



**DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT
MEMORANDUM**

ACTION DATE: August 6, 2009

TO: Planning Commission

APPLICANT: Ron Azad
c/o Adler Realty Investments, LLC
20950 Warner Center Drive, Suite C
Woodland Hills, CA 91367

CASE NO.: 09-CUP-006

LOCATION: 28941 Canwood Street
(Assessor's Parcel No. 2048-011-061)

REQUEST: Request for a Conditional Use Permit to allow the off-sale of alcoholic beverages for a new specialty grocery store.

ENVIRONMENTAL ANALYSIS: Compliant with the Certified EIR for the Tract

RECOMMENDATION: Staff recommends that the Planning Commission approve Conditional Use Permit Case No. 09-CUP-006, subject to conditions.

ZONING DESIGNATION: CRS-FC (Commercial Retail Service – Freeway Corridor Design Overly)

GENERAL PLAN DESIGNATION: CG (Commercial-Retail/Service)

I. PROJECT DESCRIPTION AND BACKGROUND

On July 8, 2009, the City Council adopted a new ordinance that requires approval of a Conditional Use Permit from the Planning Commission for new off-site and on-site alcoholic beverage establishments. The first application proposed since adoption of the ordinance is Ron Azad's/Adler Realty Investments, LLC's request for a Conditional Use Permit to allow for the off-sale of alcohol for a new specialty grocery store (Trader Joe's). The store is to be built at 28941 Canwood Street, adjacent to and west of the Homewood Suites Hotel, in the Shops at Oak Creek project site. Grading plans for the project site are currently being reviewed by staff for permit issuance. The site is located in the CRS-FC (Commercial Retail Service – Freeway Corridor Overlay) zones.

The Alcoholic Beverage Establishment Ordinance defines off-sale alcoholic beverage establishments as “any establishment wherein alcoholic beverages are sold, served, or given away to be consumed off the premises, including but not limited to, any establishment that has obtained or intends to obtain an Alcohol Beverage Control (ABC) license type 20 or 21. References to an off-sale alcoholic beverage establishment shall include an immediately adjacent area that is owned, leased, rented, or controlled by the permittee.” The specialty grocery store intends to obtain a type 21 (general) liquor license from ABC that is not specific to strictly the sale of beer and wine. According to the applicant, sales of wine, beer, and distilled spirits, including the sale of individual containers, are a vital and necessary component of this specialty grocery store.

Prior to adoption of the new ordinance, off-sale alcoholic beverage establishments, with the exception of certain gift packages, were prohibited within the Freeway Corridor Overlay zone. The new ordinance, however, now allows specialty grocery stores greater than 10,000 square feet in size, to provide for the off-sale of alcoholic beverages. The applicant is requesting approval for the use of approximately 2,500 square feet (20%) of the 12,500 square foot specialty grocery store's gross floor area to be designated for off-site alcohol sales. Anticipated daily business hours of operation are from 9:00 a.m. to 9:00 p.m.

III. STAFF ANALYSIS

The City Council's decision to initiate and approve the Alcoholic Beverage Establishment Ordinance was to achieve greater control over nuisance-type issues related to alcohol beverage establishments, such as noise, particularly related to the proximity to residential areas, as well as overall safety issues, and any impacts related to the concentration of such businesses. Requiring a Conditional Use Permit was chosen as the preferred land-use tool because it allows for decisions to be made by the Planning Commission and any appropriate conditions included on a case-by-case basis, following a public hearing. Accordingly, in addition to the findings currently required for approval of a Conditional Use Permit, the new ordinance also requires the Planning Commission find in favor of additional findings that are included in the attached draft Resolution.

Staff has reviewed the required findings and finds the proposed use to be compliant with the intent of the ordinance. The proposed off-sale of alcoholic beverages will be an ancillary component of the specialty grocery store, which is a permitted use in the CRS zone. The beverages will be sold during normal business hours and on-site consumption of alcohol sold at the store is prohibited. The nearest residential properties are located in the Oak Creek Apartment complex, approximately 170 feet to the north of the store site, and are separated and buffered by Medea Creek and a natural knoll. In addition, there is no school located within 500 feet of the site. Although Chumash Park is located approximately 550 feet from the site, it is separated by the adjacent apartment complex. Therefore, staff finds the proposed use will not negatively impact surrounding properties or neighborhoods.

There are currently fifteen (15) business establishments in the city that are currently licensed for the off-sale of alcohol. The nearest establishments to the applicant's site are a liquor store located in Kanan Plaza that is approximately 1,100 feet west of the applicant's site, and three retail businesses in the Agoura Meadows Shopping Center, located approximately 1,900 feet northwest from the applicant's site.

The Shops at Oak Creek project, in which the specialty grocery store and proposed off-sale of alcoholic beverages use is proposed, is vested per the Development Agreement and the Final Environmental Impact Report (EIR) that was approved and certified by the City Council for the tract. Staff concludes that because the project has been vested by the Final EIR and, more importantly, the execution of a Development Agreement, no additional environmental analysis per the California Environmental Quality Act (CEQA) may be prepared by the City for the proposed off-sale of alcoholic beverages use, which is ancillary to the approved specialty grocery store.

