



THE CITY OF SAN DIEGO

REPORT TO THE HEARING OFFICER

HEARING DATE: September 25, 2103

REPORT NO. HO 13-080

ATTENTION: Hearing Officer

SUBJECT: AKB PETROLEUM
PTS PROJECT NUMBER: 321267

LOCATION: 5494 Mission Center Road

APPLICANT: Robert Zakar

SUMMARY

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

Staff Recommendation - APPROVE Conditional Use Permit No. 1126564.

Community Planning Group Recommendation - On July 10, 2013, the Mission Valley Planning Group recommended approval of the project by a vote of 17-1-0 without conditions (Attachment 7).

Environmental Review - The proposed activity is exempt from CEQA pursuant to Section 15301 (Existing facilities) of the State CEQA Guidelines in that the proposed project is a Conditional Use Permit for the upgrade to the existing sales of alcohol. This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on July 3, 2013 and the opportunity to appeal that determination ended on July 18, 2013.

BACKGROUND

The project proposes a Conditional Use Permit to upgrade an existing alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,152 square-foot market on a 0.66- acre site located at 5494 Mission Center Road within the MVPD-MV-CO Zone within the Mission Valley Community Plan Area. The MVPD-MV-CO Zone allows for commercial stores and developments. The existing service station and convenience store is located within a commercial area that provides a wide variety of commercial uses. No expansions are proposed with the project. The development provides 19 automobile spaces, including 1 standard accessible space and two compact spaces on-site. The service station and

the existing alcohol sales are both previously conforming uses as currently, a Neighborhood Use Permit (Process 2) would be required for a service station and the sales of beer and wine within the convenience store would required a Conditional Use Permit (Process 3).

DISCUSSION

The project proposes to upgrade its existing Type 20 liquor license to a Type 21. Sales of alcohol will be limited between 6:00 AM and 2:00 AM each day of the week. The proposed display area for alcohol would be limited to 15-percent of sales floor space. The Conditional Use Permit includes a 20-year expiration. The pending Alcohol Beverage Control (ABC) license (Type 21) is defined as “off sales” which would require all of the alcohol sold at the store to be consumed off the premises. Alcoholic beverage outlets are permitted by right as a “Limited Use” pursuant to SDMC section 141.0502(b) of the Land Development Code (LDC). A limited Use may be permitted by right in the zone if the alcohol beverage outlet meets all of the development regulations and location criteria of a separately regulated use. Alcoholic beverage outlets that do not comply with the location criteria of this section may still be permitted with a Conditional Use Permit pursuant to SCMC section 141.0502(c).

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

- Within a Federal Census tract, or within 600 feet of a Census Tract, where the general crime rate exceeds the citywide average general crime rate by more than 20 percent.
- Within a Census tract, or within 600 feet of a Census Tract, where the ratio of alcoholic beverage outlets exceeds the standards established by the California Business and Professions Code (Section 23958.4).
- Within a Redevelopment Area.
- Within 600 feet of a public or private accredited school, a public park, playground or recreational area, a church, hospital or a San Diego County Welfare District Office.
- Within 100 feet of residentially zoned property.

A Conditional Use Permit is required for the subject site because the property is located within a High crime area (621.4 % where 120 % of the City-wide average) and in an area with over concentration of alcohol license (5 allowed where 12 existing).

The San Diego Police Department (SDPD) has recommended approval of the requested Conditional Use Permit to allow the sale of alcohol of off-site consumption at this location (Attachment 7). Their support for this request is based on several factors including the commercial location of the site. The site contains multiple commercial uses and is highly visible

from the public right-of-way where access by law enforcement is not restricted. The proposed upgrade of a Type 20 to a Type 21 alcohol license was found to not be detrimental to the public health, safety, and welfare of the community and the city. The SDPD reviewed the proposed project and found that the project provides a public convenience and necessity and recommends approval of the project. Requirements within the draft permit include restriction for hours of alcohol sales, lighting requirements, sign requirements, and alcohol sales area restriction. All Police Department conditions and recommendations have been added to the draft permit. The San Diego Police Department's Vice Unit will work with the applicant and the Department of Alcoholic Beverage Control to place additional conditions on the alcohol license to minimize the law enforcement concerns, if necessary.

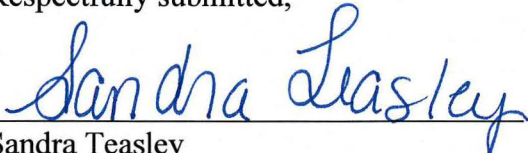
CONCLUSION

Staff has determined that the project complies with the development regulations of all applicable sections of the Land Development Code. Staff has also considered the alcoholic beverage outlet statistics from the Alcoholic Beverage Control and the recommendation of the San Diego Police Department-Vice Operations. Staff has determined that the required findings can be made as the project meets the applicable San Diego Municipal Code regulations and requirements. Staff recommends approval of the project as proposed.

ALTERNATIVES

1. Approve Conditional Use Permit No. 1126564, with modifications or;
2. Deny Conditional Use Permit No. 1126564, if the findings required to approve the project cannot be affirmed.

