



## Staff Report

### Agenda Item No. E-1

**To:** City of Imperial Planning Commission

**From:** Yvonne Cordero, Planner

**Date:** August 22, 2024

<b>Applicant:</b>	Raj Kakkar
<b>Project Location:</b>	390 W. Aten Road
<b>Project Description:</b>	Conditional Use Permit 24-07 to allow the sale of alcohol
<b>Zoning:</b>	General Commercial (C-2)
<b>Environmental:</b>	Categorically Exempt
<b>Recommendation:</b>	Approve, subject to Conditions of Approval

### **Background**

Raj Kakkar, the new owner of Aten Express, has recently submitted an application for a Type 20 Alcoholic Beverage License to the State Department of Alcoholic Beverage Control (ABC), as detailed in Attachment A. A Type 20 license specifically authorizes the sale of beer and wine for off-premises consumption, meaning customers can purchase these beverages at the convenience store but must consume them elsewhere. The store, located at 390 W. Aten Road, is situated within the C-2 (General Commercial) zone, where such sales are permitted under certain conditions.

When Mr. Kakkar acquired Aten Express, the purchase did not include the necessary licensing for alcohol sales, which has posed significant financial challenges for the business. The inability to sell beer and wine, which are key revenue drivers for many convenience stores, has likely impacted the store's profitability, placing it at a disadvantage compared to competitors who are fully licensed. To address this issue and restore the store's full-service offerings, Mr. Kakkar is seeking to obtain the appropriate licensing that will allow him to sell beer and wine legally.

In the C-2 zone, the sale of beer and wine is permissible with the approval of a Conditional Use Permit (CUP) and the acquisition of a valid ABC license. The CUP is a critical step in this process,

as it ensures that the proposed use aligns with the zoning regulations and considers the potential impacts on the surrounding community. The City is responsible for reviewing and approving the CUP, which must be obtained before the ABC can issue the final license. Once the CUP is granted by the City, ABC will then proceed with the final steps in the licensing process, which includes a thorough review to ensure compliance with state regulations and community standards.

It is important to note that the existing hours of operation for Aten Express, which are 6 a.m. to 6 a.m. (open 24 hours), are expected to remain unchanged. The extended hours of operation provide convenience to the community and are a key factor in the store's business model. However, with the introduction of alcohol sales, Mr. Kakkar will need to ensure that all activities related to the sale of beer and wine are conducted in a responsible manner, in compliance with both state laws and the conditions set forth in the CUP. Additionally, the sale of alcohol will only be allowed from 6 a.m. to 2 a.m., in accordance with ABC regulations.

The Development Review Committee (DRC) has conducted a thorough and careful review of the application submitted by Mr. Kakkar. In this review, the DRC has worked closely with the Imperial Police Department to evaluate the potential impact of alcohol sales at the proposed establishment. The Police Department has provided a set of recommendations to ensure that alcohol sales are managed responsibly and in full compliance with applicable laws and regulations. These recommendations are aimed at promoting a safe environment for the community while minimizing any risks associated with the sale of alcohol.

#### **Regular Training on Responsible Alcohol Sales:**

One of the primary recommendations from the Imperial Police Department is the implementation of regular training sessions for all employees involved in the sale of alcohol. This training should be comprehensive, covering crucial aspects such as recognizing the signs of intoxication, understanding how to refuse service to individuals who appear to be under the influence, and knowing the correct procedures for verifying the age of customers. The training should also emphasize the importance of adhering to legal requirements, including the consequences of failing to do so. By equipping employees with the necessary knowledge and skills, the establishment can better prevent incidents that may arise from irresponsible alcohol sales.

#### **Understanding Legal Ramifications:**

It is essential that all employees are fully aware of the serious legal ramifications associated with the sale of alcohol, particularly concerning minors. The Police Department emphasizes the importance of educating staff on the specific legal penalties that can result from selling alcohol to underage individuals, including potential fines, criminal charges, and the possible revocation of the establishment's liquor license. This education should be part of the regular training program and include real-world scenarios to help employees understand the gravity of these legal obligations. By ensuring that employees are well-informed and vigilant, the establishment can significantly reduce the risk of legal issues and contribute to a safer community. These measures will help maintain high service standards and reinforce the importance of responsible alcohol sales.

