

**STAFF REPORT TO THE ZONING ADMINISTRATOR  
FOR CONSIDERATION AT THE MEETING OF DECEMBER 14, 2023**

**Prepared by:** Kevin Scudero, Acting Community Development Director

**Date:** December 14, 2023

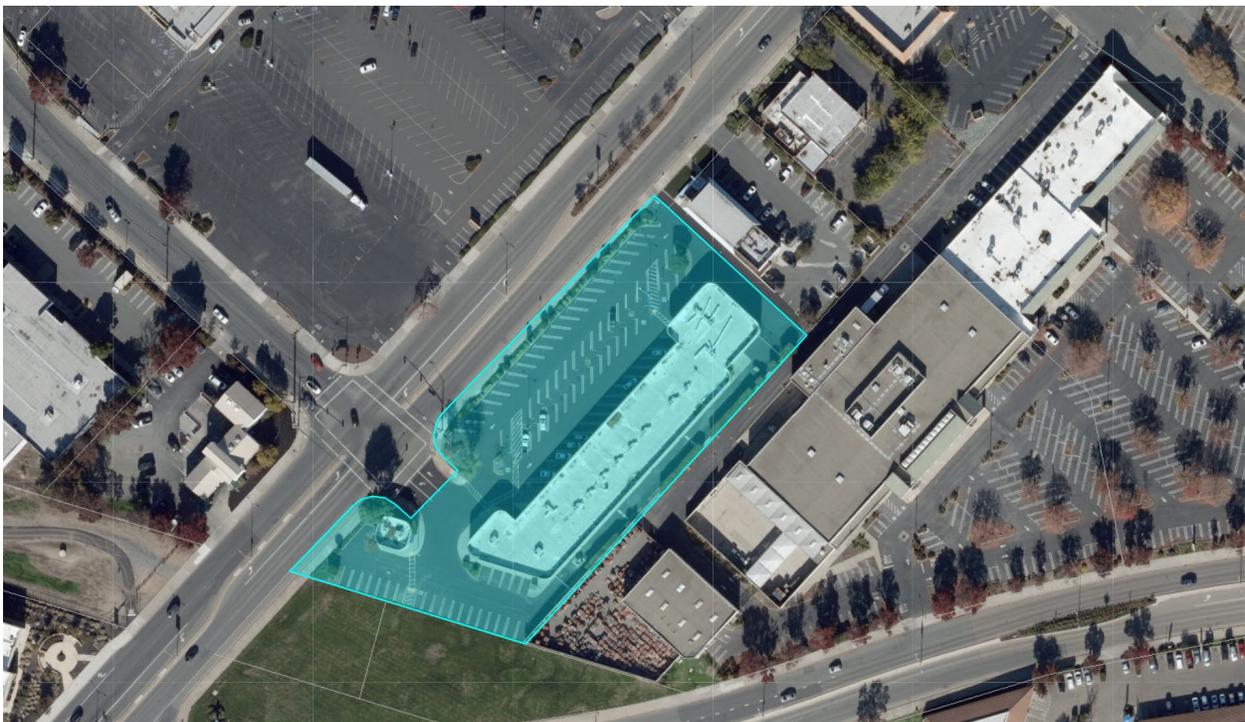
**Subject:** Black Diamond Market (UP2023-0007)

**RECOMMENDATION**

It is recommended that the Zoning Administrator **APPROVE** a use permit to occupy an existing commercial space to operate a liquor store with a Type-21 Alcohol and Beverage Control (ABC) License subject to the conditions contained in the attached resolution.

**REQUEST**

The applicant requests approval of a use permit to occupy an existing commercial space to operate a liquor store with a Type-21 ABC License. The subject property is located at 2665 Somersville Road (APN 074-432-025).



## **ENVIRONMENTAL**

This proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) under Article 19, Section 15332 Infill Development. Class 32 consists of projects characterized as in-fill development meeting the following conditions:

- (a) The project is consistent with the applicable general plan designation and all applicable general plan policies as well as with applicable zoning designation and regulations.
- (b) The proposed development occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses.
- (c) The project site has no value, as habitat for endangered, rare or threatened species.
- (d) Approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality.
- (e) The site can be adequately served by all required utilities and public services.

The subject site is 2.02 acres and is fully developed with a commercial center and parking lot and is served by existing utilities, public services and surrounded by urban uses.

