



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

April 2, 2015

CHAIR AND PLANNING COMMISSIONERS

City of Long Beach
California

RECOMMENDATION:

Adopt revised findings as directed by the Planning Commission on March 5, 2015, to support approval of a Conditional Use Permit (CUP) request to allow the sale of beer and wine for off-site consumption (Type 20 license) at an existing Walgreen's, located at 5400 Cherry Avenue within the Light Industrial (IL) zone and accept Categorical Exemption 14-142. (District 8)

APPLICANT: Robert M. Silverman / Walgreen, Co.
104 Wilmot Road
Deerfield, IL 60015
(Application 1411-09)

DISCUSSION

The subject site is located at 5400 Cherry Avenue at the northwest corner of Cherry Avenue and Market Street (Exhibit A – Location Map). The site is located within the Light Industrial (IL) zone and is developed as a Walgreen's convenience store, with a building area of 13,599 square feet and 55 parking spaces (Exhibit B – Plans, Photos and Business Narrative). Walgreen's is requesting approval of a Conditional Use Permit (CUP) to allow the sale of beer and wine for off-site consumption (Type 20 license).

On March 5, 2015, staff presented the CUP request to the Planning Commission. (Exhibit C – March 5, 2015 PC Staff Report). At that time, staff prepared findings and recommended that the Planning Commission deny this CUP application due to the over concentration of off-sale alcohol licenses within the census tract and the location of the site within a high crime district (Exhibit D – Existing Off-Sale Licenses).

During the public hearing, the Planning Commission heard testimony regarding Walgreen's request to add beer and wine sales to their existing retail inventory. During the hearing, the Planning Commission expressed support for this application. The Planning Commission concluded that the sale of beer and wine in conjunction to Walgreen's existing retail inventory would not present adverse impacts for the neighborhood, but would instead provide a convenience to the community. As a result, the Planning Commission directed staff to revise the findings for the CUP and return back with a positive recommendation for the CUP. Specific conditions have been

prepared in order to mitigate any potential negative impacts of this use. (Exhibit E – Conditions of Approval).

Therefore, staff has prepared new findings (Exhibit F – Findings) for the Planning Commission to approve the CUP to allow the sale of beer and wine for off-site consumption.

PUBLIC HEARING NOTICE

A total of 397 Public Hearing notices were distributed on March 17, 2015, in accordance with the provision of the Zoning Ordinance. No comments have been received as of the preparation of this report.

ENVIRONMENTAL REVIEW

In accordance with the Guidelines for Implementation of the California Environmental Quality Act, Categorical Exemption (CE 14-142) was issued for the proposed project (Exhibit G- Categorical Exemption).

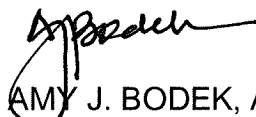
Respectfully submitted,



JEFF WINKLEPLECK
CURRENT PLANNING OFFICER



LINDA F. TATUM, AICP
PLANNING BUREAU MANAGER



AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

AJB:LFT:JW:gc

Attachments:

- Exhibit A – Location Map
- Exhibit B – Plans, Photos and Business Narrative
- Exhibit C – March 5, 2015 PC Staff Report
- Exhibit D – Map of Existing Off-Sale Licenses
- Exhibit E - Conditions of Approval
- Exhibit F – Findings
- Exhibit G – Categorical Exemption