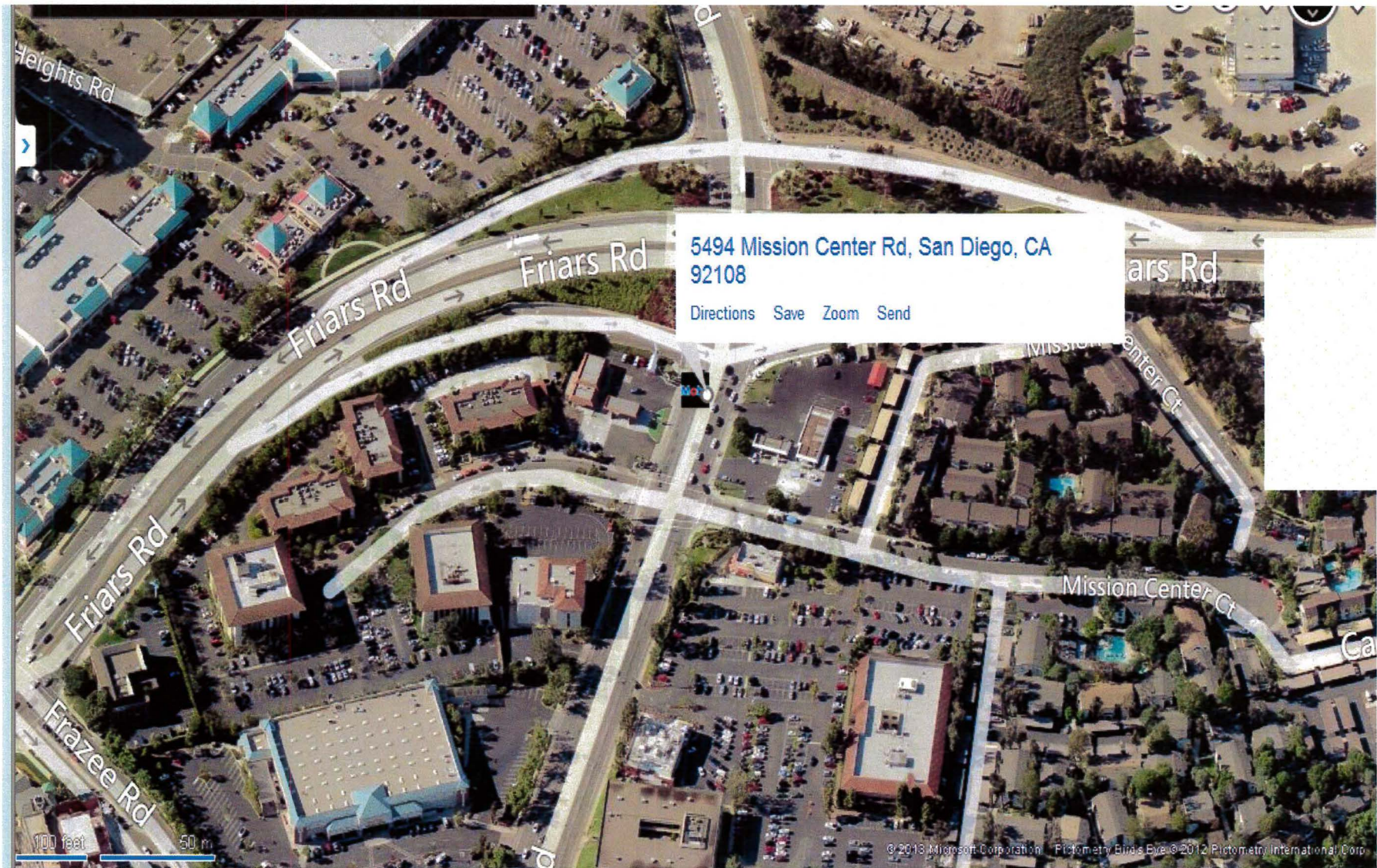
Respectfully submitted,



Sandra Teasley
Development Project Manager

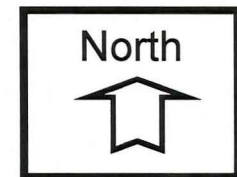
Attachments:

1. Aerial Photograph
2. Community Plan Land Use Map
3. Project Location Map
4. Draft Permit with Conditions
5. Draft Resolution with Findings
6. Community Planning Group Recommendation
7. SDPD Conditional Use Permit Recommendation
8. Environmental Exemption
9. Project Plans



