



# CITY OF SUNNYVALE REPORT ZONING ADMINISTRATOR HEARING

July 24, 2013

**File Number:** 2013-7520

**Permit Type:** Use Permit

**Location:** 724 N. Mathilda Ave. (near San Aleso Ave.) (APN: 204-01-010)

**Applicant/Owner:** David J Elliott & Associates / De Anza Family Limited Partnership

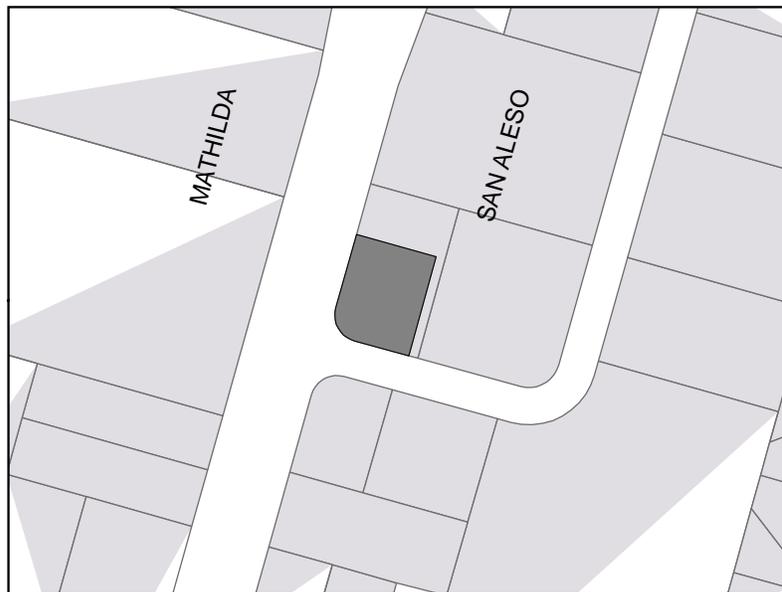
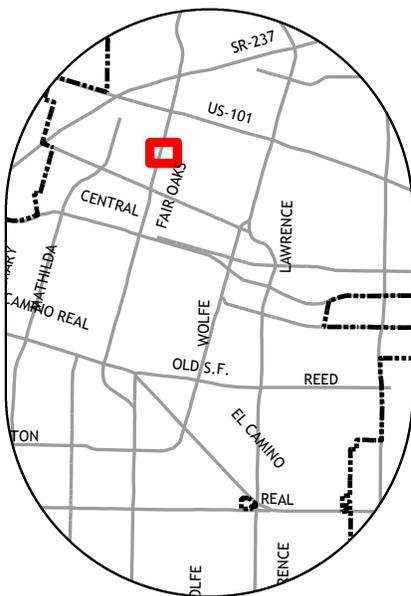
**Staff Contact:** Ryan Kuchenig, (408) 730-7431, rkuchenig@sunnyvale.ca.gov

**Project Description:** To allow the sale of beer and wine at an existing gas station (Chevron).

**Reason for Permit:** A Use Permit is required for the sale of beer and wine at an automobile service station

**Issues:** Compatibility of Use

**Recommendation:** Approve with Conditions



500

Feet

**PROJECT DESCRIPTION**

	<b>Existing</b>	<b>Proposed</b>
General Plan:	Industrial	Same
Zoning District:	MS-100% FAR	Same
Lot Size:	18,750	Same
Tenant Sq. Ft.:	1,543	Same
Parking:	5 (includes 1 handicap accessible)	Same

<b>Previous Planning Projects related to Subject Application:</b> An auto service station has occupied the site since the 1960s. The site was redeveloped with a gas station and car wash in 1997. More recently, a Miscellaneous Plan Permit was approved in 2008 to allow grocery sales (MPP# 2008-0087). As part of the permit, the property owner was required to correct any violations, and install security measures, such as security cameras. These security measures are still in place.	<b>Yes</b>
<b>Neighborhood Preservation Complaints:</b>	<b>No</b>
<b>Deviations from Standard Zoning Requirements:</b>	<b>No</b>

**Use Description:** The property owner proposes to offer the retail sale of beer and wine within the service station's existing convenience store. The type of license that is also being requested through the California Department of Alcohol and Beverage Control is considered "off sale" of beer and wine. The "off sale" license authorizes the sale of beer and wine for consumption off the premises of where it is being sold as opposed to "on sale" where the consumption could occur on site as well as off site. For the project site, beer and wine will be stored within existing coolers and shelves within the store. No physical changes are proposed to the building interior or exterior. A site and floor plan is provided in Attachment B.

