

# **Exhibit O**

## **Staff Presentation**

### **City Council Hearing:**

Consideration of Conditional Use Permit Application No. P22-03906

# **HEARING TO CONSIDER THE APPEAL OF THE DENIAL OF ALCOHOLIC BEVERAGE CONDITIONAL USE PERMIT P22-03906**

**PRESENTATION BY: PHILLIP SIEGRIST | PLANNING MANAGER**



**ID 24-652**

**CITY COUNCIL HEARING | June 6, 2024**

# Timeline

**April 2018:** Fire occurred in the store which halted all operations.

**April 2019:** Pursuant to FMC Section 15-404(F)(3), the gas station and off-site alcohol sales were not continued within the specified timeframe (12 months) and consequently considered abandoned.

**October 2022:** Applicant filed for re-establishment Conditional Use Permits.

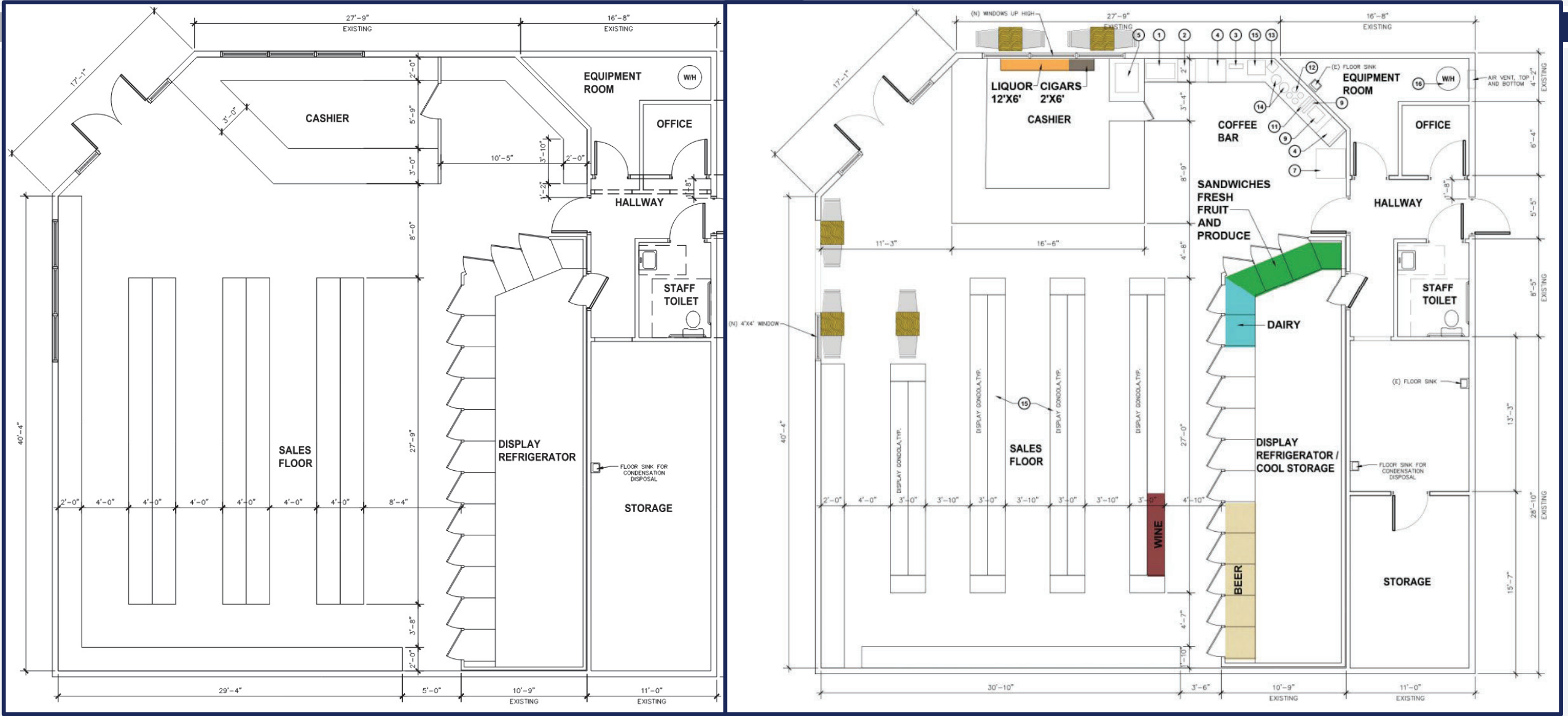
- ❖ Note: Only the ABCUP is being considered.
- ❖ **ABCUP P22-03906** requests authorization to establish a State of California Alcoholic Beverage Control Type 21 (Off-Sale Beer, Wine, & Distilled Spirits) alcohol license for the Circle “D” Food & Liquor store.

