



**CITY OF SUNNYVALE  
REPORT  
Administrative Hearing**

**November 26, 2008**

**SUBJECT:** **2008-1135 – Vintners Distributors Inc.** [Applicant/Owner]:  
Application for a property located at **296 N. Fair Oaks Avenue** (at E. Arques Ave.) in an M-S (Industrial and Service) Zoning District.

Motion Use Permit to allow the sale of beer and wine at an existing Chevron automobile service station convenience store.

**REPORT IN BRIEF**

**Existing Site Conditions** Automobile service station with convenience store

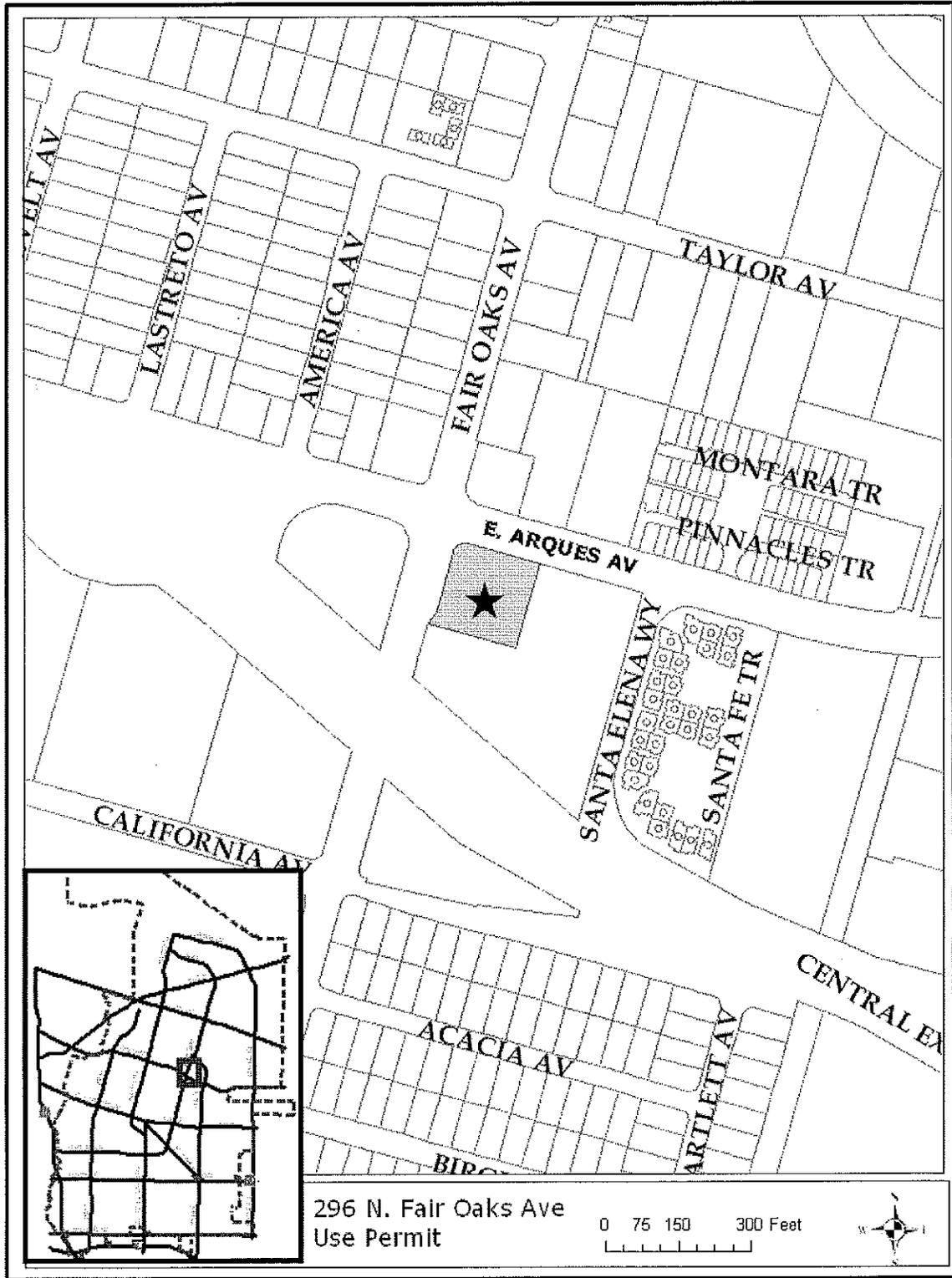
**Surrounding Land Uses**

North	Restaurants, vacant parcel
South	Public storage
East	Public storage
West	Auto repair (across Fair Oaks Avenue)

**Issues** Off-site sale of beer and wine

**Environmental Status** A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

**Staff Recommendation** Approve with conditions



**PROJECT DATA TABLE**

	<b>EXISTING</b>	<b>PROPOSED</b>	<b>REQUIRED/ PERMITTED</b>
<b>General Plan</b>	Industrial	Same	Industrial
<b>Zoning District</b>	M-S	Same	M-S
<b>Lot Size (s.f.)</b>	29,932	Same	22,500 min.
<b>Gross Floor Area (s.f.)</b>	Fuel canopy: 3,471 Car wash: 1,021 Store: 810 Total: 5,302	Same	10,476 max.
<b>Lot Coverage (%)</b>	17.7%	Same	45% max.
<b>Floor Area Ratio (FAR)</b>	17.7%	Same	35% max.

★ Starred items indicate deviations from Sunnyvale Municipal Code requirements.

**ANALYSIS**

**Description of Proposed Project**

The applicant proposes to offer the off-site sale of beer and wine at an automobile service station’s existing convenience store. Beer and wine sales will occur from existing coolers and shelves within the store, except that an additional shelf or rack is proposed for the display of beer and wine near the cash register (see discussion on page 5). Other than the addition of this shelf, no physical changes are proposed to the interior or exterior of the structure.

**Background**

**Previous Actions on the Site:** The following table summarizes previous planning applications related to the subject site.

	<b>Brief Description</b>	<b>Hearing/Decision</b>	<b>Date</b>
2007-1265	Miscellaneous Plan Permit to allow grocery sales at an existing service station	Staff Review/ Approved	04/28/2008
