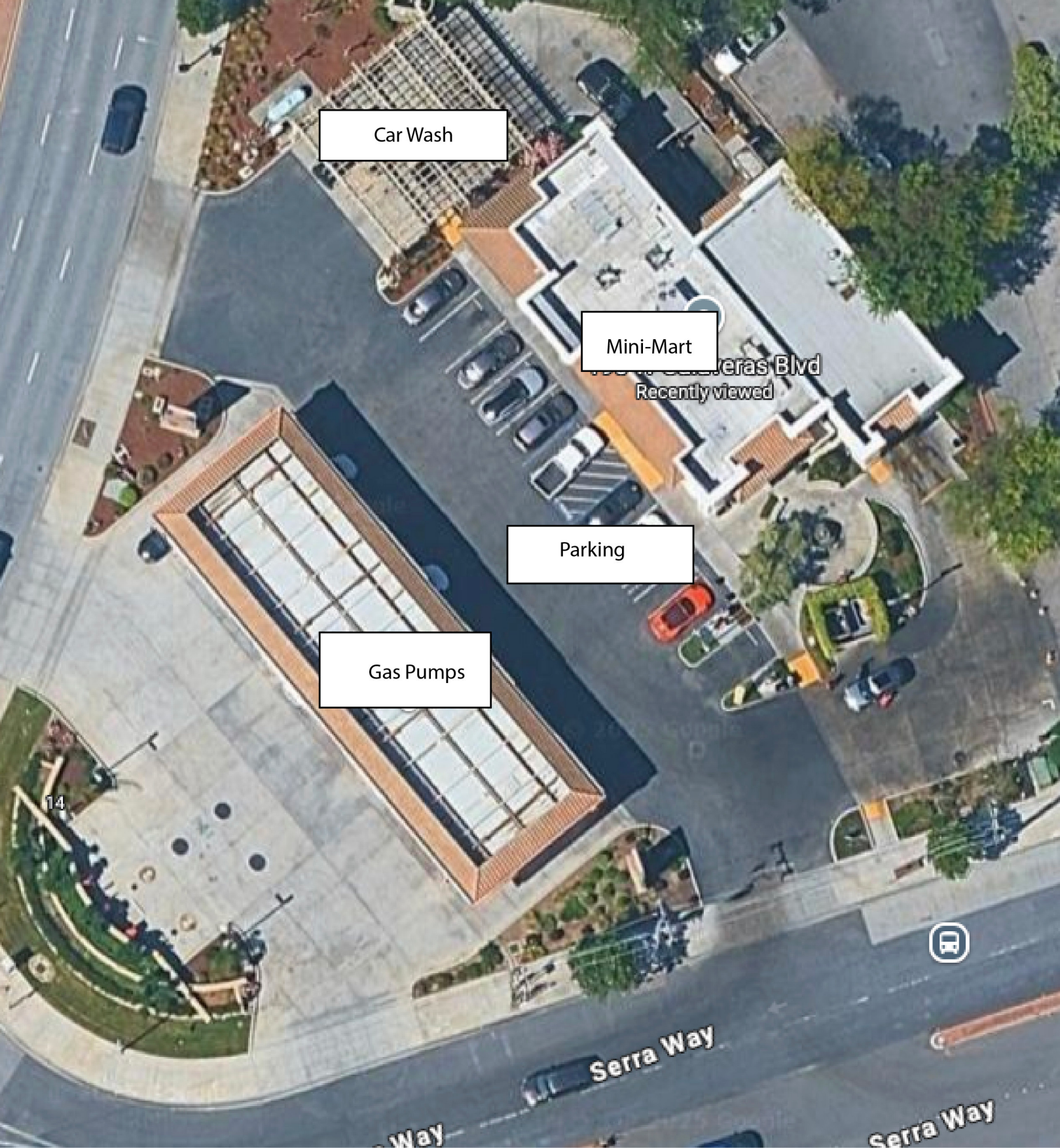
SCALE: AN
DATE: 7.11.23
PROJECT TYPE: CONVERSION

PROJECT/ADDRESS:
-CIRCLE K 2654415
- 190 W Calveras Blvd.
- Milpitas CA 95035

No.	Revision/Issue	Date
	Revision 1	7/24/23

DESCRIPTION:
SITE FLOOR PLAN
JOB NAME:
STORE LAYOUT

DRWN BY:
JS
SHT: 1/1



Car Wash

This is an aerial photograph of a commercial property. The property includes a car wash, a mini-mart, a parking lot, and a gas station. The car wash is located at the top left. The mini-mart is a single-story building with a grey roof and orange accents, located in the upper right. The parking lot is a large paved area in the center. The gas pumps are located in a long, rectangular structure with a glass roof, situated in the lower left. The property is bordered by a road on the left and another road at the bottom. A street sign for 'Serra Way' is visible at the bottom right. A 'Recently viewed' label is also present near the mini-mart.

Mini-Mart

Serra Blvd
Recently viewed

Parking

Gas Pumps

Serra Way

Serra Way



CITY OF MILPITAS

Planning Commission

MEETING MINUTES

7:00pm

SEPTEMBER 24, 2025

CITY COUNCIL CHAMBERS,
455 E CALAVERAS BLVD, MILPITAS, CA
and
via TELECONFERENCE (Zoom Webinar)

CALL TO ORDER

Chair Gupta called the meeting to order at 7:00 pm.

PLEDGE OF ALLEGIANCE

Commissioner Albana led the pledge of allegiance.

ROLL CALL

Recording Secretary Medina called the roll.

PRESENT: Chair Gupta, Vice Chair Caulkins, Albana, Medina-Ashby, and Awasthi.

ABSENT: Kong, Galang

STAFF: Jay Lee, Christopher Creech, Lillian VanHua, Anjulie Palta (consultant), and Elizabeth Medina.

CONFLICT OF INTEREST/CAMPAIGN CONTRIBUTION DECLARATION