**October 2023:** ABCUP denied by Planning and Development Director.

**January 2024:** Applicant submitted supplemental materials in response to denial.

**April 2024:** Planning Commission denied appeal and upheld Director’s denial.

# Project Floor Plan (Original & Revised)



# Responsible Neighborhood Market Act - Location Restrictions

## Restriction:

- 1) Near Sensitive Uses. The establishment shall not be located within 1,000 feet of the following:
- a. A public park, playground, recreational area including a trail that is immediately adjacent to a public park, or youth facility, including a nursery school, preschool, or day care facility;
  - b. A public or private State-licensed or accredited school; or
  - c. An alcohol or other drug abuse recovery or treatment facility.

## Restriction:

- 2) Near Other Alcoholic Beverage Establishments. The establishment shall not be located within 1,000 feet of an existing establishment, nor may it lead to a grouping of more than four establishments within a 1,000-foot radius. Notwithstanding this requirement, an establishment shall not be located within 500 feet of an existing establishment when an establishment is located in a Census Tract that is not oversaturated with off-sale licenses.

# Responsible Neighborhood Market Act - Location Restrictions

## Restriction:

3) Within High Crime Areas. The establishment shall not be located in an area of high crime, as defined by the California Business and Professions Code 23958.4(a)(1) et seq., and as determined by the Department of Alcoholic Beverage Control.

## Restriction:

4) Within High Concentration Areas. The establishment shall not be located in an area of high concentration, as defined by the California Business and Professions Code 23958.4(a)(3) et seq., and as determined by the Department of Alcoholic Beverage Control.

# Responsible Neighborhood Market Act - Location Restrictions

## Restriction:

5) Citywide Ratio. No establishment shall be granted a Conditional Use Permit under this Section if the number of sites selling alcohol for off-site consumption will exceed one license per 2,500 residents. This ratio requirement shall not apply to: (1) existing establishments that must obtain a CUP pursuant to this ordinance due to proposed expansion or improvement of an existing use that is currently operating pursuant to a CUP issued prior to the effective date of this ordinance; (2) new establishments that utilize the Cancel and Transfer provisions stated in Section S., below; or (3) an existing establishment that is in good standing which has a change in the ABC License holder, specifically partner franchisees.

# Responsible Neighborhood Market Act

## Location Restrictions Exceptions

- 1) The proposed use is not 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.
- 2) 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.
- 3) The proposed outlet for the off-premises sale of alcoholic beverages would act as a public convenience or necessity to an underserved portion of the community and/or enhance the vitality of an existing commercial area without presenting a significant adverse impact on public health or safety.
- 4) The primary use of the establishment, based on information provided by the applicant, has been determined by the Review Authority to meet the definition of a General Market including a supermarket, neighborhood grocery store, or a Healthy Food Grocer.



# Fresno Municipal Code Use Classifications

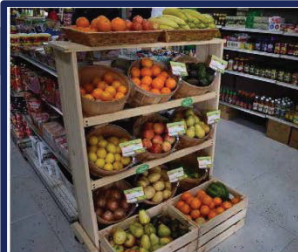
**General Market:** Retail food markets of food and grocery items for off-site preparation and consumption. Typical uses include supermarkets, neighborhood grocery stores, and specialty food stores

**Specialty Food Grocer:** A food and beverage retail sales establishments that (1) dedicates at least 70% of retail space to a specialized category of food products such as foods from a specific country, ethnicity, or locality; and (2) dedicates at least 10% of retail space to fresh foods such as dairy, (excluding ice cream), produce, meat, poultry, and fish.

