

PLANNING COMMISSION

Agenda Item No.: G.4
Date: December 14, 2010

CASE NUMBER: PHG 10-0031

APPLICANT: Qwik Korner

LOCATION: On the southwestern corner of Pine Street and W. Ninth Avenue, addressed as 501 W. Ninth Ave (APN 236-051-20).

TYPE OF PROJECT: Conditional Use Permit

PROJECT DESCRIPTION: A Conditional Use Permit to allow the sale of alcohol (beer, wine and spirits) at an existing gasoline station/convenience store (Qwik Korner).

STAFF RECOMMENDATION: Approval

GENERAL PLAN DESIGNATION/TIER: General Commercial (Tier 1-Central subarea)

ZONING: CG (General Commercial)

BACKGROUND/SUMMARY OF ISSUES: The subject site originally was developed as a gasoline station in 1956 and operated as the Quick Korner gasoline station/convenience store for the past several years. The site is developed with a 1,144 SF convenience store and a 1,204 SF canopy with four gasoline pumps (8 stations). State law authorized the conditional use permit procedure for the sale of alcoholic beverages where the primary business activity is the sale of motor vehicle fuel. Regulations were established to reduce the frequency of impulse buying of alcoholic beverages by motor vehicle operators or passengers and increase public awareness of the problems associated with drinking and driving. This applies to gasoline stations with more than four fuel pump stations. Therefore, as part of the Conditional Use Permit, specific operational conditions are required to control the sale, display and advertising of alcohol on the premises as required by State law and Article 57 of the Escondido Zoning Code (Section 33-1115 - *Concurrent sale of motor vehicle fuel and alcoholic beverages*).


Staff feels that the issues are as follows:

1. Staff has not identified any issues with this project.

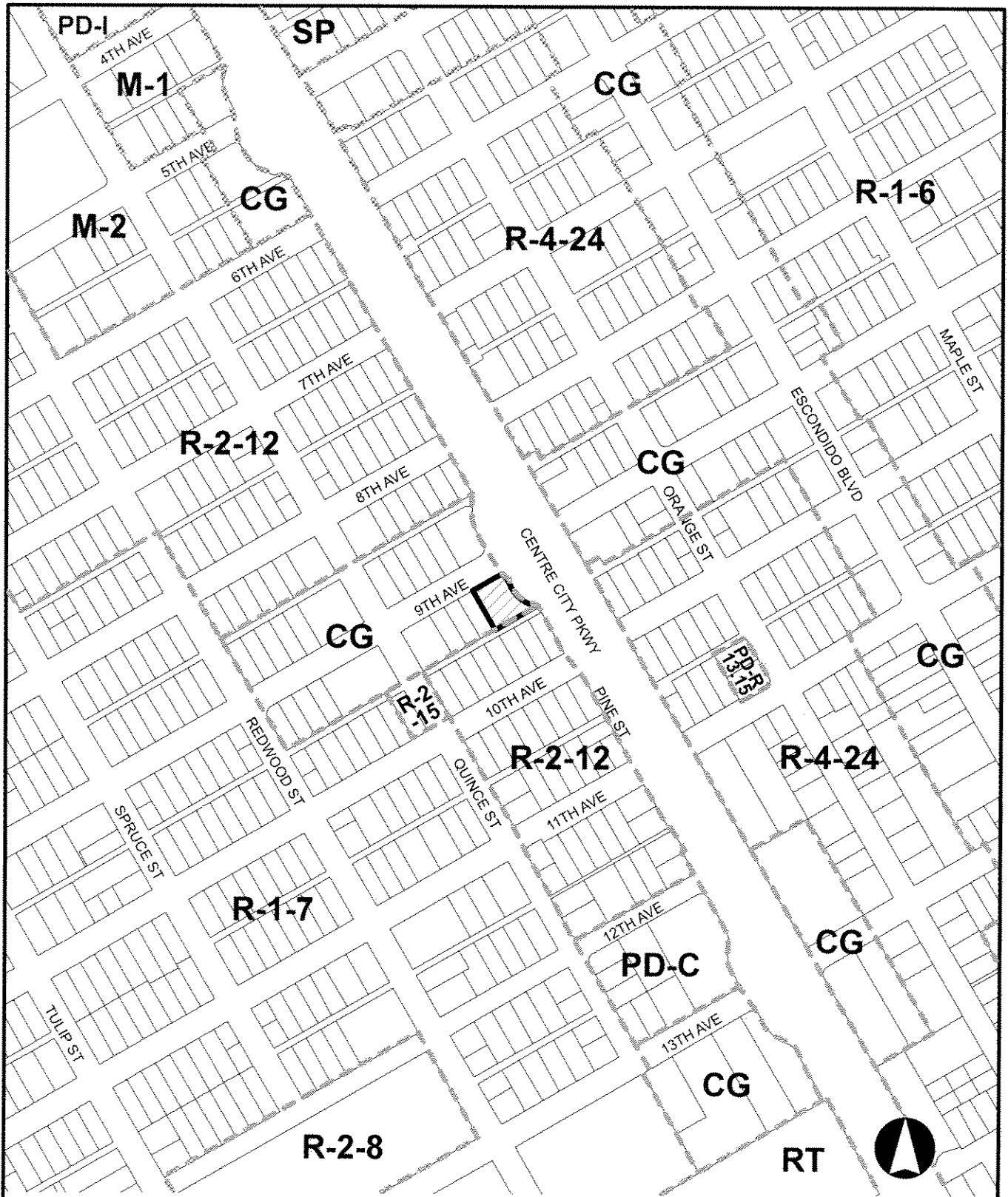
REASON FOR STAFF RECOMMENDATION:

