

PUBLIC HEARING

SUBJECT: CONSIDERATION OF A CONDITIONAL USE PERMIT (PRC 2014-011-C) TO ALLOW THE UPGRADE TO A TYPE 21 GENERAL OFF-SALE LICENSE FOR ALCOHOL SALES LOCATED AT 1187 WEST HENDERSON AVENUE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of a Conditional Use Permit to upgrade the current Type 20 (beer and wine) license to a Type 21 (general) alcohol license in conjunction with reconfiguration of site improvements at JJ's Market, located at 1187 West Henderson Avenue. In addition to the upgrade of the alcohol beverage license, the applicant is proposing a complete demolition and reconstruction of the buildings on site, except the fuel pumps and canopy, which will remain in the current configuration.

Although ownership has changed through the years, the business has been in operation since 1987, and at that time obtained a Conditional Use Permit for approval to develop a self-service gasoline facility in conjunction with a convenience market and self-service car wash. According to records on file with the State of California Department of Alcohol Beverage Control (ABC), this business location has maintained a Type 20 Off-Sale Beer and Wine license since December 1987. At that time, the City of Porterville did not require that businesses engaged in the off-sale of alcoholic beverages obtain a Conditional Use Permit. As a result, JJ's Market has maintained legal non-conforming status relative to sale of alcoholic beverages for off-site consumption since it originally opened. With the requested upgrade in license type from Type 20 Beer and Wine to Type 21 General, a Conditional Use Permit is required. It is important to note that the applicant has a current, valid license with the ABC. As such, approval of the proposed project would not result in an increase of ABC licenses within the census tract.

The applicant, agent, and staff have worked together on conditions and site plan revisions to meet all applicable requirements of the Porterville Development Ordinance, which shall be implemented prior to issuance of a building permit. Conditions of approval have been incorporated to facilitate compliance with all applicable codes.

RECOMMENDATION: That City Council adopt the draft resolution approving the Conditional Use Permit (PRC 2014-011-C) subject to conditions of approval.

ATTACHMENT: Complete Staff Report

DD 9B Appropriated/Funded N/A CM J Item No. 9

CITY COUNCIL AGENDA: OCTOBER 21, 2014

PUBLIC HEARING

SUBJECT: CONSIDERATION OF A CONDITIONAL USE PERMIT (PRC 2014-011-C) TO ALLOW THE UPGRADE TO A TYPE 21 GENERAL OFF-SALE LICENSE FOR ALCOHOL SALES LOCATED AT 1187 WEST HENDERSON AVENUE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

APPLICANT/AGENT:

Mike Dakhil
1187 W Henderson Avenue
Porterville, CA 93257

Hillman Building Designers
34583 Hwy 190
Springville, CA 93265

PROJECT DESCRIPTION:

The applicant is requesting approval of a Conditional Use Permit to upgrade the current Type 20 (beer and wine) license to a Type 21 (general) alcohol license in conjunction with reconfiguration of site improvements at JJ's Market, located at 1187 West Henderson Avenue. In addition to the upgrade of the alcohol beverage license, the applicant is proposing a complete demolition and reconstruction of the buildings on site, except the fuel pumps and canopy, which will remain in the current configuration.

Although ownership has changed through the years, the business has been in operation since 1987, and at that time obtained a Conditional Use Permit for approval to develop a self-service gasoline facility in conjunction with a convenience market and self-service car wash. According to records on file with the State of California Department of Alcohol Beverage Control (ABC), this business location has maintained a Type 20 Off-Sale Beer and Wine license since December 1987. At that time, the City of Porterville did not require that businesses engaged in the off-sale of alcoholic beverages obtain a Conditional Use Permit. As a result, JJ's Market has maintained legal non-conforming status relative to sale of alcoholic beverages for off-site consumption since it originally opened. With the requested upgrade in license type from Type 20 Beer and Wine to Type 21 General, a Conditional Use Permit is required. The draft resolution (Attachment 1) includes conditions of approval to ensure operation of the business complies with state and local regulations regarding sale of alcohol, as well as conditions that protect the public's safety and welfare. It is important to note that the applicant has a current, valid license with the ABC. As such, approval of the proposed project would not result in an increase of ABC licenses within the census tract (Attachment 2).

Additionally, as referenced above, the applicant is proposing a complete demolition and reconstruction of the buildings on the 24,500± square foot site (APN 251-120-003). The current development includes a 3,700± square foot market that is backed up to the northwest corner, a car wash area under a 2,000± square foot canopy in the southeast corner, and four self-service fuel pumps under a 1,350± square foot canopy near the northeast corner of the property. Drive approaches onto Henderson Avenue and Prospect Street would remain as they are constructed, and the fuel pumps, canopy, and appurtenances will not change; otherwise, the site will be almost entirely demolished and reconstructed as shown in Attachment 3.

The carwash and drying canopy will be demolished and will no longer be included in the business model. The new building will be located in the southeast corner of the property and include three tenant spaces. The largest space, at 2,960± square feet would serve as the new market; two other tenant spaces, 1089± square feet each, will provide opportunity for additional retail or services at the location. Tenants for the two smaller spaces have not yet been named, and any future occupation of those areas would require review by staff for use type and tenant improvements subject to the Development Ordinance and California Building Codes, respectively.

The applicant, agent, and staff have worked together on conditions and site plan revisions to meet all applicable requirements of the Porterville Development Ordinance, which shall be implemented prior to issuance of a building permit. Conditions of approval have been incorporated to facilitate compliance with all applicable codes.