## **ANALYSIS**

### **Issue #1: Project Overview**

The applicant is seeking Use Permit approval for the operation of a new liquor store with a type 21-Off-Sale General license from ABC. The subject site is a 2.02-acre parcel developed with a commercial center and parking lot. The store will offer a diverse assortment of products, focusing on healthy grocery items, household goods, candy, confectionery items, snacks, general nutrition, wine, spirits, beer for off-premises consumption, organic soft drinks, fruit juices, mineral and sparkling water, as well as other non-alcoholic beverages typically used as mixers, lottery tickets, and other necessities. The applicant states that approximately 35% of the floor area will be devoted to the sale of alcohol. The applicant is proposing to operate from 8am to 11pm, 7 days a week. Five employees will work at the store.

ABC defines a type 21- Off-Sale General license as:

*“Package Store. Authorizes the sale of beer, wine and distilled spirits for consumption off the premises where sold. Minors are allowed on the premises.”*

The applicant previously operated a liquor store under a type 21-Off-Sale General license at a nearby commercial center, but their business was recently displaced by a fire and their former space is slated for demolition. The relocation to the proposed location will be operated under their existing ABC license and no new ABC licenses will be issued for the area.

The proposed space is located at the end cap of the shopping center and occupies 4,053 square feet. The applicant's project plans are provided as Attachment "B".

### **Issue #2: General Plan, Zoning Consistency and Land Use**

The General Plan designation of the site is Western Antioch Commercial Focus Area. Within the Focus Area, the site is designated as Regional Commercial. The zoning designation of the site is Regional Commercial. The proposed use is allowed subject to Use Permit approval.

### **Issue #3: Operations**

AMC section 9-5.3831 "Liquor Establishments" regulates liquor establishments throughout the city. Section 9-5.3831(A) states:

*(A) "No on-sale or off-sale liquor establishments shall be operated within a radius of 500 feet from any other on-sale or off-sale liquor establishments or any school, public park, playground, recreational center, day care center, or other similar use."*

The proposed use is not located within 500 feet of any of these uses.

A use permit is required to ensure a use is operated in a compatible manner with uses on adjacent properties and in the surrounding areas. Staff has prepared project specific Conditions of Approval to minimize compatibility concerns with surrounding uses.

AMC section 9-5.3843 Tobacco and Paraphernalia Retailers prohibits the establishment of new tobacco and drug paraphernalia retailers within the City, with minor exceptions. Since this is a new establishment, tobacco and paraphernalia sales are prohibited. Staff has added a condition of approval reiterating that AMC section 9-5.3843 shall be complied with.

### **Issue #4: Outside Agency Review**

Due to the displacement of the business due to fire and the desire of the City to expedite the relocation of the business the project was not routed to outside agencies for review. However, earlier this year a similar project was proposed at the site and was routed to outside agencies for review. Staff has incorporated the agency comments from that review into the conditions of approval. Most notably, Contra Costa Environmental Health (CCEH) requires the installation of a trash enclosure at the site. Additionally, the City of Antioch Municipal Code Requires a trash enclosure. This project will generate a large

amount of cardboard that must be recycled. A recommended condition of approval requires the trash enclosure be shown on the building permit submittal for review and approval by Planning staff. For all food facilities, the applicant is also required to submit the building permit plans to CCEH for their review and approval. The applicant is also required to submit building permit plans to the Contra Costa Fire Protection District.

## **ATTACHMENTS**

- A: Resolution
- B: Project Plans
- C: Project Description

**ATTACHMENT "A"**

**CITY OF ANTIOCH ZONING ADMINISTRATOR  
RESOLUTION NO. 2023-\*\***

**RESOLUTION OF THE CITY OF ANTIOCH ZONING ADMINISTRATOR  
APPROVING A USE PERMIT (UP2023-0007) FOR A LIQUOR STORE AT 2665  
SOMERSVILLE ROAD (APN 074-432-025).**

**WHEREAS**, the City of Antioch received an application for approval of a Use Permit for the operation of a liquor store with a type 21-Off-Sale General Alcoholic Beverage Control License at 2665 Somersville Road (UP2023-0007) (APN: 076-432-025);

**WHEREAS**, the proposed project is Categorically Exempt from the California Environmental Quality Act (CEQA) under Article 19, Section 15332 Infill Development. Class 32 consists of projects characterized as in-fill development;

**WHEREAS**, a public hearing notice was published in the East County Times and posted in three public places pursuant to California Government Code Section 65090 on for the Zoning Administrator public hearing held on December 14, 2023;

**WHEREAS**, on December 14, 2023, the Zoning Administrator duly held a public hearing on the matter, and received and considered evidence, both oral and documentary and documentary; and

**WHEREAS**, the Zoning Administrator considered all public comments received, the presentation by City staff, the staff report, and all other pertinent documents regarding the proposed request.

