



City of Escondido Zoning Administrator

MEETING AGENDA

201 North Broadway
City Hall – Parkview Room
March 31, 2022
11:00 a.m.

- A. Call to Order
- B. Agenda item:

1. **CONDITIONAL USE PERMIT – CASE NO. PL 21-0199:**

A Minor Conditional Use Permit to modify operations at an existing 10,000 square foot liquor store in an 11.2-acre commercial center in the Planned Development – Commercial zoning district. The request would allow online sales and delivery of alcohol between the hours of 9 a.m. and 12 a.m. In-store hours would not change from the existing operations (9 a.m. to 10 p.m. daily).

Location: On the southwest corner of Auto Park Way and West Valley Parkway, addressed as 1346 W. Valley Parkway.

Applicant: Bilegt Baatar

Planner: Jasmin Perunovich

- C. Adjournment

ZONING ADMINISTRATOR

- CASE NUMBER:** PL21-0199
- APPLICANT:** Bilegt Baatar for Gopuff, dba BevMo!
- PROJECT LOCATION:** On the southwest corner of Auto Park Way and West Valley Parkway, addressed as 1346 W. Valley Parkway (APN: 232-542-39-00)
- REQUEST:** A Minor Conditional Use Permit to modify operations at an existing 10,000 square foot liquor store in an 11.2-acre commercial center in the Planned Development – Commercial zoning district. The request would allow online sales and delivery of alcohol between the hours of 9 a.m. and 12 a.m. In-store hours would not change from the existing operations (9 a.m. to 10 p.m. daily).
- STAFF RECOMMENDATION:** Approval
- GENERAL PLAN DESIGNATION:** PC (Planned Commercial)
- ZONING:** PD–C (Planned Development – Commercial)

BACKGROUND/PROJECT DESCRIPTION:

Gopuff is a consumer technology platform company founded in 2013, headquartered in Philadelphia, PA. The company is a digital platform delivery service that provides delivery of everyday essential goods, such as food, drinks, cleaning supplies, home essentials, over-the-counter medications, and in some markets, beer, wine and liquor. When online orders are placed, they are filled by Gopuff employees, and orders are given to delivery driver partners (who are independent contractors) who deliver directly to the customer. Gopuff acquired BevMo! in December 2020. With this acquisition, Gopuff has expanded its delivery service operations on the west coast and in San Diego County.

BevMo! currently operates at 1346 W. Valley Parkway. The site is in a commercial center that is located in a Planned Development - Commercial zone, which permits a wide variety of commercial uses. Per the master plan for the site, the uses in the commercial center are restricted to those

of the General Commercial (CG) zone, listed in Article 16 of the Escondido Zoning Code. A liquor store is listed as a conditionally permitted use in the CG zone, subject to approval of a Conditional Use Permit (CUP). When the BevMo! store opened in 2008, a Conditional Use Permit was not required to operate a liquor store in the CG zone, thus no CUP has been issued for the store.

The existing ABC license for the liquor store is a conditional license which restricts the sales and service of alcoholic beverages between the hours of 9 a.m. and 10 p.m. daily; and does not permit delivery services. As part of Gopuff's expansion into San Diego County area, the applicant seeks approval of an amendment for this store's Off-Sale Type 21 ABC license to allow for online sales and delivery of alcohol between the hours of 9 a.m. and 12 a.m. In-store hours would not change from the existing operations (9 a.m. to 10 p.m. daily).

Although BevMo! does not require a CUP to continue its current operations, the request to expand the liquor store operations to allow for online sales and delivery of alcoholic beverages until 12 a.m., is subject to current land use regulations for the CG zone. This includes a requirement for a Minor CUP. A Minor CUP is required because this is an adjustment to an existing business operation, not a new facility requesting alcohol sales for the first time.

The applicant proposes minor building interior and exterior improvements only and no expansion of the building or tenant space is proposed. Minor changes to the configuration of the interior retail space and stock room, replacing an exterior roll-up door on the east elevation with a new entrance/receiving door for use by employees and delivery partners, and install additional lighting and security cameras near the new entrance/receiving door. No general access for the public to the store will be permitted at this access point.

Adequate parking is provided on site and circulation will not change. The 11.2-acre commercial center has an established parking requirement of one space per 200 square feet of gross floor area. A total of 670 parking spaces are required for the center and 681 parking spaces are provided. The required and provided number of parking spaces will remain the same.

ENVIRONMENTAL STATUS:

California Environmental Quality Act ("CEQA") Guidelines list classes of projects that have been determined not to have a significant effect on the environment and as a result are exempt from further environmental review under CEQA. The project is categorically exempt from further CEQA review pursuant to CEQA Guidelines section 15301 (Existing Facilities), as described further in the Findings of Fact, attached as Exhibit "B" to Zoning Administrator Resolution No. 2022-02 (see Attachment 2 to this staff report).

REASONS FOR RECOMMENDATION:

Staff recommends approval of the Minor CUP to modify the operations of the existing BevMo! store. Staff does not believe that there will be adverse impacts to neighboring properties or tenants because the business is located at the north end of an existing commercial center with commercial uses to the north, south and east, and is separated from residential uses to the west by an existing block wall and the City's flood control channel. Any potential noise issues would be subject to the requirements of the Noise Ordinance.

Appropriate hours of operation have been included in the conditions of approval for the project, and the online sales and delivery service of alcoholic beverages are subject to Police Department and California Department of Alcoholic Beverage Control requirements.

Respectfully submitted,

Jasmin Perunovich

Jasmin Perunovich
Assistant Planner I

ATTACHMENTS:

1. Project Location Map
2. Draft Zoning Administrator Resolution No. 2022-02, Including Exhibits A, B, C, and D
3. CEQA Notice of Exemption