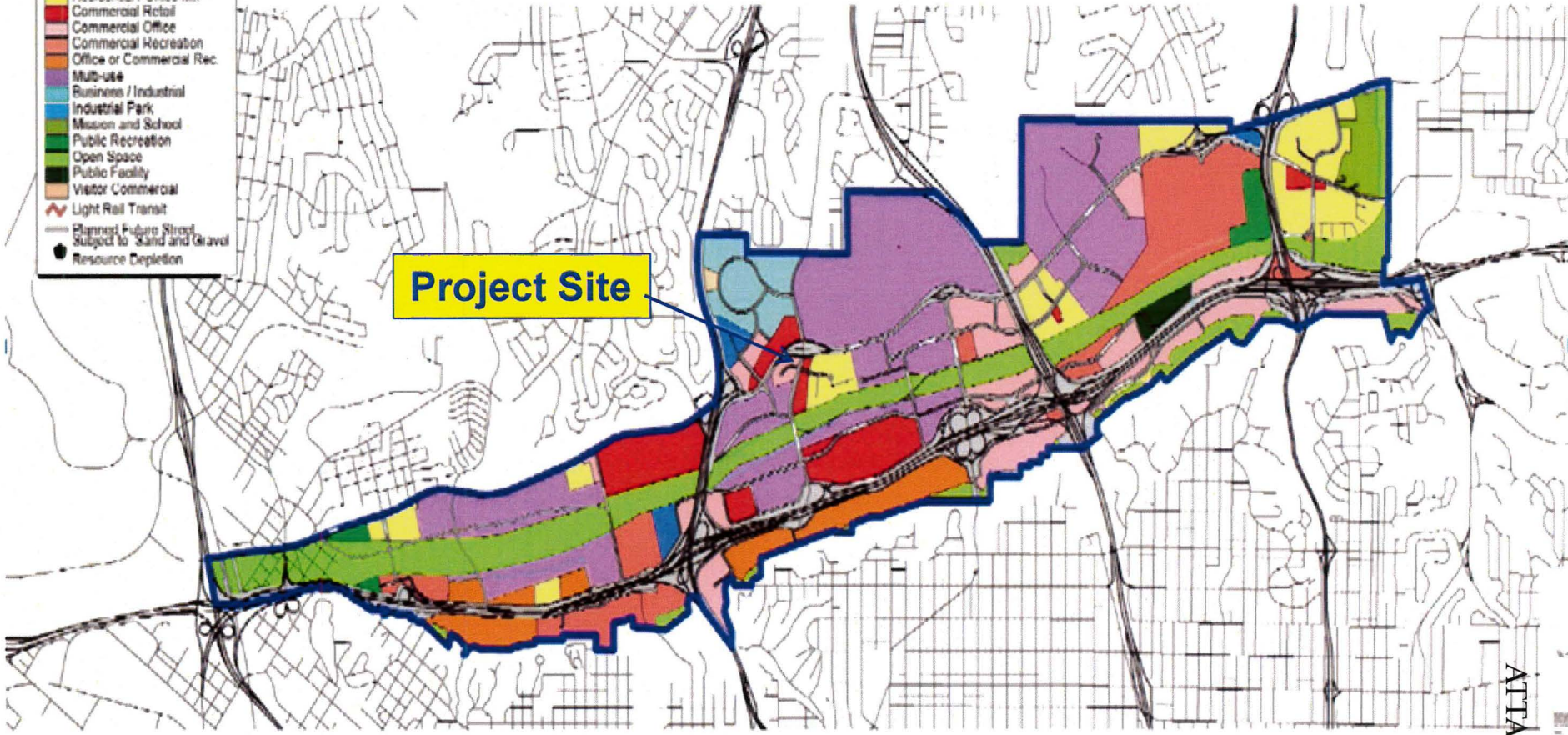
Aerial Photo

COHEN RESIDENCE EOT – 8130 LA JOLLA SHORES DRIVE
PROJECT NO. 325192

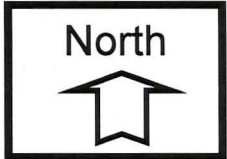


Mission Valley Community Plan Land Use

- LEGEND**
- Residential
 - Residential / Office Mix
 - Commercial Retail
 - Commercial Office
 - Commercial Recreation
 - Office or Commercial Rec.
 - Mult-use
 - Business / Industrial
 - Industrial Park
 - Museum and School
 - Public Recreation
 - Open Space
 - Public Facility
 - Visitor Commercial
 - Light Rail Transit
 - Planned Future Street
Subject to Sand and Gravel
Resource Depletion



Land Use Map
AKB PETROLEUM
PROJECT NO. 321267

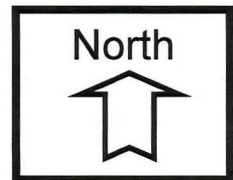


ATTACHMENT 2



Project Location Map

AKB PETROLEUM CUP – 8494 Mission Center Drive
PROJECT NO. 321267



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

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
PERMIT CLERK
MAIL STATION 501

SPACE ABOVE THIS LINE FOR RECORDER'S USE

INTERNAL ORDER NUMBER: 24003717

CONDITIONAL USE PERMIT NO. 1126564
AKB PETROLEUM PROJECT NO. 321267
HEARING OFFICER

This Conditional Use Permit No. 1126564, is granted by the Hearing Officer of the City of San Diego to AKB PETROLEUM, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0502. The 0.66-acre site is located at 5494 Mission Center Road in the MVPD-MV-CO Zone within the Mission Valley Community Plan Area. The project site is legally described as Lot 1, Friars Professional Park, Unit No. 1 Tract, Map 6726.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to upgrade an alcoholic beverage outlet from Type 20 alcoholic beverage license (beer and wine sales) to a Type 21 alcoholic beverage license (general liquor sales) alcoholic beverage license conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control and subject to the City's land use regulations. The existing service station is a previously conforming use. The project is described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated September 25, 2013, on file in the Development Services Department.

The project shall include an upgrade to an existing Type 20 liquor license (beer and wine sales) to a Type 21 liquor license (general liquor) to operate an alcoholic beverage outlet within an existing market, conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control. The existing alcohol beverage outlet is previously conforming.

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 October 10, 2016.

2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on October 10, 2033.
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. Owner/Permittee shall maintain a minimum of 19 off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

POLICE DEPARTMENT REQUIREMENTS:

14. The sales of alcoholic beverage shall be permitted between the hours of 6:00 AM and 2:00 AM each day of the week.

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

OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and Spanish.

16. All graffiti painted or marked upon the premises or on any adjacent area under the control of the permittee shall be removed or painted over within 48 hours of being applied.
17. There shall be no amusement machines or video game devices on the premises at any time.
18. No pay telephone will be maintained on the interior or exterior of the premises.
19. Proper illumination shall be maintained in the parking lot.
20. No more than 15-percent of floor space shall be allocated for the display of alcohol.
21. Video surveillance system that monitors, records and stores for a minimum of 15 days, the interior, exterior and parking lot area in control of the store and is readily accessible to law enforcement.

POLICE DEPARTMENT RECOMMENDATIONS:

22. Beer, malt beverages or wine cooler products in bottles less than 22 ounces must be sold in manufactures, pre-packaged, multi-unit quantities of 3 or greater.
23. Wine shall not be sold in bottles or containers smaller than 750 ml and shall not have an alcoholic content greater than 15 percent by volume, except for "Dinner Wines" which have been aged two years or more.
24. The sale of distilled spirits shall be in bottles 375ml or greater.

INFORMATION ONLY:

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

APPROVED by the Hearing Officer of the City of San Diego on September 25, 2013.