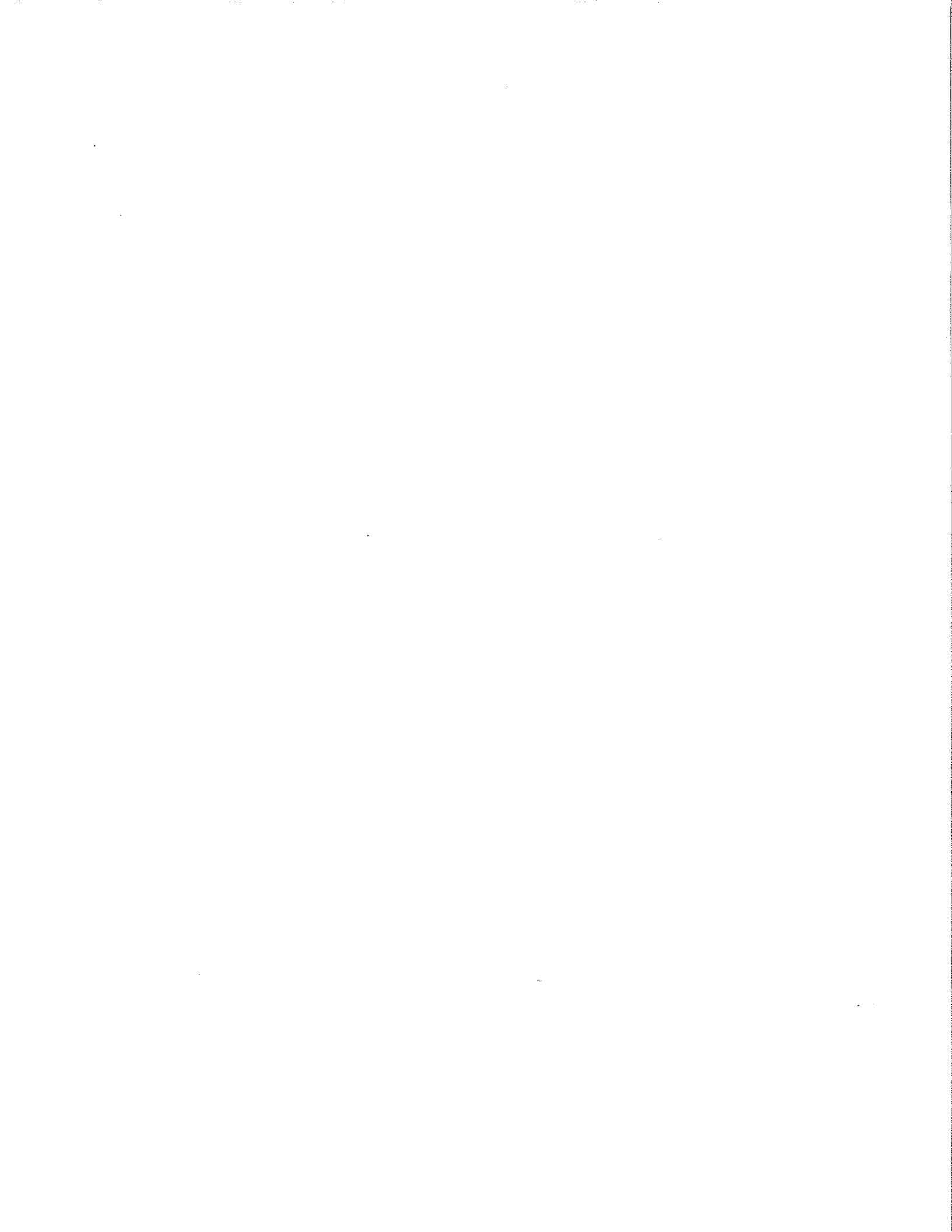
IV. RECOMMENDATION

Staff recommends that the Planning Commission approved Conditional Use Permit 09-CUP-006, subject to conditions.

V. ATTACHMENTS

Draft Resolution and Conditions of Approval
Site Plan and Floor Plan
City Council Ordinance No. 09-362

CASE PLANNER: Doug Hooper, Assistant Director of Community Development



DRAFT RESOLUTION NO. ____

A RESOLUTION OF THE PLANNING COMMISSION OF THE
CITY OF AGOURA HILLS
APPROVING CONDITIONAL USE PERMIT CASE NO. 09-CUP-006

THE PLANNING COMMISSION OF THE CITY OF AGOURA HILLS HEREBY FINDS, RESOLVES, AND ORDERS AS FOLLOWS:

Section I. An application was duly filed by Ron Azad/Alder Realty Investments, Inc. with respect to the real property located at 28941 Canwood Street (Assessor's Parcel Nos. 2048-011-061), requesting approval of a Conditional Use Permit to allow the off-sale of alcohol for a new specialty grocery store. A public hearing was duly held on August 6, 2009, at 6:30 p.m. in the City Council Chambers, City Hall, 30001 Ladyface Court, Agoura Hills, California. Notice of the time, date, place and purpose of the aforesaid hearings was duly given.

