

ATTACHMENT B

***DRAFT* RESOLUTION NO. PC2024-07**

**A RESOLUTION OF THE PLANNING COMMISSION, OF THE CITY OF IMPERIAL,
APPROVING A CONDITIONAL USE PERMIT 24-07 TO ALLOW OFF-SALE
ALCOHOLIC BEVERAGE SALES AT ATEN EXPRESS LOCATED AT
390 E. ATEN ROAD (APN 044-601-013)**

WHEREAS, Raj Kakkar submitted an application to allow off-sale alcoholic beverage sales at Aten Express located at 390 E. Aten Road; and

WHEREAS, the subject site is located within the General Commercial (C-2) Zone where a store offering alcoholic beverages are conditionally allowed uses within that zone; and

WHEREAS, a duly notified public hearing was published on August 15, 2024 in a local paper of general circulation, indicating the date and time of the public hearing in compliance with state law concerning Conditional Use Permit 24-04, and said notice was mailed to each property owner within a 300-foot radius of the project site; and

WHEREAS, a duly notified public hearing was held by the Planning Commission on August 28, 2024, to hear testimony for and against the proposed Conditional Use Permit;

WHEREAS, upon hearing and considering all testimony and arguments, analyzing the information submitted by staff and considering any written and oral comments received, the Planning Commission considered all facts relating to the project; and

NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of Imperial as follows:

- A) That the foregoing recitations are true and correct; and
- B) The project has been reviewed in accordance with the requirements set forth by the City of Imperial for implementation of the California Environmental Quality Act; and
- C) There are no sensitive resources located within the area of the project or adjacent to the area of the project so as to be significantly impacted by the project; and
- D) That based on the evidence presented at the public hearing, the Planning Commission hereby determines that the project is categorically exempt under Section 15061 (b)(3) Common Sense and Section 15301, Existing Facilities, of the California Environmental Quality Act and is exempt from further environmental review requirements; and
- E) That allowing the sales of off-sale alcoholic beverages at the project site is consistent with the land uses allowed within the General Commercial (C-2) Zone; and

ATTACHMENT B

F) That based on the evidence presented at the public hearing, the Planning Commission hereby **APPROVES Conditional Use Permit 24-07**, subject to the requirements per section 24.19.340 of the Imperial Zoning Ordinance, the Conditions of Approval outlined in Exhibit A, and based on the following findings:

1. That the proposed location, size, design, and operating characteristics of the proposed use is in accord with the Title and Purpose of this Ordinance, the Purpose of the zone in which the site is located, the Imperial General Plan, and the development policies and standard of the City.

The subject site is within the General Commercial (C-2) Zone, designated for highway-oriented retail and service activities. Aten Express aligns with this zoning by providing essential services like fuel, food, and refreshments for motorists and residents. Its design and operations support the goals of the Imperial General Plan, ensuring safe vehicle access, reducing congestion, and maintaining an orderly appearance. Aten Express complies with local regulations and city ordinances, contributing to the economic vitality of the City. Its continued operation, including alcohol sales, remains consistent with the objectives of the General Commercial (C-2) Zone and the City's development goals.

2. That the location, size, design, and operating characteristics of the proposed use will be compatible with and will not adversely affect or be materially detrimental to adjacent uses, residents, buildings, structures, or natural resources with consideration given to those items listed in Section 24.19.340.B of the Imperial Zoning Ordinance.

The location is ideal for a convenience store, offering patrons a quick and convenient stop for gas and refreshments as they travel along one of the City's main corridors. The site's strategic placement along a well-trafficked route makes it a suitable location for retail services, including the sale of alcohol. Aten Express has been selling alcohol for many years prior to Mr. Kakkar's acquisition, without any recorded incidents of adverse effects or material detriment to adjacent land uses, residents, buildings, structures, or natural resources. Additionally, the store has maintained a good track record of compliance with local regulations and standards concerning alcohol sales. The established operating characteristics, including responsible alcohol sales practices and ongoing staff training, further ensure that the proposed use remains compatible with the surrounding area. Given these factors, the continuation of alcohol sales at this location will not negatively impact the community or environment and is consistent with the objectives outlined in Section 24.19.340.B of the Imperial Zoning Ordinance.

3. That the proposed location, size, design, and operating characteristics of the proposed use and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.

