

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN JOSE APPROVING, SUBJECT TO CONDITIONS, A CONDITIONAL USE PERMIT AND DETERMINATION OF PUBLIC CONVENIENCE OR NECESSITY TO ALLOW THE OFF-SALE OF ALCOHOL (TYPE 21 – FULL RANGE OF ALCOHOLIC BEVERAGES) AT AN EXISTING APPROXIMATELY 23,255-SQUARE-FOOT GROCERY STORE (GROCERY OUTLET) ON AN APPROXIMATELY 3.18-GROSS-ACRE SITE, LOCATED ON THE SOUTHERLY SIDE OF WILLIAMS ROAD, APPROXIMATELY 350 FEET SOUTHWEST OF THE INTERSECTION OF WILLIAMS ROAD AND WINCHESTER BOULEVARD, (3140 WILLIAMS ROAD)(APN 299-25-014)**

**FILE NO. CP25-017**

**WHEREAS**, pursuant to the provisions of Chapter 20.100 of Title 20 of the San José Municipal Code, on August 26, 2025, Steve Rawlings with Rawlings Consulting filed an application (File No. CP25-017) on behalf of Joe Tanner with Grocery Outlet Inc. (“Permittee”), with the City of San José (“City”) for a Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of alcohol (Type 21 – full range of alcoholic beverages) at an existing approximately 23,255-square-foot grocery store (Grocery Outlet) on an approximately 3.18-gross-acre site, on that certain real property situated in the MUC Mixed Use Commercial Zoning District and located on the southerly side of Williams Road, approximately 350 feet southwest of the intersection of Williams Road and Winchester Boulevard, (3140 Williams Road, APN 299-25-014)(the “subject property”); and

**WHEREAS**, a legal description of the subject property is attached as Exhibit "A" and incorporated by reference; and

**WHEREAS**, at a duly noticed public hearing on March 11, 2026, the Planning Commission considered public comments, and all evidence and testimony received at the

public hearing regarding the Project and recommended that the City Council approve the Project; and

**WHEREAS**, this City Council received and considered the reports and recommendations of the City's Planning Commission and City's Director of Planning, Building, and Code Enforcement and conducted a duly noticed public hearing on the Project, giving all persons full opportunity to be heard and to present evidence and testimony; and

**WHEREAS**, at said hearing, this City Council received in evidence a plan for the subject property entitled, "GROCERY OUTLET 3140 WILLIAMS RD, SAN JOSE, CA 95117" dated November 4, 2024, said plan is on file in the Department of Planning, Building and Code Enforcement, is available for inspection, and is incorporated by reference; and

**WHEREAS**, this City Council has heard and considered the testimony presented at the public hearing and has further considered written materials submitted on behalf of the Project applicant, City staff, and other interested parties;

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SAN JOSE THAT:**

The foregoing recitals are hereby incorporated by reference as if fully set forth herein, and after considering evidence presented at the public hearing the City Council finds that the following are the relevant facts and findings regarding this Project:

1. **Site Description and Surrounding Uses.** The subject property is located on the southerly side of Williams Road approximately 350 feet southwest of the intersection of Williams Road and Winchester Boulevard (3140 Williams Road, APN 299-25-014). The approximately 23,255-square-foot grocery store (Grocery Outlet) is located within an existing commercial shopping center with a surface parking lot shared by all tenants. The site is accessed by three vehicle entrances along Williams Road and through the adjacent site (1035 South Winchester Boulevard, APN 299-25-011) which has two vehicle entrances along South Winchester Boulevard. The site has an existing sidewalk along Williams Road. The site is accessible by existing VTA bus stops serving the 25 and 60 lines near the Williams Road and Winchester Boulevard

intersection. Pedestrians can cross Williams Road and Winchester Boulevard by utilizing the existing pedestrian crosswalks located at the Williams Road and Winchester Boulevard intersection.

The existing commercial shopping center is surrounded by single-family residences to the west and south, an existing restaurant and gas station to the east, and a single-family residence and multifamily apartments (Lynhaven) across Williams Road to the north. A property to the south of the site (1065 South Winchester Boulevard, APN 29925037) is entitled to construct a six-story mixed use building consisting of 70 residential condominium units and nine commercial condominiums including 20,410 square feet of commercial space with one podium parking level and one underground parking level (File No. SP21-006). Special Use Permit SP21-006 is valid until October 25, 2028. No Building Permits associated with the project have been issued.