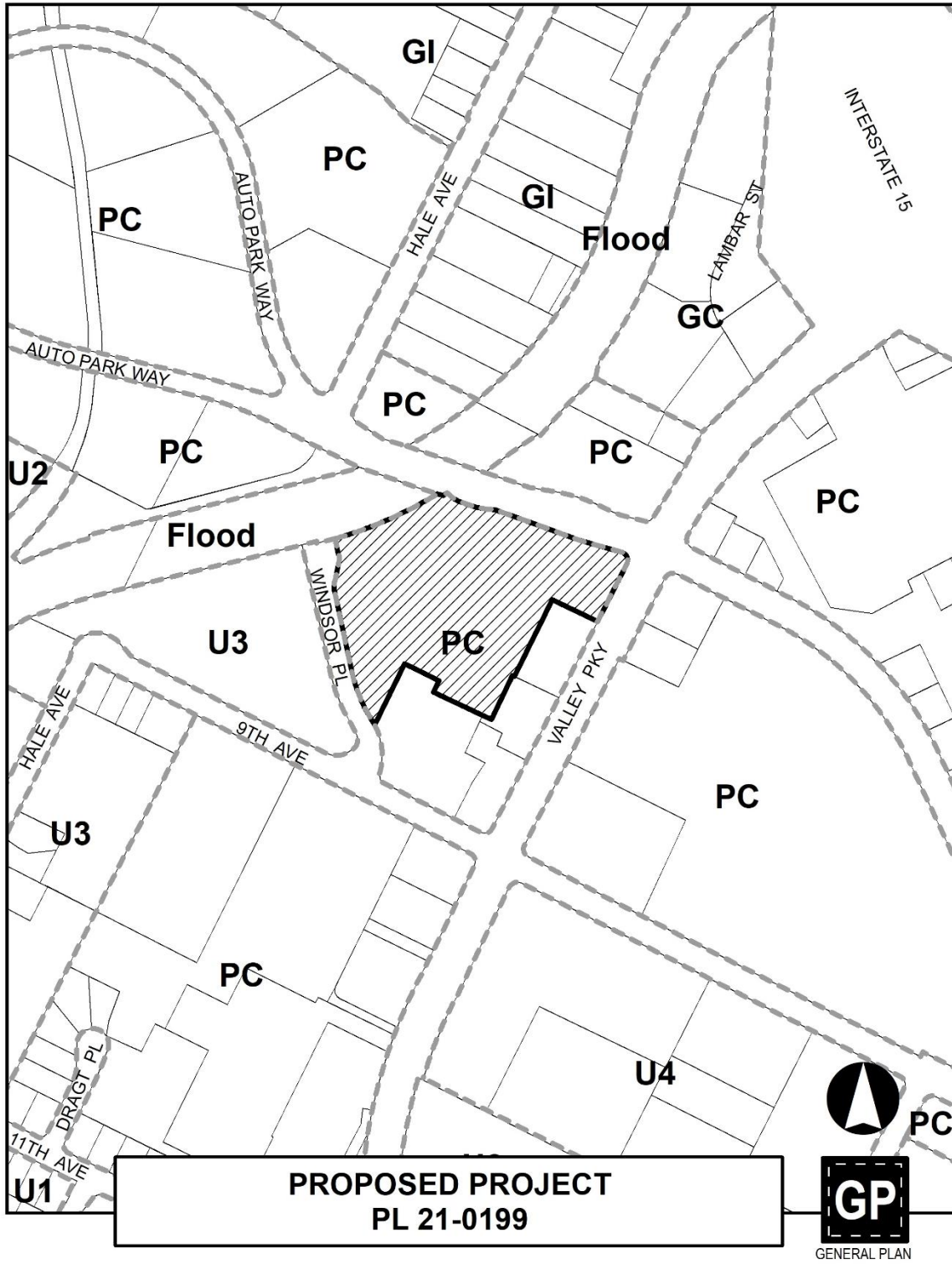
ATTACHMENT 1

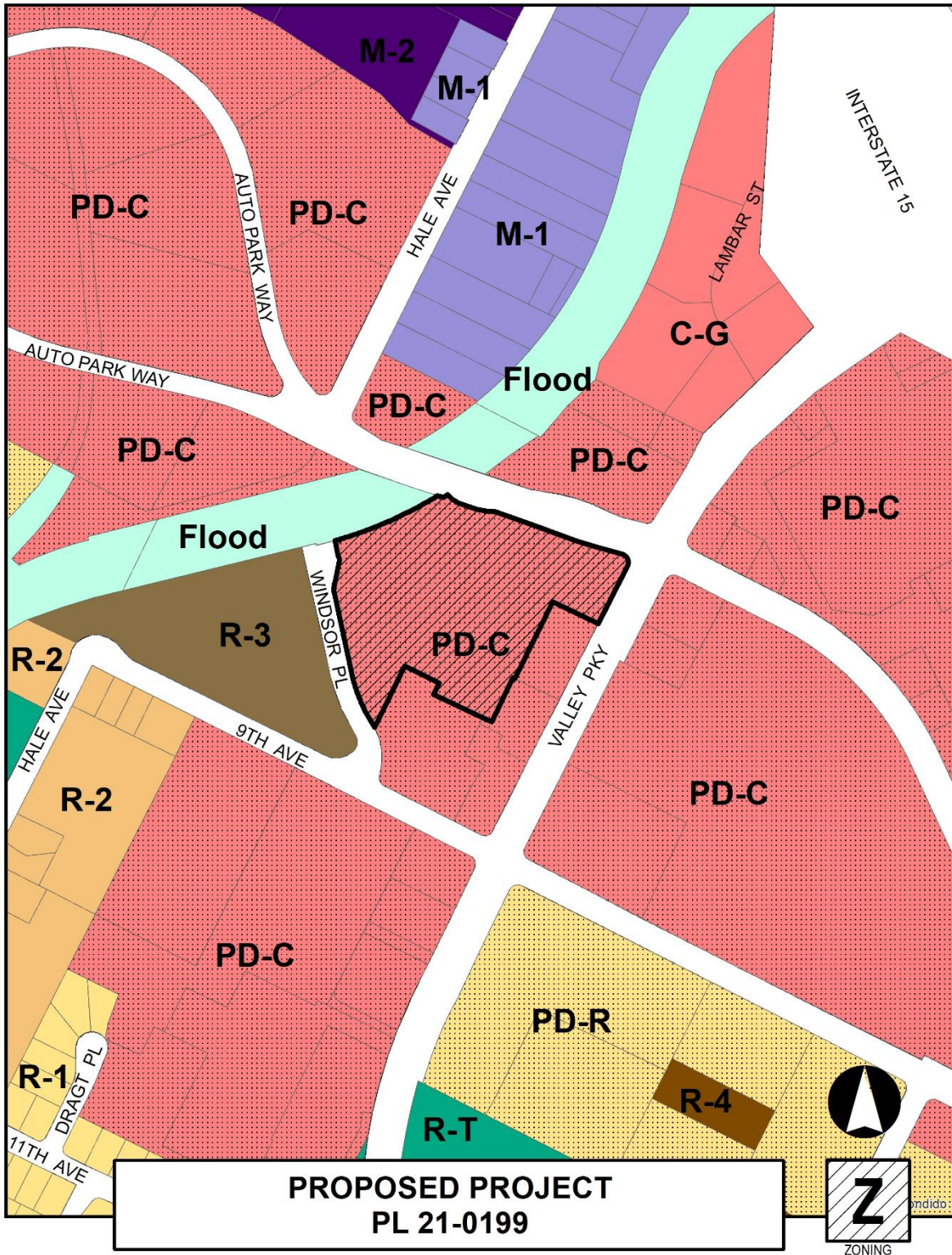


PROPOSED PROJECT
PL 21-0199

A

AERIAL







**PROPOSED PROJECT: PL 21-0199
AERIAL PHOTO**



**PROPOSED PROJECT: PL 21-0199
STOREFRONT, NORTH SIDE PHOTO**



**PROPOSED PROJECT: PL 21-0199
DRIVER PARTNER PICK-UP DOOR AND PARKING**



**PROPOSED PROJECT: PL 21-0199
DRIVE-UP AND PICK-UP PARKING SPACES**

**ATTACHMENT 2
PL21-0199**

Zoning Administrator

Hearing Date: March 31, 2022

Effective Date: April 12, 2022

RESOLUTION NO. 2022-02

A RESOLUTION OF THE ZONING ADMINISTRATOR
OF THE CITY OF ESCONDIDO, CALIFORNIA,
APPROVING A MINOR CONDITIONAL USE PERMIT
TO MODIFY THE OPERATIONS OF AN EXISTING,
10,000 SQUARE FOOT LIQUOR STORE IN AN
EXISTING COMMERCIAL BUILDING LOCATED AT
1346 W. VALLEY PARKWAY

APPLICANT: Gopuff dba BevMo!

CASE NO: PL21-0199

WHEREAS, the Zoning Administrator of the City of Escondido did, on March 31, 2022, hold a public hearing to consider a request for a Minor Conditional Use Permit to modify operations at an existing 10,000 square foot liquor store in an 11.2-acre commercial center in the Planned Development – Commercial (PD-C) zoning district. The request would allow online sales and delivery of alcohol between the hours of 9 a.m. and 12 a.m. In-store hours would not change from the existing operations (9 a.m. to 10 p.m. daily); and

WHEREAS, the subject property is all that real property described in Exhibit "A," which is attached hereto and made a part hereof by this reference as though fully set forth herein ("Property"); and

WHEREAS, evidence was submitted to and considered by the Zoning Administrator at or before the public hearing, including, without limitation, written information, and the staff report dated March 31, 2022, which along with its attachments is incorporated herein by this reference; and

WHEREAS, a notice was published and mailed as required by the Escondido Zoning Code and applicable State law; and

WHEREAS, the application was assessed in conformance with the California Environmental Quality Act (CEQA) and a Notice of Exemption was prepared in conformance with CEQA Guidelines sections 15061 and 15062; and

WHEREAS, a staff report was presented discussing the issues in the matter; and

WHEREAS, Ordinance No. 78-02, enacted pursuant to Section 65974 of the Government Code and pertaining to the dedication of land and fees for school facilities, has been adopted by the City of Escondido.

NOW, THEREFORE, BE IT RESOLVED by the Zoning Administrator of the City of Escondido:

1. That the above recitations are true and correct.
2. That the project is categorically exempt from further CEQA review pursuant to CEQA Guidelines section 15301 (Existing Facilities). The Zoning Administrator has reviewed and considered the Notice of Exemption prepared for the project and has determined that it is complete and adequate, and there are no significant environmental effects which are cannot be mitigated.