**Hours of Operation:** The existing convenience store hours of operation of 6:00 a.m. to 10:00 p.m. seven days a week, will be maintained.

**Department of Public Safety Review:** Staff consulted with the Sunnyvale Department of Public Safety (DPS) on this project. DPS expressed no concerns about the off-site sale of beer and wine at this location, 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, Sunnyvale Municipal Code 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 p.m. and 2 a.m. who sell beer and wine shall be at least 21 years old, and
- The sale of single servings of beer or wine is prohibited.

The applicant is in agreement with these conditions, which are contained in staff's recommended conditions of approval in Attachment A.

**Public Contact:** 18 notices were sent to surrounding property owners and residents adjacent to subject site in addition to standard noticing practice. No letters were received.

**Environmental Determination:** A Categorical Exemption Class 1 (minor changes in use) relieves this project from CEQA provisions.

## **FINDINGS**

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In order to approve the Special Development Permit the following findings must be made:

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

*The proposed addition of beer and wine sales allows for an expansion of the business at the site and enables an additional retail service to the nearby community. The proposed use is not anticipated to have a negative impact on surrounding properties or uses.*

**For Automobile Service Stations:** Off-site sales of beer and wine may be allowed provided three findings can be made:

- a. The service station may not be located within 500 feet of another use with off-site alcohol sales;
- b. 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
- c. The service station may not be located within 500 feet of a public park or public school.

*Staff is able to make this finding as there are no businesses with off-site alcohol sales within 500 feet of the property. There are restaurants which offer on-site sale of alcohol within this radius. There is also not a concentration of more than four businesses within 1,000 feet radius that have off-site sales of alcohol. No public parks or schools are within 500 feet of the property.*

**Staff was able to make the finding.**

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 the orderly development of, or the existing uses being made of, adjacent properties.

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. The proposed sales would not result in an over-concentration of alcohol sales in the area. The site maintains security measures that include adequate 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.

**For Automobile Service Stations:** If any of the above three findings in Finding #1 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.

*This Finding is not applicable as each of the three criteria was made in Finding #1.*

**The project is expected to have minimal impacts on surrounding properties.**

**ALTERNATIVES:**

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1. Approve the Use Permit with recommended Conditions in Attachment A.
2. Approve the Use Permit with modifications.
3. Deny the Use Permit.

**RECOMMENDATION**

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Alternative 1. Approve the Use Permit with recommended Conditions in Attachment A.

Reviewed by:

Gerri Caruso  
Principal Planner

Prepared By: Ryan M. Kuchenig

Attachments:

- A. Standard Requirements and Recommended Conditions of Approval
- B. Site and Architectural Plans
- C. Project Description Letter by the Applicant

**RECOMMENDED  
CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS  
JULY 24, 2013**

**Planning Application 2012-7524**

724 N. Mathilda Avenue

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

The following Conditions of Approval [COA] and Standard Development Requirements [SDR] apply to the project referenced above. The COAs are specific conditions applicable to the proposed project. The SDRs are items which are codified or adopted by resolution and have been included for ease of reference, they may not be appealed or changed. The COAs and SDRs are grouped under specific headings that relate to the timing of required compliance. Additional language within a condition may further define the timing of required compliance. Applicable mitigation measures are noted with "Mitigation Measure" and placed in the applicable phase of the project.

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 and Standard Development Requirements of this Permit:

**GC: THE FOLLOWING GENERAL CONDITIONS OF APPROVAL AND  
STANDARD DEVELOPMENT REQUIREMENTS SHALL APPLY TO THE  
APPROVED PROJECT.**

GC-1. CONFORMANCE WITH APPROVED PLANNING APPLICATION:

All building permit drawings and subsequent construction and operation shall substantially conform with the approved planning application, including: drawings/plans, materials samples, building colors, and other items submitted as part of the approved application. Any proposed amendments to the approved plans or Conditions of Approval are subject to review and approval by the City. The Director of Community Development shall determine whether revisions are considered major or minor. Minor changes are subject to review and approval by the Director of Community Development. Major changes are subject to review at a public hearing. [COA] [PLANNING]