2004-0611	Use Permit to allow construction of a new convenience store and self-service car wash at an existing service station	Planning Commission/ Approved	11/22/2004
1991-0406	Use Permit to modify previously approved plans to add a new car wash (not constructed)	Planning Commission/ Approved	04/08/1991
1991-0405	Use Permit to modify previously approved plans to add a new car wash and expand the cashier booth	City Council / Withdrawn	3/26/1991
1989-0587	Use Permit to add a new car wash (not constructed)	Planning Commission/ Approved	12/11/1989
1984-0146	Use Permit to convert a full-service gas station to a self-service station	City Council/ Approved	10/09/1984

### **Environmental Review**

A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines. Class 1 Categorical Exemptions include minor modifications to existing facilities.

### **Use Permit**

**Site Layout:** The subject site is located on the corner of Fair Oaks Avenue and Arques Avenue and has driveways taking access off both streets. There is a single fuel canopy near the front of the property having ten fuel pumps. An 810 square foot convenience store/gift shop is located near the rear of the property, with a self-service car wash tunnel located behind the building. Parking is located in front of the convenience store building, along the south property line, and adjacent to the site's landscaping area at the corner. Adjacent uses

are primarily industrial, with several restaurants located to the north across Arques Avenue. There are nearby single-family and multi-family residential uses to the north and east, but these properties are not directly adjacent to the subject site.

**Compliance with Development Standards/Guidelines:** The proposed project complies with all applicable development standards and guidelines. Off-site sales of beer and wine may be allowed at an automobile service station with approval of a Use Permit provided three findings can be made:

- 1) The service station may not be located within 500 feet of another use with off-site alcohol sales;
- 2) The service station may not result in a concentration of more than four businesses with off-site sales of alcohol within a 1000-foot radius; and
- 3) The service station may not be located within 500 feet of a public park or public school.