- 2. Project Description.** The project consists of a Conditional Use Permit and Determination of Public Convenience or Necessity to allow the off-sale of alcohol including beer, wine, and distilled spirits in conjunction with a California Department of Alcoholic Beverage Control (“ABC”) Type 21 – Off-Sale General license at an existing approximately 23,255-square-foot grocery store (Grocery Outlet).

The Grocery Outlet holds an active Type 20 ABC License, which authorizes the sale of beer and wine for off-premises consumption. Under the proposed changes, beer, wine, and distilled spirits would be sold for off-premises consumption between 8:00 a.m. and 9:00 p.m., seven days a week, consistent with the establishment’s regular hours of operation. Based on the provided Operations Plan, Grocery Outlet currently employs approximately 35 employees, and approximately 12 employees are on-site at any given time. Grocery Outlet has 16 cameras within the store for security.

Alcoholic beverages would take up approximately 670 square feet (4.34 percent) of the approximately 15,447-square-foot sales floor of the Grocery Outlet.

The subject site is located within Census Tract 5063.02. Based on the California ABC License Report and San José Police Department Memorandum dated October 1, 2025, the number of off-sale locations authorized in this census tract is typically limited to three. The California ABC License Report and the Police Memo both show that there are five active off-sale licenses within the census tract, including this site’s Grocery Outlet existing Type 20 ABC License.

The San José Police Department Memorandum also states that the project site is not within a police beat that has a high crime rate (defined as 20 percent above the City average). However, because of the site’s overconcentration of off-sale licenses, a Determination of Public Convenience or Necessity is required.

The Police Department is neutral to the off-sale of alcohol with a Type-21 license at the subject site.

### 3. Conditional Use Permit Findings.

Section 20.100.720 of the San José Municipal Code specifies the required findings for the approval of a Conditional Use Permit.

- a. The Conditional Use Permit, as approved, is consistent with and will further the policies of the general plan, applicable specific plans, and area development policies; and

**General Plan Consistency.** The subject property is designated Mixed Use Commercial on the Envision San José 2040 General Plan Land Use/Transportation Diagram and is located within the Winchester Boulevard Urban Village Plan Growth Area. This designation is intended to accommodate a mix of commercial and residential uses with an emphasis on commercial activity as the primary use and residential activity allowed in a secondary role. This designation also allows development that only includes commercial uses. New mixed use commercial and residential development shall include commercial square footage at the equivalent of at least 0.50 floor area ratio ("FAR") of the property. New commercial development could be developed at an FAR of up to 4.5. Multistory development is envisioned. Appropriate commercial uses include neighborhood retail, mid-rise office, medium to small scale health care facilities, and medium scale private community gathering facilities. Projects that aggregate parcels and have a of minimum 0.7-acre site, can increase their residential density to 75 dwelling units per acre to take advantage of larger developments.

*Analysis: The proposed off-sale of alcohol would contribute to the variety of existing commercial retail uses and products available at the subject property located within a neighborhood shopping center. Therefore, the project is consistent with the land use designation.*

The project is consistent with the following General Plan policies:

Business Growth and Retention Policy IE-2.6: Promote retail development to the maximum extent feasible, consistent with other General Plan goals and policies, in order to generate City revenue, create jobs, improve customer convenience, and enhance neighborhood livability.

Commercial Lands Policy LU-4.1: Retain existing commercial lands to provide jobs, goods, services, entertainment, and other amenities for San José's workers, residents, and visitors.

Neighborhood Serving Commercial Policy LU-5.1: In order to create complete communities, promote new commercial uses and revitalize existing commercial areas in locations that provide safe and convenient multi-modal access to a full range of goods and services.

Neighborhood Serving Commercial Policy LU-5.10: In the review of new locations for the off-sale of alcohol, give preference to establishments that offer a full range of food choices including fresh fruit, vegetables, and meat.