ATTACHMENT B

With the established Conditions of Approval, the proposed project will not negatively impact public health, safety, or welfare. Aten Express has a proven record of responsible operation, and Mr. Kakkar is committed to continuing this standard. He will implement staff training focused on responsible alcohol sales, addressing the concerns of the Imperial Police Department.

The store's existing security measures, such as surveillance cameras and proper lighting, further ensure a safe environment. By adhering to these conditions and maintaining responsible practices, Aten Express will operate safely and harmoniously within the community, without causing harm to neighboring properties or the public.

4. That the proposed Conditional Use will comply with each of the applicable provisions of the Zoning Ordinance, except for any approved Variance.

The proposed project, which includes the sale of alcohol, complies with all applicable provisions of the City of Imperial's Zoning Ordinance. Aten Express is located in a General Commercial (C-2) Zone, where alcohol sales are permitted as a conditional use. There are no variances requested or required for this project, and all zoning regulations and requirements, including those related to signage, parking, and hours of operation, will be fully adhered to. By meeting these conditions, the project ensures alignment with the City's zoning standards and regulations.

- G) The City Attorney is authorized to make minor typographical changes to this Resolution that does not change the substance of this Resolution;

PASSED, ADOPTED AND APPROVED by the Planning Commission of the City of Imperial, this 28th day of August, 2024.

Planning Commission Chairman

ATTEST:

City Clerk

ATTACHMENT B

EXHIBIT A

CONDITIONS OF APPROVAL FOR CONDITIONAL USE PERMIT 24-07 TO ALLOW OFF-SALE ALCOHOLIC BEVERAGES SALES AT ATEN EXPRESS LOCATED AT 390 ATEN ROAD (APN 044-601-013)

1. This Conditional Use Permit shall only be valid so long as the Type 20 ABC License authorizing the sale of beer and wine for consumption off the premises where sold, is valid to the proprietor/owner.
2. No sales or service to intoxicated patrons. It is recommended that employees undergo regular training on responsible alcohol sales, including recognizing the signs of intoxication and the legal ramifications of selling alcohol to intoxicated individuals.
3. No sales to minors. California law requires verifying the age of all patrons who appear to be under thirty (30) years of age with forms of identification that include a California Driver's License, a California ID Card, a US Passport or a US Military ID. It is recommended that employees understand the legal ramifications of selling alcohol to minors and undergo regular identification verification training.
4. The provisions of this Conditional Use Permit are to run with the land/project and shall bind the current and future owner(s) successor(s) in interest, assignee(s) and/or transferor(s) of said project.
5. A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control (ABC) license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.
6. The proprietor/owner shall be responsible for the removal of all graffiti from the walls, fences, pavement, or buildings within 72 hours of its appearance on the property.
7. The proprietor/owner shall be responsible for maintaining the project site, parking lot, and adjacent areas free of litter and must implement sound maintenance and housekeeping procedures.
8. The proprietor/owner shall comply with all local, State and Federal laws, regulations, rules, ordinances, and standards as they pertain to this project, whether specified herein or not. Where conflicts occur, the most stringent shall apply.
9. The conditional approval of the Conditional Use Permit shall not constitute the waiver of any requirement of the City's Ordinances or regulations, except where a condition set forth herein specifically provides for a waiver.
10. If the Community Development Department finds and determines that the Permittee or successor-in-interest has not complied or cannot comply with the terms and conditions of the Conditional Use Permit, or the Planning/Building Department determines that the

ATTACHMENT B

permitted activities constitute a nuisance, the City shall provide Permittee with notice and opportunity to comply with the enforcement or abatement order. If after receipt of the order (1) Permittee fails to comply, and/or (2) Permittee cannot comply with the conditions set forth in the Conditional Use Permit, then the matter shall be referred to the Planning Commission for permit modification, suspension, or termination, or to the appropriate enforcement authority.

11. As between the City and the Permittee, any violation of this permit may be a "nuisance per se". The City may enforce the terms and conditions of this permit in accordance with its Codified Ordinances and/or State law. The provisions of this paragraph shall not apply to any claim of nuisance per se brought by a third party.
12. The proprietor/owner shall not be permitted to maintain a nuisance, which is anything that is (1) injurious to health, or is indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, and/or (2) affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and/or (3) occurs during or as a result of the re-located business.