Conditional Use Permit No. 1126564
Date of Approval: September 25, 2013

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES
DEPARTMENT

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.**

AKB Petroleum
Owner

By _____

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

HEARING OFFICER
RESOLUTION NO. HO-
CONDITIONAL USE PERMIT NO. 1126564
AKB PETROLEUM PROJECT NO. 321267

WHEREAS, AKB Petroleum, Inc., Owner/Permittee, filed an application with the City of San Diego to upgrade an alcoholic beverage outlet from Type 20 alcoholic beverage license (beer and wine sales) to a Type 21 alcoholic beverage license (general liquor sales) within an existing convenience store on a lot developed with a previously conforming service station, (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1126564), on portions of a 0.66-acre site;

WHEREAS, the project site is located at 5494 Mission Center Road in the MVPD-MV-CO Zone within the Mission Valley Community Plan Area;

WHEREAS, the project site is legally described as Lot 1, Friars Professional Park, Unit No. 1 Tract, Map 6726;

WHEREAS, on September 25, 2013, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1126564 pursuant to the Land Development Code of the City of San Diego;

WHEREAS, on July 3, 2013, the City of San Diego, as Lead Agency, through the Development Services Department, made and issued an Environmental Determination that the project is exempt from the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et. seq.) under CEQA Guideline Section 15301 (Existing Facilities) and there was no appeal of the Environmental Determination filed within the time period provided by San Diego Municipal Code Section 112.0520;

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

That the Hearing Officer adopts the following written Findings, dated September 25, 2013.

FINDINGS:

Conditional Use Permit – Section 126.0305

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

The project proposes to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,152 square-foot market located at 5494 Mission Center Road in the MVPD-MV-CO Zone within the Mission Valley Community Plan Area.

The project site contains a one-story gas station building/store with multiple gas pumps and overhead canopy. The current underlying zoning allows for commercial uses such as the gas station and store. The site is designated for commercial uses within the Mission Valley Community Plan which allow commercial developments and related uses. The objectives of the Commercial Element of the community plan include the provision of commercial services to ensure the availability of adequate commercial facilities offering a variety of goods and services to meet the needs of the public.

This convenience store is consistent with the existing zoning and the Community Plan Land Use designation for this site. The Community Plan does not specifically address the sale of general liquor at convenience stores for off-site consumption. The sales of alcoholic beverages are permitted by the Municipal Code as a limited use or with the approval of a Conditional Use Permit. The request to operate an alcohol beverage outlet with a Type 21 ABC License for the sales of general liquor for off-site consumption in an existing commercial convenience store would not adversely impact the land use goals and recommendations in the applicable land use plan.

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

The project proposes to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,152 square-foot market located at 5494 Mission Center Road in the MVPD-MV-CO Zone within the Mission Valley Community Plan Area. Only interior modifications are proposed.

The project was determined to be exempt from the California Environmental Quality Act (CEQA).

The San Diego Police Department (SDPD) staff has determined that the proposed upgrade to an existing Type 20 liquor license (beer and wine sales) to a Type 21 (general liquor) is a small component of the market and is not the principal sales product – accessory, not primary.

The San Diego Police Department supports the Type 21 liquor license upgrade as conditioned by the Conditional Use Permit to ensure that the sale of alcoholic beverages is maintained as an incidental part of the market. Conditions include hours alcohol can be sold, illumination to the parking lot, and the amount of square footage the convenience store sales area may sell alcohol. Additional permit conditions provide for signs to restrict loitering and provisions to maintain the property in a neat and orderly fashion. Therefore, the proposed development would not be detrimental to the public health, safety and welfare.

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

The project proposes to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,152 square-foot market located at 5494 Mission Center Road in the MVPD-MV-CO Zone within the Mission Valley Community Plan Area.

The alcohol beverage outlet with a Type 21 ABC License for the sales of general liquor for off-site consumption in an existing commercial store requires the approval of a Conditional Use Permit (CUP) pursuant to Section 141.0502(c) of the Land Development Code (LDC). Specific conditions of approval require compliance with all relevant regulations of the City of San Diego effective for this site and have been written as such into Conditional Use Permit No. 1126564. The proposed project will be required to observe all relevant development regulations for the duration of the use, as described in the Conditional Use Permit. No deviations or variances are included with this Conditional Use Permit request. Therefore, the project will comply with the regulations of the Land Development Code.

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

The project proposes to upgrade an alcohol beverage license from a Type 20 (beer and wine sales) to a Type 21 (general liquor) within an existing 1,152 square-foot market located at 5494 Mission Center Road in the MVPD-MV-CO Zone within the Mission Valley Community Plan Area.

The project site is located at 5494 Mission Center Road and is developed with one, commercial building where commercial uses operate. The site is located in the MVPD-MV-CO Zone, which allows for commercial uses such as the subject gas station and store. The site is designated for commercial uses which allow commercial developments and related uses by the Mission Valley Community Plan. The objectives of the Commercial Element of the community plan include the provision of commercial services to ensure the availability of adequate commercial facilities offering a variety of goods and services to meet the needs of the public. The existing commercial development is in compliance with the goals and recommendations of the community plan.

The proposed alcohol beverage outlet with a Type 21 ABC License for the sales of general liquor for off-site consumption at this store will be permitted through a Conditional Use Permit to require compliance with all relevant regulations of the City of San Diego effective for this site. The alcohol license will be regulated by the California Department of Alcoholic Beverage Control and enforced by the Police Department.

The San Diego Police Department has determined that although the crime rate is considered high for this area, the proposed upgrade is appropriate at this location due to the existing Type 20 license in good standing since 2007, and that CUP approval will not add to the total of off-sale licenses in the area.

With specific conditions permitting the proposed use to sell alcohol, Type 21 ABC License limited to general liquor for off-site consumption, the proposed use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1126564 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. 1126564, a copy of which is attached hereto and made a part hereof.

Sandra Teasley
Development Project Manager
Development Services

Adopted on: September 25, 2013
Job Order No. 24003717

There will be a webpage and mobile apps which will allow patrons to locate stations and available bikes in real-time. Bikes will be equipped with LED lighting, adjustable seats and a basket suitable for a laptop or a beach bag.

There will be opportunities for a variety of sponsorship and outdoor advertising opportunities.

Brian recommended that MVPG start discussions about where the bike stations might be located in Mission Valley.