*Analysis: The project is associated with an existing commercial retail use. The project would retain existing commercial lands, retain jobs, and produce an additional revenue-generating opportunity in association with the existing Grocery Outlet. Grocery Outlet currently offers a full range of food choices, including fresh fruit, vegetables, meat, seafood, frozen foods, and deli items, as well as vitamins, health and beauty supplies, housewares, and gifts. As a result, the project would improve customer convenience by offering distilled spirits for off-site consumption. Therefore, the project is consistent with the above General Plan policies.*

- b. The Conditional Use Permit, as approved, conforms with the zoning code and all other provisions of the San José Municipal Code applicable to the project; and

### **Zoning Conformance.**

#### Use Regulations

The subject property is located within the MUC Mixed-Use Commercial Zoning District.

*Analysis: Pursuant to Section 20.55.203, Table 20-138 of the Zoning Code, alcohol, off-sale -full range of alcoholic beverages requires a Conditional Use Permit.*

#### Development Standards

*The project is consistent with the applicable development standards of the MUC Mixed-Use Commercial Zoning District as listed in San José Municipal Code Section 20.55.100, as the project does not include any exterior modifications to the building or other site changes.*

#### Vehicle Parking and Transportation Demand Management

Parking requirements are outlined in Table 20-190 of Section 20.90.060 of the San José Municipal Code. As of April 10, 2023, no minimum parking is required with the establishment of Transportation Demand Management requirements, if applicable. Transportation Demand Management requirements are outlined in Section 20.90.900.

*Analysis: As the project does not include any new square footage, the project is exempt from requiring a Transportation Demand Management Plan.*

#### Bicycle Parking

The project does not add any square footage of new outdoor uses. Therefore, no new bicycle parking is required per Section 20.90.020.B, as the project does not include more than 5,000 square feet of new outdoor uses.

Two-Wheeled Motorized Vehicle Parking

Pursuant to Section 20.90.350, two-wheeled motorized vehicle (motorcycle) parking is required at a rate of 2.5 percent of standard vehicle parking provided.

*Analysis: As the project does not include any new vehicle parking spaces, no motorcycle parking is required.*

Performance Standards

Uses within the MUC Mixed-Use Commercial Zoning District shall comply with the performance standards outlined in Section 20.55.202.

*Analysis: All activity related to the off-sale of distilled spirits at this location would take place indoors. Consumption of alcoholic beverages would not be permitted on the premises. As construction for the project would consist solely of interior improvements to allow the storage of distilled spirits, the project is consistent with the performance standards of the zoning district.*

- c. The Conditional Use Permit, as approved, is consistent with applicable City Council policies, or counterbalancing considerations justify the inconsistency; and

*Analysis: Staff followed Council Policy 6-30: Public Outreach Policy for Pending Land Use and Development Proposals to inform the public of the Project. On-site signs have been posted at the site frontage since December 17, 2025. A notice of the public hearing was distributed to the owners and tenants of all properties located within 500 feet of the Project site and posted on the City website. Staff has been available to respond to questions from the public and to date, no comments have been received.*

- d. The proposed use at the location requested will not:

- i. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
- ii. Impair the utility or value of property of other persons located in the vicinity of the site; or
- iii. Be detrimental to public health, safety or general welfare.

*Analysis: As described in the Project Description section above, the subject property is located in an over-concentrated Census Tract (Census Tract 5063.02). This census tract allows three off-sale licenses; currently, there are five businesses with off-sale licenses within this census tract including Grocery Outlet's existing Type 20 ABC License. The proposed off-sale of alcohol will occur within an existing grocery store in an existing commercial shopping center along Williams Road. The San José Police Department Memorandum dated October 1, 2025, states that the site is not within a high crime area, and the Police Department is neutral to off-sale alcohol at this location. No late-night operation is proposed with this project.*

*All staff must complete the State Alcoholic Beverage Control's mandated training and must comply with State law requiring all staff selling alcohol to be over 21 years of age. According to the Operations Plan dated July 29, 2025, the store has a security camera system that provides surveillance for all part of the store. This surveillance system stores recorded data for 30 days. The presence of surveillance cameras and active monitoring of the premises provides a deterrent to crime and other anti-social behaviors, which prevents adverse effects on the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area, as well as the general welfare by discouraging crime and other anti-social behaviors at the site and the surrounding area.*