1. The Police Department has not identified any concerns with approving the CUP for the sale of alcoholic beverages at the gas station. The permit contains appropriate conditions with the intent of preventing any alcohol-related problems at the business, in accordance with State law and the Escondido Zoning Code (Article 57).

Respectfully submitted,

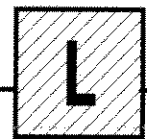


Jay Paul
Associate Planner

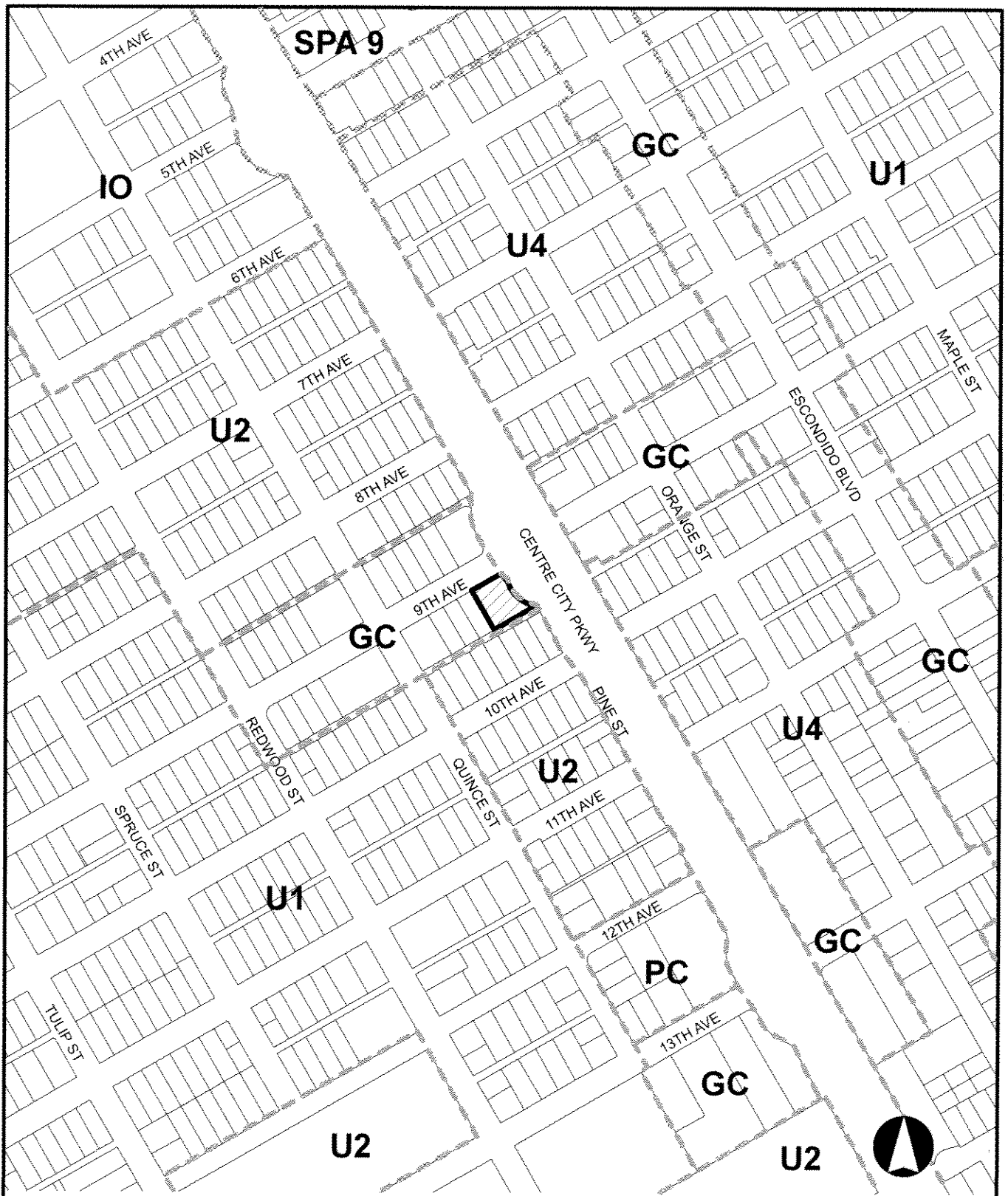


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**PROPOSED PROJECT
PHG 10-0031**



