

AGENDA NO. 5

PLANNING COMMISSION



STAFF REPORT

DATE: January 10, 2011

TO: Chairperson and Members of the Planning Commission

FROM: Development Services Department/Planning Division

SUBJECT: **CONSIDERATION OF A CONDITIONAL USE PERMIT (CUP10-00036) TO OPERATE AN EXISTING RETAIL STORE AND PHARMACY 24-HOURS LOCATED AT 4181 OCEANSIDE BOULEVARD – WALGREENS 24-HOUR SERVICE – APPLICANT: TATUM COLLEGE & OCEANSIDE LLC.**

RECOMMENDATION

Staff recommends that the Planning Commission by motion:

- (1) Confirm issuance of a Class 1 categorical exemption for “Existing Facilities”; and, Adopt Planning Commission Resolution No. 2011-P02 approving Conditional Use Permit (CUP10-00036) with findings and conditions of approval attached herein.

PROJECT DESCRIPTION AND BACKGROUND

Background: On November 16, 2009 the Planning Commission adopted Resolution No. 2009-P50 approving the demolition of a service station for the construction of a 13,740-square foot retail building known as Walgreens located at 4181 Oceanside Boulevard. The Walgreens retail store and pharmacy has been recently open for business and is operating from morning hours to 10:00 p.m.

The subject site is located within the existing Del Oro Marketplace shopping center at the south west corner of the Oceanside Boulevard and College Boulevard intersection.

Site Review: The project site is located at the south west corner of the Oceanside and College Boulevard intersection within the Ivey Ranch/Rancho Del Oro Neighborhood. The Walgreens site is just north of the NCTD Sprinter tracks and the project site is approximately 1.18 acres in size. The subject site has a General Plan Land Use Designation of General Commercial (GC) and is Zoned Commercial General (CG).

Surrounding land uses adjacent to the site include an existing commercial center on all three of the other corners of the intersection, with a variety of residential uses further south along College Boulevard, and east on Oceanside Boulevard.

Project Description: The project application is comprised of the following component:

Conditional Use Permits (CUP10-00036) represents a request for the following:

- (a) A conditional use permit to allow an existing retail business and pharmacy known as Walgreens to extend their business operations to 24 hours per day seven days a week. The previous Development Plan (D-2-09) enabled the construction and the operation of Walgreens to only conduct business from 8:00 a.m. to 10:00 p.m. each day. The applicant wishes to operate 24 hours to provide the needed services to the community and provide 24-hour availability for the pharmacy.

The project is subject to the following Ordinances and City Policies:

- 1. General Plan Land Use Element
- 2. Zoning Ordinance
- 3. California Environmental Quality Act (CEQA)

ANALYSIS

KEY PLANNING ISSUES

1. General Plan Conformance

The General Plan Land Use Map designation for the subject property is Special Commercial (SC). The proposed land use is consistent with this land use designation and the goals and objectives of the City's General Plan as follows:

A. Land Use Element

Goal 1.11: Balanced Land Use

Objective: To develop and use lands for the long-term provision of a balanced, self-sufficient, and efficient community.

Policy B: The City shall analyze proposed land uses for assurance that the land use will contribute to the proper balance of land uses within the community or provide a significant benefit to the community.

The proposed Conditional Use Permit would allow a retail store to operate on a 24-hour basis. The project has been conditioned to ensure that the use would be consistent with the General Plan, and compatible with the surrounding neighborhood. The 24-hour operations would not impact the welfare of persons or properties working, residing, or otherwise existing in the adjacent neighborhood areas. The Walgreens location and the proposed business hours would not pose a negative impact, due to the ample distance from residential properties and other business in the area. The Walgreen building is located within its own parcel and all parking and operations shall be provided on site, so impacts to adjoining uses shall be minimal to none.

Section 1.15 Public Safety

Objective: To ensure an acceptable level of public safety for the prevention and reduction of loss of life and personal property of the citizens and visitors of Oceanside.

Policy A: The City shall continually evaluate the acceptable level of risk to the public health, safety, and general welfare, and adjust policies accordingly.

The proposed use is subject to and must comply with specific local conditions as specified in the Municipal Code and the by the Oceanside Police Department; such as, providing on site security.