**NOW, THEREFORE, BE IT RESOLVED AND DETERMINED**, that the Zoning Administrator hereby make the following findings for approval of the requested Use Permit pursuant to Section 9-5.2703 "Required Findings" (B) (1) (a-e) of the Antioch Municipal Code:

- a. That the granting of such use permit will not be detrimental to the public health or welfare or injurious to the property or improvements in such zone or vicinity.

**Finding:** The project has been designed to comply with the City of Antioch Municipal Code requirements. Operational conditions such as storing cardboard waste and leaving windows uncovered, will minimize impacts. Additionally, this is a relocation of an existing liquor store in the vicinity and will not be increasing the number of liquor stores or Type-21 ABC Licenses in the area. Based upon the conditions imposed, the liquor store will not be detrimental to the public health or welfare or injurious to the property.

- b. That the use applied at the location indicated is properly one for which a use permit is authorized.

**Finding:** The property is Zoned C-3 “Regional Commercial District.” The zoning district allows liquor stores with a use permit.

- c. That the site for the proposed use is adequate in size and shape to accommodate such use, and all yards, fences, parking, loading, landscaping, and other features required.

**Finding:** The project is located in a retail commercial center with a parking lot to serve customers. Other retail stores operate at the center without issue.

- d. That the site abuts streets and highways adequate in width and pavement type to carry the kind of traffic generated by the proposed use.

**Finding:** The project site is located on Somersville Road, a major arterial. The existing road will support traffic generated from the use. The commercial center includes a one-way in driveway and a second two-way directional driveway.

- e. That the granting of such use permit will not adversely affect the comprehensive General Plan because the proposed uses and design are consistent with the General Plan.

**Finding:** The General Plan designation for project site is because the project is consistent with the General Plan land use designation of Regional Commercial within the Western Antioch Commercial Focus Area.

**BE IT FURTHER RESOLVED** that the Zoning Administrator of the City of Antioch does hereby **APPROVE** a Use Permit for the operation of a liquor store with a type 21-Off-Sale General Alcoholic Beverage Control License at 2665 Somersville Road, (UP2023-0007) (APN: 076-432-025); subject to the following conditions:

**A. GENERAL CONDITIONS**

1. The project shall comply with the Antioch Municipal Code. All construction shall conform to the requirements of the California Building Code and City of Antioch standards.
2. The applicant shall defend, indemnify, and hold harmless the City in any action brought by a third party to challenge the land use entitlement. In addition, if there is any referendum or other election action to contest or overturn these approvals, the applicant shall either withdraw the application or pay all City costs for such an election.

3. The project shall be implemented as indicated on the application form and accompanying materials provided to the City of Antioch and in compliance with the Antioch Municipal Code, or as amended by the Zoning Administrator.
4. No building permit will be issued unless the plan conforms to the project description and materials as approved by the Zoning Administrator and the standards of the City.
5. This approval expires two years from the date of approval (expires December 14, 2025), unless a building permit has been approved and construction has diligently commenced, or an extension has been approved by the Zoning Administrator. Requests for extensions must be received in writing with the appropriate fees prior to the expiration of this approval. No more than one, one-year extension shall be granted.
6. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments, and any other payments that are due.
7. This approval supersedes previous approvals that have been granted for this site.

**B FEES**

1. The applicant shall pay all fees as required by the City Council.

**C. AGENCY REQUIREMENTS**

1. All requirements of the Contra Costa Fire District shall be met.
2. All requirements of the Contra Costa Environmental Health Department shall be met.

**D. PROPERTY MAINTENANCE**

1. No illegal signs, pennants, banners, balloons, flags, or streamers shall be used on this site at any time.
2. The site shall be kept clean of all debris (boxes, junk, garbage, etc.) at all times.
3. No signs shall be installed on this site without prior City approval.