GC-2. USE EXPIRATION:

The approved Use Permit for the use shall expire if the use is discontinued for a period of one year or more. [SDR] (PLANNING)

GC-3. PERMIT EXPIRATION:

The 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 and is approved by the Director of Community Development. [SDR] (PLANNING)

GC-4. ALCOHOL BEVERAGE CONTROL (ABC):

The project applicant shall obtain all appropriate and/or licenses from the Department of Alcoholic Beverage Control prior to commencement of use approved as part of this permit. [COA] [PLANNING]

GC-5. USE AND ABC COMPLIANCE:

Non-compliance with the Conditions of Approval for this planning application or the requirements of the Department of Alcoholic Beverage Control at any time may trigger either reconsideration (discretionary review of new application) of the SDP and the imposition of additional Conditions of Approval or the initiation of the revocation process by the Director of Community Development. [COA] [PLANNING]

GC-6. NOTICE OF CONDITIONS OF APPROVAL:

A Notice of Conditions of Approval shall be filed in the official records of the County of Santa Clara and provide proof of such recordation to the City prior to issuance of any City permit, allowed use of the property, or Final Map, as applicable. The Notice of Conditions of Approval shall be prepared by the Planning Division and shall include a description of the subject property, the Planning Application number, attached conditions of approval and any accompanying subdivision or parcel map, including book and page and recorded document number, if any, and be signed and notarized by each property owner of record.

For purposes of determining the record owner of the property, the applicant shall provide the City with evidence in the form of a report from a title insurance company indicating that the record owner(s) are the person(s) who have signed the Notice of Conditions of Approval. [COA] [PLANNING]

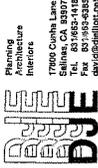
GC-7. CONFORMANCE WITH PREVIOUS PLANNING PERMIT:

The subject site shall comply with all conditions of approval and requirements of planning application (MPP #2008-0087) related to grocery sales at the convenience store. [PLANNING] [COA]

**AT: THE FOLLOWING CONDITIONS OF APPROVAL AND STANDARD DEVELOPMENT REQUIREMENTS SHALL BE COMPLIED WITH AT ALL TIMES THAT THE USE PERMITTED BY THIS PLANNING APPLICATION OCCUPIES THE PREMISES.**

- AT-1. DISPLAY NEAR FRONT DOOR (SERVICE STATIONS ONLY):  
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. [COA] [PLANNING]
- AT-2. DISPLAY AT MOTOR FUEL ISLANDS (SERVICE STATIONS ONLY):  
No advertisement of alcoholic beverages shall be displayed at motor fuel islands. [COA] [PLANNING]
- AT-3. EMPLOYEE AGE (SERVICE STATIONS ONLY):  
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. [COA] [PLANNING]
- AT-4. PROHIBITION OF SINGLE SERVINGS SALES (SERVICE STATIONS ONLY):  
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." [COA] [PLANNING]