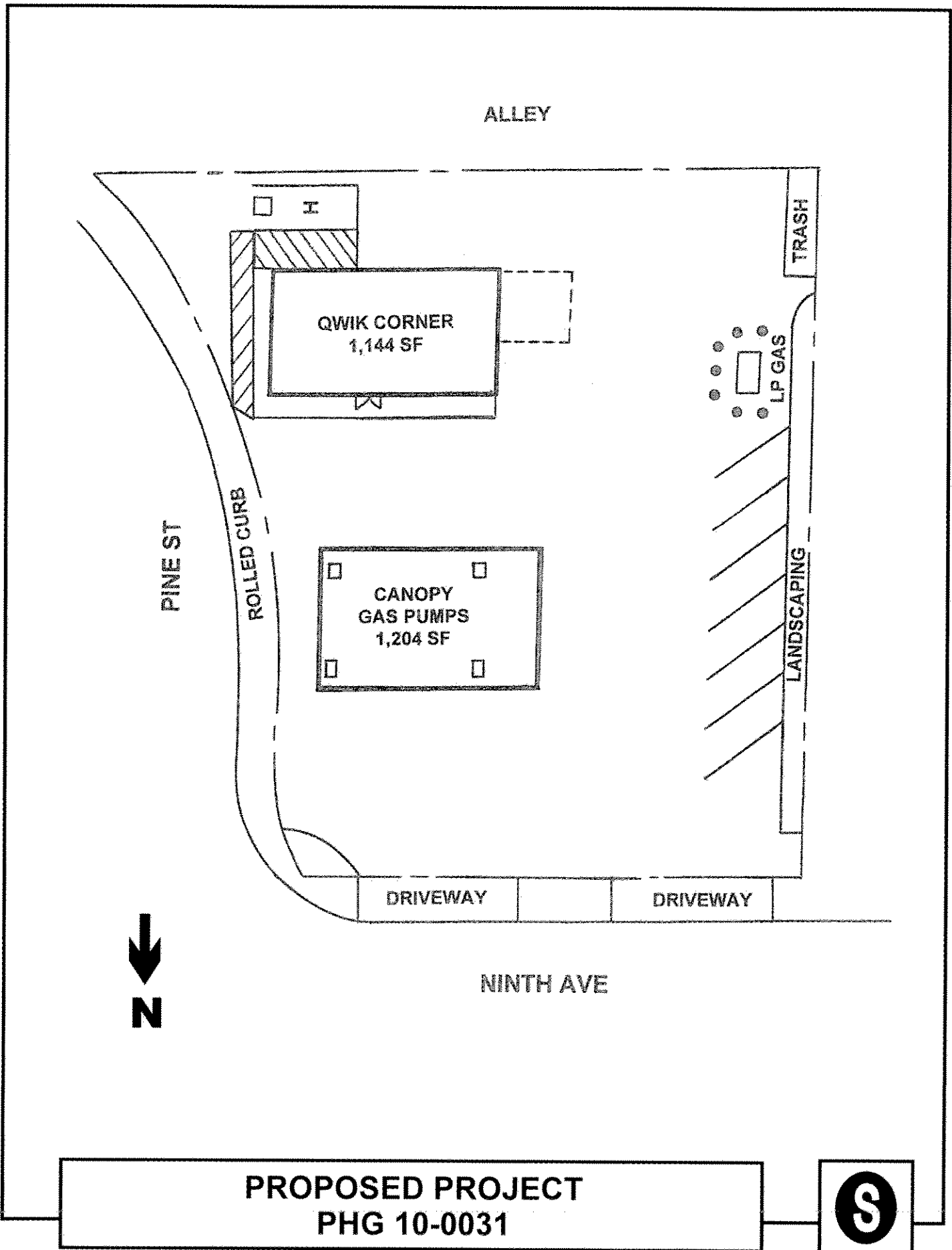
LOCATION/ZONING



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**PROPOSED PROJECT
