

CITY OF LONG BEACH

H-1

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 4th Floor Long Beach, CA 90802 (562) 570-5237 Fax: (562) 570-6205

July 24, 2012

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Recommendation to receive the supporting documentation into the record, conclude the public hearing, consider the applicant's appeal, and either:

- (1) uphold the decision of the Planning Commission to deny a Conditional Use Permit request for the sale of beer and wine for off-site consumption (Type 20 license) at an existing convenience store located at 1030 East Pacific Coast Highway within the Commercial Highway zone; or
- (2) approve the Conditional Use Permit request for the sale of beer and wine for off-site consumption (Type 20 license) at an existing convenience store located at 1030 East Pacific Coast Highway within the Commercial Highway zone. (District 6)

DISCUSSION

An application for a Conditional Use Permit (CUP) was received on February 22, 2012 for the sale of beer and wine for off-site consumption (Type 20 license) at an existing convenience store located at 1030 East Pacific Coast Highway. The subject site is located within the Commercial Highway (CHW) zone and is developed with a total building area of 3,500 square feet, along with 14 parking spaces (Exhibit A – Plans & Photographs).

On May 17, 2012, planning staff recommended approval of the CUP application to the Planning Commission. After taking public testimony and discussing the proposed application in detail, the Planning Commission voted unanimously to overturn staff's recommendation, directed staff to prepare findings for denial of the CUP, and continued the request to the June 7, 2012 Planning Commission hearing. At the June 7, 2012 Planning Commission hearing, after additional public testimony and discussion, the Planning Commission voted unanimously to deny the CUP request, in part because the proposed use was within 500 feet of the Long Beach Polytechnic High School administrative building. The Planning Commission decision was appealed on June 12, 2012 (Exhibit B – Appeal). The Appellant contends that the use would be appropriate for the area.

Any time a decision of the Planning Commission is appealed to the City Council, staff is required to provide the City Council with the Planning Commission's decision on the matter. The Planning Commission's decision to deny the CUP and the findings supporting that decision are attached provided herein (Exhibit C – Denial Findings). Conversely, should

the City Council wish to overturn the decision of the Planning Commission and sustain the appeal, staff has prepared the appropriate findings for such a decision based on staff's original recommendation (Exhibit D). This will provide the City Council flexibility to either uphold the Planning Commission's decision to deny the request, or overturn the decision and uphold planning staff's recommendation for approval.

This matter was reviewed by Assistant City Attorney Michael Mais on June 29, 2012 and by Budget Management Officer Victoria Bell on July 3, 2012.

TIMING CONSIDERATIONS

The Municipal Code requires City Council action within 60 days of receiving an application for appeal. The subject appeal was received on June 12, 2012.

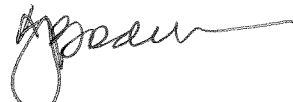
FISCAL IMPACT

There is no fiscal impact and no job impact as a result of the recommended action.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:



PATRICK H. WEST
CITY MANAGER

AJB:DB:JR
P:\ExOfc\CC\7.24.12 Appeal 1030 E.PCH v3.doc

Attachments: Exhibit A- Plans and Photographs
Exhibit B- Appeal
Exhibit C- Denial Findings adopted by Planning Commission (6/7/2012)
Exhibit D- Original Findings for approval of CUP and Conditions of Approval (5/17/2012)