Section II. Evidence, both written and oral, was duly presented to and considered by the Planning Commission at the aforesaid public hearings.

Section III. Pursuant to Sections 9673.2.E and 9396.3 of the Agoura Hills Zoning Ordinance, the Planning Commission finds that:

A. The proposed use, as conditioned, is consistent with the objectives and provisions of the Zoning Ordinance and the purposes of the land use district in which the use is located. The off-sale of alcoholic beverages will occur in a specialty grocery store, which is a permitted use in the Commercial Retail Service (CRS) zone.

B. The proposed use, as conditioned, is compatible with the surrounding properties. The property, as well as adjacent parcels to the east and west, is zoned for commercial retail service uses. The off-sale of alcoholic beverages is an ancillary use to the permitted retail use.

C. The proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare. The alcoholic beverage sales area within the grocery store will occupy approximately 20% of the overall tenant space and is considered to be ancillary to the grocery sales of the business. On-site consumption of alcohol purchased at the grocery store is prohibited.

D. The proposed use, as conditioned, will comply with each of the applicable provisions of the Zoning Ordinance. This permit allows strictly for the off-sale of alcohol, which is a permitted use within the specialty retail store that is larger than 10,000 square feet in size. No variance or modification is requested with this permit.

E. The distance from other similar and like uses is sufficient to maintain the diversity of the community. The nearest businesses located north of the 101 Freeway that are permitted for off-sale alcohol sales include a liquor store located in Kanan Plaza, approximately 1,100 feet from the applicant's proposed site, and three retail businesses located in Agoura Meadows Shopping Center, approximately 1,900 feet from the applicant's proposed site.

F. The proposed use, as conditioned, is consistent with the goals, objectives and policies of the General Plan. The proposed off-sale of alcoholic beverages within a specialty grocery store will maintain and enhance the community's existing commercial economic base by encouraging retail development to meet the needs of residents for shopping opportunities, as called for in Goal No. 2 and Implementation Measure 2.1 of the General Plan Economic Development Element.

G. The requested use, as conditioned, at the proposed location will not adversely affect the use of a school, park, playground or similar use within a five-hundred-foot radius. The nearest such land use is Chumash Park, which is located 550 feet from the proposed site and the two land uses are separated by an existing apartment complex.

H. The requested use, as conditioned, at the proposed location is sufficiently buffered by topographic conditions or public or private improvements from residentially zoned areas within the immediate vicinity so as not to adversely affect said areas. The nearest residential units are located approximately 170 feet from the proposed site, within an existing multi-family apartment complex, and are adequately buffered and separated by Medea Creek and a natural knoll.

I. The exterior of the structure will not be inconsistent with the external appearance of commercial structures already considered or under construction within the immediate neighborhood so as to cause blight or property deterioration, or to substantially diminish or impair property values within the neighborhood. The alcohol sales will occur within a specialty grocery store that will be constructed per design plans that have been publicly reviewed and approved by the City.

J. The upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development and use of abutting properties and the surrounding neighborhood. No on-sale of alcohol, or on-site consumption of alcohol, is approved with this permit and the off-sale of alcohol as an ancillary product to the grocery store will not impact abutting properties or surrounding neighborhoods

K. The proposed hours of alcoholic beverage sales, as conditioned, ensure that activities related to the project are compatible with the quiet enjoyment of the neighborhood. The off-sale of alcoholic beverages in the permitted grocery store, between the proposed business hours of 9:00 a.m. to 9:00 p.m. daily, will not impact the quiet enjoyment of the neighborhood beyond the normal business operations.

L. The specialty grocery store in which the off-sale of alcoholic beverages will occur is located in the Freeway Corridor Overlay zone and is larger than 10,000 square feet in size.

M. The requested use, as conditioned, will not contribute to an undue concentration of alcoholic beverage establishments in the area. The nearest businesses located north of the 101 Freeway that are permitted for off-sale alcohol sales include a liquor store located in Kanan Plaza, approximately 1,100 feet from the applicant's proposed site, and three retail businesses located in Agoura Meadows Shopping Center, approximately 1,900 feet from the applicant's proposed site.

N. The requested use, as conditioned, is not located in a high-crime area, or where a disproportionate number of police calls occur.

Section IV. The proposed use involves the off-sale of alcoholic beverages as an ancillary use to a specialty grocery store. A Final Environmental Impact Report (EIR) was prepared for the J.h. Snyder Company mixed use development project dated May, 2002, which includes this proposed site among contiguous other parcels. A Development Agreement was prepared between the original project applicant and the City of Agoura Hills in July of 2002. The project is vested per the Development Agreement that was approved by the City Council. The proposed use is generally consistent with the project analyzed in the prior EIR, and is consistent with the Commercial Retail Service zoning for the site. The project has been vested by the Final EIR and the execution of a Development Agreement, and no additional environmental analysis per the California Environmental Quality Act is required of the City.

Section V. Based on the aforementioned findings, the Planning Commission hereby approves Conditional Use Permit Case No. 09-CUP-006, with respect to the property described in Section I hereof.