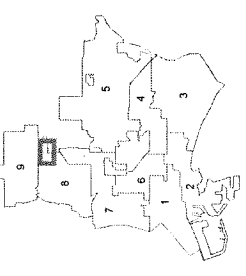
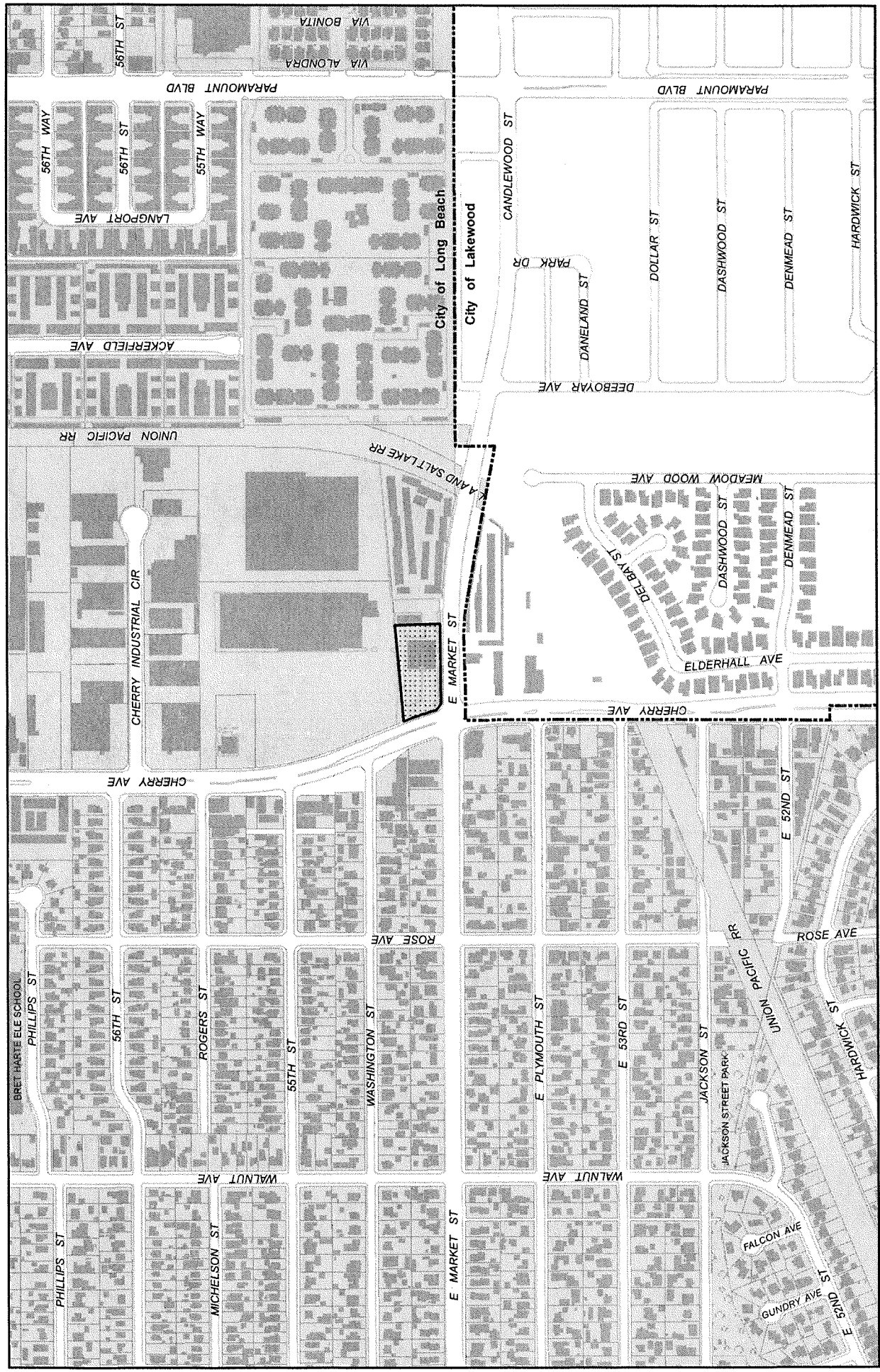
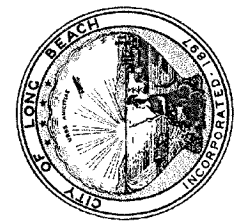