# **ATTACHMENT B**



**David J. Elliott & Associates**

TENANT IMPROVEMENT

CHEVRON CONVENIENCE STORE  
724 N. MATHILDA AVE.  
SUNNYVALE, CA, 94085

Revisions No.	Description	Date

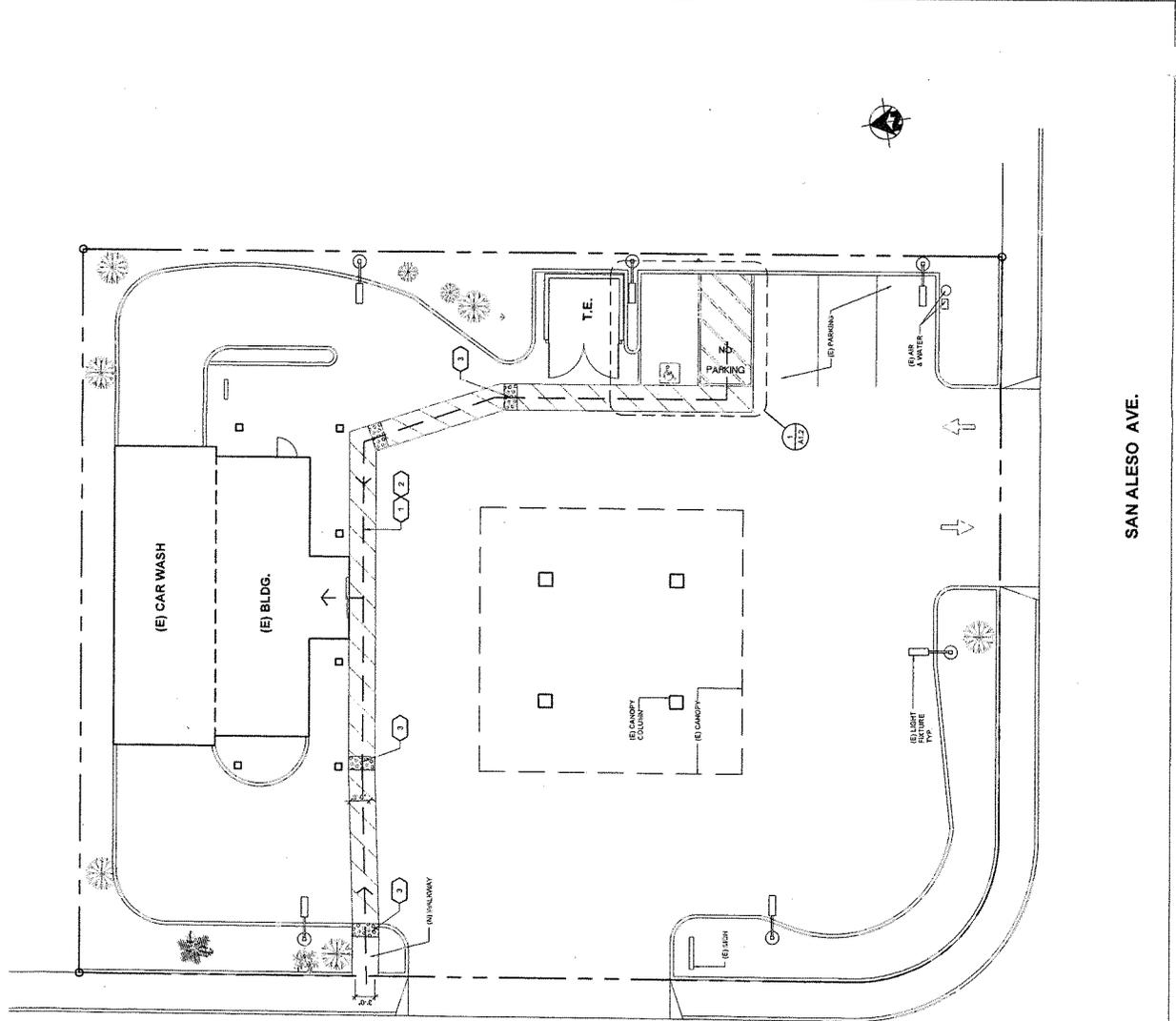
2/13/12  
DJE  
1236

SITE PLAN  
A1.1

ATTACHMENT  
Page 1 of 6

NOTES:

- 1 PATH OF TRAVEL
- 2 (E) WALKWAYS ARE 5% SLOPE ON THE DIRECTION OF TRAVEL AND 2% CROSS SLOPE, AND ARE 4' WIDE MIN.
- 3 TRUNCATED DOWNS



SITE PLAN 1/8" = 1'-0" 5

SAN ALESO AVE.

MATHILDA AVE.