Draft Resolution No. ____

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PASSED, APPROVED, and ADOPTED this 6th day of August, 2009, by the following vote
to wit:

AYES: (0)

NOES: (0)

ABSTAIN: (0)

ABSENT: (0)

John O'Meara, Chairperson

ATTEST:

Doug Hooper, Secretary

CONDITIONS OF APPROVAL (Case No. 09-CUP-006)

STANDARD CONDITIONS

1. This action shall not be effective for any purpose until the applicant has agreed in writing that the applicant is aware of, and accepts all, Conditions of Approval of this Permit with the Department of Planning and Community Development. Any conditions on such acceptance or challenges, including the filing of legal action, relating to the permit or the conditions, shall be treated as a failure to meet this Condition and shall nullify and void this permit.
2. Except as modified herein, the approval of this action is limited to, and requires complete conformation to, the labeled exhibits approved by the Planning Commission: Site Plan and Floor Plan.
3. It is hereby declared to be the intent that if any provision of this Permit is held or declared to be invalid, the Permit shall be void and the privileges granted hereunder shall lapse.
4. It is further declared and made a Condition of this action that if any Condition herein is violated, the Permit shall be suspended and the privileges granted hereunder shall lapse; provided that the applicant has been given written notice to cease such violation and has failed to do so for a period of thirty (30) days.
5. All requirements of the Zoning Ordinance and of the specific Zoning of the property must be complied with unless set forth in the Conditional Use Permit.
6. Unless Conditional Use Permit Case No. 09-CUP-006, Amendment is used within two (2) years from the date of City approval, the permit will expire. A written request for a one-year extension may be considered prior to the expiration date.

SPECIAL CONDITIONS

7. The applicant shall comply with all requirements of the State Department of Alcohol Beverage Control.
8. This permit shall be valid strictly for a type 21 liquor license from the State Department Alcohol Beverage Control for the specialty grocery store business.
9. On-site consumption of alcohol is prohibited.
10. The alcoholic beverage sales shall occur only during the specialty grocery store's open business hours.
11. This permit shall not be used prior to August 7, 2009, after which City Council Ordinance No. 09-362 shall become effective.

12. In accordance with Zoning Ordinance Section 9710, reconsideration of the Conditional Use Permit by the City shall be required when any of the following conditions of the business apply:
 - A. The establishment changes its type of retail liquor license with the Department of Alcohol Beverage Control;
 - B. There is a substantial modification to the mode or character of operation, including, but not limited to, any increase of 20% or more in the floor area or shelf space principally devoted to alcohol sales, or 100 square feet, whichever is greater;
 - C. The off-site alcoholic beverage establishment expands a customer service area primarily devoted to the sale of any alcoholic beverages; and
 - D. The alcoholic beverage license has either been revoked or suspended for any period by the ABC.

END

PARCELS 6 & 7 (2.16 acres)