Exhibit A



Subject Property:
5400 Cherry Ave
Application No. 1411-09
Council District 8
Zoning Code : IL





CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

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Long Beach, CA 90802

(562) 570-6194 FAX (562) 570-6068

March 5, 2015

CHAIR AND PLANNING COMMISSIONERS

City of Long Beach
California

RECOMMENDATION:

Deny a Conditional Use Permit (CUP) request to allow the sale of beer and wine for off-site consumption (Type 20 license), at an existing Walgreen's located at 5400 Cherry Avenue within the Light Industrial (IL) zone. (District 8)

APPLICANT: Robert M. Silverman / Walgreen, Co.
104 Wilmot Road
Deerfield, IL 60015
(Application 1411-09)

DISCUSSION

The subject site is located at 5400 Cherry Avenue at the northwest corner of Cherry Avenue and Market Street (Exhibit A – Location Map). The site is located within the Light Industrial (IL) zone and is developed with a total building area of 13,599 square feet along with 55 parking spaces (Exhibit B – Plans, Photos and Business Narrative). The applicant is seeking approval for a Type 20 alcohol license that would allow Walgreen's to sell beer and wine for off-site consumption. Walgreen's has been operating at the subject site since 2009. No other changes to the operation of the store are proposed.

In order for the Planning Commission to grant the approval of a Conditional Use Permit (CUP), positive findings must be made consistent with the criteria of the Zoning Ordinance.

Staff has evaluated 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. The zoning regulations require 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 Beverages Control (ABC), and that the use shall not be in reporting district with a high crime rate as reported by the Long Beach Police Department (LBPD).

The subject property is located in Census Tract 5706.03, in which a maximum of two off sale licenses is recommended. Census Tract 5706.03 currently has four establishments with off sale licenses (Exhibit C – Map of Existing ABC Licenses). As a result, an over concentration of licenses, twice the allowable, currently exists within the census tract. In addition to the establishments within Walgreen's census tract, directly across the street from Walgreen's is an establishment that currently operates with an off sale license. This establishment is located at 5401 Cherry Avenue, and is located in a different census tract

CHAIR AND PLANNING COMMISSIONERS

March 5, 2015

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(5706.02), and is within 200 feet of Walgreen's property. There are no schools within 500 feet of Walgreen's property. The addition of one more license in this census tract and neighborhood would not benefit the community, as a significant over concentration currently exists.

The site is located within Crime Reporting District 524, which has been deemed a high crime area per the LBPd. According to the LBPd, a total of six calls for service attributed to the subject property were reported between June 1, 2014 and December 1, 2014. A majority of these calls were theft related. The approval of beer and wine sales in this existing establishment will contribute to potential negative conditions for this neighborhood.

Staff believes that the approval of this application will result in adverse effects to the community. Therefore, staff has prepared findings (Exhibit D – Findings) and recommends that the Planning Commission deny the CUP to allow the off sale of beer and wine for off-site consumption.

PUBLIC HEARING NOTICE

A total of 397 Public Hearing notices were distributed on February 18, 2015, in accordance with the provision of the Zoning Ordinance. No comments have been received as of the preparation of this report.

Respectfully submitted,



JEFF WINKLEPLECK
ACTING PLANNING ADMINISTRATOR



AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

AJB:JW:gc

Attachments: Exhibit A – Location Map
 Exhibit B – Plans, Photos and Business Narrative
 Exhibit C – Map of Existing ABC Licenses
 Exhibit D – Findings

**CONDITIONAL USE PERMIT
CONDITIONS OF APPROVAL
Application No. 1411-09
Address: 5400 Cherry Avenue
Date: April 2, 2015**