Planning  
Architecture  
Interiors  
**DJE**  
David J. Elliott  
& Associates

17800 Cunha Lane  
Sunnyvale, CA 95007  
Tel: 415-335-4345  
Fax: 415-335-4345  
dave@djell.com

TENANT  
IMPROVEMENT

CHEVRON  
CONVENIENCE STORE  
724 N. MATHILDA AVE.  
SUNNYVALE, CA, 94085

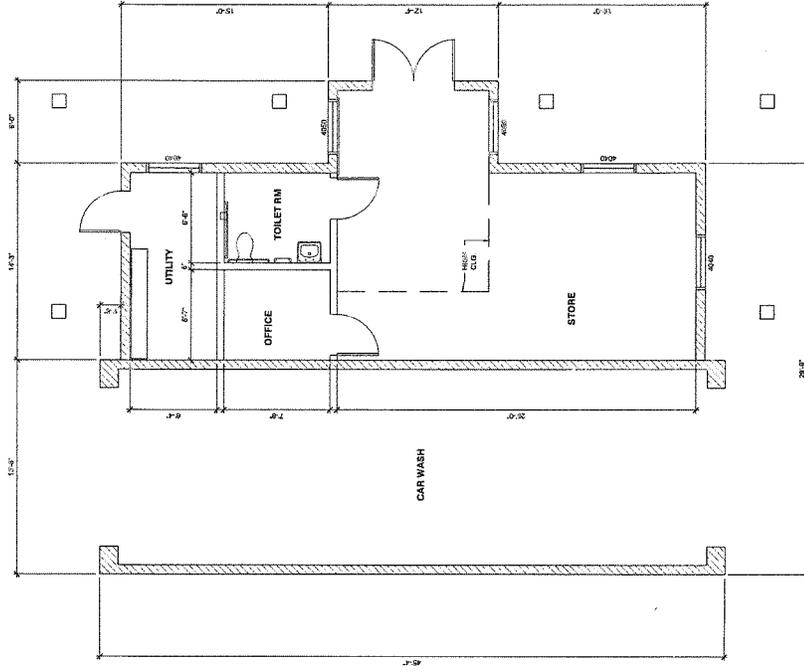
Remarks	No.	Description	Date

Issue Date	2/13/12
Drawn By	DJE
Project Number	1236

Sheet Title	EXISTING FLOOR PLAN & DEMOLITION FLR. PLAN
Sheet Number	A2.1

WALL LEGEND:

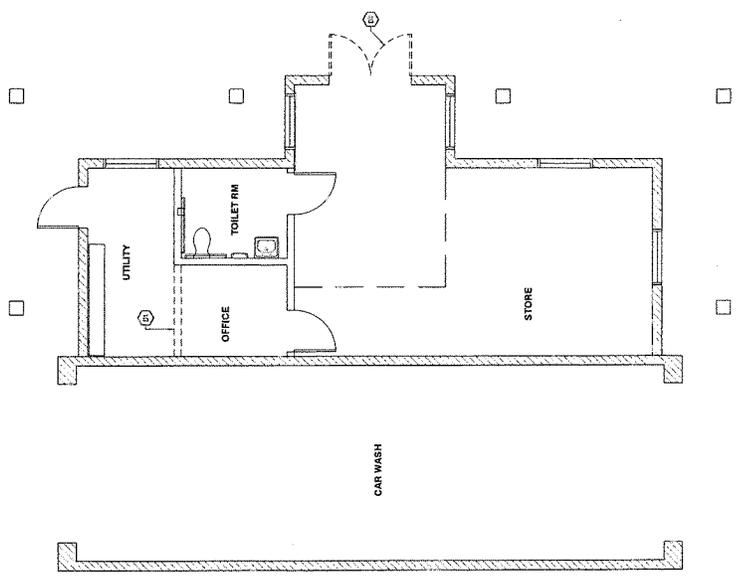
WALL LEGEND 4



EXISTING FLOOR PLAN 1/4" = 1'-0" 1

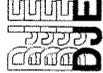
DEMOLITION KEY NOTES  
 (D) DEMOLISH EXISTING WALLS  
 (C) DEMOLISH EXISTING DOORS AND GLASS PANELS

DEMOLITION KEY NOTES 12



DEMOLITION FLOOR PLAN 1/4" = 1'-0" 9

Principal  
Architecture  
Interiors  
17600 Capital Lane  
Sunnyvale, CA 95087  
Tel.: 415-965-1418  
Fax: 415-965-1419  
dave@ejeliot.com  
dave@ejeliot.com