By implementing these recommendations, Mr. Kakkar's establishment will not only comply with legal requirements but also demonstrate a strong commitment to community well-being. The DRC and the Imperial Police Department believe that these steps are crucial in promoting a safe environment where alcohol is sold responsibly and legally, thereby protecting both the

establishment and the broader community from the negative consequences of improper alcohol sales. The recommendations were incorporated into the Conditions of Approval provided in Resolution PC2024-07 (Attachment B).

In summary, the approval of the Type 20 license is essential for Mr. Kakkar to enhance the offerings of Aten Express and address the financial difficulties that have arisen due to the lack of alcohol sales. The process involves close coordination between the City and the ABC, with the Conditional Use Permit serving as a pivotal step in ensuring that the sale of beer and wine at Aten Express is consistent with local zoning laws and community expectations. Once these approvals are in place, Mr. Kakkar will be positioned to provide a more comprehensive service to his customers while contributing to the economic vitality of the area.

### **Project Location**



### **Discussion/Analysis**

The subject site is zoned within the General Commercial Zone (C-2). The surrounding designated land uses and zoning to the North, South and East of the project site are General Commercial (C-2) as well. Imperial County Airport located to the West, crossing Highway 86 is zoned General Industrial (I-1).

## **Environmental Compliance**

The operation of an existing private structure involving negligible or no expansion of the existing or former use categorizes this project to be categorically exempt from the California Environmental Quality Act (CEQA) under Section 15301-Existing Facilities. An additional categorical exemption applies to this project under Section 15061(b)(3) because it can be seen as a common-sense determination that the sale of alcohol is not expected to cause any significant impact on the environment, as it typically involves an existing establishment where the operational nature remains largely unchanged.

## **Evaluation**

The Zoning Ordinance provides flexibility in the regulation of uses to ensure that unusual characteristics of certain uses are properly addressed in furtherance of the Imperial Zoning Ordinance. Section 24.19.340 of the City of Imperial Zoning Ordinance requires that the Commission make specific findings be made when reviewing a Conditional Use Permit. The required findings are listed below in ***bold italics***, followed by an evaluation:

- 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.***

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.

### **Public Notification**

The public hearing scheduled for August 28, 2024, was duly noticed in the Holtville Tribune and Calexico Chronicle, newspapers of general circulation, on August 15, 2024. A Notice of Public Hearing was mailed to all property owners within 300 feet of the property. The City of Imperial has not received any public comments for or against this project as of the date of this report's publication.

## **Recommendation**

Staff recommends the Planning Commission conduct a public hearing to receive comments for and against the project. Unless sufficient evidence to the contrary is presented at the public hearing, Staff recommends that the Planning Commission approve Conditional Use Permit 24-04 to allow the sale of off premise alcohol sales at Aten Express.

## **Attachments**

- Attachment A – ABC Application with Site Plan
- Attachment B – DRAFT Resolution PC2024-07 with Conditions of Approval

Prepared by: Yvonne Cordero, Planner

Respectfully submitted,



Othon Mora, MCM, CBO  
Community Development Director

LICENSED PREMISES DIAGRAM (RETAIL)