**E. PROJECT SPECIFIC CONDITIONS**

1. This use permit approval applies to the operation of a Liquor Store at 2665 Somersville Road, and as depicted on the project plans and materials submitted to the City of Antioch on October 18, 2023.
2. The hours of operation for the convenience store shall be from 8:00 AM – 11:00 PM seven days a week. Any request to modify the hours of operation shall be subject to Zoning Administrator approval.
3. The applicant shall provide a trash enclosure consistent with the requirements of Contra Costa Environmental Health and the City of Antioch Municipal Code. Enclosure details shall be included on the building permit submittal for the project.
4. The project is subject to City of Antioch Municipal Code Section 9-5.3843, regulating the sale of tobacco products and drug paraphernalia.
5. Temporary signs, banners, commercial flags, and similar devices are prohibited, except as individually approved by the Community Development Department.
6. Windows signage (including open/closed signs and business hour signs) shall occupy less than 25% of the windows. Windows shall remain un-tinted to allow law enforcement personnel to have a clear and unobstructed view of the interior of the store.
7. The operator shall store all cardboard and other refuse entirely within the trash dumpsters or within the store.
8. Security surveillance cameras shall be installed and maintained in good working order to provide coverage on a twenty-four (24) hour real-time basis of the store. Cameras shall remain active at all times and be capable of operating under any lighting condition. Security video must use standard industry format to support criminal investigations and shall be maintained for a minimum of sixty (60) days.
9. Pursuant to Section 9-5.2707.1 “Violation, Revocation, Fine” of the Antioch Municipal Code, if there is a violation of the Conditions of Approval, the Planning Commission shall hold a public hearing to consider revocation of the Conditional Use Permit. If the Planning Commission determines that the operation is not in compliance with the Conditions of Approval, there is a public nuisance or otherwise a threat to public health, safety, or welfare, this may result in revocation of or modification to the Use Permit or imposition of a fine.

\* \* \* \* \*

**I HEREBY CERTIFY** that the foregoing resolution was passed and adopted by the Zoning Administrator of the City of Antioch at a regular meeting thereof held on the 14th day of December 2023.

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**KEVIN SCUDERO**  
**ZONING ADMINISTRATOR**

# ATTACHMENT "B"

MARKET  
2665 SOMERVILLE RD.  
ANTIOCH, CA 94509

**TR DESIGNS**  
925-250-8239  
TRACIE@TRINTERIORDESIGNS.COM



REV#	DATE	COMMENTS

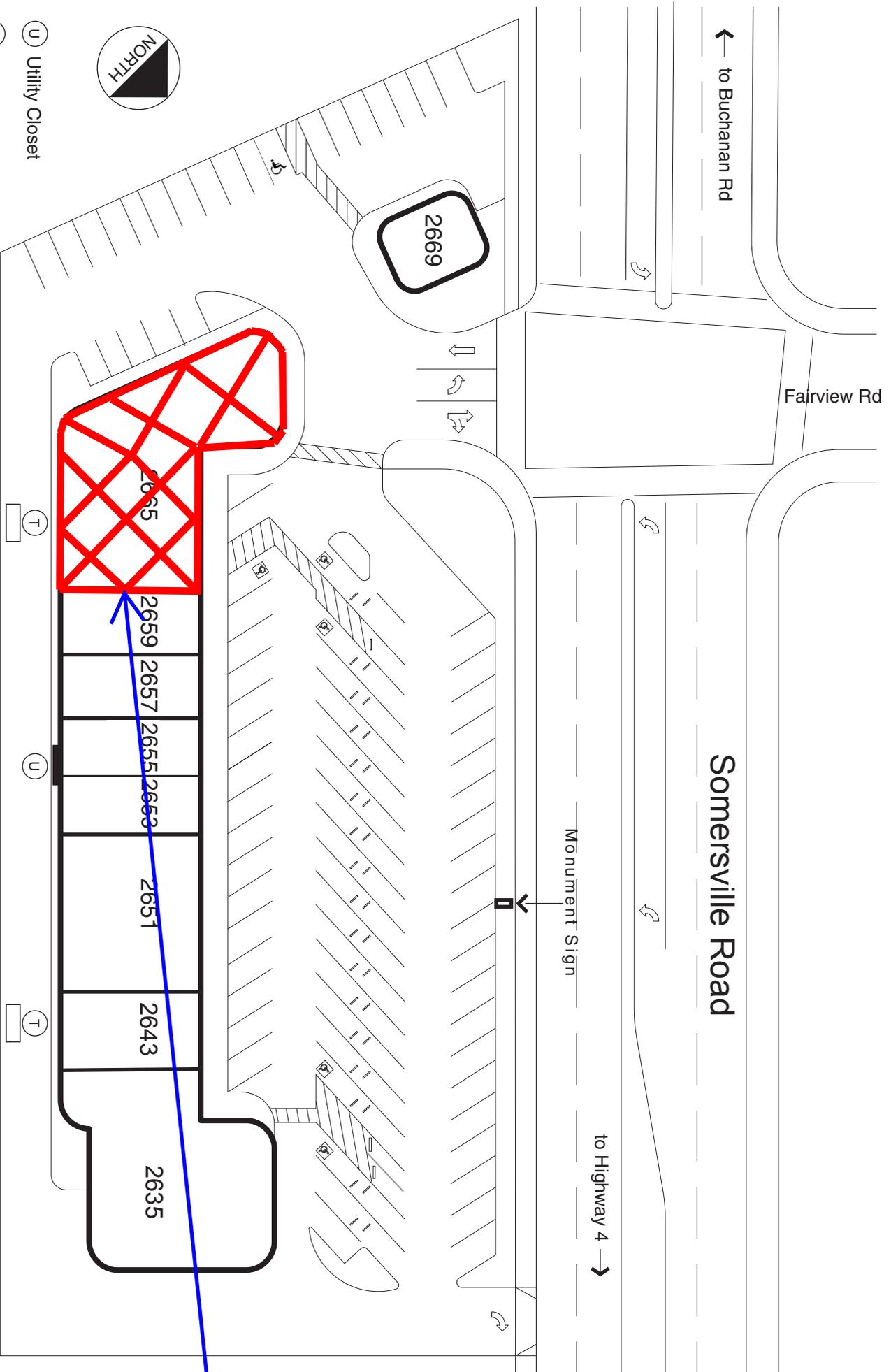
FLOOR PLAN  
PROJECT NUMBER ID1215-15  
DRAWN: TRC CHECKED: TRC  
DATE: 8/1/23 APPROVER: TS  
SCALE: 1/4"=1'-0"