*Finally, this Resolution includes conditions to address issues related to site security, employee training, trash, litter, graffiti, and site maintenance. Therefore, the project will not adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the vicinity of the project, it will not impair the value of property located nearby, and will not be detrimental to public health, safety, or general welfare.*

- e. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding area; and

*Analysis: No physical changes are proposed to the subject property or the building exterior, therefore, it would not affect the size and shape of the site or its ability to accommodate yards, walls, fences, parking and loading facilities, or landscaping.*

- f. The proposed site is adequately served:
  - i. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate; or by other forms of transit adequate to carry the kind and quantity of individuals such use would generate; and
  - ii. By other public or private service facilities as are required.

*Analysis: The subject property is adequately served by streets and public transit. The site is accessed by three vehicle entrances along Williams Road and through the adjacent site (1035 South Winchester Boulevard, APN 299-25-011) which has two vehicle entrances along South Winchester Boulevard. The site has an existing sidewalk along Williams Road. The site is accessible by existing VTA bus stops serving the 25 and 60 lines near the Williams Road and Winchester Boulevard intersection. Pedestrians can cross Williams Road and Winchester Boulevard by utilizing existing pedestrian crosswalks located at the Williams Road and Winchester Boulevard intersection. The project is consistent with this requirement.*

- g. The environmental impacts of the project, including but not limited to noise, vibration, dust, drainage, erosion, storm water runoff, and odor which, even if insignificant for purposes of the California Environmental Quality Act (CEQA), will not have an unacceptable negative affect on adjacent property or properties.

**Environmental Review.** Under the provisions of Section 15301 for Existing Facilities of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) as stated below, this Project is found to be exempt from the environmental review requirements of Title 21 of the San José Municipal Zoning Code, implementing the California Environmental Quality Act of 1970, as amended.

Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The key consideration is whether the Project involves negligible or no expansion of an existing use.

Examples include, but are not limited to:

Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances.

*Analysis: The project does not include any exterior modifications or expansion to the footprint of the existing commercial building. The project does not include a change in use. The only proposed changed is to modify the Permittee's ABC license type to add distilled spirits as an off-sale option. Therefore, the Project is categorically exempt pursuant to CEQA Section 15301 for Existing Facilities.*

#### 4. Off-Sale of Alcohol Findings.

- a. A Conditional Use Permit may be issued pursuant to the applicable provisions of Section 20.80.900 of the Zoning Code for the off-sale of any alcoholic beverages only if the decision-making body first makes the following additional findings, where applicable:

- (1) For such use at a location closer than five hundred feet from any other such use involving the off-sale of alcoholic beverages, situated either within or outside the city, that the proposed location of the off-sale alcohol use would not result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one-thousand-foot radius from the proposed location.

*Analysis: Grocery Outlet is adjacent to Royal Wines & Spirits and approximately 350 feet from 7-Eleven, both of which have an active off-sale license. However, there are no other off-sale establishments located within 1,000 feet of Grocery Outlet. Therefore, the project would not result in more than four off-sale establishments within a 1,000-foot radius and this finding can be made.*

- (2) For such use at a location closer than five hundred feet from any other use involving the off-sale of alcoholic beverages, situated either within or outside the city, where the proposed location of the off-sale of alcoholic beverages use would result in a total of more than four establishments that provide alcoholic beverages for off-site consumption within a one-thousand-foot radius from the proposed location, that the resulting excess concentration of such uses will not:
- i. Adversely affect the peace, health, safety, morals, or welfare of persons residing or working in the surrounding area; or
  - ii. Impair the utility or value of property of other persons located in the vicinity of the area; or
  - iii. Be detrimental to public health, safety or general welfare.

*Analysis: As stated above, the project would not result in more than four establishments that provide off-sale alcohol within a 1,000-foot radius. Therefore, this finding can be made.*

- (3) For such use at a location closer than five hundred feet from any child care center, public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college or university, or one hundred fifty feet from any residentially zoned property, that the building in which the proposed use is to be located is situated and oriented in such a manner that would not adversely affect such residential, child care center, public park, social service agency, residential care facility, residential service facility and/or school use.