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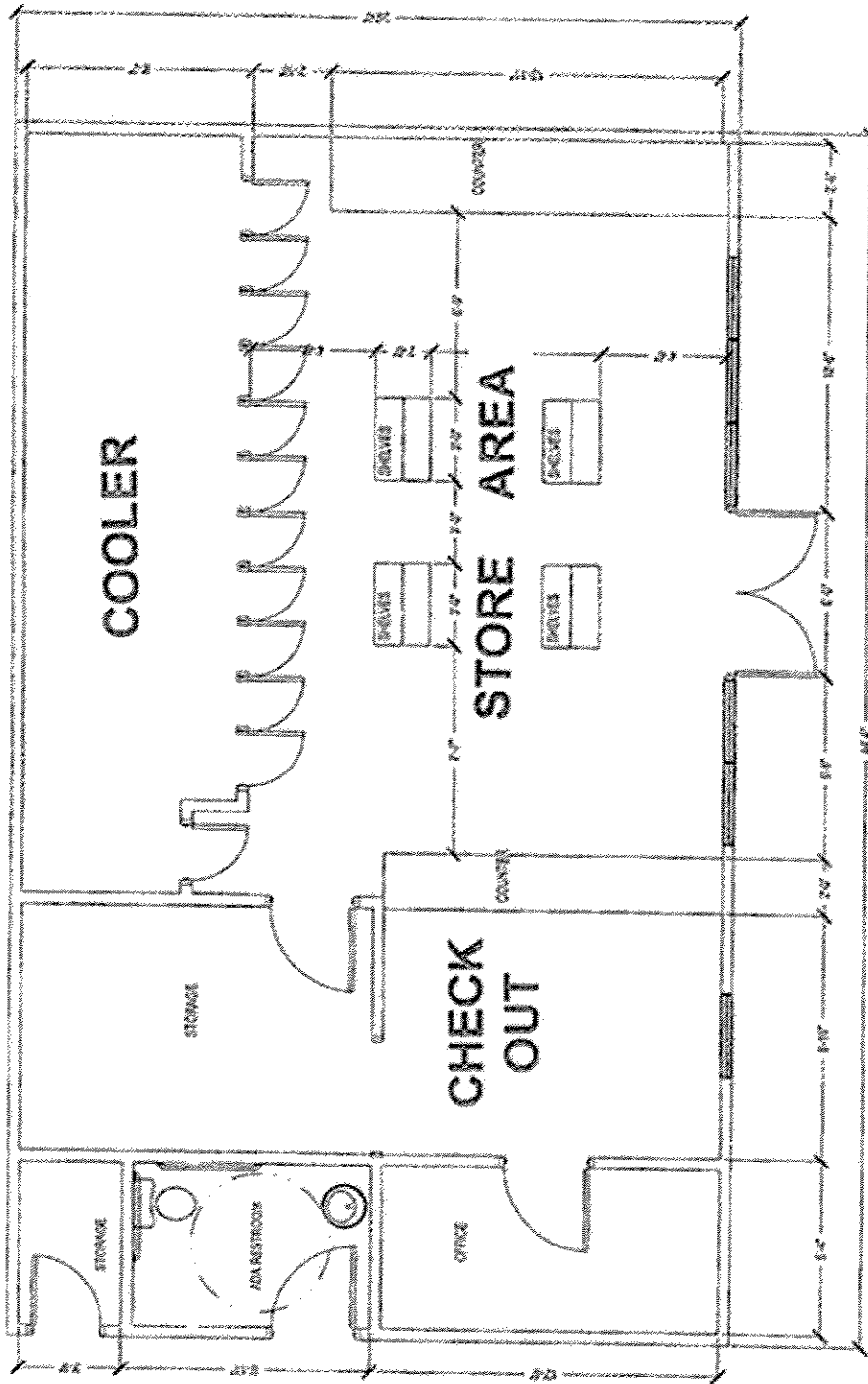