**David J. Elliott  
& Associates**

TENANT  
IMPROVEMENT

CHEVRON  
CONVENIENCE STORE  
724 N. MATHILDA AVE.  
SUNNYVALE, CA. 94085

Revision No.	Date

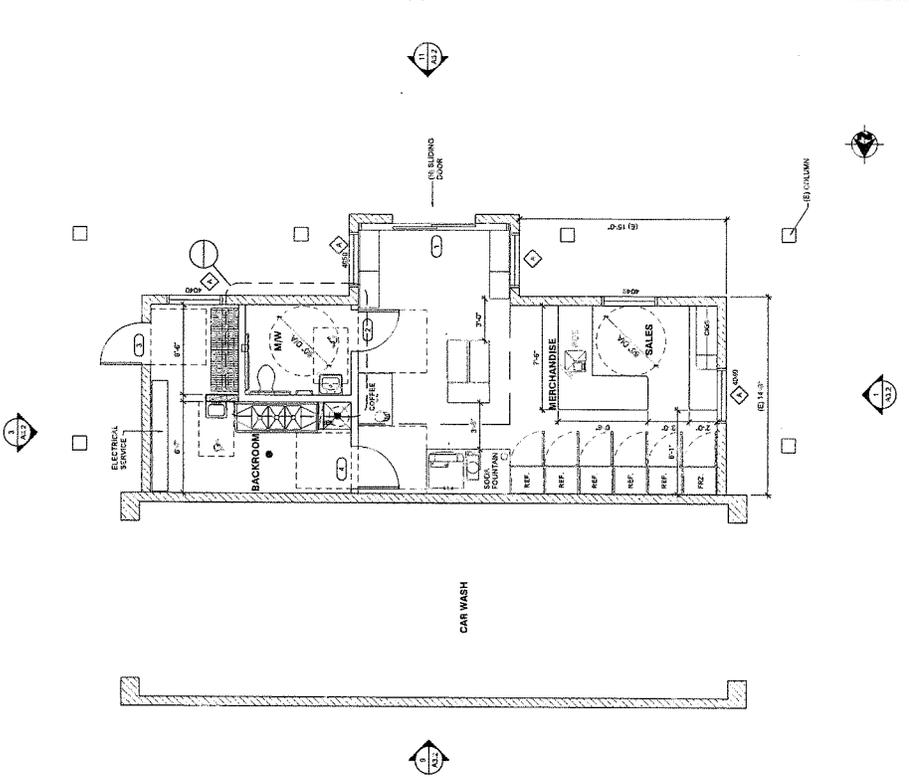
Issue Date	2/13/12
Drawn By	DJE
Project Number	1236
Sheet Title	NEW FLOOR PLAN

Sheet Number **A2.2**

WALL LEGEND:

	EXISTING WALL
	EXISTING CMU WALL
	NEW WALL

WALL LEGEND **4**



Room Finish Schedule

ROOM NAME	FLOOR	BASE	WALLS	WAINSCOT	CEILING HT.	REMARKS
CONVENIENCE STORE	C	1	B	-	10'-0"	-
SALES AREA	C	1	B	-	9'-0"	-
MERCHANDISE	C	1	B	-	9'-0"	-
BACKROOM	D	4	D	-	9'-0"	-
MEN/WOMEN RESTRA	C	3	B	1	8'-0"	-

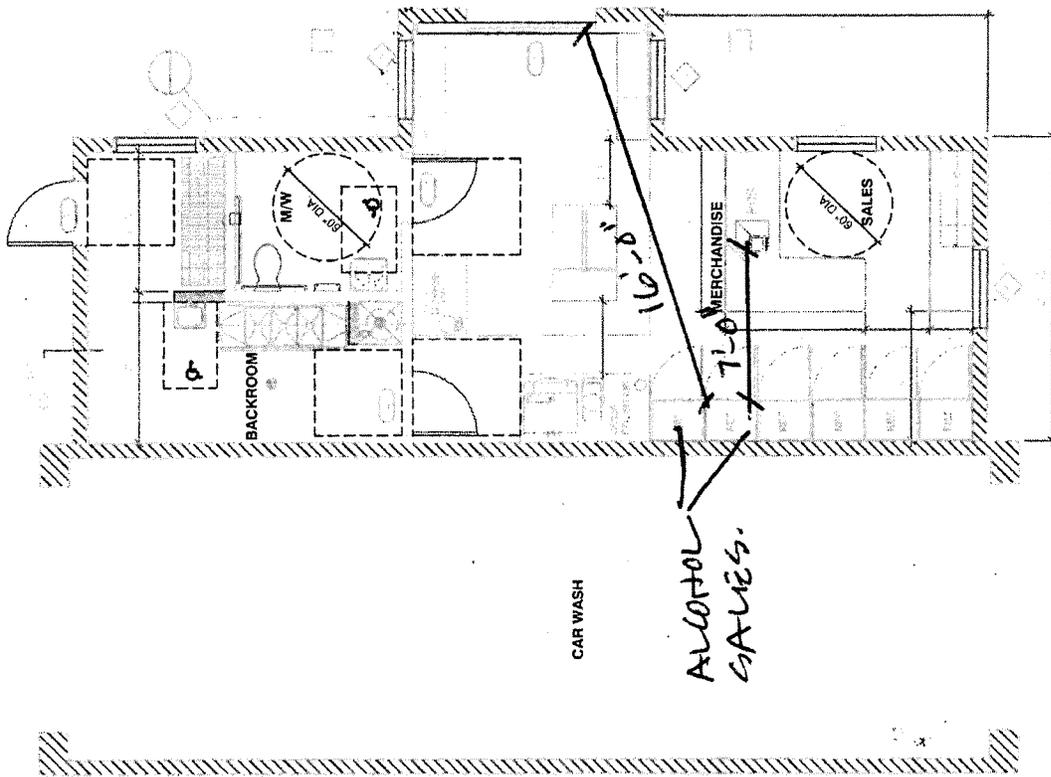
NOTE: ALL WALLS AND CEILINGS GYP. BD. TAPE AND TEXTURED, PAINT FINISH.