*Analysis: Grocery Outlet is not closer than 500 feet from any existing public park, social service agency, residential care facility, residential service facility, elementary school, secondary school, college, or university. Grocery Outlet is located on a parcel adjacent to residentially zoned properties to the west and south. Grocery Outlet is also located within 500 feet of an existing child day care center across Winchester Boulevard at 1020 South Winchester Boulevard. The daycare center was permitted under Special Use Permit (File No. SP22-010). Building Permit (#2025-127095) was issued for the day care center on September 3, 2025, and is currently under inspection. However, the building is oriented to the north, away from the adjacent residentially zoned properties and the existing child day care center. The building is separated from the adjacent residentially zoned properties by wooden fences and masonry walls. The building is separated from the child day care center by an existing service station and Winchester Boulevard. The project, which includes the addition of distilled spirits to Grocery Outlet's current offerings of beer and wine, would not adversely affect the adjacent residentially zoned properties and the child day care center. Therefore, this finding can be made.*

- b. The off-sale of alcohol as incidental sales in conjunction with the sale of gift baskets, balloons and flowers is exempt from the requirement of a Conditional Use Permit.

*Analysis: The above finding is not applicable to the proposed project.*

- c. Where a Conditional Use Permit application requesting the off-premises sale of alcoholic beverages also would require a determination of public convenience and necessity under the provisions of Chapter 6.84 of Title 6 of this Code, and the Planning Commission cannot make the required findings under Section 6.84.030 of Chapter 6.84 of Title 6 of this Code, the Planning Commission shall make a report and recommendation to the City Council on said Conditional Use Permit application. In this instance, the City Council shall be the initial and final decision-making body on said Conditional Use Permit application.

*Analysis: The project site is located within Census Tract 5063.02. Based on a California ABC License Report and the Police Department Memorandum dated October 1, 2025, the number of off-sale locations allowed in the census tract is three. The California ABC License Report and the Police Department Memorandum both show that there are five active off-sale licenses within the census tract, including Grocery Outlet's existing Type 20 ABC License.*

*The Police Department Memorandum states that the project site is not within a police beat that has a high crime rate (defined as 20 percent above the City average). However, because of the site's overconcentration of off-sale licenses, a Determination of Public Convenience or Necessity is required. The Determination of Public Convenience or Necessity has its own findings, listed in the section below.*

- 5. **Determination of Public Convenience or Necessity Findings.** Chapter 6.84 of the San José Municipal Code identifies the process and findings related specifically to the off-sale of alcohol; the findings are discussed below:

- a. The proposed use is not located within a strong neighborhoods initiative or neighborhood revitalization area or other area designated by the city for targeted neighborhood enhancement services or programs, or located within an area in which the chief of police has determined based upon quantifiable information that the proposed use: (a) would be detrimental to the public health, safety, or welfare of persons located in the area; or (b) would increase the severity of existing law enforcement or public nuisance problems in the area; and

*Analysis: The subject site is located within the Winchester Strong Neighborhood Initiative (SNI) area, designated by the City for targeted neighborhood enhancement services or programs. The Operations Plan provided states that all employees are trained in alcoholic beverage sales rules, and that Grocery Outlet has an existing security camera system. Furthermore, the Police Department Memorandum states that the project site is not located within an area with a high crime rate and that the Police Department is neutral to the off-sale of distilled*

*spirits. Therefore, the off-sale of distilled spirits would not be detrimental to public health, safety, or welfare of persons located in the area, or increase the severity of existing law enforcement or public nuisance problems in the area. However, because the project site is located within an SNI area, this finding cannot be made.*

- b. The proposed use would not lead to the grouping of more than four off-premises sale of alcoholic beverage uses within a one thousand-foot radius from the exterior of the building containing the proposed use; and

*Analysis: The off-sale of distilled spirits at Grocery Outlet would not lead to the grouping of more than four off-sale establishments within a 1,000-foot radius of Grocery Outlet. There are only two other off-sale establishments nearby: Royal Wines & Spirits (adjacent to Grocery Outlet) and 7-Eleven (approximately 350 away). Therefore, this finding can be made.*