RETAIL @ 5' 1,000 S.F. = 63 SPACES
 (12,500 S.F.)
 PARKING PROVIDED = 63 SPACES

RESTAURANT @ 15' 1000 S.F. = 28 SPACES
 (1858 S.F. OF SEATING AREA)
 PARKING PROVIDED = 28 SPACES

TOTAL PARKING REQUIRED = 91 SPACES
 TOTAL PARKING PROVIDED = 91 SPACES

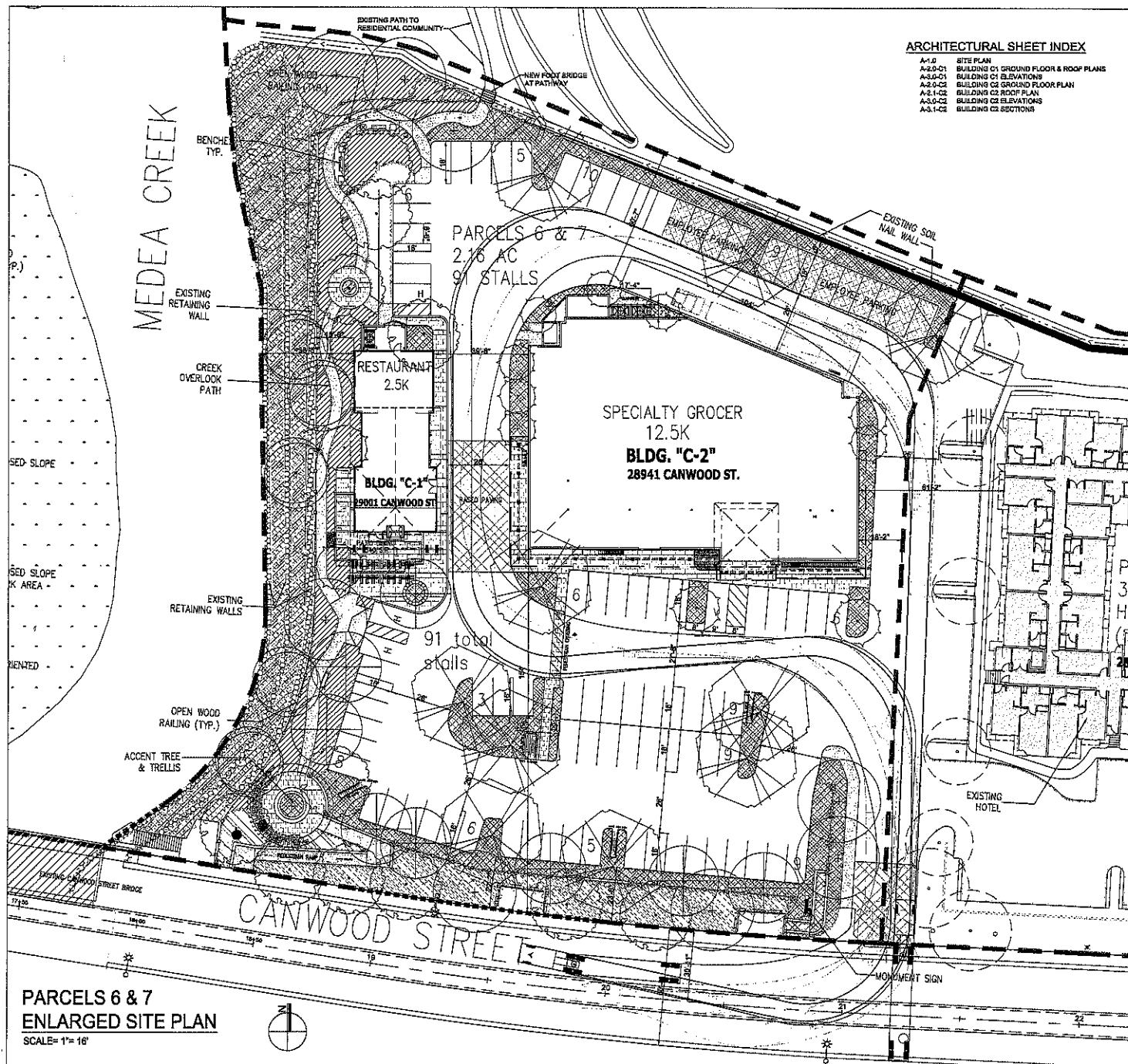
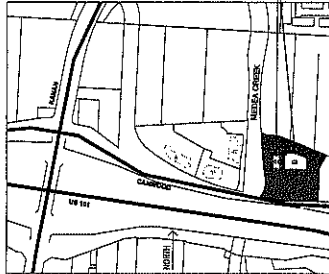
LEGAL DESCRIPTION

LOTS 6 AND 7 OF TRACT NO. 63762 IN THE CITY OF AGOURA HILLS, IN THE COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 1282 PAGES 51 TO 57 INCLUSIVE OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

LOTS 6 AND 7 ARE IDENTIFIED BY ASSESSOR IDENTIFICATION NUMBERS 2048-011-053 AND 2048-011-061.

VICINITY MAP

PARCELS 6 & 7 /BUILDINGS C1 & C2 PROJECT LOCATION



ARCHITECTURAL SHEET INDEX

- A-1.0 SITE PLAN
- A-2.0-C1 BUILDING C1 GROUND FLOOR & ROOF PLANS
- A-3.0-C1 BUILDING C1 ELEVATIONS
- A-2.0-C2 BUILDING C2 GROUND FLOOR PLAN
- A-2.1-C2 BUILDING C2 ROOF PLAN
- A-3.0-C2 BUILDING C2 ELEVATIONS
- A-4.1-C2 BUILDING C2 SECTIONS

**PARCELS 6 & 7
 ENLARGED SITE PLAN**
 SCALE= 1"= 16'



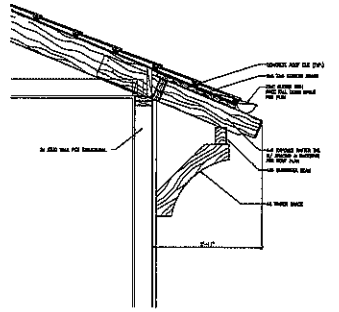
ADLER
 ARCHITECTURE & INTERIOR DESIGN
 VAN TILBURG, BARNARD & SODERBERGH, AA
 ARCHITECTURE - PLANNING - DESIGN

SHOPS at OAK CREEK
 Owner: ADLER ARCHITECTURE & INTERIOR DESIGN, INC.
 20854 CANYON CENTER DRIVE, WOODLAND HILLS, CA 91367
 (818) 884-2200