**PROPOSED PROJECT
PHG 10-0031**

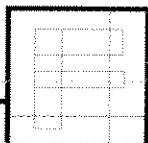


SITE PLAN



FLOOR PLAN
1,204 SF

PROPOSED PROJECT
PHG 10-0031



FLOOR PLAN

ANALYSIS

A. LAND USE COMPATIBILITY/SURROUNDING ZONING

- NORTH – CG (General Commercial) – A 7/11 gasoline station/convenience store is located north across Ninth Ave.
- SOUTH – R-2-12 (Multi-Family Residential, up to 12 du/ac) – Residential units are located to the south across a 20-foot-wide public alley.
- EAST - CG (General Commercial) – Commercial and multi-family residential development are located east of the site across Pine Street and Centre City Parkway.
- WEST - CG (General Commercial) – An auto repair facility is located immediately west of the site.

B. ENVIRONMENTAL STATUS

1. In accordance with CEQA Section 15301, Class 1, "Existing Facilities" the request is exempt from environmental review, and a Notice of Exemption was issued on November 29, 2010.
2. In staff's opinion, no significant issues remain unresolved through compliance with code requirements and the recommended conditions of approval.

C. CONFORMANCE WITH CITY POLICY

General Plan

The General Plan land-use designation on the site is Commercial General, which allow for gasoline stations, convenience stores and the sale of retail merchandise. The display and sale of alcoholic beverages is conditionally allowed in commercial zones at gas stations with more than four pump stations.

Appropriateness of Permitting the Sale of Alcoholic Beverages at the Gasoline Station

A gasoline station and convenience store is a permitted use in the CG zone, but the sale of alcoholic beverages in conjunction with a gasoline station requires approval of a Conditional Use Permit to ensure compatibility with adjacent uses and to ensure the appropriate operational provisions are applied to the use. The site is near other commercial operations that also sell alcohol. The project applicant has requested to use existing cooler and shelf space within the convenience store to display alcoholic beverages for sale. No additions to the building or interior improvements are proposed. The Planning Division depends on the Police Department to evaluate a request for an alcohol license and recommend appropriate conditions for the site and use, if a license is to be granted. The Police Department did not identify any issues with the request, but recommended the coolers be locked after 2:00 p.m., which has been incorporated into the conditions of approval. The project also is subject to the requirements contained in Article 57 of the Zoning Code, which regulates the display and advertising of alcohol and is included in the CUP conditions. The project also is subject to any separate provisions that might be required by the ABC license. Therefore, staff feels the CUP should be approved as conditioned.