**ID3.0**  
SHEET NUMBER



FLOOR PLAN  
SEE SHEET ID3.1 FOR EQUIPMENT SCHEDULE.  
SCALE 1/4" = 1'-0"

**B1**



**Somersville Plaza**  
 2635-2669 Somersville Road  
 Antioch, California 94509



- 2635 5,940 Square Feet
- 2643 Uppity Space Events Center
- 2651 3,657 Square Feet
- 2653 Braids By Kadi Salon
- 2655 Farmers Insurance
- 2657 Golden Visionary Tattoos
- 2659 Forum Nail Salon
- 2665 4,053 Square Feet
- 2669 1,000 Square Feet

**DEMISED PREMISES**  
 2665 Somersville Road  
 Antioch, CA 94509  
 ± 4,053 Square Feet



333 W. El Camino Real, Suite 240  
 Sunnyvale, CA 94087-1969  
 Phone (408) 331-2300  
 Fax (408) 331-2301

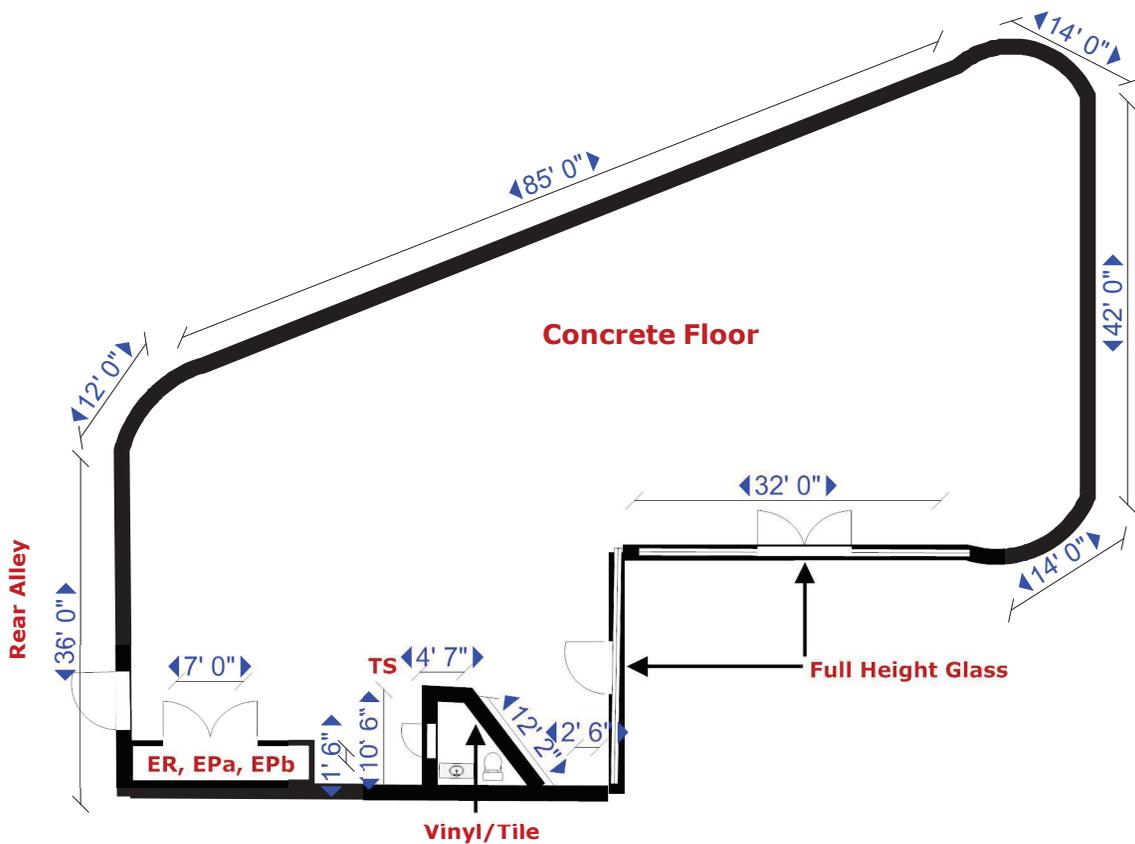
Rev. 05/15/2023

Site plan not to scale and subject to change without notice

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# EXHIBIT A-2

**SOMERSVILLE PLAZA**  
**2665 Somersville Road • Antioch, CA 94509**  
**± 4,053 Square Feet**



- End Cap Unit
- 10' Glass Storefront with Double Entrance Glass Doors
- 100% Drop T-Bar Ceiling 10' AFF
- 2' x 4' Drop-in Fluorescent Lights
- 1 Office
- 1 Restroom
- 1 Large Storage Room
- Rear Door to Secured Fenced Rear Delivery Area
- No Fire Sprinklers
- 2 AC Units
- Separate HVAC
- 2 Electrical Panels A =
- EPA 225A, 3PH, 4W, 208/120V 4Z Circuits
- ER = Electrical Room
- TS = Thermostat
- AFF = 10' Above Finish Floor

Rev. 07/17/2012

The information contained herein has been given to us by the owner of the property or other sources we deem reliable. We have no reason to doubt its accuracy, but we do not guarantee it. All information should be verified prior to purchase or lease. All dimensions are approximate only.



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## **ATTACHMENT "C"**

PROJECT DESCRIPTION. A detailed written summary (on a separate sheet and attached to the application) describing the characteristics of the proposal use including but not limited to hours of operation, type of business and number of employees, calculations of required parking. This information is critical for staff to fully understand your project and how you wish it to operate. Much of this information will be used to explain the project to the reviewing body and to develop conditions for project approval.