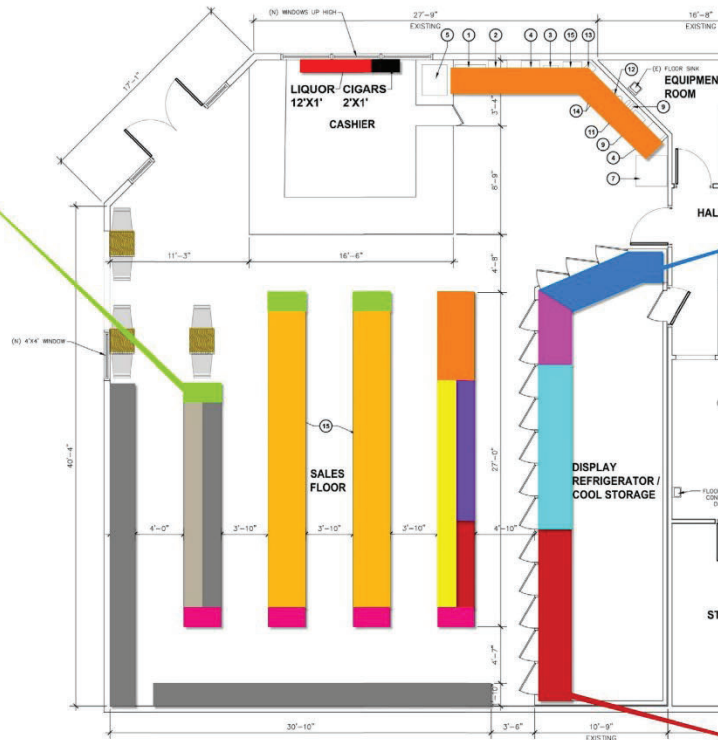
**Healthy Food Grocer:** A food and beverage retail sales establishment that (1) dedicates at least 50 percent of retail space to a general line of grocery products intended for home preparation, consumption and use; and (2) dedicates at least 30 percent of retail space to perishable goods including dairy, fresh, produce, fresh meats, poultry and fish, and frozen foods.

**Convenience Retail:** Establishments primarily engaged in the provision of frequently or recurrently needed small personal items or services for residents within a reasonable walking distance. These include various general retail sales and personal services of an appropriate size and scale to meet the above criteria.

# Project Floor Plan (Revised for Council)



PROPOSED GONDOLAS FOR FRESH PRODUCE



Approximately 1,941 sq.ft. of floor space.

Approximately 662 sq.ft. of shelving / display area.

Approximately 174 sq.ft. of general market food items.

Approximately 393 sq.ft. of convenience store items (with alcohol)

Approximately 58 sq.ft. of alcohol

Approximately 94 sq.ft. of cashier's counter.

ROOM NAME	FLOOR	WALL BASE		WALLS								CEILING	
				NORTH		EAST		SOUTH		WEST			
				MAT	FIN	MAT	FIN	MAT	FIN	MAT	FIN		
CASHIER	PT	FF	PB	FF	4"	GB	P	GB	P	GB	P	ACT	FF
SALES FLOOR	PT	FF	PB	FF	4"	GB	P	GB	P	GB	P	ACT	FF
COFFEE BAR	PT	FF	PB	FF	4"	GB	P	GB	P	GB	P	ACT	FF
OFFICE	PT	FF	WD	FF	4"	GB	P	GB	P	GB	P	GB	P
EQUIPMENT ROOM	PT	FF	PB	FF	4"	GB	P	GB	P	GB	P	GB	P
HALLWAY	PT	FF	PB	FF	4"	GB	P	GB	P	GB	P	GB	P
STAFF TOILET	PT	FF	PB	FF	4"	GB	P	GB	P	GB	P	GB	P
DRY STORAGE 1	PT	FF	WD	FF	4"	GB	P	GB	P	GB	P	GB	P
DRY STORAGE 2	PT	FF	WD	FF	4"	GB	P	GB	P	GB	P	GB	P