The Drug Store will be equipped with a 24-hour hotline to call in security issues as well as all maintenance and appearance issues, if problems arise. The store will have a digital security system that records 24 hours a day. All employees will be trained on Walgreens Operation alert and come of age programs that provide guidelines and procedures in handling age restricted sales as well as coping with security issue.

2. Zoning Ordinance Compliance

The project site is situated within the Commercial General (CG) zoning district, and within the Del Oro Marketplace shopping center. By ordinance, a conditional use permit is required for the operation of a 24-hour convenience store or business selling beer and wine. The original Development conditions for Walgreen limited the hours of operation from 6:00 a.m. to 12:00 p.m., so any deviation in the hours-of-operation would require a new Conditional Use Permit. The project site is meeting the parking regulation of one space per 200 square feet with the provided parking on site.

DISCUSSION

Issue: Compatibility with surrounding land uses.

Recommendation: The Oceanside Zoning Ordinance requires a conditional use permit for businesses that wish to revise their established business hours in the Development Plan resolution. The previous Development Plan (D-2-09) and Conditional Use Permit (C-8-09) only approved Walgreen's operations from 6:00 a.m. to 12:00 p.m. Therefore the

proposed Conditional Use Permit (CUP10-00036) would allow the revision to the approved hours-of-operation to extend to 24 hours daily. It has been determined that Walgreens' 24-hour operations will not be detrimental to the Del Oro Market Place Shopping Center and will be compatible with the surrounding neighborhoods. The proposed use would be the only use within a ¼ mile radius that would operate on a 24-hour basis, so parking and traffic impacts would be minimal. The proposed use would provide the drug store convenience and the retail availability to the neighboring residences. The conditions placed on the use permit will further ensure the protection of general public health and well-being.

ENVIRONMENTAL DETERMINATION

The project is subject to a Class 1 categorical exemption for "Existing facilities" pursuant to Section 15301(a) of the California Environmental Quality Act.

PUBLIC NOTIFICATION

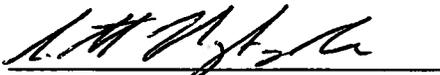
Legal notice was published in the North County Times and notices were sent to property owners of record and occupants within a 1,500-foot radius of the subject property, to individuals and organizations requesting notification, and to the applicant. As of January 10, 2011, staff has not received comments on the proposed land use.

SUMMARY

The proposed Conditional Use Permits (CUP10-00036), as conditioned, is consistent with the land use policies of the General Plan and the requirements of the Zoning Ordinance. The approval of the 24-hour operation for Walgreens will provide the availability needed for typical drug store operations. As such, staff recommends that the Planning Commission approve the project based on the findings, and subject to the conditions, contained in the attached Resolution. Staff recommends that the Planning Commission:

- Confirm issuance of a Class 1 categorical exemption for "Existing Facilities" and adopt Planning Commission Resolution No. 2011-P02 approving Conditional Use Permit (CUP10-00036) with findings and conditions of approval attached herein.

PREPARED BY:



Scott Nightingale
Planner II

SUBMITTED BY:



Jerry Hittleman
City Planner

JH/SN/fil

Attachments:

1. Site plans, elevations
2. Planning Commission Resolution No. 2011-P02
3. Statement of Justification – 24 Hour Operation

1 PLANNING COMMISSION
2 RESOLUTION NO. 2011-P02

3 A RESOLUTION OF THE PLANNING COMMISSION OF THE
4 CITY OF OCEANSIDE, CALIFORNIA APPROVING A
5 CONDITIONAL USE PERMIT ON CERTAIN REAL PROPERTY
IN THE CITY OF OCEANSIDE

6 APPLICATION NO: CUP10-00036
7 APPLICANT: Tatum College & Oceanside LLC
8 LOCATION: 4181 College Blvd.

9 THE PLANNING COMMISSION OF THE CITY OF OCEANSIDE, CALIFORNIA DOES
10 RESOLVE AS FOLLOWS:

11 WHEREAS, there was filed with this Commission a verified petition on the forms
12 prescribed by the Commission requesting Conditional Use Permit under the provisions of Articles
13 11, and 41 of the Zoning Ordinance of the City of Oceanside to permit the following:

14 to operate an existing commercial drug store 24 hours;
15 on certain real property described in the project description.