GENERAL PLAN CLASSIFICATION: Retail Centers

ZONING CLASSIFICATION: CR (Retail Centers)

SURROUNDING ZONING AND LAND USES:

- North: CR (Retail Centers)
- West: CR (Retail Centers)
- South: CR (Retail Centers)
- East: PD (Planned Development - Retail Centers)

LEGAL NOTICE:

Date Environmental Document Distributed	Date Notice Published in Porterville Recorder	Date Notice Mailed to Property Owners within 300 feet of property
Item deemed Categorically exempt. Notice of Exemption mailed upon Council decision.	October 11, 2014	October 10, 2014

ENVIRONMENTAL REVIEW:

Pursuant to Section 15302 Class 2 (Replacement or Reconstruction) the proposed project is categorically exempt from California Environmental Quality Act.

RECOMMENDATION: That City Council adopt the draft resolution approving the Conditional Use Permit (PRC 2014-011-C) subject to conditions of approval.

- ATTACHMENTS:
1. Draft Resolution containing findings in support of approval for Conditional Use Permit 2014-011-C for a Type 21 off-sale general license
 2. Department of Alcoholic Beverage Control Licenses per Census Tract

3. Site Plan
4. Project Locator Map
5. General Plan Land Use Map
6. Zoning Map

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN
SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT 2014-011-C
TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES UNDER AN OFF-SALE TYPE 21
GENERAL ALCOHOL LICENSE AT THE SOUTHEAST CORNER OF HENDERSON
AVENUE AND PROSPECT STREET

WHEREAS: The applicant is requesting approval of Conditional Use Permit 2014-011-C to allow the sale of beer and wine under a Type 21 off-sale alcohol license at the southeast corner of Henderson Avenue and Prospect Street in the CR (Retail Centers) Zone; and

WHEREAS: The applicant's business has been in operation since 1987, at which time it received a resolution of approval (Resolution 28-87) for Conditional Use Permit 1-87 and Design Overlay Site Review 1-87 for development of a self-service gasoline facility in conjunction with a convenience market and self-service car wash. Conditions of approval at that time related to the proposed development, safety and environmental conditions related to the fuel dispensers, and food service facilities within the convenience market. Resolution 28-87, approving Conditional Use Permit 1-87 is not affected by the proposed Conditional Use Permit, aside from revised conditions associated with physical improvements on the site; and

WHEREAS: The business has been operational with a valid Alcohol Beverage Control Board license consistently since 1987, prior to the City's adoption of an ordinance requiring conditional use permits for off-sale alcohol licenses, and as such is a legal, non-conforming use. The proposed site improvements and upgrade from a Type 20 to a Type 21 license prompts a requirement to legalize the use by obtaining a conditional use permit; and

WHEREAS: The applicant has a current, valid license with the State of California Department of Alcohol Beverage Control (ABC). As such, approval of the proposed project would not result in an increase of ABC licenses within the census tract, nor will it result in an overconcentration of licenses within the census tract; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of October 21, 2014, conducted a public hearing to consider Conditional Use Permit 2014-011-C; and

WHEREAS: The City Council received testimony from all interested parties relative to said Conditional Use Permit; and

WHEREAS: Section 301.02 of the Porterville Development Ordinance requires Conditional Use Permit approval for any use involving the sale of alcoholic beverages under an on-sale or off-sale license; and

WHEREAS: The City Council made the following findings:

**ATTACHMENT
ITEM NO. |**

1. Approval of the Conditional Use Permit will advance the goals and objectives of, and is consistent with, the policies of the General Plan and any other applicable plan that the City has adopted, as follows:
 - LU-G-1 Promote a sustainable, balanced land use pattern that responds to existing needs and future needs of the city.
 - LU-G-21 Attract and retain specialty retail and restaurant businesses that will enhance Porterville's unique character.
 - ED-G-7 Create an image for Porterville that will attract and retain economic activity.
2. The location, size, design, and operating characteristics of the proposed project are consistent with the purposes of the district where it is located and conforms in all significant respects with the General Plan and with any other applicable plan adopted by the City Council.

The General Plan and Zoning Map designates the proposed project site as Retail Centers (CR). The proposed project promotes and implements the specific purposes of the Retail Centers Zone, including the following purposes as set forth in Section 203 of the Development Ordinance:

- To strengthen the city's economic base and provide employment opportunities for residents of the city.
- To maintain areas for regional shopping centers located at major circulation intersections.
- Ensure the provision of services and facilities needed to accommodate planned population densities.

WHEREAS: The proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity. Conditions of approval are included to ensure applicable development standards are met; and

WHEREAS: The subject site is located in Census Tract 36.02 which allows, according to the ABC, seven off-sale licenses. At present, seven off-sale licenses exist in this census tract, one of which is the subject business. Approval of this Conditional Use Permit will serve to legalize an existing non-conforming use, but will not result in an over concentration of off-sale licenses.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 2014-011-C subject to the following conditions:

1. No advertising of alcoholic beverages shall be placed on the exterior of the building nor seen from the public right of way (i.e. no window advertising or digital signage).