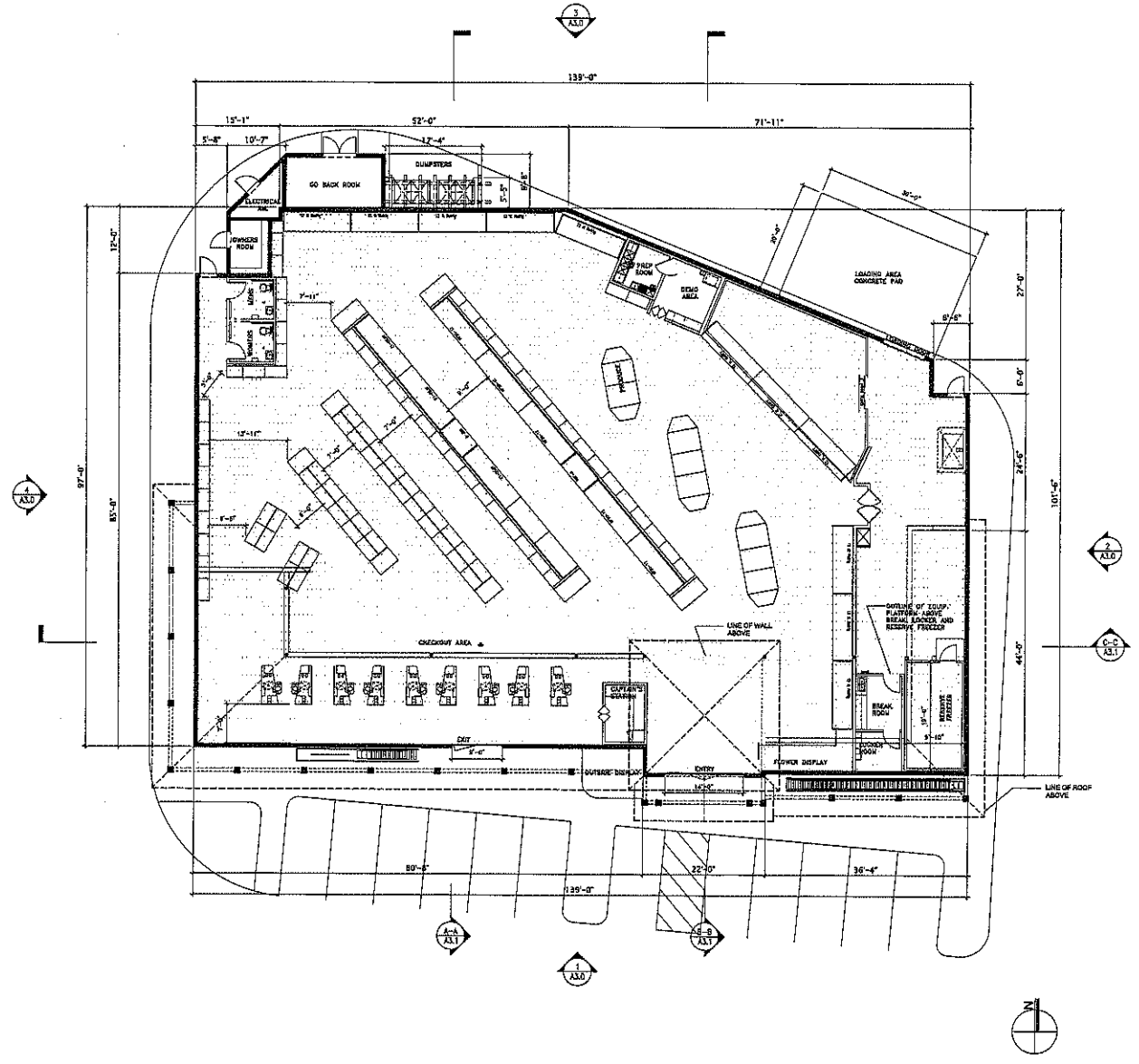
SITE PLAN
PARCELS 6 & 7
BUILDINGS C1 & C2
RETAIL & SPECIALTY GROCERY STORE

NO.	DATE	DESCRIPTION
01	10-18-08	SUP. SUBMITTAL


A-1.0




TIMBER BRACE EAVE DETAIL SCALE 3/4"=1'-0" 1



GROUND FLOOR PLAN SCALE 1/8"=1'-0" 1


 YAN TILBURG, BARNARD & SODDERBERGH, AIA
 ARCHITECTS • PLANNING • DESIGN
 1500 N. UNIVERSITY AVENUE, SUITE 100
 ANAHEIM, CA 92816
 TEL: 714.947.1000 FAX: 714.947.1001

OWNER:

 ADLER Realty Investments, Inc.
 20950 C Warner Center Lane
 Woodland Hills, CA 91367
 (818) 881-2200

SHOPS at OAK CREEK
 TRADER JOE'S, BLDG. C-2
 EAST SITE, PARCEL 7
 28941 Canwood Street, City of Agoura Hills, CA 91301

GROUND FLOOR PLAN

NO.	DATE	DESCRIPTION
03-18-08	03-18-08	D.P. SUBMITTAL

PROJECT: 25044 DATE: 03-18-08
 DRAWN BY: CMC/002

A-2.0

ORDINANCE NO. 09-362

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA, AMENDING ZONING ORDINANCE SECTIONS 9120.1, 9120.15, 9312.2, 9312.3, 9396.1, 9396.2, 9396.3, 9542.1, AND 9710 (ALCOHOLIC BEVERAGE ESTABLISHMENTS), AND CHAPTER 4 OF THE AGOURA VILLAGE SPECIFIC PLAN, REGARDING ON-SALE AND OFF-SALE OF ALCOHOLIC BEVERAGES (CASE NO. 09-ZOA-002)