16 WHEREAS, the Planning Commission, after giving the required notice, did on the 10th day
17 of January 2011 conduct a duly advertised public hearing as prescribed by law to consider said
18 application.

19 WHEREAS, pursuant to the California Environmental Quality Act of 1970, and State
20 Guidelines thereto; this project is not subject to CEQA per Article 19 Section 15332 and therefore,
21 the project is exempt from CEQA;

22 WHEREAS, the current fees referenced above are merely fee amount estimates of the
23 impact fees that would be required if due and payable under currently applicable ordinances and
24 resolutions, presume the accuracy of relevant project information provided by the applicant, and are
25 not necessarily the fee amount that will be owing when such fee becomes due and payable;

26 WHEREAS, unless otherwise provided by this resolution, all impact fees shall be calculated
27 and collected at the time and in the manner provided in Chapter 32B of the Oceanside City Code
28 and the City expressly reserves the right to amend the fees and fee calculations consistent with
applicable law;

1 WHEREAS, the City expressly reserves the right to establish, modify or adjust any fee,
2 dedication, reservation or other exaction to the extent permitted and as authorized by law;

3 WHEREAS, pursuant to Gov't Code §66020(d)(1), NOTICE IS FURTHER GIVEN that
4 the 90-day period to protest the imposition of any fee, dedication, reservation, or other exaction
5 described in this resolution begins on the effective date of this resolution and any such protest must
6 be in a manner that complies with Section 66020;

7 WHEREAS, pursuant to Oceanside Zoning Ordinance §4603, this resolution becomes
8 effective 10 days from its adoption in the absence of the filing of an appeal or call for review;

9 WHEREAS, studies and investigations made by this Commission and in its behalf
10 reveal the following facts:

11 FINDINGS:

12 For the Conditional Use Permit for 24-hour operations and revision to the approved business
13 hours for a drug store:

- 14 1. The location of the drug store is within the General Commercial (CG) zone is in accord
15 with the objectives of the Zoning Ordinance and the purposes of the district in which the
16 site is located.
- 17 2. The proposed use will not be detrimental to properties or improvements in the vicinity or
18 to the general welfare of the City.
- 19 3. The 24-hour operation is conditioned and is required to comply with all provisions of the
20 Zoning Ordinance. The proposed use is subject to specific operational conditions that
21 will cause the use to operate compatibly with the surrounding land uses.

22 NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby
23 approve Conditional Use Permit (CUP10-00036) subject to the following conditions:

24 Building:

- 25 1. Applicable Building Codes and Ordinances shall be based on the date of submittal for
26 Building Division plan check. (As of January 1, 2008 the 2007 California Building
27 Code, and 2007 California Electrical Code)
- 28 2. The granting of approval under this action shall in no way relieve the applicant/project
from compliance with all State and Local building codes.

1 3. Tenant Improvements or other construction to the existing building requires permits
2 (including all required Inspections and approvals, and Issuance of Certificate of Occupancy)
3 from the Building Division.

4 **Planning:**

5 4. The Conditional Use Permit (CUP10-00036) shall expire on January 10, 2013 unless the use
6 is established, the use permits are extended, or a certificate of occupancy has been issued.

7 5. A covenant or other recordable document approved by the City Attorney shall be prepared
8 by the applicant and recorded prior to issuance of a business license. The covenant shall
9 provide that the property is subject to this resolution, and shall generally list the conditions
10 of approval.

11 6. The project shall prepare a Management Plan. The Management Plan is subject to the
12 review and approval of the City Planner and the Police Chief prior to the occupancy of the
13 project, and shall be recorded as CC&R's against the property. The Management Plan shall
14 cover the following:

15 a) Security - The Management Plan, at a minimum, shall address on-site management,
16 hours-of-operation and measures for providing appropriate security for the project
17 site.