If any of the above three findings are not met, the permit can only be granted if three additional findings are also met:

- a) The project will not adversely affect persons residing or working in surrounding areas;
- b) The project will not adversely affect surrounding property values; and
- c) The project will not be detrimental to public health, safety, and welfare.

The proposed project is not located within 500 feet of another business with off-site sales of alcohol, will not result in more than four businesses with off-site sales within a 1000-foot radius, and is not located within 500 feet of any of the uses listed in item 3 above. As a result, the three additional findings (a-c) do not need to be made.

The City's Department of Public Safety has inspected the subject site including existing security measures and does not believe the addition of alcohol sales will be detrimental to surrounding persons or properties, nor will it be detrimental to the public health, safety, or welfare. To ensure negative impacts do not result, SMC section 19.98.020 requires that off-site sales of beer and wine at an automobile service station must comply with the following requirements: no beer or wine shall be displayed within 5 feet of the cash register or front door unless inside a permanently-affixed cooler; no advertisements for beer or wine shall be displayed at motor fuel islands; employees on duty between the hours of 10:00 p.m. and 2:00 a.m. who sell beer or wine shall be at least 21 years old; and single servings of alcohol shall not be offered for sale. Staff has added these items as Condition of Approval #3 (Attachment B).

Staff notes that the applicant is currently proposing to locate an alcohol display rack within 5 feet of the cash register, which is prohibited by these conditions.

As a result, the applicant would need to modify the project to relocate the proposed rack (Condition #3.A).

**Expected Impact on the Surroundings:** The proposed use is not expected to have a negative impact on surrounding residents, properties, or uses. The proposed sales of beer and wine would occur along with grocery sales in the existing convenience store. Adequate site security is in place to discourage loitering, theft, on-site consumption of alcoholic beverages, and other unpermitted activities.

### **Fiscal Impact**

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No fiscal impacts other than normal fees and taxes are expected.

### **Public Contact**

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<b>Notice of Public Hearing</b>	<b>Staff Report</b>	<b>Agenda</b>
<ul style="list-style-type: none"> <li>• Published in the <i>Sun</i> newspaper</li> <li>• Posted on the site</li> <li>• 14 notices mailed to property owners and residents adjacent to the project site</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City of Sunnyvale's Web site</li> <li>• Provided at the Reference Section of the City of Sunnyvale's Public Library</li> </ul>	<ul style="list-style-type: none"> <li>• Posted on the City's official notice bulletin board</li> <li>• Posted on the City of Sunnyvale's Web site</li> </ul>

Staff has not received any public contact related to the subject application.

### **Conclusion**

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**Findings and General Plan Goals:** Staff was able to make the required Findings based on the justifications for the Use Permit. Recommended findings and General Plan Goals are located in Attachment A.

**Conditions of Approval:** Recommended Conditions of Approval are located in Attachment B.

### **Alternatives**

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1. Approve the Use Permit with the conditions listed in Attachment B.
2. Approve the Use Permit with modified conditions.
3. Deny the Use Permit.

**Recommendation**

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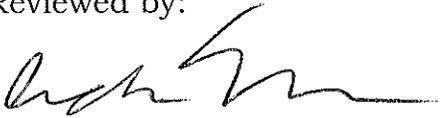
Alternative 1

Prepared by:



Mariya Hodge  
Project Planner

Reviewed by:



Andrew Miner  
Principal Planner

**Attachments:**

- A. Recommended Findings
- B. Recommended Conditions of Approval
- C. Site and Architectural Plans
- D. Applicant's Letter and Justifications

**Recommended Findings - Use Permit**

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Goals and Policies that relate to this project are:

**Land Use and Transportation Element – Policy C4.1**

*Maintain a diversity of commercial enterprises and industrial uses to sustain and bolster the local economy.*

**Land Use and Transportation Element – Action Statement C4.1.3**

*Promote commercial uses that respond to the current and future retail service needs of the community.*

**Land Use and Transportation Element – Action Statement N1.13.2**

*Support convenient neighborhood commercial services that reduce automobile dependency and contribute positively to neighborhood character.*

**Law Enforcement Sub-Element – Goal 4.1A**

*Provide a safe and secure environment for people and property in the community.*

**Required findings for all Use Permits:**

1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale. *[Finding made]*

The proposed addition of beer and wine sales would provide additional retail services for neighborhood residents, and is not anticipated to have a negative impact on surrounding properties or uses.