3. That, considering the Findings of Fact attached to the staff report as Exhibit "B," the project plans attached as Exhibit "C," and applicable law, the Zoning Administrator hereby approves said Minor Conditional Use Permit, subject to the Conditions of Approval attached as Exhibit "D."

4. That this approval shall automatically become null and void unless the use authorized by this approval has commenced within 12 months of the date of this approval, unless an Extension of Time is granted pursuant to Article 61 of the Escondido Zoning Code.

BE IT FURTHER RESOLVED that, pursuant to Government Code Section 66020(d)(1):

1. NOTICE IS HEREBY GIVEN that the project is subject to certain fees described in the City of Escondido's Development Fee Inventory on file in both the Community Development and Engineering Services Departments. The project also is subject to dedications, reservations, and exactions, as specified in the Conditions of Approval.

2. NOTICE IS FURTHER GIVEN that the 90-day period during which to protest the imposition of any fee, dedication, reservation, or other exaction described in this resolution begins on the effective date of this resolution, and any such protest must be in a manner that complies with Section 66020.

PASSED, ADOPTED AND APPROVED by the Zoning Administrator of the
City of Escondido, California, at a regular meeting held on the 31st day of March, 2022.

SEAN NICHOLAS
Zoning Administrator,
City of Escondido

WITNESS
Alexander Rangel,
Minutes Clerk

Note: This action may be appealed to Planning Commission
pursuant to Zoning Code Section 33-1303

EXHIBIT "A"

PLANNING CASE NO. PL21-0199

LEGAL DESCRIPTION

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF ESCONDIDO, IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

PARCEL A:

PARCEL 1 OF [PARCEL MAP NO. 14956](#), IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SEPTEMBER 3, 1987.

PARCEL B:

THOSE CERTAIN NON-EXCLUSIVE EASEMENTS AND RIGHTS OVER PARCELS 2 THROUGH 5 OF [PARCEL MAP NO. 14956](#), IN THE CITY OF ESCONDIDO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, SEPTEMBER 3, 1987 ALL AS MORE PARTICULARLY DESCRIBED IN THE "RECIPROCAL EASEMENT AND OPERATION AGREEMENT" DATED OCTOBER 22, 1987 EXECUTED BY AND BETWEEN THE HOME DEPOT, INC., AND FREDERICKS DEVELOPMENT CORPORATION, RECORDED OCTOBER 22, 1987 AS [INSTRUMENT NO. 87-596036 OF OFFICIAL RECORDS](#), AS AMENDED PURSUANT TO THAT CERTAIN AMENDMENT NO. 1 TO RECIPROCAL EASEMENT AND OPERATING AGREEMENT DATED SEPTEMBER 15, 1989 AS RECORDED OCTOBER 13, 1989 AS [INSTRUMENT NO. 89-557099 OF OFFICIAL RECORDS](#), AS AMENDED PURSUANT TO THAT CERTAIN AMENDMENT NO. 2 TO RECIPROCAL EASEMENT AND OPERATING AGREEMENT DATED DECEMBER 6, 1995 AS RECORDED OCTOBER 13, 1989 AS [INSTRUMENT NO. 1995-0559416 OF OFFICIAL RECORDS](#), AS AMENDED PURSUANT TO THAT CERTAIN AMENDMENT NO. 3 TO RECIPROCAL EASEMENT AND OPERATING AGREEMENT DATED DECEMBER 3, 1998 AS RECORDED FEBRUARY 5, 1999 AS [INSTRUMENT NO. 1999-0071533 OF OFFICIAL RECORDS](#), AS AMENDED PURSUANT TO THAT CERTAIN AMENDMENT NO. 4 TO RECIPROCAL EASEMENT AND OPERATING AGREEMENT DATED MARCH 16, 2001 AS RECORDED APRIL 11, 2001 AS [INSTRUMENT NO. 2001-0220938 OF OFFICIAL RECORDS](#), AS AMENDED PURSUANT TO THAT CERTAIN AMENDMENT NO. 5 TO RECIPROCAL EASEMENT AND OPERATING AGREEMENT DATED DECEMBER 31, 2006 AS RECORDED APRIL 23, 2007 AS [INSTRUMENT NO. 2007-0274026 OF OFFICIAL RECORDS](#), AND AS AMENDED PURSUANT TO THAT CERTAIN AMENDMENT NO. 5 TO RECIPROCAL EASEMENT AND OPERATING AGREEMENT DATED AUGUST 25, 2010 AS RECORDED OCTOBER 6, 2010 AS [INSTRUMENT NO. 2010-0535867 OF OFFICIAL RECORDS](#).

EXHIBIT “B”

PLANNING CASE NO. PL21-0199

FINDINGS OF FACT

Environmental Determination:

1. Pursuant to the California Environmental Quality Act (Public Resources Code section 21000 et. seq.) (“CEQA”), and its implementing regulations (14 C.C.R. § 15000 et seq.) (“CEQA Guidelines”), the City of Escondido (“City”) is the Lead Agency for the project (“Project”), as the public agency with the principal responsibility for approving the Project.
2. The Project qualifies for an exemption from further environmental review pursuant to CEQA Guidelines section 15301 (Existing Facilities). The proposed Project meets all applicable conditions, as further described below:
 - a. The project is consistent with the applicable Planned Commercial General Plan land use designation and the Planned Development – Commercial zoning district. No variances are required.
 - b. The project involves only minor changes to the operational characteristics of an existing use.
 - c. The subject parcel is located in a developed area of the city where all necessary public services and facilities are available on site and the surrounding area is not environmentally sensitive.
3. The Zoning Administrator has independently considered the full administrative record before it, which includes but is not limited to the March 31, 2022, Zoning Administrator staff report; testimony by staff and the public; and other materials and evidence submitted or provided to it. The administrative record demonstrates that each of the above requirements have been satisfied. No substantial evidence has been submitted that would support a finding that any of the above-described exemption requirements has not been satisfied. The Project will not have a significant effect on the environment, and all of the requirements of CEQA have been met.

Conditional Use Permit:

1. A Conditional Use Permit should be granted upon sound principles of land use and in response to services required by the community.

Granting the Conditional Use Permit would provide a service desirable for the community in allowing options for the community to purchase alcohol and non-alcoholic consumer goods, via the store's online and mobile platforms for delivery.

2. A Conditional Use Permit should not be granted if it will cause deterioration of bordering land uses or create special problems for the area in which it is located.

Granting the Conditional Use Permit would not cause a deterioration of bordering land uses or create special problems for the area. The liquor store is an existing use that is located in an existing commercial center that has been developed with a variety of commercial uses, and no building expansions are proposed; and the conditions relating to alcohol sales applied through the ABC license adequately address any potential alcohol-related problems. The business is located within an established commercial area where on-site parking and circulation will not change. All potential noise issues would be subject to the requirements of the Noise Ordinance.

3. A Conditional Use Permit must be considered in relationship to its effect on the community or neighborhood plan for the area in which it is to be located.

The proposed Conditional Use Permit has been determined to be compatible with the surrounding properties and General Plan policies. The Planned Commercial Development supports liquor stores through the Conditional Use Permit process and the operations are regulated by the California Department of Alcoholic Beverage Control. The proposed project would not diminish the quality of life standards of the General Plan because the project would not materially degrade the level of service on adjacent streets or public facilities, nor create excessive noise, and adequate public services are currently provided on site.