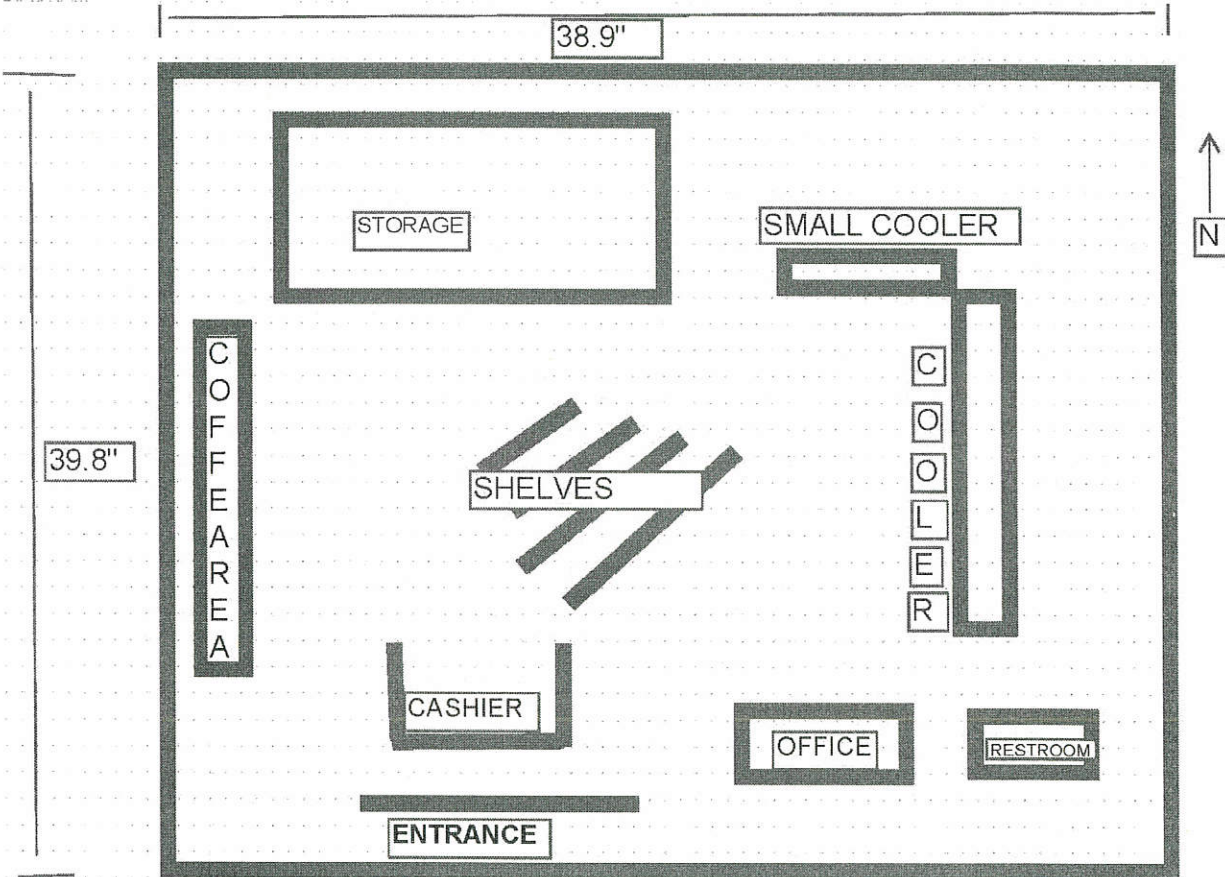
RECEIVED

MAY 18 2024  
Dept. of Alcoholic Beverage Control  
Palm Desert

1. APPLICANT'S NAME(S) (If an individual, last name, first name, middle name. Name of entity if corporation, limited partnership or limited liability company.)	2. LICENSE TYPE
Aten Express	20
3. PREMISES ADDRESS (Street number and name, city, zip code)	4. NEAREST CROSS STREET
390 W. Aten Rd, IMPERIAL, CA 92251	Imperial Avenue

The diagram below is a true and correct description of the entrances, exits, interior walls and exterior boundaries of the premises to be licensed, including dimensions and identification of each room (i.e., "storeroom", "office", etc.). The area to be licensed must be outlined in red.

DIAGRAM



It is hereby declared that the above-described premises and character of premises, as indicated on the reverse side, will not be changed in accordance with Rule 64.2 of the California Code of Regulations without first notifying and securing approval of the Department of Alcoholic Beverage Control. Substantial changes to the premises may require an application fee in accordance with Section 24072 of the Business and Professions Code. I declare under penalty of perjury that the foregoing is true and correct.