2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties. *[Finding made]*

The proposed beer and wine sales would occur along with the currently permitted sale of other grocery items at the convenience store. As conditioned, measures would be taken to protect against sale of beer and wine to, or theft of beer and wine by, persons under the age of 21. There is only one other site within a 1000-foot radius offering the off-site sale of beer and wine, therefore the proposed sales are not expected to result in an over-concentration of alcohol sales in the area. The site has existing security measures including lighting, clear visibility into and out of the store, and security cameras to discourage loitering, on-site consumption of alcoholic beverages, and other

unpermitted activities. As a result, the proposed use would not result in negative impacts on surrounding properties or uses.

**Additional required findings for the sale of beer and wine at automobile service stations:**

1. The proposed site must be at least 500 feet from a use with off-site sales of alcohol, unless additional findings can be made that the proposed new sales:
  - a. will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding areas; and
  - b. will not impair the value of property of other persons located in the vicinity of the area; and
  - c. will not be detrimental to the public health, safety or welfare.

*[Finding made]*

There are no existing businesses within 500 feet of the subject site which offer off-site sales of alcohol.

2. The proposed site will not exceed a concentration of more than four businesses with off-site sales of alcohol within a 1000-foot radius, unless the findings above (1.a - 1.c) can be made. *[Finding made]*

The proposal will result in a total of only two sites licensed for off-site alcohol sales within a 1000-foot radius.

3. The proposed site shall not be located closer than 500 feet from any public park or public school unless the above findings (1.a - 1.c) can be made. *[Finding made]*

The subject site is not located within 500 feet of a park or school.

**Recommended Conditions of Approval - Use Permit**

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In addition to complying with all applicable City, County, State and Federal Statutes, Codes, Ordinances, Resolutions and Regulations, Permittee expressly accepts and agrees to comply with the following conditions of approval of this Permit:

Unless otherwise noted, all conditions shall be subject to the review of approval of the Director of Community Development.

**1. GENERAL CONDITIONS**

- A. Execute a Use Permit document within 60 days of the approval of the permit by the final review authority.
- B. The project shall be in conformance with the plans and use approved at the public hearing(s). Any expansion or modification of the approved use shall be approved by separate application at a public hearing, except that minor changes may be approved by the Director of Community Development.
- C. The Use Permit for the use shall expire if the use is discontinued for a period of one year or more.
- D. The Use Permit shall be null and void two years from the date of approval by the final review authority at a public hearing if the approval is not exercised, unless a written request for an extension is received prior to expiration date.

**2. COMPLY WITH OR OBTAIN OTHER PERMITS**

- A. Obtain Building permits if required for any proposed equipment installation or other building modifications.
- B. Obtain all appropriate permits and/or licenses from the Department of Alcoholic Beverage Control (ABC).
- C. Comply with all requirements of the previously approved Miscellaneous Plan Permit (#2007-1265) related to grocery sales at the convenience store.