EXHIBIT "C"

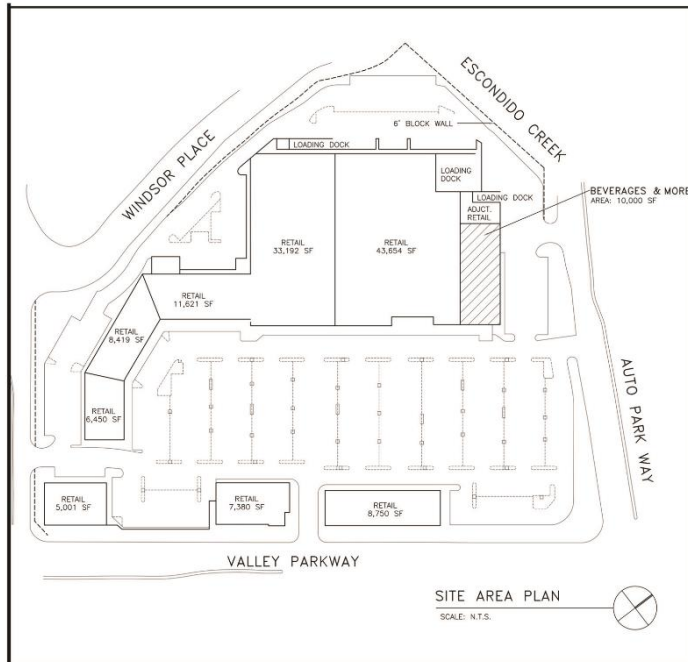
PLANNING CASE NO. PL21-0199

PROJECT PLANS

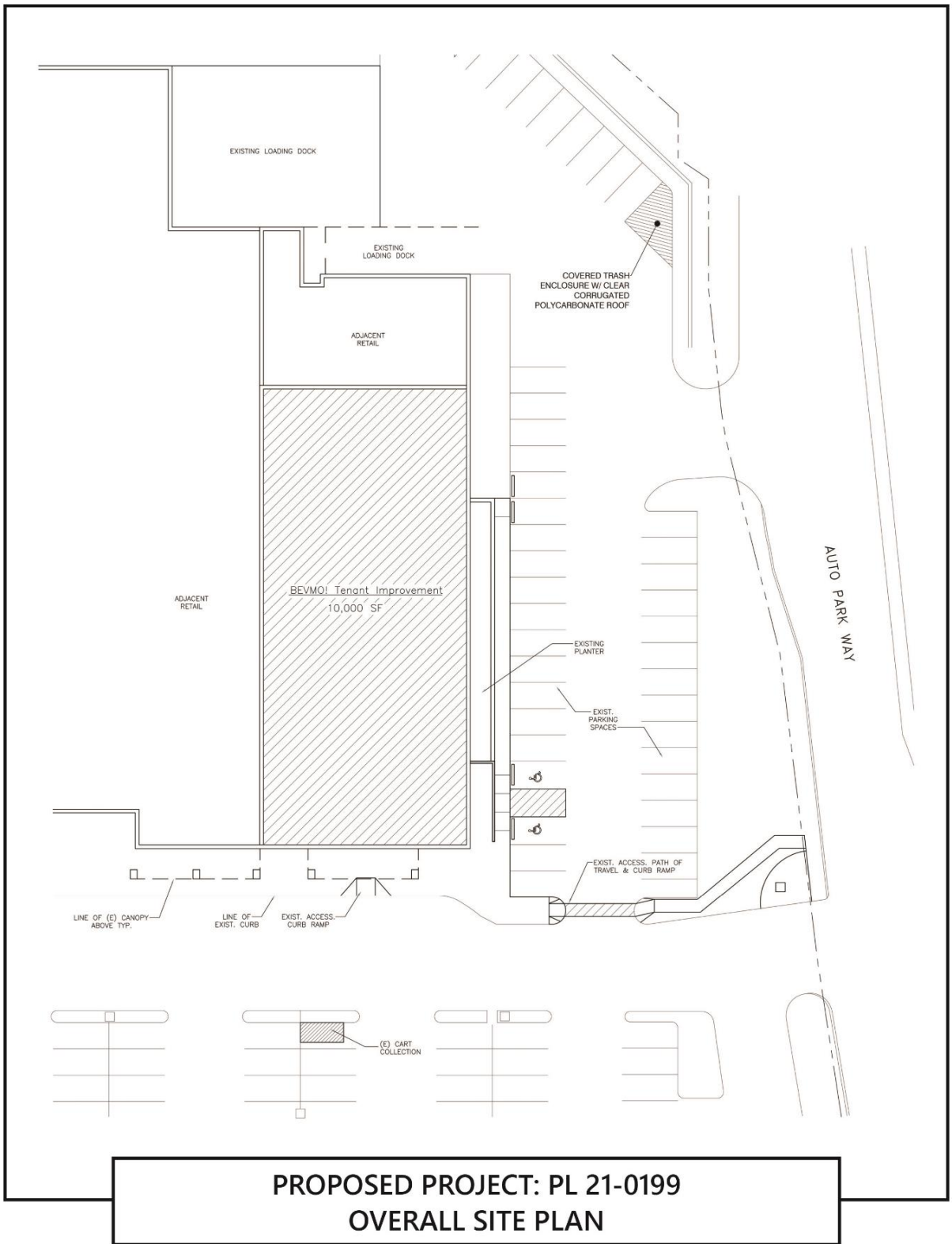
1. PROJECT DESCRIPTION: TENANT IMPROVEMENT
2. SCOPE OF WORK:
 - 2.1. RELOCATE EXISTING TASTING AREA
 - 2.2. RELOCATE EXISTING ELECTRICAL OUTLETS & INSTALL NEW AS NEEDED (NEW CIRCUITS SHALL NOT EXCEED EXISTING POWER SERVICE AVAILABLE)
 - 2.3. RELOCATE EXISTING SHELVING FIXTURES & APPLIANCES, PATCH & SEAL FLOOR AS NEEDED TO MATCH EXISTING CONDITIONS

SITE DATA:

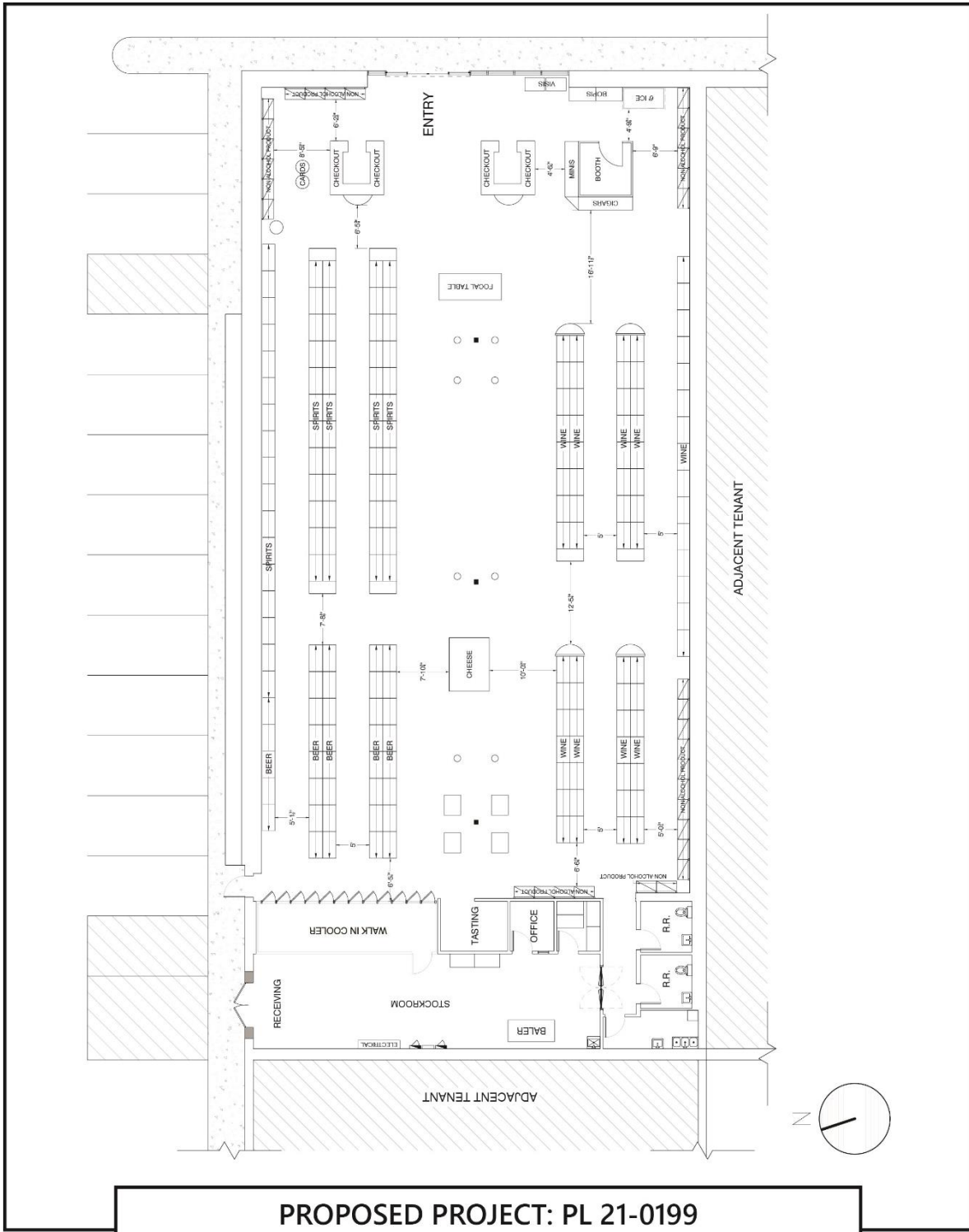
SITE ACREAGE (T.S.A. PARCLE): 7.23 AC
SITE SQUARE FOOTAGE: 314,938 SF
GENERAL PLAN DESIGNATION: PLANNED COMMERCIAL
ZONING DESIGNATION: PDC
APN: 232-542-39-00
SITE ADDRESS: 1346 WEST VALLEY PARKWAY
EXISTING SF OF T.S.A BUILDING: 91,240
ADDITIONAL SF OF BUILDING PROPOSED: 0
TOTAL SF OF BUILDING PROPOSED: 91,240
EXISTING PARKING SPACES (TOTAL CENTER): 681