4. Mission Valley Post Office Closure-Dottie Surdi (Information Item)

Dottie Surdi reviewed the United States Postal Service notice of 6/19/2013 regarding comments on the proposal to close the Mission Valley Postal Store.

Josh Weiselberg volunteered to coordinate comments on the closure and develop an action recommendation for the August MVPG meeting.

5. Mission Valley Mobil CUP-Robert Zakar (Action Item)

Robert Zakar discussed the application with the City of San Diego for a Conditional Use Permit to Amend CUP 89-0314 to upgrade a Type 20 Liquor License (Off Sale Beer & Wine) to Type 21 (Off Sale General-Beer, Wine and Distilled Liquors) at an existing 24 hour service station market located at 5494 Mission Center Road.

There was discussion regarding the selling of small bottles of distilled liquor and cheaper bottles of wine. Robert explained that the market demand is not for these types of products and that they do not currently sell these at any of their locations and will not at this location.

Alex Plishner moved to approve the Conditional Use Permit to Amend CUP 89-0314 to upgrade a Type 20 Liquor License to Type 21 for the Mission Valley Mobil at 5494 Mission Center Road, San Diego, CA. Karen Ruggels seconded the motion. The motion was approved 17 – 1 – 0 with Elizabeth Leventhal voting no.

K. OLD BUSINESS

1. City Planning Update

Brian Schoenfisch reported on the reorganized planning department with the new name of "The Planning and Neighborhood Restoration Department" and its new director Bill Fulton.

Bill Fulton, former mayor of Ventura, CA, and author of the textbook "Guide to California Planning," started on Monday July 8, 2013. Brian stated that Mr. Fulton wants to visit the community planning groups.

Dottie Surdi will invite him to attend the August 2013 MVPG meeting.

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Robert Zakar discussed the application with the City of San Diego for a Conditional Use Permit to Amend CUP 89-0314 to upgrade a Type 20 Liquor License (Off Sale Beer & Wine) to Type 21 (Off Sale General-Beer, Wine and Distilled Liquors) at an existing 24 hour service station market located at 5494 Mission Center Road.

There was discussion regarding the selling of small bottles of distilled liquor and cheaper bottles of wine. Robert explained that the market demand is not for these types of products and that they do not currently sell these at any of their locations and will not at this location.

Alex Plishner moved to approve the Conditional Use Permit to Amend CUP 89-0314 to upgrade a Type 20 Liquor License to Type 21 for the Mission Valley Mobil at 5494 Mission Center Road, San Diego, CA. Karen Ruggels seconded the motion. The motion was approved 17 – 1 – 0 with Elizabeth Leventhal voting no.

K. OLD BUSINESS

1. City Planning Update

Brian Schoenfisch reported on the reorganized planning department with the new name of "The Planning and Neighborhood Restoration Department" and its new director Bill Fulton.

Bill Fulton, former mayor of Ventura, CA, and author of the textbook "Guide to California Planning," started on Monday July 8, 2013. Brian stated that Mr. Fulton wants to visit the community planning groups.

Dottie Surdi will invite him to attend the August 2013 MVPG meeting.

There will be a webpage and mobile apps which will allow patrons to locate stations and available bikes in real-time. Bikes will be equipped with LED lighting, adjustable seats and a basket suitable for a laptop or a beach bag.

There will be opportunities for a variety of sponsorship and outdoor advertising opportunities.

Brian recommended that MVPG start discussions about where the bike stations might be located in Mission Valley.

4. Mission Valley Post Office Closure-Dottie Surdi (Information Item)

Dottie Surdi reviewed the United States Postal Service notice of 6/19/2013 regarding comments on the proposal to close the Mission Valley Postal Store.

Josh Weiselberg volunteered to coordinate comments on the closure and develop an action recommendation for the August MVPG meeting.

5. Mission Valley Mobil CUP-Robert Zakar (Action Item)

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

PREMISE ADDRESS: 5494 Mission Center Rd, San Diego, Ca 92108

TYPE OF BUSINESS: Gas Station

FEDERAL CENSUS TRACT: 93.04

NUMBER OF ALCOHOL LICENSES ALLOWED: 5

NUMBER OF ALCOHOL LICENSES EXISTING: 12

CRIME RATE IN THIS CENSUS TRACT: 621.4%
(Note: Considered High Crime If Exceeds 120% of City-wide Average)

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

IS THE PREMISE WITHIN 600 FEET OF INCOMPATIBLE FACILITY YES NO

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

ABC LICENSE REVOKED AT THIS PREMISE WITHIN PAST YEAR YES NO

HAS APPLICANT BEEN CONVICTED OF ANY FELONY YES NO

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

COMMENTS/OTHER FACTORS CONSIDERED:

The applicant is applying for a Conditional Use Permit at a gas station for a Type 21 Off-sale General license. The applicant currently a type 20 Beer and Wine license which has been in good standing since January 2007. The sale of alcohol at the gas station is an accessory and not the primary commodity.

Between 07/01/12 and 07/1/2013, there were 8 calls for service at the location which resulted in a total police out of service time(OST) of 6.26 hours. The calls do not appear to be related to the location.

This census tract is considered "High Crime" having more than a 120% crime rate. The license will not add to the number of off-sale licenses in the area since this is considered an upgrade. With the below listed conditions, the San Diego Police Department agrees to the issuance of the conditional use permit.

SUGGESTED CONDITIONS:

1. Sales of alcoholic beverages shall be permitted only between the hours of 6:00 AM and 12:00 Midnight each day of the week.
2. Beer, malt beverages or wine cooler products in bottles less than 22oz must be sold in manufacturerers, pre-packaged, multi-unit quantities of 3 or greater.