Assistant City Attorney Christopher Creech asked if any member of the commission had any personal or financial conflict of interest related to any of the items on the agenda, and there were none.

APPROVAL OF THE MEETING AGENDA

By motion, approve the meeting agenda for September 24, 2025.

Motion/Second Awasthi/Medina-Ashby

Motion carried by a vote of AYES: 5 NOES: 0

APPROVAL OF THE MEETING MINUTES

By motion, approve the meeting minutes for September 10, 2025.

Motion/Second Caulkins/Medina-Ashby

Motion carried by a vote of AYES: 4 NOES: 0 ABSTAIN: 1 (Albana)

ANNOUNCEMENTS

No announcements were made by the Planning Commissioners. Planning Director Lee announced that the regularly scheduled Planning Commission meeting on October 8 is canceled due to a lack of agenda items. The next meeting will be held on October 24.

PUBLIC FORUM

Chair Gupta invited members of the public to address the commission, and there were none.

PUBLIC HEARING

IX-1 SPECIFIC PLAN AMENDMENT (SP20-0002), ZONING TEXT and MAP AMENDMENT (ZA25-0002), and GENERAL PLAN AMENDMENT (GP25-0002) – Midtown Specific Plan Area: City-initiated amendments to the Midtown Specific Plan (now being named the Gateway-Main St. Specific Plan), Zoning Ordinance, Zoning Map, and General Plan to adopt the Gateway-Main St. Specific Plan; amend the Zoning Ordinance and Zoning Map to establish new Specific Plan boundaries, zoning districts, and zoning regulations; and amend the General Plan for consistency with the proposed amendments to the Zoning Ordinance. As the lead agency, the City has prepared a Subsequent Environmental Impact Report (SCH No. 2024070432) in accordance with the California Environmental Quality Act (CEQA).

(46:01) Project Planner Jay Lee and Ascent Environment team (consultant) addressed commissioners' clarifying questions on various topics.