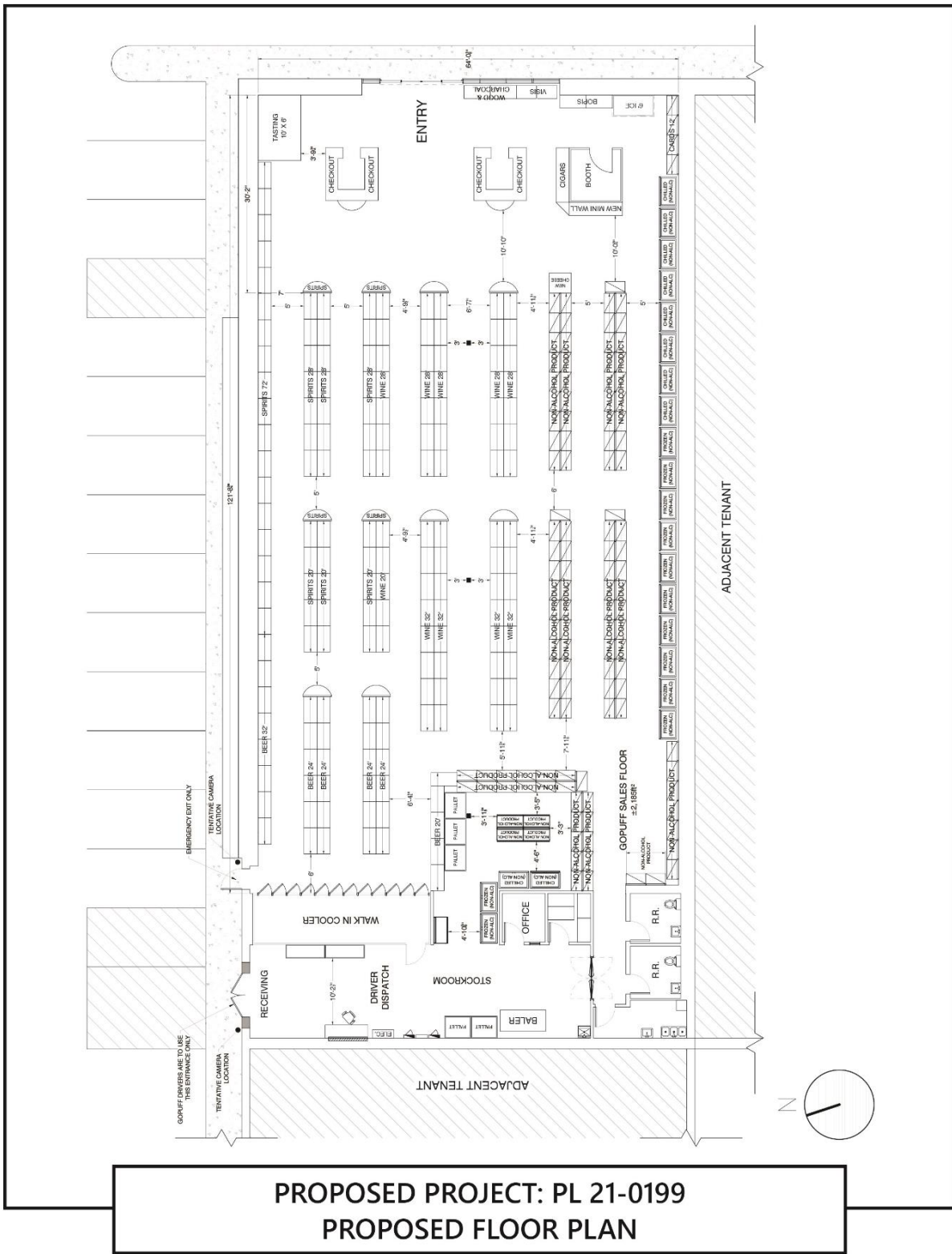
PROPOSED PROJECT: PL 21-0199
OVERALL SITE PLAN



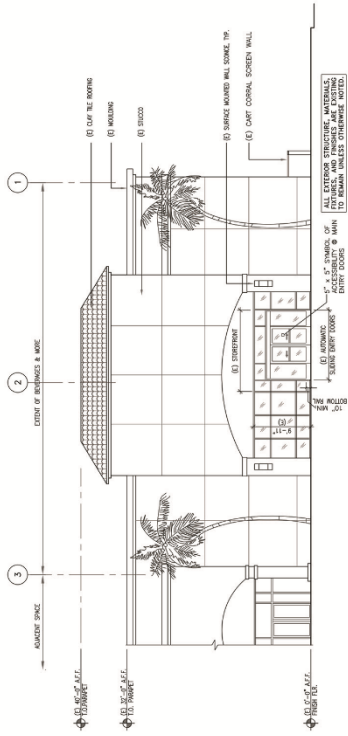
PROPOSED PROJECT: PL 21-0199
OVERALL SITE PLAN



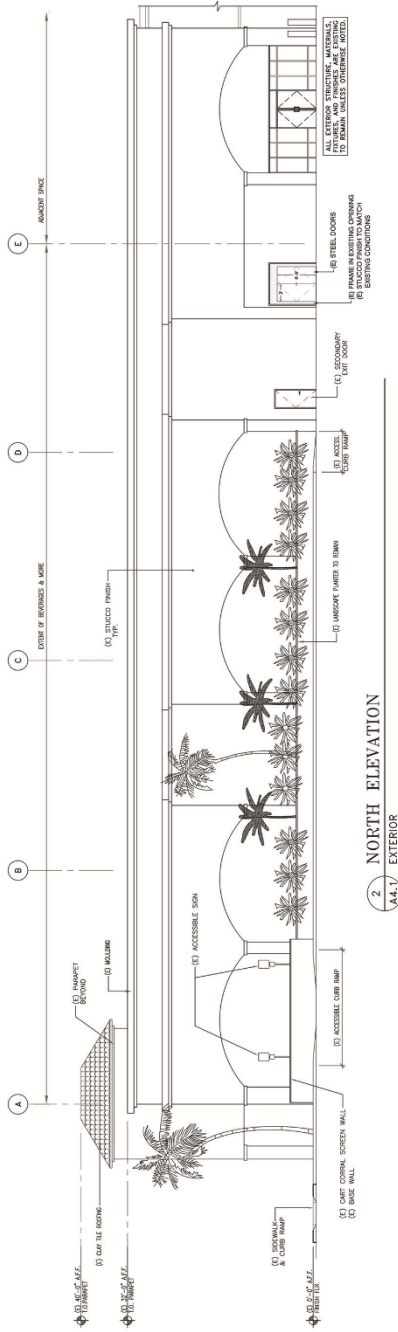
PROPOSED PROJECT: PL 21-0199
EXISTING FLOOR PLAN



PROPOSED PROJECT: PL 21-0199
PROPOSED FLOOR PLAN



1 EAST ELEVATION
A.4.1 EXTERIOR



2 NORTH ELEVATION
A.4.1 EXTERIOR

PROPOSED PROJECT: PL 21-0199
ELEVATIONS

EXHIBIT "D"

PLANNING CASE NO. PL21-0199

CONDITIONS OF APPROVAL

This Project is conditionally approved as set forth on the application received by the City of Escondido on April 27, 2021, and the Project drawings consisting of Site Plans, Floor Plans and Architectural Elevations, received on October 18, 2021, all designated as approved on **March 31, 2022**, and shall not be altered without express authorization by the Community Development Department.

