

**CONDITIONAL USE PERMIT
FINDINGS****6370 E. Stearns Street
Application No. 1712-03 (CUP17-021)
September 6, 2018**

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 subject site is located in General Plan Land Use District No.1 (Single-Family Residential) and within the CCA (Community Auto-Oriented Commercial) Zone. The Land Use Element designation of LUD No. 1 is a policy response to the majority public preference for single-family neighborhoods. Small, neighborhood-serving retail clusters may occur in LUD No. 1, providing they conform to the specifications detailed in the applicable commercial districts. The current use on the subject property is a gas station and convenience store, which is a small, neighborhood-serving commercial use within the CCA Zone. The proposed sale of beer and wine for off-site consumption would be accessory to the retail sales within the established retail use.

The CCA Zone allows the off-site sale of beer and wine, subject to the approval of a Conditional Use Permit (CUP). A CUP is consistent when it carries out the intent of the land use district in which it is located, and otherwise complies with the applicable Zoning Regulations. As the current improvements on the project site meet the intent of Land Use District No. 1 by providing a neighborhood-serving retail establishment, the sale of beer and wine along with other convenience items will not alter the integrity of the existing use. Furthermore, the project site does comply with all applicable Zoning Regulations.

- 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**

The proposed sale of beer and wine for off-site consumption at the project site is not expected to adversely impact the general welfare and quality of life within the surrounding community. Although the project site's Census Tract is deemed overconcentrated with respect to the existing number of establishments selling alcohol, this number of establishments would not increase as a result of CUP approval. Since the time of application submittal, one establishment within the Census Tract has surrendered its license for off-site alcohol sales. Therefore, approval of the request would maintain the same number of establishments that

existed at the time of application submittal. Further, as the sale of beer and wine will serve as an accessory component to the existing convenience store, operational Conditions of Approval are incorporated to prevent nuisance activity and behavior. These conditions include prohibition of loitering, installation of security equipment, and prevention of the sale of single containers of beer. Staff also has the ability to conduct periodic inspections of the project site to ensure proper operation and maintenance of the establishment.

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

Section 21.52.201 states that the following conditions shall apply to all alcoholic beverage 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 project site has recently gone through the construction of a new convenience store requiring Site Plan Review approval. The required parking ratio for the convenience store is four spaces per 1,000 square feet of gross floor area. The subject site consists of a 2,407-square-foot convenience store (1,111 square feet of storage not included) and 10 on-site spaces, which meets the required parking standard.

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

As conditioned by the recent Site Plan Review entitlement, the project site provides adequate security lighting. Furthermore, the applicant has already installed security cameras to offer additional security measures. As conditioned, the site will be required to maintain the operation of all security equipment.

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.

As conditioned, the applicant shall be required to prevent loitering or other activity in the parking lot.

- 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.**

The project is located within Police Reporting District 634, which is in a high-crime area per LBPD crime reporting standards pursuant to the California Department of Alcoholic Beverage Control Board (ABC). The crime rate is 151, where 124 is the threshold for high crime. Although the project site is within a high-crime rate area, the proposed use is not anticipated to contribute to any crime in the neighborhood. The project site has gone through a major renovation over the past year, in which a significant clean-up was administered. The renovation includes enhanced exterior elevations, new landscaping, new signage, and re-stripped and re-paved parking areas. Additionally, the applicant installed security cameras and lighting to further mitigate opportunities for nuisance behavior within and around the project site.

The project site is located within Census Tract 5743.00, in which a maximum number of three establishments serving alcohol are permitted. At the time of application submittal, the Census Tract had five establishments with off-sale ABC licenses. Since that time, one establishment (Rite-Aid) has surrendered its alcohol license. Therefore, approval of the CUP would not result in an increase of the level of overconcentration above and beyond the existing condition at the time of application submittal.

- 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 gas station and convenience store are not located within 500 feet of a public school or public park.

CONDITIONAL USE PERMIT CONDITIONS OF APPROVAL

6370 E. Stearns Street
Application No. 1712-03
Date: September 6, 2018

1. The use permitted on the subject site, in addition to the other uses permitted in the CCA Zoning District, shall be to allow the sale of beer and wine for off-site consumption (Type 20 License) at a gas station and convenience store located at 6370 E. Stearns Street.
2. This permit and all development rights hereunder shall terminate two years from the effective date of this permit unless construction is commenced or a time extension is granted, based on a written and approved request submitted prior to the expiration of the two-year period as provided in Section 21.21.406 of the Long Beach Municipal Code.
3. This permit shall be invalid if the owner(s) and/or applicant(s) have failed to return written acknowledgment of their acceptance of the conditions of approval on the *Conditions of Approval Acknowledgement Form* supplied by the Planning Bureau. This acknowledgment must be submitted within 30 days from the effective date of approval (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action date).

Special Conditions:

4. The windows of the store shall be maintained free of signage or other obstructions in excess of 10 percent of each window area. Window signs displaying prices shall be prohibited.
5. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
6. Installation of any exterior newsstands and vending machines shall be prohibited.
7. The permittee shall maintain full compliance with all applicable laws, ABC laws, ordinances, and stated conditions. In the event of a conflict between the requirements of this permit, Conditional Use Permit, or Alcoholic Beverage Control license, the more stringent regulation shall apply.
8. No alcoholic beverages shall be consumed on the property, or on adjacent properties under control of the licensee.