APPLICANT SIGNATURE (Only one signature required)	DATE SIGNED	
X <i>Rb</i>	4/30/24	
<b>FOR ABC USE ONLY</b>		
CERTIFIED CORRECT (Signature)	PRINTED NAME	INSPECTION DATE

PLANNED OPERATION (RETAIL)

RECEIVED
MAY 13 2024
Dept. of Alcoholic Beverage Control
Palm Desert

SECTION I - FOR ALL RETAIL APPLICANTS

1. APPLICANT'S NAME(S) if an individual, last name, first name, middle name. Name of entity if corporation, limited partnership or limited liability company.
Aten Express
2. LICENSE TYPE(S)
20

3. PREMISES ADDRESS (Street number and name, city, zip code)
390 W. Aten Rd, IMPERIAL, CA 92251
4. NEAREST CROSS STREET
Imperial Avenue

- 5. TYPE OF BUSINESS (Choose one that best describes the planned operation)
Full Service Restaurant, Deli or Specialty Restaurant, Cafe/Coffee Shop, Bed & Breakfast, Supermarket, Liquor Store, Variety/Drug Store, Other - describe:
Cafeteria/Hofbrau, Comedy Club, Brew Pub, Theater, Membership Store, Department Store, Gift Shop/Florist
Cocktail Lounge, Night Club, Tavern, Wine Tasting Room, Service Station, Convenience Market, Convenience Market w/Gasoline
Private Club, Veterans Club, Fraternal Club, Swap Meet/Flea Market, Drive-in Dairy

- 6. FOOD SERVICE: None, Minimal, Full Meals
7. MEAL TYPE: Dinner House, Seafood, Fast Food/Deli, Pizza/Pasta, Other:

- 8. TYPE OF FOOD: American, Chinese, French, Greek, Indian, Italian, Japanese, Korean, Mexican, Thai, Other:

9. HOURS OF FOOD SERVICE:
BREAKFAST HOURS - From: To: LUNCH HOURS - From: To: DINNER HOURS - From: To:

Table with 7 columns (Sunday-Saturday) and 2 rows (Opening Time, Closing Time). All times are 6am.

- 11. ENTERTAINMENT: (One or more may apply. Please describe any entertainment with an asterick (\*) below)
None, Recorded Music, Juke Box, \*Other, \*Amplified Music, \*Live Entertainment, \*Floor/Stage Shows, Karaoke, Patron Dancing, Bikini/Topless/Exotic, Pool/Billiard Tables, \*Amateur/Pro Sports Events, Card Room, Movies, "Hot Spot"/Lottery, Video/Coin-Operated Games

- 12. YES OR NO QUESTIONS:
a) Will you hire a manager? (Rule 57.5)
b) Will you have a food lessee? (Rule 57.7)
c) Do you intend to sell cocktails or servings of wine to go?
d) Does your business have a pass-through window?
e) Does your business have any fixed bars?
i) If yes, how many?
f) Does your business have a patio?
g) Will you share a common licensed area with another licensee?
h) Does the premises have a parking lot?
i) If yes, is it shared with other business?

15. PREMISES IS LOCATED ON:
Major Thoroughfare, Secondary Street, Other:

16. PREMISES LOCATED IN:
Free Standing Building, Shopping Center (name):
10 Units or Less, More than 10 Units

17. SURROUNDING AREA:
Commercial, Industrial, Residential, Rural, Other:

18. TYPE OF STRUCTURE:
Single Story, Two-Story, Multi-Story - Number of Stories:

13. What percentage of your total sales will be from alcoholic beverages? 40%
14. Patron Capacity 40

FOR ABC USE ONLY

INFORMATION GIVEN (R-27, R-107, Sec. 25612.5, Sec. 23790.5, etc.)