SUPPLEMENT TO STAFF REPORT/DETAILS OF REQUEST

A. PHYSICAL CHARACTERISTICS

The project site consists of an existing gasoline station and convenience store. The site is fairly level (less than 5% slope). Vegetation on the site consists of ornamental landscaping with no native vegetation. Access is provided from Pine Street and Ninth Ave.

B. SUPPLEMENTAL DETAILS OF REQUEST

1. Property Size: 0.35 acres (15,649 SF)
2. Size of Structures: Convenience Store 1,144 SF
Canopy 1,204 SF
3. No. of Gas Pumps 4 pumps (8 stations)
4. Hours of Operation: Up to 24 hours (this CUP does not restrict the general hours of operation of the gas station or convenience store). The ABC license would contain restrictions on the hours that alcoholic beverages could be sold.
5. Number of Employees: Typically 3

C. CODE COMPLIANCE ANALYSIS

	<u>Provided</u>	<u>Required</u>
1. Parking:	<u>7 total spaces</u>	7
	1 handicap 6 standard	

D. PREVIOUS CASE FILES

- 87-1779 Plot Plan for upgrades to existing ARCO gasoline station and mini market, including a 491 SF addition (July 22, 1985). Addition never was constructed. Parking provided at 1:250 ratio.
- 77-56-CUP Conditional Use Permit for Atlantic Richfield Co. to modify the existing gasoline station to convert a portion of the sales area to sell automotive products and other convenience items in the CT zone (October 25, 1977). Four parking spaces originally required.

EXHIBIT "A"
FINDINGS OF FACT
PHG 10-0031

Conditional Use Permit

1. Granting the Conditional Use Permit for the proposed use would be based on sound principles of land use and in response to services required by the community, since the site is zoned for commercial uses which allows for gas stations and markets. All ordinance requirements also would be satisfied regarding the sale and display of alcohol.
2. Granting the Conditional Use Permit will not cause deterioration of bordering land uses or create special problems for the area since the site is zoned for commercial uses; the gasoline station and convenience store are existing uses; and the conditions relating to alcohol sales that are applied to the permit would address any potential alcohol-related issues. Adequate parking and on-site circulation also are provided to the site.
3. The proposed Conditional Use Permit has been considered in relationship to its effect on the community and the neighborhood and would not result in a negative impact to the surrounding neighborhood, since the property is zoned commercial and is surrounded by commercial zoning and uses. The CUP would prohibit any activities which could create problems in conjunction with the sales of alcoholic beverages, including loitering and consumption of alcoholic beverages on the premises.
4. The proposal is exempt from the requirements of the California Environmental Quality Act (CEQA) in conformance with Section 15101, "Existing Facilities" and a Notice of Exemption was prepared for the proposed project. In staff's opinion, the request does not have the potential for causing a significant effect on the environment for the reasons stated above.

EXHIBIT "B"

CONDITIONS OF APPROVAL PHG 10-0031

General

1. The developer shall be required to pay all development fees of the City then in effect at the time and in such amounts as may prevail when building permits are issued, including any applicable City Wide Facilities fees.
2. Any construction shall comply with all applicable requirements of the Escondido Zoning Code and requirements of the Planning Division, Engineering Division, Building Division, and Fire Department.
3. The legal description attached to the application has been provided by the applicant and neither the City of Escondido nor any of its employees assume responsibility for the accuracy of said legal description.
4. All exterior lighting shall conform to the requirements of Article 35, Outdoor Lighting (Ordinance No. 86-75).
5. No signage is approved as part of this permit. All proposed signage associated with the project must comply with the City of Escondido Sign Ordinance.
6. All uses shall be consistent with the Details of Request and conditions of approval contained within this report.
7. This CUP is for the sale of alcoholic beverages at the establishment only. The project also is subject to any relevant conditions of approval required as part of any previous permits/approvals for the development and operation of a gas station/convenience store on this site.
8. This CUP shall become null and void unless utilized within twelve months of the effective date of approval.
9. Loitering is prohibited on or around these premises or the area under the control of the licensee.
10. No alcoholic beverage shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler.
11. No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
12. No sale of alcoholic beverages shall be made from a drive-in window.
13. No display or sale of alcoholic beverages shall be made from any ice container.
14. No self-illuminating advertising for alcoholic beverages shall be located on the buildings or windows.
15. Employees selling alcoholic beverages between the hours of 10:00 p.m. and 2:00 a.m. shall be at least twenty-one years of age.
16. Coolers displaying alcoholic beverages shall be locked from 2:00 a.m. to 6:00 a.m. if the store is in operation during these hours.
17. At least two signs shall be posted in visible places on the convenience store building (one adjacent to the entrance) stating the consumption of alcoholic beverages on the premises is prohibited and that violators will be prosecuted.
18. The licensee shall comply with all conditions set forth in the premise license issued through the Department of Alcoholic Beverage Control at all times
19. No other laws shall be violated. Any violation of this Conditional Use Permit or additional conditions set forth in the premise license issued by the Department of Alcoholic Beverage Control may result in a suspension or revocation of this CUP.