For the purpose of these conditions, the term "Applicant" shall also include the Project proponent, owner, permittee, or its successor(s) in interest, as may be applicable.

A. General:

1. **Acceptance of Permit.** Should the Applicant fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Applicant shall be deemed to constitute all of the following on behalf of the Applicant:
 - a. Acceptance of the Permit by the Applicant; and
 - b. Agreement by the Applicant to be bound by, to comply with, and to do all things required of or by the Applicant pursuant to all of the terms, provisions, and conditions of this Project Permit or other approval and the provisions of the Escondido Municipal Code or Zoning Code applicable to such Permit.
2. **Permit Expiration.** The Permit shall automatically expire after one year from the date of this approval, or the expiration date of any extension granted in accordance with the Escondido Municipal Code and Zoning Code.

The Permit shall be deemed expired if a building permit has not been obtained or work has been discontinued in the reliance of that building permit. If no building permits are required, the City may require a noticed hearing to be scheduled before the authorized agency to determine if there has been demonstrated a good faith intent to proceed, pursuant to and in accordance with the provision of this Permit.

3. **Certification.** The Director of Community Development, or his/her designee, is authorized and directed to make, or require the Applicant to make, all corrections and modifications to the Project drawings and any other relevant document comprising the Project in its entirety, as necessary to make them internally consistent and in conformity

with the final action on the Project. This includes amending the Project drawings as necessary to incorporate revisions made by the decision-making body and/or reflecting any modifications identified in these conditions of approval.

Three copies of final Approved Plan set, shall be submitted to the Planning Division for certification. Said plans must be certified by the Planning Division prior to submittal of any post-entitlement permit, including grading, public improvement, landscape, or building plans for the Project.

4. Conformance to Approved Plans.

- a. The operation and/or use of the subject property shall be consistent with the Project Description and Details of Request, designated with the Approved Plan set.
- b. Nothing in this Permit shall authorize the Applicant to intensify the authorized activity beyond that which is specifically described in this Permit.
- c. Once a permit has been issued, the Applicant may request Permit modifications. "Minor" modifications may be granted if found by the Director of Community Development to be in substantial conformity with the Approved Plan set, including all exhibits and Permit conditions attached hereto. Modifications beyond the scope described in the Approved Plan set may require submittal of an amendment to the Permit and approval by the authorized agency.

5. Limitations on Use. Prior to any use of the Project site pursuant to this Permit, all Conditions of Approval contained herein shall be completed or secured to the satisfaction of the Community Development Department.

6. Certificate of Occupancy.

- a. No change in the character of occupancy or change to a different group of occupancies as described by the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required, and any such change in occupancy must comply with all other applicable local and state laws.
- b. Prior to final occupancy, a Planning Final Inspection shall be completed to ensure that the property is in full compliance with the Permit terms and conditions. The findings of the inspection shall be documented on a form and content satisfactory to the Director of Community Development.

7. Availability of Permit Conditions.

- a. Prior to building permit issuance, the Applicant shall cause a covenant regarding real property to be recorded that sets forth the terms and conditions of this Permit approval and shall be of a form and content satisfactory to the Director of Community Development.
 - b. The Applicant shall make a copy of the terms conditions of this Permit readily available to any member of the public or City staff upon request. Said terms and conditions shall be printed on any construction plans that are submitted to the Building Division for plan check processing.
8. **Right to Entry.** The holder of this Permit shall make the premises available for inspection by City staff during construction or operating hours and allow the investigations of property necessary to ensure that minimum codes, regulations, local ordinances and safety requirements are properly followed. The Applicant shall provide such business records, licenses, and other materials necessary upon request to provide evidence of compliance with the conditions of approval, as well as federal, state, or laws.
9. **Compliance with Federal, State, and Local Laws.** Nothing in this Permit shall relieve the Applicant from complying with conditions, performance standards, and regulations generally imposed upon activities similar in nature to the activity authorized by this permit. (Permits from other agencies may be required as specified in the Permit's Details of Request.) This Permit does not relieve the Applicant of the obligation to comply with all applicable statutes, regulations, and procedures in effect at the time that any engineering permits or building permits are issued unless specifically waived herein.

No part of this Permit's approval shall be construed to permit a violation of any part of the Escondido Municipal or Zoning Code. During Project construction and after Project completion, the Applicant shall ensure the subject land use activities covered by this Permit is conducted in full compliance with all local and state laws.

10. **Fees.** The appropriate development fees and Citywide Facility fees shall be paid in accordance with the prevailing fee schedule in effect at the time of building permit issuance, to the satisfaction of the Director of Community Development. Through plan check processing, the Applicant shall pay development fees at the established rate. Such fees may include, but not be limited to: Permit and Plan Checking Fees, Water and Sewer Service Fees, School Fees, Traffic Mitigation Fees, Flood Control Mitigation Fees, Park Mitigation Fees, Fire Mitigation/Cost Recovery Fees, and other fees listed in the Fee Schedule, which may be amended. Arrangements to pay these fees shall be made prior to building permit issuance to the satisfaction of the Community Development Department.
11. **Public Art Partnership Program.** All requirements of the Public Art Partnership Program, Ordinance No. 86-70 shall be satisfied prior to any building permit issuance.

The ordinance requires that a public art fee be added at the time of the building permit issuance for the purpose of participating in the City Public Art Program.

12. Clerk Recording.

- a. **Exemption.** The environmental determination prepared for the Project is a categorical exemption. 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. In order to file the Notice of Exemption with the County Clerk, in conformance with 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 this letter) a certified check payable to the "County Clerk" 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 specified 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.
- b. For more information on filing fees, please refer to the County Clerk's Office and/or the California Code of Regulations, Title 14, Section 753.5.

13. Legal Description Adequacy. 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.

14. Application Accuracy. The information contained in the application and all attached materials are assumed to be correct, true, and complete. The City of Escondido is relying on the accuracy of this information and Project-related representations in order to process this application. Any permits issued by the City may be rescinded if it is determined that the information and materials submitted are not true and correct. The Applicant may be liable for any costs associated with rescission of such permits.

15. Revocation, Suspension, Modification. At any time after Project implementation, the City may require a noticed public hearing to be scheduled before the Zoning Administrator to determine if there has been demonstrated a good faith intent to proceed in reliance on this approval. This item may be referred to the appropriate decision-making body upon recommendation of the Director of Community Development for review and possible revocation or modification of the Permit regarding non-compliance with the Conditions of Approval.

This Permit may be revoked, suspended or modified by the Zoning Administrator, or Planning Commission or City Council on appeal, at any time regardless of who is the

owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing, and after the following findings are fully investigated:

- a. A violation of any term or condition not abated, corrected or rectified within the time specified on the notice of violation; or
- b. A violation of any City ordinance, state law, or federal law not abated, corrected or rectified within the time specified on the notice of violation; or
- c. The use as presently conducted creates or constitutes a nuisance.