9. No sales to any person appearing to be or actually being intoxicated shall be allowed.
10. All sales of alcohol shall be directly supervised by an authorized employee of the licensee, at least 21 years old, including inspection of identification to verify age of purchaser, and observation of purchaser to ensure no sales to intoxicated persons.
11. There shall be no sales of beer or malt beverage products, except that of micro-brews and specialty malt products sold under such designations as Stout, Porter, India Pale Ale (IPA) and English Special Bitters (ESB), which are sold as singles by the supplier, sold as singles at the licensed premises.
12. The convenience store shall provide an assortment of "Healthy Food" products at all times or be consistent with the City of Long Beach programs as recommended by the Long Beach Health Department.
13. Wine shall not be sold in bottles or containers smaller than 750 ml. other than dessert wines in 375 ml. bottles, and wine coolers shall not be sold in quantities of less than four per sale.
14. Hours of alcohol sales shall be limited from 8:00 a.m. to 10:00 p.m., Monday - Thursday, and 8:00 a.m. to 11:30 p.m., Friday - Sunday.
15. A numbering address sign shall be located at the front of the building, to the satisfaction of the Long Beach Police Department.
16. Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited.
17. The operator shall install exterior video security cameras at the front and rear of the business with full view of the public right-of-way, and shall install exterior security video cameras that provide full view of any areas where the operator provides parking for its patrons. The cameras shall record video for a minimum of 30 days and be accessible via the Internet by the LBPd. A Public Internet Protocol (IP) address and user name/password to allow the LBPd to view live and recorded video from the cameras over the Internet are also required. All video security cameras shall be installed to the satisfaction of the Police Chief, Director of Technology & Innovation, and Director of Development Services.
18. The operator/owner/tenant shall prevent loitering and loud noises around the project site during hours of operation. If loitering continues, as determined by the Long Beach Police Department, a security guard shall be required during business hours at the discretion of the Director of Development Services. Continual problems with loitering, which increase the calls for service at the business may lead to revocation of the Conditional Use Permit.

19. Any and all employees hired to sell alcoholic beverages shall provide evidence that they have either:
 - a. Completed training from the State of California Department of Alcoholic Beverage Control "Leadership and Education in Alcohol and Drugs" (LEAD) Program as confirmed by receipt of an ABC-issued certificate of completion; or
 - b. Completed equivalent training acceptable to the ABC District Office to ensure proper distribution of beer, wine, distilled spirits, tobacco, and inhalants to adults of legal age.

If any prospective employee designated to sell alcoholic beverages, tobacco or inhalants does not currently have such training then:
 - c. The ABC-licensed proprietors shall have confirmed with the Department of Development Services within 15 days of the final approval of the CUP or within 15 days of the opening to the public of a new store, whichever is later, that a date certain has been scheduled with the local ABC Office for said prospective employees to take the LEAD Program course; and
 - d. Within 30 days of taking said course the employee(s) or responsible employer shall deliver to the Planning Bureau each required LEAD Program Certificate evidencing completion of said course.
20. Deliveries shall be limited to non-peak hours, generally between 9:00 a.m. and 6:00 p.m.
21. All commercial vehicle delivery trucks must use commercial streets for deliveries.
22. The sales of beer or malt beverages in quantities of quarts, 22 oz., 32 oz., or 40 oz., or similar size containers are prohibited.
23. There shall be no cups, glasses, or similar receptacles commonly used for drinking of beverages, sold, furnished, or given away at the applicant's premises in quantities of less than their original multi-container package, unless such items have been pre-packaged for sale in combination with other items (i.e., picnic packs/gift baskets).
24. All beverages offered for sale at the premises shall be displayed and available for convenient inspection and purchase within the premises by the general public.
25. All sales of alcoholic beverages shall be made within the premises.

Standard Conditions:

26. If, for any reason, there is a violation of any of the conditions of this permit or if the use/operation is found to be detrimental to the surrounding community, including public health, safety or general welfare, environmental quality or quality of life, such shall cause the City to initiate revocation and termination procedures of all rights granted herewith.
27. In the event of transfer of ownership of the property involved in this application, the new owner shall be fully informed of the permitted use and development of said property as set forth by this permit together with all conditions that are a part thereof. These specific requirements must be recorded with all title conveyance documents at time of closing escrow.
28. This approval is required to comply with these conditions of approval as long as the use is on the subject site. As such, the site shall allow periodic re-inspections, at the discretion of City officials, to verify compliance. The property owner shall reimburse the City for the inspection cost as per the special building inspection specifications established by City Council (Sec. 21.25.412, 21.25.212).
29. All conditions of approval must be printed verbatim on all plans submitted for plan review to the Department of Development Services. These conditions must be printed on the site plan or a subsequent reference page.
30. The Director of Development Services is authorized to make minor modifications to the approval design plans or any of the conditions of approval if such modifications shall not significantly change/alter the approved design/project. Any major modifications shall be reviewed by the Zoning Administrator or Planning Commission, respectively.
31. The property shall be developed and maintained in a neat, quiet, and orderly condition, and operated in a manner so as not to be detrimental to adjacent properties and occupants. This shall encompass the maintenance of exterior facades of the building, designated parking areas serving the use, fences and the perimeter of the site (including all public parkways).
32. Any graffiti found on site must be removed within 24 hours of its appearance.
33. The applicant shall defend, indemnify, and hold harmless the City of Long Beach, its agents, officers, and employees from any claim, action, or proceeding against the City of Long Beach or its agents, officers, or employees brought to attack, set aside, void, or annul an approval of the City of Long Beach, its advisory agencies, commissions, or legislative body concerning this project. The City of Long Beach will promptly notify the applicant of any such claim, action, or proceeding against the

City of Long Beach and will cooperate fully in the defense. If the City of Long Beach fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Long Beach.