THE CITY COUNCIL OF THE CITY OF AGOURA HILLS DOES ORDAIN AS FOLLOWS:

Section 1. Section 9120.1 H.1, H.2, and H.3 and Section 9120.15 D.1. of Part 3 of Chapter 1 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read:

9120.1. A.

H.1. Alcoholic beverage establishments, off-sale. "Alcoholic beverage establishment off-sale" shall mean any establishment wherein alcoholic beverages are sold, served, or given away to be consumed off the premises, including, but not limited to, any establishment that has obtained or intends to obtain an Alcoholic Beverage Control License type 20 or 21. References to an off-sale alcoholic beverage establishment shall include any immediately adjacent area that is owned, leased, rented, or controlled by the permittee.

H.2. Alcoholic beverage establishments, on-sale. "Alcoholic beverage establishment on-sale" shall mean any establishment wherein alcoholic beverages are sold, served, or given away to be consumed on the premises, and which has obtained or intends to obtain an Alcoholic Beverage Control license type 40, 41, 42, 47, 48, 51, 52, 61, 63 and/or 75. References to an on-sale alcoholic beverage establishment shall include any immediately adjacent area that is owned, leased, or rented, or controlled by the permittee. It shall also include any facility, inclusive of a portion thereof, which is rented out for special event functions wherein alcoholic beverages are sold or given away on the premises and are to be consumed on the premises.

~~H.1.~~ H.3. Alcoholic beverages. "Alcoholic beverages" shall mean any alcohol, spirits, liquor, wine, beer, or any liquid or solid which contains one-half of one (1) percent or more of alcohol by volume, and which is fit for beverage purposes, either alone or when diluted, mixed, or combined with other substances.

9120.15. O.

~~D.1. Off sale liquor establishments.~~ Off sale liquor establishment shall mean premises which offer the sale of alcoholic beverages to be consumed off the premises.

Section 2. Section 9312.2 and Section 9312.3 of Part 2 of Chapter 3 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code are hereby amended to read:

“9312.2. Commercial use table I.

The following shall be commercial use table I. Note: Since the mixed use district is the same as the business park office retail district, it is not provided for in this table.

	USE, SERVICE OR FACILITY	COMMERCIAL			BUSINESS PARK	
		CS	CRS	CR	BP-OR	BP-M
	Unless otherwise indicated, listings denote retail sales operations					
A.						
3.5	Alcohol, off-sale <u>Alcoholic beverage establishments, off-sale</u>	W	W	W	W	W
3.6	Alcohol, on-sale <u>Alcoholic beverage establishments, on-sale</u>	K W	K W	K W	K W	K W
3.65	Alcohol, on-sale consumption as an incidental service to a bona fide eating establishment	X	X	X	X	X
B.						
3.	Bar, tavern	X W	X W		U W	
C.						
2.	Café/restaurant	X	X		U	X
L.						
14.	Liquor store	X W	X W		G,U W	G W
W.						
6.	Winery sales facility/tasting room	X W	X W			X W

9312.3. Special conditions

The following special conditions apply to the uses indicated by the corresponding letter in table I described in section 9312.2.

W. Such use is permitted by a conditional use permit subject to the required findings as stated in sections 9363.3 and 9673.8 being made. Off-sale liquor alcoholic beverage establishments prohibited in the FC overlay district, except wholesale sales, and except supermarket/food stores with a floor area greater than 10,000 square feet.

Section 3. Section 9396.1 of Part 11 of Chapter 3 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby added to read:

9396.1. Alcoholic beverage sales

In order to protect adjacent neighborhoods from the harmful effects attributable to the sale of alcoholic beverages, to ensure that businesses selling alcoholic beverages are not the source of undue public nuisances in the community, and to minimize the adverse impacts of incompatible uses, the planning commission shall approve an application for a conditional use permit for an alcoholic beverage sales establishment.

9396.2 Conditional Uses

Off-site and on-site alcoholic beverage establishments shall be subject to the issuance of a conditional use permit pursuant to Agoura Hills Municipal Code Sections 9396.3 and 9673.

9396.3 Findings

In addition to the findings required by Agoura Hills Municipal Code Section 9673.2.E, the planning commission shall make the following findings, based on information submitted by the applicant and/or presented at the public hearing, before granting a conditional use permit:

- A. The requested use at the proposed location will not adversely affect the use of a school, park, playground or similar use within a five-hundred-foot radius;
- B. The requested use at the proposed location is sufficiently buffered by topographic conditions or public or private improvements from residentially zoned areas within the immediate vicinity so as not to adversely affect said areas;
- C. The exterior appearance of the structure will not be inconsistent with the external appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight or property deterioration, or to substantially diminish or impair property values within the neighborhood;
- D. The upkeep and operating characteristics are compatible with and will not adversely affect the livability or appropriate development and use of abutting properties and the surrounding neighborhood;
- E. The sale of alcoholic beverages may be restricted to certain hours of each day of the week as necessary to ensure that activities related to the project are compatible with the quiet enjoyment of the neighborhood;
- F. If an off-sale alcoholic beverage establishment, the requested use is not located in the freeway overlay land use district, unless it is a supermarket/food store larger than 10,000 square feet of floor area;
- G. The requested use will not contribute to an undue concentration of alcoholic beverage establishments in the area;
- H. The requested use is not located in what has been determined to be a high-crime area, or where a disproportionate number of police calls occur.