3. Wine shall not be sold in bottles or containers smaller than 750 ml and shall not have an alcoholic content greater than 15% by volume, except for "Dinner Wines" which have been aged two years or more.
4. The petitioner(s) shall post and maintain a professional quality sign facing the premises parking lot(s) that reads as the following: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and in Spanish.
5. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
6. There shall be no amusement machines or video game devices on the premises at any time.
7. No pay telephone will be maintained on the interior or exterior of the premises.
8. Proper illumination will be maintained in the parking lot.
9. Video surveillance system that monitors, records and stores for a minimum of 15 days, the interior, exterior and parking lot area in control of 7-eleven and is readily accessible to law enforcement.
10. No more than 15% of floor space shall be allocated for the display of alcohol.
11. No signage or advertising the availability of alcohol.
12. The sale of distilled spirits shall be in bottles 375ml or greater.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE

DENY

John S. Kano
Name of SDPD Vice Sergeant (Print)

619-531-2379
Telephone Number

[Signature]
Signature of SDPD Vice Sergeant

7/11/13
Date of Review

NOTICE OF EXEMPTION

ATTACHMENT 8

(Check one or both)

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

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

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

PROJECT No.: 321267

PROJECT TITLE: AKB PETROLEUM CUP

PROJECT LOCATION-SPECIFIC: The project site is located 5494 Mission Center Road in the MVPD-MV-CO Zone of the Mission Valley Community Planning Area; (LEGAL DESCRIPTION: Lot 1, Friars Professional Park, Unit No. 1 Tract, Map 6726).

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

DESCRIPTION OF NATURE AND PURPOSE OF THE PROJECT: **CONDITIONAL USE PERMIT** to allow for an upgrade in the liquor license status from a Type 20 (off-sale beer and wine) to a Type 21 (off-sale general alcoholic beverage) within an existing 1,152 square-foot service station market with 24-hour daily operations.

NAME OF PUBLIC AGENCY APPROVING PROJECT: City of San Diego

NAME OF PERSON OR AGENCY CARRYING OUT PROJECT: AKB Petroleum, Inc.
5494 Mission Center Road
San Diego, CA 92108 (619) 654-7532

EXEMPT STATUS: (CHECK ONE)

- MINISTERIAL (SEC. 21080(b)(1); 15268);
- DECLARED EMERGENCY (SEC. 21080(b)(3); 15269(a));
- EMERGENCY PROJECT (SEC. 21080(b)(4); 15269 (b)(c))
- CATEGORICAL EXEMPTION: 15301 (EXISTING FACILITIES)
- STATUTORY EXEMPTIONS:

REASONS WHY PROJECT IS EXEMPT: The City of San Diego conducted an environmental review and determined that the project would not have the potential for causing a significant effect on the environment in that the project is consistent with the community plan and the applicable zone and because the project meets the criteria set forth in CEQA Section 15301(Existing Facilities) which allows for the operation, repair, maintenance, permitting, licensing, or minor alteration of existing facilities (public or private) involving negligible or no expansion of use beyond that existing at the time determination. The project will have substantially the same purpose and capacity as the existing; and where the exceptions listed in CEQA Section 15300.2 would not apply.


LEAD AGENCY CONTACT PERSON: Herrmann

TELEPHONE: (619) 446-5372

IF FILED BY APPLICANT:

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

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

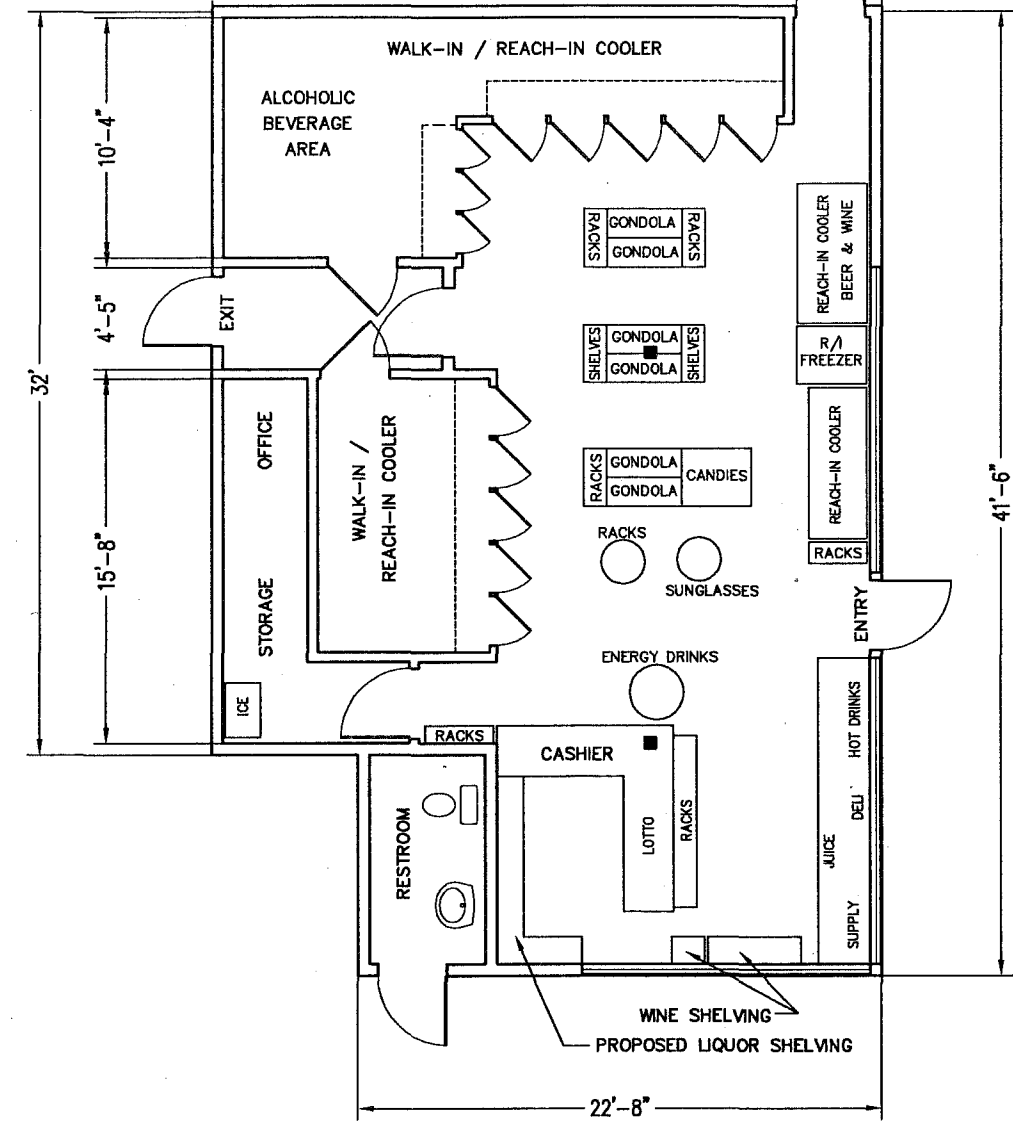
 SENIOR PLANNER
SIGNATURE/TITLE

JULY 3, 2013
DATE

CHECK ONE:

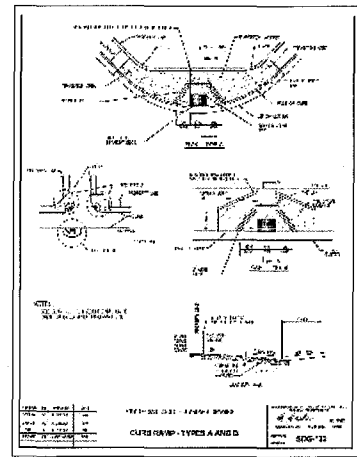
- SIGNED BY LEAD AGENCY
- SIGNED BY APPLICANT

DATE RECEIVED FOR FILING WITH COUNTY CLERK OR OPR:



CADFILE No: MISSION-FP

<h1 style="margin: 0;">FLOOR PLAN</h1> <p style="margin: 0;">SCALE 1/4" = 1'-0"</p>	
SITUS:	5494 MISSION CENTER ROAD SAN DIEGO, CA 92108
REPRESENTATIVE:	ROBERT ZAKAR 10451 HARVEST VIEW WAY SAN DIEGO, CA 92128 619-654-7532
APPLICANT/OWNER:	A K B PETROLEUM, INC. 5494 MISSION CENTER ROAD SAN DIEGO, CA 92108
PREPARATION DATE:	APRIL 2, 2013
REVISED DATE:	MAY 14, 2013
REVISED DATE:	
	SHEET 2 OF 2



PARKING CALCULATION

PARKING REQUIRED

AUTOMOBILE
 AUTOMOBILE SERVICE STATION
 1152 SQ.FT. RETAIL, 1,152 KSF X 3.0 = 3.46 SPACES
 SERVICE STATION = 3 SPACES
 2 SERVICE BAYS, 1 SPACE EACH = 2 SPACES
 TOTAL PARKING REQUIRED = 9 SPACES
 per SDMC Table 142.056

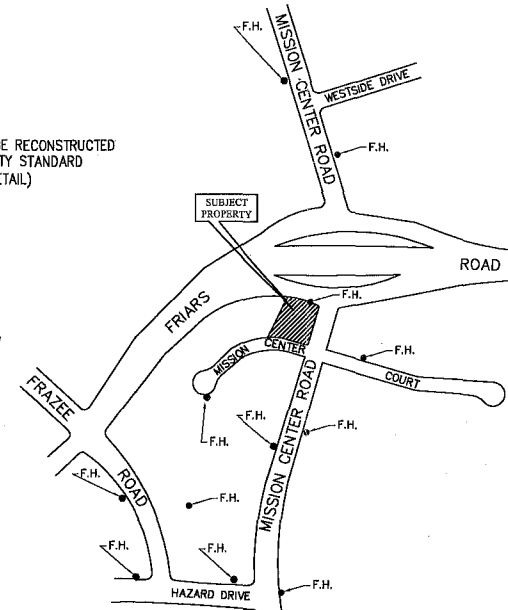
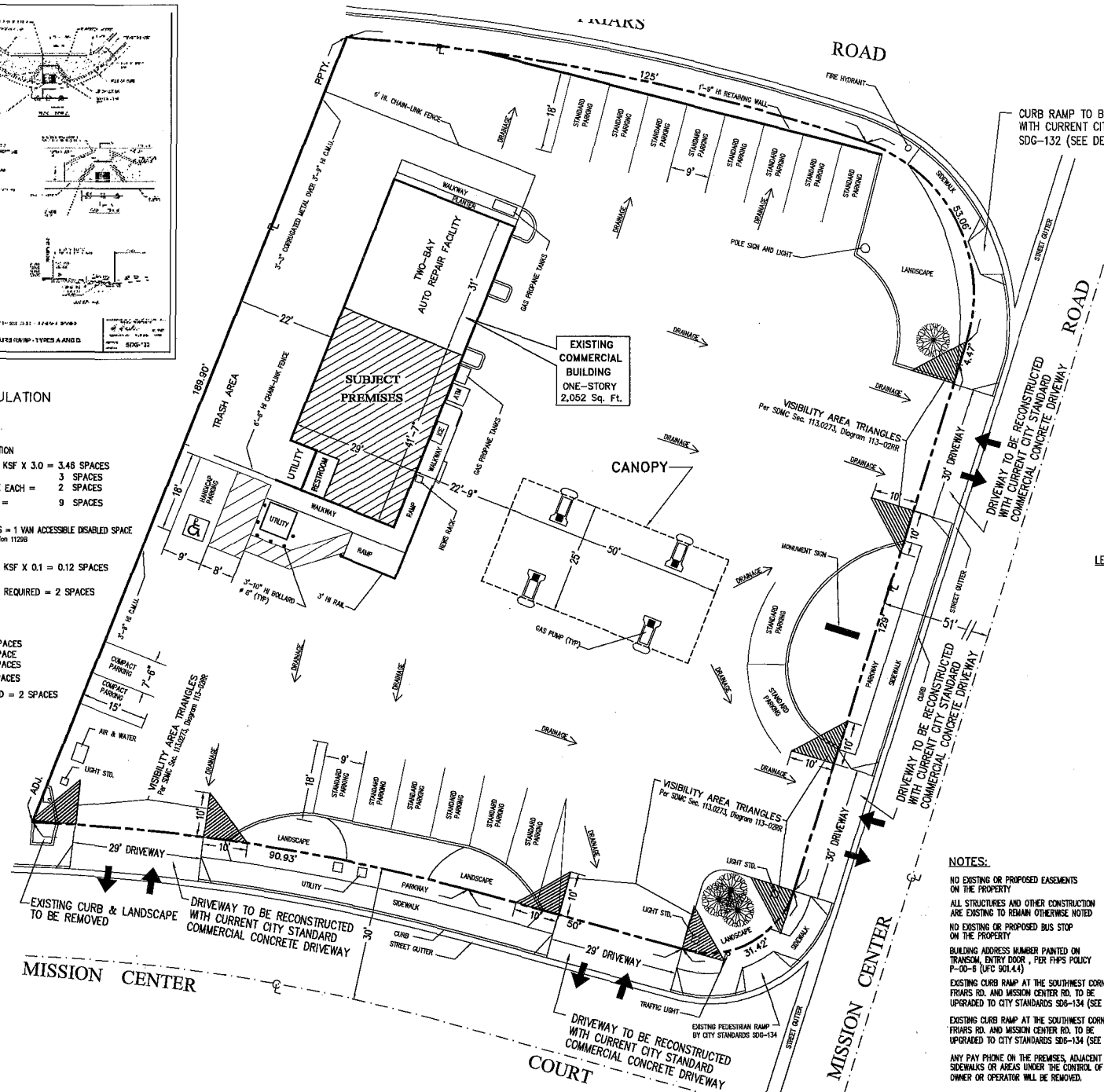
LESS THAN 50 PARKING SPACES = 1 VAN ACCESSIBLE DISABLED SPACE
 per CBC Chapter 11A, Section 1129B