**3. OFF-SITE SALE OF BEER & WINE**

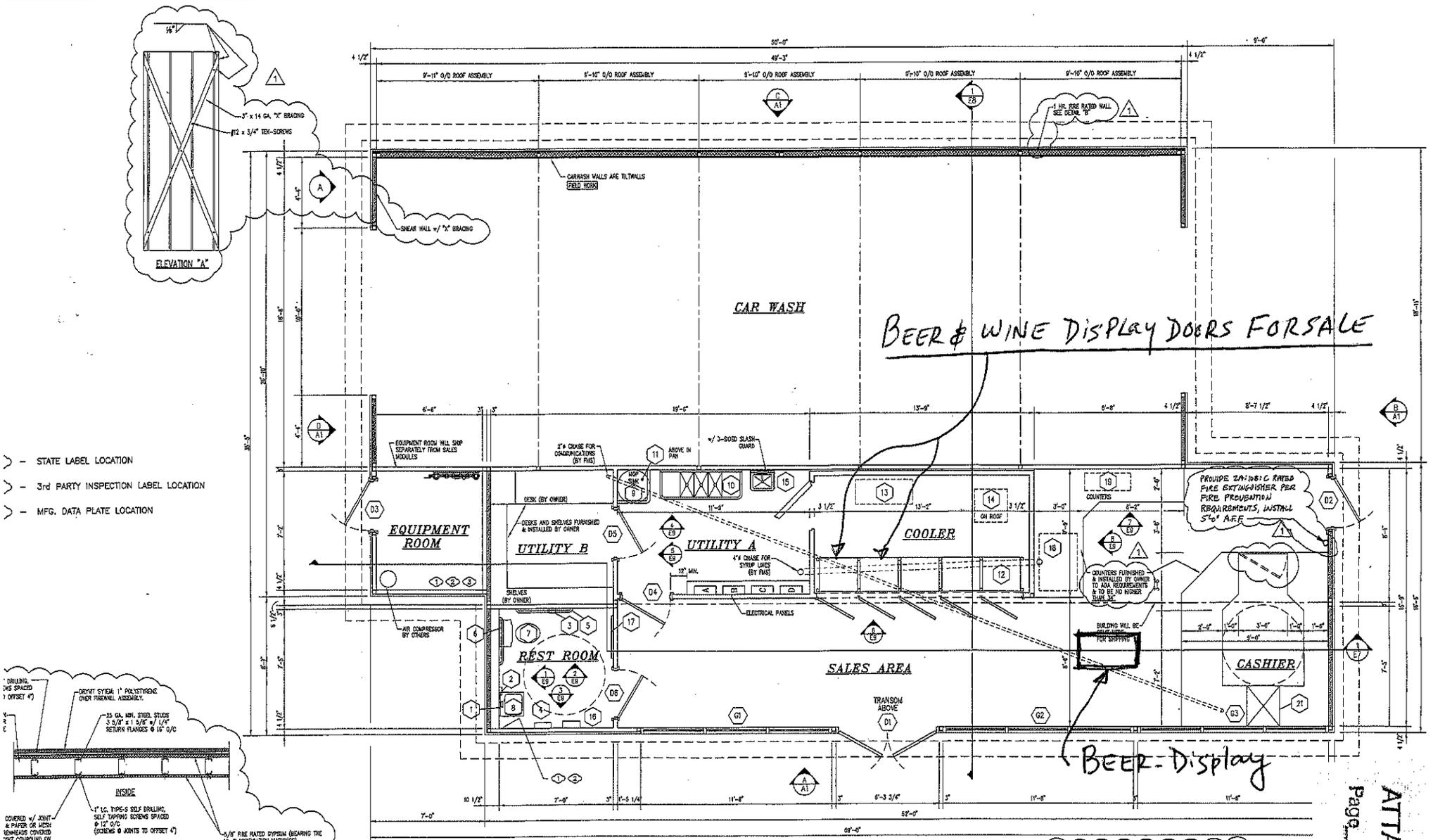
- A. No beer or wine shall be displayed within 5 feet of the cash register or front door unless it is inside a permanently-affixed cooler.
- B. No advertisement of alcoholic beverages shall be displayed at motor fuel islands.
- C. Employees on duty between the hours of 10:00 p.m. and 2:00 a.m. who sell beer or wine shall be at least 21 years old.

- D. The sale of single servings of beer or wine is prohibited. For the purpose of this condition of approval, a single serving shall be defined as “less than 24 fluid ounces of beer or wine.”