- c. The proposed use would not be located within five hundred feet of a school, day care center, public park, social services agency, or residential care or service facility, or within one hundred fifty feet of a residence; and

*Analysis: The off-sale of distilled spirits at Grocery Outlet is not located within 500 feet of a school, public park, social services agency, or residential care or service facility. However, Grocery Outlet is located within 500 feet of a child day care center and within 150 feet of a residence. Therefore, this finding cannot be made.*

- d. Alcoholic beverage sales would not represent a majority of the proposed use; and

*Analysis: Based on the application documents provided, approximately 670 square feet of the approximately 15,447-square-foot sales floor of the Grocery Outlet would be dedicated to alcoholic beverages (4.34 percent). This would not represent a majority of the tenant space. Therefore, this finding can be made.*

- e. At least one of the following additional findings:

- (1) The census tract in which the proposed outlet for the off-premises sale of alcoholic beverages is located is unusually configured and the proposed outlet would act as a convenience to an underserved portion of the community without presenting a significant adverse impact on public health or safety; or

*Analysis: The census tract is not unusually configured in shape. Therefore, this finding cannot be made.*

- (2) The proposed outlet for the off-premises sale of alcoholic beverages would enhance or facilitate the vitality of an existing commercial area without presenting a significant adverse impact on public health or safety; or

*Analysis: The off-sale of distilled spirits would occur within the existing Grocery Outlet. Grocery Outlet provides the surrounding neighborhood with access to a full range of grocery items. The project would allow Grocery Outlet to complement its current products with the sale of distilled spirits for off-site consumption. The Operations Plan provided states that all employees are*

*trained in alcoholic beverage sales rules, and that Grocery Outlet has an existing security camera system. Furthermore, the Police Department Memorandum states that the project site is not located within an area with a high crime rate. Therefore, off-sale of distilled spirits would not present a significant adverse impact on public health or safety, and this finding can be made.*

- (3) The census tract in which the proposed outlet is located has a low population density in relation to other census tracts in the city, and the proposed outlet would not contribute to an over-concentration in the absolute numbers of outlets for the off-premises sale of alcoholic beverages in the area; or

*Analysis: As previously stated in 4.c. above, off-sale of distilled spirits at Grocery Outlet would contribute to an over-concentration in the number of off-sale establishments in the area. Therefore, this finding cannot be made.*

- (4) The proposed off-premises sale of alcoholic beverages is incidental and appurtenant to a larger retail use and provides for a more complete and convenient shopping experience.

*Analysis: Approximately 670 square feet of the approximately 15,447-square-foot sales floor of the Grocery Outlet would be dedicated to alcoholic beverages (4.34 percent). The remainder of the floor area would be dedicated to the sale of grocery items. Therefore, this finding can be made.*

- f. Given the above-stated analysis, the finding for 5.a., a determination of Public Convenience or Necessity cannot be made for the off-sale of alcohol because the Project site is located within a Strong Neighborhoods Initiative area. Therefore, City Council approval is required for the proposed use. The City Council may issue a determination in connection with an application for a license from the California Department of Alcoholic Beverage Control for the off-premises sale of alcoholic beverages where the City Council does all of the following:

- (1) Makes a determination that not all of the required findings set forth in Subsection 5. can be made; and

*Analysis: Findings 5.a. and 5. c. for the Determination of Public Convenience or Necessity cannot be made by the Planning Commission for the off-sale of distilled spirits because the subject site is located within an SNI area and adjacent to residentially zoned properties. However, the Planning Commission can make findings 5.b., 5.d., 5.e.(2) and 5.e.(4).*

- (2) Identifies and finds that a significant and overriding public benefit or benefits will be provided by the proposed use.