Room Finish Material Code List

- FLOOR:
- A. SMOOTH SEALED EXPOSED CONCRETE
  - B. SHEET VINYL
  - C. CERAMIC TILE
  - D. QUARRY TILE
- BASE:
- 1. RUBBER TROP SET BASE
  - 2. VINYL COVERED BASE
  - 3. CERAMIC TILE WITH 3/8" COVERED BASE
  - 4. QUARRY TILE WITH 3/8" COVERED BASE
- WALL:
- A. GYP. BD. (MOISTURE RESISTANT) PAINT FINISH
  - B. GYP. BD. SMOOTH ENAMEL PAINT FINISH WASHABLE
  - C. CEMENT PLASTER FINISH
  - D. P.A.P.
- CEILING:
- A. GYP. BD. (MOISTURE RESISTANT) PAINT FINISH
  - B. GYP. BD. SMOOTH ENAMEL PAINT FINISH WASHABLE
  - C. ACOUSTICAL SUSPENDED CEILING
  - D. GYPSUM PLASTER FINISH
  - E. CLEANABLE CEILING PANELS
  - F. CORRUGATED METAL ROOFING (SMOOTH, WASHABLE PAINT)
- WAINSCOT:
- 1. 48" HIGH F.R.P.

NEW FLOOR PLAN 1/4" = 1'-0"

Sheet Number **1**






  
 Permitting  
 Interiors  
 17825 Colton Lane  
 Salinas, CA 93907  
 Tel. 831.662.7418  
 Fax 831.662.7419  
 david@djehi.com  
 david@djehi.com

**David J. Elliott  
 & Associates**

**TENANT  
 IMPROVEMENT**

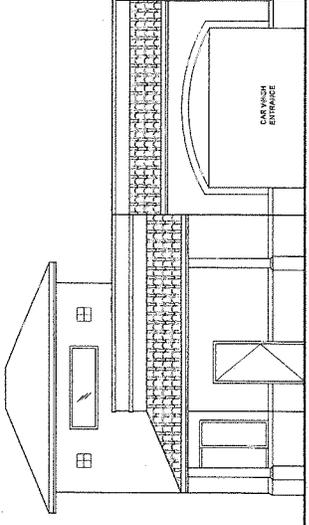
**CHEVRON  
 CONVENIENCE STORE**  
 724 N. MATHILDA AVE.  
 SUNNYVALE, CA. 94085

Revisions	No.	Description	Date

Page 6

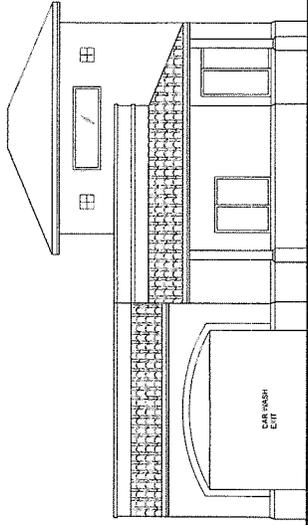
Issue Date	2/19/12
Drawn By	DJE
Project Number	1236
Sheet Title	EXTERIOR ELEVATIONS