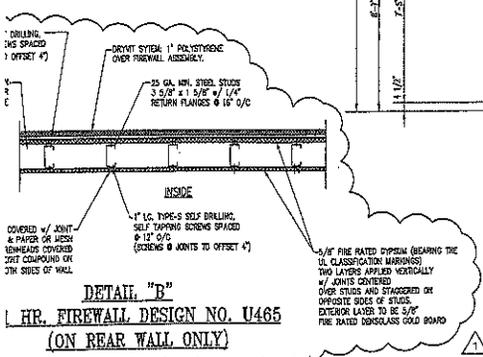
# **Attachment C**

## **Site and Architectural Plans**





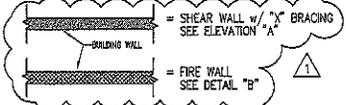
- > - STATE LABEL LOCATION
- > - 3rd PARTY INSPECTION LABEL LOCATION
- > - MFG. DATA PLATE LOCATION



**FLOOR PLAN**  
SCALE: 3/8" = 1'-0"

NOTE: AN INTERNATIONAL ACCESSIBILITY SIGN IS TO BE FURNISHED & INSTALLED BY THE OWNER AT THE MAIN ENTRANCE

NOTE: TACTILE SIGNAGE SHALL BE FURNISHED & INSTALLED BY THE OWNER AT ALL EXIT SIGN LOCATIONS



DATE	BY	CHK	REVISIONS

1801 Rockdale Industrial Blvd.  
Cary, Georgia 30012

**FREY MOSS**  
STRUCTURES

1302 Erika Way  
Salem, Oregon 97381

Phone: (800) 368-6385  
Fax: (770) 463-8337

www.frey-moss.com  
fms@frey-moss.com

**VINTNERS DISTRIBUTORS**  
Convenience Store with attached Carwash  
FLOOR PLAN

DRAWN BY:  
*Andy Baker*  
DATE: 2-4-08

CHECKED BY:  
gsc  
DATE:

P.E.

JOB # 05

296 N. Fair Oaks Avenue  
Sunnyvale, CA

SCALE: 3/8" = 1'-0"  
DRAWING # B1659-0

ATTACHMENT 2 of 2

## **Attachment D**

### **Applicant's Letter and Justifications**

## VINTNERS DISTRIBUTORS, INC.

November 4, 2008

City of Sunnyvale  
Planning department

RE: Use Permit 296 North Fair Oaks, Sunnyvale (File # 2008-01135) Letter dated  
November 4, 2008

To: Mariya Hodge,

Per your request, attached is an 8.5x11 copy of the existing gas station food mart floor plan. This attachment details the location beer and wine will be sold and displayed within this facility.

This site is currently a Chevron Gas station with a food mart and carwash located at the corner of Arques and North Fair Oaks in Sunnyvale, CA. The existing food mart is 858 square feet. The carwash is 1,001 square feet. Currently the site has 30 parking spaces; 2-standard spaces, 5-parallel spaces, 5- 45 degree angled spaces, 2- compact spaces, 1 van accessible space, 10 fueling position spaces, and 5 – carwash queuing spaces. The site has 5 fueling positions under the canopy. The food mart is open 24 hours a day 7 days a week. We propose to sell beer and wine between the hours of 6:00am to 2:00am 7 days a week.

Sincerely,



Nick Goyal  
President



# USE PERMIT/SPECIAL DEVELOPM JUSTIFICATIONS

One of the two following findings must be made in order to approve a Use Permit or Special Development Permit application.

The Sunnyvale Municipal code states that at least one of the following two justifications must be met before granting the Use Permit or Special Development Permit: Please provide us information on how your project meets at least one of the following criteria.

- 1. The proposed use attains the objectives and purposes of the General Plan of the City of Sunnyvale as the project ...

OR

- 2. The proposed use ensures that the general appearance of proposed structures, or the uses to be made of the property to which the application refers, will not impair either the orderly development of, or the existing uses being made of, adjacent properties as ...

No negative impact on the neighborhood since two sides of our property are surrounded by self-storage units and the other two corners are commercial use.

If you need assistance in answering either of these justifications, contact the Planning Division staff at the One-Stop Permit Center.