EXHIBIT A

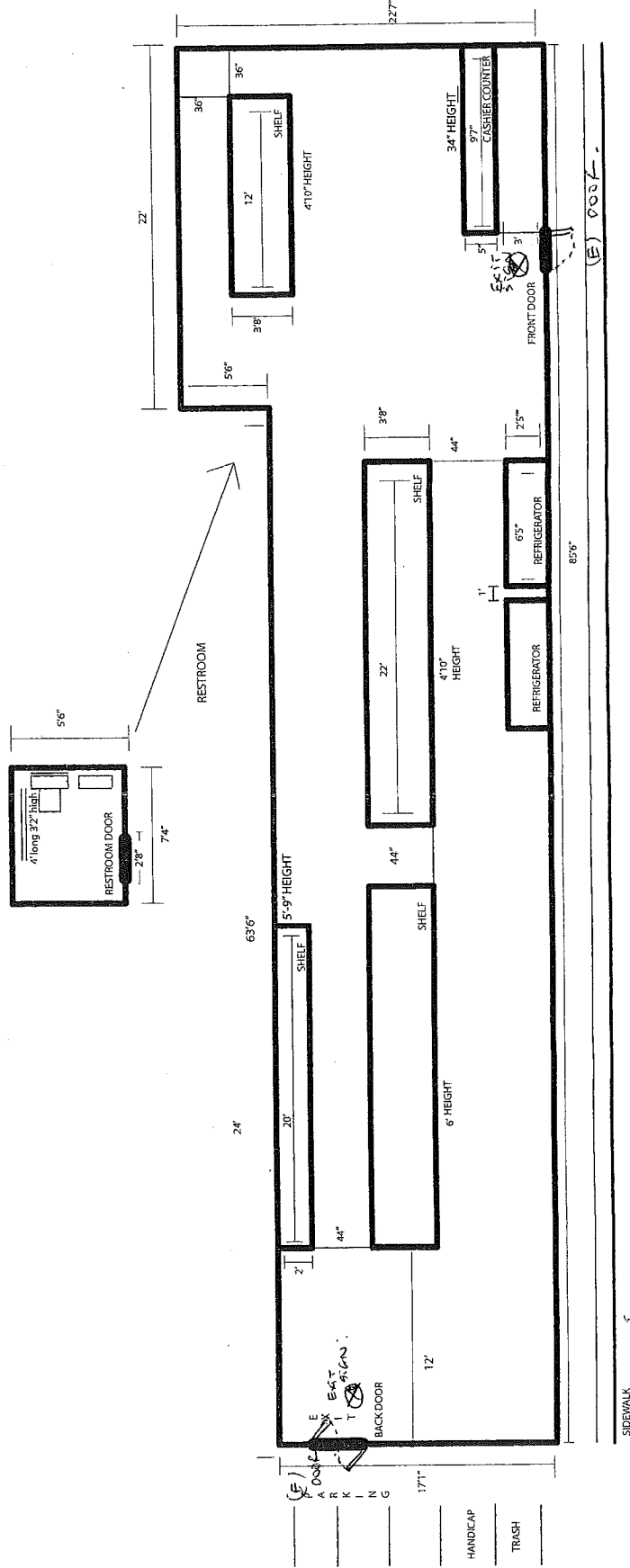
WORLD MARKET
 1030 EAST PACIFIC COAST HIGHWAY
 LONG BEACH, CA 90806

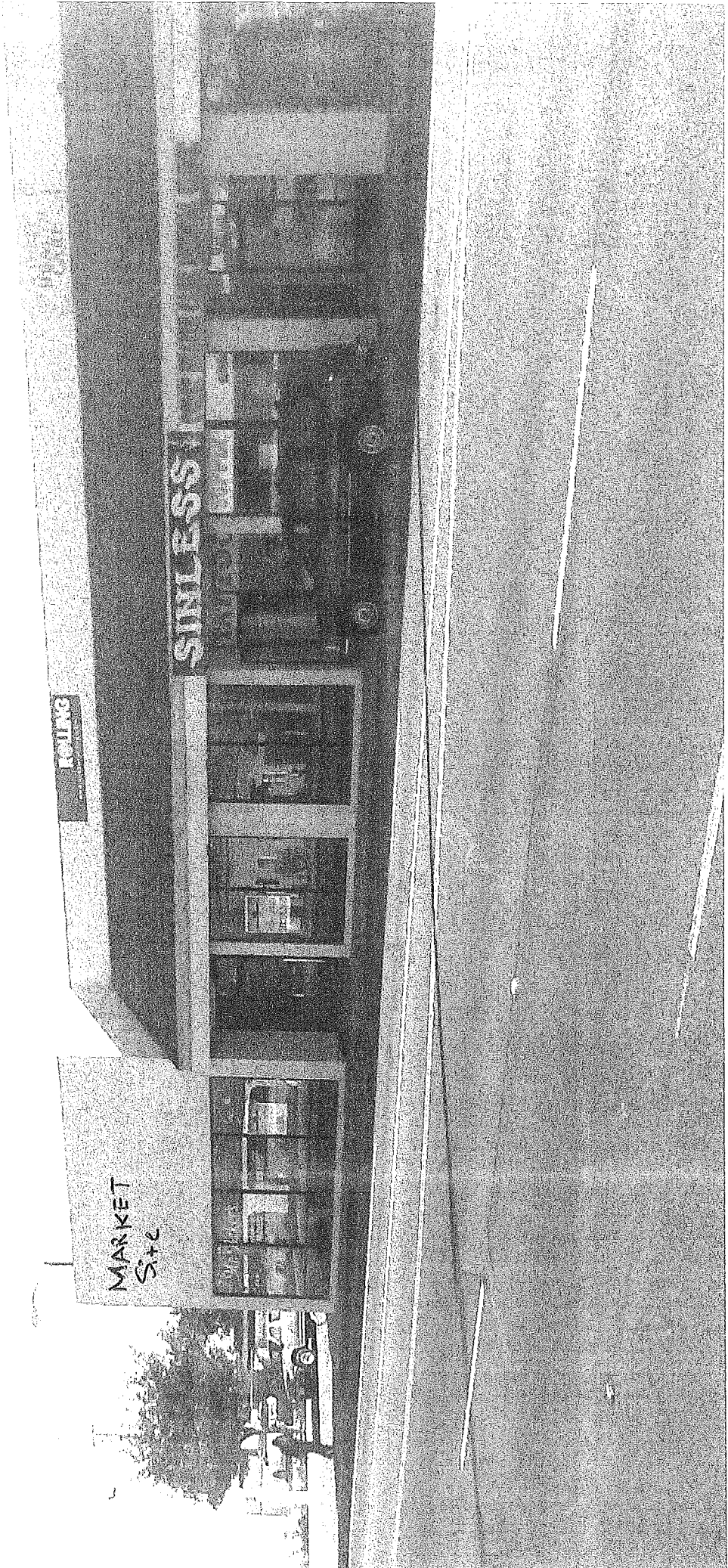
FLOOR PLAN

-PLAN DRAWN TO SCALE 1/4" PER FT

SCOPE OF WORK

-CHANGE OF USE FROM BARBER SHOP TO MARKET





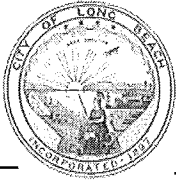


Exhibit B

CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5th Floor Long Beach, CA 90802 (562) 570-6194 FAX (562) 570-6068

PLANNING BUREAU

APPLICATION FOR APPEAL

An appeal is hereby made to Your Honorable Body from the decision of the

<input type="checkbox"/> Zoning Administrator	on the <u>7th</u> day of <u>June</u> , 20 <u>12</u>
<input checked="" type="checkbox"/> Planning Commission	
<input type="checkbox"/> Cultural Heritage Commission	
<input type="checkbox"/> Site Plan Review Committee	

Project Address: 1030 E. PCH, Long Beach, CA

Reasons for Appeal: _____

Reconsider application and accept findings originally proposed by Staff.

Your appellant herein respectfully requests that Your Honorable Body **reject** the decision and **Approve** / **Deny** this application.

	Appellant 1	Appellant 2
Name:	<u>Joyce Frazier</u>	
Organization:		
Address:	<u>1777 Lewis Ave.</u>	
City/ZIP:	<u>Long Beach 90813</u>	
Phone:	<u>(562) 599-5525</u>	
Signature:	<u>Joyce Frazier</u>	
Date:	<u>6/12/12</u>	

- A separate appeal form is required for each appellant party, except for appellants from the same address, or those representing an organization.
- Appeals must be filed within 10 days after the decision is made (LBMC 21.21.502).
- You must have established *aggrieved* status by presenting oral or written testimony at the hearing where the decision was rendered; otherwise, you may not appeal the decision.
- See reverse of this form for the statutory provisions on the appeal process.