16. Indemnification, Hold Harmless, Duty to Defend.

- a. The Applicant shall indemnify, hold harmless, and defend (with counsel reasonably acceptable to the City) the City, its Councilmembers, Planning Commissioners, boards, commissions, departments, officials, officers, agents, employees, and volunteers (collectively, "Indemnified Parties") from and against any and all claims, demands, actions, causes of action, proceedings (including but not limited to legal and administrative proceedings of any kind), suits, fines, penalties, judgments, orders, levies, costs, expenses, liabilities, losses, damages, or injuries, at law or in equity, including without limitation the payment of all consequential damages and attorney's fees and other related litigation costs and expenses (collectively, "Claims"), of every nature caused by, arising out of, or in connection with (i) any business, work, conduct, act, omission, or negligence of the Applicant or the owner of the Property (including the Applicant's or the owner of the Property's contractors, subcontractors, licensees, sublessees, invitees, agents, consultants, employees, or volunteers), or such activity of any other person that is permitted by the Applicant or owner of the Property, occurring in, on, about, or adjacent to the Property; (ii) any use of the Property, or any accident, injury, death, or damage to any person or property occurring in, on, or about the Property; or (iii) any default in the performance of any obligation of the Applicant or the owner of the Property to be performed pursuant to any condition of approval for the Project or agreement related to the Project, or any such claim, action, or proceeding brought thereon. Provided, however, that the Applicant shall have no obligation to indemnify, hold harmless, or defend the City as to any Claims that arise from the sole negligence or willful misconduct of the City. In the event any such Claims are brought against the City, the Applicant, upon receiving notice from the City, shall defend the same at its sole expense by counsel reasonably acceptable to the City and shall indemnify the City for any and all administrative and litigation costs incurred by the City itself, the costs for staff time expended, and reasonable attorney's fees (including the full reimbursement of any such fees incurred by the City's outside counsel, who may be selected by the City at its sole and absolute discretion and who

may defend the City against any Claims in the manner the City deems to be in the best interests of the City).

- b. The Applicant further and separately agrees to and shall indemnify, hold harmless, and defend the City (including all Indemnified Parties) from and against any and all Claims brought by any third party to challenge the Project or its approval by the City, including but not limited to any Claims related to the Project's environmental determinations or environmental review documents, or any other action taken by the City regarding environmental clearance for the Project or any of the Project approvals. Such indemnification shall include the Applicant's payment for any and all administrative and litigation costs and expenses incurred by the City in defending against any such Claims, including payment for all administrative and litigation costs incurred by the City itself, the costs for staff time expended, and reasonable attorney's fees (including the full reimbursement of any such fees incurred by the City's outside counsel, who may be selected by the City at its sole and absolute discretion and who may defend the City against any Claims in the manner the City deems to be in the best interests of the City and the Project).
- c. The City, in its sole discretion and upon providing notice to the Applicant, may require the Applicant to deposit with the City an amount estimated to cover costs, expenses, and fees (including attorney's fees) required to be paid by the Applicant in relation to any Claims referenced herein, which shall be placed into a deposit account from which the City may draw as such costs, expenses, and fees are incurred. Within 14 days after receiving written notice from the City, the Applicant shall replenish the deposit account in the amount the City determines is necessary in the context of the further defense of such Claims. To the extent such deposit is required by the City, the amount of such deposit and related terms and obligations shall be expressed in a written Deposit Account Agreement, subject to the City Attorney's approval as to form. The City, in its sole and reasonable discretion, shall determine the amount of any initial deposits or subsequent deposits of funds, and the Applicant may provide documentation or information for the City to consider in making its determinations. Nothing within this subsection shall be construed as to relieve the Applicant's obligations to indemnify, hold harmless, or defend the City as otherwise stated herein.

B. Construction, Maintenance, and Operation Obligations:

- 1. **Code Requirements.** All construction shall comply with the applicable requirements of the Escondido Municipal Code, Escondido Zoning Code, California Building Code; and the requirements of the Planning Division, Engineering Services Department, Director of Community Development, Building Official, City Engineer, and the Fire Chief in carrying out the administration of said codes. Approval of this Permit request shall not waive compliance with any City regulations in effect at the time of Building Permit issuance unless specifically waived herein.

As a condition of receiving the land use approvals specified herein, Applicant shall maintain the property subject to the approvals in compliance with all applicable city codes governing the condition or appearance of property. In addition to compliance with such basic standards, the property subject to these approvals shall also be maintained free of trash, plant debris, weeds, and concrete (other than existing foundations and permanent structures). Any signs placed on the property advertising such property for sale or rent shall be in accordance with applicable laws, and be kept clean, in like-new condition, and free from fading and graffiti at all times. This condition shall be applicable from the date the land use is approved. The failure to comply with this condition shall subject the approvals specified herein to revocation for failure to comply.

2. **Agency License and Permitting.** In order to make certain on- or off-site improvements associated with the Approved Plan set, the Permit request may require review and clearance from other agencies. Nothing in these Conditions of Approval shall be construed as to waive compliance with other government agency regulations or to obtain permits from other agencies to make certain on- or off-site improvements prior to Final Map recordation, grading permit issuance, building permit issuance, or certificate of occupancy as required. This review may result in conditions determined by the reviewing agency.

At all times during the effective period of this Permit, the Applicant and any affiliated responsible party shall obtain and maintain in valid force and effect, each and every license and permit required by a governmental agency for the construction, maintenance, and operation of the authorized activity.

3. **Utilities.** All new utilities and utility runs shall be underground, or fee payment in-lieu subject to the satisfaction of the City Engineer.
4. **Signage.** All proposed signage associated with the Project must comply with Article 66 (Sign Ordinance) of the Escondido Zoning Code. Separate sign permits will be required for Project signage. All non-conforming signs shall be removed. The Applicant shall submit with any sign permit graphic/list of all signs to be removed and retained, along with any new signage proposed.
5. **Noise.** All Project generated noise shall conform to the City's Noise Ordinance (Ordinance 90-08).
6. **Lighting.** All exterior lighting shall conform to the requirements of Article 35 (Outdoor Lighting Ordinance) of the Escondido Zoning Code.
7. **General Property Maintenance.** The property owner or management company shall maintain the property in good visual and functional condition. This shall include, but not

be limited to, all exterior elements of the buildings such as paint, roof, paving, signs, lighting and landscaping. The Applicant shall paint and re-paint all building exteriors, accessory equipment, and utility boxes servicing the Project, as necessary to maintain clean, safe, and efficient appearances.

- 8. Anti-Graffiti.** The Applicant shall remove all graffiti from buildings and wall surfaces within 48 hours of defacement, including all areas of the job site for when the Project is under construction.
- 9. Anti-Litter.** The site and surrounding area shall be maintained free of litter, refuse, and debris. Cleaning shall include keeping all publicly used areas free of litter, trash, and garbage.
- 10. Roof, Wall, and Ground Level Equipment.** All mechanical equipment shall be screened and concealed from view in accordance with Section 33-1085 of the Escondido Zoning Code.
- 11. Trash Enclosures.** Appropriate trash enclosure(s) or other approved trash system shall be approved by the Planning and Engineering Division. The property owner or management company shall be responsible for ensuring that enclosures are easily assessable for garbage and recyclables collection; and that the area is managed in a clean, safe, and efficient manner. Trash enclosure covers shall be closed when not in use. Trash enclosures shall be regularly emptied. There shall be the prompt removal of visible signs of overflow of garbage, smells emanating from enclosure, graffiti, pests, and vermin.
- 12. Staging Construction Areas.** All staging areas shall be conducted on the subject property, subject to approval of the Engineering Department. Off-site staging areas, if any, shall be approved through the issuance of an off-site staging area permit/agreement.
- 13. Disturbance Coordinator.** The Applicant shall designate and provide a point-of-contact whose responsibilities shall include overseeing the implementation of Project, compliance with Permit terms and conditions, and responding to neighborhood concerns.
- 14. Construction Waste Reduction, Disposal, and Recycling.** Applicant shall recycle or salvage for reuse a minimum of 65% of the non-hazardous construction and demolition waste for residential projects or portions thereof in accordance with either Section 4.408.2, 4.408.3, or 4.408.4 of the California Green Building Standards Code; and/or for non-residential projects or portions thereof in accordance with either Section 5.408.1.1, 5.408.1.2, or 5.408.1.3 of the California Green Building Standards Code. In order to ensure compliance with the waste diversion goals for all residential and non-residential construction projects, the Applicant must submit appropriate documentation as described in Section 4.408.5 of the California Green Building Standards Code for residential projects

or portions thereof, or Section 5.408.1.4 for non-residential projects or portions thereof, demonstrating compliance with the California Green Building Standards Code sections cited above.