- I. If the sale of alcohol is proposed at an establishment that also offers live entertainment, said Conditional Use Permit request shall be reviewed in conjunction with the Conditional Use Permit for live entertainment.

Section 4. Section 9542.1 of Part 5 of Chapter 5 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby amended to read:

9542.1. Prohibited Uses

In addition to the prohibited uses in the underlying district, the following are prohibited in the FC overlay district:

- B. Off-sale liquor Alcoholic beverage establishments. This section shall not apply to the wholesale sale of alcoholic beverages or to the sale of alcoholic beverages which are wrapped or otherwise enclosed in a sealed container and sold as part of a gift package or other goods, only where there is no public display of alcoholic beverages where the sale of such items is incidental to the primary business on the premises, and where the sales of such items do not exceed fifteen (15) percent of the gross sales of the business at said location. This section shall also not apply to supermarket/food stores with a floor area greater than 10,000 square feet.

Section 5. Section 9710, Part 11 of Chapter 7 of Article IX (Zoning Ordinance) of the Agoura Hills Municipal Code is hereby added to read:

PART 11. NONCONFORMING ALCOHOLIC BEVERAGE ESTABLISHMENTS

9710. Changes to Nonconforming Alcoholic Business Establishments.

The provision set forth in this chapter shall apply to any changes to nonconforming alcoholic beverage establishments. Existing establishments may continue to operate as provided herein, except when any of the following conditions apply:

- A. The establishment changes its type of retail liquor license with the Department of Alcohol Beverage Control;
- B. There is a substantial modification to the mode or character of operation. As used herein, the phrase "substantial change of mode or character of operation" shall include, but not be limited to, any increases of 20% or more in the floor area or shelf space principally devoted to alcohol sales, or 100 square feet, whichever is greater.
- C. The off-site or on-site alcoholic beverage establishment expands a customer service area primarily devoted to the sale or service of any alcoholic beverages and/or increases the number of customer seats primarily devoted to the sale or service of any alcoholic beverages.
- D. The alcoholic beverage license has been either revoked or suspended for any period by the ABC.

Section 6. Chapter 4 of the Agoura Village Specific Plan is hereby amended to read:

Land Uses

Prohibited Uses

The following are prohibited in the AVSP Zone: Adult book stores, adult entertainment, adult theater and similar adult uses, outdoor displays, mini-storage facilities and yards, truck and equipment rentals and the like, drive-thru facilities such as restaurants and banks, and off-sale liquor stores establishments ~~except for wine tasting/sales.~~

Table 4.1 Allowable Use Table

The following shall be commercial use table I. Note: Since the mixed use district is the same as the business park office retail district, it is not provided for in this table.

Allowable Uses by Proposed Zones						
<i>X = permitted use</i>	Zone A	Zone B	Zone C	Zone D	Zone E	Zone F
<i>CUP = conditional use permit</i>						
<i>- = prohibited uses</i>						
Uses						
Retail						
<u>Alcoholic beverage establishments, off-sale</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	-
Restaurant						
<u>Alcoholic beverage establishments, on-sale</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	<u>CUP</u>	-
Bar, tavern	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	-
Microbrewery	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	-
Wine tasting/sales	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	<u>X</u> <u>CUP</u>	-

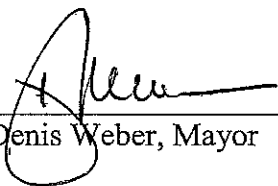
Section 7. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid or unconstitutional by any court or competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or applications, and to this end the provisions of this Ordinance are declared to be severable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof even if one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof is declared invalid or unconstitutional.

Section 8. The City Clerk shall certify to the passage of this Ordinance and shall cause same to be published pursuant to state law within fifteen (15) days after its passage, and said Ordinance shall become effective 30 days after its passage.

PASSED, APPROVED, and ADOPTED this 8th day of July, 2009, by the following vote to wit:

AYES: (5) Weber, Kochler, Edelston, Kuperberg, Schwarz
NOES: (0)
ABSENT: (0)
ABSTAIN: (0)

BY:

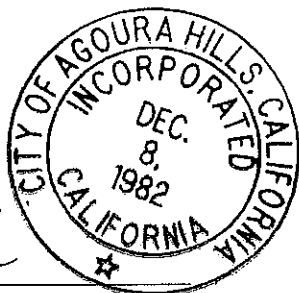


Denis Weber, Mayor

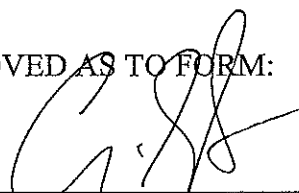
ATTEST:



Kimberly M. Rodrigues, City Clerk



APPROVED AS TO FORM:



Craig A. Steele, City Attorney