BICYCLE
 1,940 SQ.FT. RETAIL, 1,152 KSF X 0.1 = 0.12 SPACES
 per SDMC 142.053(b)

MINIMUM BICYCLE PARKING REQUIRED = 2 SPACES

PARKING PROVIDED

AUTOMOBILE
 STANDARD = 16 SPACES
 VAN ACCESSIBLE = 1 SPACE
 COMPACT = 2 SPACES
 TOTAL = 19 SPACES
 BICYCLE PARKING PROVIDED = 2 SPACES



VICINITY MAP
 SCALE: N.T.S.

LEGEND:
 ———— PROPERTY LINE
 ● F.H. FIRE HYDRANT (TYP.)

SITE PLAN
 SCALE 3/32" = 1'-0"

PROJECT TITLE:
 TO REQUEST A CONDITIONAL USE PERMIT TO ALLOW AN UPGRADE IN THE LIQUOR LICENSE STATUS FROM A TYPE 20: OFF-SALE BEER AND WINE TO A TYPE 21: OFF-SALE GENERAL ALCOHOLIC BEVERAGE; IN CONJUNCTION WITH AN EXISTING 1,152 SQUARE-FOOT SERVICE STATION MARKET, HAVING 24 HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES FROM 6:00 A.M. TO 2:00 A.M., DAILY, IN THE MVPD-MV-CO ZONE.

SITUS: 5494 MISSION CENTER ROAD
 SAN DIEGO, CA 92108

REPRESENTATIVE: ROBERT ZAKAR
 10451 HARVEST VIEW WAY
 SAN DIEGO, CA 92128
 619-654-7532

APPLICANT/OWNER: A K B PETROLEUM, INC.
 5494 MISSION CENTER ROAD
 SAN DIEGO, CA 92108

LEGAL DESCRIPTION: LOT 1, FRIARS PROFESSIONAL PARK UNIT No 1 TRACT, MAP 8726 A.P.N. 438-011-14-00

ZONE INFORMATION:
 BASE ZONE = MVPD-MV-CO
 COMMUNITY PLAN NAME = MISSION VALLEY
 OVERLAY ZONE:

GROSS SITE AREA = 0.68 ACRES
TOTAL FLOOR AREA = 2,052 Sq.Ft.

EXISTING/PROPOSED USE: SERVICE STATION MARKET
HOURS OF OPERATION: 24 HOURS DAILY
HOURS OF ALCOHOLIC BEVERAGE SALES: 6:00 A.M. TO 2:00 A.M.

PREPARATION DATE: APRIL 2, 2013
REVISED DATE: MAY 14, 2013
REVISED DATE: JULY 25, 2013

SHEET 1 OF 1

NOTES:
 NO EXISTING OR PROPOSED EASEMENTS ON THE PROPERTY
 ALL STRUCTURES AND OTHER CONSTRUCTION ARE EXISTING TO REMAIN UNLESS NOTED
 NO EXISTING OR PROPOSED BUS STOP ON THE PROPERTY
 BUILDING ADDRESS NUMBER PAINTED ON TRANSOM ENTRY DOOR, PER FHPS POLICY P-00-8 (UFC 901.4.4)
 EXISTING CURB RAMP AT THE SOUTHWEST CORNER OF FRIARS RD. AND MISSION CENTER RD. TO BE UPGRADED TO CITY STANDARDS SDG-134 (SEE DETAIL)
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 ANY PAY PHONE ON THE PREMISES, ADJACENT PUBLIC SIDEWALKS OR AREAS UNDER THE CONTROL OF THE OWNER OR OPERATOR WILL BE REMOVED.