2. That the applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the Conditional Use Permit as provided in Section 601.12 of the Porterville Development Ordinance.
3. Compliance with all applicable development and access laws, both State and Federal, is required.
4. Physical modifications to the site shall comply with the site plans and designs submitted, as represented in Exhibit A. Any substantial modification of these plans shall be approved by the City Council. The development will be required to adhere to the represented building articulations shown, including (but not limited to) the general palette of colors, indentation in plane, stone façade columns, and contrasting color of awnings above doors and windows.
5. The developer/applicant shall keep and maintain the beer, wine, and distilled spirits in the areas identified on Exhibit B. Any expansion or relocation of same shall be approved by the City Council.
6. That the on-site consumption of alcoholic beverages shall be prohibited.
7. The Conditional Use Permit, approving off-site alcohol sales, will be subject to modification or revocation if the State of California imposes sanctions on the off-sale license.
8. The Conditional Use Permit shall become null and void if not undertaken and actively and continuously pursued within one (1) year. The Conditional Use Permit will expire when the use ceases to operate for one year or more.
9. The use shall be conducted in compliance with all applicable local, state and federal regulations.
10. Abandonment. Any service station shall in the case of abandonment or non-operation of the primary use be dismantled and the site cleared within twelve (12) months subsequent to the close of the last business day.
11. The existing fuel canopy must be updated to be architecturally compatible with the proposed main building structure.
12. Lighting shall be designed to be low-profile, indirect or diffused, create a pleasing appearance, and avoid adverse impacts on surrounding uses.

13. The development shall comply with the Development Ordinance; specific points were outlined through the Project Review Committee process. Additional detail will be provided through the building permit process.
14. The developer/applicant shall construct and/or repair street, curb, gutter, sidewalk, etc. along the full parcel frontages (Henderson Avenue and Prospect Street), except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306). Existing frontage improvements were evaluated and determined that they were noncompliant. A minimum of four feet (4') of clear space in the sidewalk area must be provided around obstructions. An accessible path of travel across the driveway(s) serving the property must be provided by the removal and replacement of each driveway per the attached professional office/commercial standard driveway standard plan or by constructing an accessible path around each driveway. A pedestrian easement(s) may be required if right of way is limited. The developer/applicant shall have a registered Civil Engineer or Land Surveyor prepare and submit legal descriptions necessary to dedicate pedestrian easements to the City for public use, if applicable. The easement(s) shall be approved prior to the issuance of a building permit.
15. An accessible path of travel from the City sidewalk to the front entrance will be required. It is recommended that the path be directed towards Henderson Avenue.
16. The developer/applicant shall provide a site plan that illustrates truck-turning movements where applicable within the parking lot. The site plan shall be approved prior to issuance of a building permit application.
17. The Police Department recommends consideration of an interior and exterior video monitoring system which is capable of recording activity in and around the establishment. Such a system should be capable of immediate on-site replay/review.

PASSED, APPROVED AND ADOPTED this 21st day of October, 2014.

By: _____

Milt Stowe, Mayor

ATTEST:

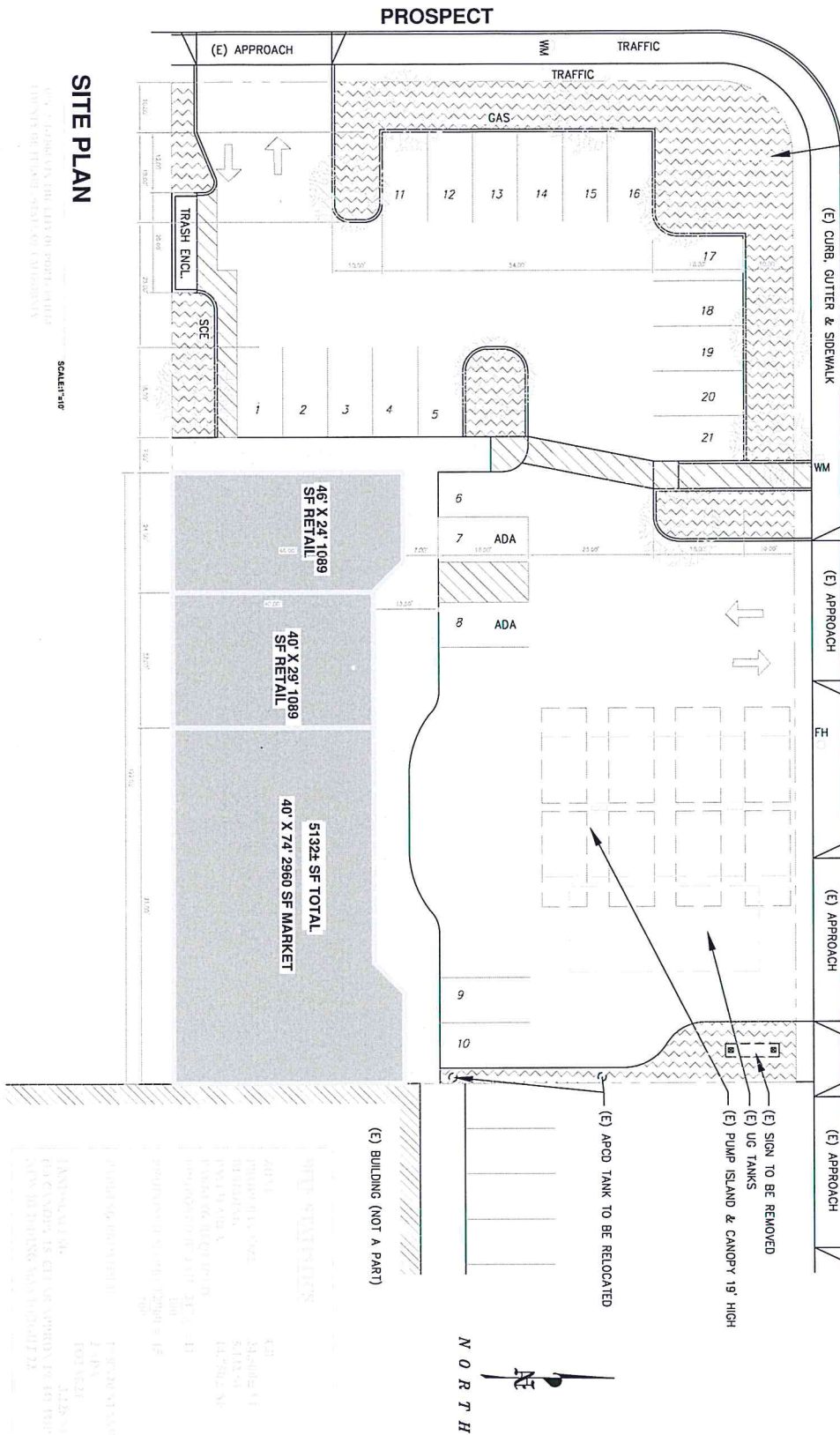
John D. Lollis, City Clerk

By: _____

Patrice Hildreth, Chief Deputy City Clerk

SITE PLAN

SCALE: 1"=10'



PROSPECT

HENDERSON AVE

(E) BUILDING (NOT A PART)

NORTH

DATE	03-26-14
SCALE	NONE
DRAWN	MHL
CHECK	MLB
SHEET	A-1

PROPOSED NEW MINI MART AND RETAIL FOR:
JJ'S MINI MART

HILLMAN BUILDING DESIGNERS
 SPECIALIZING IN CUSTOM DESIGNS
 SINCE 1970
 34583 Hwy. 190 Springville, CA 93265
 Tel. (559) 781-1538
 Email hillmandesigns@ccsnet.net