ACT = 2'x4' SUSPENDED ACOUSTICAL TILE CEILING SYSTEM

FF = FACTORY FINISH

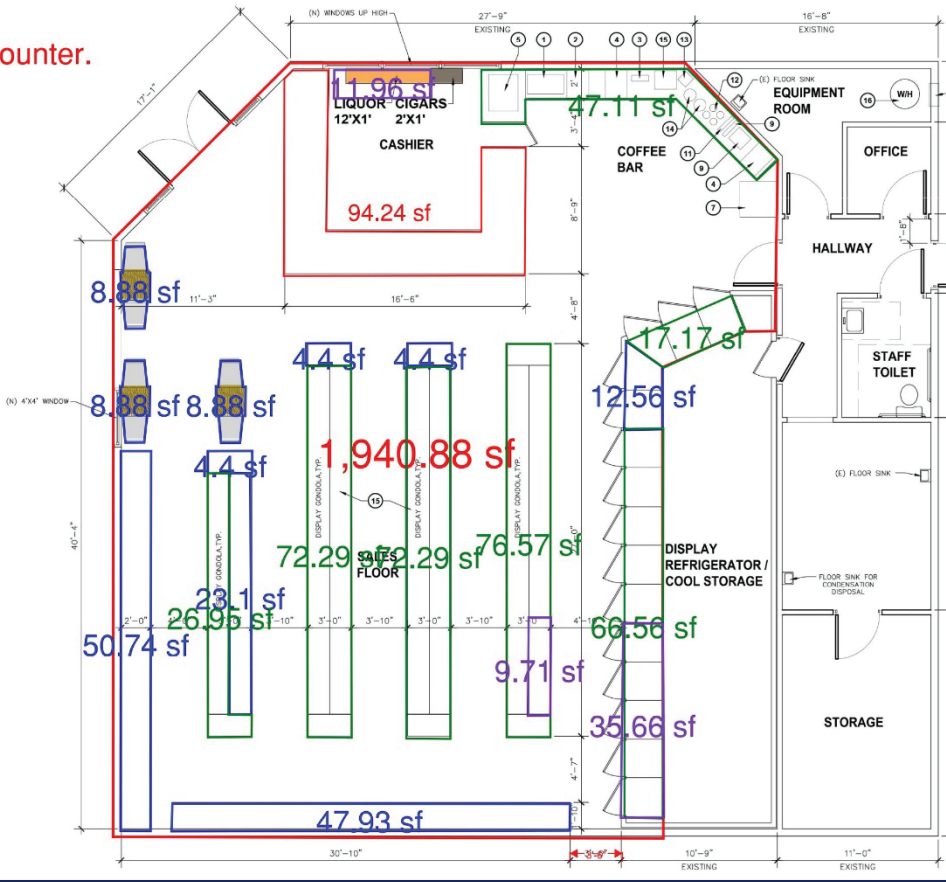
GB = GYPSUM BOARD

P = SEMI-GLOSS WHITE PAINT

PB = PORCELAIN WALL

PT = PORCELAIN TILE

WD = WOOD WALL



## FLOOR PLAN DETAILS

- PRE-PACKAGED SNACKS
- VARIETY OF END AISLE ITEMS
- PRE-PACKAGED BAKED GOODS
- HOUSEHOLD ITEMS
- FRESH PRODUCE
- COFFEE BAR & HOT FOODS AREA
- BEER & WINE
- DAIRY, DELI & MEAT SELECTION
- ON-THE-GO COLD FOODS SELECTION
- COLD BEVERAGE SELECTION
- PERSONAL GROCERY ITEMS
- GENERAL GROCERY ITEMS
- DISTILLED SPIRITS
- TOBACCO PRODUCTS

Approximately 1,941 sq.ft. of floor space.

Approximately 662 sq.ft. of shelving / display area.

Approximately 174 sq.ft. of general market food items.

Approximately 393 sq.ft. of convenience store items (with alcohol)

Approximately 58 sq.ft. of alcohol

**EXHIBIT "C" - DETAILED FLOOR PLAN**

Approximately 94 sq.ft. of cashier's counter.

# Staff Recommendation

**DENY** the appeal and **UPHOLD** the action of the Planning and Development Department Director to deny ABCUP Application No. P22-03906 requesting authorization to establish a State of California Alcoholic Beverage Control Type 21 (Off-Sale Beer, Wine, & Distilled Spirits) alcohol license for a Circle “D” Food & Liquor store.