*Analysis: The off-sale of distilled spirits at Grocery Outlet would be incidental to the existing grocery store, which already sells beer and wine. The addition of distilled spirits would reduce the number of additional trips customers would*

*need to visit to fulfill their shopping needs and provides an additional retail outlet for distilled spirits.*

*While the project is located within an over-concentrated census tract, it would not result in a grouping of four or more off-sale establishments within a 1,000-foot-radius of the site. In addition, Royal Wines & Spirits is the only other off-sale establishment in the census tract with an active Type 21 ABC License. Furthermore, Grocery Outlet is not located in an area of high crime, as indicated in the Police Department Memorandum. Therefore, staff recommends that the City Council determine that the project would provide a significant and overriding public benefit.*

In accordance with the findings set forth above, a Conditional Use Permit and Determination of Public Convenience or Necessity to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby **approved**. This City Council expressly declares that it would not have approved this Permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

**APPROVED SUBJECT TO THE FOLLOWING CONDITIONS:**

1. **Acceptance of Permit.** Per San José Municipal Code Section 20.100.290(B), should Permittee fail to file a timely and valid appeal of this Permit within the applicable appeal period, such inaction by the Permittee shall be deemed to constitute all of the following on behalf of the Permittee:
  - a. Acceptance of the Permit by the Permittee; and
  - b. Agreement by the Permittee to be bound by, to comply with, and to do all things required of or by the Permittee pursuant to all of the terms, provisions, and conditions of this Permit or other approval and the provisions of Title 20 applicable to such Permit.
2. **Permit Expiration.** This Permit shall automatically expire two (2) years from and after the date of issuance hereof by the City Council, if within such time period, the proposed use of the site or the construction of buildings (if a Building Permit is required) has not commenced, pursuant to and in accordance with the provision of this Permit. The date of issuance is the date this Permit is approved by the City Council. However, the Director of Planning, Building, and Code Enforcement may approve a Permit Adjustment/Amendment to extend the validity of this Permit in accordance with Title 20. The Permit Adjustment/Amendment must be approved prior to the expiration of this Permit.
3. **Building Permit/Certificate of Occupancy.** Procurement of a Building Permit and/or Certificate of Occupancy from the Building Official for the structures described or contemplated under this Permit shall be deemed acceptance of all

conditions specified in this Permit and the Permittee's agreement to fully comply with all of said conditions. No change in the character of occupancy or change to a different group of occupancies as described in the Building Code shall be made without first obtaining a Certificate of Occupancy from the Building Official, as required under San José Municipal Code Section 24.02.610, and any such change in occupancy must comply with all other applicable local and state laws.

4. **Sewage Treatment Demand.** Pursuant to Chapter 15.12 of Title 15 of the San José Municipal Code, acceptance of this Permit by Permittee shall constitute acknowledgement of receipt of notice by Permittee that (1) no vested right to a Building Permit shall accrue as the result of the granting of this Permit when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José - Santa Clara Regional Wastewater Facility- represented by approved land uses in the area served by said Facility will cause the total sewage treatment demand to meet or exceed the capacity of San José - Santa Clara Regional Wastewater Facility to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region; (2) substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority; (3) issuance of a Building Permit to implement this Permit may be suspended, conditioned or denied where the City Manager makes a determination that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region.
5. **Use Authorization.** This Permit authorizes the off-sale of beer, wine, and distilled spirits at the subject grocery store and successors of said tenant spaces whereby the subsequent tenant maintains a similar use as deemed by the Director of Planning:
  - a. If the use authorized by this permit is discontinued for a period of 12 months, this permit will expire and will no longer be in effect.
  - b. All cashiers shall be trained on Department of Alcohol Beverage Control (ABC) rules and regulations.
  - c. The interior and exterior of the store shall be monitored at all times by a surveillance system. All security camera video footage shall be retained for 30 days in the event that an incident needs review by security personnel or the police.
  - d. Loitering and panhandling shall not be tolerated, and the Permittee shall maintain a zero-tolerance policy. No loitering signs will be posted in conspicuous places containing wording (Spanish and English) that aligns with state and local law (business owner to work with San José Police to obtain proper language). All loitering and panhandling issues will be dealt with in a swift and consistent manner by notifying local police. No consumption or open alcoholic beverages will be