1. This permit grants the sale of beer and wine for off-site consumption (Type 20 License) for Walgreen's pharmacy/retail store located at 5400 Cherry Avenue.
2. This permit and all development rights hereunder shall terminate one year 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 one year period as provided in Section 21.21.06 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 Acknowledgment 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 street address shall be clearly posted on the street side of the main building and visible from the street.
5. Exterior lighting should clearly illuminate the common areas surrounding the building including but not limited to the entrance and exit doors, as well as the business address. Lighting shall also be positioned to discourage homeless people from sleeping.
6. As there is a potential risk of the building being vandalized by graffiti due to its location and design, the applicant should include deterrents to minimize the risk of graffiti by planting low growing landscape or utilizing graffiti resistant paint.
7. The applicant shall install a video security camera system at the front and rear of the business with full view of the public right-of-way and shall install exterior security cameras that provide full view of any area 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 Services and the Director of Development Services.

8. The operator/owner/tenant shall prevent loitering and loud noises on 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.
9. No more than 30% of the exterior windows shall be concealed by advertisement or signs.
10. 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. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
11. No beer or malt beverage products shall be sold, regardless of container size, in packages of less than three per sale.
12. The sale of beer or malt beverages in quantities of quarts, 32 oz., or 40 oz., shall be prohibited.
13. No wine shall be sold in containers smaller than 750ml, other than dessert wines in 375ml, and wine coolers shall not be sold in quantities of less than four (4) per sale.
14. No sales to any person appearing to be, or actually being intoxicated shall be permitted.
15. All sales of alcohol shall be directly supervised by an authorized employee of the license, aged at least 21 years, including inspection of identification to verify age of purchaser, and observation of purchaser to ensure no sales to intoxicated persons.
16. No alcoholic beverages shall be consumed on any property adjacent to the premises under the control of the licensee.
17. Possession of alcoholic beverages in open containers and the consumption of alcoholic beverages shall be prohibited on or around the premises.
18. All sales of alcoholic beverages shall cease at 10:00 PM every night of the week.
19. The permittee shall maintain full compliance with all applicable laws, ABC laws, ordinances, and stated conditions at all times. In the event of a conflict between the requirements of this Conditional Use Permit or Alcohol Beverage Control license, the more stringent regulation shall apply.

Standard Conditions

20. 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 terminations procedures of all rights granted herewith.
21. 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.
22. 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).
23. The Director of Long Beach Development Services is authorized to make minor modifications to the approved design plans or to 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.
24. All landscaped areas must be maintained in a neat and healthy condition. Any dying or dead plants materials must be replaced with the minimum size and height plant(s) required by Chapter 21.42 (Landscaping) of the Zoning Regulations. At the discretion of City officials, a yearly inspection shall be conducted to verify that all irrigation systems are working properly and that the landscaping is in good healthy condition. The property owner shall reimburse the City for the inspection cost as per the special building inspection specifications established by the City Council.
25. 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).
26. Any graffiti found on site must be removed within 24 hours of its appearance.
27. 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.

CONDITIONAL USE PERMIT FINDINGS 5400 Cherry Avenue Case No. 1411-09

In order to approve the Conditional Use Permit, the Planning Commission is required to make certain findings in support of an approval decision. These findings along with staff analysis are presented below for consideration, adoption and incorporation into the record of proceedings.

A. 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 site is located in the General Plan Land Use District Restricted Industry and IL (Light Industrial) zone. The IL zone allows the off sale of beer and wine subject to the approval of a Conditional Use Permit. A Conditional Use Permit is consistent when it carries out the intent of the land use district in which it is located, and otherwise complies with the required findings of the Zoning Regulations.

The Land Use Element designation of Restricted Industry is created to accommodate industrial uses. The current use on the subject property is a Walgreen's retail store and pharmacy which fit in the neighborhood as a supporting commercial use. The proposed sale of beer and wine for off site consumption would not be inappropriate, as it is a continuation of retail sales within an established retail use.

B. 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 Environmental Quality Act (CEQA) and the CEQA Guidelines, a Categorical Exemption (CE 14-142) was prepared for this project and is attached for your review.