(Below This Line for Staff Use Only)

Appeal by Applicant, or Appeal by Third Party

Received by: cf App. No.: 1202-18 Filing Date: 6/12/12

Fee: \$ Fee Paid Project (receipt) No.: _____

**CONDITIONAL USE PERMIT
FINDINGS**

**1030 E. Pacific Coast Highway
Application No. 1202-18
June 7, 2012**

Pursuant to Section 21.25.206 of the Long Beach Municipal Code, a Conditional Use Permit can be granted only when positive findings are made consistent with the following criteria set forth in the Zoning Ordinance. These findings and staff analysis are presented for consideration, adoption and incorporation into the record of proceedings:

- 1. THE APPROVAL IS CONSISTENT WITH AND CARRIES OUT THE GENERAL PLAN, ANY APPLICABLE SPECIFIC PLANS SUCH AS THE LOCAL COASTAL PROGRAM AND ALL ZONING REGULATIONS OF THE APPLICABLE DISTRICT;**

The project site is located in Land Use District #8N – Shopping Nodes Strip. LUD #8N is intended to accommodate retail and service uses exclusively, primarily in small clusters with vital activity centers. The existing convenience store is identified as consistent with the requirements of this district, therefore the principal use of the site is consistent with the General Plan. No specific plan applies to the subject site. The request is to allow the sale of beer and wine for off-site consumption at an existing convenience store which is consistent with requirements of the plan. The project is consistent with the zoning regulations of the CHW zoning district, as the off-site sale of alcoholic beverages at an existing convenience store is allowed through the Conditional Use Permit process in this district.

- 2. THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE SURROUNDING COMMUNITY INCLUDING PUBLIC HEALTH, SAFETY OR GENERAL WELFARE, ENVIRONMENTAL QUALITY OR QUALITY OF LIFE; AND**

In accordance with the California Environment Quality Act (CEQA) and the CEQA Guidelines, a Categorical Exemption (CE 12-010) was prepared for this project and is attached for your review.

The addition of off-site beer and wine sales at an existing convenience store could be detrimental to the surrounding community. With the proximity of Long Beach Polytechnic High School approximately 350 feet away from the proposed site, the potential exists for sales of beer and wine to students who are under age, potentially creating a health and safety problem to the surrounding community.

- 3. THE APPROVAL IS IN COMPLIANCE WITH THE SPECIAL CONDITIONS FOR SPECIFIC CONDITIONAL USES, AS LISTED IN CHAPTER 21.52.**

Section 21.52.210 states that the following conditions shall apply to all alcoholic beverages sales uses requiring a conditional use permit:

- A. The operator of the use shall provide parking for the use equivalent to the parking required for new construction regardless of the previous use as to legal nonconforming rights.**

The existing building is approximately 3,500 square feet in size. Per zoning code section 21.41.216, parking for a retail store is at (4) spaces per 1,000 square feet of floor area. The current establishment has (14) parking spaces and conforms to current code.

- B. The operator of the use shall provide night lighting and other security measures to the satisfaction of the Chief of Police.**

Staff consulted with the Long Beach Police Department on this application. The LBPD did not have any objections to the request and felt the security measures and lighting in place on the site were sufficient and they did not request any specific upgrades to the site as a condition of approval.

- C. The operator of the use shall prevent loitering or other activity in the parking lot that would be a nuisance to adjacent uses and/or residential neighborhoods.**

Condition of Approval #10 will require the operator to prevent loitering and other related nuisances.

- D. The use shall not be in a reporting district with more than the recommended maximum concentration of the applicable on or off-premise sales use, as recommended by the Long Beach Police Department, except: (1) locations in the greater downtown area; or (2) stores of more than 20,000 square feet of floor area, and also providing fresh fruit, vegetables, and meat, in addition to canned goods.**

In consideration of a Conditional Use Permit application for the sale of alcoholic beverages, staff evaluates the number of existing alcohol licenses in the subject Census Tract as well as the total number of reported crimes in the subject Police Reporting District. Section 21.52.210 of the zoning regulations requires that the use shall not be in a reporting district with an over-concentration of alcohol sales, as recommended by the California Department of Alcoholic Beverage Control (ABC), and that the use shall not be in a reporting district with a high crime rate as reported by the Long Beach Police Department. The project is not located in a high crime area per LBPD; nor is it in an over-concentrated district

for off-site alcohol sales. In the subject census tract (5752.01), four licenses for off-site alcohol sales are allowed and there are two existing. Staff consulted with LBPD for this application and they expressed no opposition to approval of this permit.