REVISIONS	BY

Exhibit **A-1**



Exhibit A-2

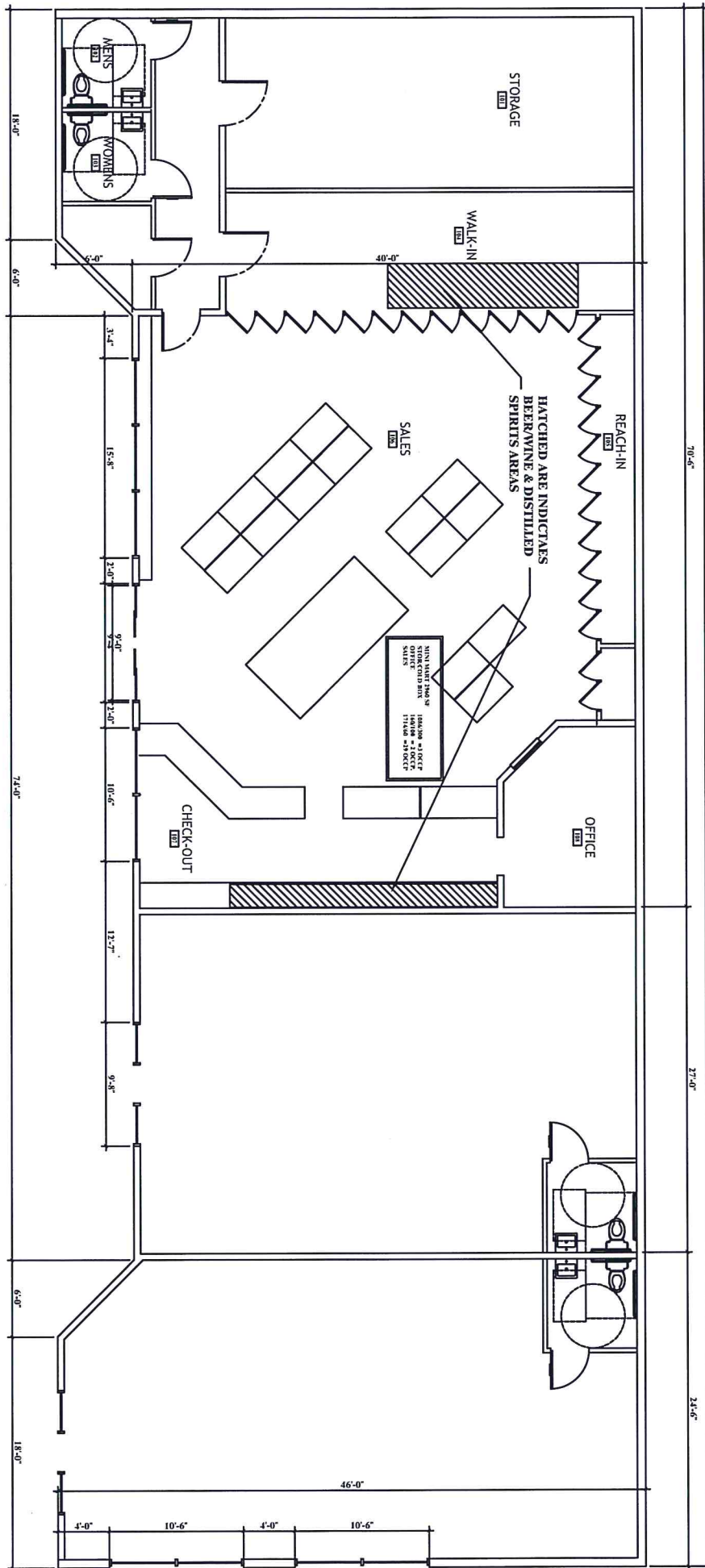


Exhibit B

RESOLUTION NO. 28-87

CONDITIONAL USE PERMIT 1-87
"D" OVERLAY SITE REVIEW 1-87

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF THE
APPROVAL OF A SELF-SERVICE GASOLINE FACILITY IN
CONJUNCTION WITH A CONVENIENCE MARKET AND SELF-SERVICE
CAR WASH, LOCATED ON THE SOUTHEAST CORNER OF PROSPECT
~~STREET AND HENDERSON AVENUE~~

WHEREAS: The City Council at its regularly scheduled meeting of March 17, 1987 held a public hearing to consider approval of a conditional use permit and "D" overlay site review to allow a self-service gasoline facility in conjunction with a convenience market and self-service car wash in the C-2 (D) zone at the southeast corner of Prospect Street and Henderson avenue; and

WHEREAS: The City Council received testimony from interested parties relative to the subject conditional use permit, which was combined with the site review to provide for expeditious processing and consideration; and

WHEREAS: The City Council reviewed the proposed locations of the four (4) remote controlled, self-service gasoline pumps and three (3) underground storage tanks in relation to the proposed market and car wash and found the on-site parking, landscaping and development proposal to be adequate for the proposed use and in keeping with the requirements of the Design Review Overlay as it applies to such commercial developments; and

WHEREAS: The City Council considered the following findings in review of the subject project:

1. That the design and improvement of the proposed project is consistent with the General Plan.
2. That the site is physically suitable for the type and density of the development.

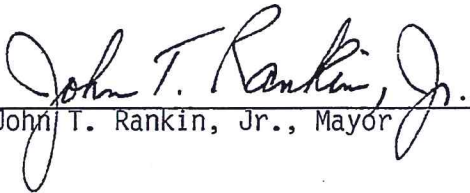
3. That the design of the project and proposed improvements are not likely to cause substantial environmental damage or public health problems.
4. That a Negative Declaration was approved for the project in accordance with the California Environmental Quality Act.
5. That the architectural theme, landscaping design, parking area and locations of structures of the proposed development will be compatible with the area surrounding the subject site.

~~NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council~~

does hereby approve Conditional Use Permit 1-87 and "D" Overlay Site Review 1-87 for a self-service gasoline facility in conjunction with a convenience market and self-service car wash in the C-2 (D) zone, subject to the following conditions:


1. That development shall be in conformance with Sections 79.901 through 79.912 of the 1985 edition of the Uniform Fire Code.
2. That the applicant shall comply with all applicable air pollution control district requirements for vapor recovery, to include permits to construct and operate such equipment.
3. That two sets of plans shall be required when submitting for a building permit.
4. That all plans shall have approval by the Building Inspector, City Engineer and Fire Chief prior to issuance of the building permit.
5. That the air and water dispenser at the southerly property line shall be relocated to an area outside the required loading zone prior to approval of the building permit.
6. That development shall be in strict compliance with plans submitted (Exhibit "A") with the exception of Condition No. 5 herein, including the three (3) plans consisting of the exterior elevations, landscaping diagram and site plan.
7. That development of the subject site shall be in conformance with all applicable City requirements and codes, including but not limited to, the Standard Plans and Specifications, Zoning Ordinance, and Building Code.
8. That the landscaped areas shall be maintained in a neat and viable condition and shall be provided with an appropriate and efficient means of irrigation.

9. That all on-site lighting shall be directed away from adjoining properties and rights-of-way and shall be so designed and located as to preclude glare and visibility impacts on surrounding areas.
 10. That all applicable City fees shall be paid.
 11. That the food service area and related food service facilities shall comply with the requirements of the County Health Department and City Building Inspector.
-
12. That the site shall be maintained in a neat and viable condition and that the operator(s) shall preclude to the extent practicable, the congregation or assemblage of nuisance causing individuals.
 13. That the developer shall make diligent efforts toward obtaining a mutually acceptable vehicular ingress/egress easement from the contiguous property to the east. Should said easement be obtained, the developer shall install a driveway cut from the subject site to said contiguous commercial property to the east allowing free vehicular movement between the proposed and existing commercial developments.



John T. Rankin, Jr., Mayor

ATTEST:



G. G. Haffaker, City Clerk

CUP: RES/1-87

STATE OF CALIFORNIA)
(SS
COUNTY OF TULARE)