The subject property is however located in a high crime district as well as located in a census tract with an over concentration of off-sale licenses. However, the addition of beer and wine sales to the existing retail inventory is not expected to have negative affects to the surrounding neighborhood or the community. Walgreen's currently utilizes a variety of security strategies, such as security cameras operating inside and outside the store as well as public-viewing monitors that ensure customer safety onsite and in the surrounding neighborhood. Additionally, as standard operating procedure, Walgreen's provides alcohol sales training to ensure that the sale of alcohol is conducted lawfully. The addition of beer and wine sales will solely be incidental to the total retail sales for Walgreen's retail store and pharmacy. Furthermore, conditions of approval have been added to mitigate any potential negative impacts associated with the use.

C. THE APPROVAL IS IN COMPLIANCE WITH THE SPECIAL CONDITIONS FOR SPECIFIC CONDITIONAL USE, ASSISTED IN CHAPTER 21.52

In addition to the above findings, the following specific conditions pursuant to Zoning Code Section 21.52.201 apply to alcoholic beverage sales:

- 1. 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.**

There is no proposal for construction or site expansion. The required parking ratio for retail is four (4) spaces per 1,000 square feet of gross floor area. The subject site consists of 13,599 square feet of retail/pharmacy building and 55 onsite parking spaces does meet the required parking standard.

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

The requirement for night lighting and security measures is a standard condition of approval for off-site beer and wine sales.

- 3. 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.**

This requirement is a standard condition of approval for off-site beer and wine sales.

- 4. 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 subject site is located in Census Tract 5706.03, in which a maximum of two (2) establishments is recommended by the Department of Alcoholic Beverage Control. Approval of the proposed license for off-site beer and wine sales would result in the fifth establishment with such alcohol sales in the census tract, which further exceeds the maximum. Additionally, the site is located in Crime Reporting District 524, which is considered a high crime area. However, based on Walgreen's operating and security policies and the addition of specific conditions of approval, the addition of one additional license is not expected to further exacerbate adverse effects and values to the site and neighborhood.

- 5. 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 200,000 square feet of floor area, and also providing fresh fruit, vegetables, and meat in addition to canned goods.**

The subject site is not located within 500 feet of a public school or public park.



NOTICE of EXEMPTION from CEQA

DEPARTMENT OF DEVELOPMENT SERVICES
 333 W. OCEAN BLVD., 5TH FLOOR, LONG BEACH, CA 90802
 (562) 570-6194 FAX: (562) 570-6068
 lbds.longbeach.gov

TO: ☐ Office of Planning & Research
 1400 Tenth Street, Room 121
 Sacramento, CA 95814

FROM: Department of Development Services
 333 W. Ocean Blvd, 5th Floor
 Long Beach, CA 90802

☐ L.A. County Clerk
 Environmental Fillings
 12400 E. Imperial Hwy. 2nd Floor, Room 2001
 Norwalk, CA 90650

Categorical Exemption CE- 14-142

Project Location/Address: 5400 Cherry Avenue

Project/Activity Description: Walgreens requests a Conditional Use Permit to allow for the sale and dispensing of beer and wine for off-site consumption at an existing store.

Public Agency Approving Project: City of Long Beach, Los Angeles County, California

Applicant Name: Robert M. Silverman/Walgreen Co.

Mailing Address: 104 Wilmot Rd., MS 1420, Deerfield, IL 60015

Phone Number: 847-315-4574 Applicant Signature: [Signature]

BELOW THIS LINE FOR STAFF USE ONLY

Application Number: _____ Planner's Initials: _____

Required Permits: _____

THE ABOVE PROJECT HAS BEEN FOUND TO BE EXEMPT FROM CEQA IN ACCORDANCE WITH STATE GUIDELINES SECTION 15301, Class 1 Existing

Facilities

Statement of support for this finding: Existing commercial land use with minor addition to operations

Contact Person: _____ Contact Phone: _____

Signature: _____ Date: _____