

CONDITIONAL USE PERMIT FINDINGS

7501 E. Carson Street
Application No. 1705-17 (CUP17-010)
February 7, 2019

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 #8– Major Commercial Corridor. LUD #8 is intended to provide services along major business corridors in the City. While having similar characteristics to the Mixed-Use District (LUD #7), these corridors do not function as activity centers, but rather as linear conglomerations of larger scale office and retail uses. The proposed sales of alcoholic beverages at an existing theatre are consistent with the requirements of this district because the request does not change or intensify the characteristics of the existing theatre use. The existing movie theatre is located within an automobile-oriented regional center; therefore, the principal use of the site is consistent with the General Plan and accessory alcohol sales will operate under the standard protocol of food and drink sales within the theatre. No specific plan applies to the subject site. The project is consistent with the zoning regulations of the CCA zoning district, as the sale of alcoholic beverages for on-site consumption at an existing theatre 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 Environmental Quality Act (CEQA) and the CEQA Guidelines, a Categorical Exemption (CE 17-134) was prepared for this project and is attached for further reference.

Through incorporation of the conditions of approval, which are included to minimize loitering, include surveillance equipment, utilize trained staff for monitoring purposes, and place limits on the amount of alcohol that can be served, the proposed sale of beer and wine for on-site consumption will not be detrimental to the surrounding community. Furthermore, no physical expansion of the building is proposed and the sale of beer and wine will act as an accessory component to the movie-going experience, similar to the manner in which other food and drinks already service the patrons of the theatre.

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 required parking ratio for the theatre is one space per every 3.3 fixed seats. The theatre is located within a regional shopping center with various restaurant and retail uses, and a shared parking arrangement entitled at 5 spaces for every 1,000 square feet of floor area. Furthermore, the sale of alcoholic beverages will serve as an accessory component to the movie theatre, in which no expansion of building area is proposed.

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

The theatre currently has exterior lighting and provides adequate lighting throughout the exterior of the theatre, throughout the common box office area, and along the path of travel leading to and from the theatre. Staff consulted with the Long Beach Police Department on this application and as appropriately conditioned, the LBPd had no objections to the request.

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 appropriately conditioned, the operator shall prevent loitering and other potential nuisances along the common areas serving the use during and after the hours of operation.

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 and calls for service in the subject Police Reporting District.

Section 21.52.201 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 (LBPD). The project is located within Police Reporting District 695, which is not considered a high crime area per LBPD, as the latest official statistics show that there have been a total of 107 reports of incidents (115 reports are the high-crime threshold). Furthermore, in speaking previously with LBPD specifically regarding this issue, no cause for concern was expressed. Furthermore, with stringent operational conditions of approval given by LBPD (specifically regarding the employment of trained staff for monitoring purposes), they have no objections to the approval of beer and wine sales in the theatre, suggesting that no adverse impacts are anticipated.

The project site is also located within Census Tract 9800.06, in which a maximum number of 12 establishments serving alcohol is recommended. As the census tract currently has 12 establishments that serve alcohol, approval of an additional license would result in overconcentration. However, due to the context of the project site as a movie theatre within a regional shopping center, this particular request for alcohol service deviates from the typical proposal for such service. The movie theatre is 110,000 square feet, with 26 movie screens and an existing concession stand serving food and non-alcoholic drinks. The sale of beer and wine at a separate bar and seating area will serve as an accessory component to the movie theatre. Conditions of approval give staff the leverage to conduct periodic inspections or take appropriate measures to rectify any issues associated with violations of those conditions.

- 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 theatre is not located within 500 feet of a public school or public park.