20. The City of Escondido hereby notifies the applicant that the County Clerk's office requires a documentary handling fee of \$50.00 in order to file a Notice of Exemption for the project (environmental determination for the project). In order to file the Notice of Exemption with the County Clerk, in conformance with the California Environmental Quality Act (CEQA) Section 15062, the applicant should remit to the City of Escondido Planning Division, within two working days of the final approval of the project (the final approval being the date of the Planning Commission hearing) a check payable to the "County Clerk" of San Diego County in the amount of \$50.00. The filing of a Notice of Exemption and the posting with the County Clerk starts a 35 day statute of limitations period on legal challenges to the agency's decision that the project is exempt from CEQA. Failure to submit the required fee within the specific time noted above will result in the Notice of Exemption not being filed with the County Clerk, and a 180 day statute of limitations will apply.



CITY OF ESCONDIDO
PLANNING DIVISION
201 NORTH BROADWAY
ESCONDIDO, CA 92025-2798
(760) 839-4671

Notice of Exemption

To: San Diego County Recorder's Office
Attn: Linda Kesian
P.O. Box 121750
San Diego, CA 92112-1750

From: City of Escondido
201 North Broadway
Escondido, CA 92025

Project Title/Case No.: PHG 10-0031

Project Location - Specific: An approximately 0.35-acre parcel located on the southwestern corner of Pine Street and W. Ninth Avenue, addressed as 501 W. Ninth Avenue (APN 236-051-20).

Project Location - City: Escondido, **Project Location - County:** San Diego

Description of Project: A Conditional Use Permit to allow the sale and service of alcohol (beer, wine and spirits) at an existing gasoline station/convenience store (Qwik Korner).

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project:

Name David Dehessy Telephone (619) 660-1515

Address 2891 Jamacha Road, Suite 140, El Cajon, CA 92019

Private entity School district Local public agency State agency Other special district

Exempt Status: Categorical Exemption. Section 15301 "Existing Facilities."

Reasons why project is exempt:

1. The project only involves a Conditional Use Permit to allow the display and sale of alcohol at an existing gasoline station and convenience store. No physical expansion of the site or buildings are proposed.
2. The site is in an area where all public services and facilities are available to allow for the proposed use.
3. The project site is not in an area that is environmentally sensitive, and would have no impact to fish and wildlife.
4. The project would not create any significant increase in vehicle trips, nor impact vehicular circulation on or around the site. Appropriate parking is provided on the site to accommodate all uses. The project is located within a commercial zone and is surrounded by a variety of commercial uses. The project would not generate any significant noise impacts to adjacent uses through the project design and compliance with the project Conditions of Approval. The project would not result in the destruction of desirable natural features, nor be visibly obtrusive or disharmonious with surrounding areas.

Lead Agency Contact Person: Jay Paul, Planning Division Area Code/Telephone/Extension (760) 839-4537

Signature:  November 29, 2010
Jay Paul, Associate Planner Date

Signed by Lead Agency Date received for filing at OPR: N/A