- **Design Options:** Commissioners asked whether the two design options shown for the Sierra/Main Street area were conceptual or final. Staff clarified they are conceptual options intended to guide future development while providing flexibility for property owners.
- **Public Gathering Spaces:** Commissioners inquired about potential “anchor plazas” or public gathering areas. Staff explained that the Sierra Center area is envisioned to include civic and outdoor gathering spaces consistent with the plan’s goals.
- **Property Ownership:** Questions were raised about land ownership near the 76 Gas Station and Black Bear Diner area. Staff confirmed these are different property owners within the Crossroads District, and while not all areas received equal design focus, similar development intensity and uses are allowed throughout.
- **Minimum Density Standards:** Commissioners discussed a public comment requesting higher minimum housing densities. Staff clarified that the Crossroads District already requires a minimum of 40 dwelling units per acre, exceeding the proposed 30 units, while Main Street retains a flexible minimum of 20 units per acre due to site constraints and smaller parcel sizes.
- **Walkability:** Commissioners asked how Main Street would be made more walkable. Staff explained this will be achieved through block breakups, wider sidewalks, setbacks, and street-level enhancements such as parklets or outdoor dining spaces, without displacing existing businesses.
- **Past Development and Future Opportunities:** Staff noted prior redevelopment under the Midtown Specific Plan (2002, updated 2010) and identified several “pipeline” projects awaiting adoption of the updated plan, including sites at 600 Valley Way and near the Calaveras Overpass.
- **Developer Incentives:** In response to questions about what attracts developers to Milpitas, staff explained that increased allowable density, incentive-based zoning, and flexible mixed-use standards improve feasibility compared to current zoning. Market factors, land costs, and readiness of catalyst sites will also influence redevelopment.
- **Boundary Adjustments:** Staff and the Planning Director noted that expanding plan boundaries enhances redevelopment potential and creates synergies between parcels, benefiting adjacent neighborhoods through public improvements.
- **Mixed-Use Balance:** Commissioners expressed concern about losing retail spaces in new housing proposals. Staff confirmed that the plan requires ground-floor retail along activity streets and priority intersections, while allowing residential-only development in less active areas to maintain flexibility and overall corridor vitality.

Chair Gupta invited members of the public to address the commission and there were none.

Motion to close the Public Forum.

Motion/Second Caulkins/Medina-Ashby

Motion carried by a vote of AYES: 5 NOES: 0

Recommendation: Staff recommends that the Planning Commission consider and adopt Resolution No. 25-014 recommending that the City Council: 1) approve Specific Plan Amendment SP20-0002, Zoning Map and Text Amendment ZA25-0002, and General Plan Amendment GP25-0002 to adopt the Gateway-Main St. Specific Plan;

amend the Zoning Ordinance and Zoning Map to establish new Specific Plan boundaries, zoning districts, and zoning regulations; and amend the General Plan for consistency with the proposed amendments to the Zoning Ordinance; and 2) certify the Subsequent EIR to the Milpitas 2040 General Plan EIR for the Gateway-Main St. Specific Plan.

Motion/Second Albana/Awasthi

Motion carried by a vote of AYES: 5 NOES: 0

NEW BUSINESS

Commissioner Albana proposed adding a brief one-minute invocation following the Pledge of Allegiance at the start of each Planning Commission meeting to promote reflection, wisdom, and gratitude before proceedings.

Acting City Attorney Creech explained that such a change would require an amendment to the Planning Commission's bylaws, which must first be approved by the Commission and then by the City Council. He noted that currently, the City Council is the only body that includes an invocation as part of its meeting process.

Following discussion, the Commission reached consensus to place the item on a future agenda for formal consideration.

No additional new business items were raised.

ADJOURNMENT

Chair Gupta adjourned the meeting at 8:11 pm

Motion/Second Albana/Medina-Ashby

Motion carried by a vote of AYES: 5 NOES: 0

Meeting Minutes submitted by
Planning Commission Secretary Elizabeth Medina