18 b) Maintenance - The Management Plan shall cover, but not be limited to anti-
19 graffiti and site and exterior building, landscaping, parking lots, sidewalks,
20 walkways, and overall site maintenance measures and shall ensure that a high
21 standard of maintenance at this site exists at all times. The maintenance portion
22 of the management plan shall include a commitment for the sweeping and
23 cleaning of parking lots, sidewalks and other concrete surfaces at sufficient
24 intervals to maintain a "like new" appearance. Wastewater, sediment, trash or
25 other pollutants shall be collected on-site and properly disposed of and shall not
26 be discharged off the property or into the City's storm drain system.

27 c) Any graffiti on the Walgreens site shall be removed by the management of
28 Walgreens or its designated representative within 24 hours of occurrence. Any new
paint used to cover graffiti shall match the existing color scheme.

1 d) Failure to meet any conditions of approval for this development shall constitute a
2 violation for the Conditional Use Permits.

3 7. At any time the premise causes policing problems, the Police Department may recommend
4 the licensee to furnish security personnel during the times identified by the Police
5 Department. If after such recommendation the licensee does not take steps to control
6 policing problems, the Police Department may require the licensee to furnish security
7 personnel during times identified by the Police Department.

8 8. The premises shall be maintained primarily as a drug store with a pharmacy, which sells
9 convenience store items and the annual sales of alcoholic beverages shall not exceed 25
10 percent of the quarterly annual sale of all other products (beer and wine only).

11 9. No more than 25 percent of total shelf space may be devoted to the display and sale of
12 alcoholic beverages (beer and wine only).

13 10. Prior to the transfer of ownership and or operation of the site the owner shall provide a
14 written copy of the applications, staff report and resolutions for the project to the new
15 owner and or operator. This notification's provision shall run with the life of the project
16 and shall be recorded as a covenant on the property.

17 11. Unless expressly waived, all current zoning standards and City ordinances and policies in
18 effect at the time building permits are issued are required to be met by this project. The
19 approval of this project constitutes the property owner's and developer's agreement with
20 all statements in the Description and Justification, and other materials and information
21 submitted with this application, unless specifically waived by an adopted condition of
22 approval.

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1 12. The hours-of-operation for retail sales within the commercial retail store will be 24 hours
2 and will be subject to review by the Planning Commission if complaints are evident.

3 PASSED AND ADOPTED Resolution No. 2011-P02 on January 10, 2011 by the following vote,

4 to wit:

5 AYES:

6 NAYS:

7 ABSENT:

8 ABSTAIN:

9
10 _____
11 Robert Neal, Chairperson
12 Oceanside Planning Commission

13 ATTEST:

14 _____
15 Jerry Hittleman, Secretary

16 I, JERRY HITTLEMAN, Secretary of the Oceanside Planning Commission, hereby certify that
17 this is a true and correct copy of Resolution No. 2011-P02.

18 Dated: January 10, 2011

19
20 Applicant accepts and agrees with all conditions of approval and acknowledges impact fees may
21 be required as stated herein:

22 _____
23 Date: _____
24
25
26
27
28

LEGAL DESCRIPTION

Real property in the City of Oceanside, County of San Diego, State of California, described as follows:

PARCEL A:

PARCEL 1 OF PARCEL MAP NO. 15456, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 15, 1988 AS FILE NO. 88- 587281 OF OFFICIAL RECORDS.

PARCEL B:

AN EASEMENT FOR SEWER PURPOSES OVER, UNDER, ALONG AND ACROSS THAT PORTION OF PARCEL 2 OF SAID PARCEL MAP NO. 15456, LYING WITHIN THE AREA DELINEATED AND DESIGNATED THEREON "PROPOSED 10' PRIVATE SEWER EASEMENT".

PARCEL C:

A NON-EXCLUSIVE RECIPROCAL EASEMENT FOR PURPOSES OF INGRESS, EGRESS, PARKING, PASSAGE AND DELIVERY BY VEHICLES AND PEDESTRIANS, OVER AND ACROSS PARCEL 2 OF PARCEL MAP 15456, IN THE CITY OF OCEANSIDE, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, NOVEMBER 15, 1988 AS SET FORTH IN THOSE CERTAIN DECLARATION ESTABLISHING COVENANTS, CONDITIONS AND RESTRICTIONS AND GRANT OF RECIPROCAL EASEMENTS RECORDED MARCH 7, 1988 AS FILE NO. 88-102824 OF OFFICIAL RECORDS.