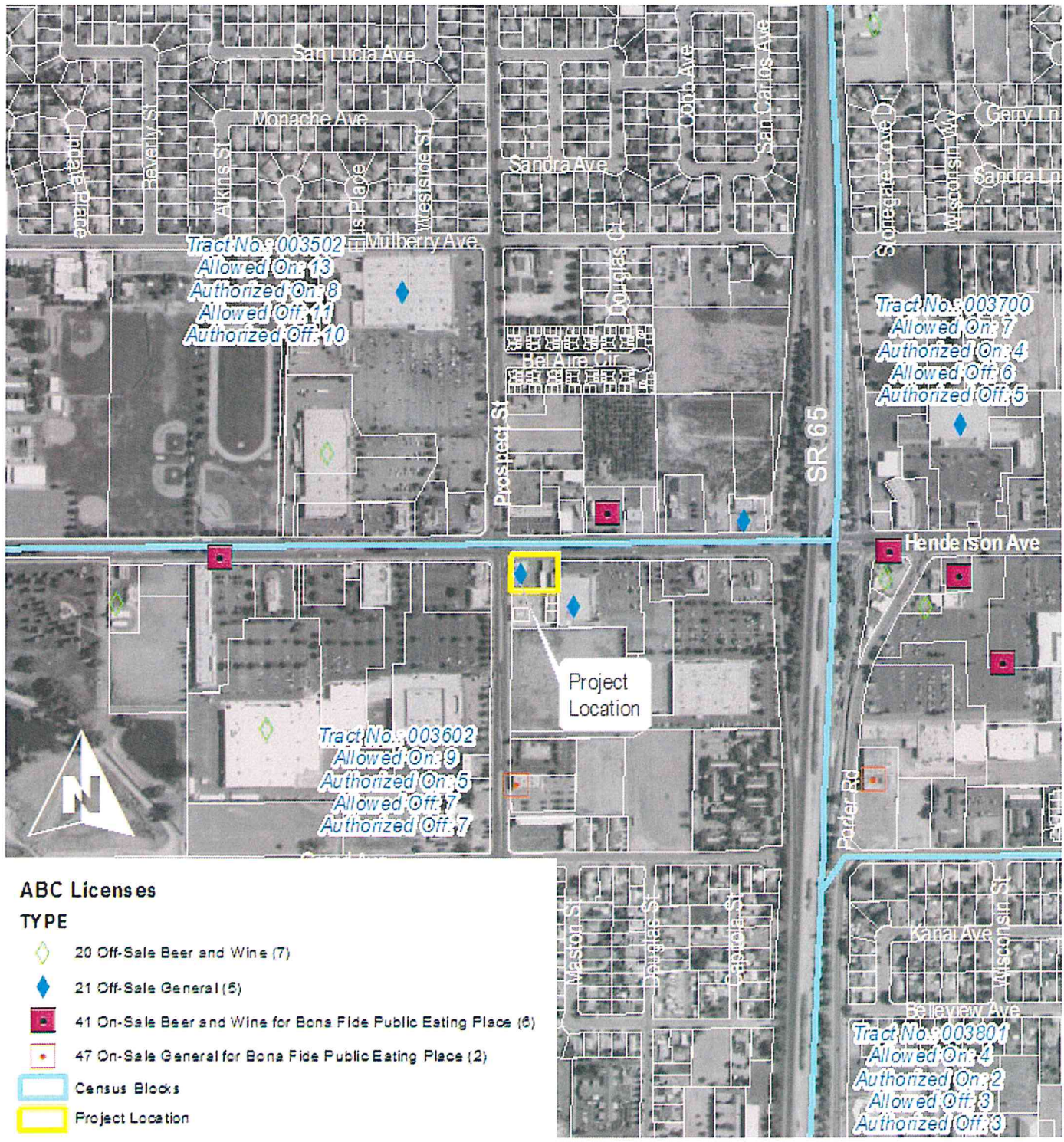
I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville, do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution duly and regularly passed and adopted at a regular meeting of the Porterville City Council regularly called and held on March 17 1987.

THAT said resolution was duly passed and adopted by the following vote:

COUNCILMEN	PRUITT	BONDS	LEAVITT	ENSSLIN	RANKIN
AYES	X	X	X	X	X
NOES					
ABSENT					
ABSTAIN					

C. G. HUFFAKER, City Clerk

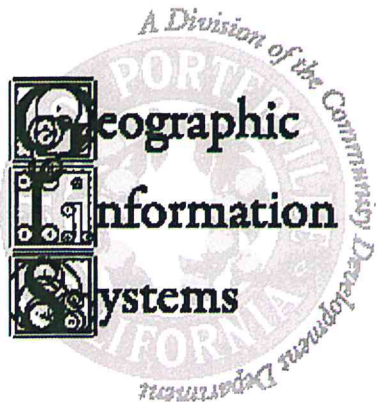
Georgia Hawley
Georgia Hawley, Deputy City Clerk



ABC Licenses

TYPE

- ◆ 20 Off-Sale Beer and Wine (7)
- ◆ 21 Off-Sale General (5)
- 41 On-Sale Beer and Wine for Bona Fide Public Eating Place (6)
- 47 On-Sale General for Bona Fide Public Eating Place (2)
- Census Blocks
- Project Location



PRC 2014-011
JJ's Market Renovations &
Conditional Use Permit for Alcohol Sales
Census Tract Map showing ABC Licenses