15. Construction Equipment Emissions. The Applicant shall incorporate measures that reduce construction and operational emissions. Prior to the City's issuance of the demolition and grading permits for the Project, the Applicant shall demonstrate to the satisfaction of the Planning Division that its construction contractor will use a construction fleet wherein all 50-horsepower or greater diesel-powered equipment is powered with California Air Resources Board ("CARB") certified Tier 4 Interim engines or equipment outfitted with CARB-verified diesel particulate filters. An exemption from this requirement may be granted if (i) the Applicant provides documentation demonstrating that equipment with Tier 4 Interim engines are not reasonably available, and (ii) functionally equivalent diesel PM emission totals can be achieved for the Project from other combinations of construction equipment. Before an exemption may be granted, the Applicant's construction contractor shall demonstrate to the satisfaction of the Director of Community Development that (i) at least two construction fleet owners/operators in San Diego County were contacted and those owners/operators confirmed Tier 4 Interim equipment could not be located within San Diego County during the desired construction schedule, and (ii) the proposed replacement equipment has been evaluated using the California Emissions Estimator Model ("CalEEMod") or other industry standard emission estimation method, and documentation provided to the Planning Division confirms that necessary project-generated functional equivalencies in the diesel PM emissions level are achieved.

C. Parking and Loading/Unloading.

1. The required minimum number of parking spaces shall be provided at all times. (Based on current development standards and land uses on-site, the commercial center requires 670 spaces.) Said parking spaces provided by the Applicant, and any additional parking spaces provided above the required, minimum amount, shall be dimensioned per City standards and be maintained in a clean, well-marked condition. The striping shall be drawn on the plans or a note shall be included indicating double-striping per City standards.
2. Parking for disabled persons shall be provided (including "Van Accessible" spaces) in full compliance with the State Building Code.
3. No contractor or employee may store, or permit to be stored, a commercial or construction vehicle/truck; or personal vehicle, truck, or other personal property on public-right-of-way or other public property without permission of the City Engineer.

D. Landscaping: The property owner or management company assumes all responsibility for maintaining all on-site landscaping; any landscaping in the public right-of-way adjacent to the

property, including potted plants; and any retaining and freestanding walls in a manner that satisfies the conditions contained herein.

1. Landscaped areas shall be maintained in a flourishing manner. Appropriate irrigation shall be provided for all landscape areas and be maintained in a fully operational condition.
2. All existing planting and planter areas, including areas within the public right-of-way, shall be repaired and landscaping brought into compliance with current standards. All dead plant material shall be removed and replaced by the property owner or management company.
3. If at the time of planning final inspection that it is determined that sufficient screening is not provided, the Applicant shall be required to provide additional landscaping improvements to the satisfaction of the Planning Division.
4. The landscaped areas shall be free of all foreign matter, weeds and plant material not approved as part of the landscape plan.
5. Failure to maintain landscaping and the site in general may result in the setting of a public hearing to revoke or modify the Permit approval.

E. Specific Planning Division Conditions:

1. Minor modifications to the conditions and operational details may be approved by the Director of Community Development and/or Police Chief without requiring a modification to the use permit, as determined by the Director of Community Development.
2. The hours of operation for the business, shall be limited to:

In-store hours: 9 a.m. to 10 p.m. daily

Online sales and delivery service of non-alcohol products: 24 hours

Online alcohol beverage sales with alcohol beverage delivery service: 9 a.m. to 12 a.m.

Any request to modify said hours of operation shall be made in writing to the Director of Community Development, who may approve or disapprove said request subsequent to consultation with the Police Department and the California Department of Alcoholic Beverage Control.

3. An Alcoholic Beverage License shall be obtained, or a modification of an existing license shall be approved, from the Department of Alcoholic Beverage Control (ABC) prior to any alcohol online sales and delivery services. The licensee shall comply with all conditions set forth in the premise license issued through the Department of Alcoholic Beverage Control and Police Department.

4. The side entrance/receiving door, located on the east elevation, shall be kept closed at all times except in the case of emergency and normal ingress and egress and shall be accessed by BevMo! employees and delivery drivers only during business hours.
 5. All delivery driver partners shall use the side entrance/receiving door at all times to pick up items for delivery, even when the storefront is open.
 6. Delivery driver partners shall be directed to use the designated parking spaces closest to the side entrance/receiving door. Delivery driver partners may use any parking spaces in the shopping center if the designated parking spaces are not available.
 7. Informational signs shall be posted on the side entrance/receiving door accordingly, stating that the door is to be used by BevMo! employees and delivery driver partners only, and shall direct customers to use the main entrance doors.
 8. There shall be no exterior advertising or sign of any kind, including advertising specifically directed to the exterior from within, promoting or indicating availability of alcoholic beverages.
 9. No signage is approved as part of this permit. All proposed signage associated with the project shall comply with Article 66 of the Escondido Zoning Code.
 10. A valid City of Escondido Business License shall be maintained at all times.
 11. No utilities shall be released for any purpose or Certificate of Occupancy issued until all requirements of the Planning, Engineering, and Building Divisions have been completed.
 12. The plans submitted for building permit shall include notes or details containing the necessary work involved in complying with these project conditions.
- F. General Building Division Conditions:** Building plans must be submitted for this project. These conditions are preliminary and a comprehensive plancheck will be completed prior to permit issuance. Additional technical code requirements may be identified and changes to the plans included as Exhibit "C" to Zoning Administrator Resolution No. 2022-02 may be required.
1. The applicant shall submit a complete set of construction plans to the Development Services Department for building permit plancheck processing.
 2. The submittal shall include structural calculations and State Energy compliance documentation (Title 24).

3. Construction plans shall include a site plan, floor and roof framing plans, floor plan(s), section details, exterior elevations, and materials specifications.
4. Submitted plans must show compliance with the latest adopted editions of the California Building Code (The International Building Code with California Amendments, the California Mechanical, Electrical and Plumbing Codes).
5. Commercial construction must also contain details and notes to show compliance with State disabled accessibility mandates.

H. Fire Department Conditions: The following Fire Department comments shall be addressed on the building plans:

1. If applicable, note on the building plans that Fire sprinklers and Fire alarm plans shall be a deferred submittal to the Escondido Fire Department.

I. Police Department Conditions:

1. The location is in a high crime area. However, there is an existing ABC license for the business. This is not approval of a new ABC license but modifications to an existing one.
2. Alcohol delivery service shall not exceed past 12 a.m.
3. On-site security is required in the parking lot.
4. Ensure the ID of the buyer is checked by the delivery driver and the transaction is face-to-face.

ATTACHMENT 3



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

Notice of Exemption

To: Assessor/Recorder/County Clerk
Attn: Fish and Wildlife Notices
1600 Pacific Hwy, Room 260
San Diego, CA 92101
MS: A-33

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

Project Title/Case No: Gopuff dba BevMo! / PL21-0199

Project Location - Specific: On the southwest corner of Auto Park Way and West Valley Parkway, addressed as 1346 W. Valley Parkway (APN: 232-542-39-00)

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

Description of Project: A Minor Conditional Use Permit to modify operations at an existing 10,000 square foot liquor store in an 11.2-acre commercial center in the Planned Development – Commercial zoning district. The request would allow online sales and delivery of alcohol between the hours of 9 a.m. and 12 a.m. In-store hours would not change from the existing operations (9 a.m. to 10 p.m. daily).

Name of Public Agency Approving Project: City of Escondido

Name of Person or Agency Carrying Out Project:

Name: Bilegt Baatar for Gopuff dba BevMo!

Telephone: 770-595-0190

Address: 537 N. 3rd Street, Philadelphia, PA 19123

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

Exempt Status:

Categorical Exemption. CEQA Guidelines sections 15301 (Existing Facilities).

Reasons why project is exempt:

The proposed project qualifies for a categorical exemption pursuant to CEQA Guidelines section 15301 meeting all applicable conditions, as further described below.

1. The project is consistent with the applicable Planned Commercial General Plan land use designation and the Planned Development – Commercial zoning district. No variances are required.
2. The project involves only minor changes to the operational characteristics of an existing use.
3. The subject parcel is located in a developed area of the city where all necessary public services and facilities are available on site and the surrounding area is not environmentally sensitive.

Lead Agency Contact Person: Jasmin Perunovich

Area Code/Telephone/Extension: 760-839-4552

Signature: _____
Jasmin Perunovich, Assistant Planner I

Date

Signed by Lead Agency

Date received for filing at OPR:

Signed by Applicant