APN: 162-241-18-00



NOTICE OF EXEMPTION

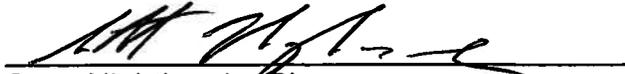
City of Oceanside, California

Post Date:
Removal:
(180 days)

1. **APPLICANT:** Tatum College & Oceanside, LLC.
2. **ADDRESS:** 3500 JFK Pkwy., Ste. 203 Ft. Collins, Co. 8-525
3. **PHONE NUMBER:** 970-282-1038
4. **LEAD AGENCY:** City of Oceanside
5. **PROJECT MGR.:** Scott Nightingale, Planner
6. **PROJECT TITLE:** CUP10-00036 Walgreen 24-Operation
7. **DESCRIPTION:** A Conditional Use Permit (CUP10-00036) to allow an existing retail and pharmacy store to operate 24-hours located at 4181 Oceanside Boulevard. The project site is within an existing shopping center, has a General Plan Land Use Designation of General Commercial (GC) with a zoning designation of Commercial General (CG), and is situated within the Ivey Ranch/Rancho Del Oro Neighborhood Planning Area.

ADMINISTRATIVE DETERMINATION: Planning Division staff has completed a preliminary review of this project in accordance with the City of Oceanside's Environmental Review Guidelines and the California Environmental Quality Act (CEQA), 1970. Based on that review, the Environmental Coordinator finds that the proposed project is generally for an internal modification of an existing building, with a parking lot modification. Therefore, the Environmental Coordinator has determined that further environmental evaluation is not required because:

- Per Article 19, the project is categorically exempt, in accordance with Section 15301, Existing Facilities, Class 1 (a), interior or exterior alterations involving such things as interior partitions, plumbing and electrical conveyances.
- "The activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA" (Section 15061(b)(3)); or,
- The project is statutorily exempt, Section ____, [name of section] (Section xxxxx); or,
- The project does not constitute a "project" as defined by CEQA (Section 15378).


Scott Nightingale, Planner

Date: 1/10/11

**PHARMACY
USE PERMIT
STATEMENT OF JUSTIFICATION –24 HOUR OPERATION
Retail Pharmacy
4181 Oceanside Boulevard**

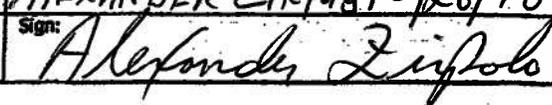
Pursuant to Zoning Ordinance 4105 this letter is to address the request for a Conditional Use Permit to allow the operation of a retail building 24 hours per day.

1. The location, size, design or operating characteristics of the proposed project will not be incompatible with and will not adversely affect and will not be material detrimental to adjacent uses, residences, buildings, structures or natural resources as the project is self contained within the proposed parcel and utilizes existing vehicular access points. The proposed use is at a major intersection and will provide services to the communities that are often needed by consumers during non-traditional hours.

Additionally:

- a. The site plan and physical design of the project as proposed is consistent with the purposes of the Zoning Ordinance. The project is consistent with the design of other developments in the CG zone district.
 - b. The proposed location and operation of the Pharmacy is consistent with the General Plan and the GC designation. The operation of the retail building on a 24-hour basis will not be detrimental to the public, health, safety or welfare of the persons working in the building. The adjacent neighborhood should not be affected by the operations over a 24-hour period as the proposed use is buffered to the residential by existing commercial services. The operation of this retail business will not be detrimental to the properties or improvements in the vicinity or general welfare of the City as the parking lot will be lighted to the municipal standards during times the building is in operation and the services offered are general retail and medical related services.
 - c. The Site Plan and physical design is consistent with the policies and requirements of the zoning ordinance. The project utilizes the existing topography of the commercial center and the project design is consistent with similar projects with the same land use designation. Upon determination of any specific conditions related to the Conditional Use Permit for this project a conclusion can be reached to affirm those conditions.
2. The impacts of the proposed project will not adversely affect the policies of the Oceanside General Plan or the provisions of the code.
 3. The project complies with all other regulations, conditions or policies imposed by the Code.
 4. No variances are proposed with the proposed Development Plan.