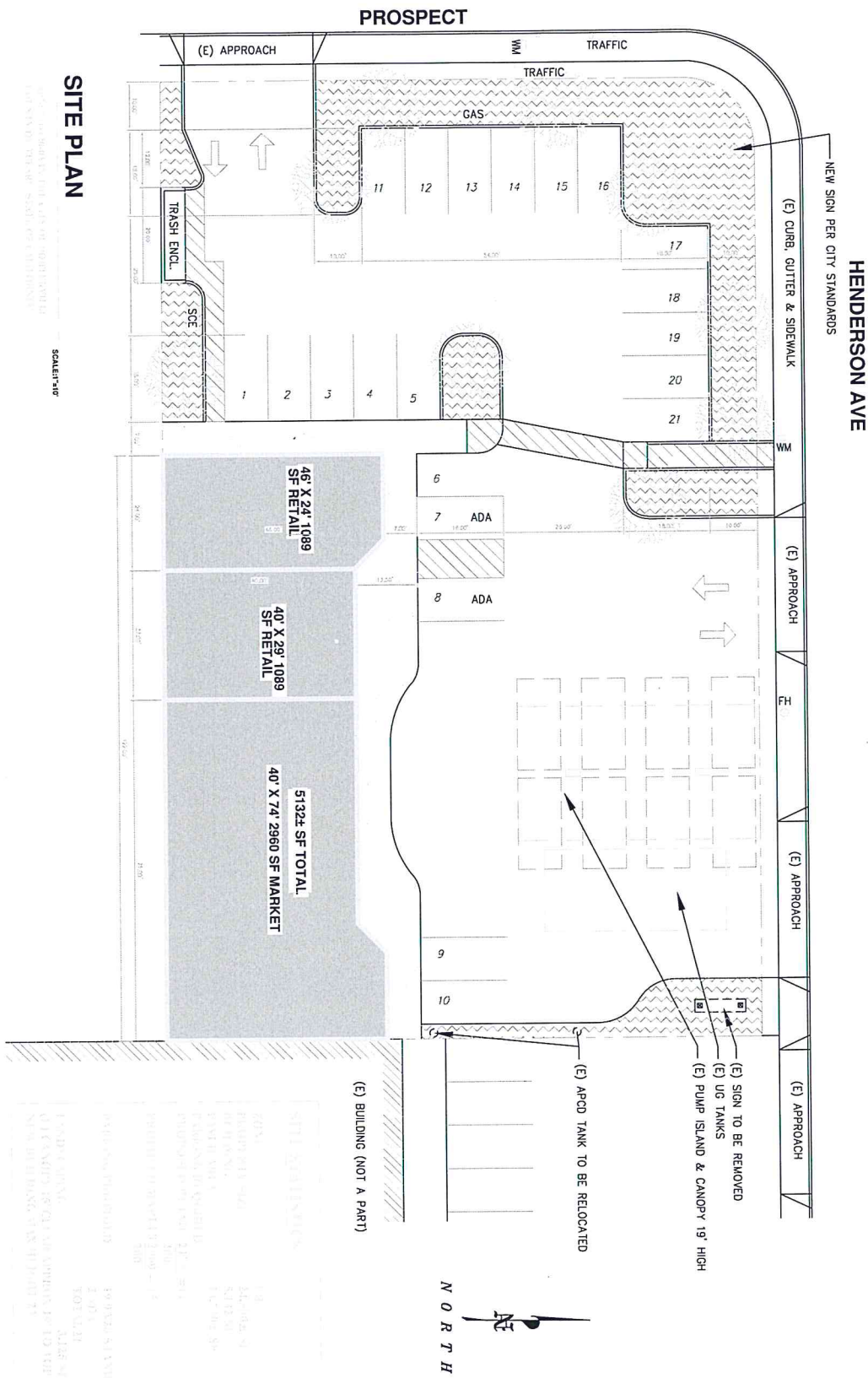
1" = 600 ft

**ATTACHMENT
ITEM NO. 2**

SITE PLAN

SCALE: 1/8" = 1'-0"

SCALE: 1/8" = 1'-0"



(E) BUILDING (NOT A PART)