Super Wine & Liquor, having served the community for 25 years, is now looking to relocate from Delta Fair Shopping Center due to a recent fire incident that severely impacted and forced the business to shut down. The unfortunate event has led to the decision to demolish the dilapidated shopping center, as determined by the city.

Although Super Wine & Liquor is devastated by the loss of its business, it aims to rebrand and establish itself as a more family-friendly and community-oriented retail storefront. The business will adopt the name 'Black Diamond Market,' inspired by the renowned Black Diamond Mines, to infuse a city-wide ambiance into the Somersville Shopping Center located at 2665 Somersville Road. It is located at the end cap, covering 4,053 square feet, featuring a glass storefront and double glass entrance doors. The space has separate metered utilities and HVAC, a 100% drop t-bar ceiling with 2' X 4' fluorescent lighting fixtures, one restroom, one large storage room, and a rear door.

The store will offer a diverse assortment of products, focusing on healthy grocery items, household goods, candy, confectionery items, snacks, general nutrition, wine, spirits, beer for off-premises consumption, organic soft drinks, fruit juices, mineral and sparkling water, as well as other non-alcoholic beverages typically used as mixers, tobacco products, lottery tickets, and other necessities. The business will allocate 40% space to grocery and coffee offering, 35% of the space to spirits.

Store hours will run from 8am to 11pm. Black Diamond Market will have a staff of 5 employees overseeing day-to-day operations. One of the notable advantages of our new location is the ample parking availability at the Somersville Shopping Center. You'll find convenient parking spaces on both the left and right sides of the entrance, making it easy and hassle-free for you to visit and shop at Black Diamond Market.