### SUPPLEMENTAL DIAGRAM

**Instructions to Applicant:**

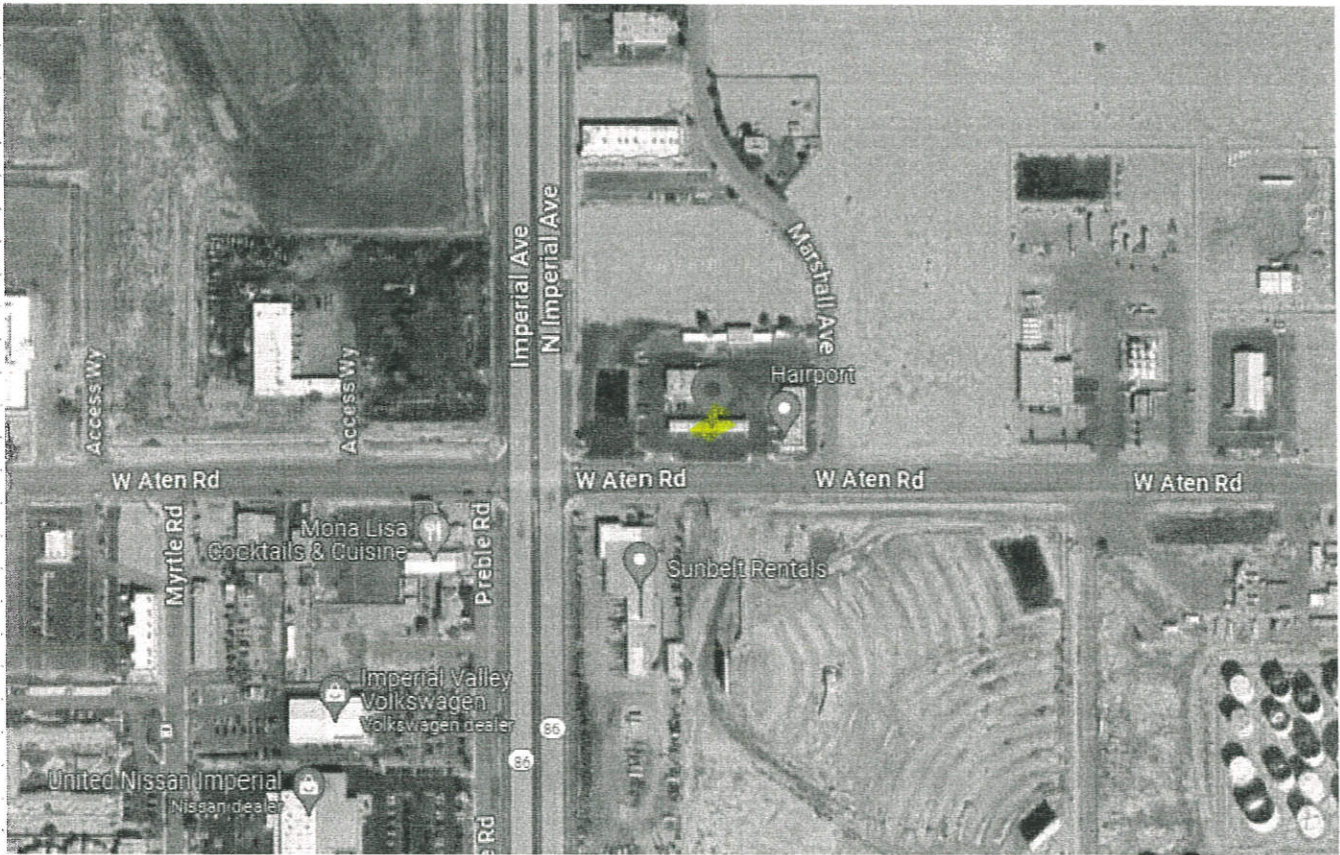
Draw a sketch of the area on which the licensed premises is or will be located. Show adjacent structures and nearest cross streets. *If this is an event for a daily license, catering authorization, event authorization or miscellaneous use, show the area where sales and consumption of alcoholic beverages will occur. Post a copy of this diagram with Daily License, Catering Authorization or Event Authorization where the event is held. Sales and consumption of alcoholic beverages must be confined to the area designated in the diagram and supervised to prevent violations of the Alcoholic Beverage Control Act.*

**RECEIVED**

1. APPLICANT NAME (Last, first, middle) <b>Aten Express</b>	2. LICENSE TYPE <b>20</b>
3. PREMISES ADDRESS (Street number and name, city, zip code) <b>390 W. Aten Rd, IMPERIAL, CA 92251</b>	4. NEAREST CROSS STREET <b>Imperial Avenue</b>

**MAY 13 2024**  
**Dept. of Alcoholic Beverage Control**  
**Palm Desert**

**DIAGRAM**



I have read the above instructions and I declare under penalty of perjury that the above diagram is true and correct.

APPLICANT SIGNATURE X 	DATE SIGNED <b>4/30/24</b>	
CERTIFIED CORRECT (Signature)	PRINTED NAME <b>FOR ABC USE ONLY</b>	INSPECTION DATE