Walgreens @ 4181 Oside Blvd.

| | | | | | |
|--|--|--|--|---|--|
|  <p>Application for Public Hearing Community Development Department / Planning Division (760) 435-3520 Oceanside Civic Center 300 North Coast Highway Oceanside, California 92054-2885</p> | | | | STAFF USE ONLY ACCEPTED | |
| | | | | 11/3/10 | |
| Please Print or Type All Information | | | | HEARING | |
| PART I - APPLICANT INFORMATION | | | | GPA | |
| 1. APPLICANT Tatum College & Oceanside, LLC | | 2. STATUS Developer | | MASTER/SP.PLAN | |
| 3. ADDRESS 3500 JFK Pkwy, Ste 203 Ft Collins CO 80525 | | 4. PHONE/FAX/E-mail 970 282 1038 P 970 283 3710 F | | ZONE CH. | |
| 5. APPLICANT'S REPRESENTATIVE (or person to be contacted for information during processing) Dillon Tidwell dtidwell@tatumcc.com | | | | TENT. MAP | |
| 6. ADDRESS Same | | 7. PHONE/FAX/E-mail | | PAR. MAP | |
| PART II - PROPERTY DESCRIPTION | | | | DEV. PL. | |
| 8. LOCATION 4181 Oceanside Blvd | | | 9. SIZE 1.19 acres | | |
| 10. GENERAL PLAN GC | 11. ZONING CG | 12. LAND USE Walgreen | 13. ASSESSOR'S PARCEL NUMBER 162-241-18 | | |
| PART III - PROJECT DESCRIPTION | | | | C.U.P. CUP10-00036 | |
| 14. GENERAL PROJECT DESCRIPTION Conditional use permit application to allow the Walgreens store to operate 24 hours per day. The Walgreens store was previously approved under D-2-09 and C-3-09. | | | | | |
| 15. PROPOSED GENERAL PLAN GC | 16. PROPOSED ZONING CG | 17. PROPOSED LAND USE Pharmacy Retail | 18. NO. UNITS | 19. DENSITY | |
| 20. BUILDING SIZE 13,740 | 21. PARKING SPACES 44 w/ access to Del. Dr. | 22. % LANDSCAPE 23.2% | 23. % LOT COVERAGE or FAR 21.11% | | |
| PART IV - ATTACHMENTS | | | | | |
| 24. DESCRIPTION/JUSTIFICATION | | 25. LEGAL DESCRIPTION | | 26. TITLE REPORT | |
| 27. NOTIFICATION MAP & LABELS | | 28. ENVIRONMENTAL INFO FORM | | 29. PLOT PLANS | |
| 30. FLOOR PLANS AND ELEVATIONS | | 31. CERTIFICATION OF POSTING | | 32. OTHER (See attachment for required reports) | |
| PART V - SIGNATURES | | | | | |
| 33. APPLICANT OR REPRESENTATIVE (Print): Dillon Tidwell | | 34. DATE 10/25/10 | SIGNATURES OF ALL OWNERS OF THE SUBJECT PROPERTY ARE NECESSARY BEFORE THE APPLICATION CAN BE ACCEPTED. IN THE CASE OF PARTNERSHIPS OR CORPORATIONS, THE GENERAL PARTNER OR CORPORATION OFFICER SO AUTHORIZED MAY SIGN. (ATTACH ADDITIONAL PAGES AS NECESSARY). | | |
| Sign:  | | 35. OWNER (Print): ALEXANDER ZIRPOLI | 36. DATE 10/26/10 | | |
| I DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE INFORMATION IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. | | Sign:  | | | |

PROJECT DESCRIPTION OF 24 HOUR OPERATION

Retail Pharmacy
4181 Oceanside Blvd

This planned Walgreens store previously approved under D-2-09 and C-8-09 proposes to open for 24 hour commercial operation. No other modifications to the previously approved cases are proposed. With the 24 hour operation the store will operate as it does during normal business hours. The site will be lighted and the parking lot monitored by the store employees to ensure a safe environment for its customers. All parts of the store are intended to be open to facilitate the sale of general retail merchandise and pharmacy services. It is intended that the vehicular drive thru will be open for its pharmacy services.