Sheet Number **A3.1**



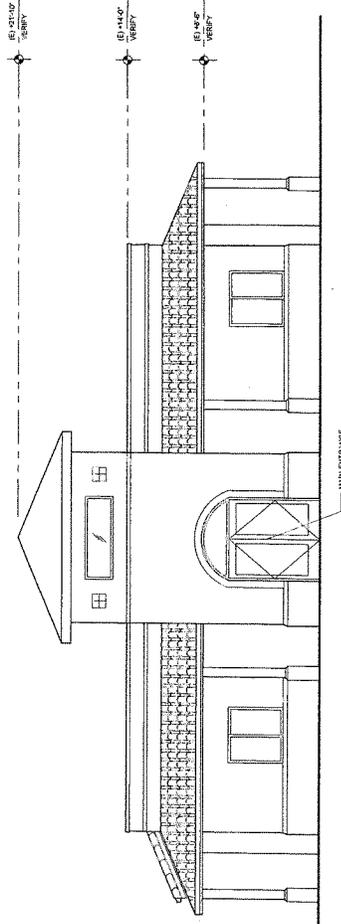
(C) EAST ELEVATION

EXISTING EXTERIOR ELEVATION 1/4" = 1'-0" 3



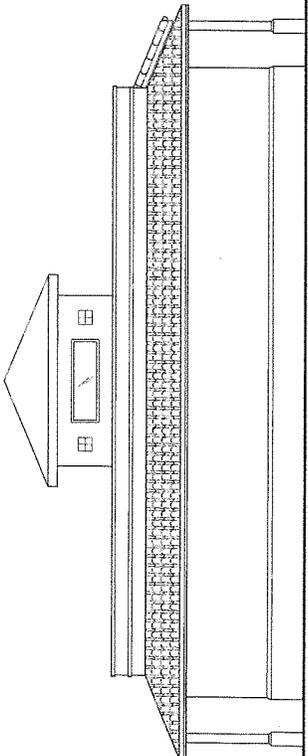
(A) WEST ELEVATION

EXISTING EXTERIOR ELEVATION 1/4" = 1'-0" 1



(B) SOUTH ELEVATION

EXISTING EXTERIOR ELEVATION 1/4" = 1'-0" 11



(D) NORTH ELEVATION

EXISTING EXTERIOR ELEVATION 1/4" = 1'-0" 1

# ATTACHMENT C

**David J. Elliott  
& Associates**

Planning  
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Interiors  
17800 Cunha Lane  
Salinas, California 93907  
Tel. 831/663-1418  
Fax. 831/663-6385

**DJE**

July 16, 2013

Ryan Kuchenig, Associate Planner  
Department of Community Development  
City of Sunnyvale  
456 W. Olive Avenue  
Sunnyvale, CA 94086

SUBJECT: PRC Project Description per Response letter  
2013-7520  
Beer and Wine approval  
724 N. Mathilda Avenue  
Sunnyvale, CA 94085

Dear Mr. Kuchenig

This is a follow up on the PRC comments dated June 24, 2013

Planning Comments:

1. Floor plan has been modified, herewith, providing location of alcohol to front door and cash register. All conditions of File 2008-0087 will continue to be met including:
  1. a. Exterior windows will not be blocked from view inside or out.
  2. a. All site obstructions such as vacuum power cords and cleaning supplies are minimized.  
b. Entrance/Exit doors are not obstructed.  
c. Vision triangles are not obstructed.
  3. There are no structures, or landscape features located in the vision triangles.
  4. All licenses and permits will be displayed on site.
  5. All signs to conform to Chapter 19.44 of the Sunnyvale Municipal Code.
  6. All broken/dim lights are replaced with brighter lights.
  7. All recycling and solid waste are confined and centralized as required by the Municipal Code.

Violations:

1. All shrubs to be pruned in the driveway triangles to be less than 3 feet high.
2. any signs facing N. Mathilda shall be removed.
2. Photos herewith.
3. ~~Two~~ employees at least 21 years of age shall be on duty between 10PM and 2AM.
4. All improvements are interior having no affect on the exterior of the building.
5. No sensitive uses adjacent to the facility exist.

Sincerely,



David J. Elliott, Principal Architect  
David J. Elliott & Associates