- permitted on the premises. Signs specifically prohibiting this activity will also be placed in conspicuous places in both Spanish and English.
- e. All lighting issues, such as inadequate lighting or burned-out lights, shall be addressed promptly by the Permittee's maintenance provider.
  - f. The operation shall conform to all local performance standards as required by the Municipal Code.
6. **Conformance with ABC Requirements.** The off-sale of alcohol (Type 21 – Off-Sale General) is allowed in conformance with the requirements of the Department of Alcohol Beverage Control (ABC). The Permittee shall obtain and maintain full compliance with its ABC license and remain in good standing with the Department of Alcoholic Beverage Control.
  7. **Limitations on the Area of Alcohol Sales.** The sale of alcohol for off-site consumption allowed by this Permit shall be limited and incidental to the primary use of a retail store. The area in which alcoholic beverages are displayed or otherwise offered for sale shall not exceed 670 square feet (approximately 4.34%) of the gross floor area (approximately 15,447 square feet) of the retail space. Alcohol product displays shall not be placed outside the retail tenant space.
  8. **Conformance to Plans.** The development of the site and all associated development and improvements shall conform to the approved Conditional Use Permit plans entitled, "CP25-017 - Plans" dated July 29, 2025, on file with the Department of Planning, Building and Code Enforcement as may be amended subject to City's approval, and to the San José Building Code (San José Municipal Code, Title 24), as amended. The plans are referred to herein as the "approved plans" or the "Approved Plan Set.
  9. **Compliance with Local, State, and Federal Laws.** The subject use shall be conducted in full compliance with all local, state, and federal laws.
  10. **Discretionary Review.** The City maintains the right of discretionary review of requests to alter or amend structures, conditions, or restrictions of this Permit incorporated by reference in accordance with Chapter 20.100 of the San José Municipal Code.
  11. **Nuisance.** This use shall be operated in a manner which does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
  12. **Refuse.** All trash and refuse storage areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the trash or refuse container(s). Trash areas shall be maintained in a manner to discourage illegal dumping.
  13. **Outdoor Storage.** No outdoor storage is allowed or permitted unless designated on the Approved Plan Set.

14. **Anti-Graffiti.** All graffiti shall be removed from buildings and wall surfaces, including job sites for Projects under construction, within 48 hours of defacement.
15. **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, cigarette butts and garbage.
16. **No Sign Approval.** No signs are approved at this time. All proposed signs shall be subject to review and approval by the Director of Planning, Building and Code Enforcement through a subsequent Permit Adjustment.
17. **Building and Property Maintenance.** The property shall be maintained 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.
18. **Street Number Visibility.** Street numbers of the buildings shall be easily visible from the street at all times, day and night.
19. **Store Operator Point of Contact.** Store operator shall post in a visible location on the Store premises a phone number, and other applicable contact information for the public to address questions and comments regarding management and maintenance of the subject store and frontage.
20. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended, or modified by the City Council 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 in accordance with Part 2, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
  - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected, or rectified within the time specified on the notice of violation; or
  - b. A violation of any City ordinance or State law was not abated, corrected, or rectified within the time specified on the notice of violation; or
  - c. The use as presently conducted creates a nuisance.

In accordance with the findings set forth above, a permit to use the subject property for said purpose specified above is hereby approved.

ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2026, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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MATT MAHAN  
Mayor

ATTEST:

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TONI J. TABER, MMC  
City Clerk

**NOTICE TO PARTIES**

*The time within which judicial review must be sought to review this decision is governed by the provisions of the California Code of Civil Procedure Section 1094.6.*

**EXHIBIT A**

**LEGAL DESCRIPTION OF LESSOR'S PROPERTY**

Lessor's Property of which Premises are a part is legally described as follows:



(City of San Jose)

Parcel 1 in the City of San Jose, County of Santa Clara, as shown on that certain record of survey recorded February 5, 1969 in Book 248, Page 39 of Maps, Records of Santa Clara County, California.

Together with those certain rights for vehicle parking, ingress and egress, pedestrian walkways, construction, installation and maintenance of signs and similar purposes together with other rights.

All as set forth in that certain Instrument entitled "Reciprocal Easement Agreement and Declaration Restriction, dated February 5, 1969 in Book 8440 of Official Records, Page 186 entered into by and between Rinker Development Corporation, a corporation, Sizzler Family Steak Houses, Inc., a Corporation and Alpha Beta Acme Market, Inc., a Corporation; reference to which is hereby made to the record thereof for further particulars.

Assessor's Parcel Number      **299-25-014**

INITIALED BY: BW EP