- E. The use shall not be located within 500 feet of a public school or public park, except: (1) locations in the greater downtown area; or (2) stores of more than 20,000 square feet of floor area, and also providing fresh fruit, vegetables, and meat in addition to canned goods.**

The subject site located within 500 feet of the Long Beach Polytechnic High School campus boundaries. With the proximity of the school the opportunity exists for sales of beer and wine to students who are under age to drink, thus potentially creating a higher risk of a health and safety problem to the surrounding community.

CONDITIONAL USE PERMIT FINDINGS

1030 E. Pacific Coast Highway
Application No. 1202-18
May 17, 2012

Pursuant to Section 21.25.206 of the Long Beach Municipal Code, a Conditional Use Permit can be granted only when positive findings are made consistent with the following criteria set forth in the Zoning Ordinance. These findings and staff analysis are presented for consideration, adoption and incorporation into the record of proceedings:

1. **THE APPROVAL IS CONSISTENT WITH AND CARRIES OUT THE GENERAL PLAN, ANY APPLICABLE SPECIFIC PLANS SUCH AS THE LOCAL COASTAL PROGRAM AND ALL ZONING REGULATIONS OF THE APPLICABLE DISTRICT;**

The project site is located in Land Use District #8N – Shopping Nodes Strip. LUD #8N is intended to accommodate retail and service uses exclusively, primarily in small clusters with vital activity centers. The existing convenience store is identified as consistent with the requirements of this district, therefore the principal use of the site is consistent with the General Plan. No specific plan applies to the subject site. The request is to allow the sale of beer and wine for off-site consumption at an existing convenience store which is consistent with requirements of the plan. The project is consistent with the zoning regulations of the CHW zoning district, as the off-site sale of alcoholic beverages at an existing convenience store is allowed through the Conditional Use Permit process in this district.

2. **THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE SURROUNDING COMMUNITY INCLUDING PUBLIC HEALTH, SAFETY OR GENERAL WELFARE, ENVIRONMENTAL QUALITY OR QUALITY OF LIFE; AND**

In accordance with the California Environment Quality Act (CEQA) and the CEQA Guidelines, a Categorical Exemption (CE 12-010) was prepared for this project and is attached for your review.

The proposed sale of off-site beer and wine at an existing convenience store is not expected to be detrimental to the surrounding community. No physical expansion to the building is proposed and conditions of approval are included to ensure the mitigation of any negative impacts. Conditions include prevention of nuisances and loitering.

3. **THE APPROVAL IS IN COMPLIANCE WITH THE SPECIAL CONDITIONS FOR SPECIFIC CONDITIONAL USES, AS LISTED IN CHAPTER 21.52.**

Section 21.52.210 states that the following conditions shall apply to all alcoholic beverages sales uses requiring a conditional use permit:

- A. The operator of the use shall provide parking for the use equivalent to the parking required for new construction regardless of the previous use as to legal nonconforming rights.**

The existing building is approximately 3,500 square feet in size. Per zoning code section 21.41.216, parking for a retail store is at (4) spaces per 1,000 square feet of floor area. The current establishment has (14) parking spaces and conforms to current code.

- B. The operator of the use shall provide night lighting and other security measures to the satisfaction of the Chief of Police.**

Staff consulted with the Long Beach Police Department on this application. The LBPD did not have any objections to the request and felt the security measures and lighting in place on the site were sufficient and they did not request any specific upgrades to the site as a condition of approval.

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with LBPD for this application and they expressed no opposition to approval of this permit.

- E. The use shall not be located within 500 feet of a public school or public park, except: (1) locations in the greater downtown area; or (2) stores of more than 20,000 square feet of floor area, and also providing fresh fruit, vegetables, and meat in addition to canned goods.**

The subject is site is located within 500 feet of Poly High school property boundaries. However, the school offices and classrooms are approximately 2,000 feet away from the entrance of the store southerly corner of the school, away from the entrance of the school. Thus, staff is recommending that the Planning Commission waive this finding. Staff consulted with LBUSD for this application and they expressed no opposition to approval of this permit.