CONDITIONAL USE PERMIT CONDITIONS OF APPROVAL

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Date: February 7, 2019

1. The use permitted on the subject site, in addition to the other uses permitted in the Community Auto-Oriented District (CCA), shall be a theater with the sale of beer and wine for on-site consumption.
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. Patrons shall be required to show valid identification to verify age at the point of sale for alcohol.
5. Alcoholic beverages shall be dispensed, sold, and served in containers that are easily distinguishable from non-alcoholic beverage containers.
6. All sales or service of alcoholic beverages in the licensed premises shall be made only from a designated area within the lobby. No deliveries of alcoholic beverages to patrons within an auditorium shall be permitted. In the future, if the operator requests to allow points of sale and deliveries within an auditorium, a modification to the approved Conditional Use Permit shall be required.
7. The petitioner shall post and maintain professional quality signs measuring 12 inches by 12 inches with lettering no smaller than 2 inches in height that read, "No Alcoholic Beverages Beyond This Point" at all premise exits.
8. The petitioner shall not share profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge or cover charge, or any other form of admission charge, including

- minimum drink orders or the sale of drinks. This does not include ticket sales or any other fee for the standard movie theater use.
9. The sale of alcoholic beverages shall stop one hour prior to the close of the business and shall be subject to State law, which prohibits the sale of alcohol between 2 a.m. to 6 a.m.
 10. Windows shall not be obscured by placement of signs, dark window tinting, shelving, racks or similar obstructions.
 11. 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.
 12. 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.
 13. No publicly accessible telephones shall be maintained on the exterior of the premises. Any existing publicly accessible telephones shall be removed.
 14. Adult entertainment shall be prohibited as defined in Section 21.15.110 of the Zoning Code.
 15. During the hours of operation, the front door of the establishment shall remain closed at all times to minimize noise.
 16. The sale of alcoholic beverages for consumption off-premises is strictly prohibited.
 17. Prior to the issuance of a Certificate of Occupancy, the applicant shall be required to obtain building permits for the construction of a separate bar and seating area to clearly distinguish alcohol sales from other food and drink sales.
 18. The operator of the approved use shall prevent loitering along the common areas serving the use during and after hours of operation. The operator must clean the sidewalk areas of trash and debris on a daily basis. Failure to comply with this condition shall be grounds for permit revocation. If loitering and/or noise problems develop, the Director of Development Services may require additional preventative measures such as, but not limited to, private security guards.

19. The operator shall install exterior video security cameras and adequate video surveillance to the area leading to the ticket booth and entrance to the building. The cameras shall record video for a minimum of 30 days and be made available to the LBPB upon request. A Public Internet Protocol (IP) address and user name/password to allow LBPB to view recorded video from the cameras over the Internet. The operator shall also provide the Police Department the ability to view live stream video surveillance. All video security cameras shall be installed to the satisfaction of the Police Chief, Director of Technology Services, and Director of Development Services.
20. Prior to the issuance of any Certificates of Occupancy, the applicant shall be required to obtain building permits for the construction of a separate bar and seating area, in which all sales of alcoholic beverages shall commence.

Standard Conditions:

21. 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.
22. 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.
23. 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).
24. 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.
25. The Director of Development Services is authorized to make minor modifications to the approval design plans or the 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.

26. 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).
27. Any graffiti found on site must be removed within 24 hours of its appearance.
28. 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.

Alcohol Beverage Control Conditions

29. At all times when the premises is exercising the privileges of their license, the sale of food, in compliance with Section 23038 of the Business and Profession code, shall be offered and available for purchase.
30. All sales and service of alcoholic beverages for consumption in the general spectator seating areas shall be made only from concession stands, portable stands or bars, or fixed bars, and shall not be sold, served, or delivered to customers by individual ambulatory vendors, commonly known as "hawkers."
31. Point of sale of alcoholic beverages shall only be allowed in the lobby and not within the theater auditoriums.
32. No more than two (2) alcoholic beverages shall be sold or served to any one (1) person during any transaction.
33. Alcoholic beverages shall be served in containers which significantly differ in appearance from those containers utilized for non-alcoholic beverages. Containers for beer shall not exceed 16 ounces. This condition does not preclude the service of alcoholic beverages in their original containers.
34. At all times when the premises is exercising the privileges of their license, an employee of the premises shall enter and monitor the activity within the theaters on a regular basis, but no less than once every 30 minutes.