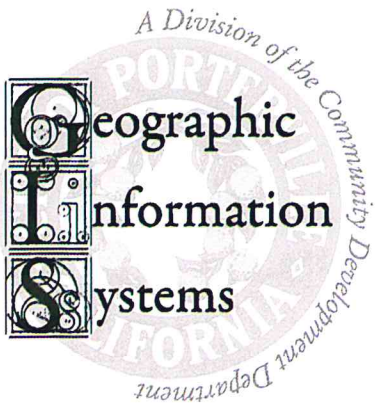
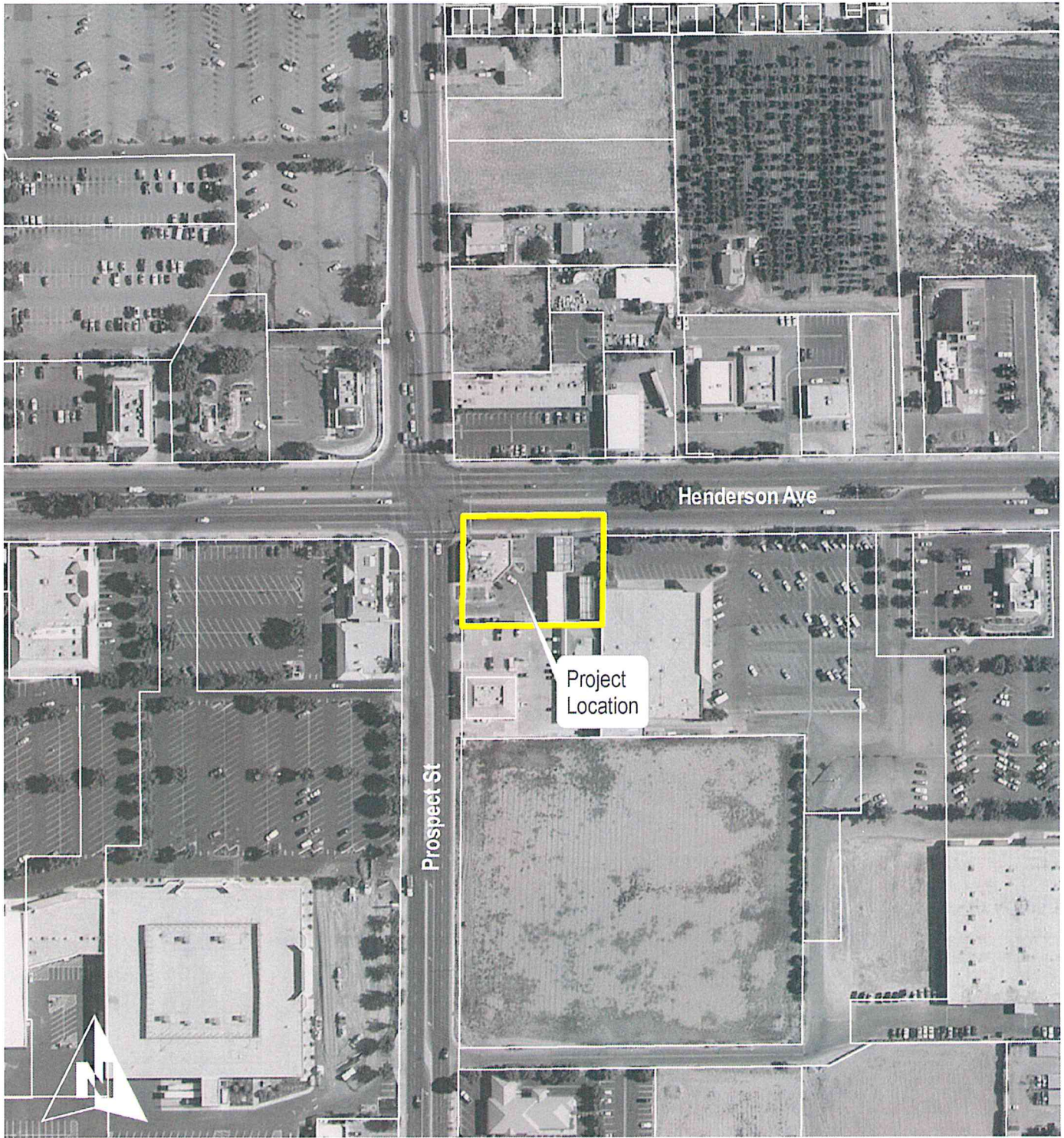
NO.	DESCRIPTION	AREA (SQ. FT.)	TOTAL AREA (SQ. FT.)
1	RETAIL	1,089	1,089
2	RETAIL	1,089	2,178
3	MARKET	2,960	5,138
4	MARKET	2,960	8,098
5	MARKET	2,960	11,058
6	MARKET	2,960	14,018
7	MARKET	2,960	16,978
8	MARKET	2,960	19,938
9	MARKET	2,960	22,898
10	MARKET	2,960	25,858
11	MARKET	2,960	28,818
12	MARKET	2,960	31,778
13	MARKET	2,960	34,738
14	MARKET	2,960	37,698
15	MARKET	2,960	40,658
16	MARKET	2,960	43,618
17	MARKET	2,960	46,578
18	MARKET	2,960	49,538
19	MARKET	2,960	52,498
20	MARKET	2,960	55,458
21	MARKET	2,960	58,418
TOTAL			51,324

A-1

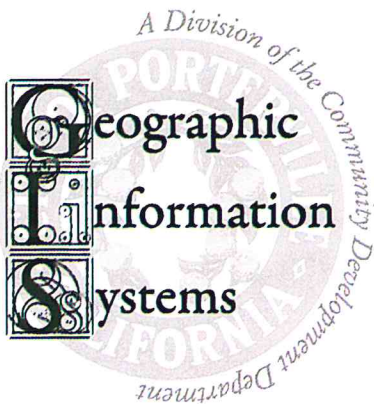
PROPOSED NEW MINI MART AND RETAIL FOR:
JJ'S MINI MART

HILLMAN BUILDING DESIGNERS
 SPECIALIZING IN CUSTOM DESIGNS
 SINCE 1970
 34583 Hwy. 150 Springville, CA 93265
 Tel. (559) 781-1538
 Email hillmandesigns@ccsnet.net

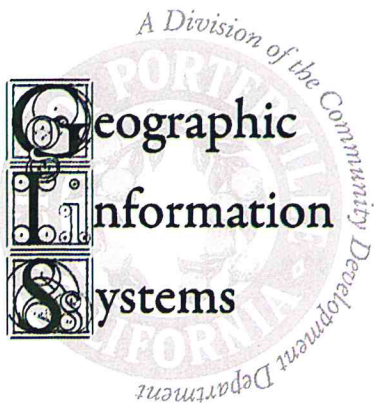
ATTACHMENT
ITEM NO. 3



PRC 2014-011
JJ's Market Renovations &
Conditional Use Permit for Alcohol Sales
Locator Map
1" = 200 ft. ATTACHMENT
ITEM NO. 4



PRC 2014-011
JJ's Market Renovations &
Conditional Use Permit for Alcohol Sales
General Plan Land Use Map
1" = 200 ft. ATTACHMENT
ITEM NO. 5



PRC 2014-011
JJ's Market Renovations &
Conditional Use Permit for Alcohol Sales
Zoning Map
1" = 200 ft. ATTACHMENT
ITEM NO. 6