

## **CONDITIONAL USE PERMIT FINDINGS**

**6400 E. Pacific Coast Highway, Unit A-100  
Application No. 1810-05 (CUP18-029, LCDP18-030)  
March 21, 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 #7 – Mixed Uses Commercial District. LUD #7 is intended to blend compatible land uses with the goal of increasing the efficiency and vitality of an urban site. The proposed sales of alcoholic beverages at a market are consistent with the requirements of this district; therefore the principal use of the site is consistent with the General Plan. The subject site is located in the Coastal Zone. Conformance with the Local Coastal Program has been met and is demonstrated by the findings subsequently found under the Local Coastal Development Permit Findings. The project is consistent with the zoning regulations of PD-1 zoning district, as the off-site sale of alcoholic beverages at a market are allowed through the Conditional Use Permit process.

**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 sale of alcoholic beverages (beer, wine and distilled spirits) for off-site sales at a supermarket that is under construction is not expected to be detrimental to the surrounding community. Conditions of approval are included to minimize minimization of any negative impacts associated with the operation of the proposed project. Conditions include security measures to prevent nuisances and loitering and to ensure safe operations of the facility.

**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 grocery store is located within a commercial center that is under construction. The uses in the center will consist of restaurants along with retail uses. Based on the existing square footage for the existing grocery store 252 parking spaces would be required. The site currently has 1,120 parking spaces available for the center and is in compliance with the required number of parking spaces.

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

The Long Beach Police Department reviewed this application. The LBPD had no objections to the request provided that the project incorporate Conditions of Approval that require security cameras, night lighting, and security measures required by Long Beach Police Department have been incorporated.

**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 No. 22 will require the operator to prevent loitering along sidewalk area including landscaping areas serving the use during and after 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 (5776.04) in which this grocery store is located, 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 Whole Foods Market is not located in a high crime area per LBPD; however, it is an over concentrated district for off-site sales. In the subject census tract (5776.04), zero licenses for off-site alcohol sales are allowed and there are five licenses currently. This request will not add to the concentration of alcohol licenses in this Census Tract given the fact this Type 21 license will be replacing the existing one from Whole Foods Market currently located at 6550 E. Pacific Coast Highway to their new location at 6400

E. Pacific Coast Highway Unit A-100. The State of California Alcohol Beverage Control reports that the existing Type 21 liquor license that's being transferred to the subject property is in good standing and has no history of nuisance or disorder at the site. Staff consulted with the LBPD on this application and they expressed no opposition provided that they incorporate security measures such as security cameras and lighting. Therefore staff is requesting Planning Commission waive this finding.

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

**LOCAL COASTAL DEVELOPMENT PERMIT  
FINDINGS**

**Application No. 1810-05**

**March 21, 2019**

1. ***THE PROPOSED DEVELOPMENT CONFORMS TO THE CERTIFIED LOCAL COASTAL PROGRAM, INCLUDING BUT NOT LIMITED TO ALL REQUIREMENTS FOR REPLACEMENT OF LOW AND MODERATE-INCOME HOUSING.***

The site is located within an existing commercial area. The zoning is currently (PD-1) Southeast Area Development and Improvement Plan. The site is currently under construction for a retail center which will include restaurants, retail and a Whole Foods Market with no residential units therefore, is not subject to the requirements for replacement of low and moderate-income housing. The approval of this Conditional Use Permit for beer, wine and distilled spirits will conform to the Local Coastal Program.

2. ***THE PROPOSED DEVELOPMENT CONFORMS TO THE PUBLIC ACCESS AND RECREATION POLICIES OF CHAPTER 3 OF THE COASTAL ACT.***

This finding deals with the public's right to use the beach and water resources for recreational purposes in conjunction with projects located seaward of the nearest public highway to the shoreline. The proposed project is not sited seaward of the nearest public highway to the shoreline. Therefore, this finding is not applicable.

# **CONDITIONAL USE PERMIT CONDITIONS OF APPROVAL**

**6400 E. Pacific Coast Highway, Unit A-100  
Application No. 1810-05 (CUP18-029, LCDP18-030)**

1. The use permitted on the subject site, in addition to the other uses permitted in the PD1 zoning district, shall be to allow the sale of beer, wine and distilled spirits at a convenience store for off-site consumption. This approval is for a Type 21 (Off Sale) ABC license only. Any request to modify this ABC license shall require approval of the Planning Commission.
2. The primary use of the premises shall be for a convenience store (as defined in LBMC Section 21.15.2340).
3. Within thirty (30) days from the approval of and acceptance the CUP and associated Conditions of Approval, the Applicant shall provide a copy of the CUP together with the Conditions of Approval to the local (or regional) office of the State Alcoholic Beverage Control Department.
4. 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.
5. 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 form 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).

## **Operational Conditions**

6. The subject location shall be maintained as a market with alcohol sales consisting of beer, wine and distilled spirits.
7. There shall be no expansion of the proposed alcohol cooler space as shown on the current floor plan dated 5-23-2017, a copy of which plans are attached hereto as "Exhibit B", and incorporated herein by this reference as though set forth in full.

## **Alcohol Related Conditions**

8. No sales of alcohol shall be directly supervised by an authorized employee of the licensee, 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.

9. There shall be no exterior advertising or signage of any kind or type, including advertising directed to or visible from the exterior of the establishment, promoting or indicating the availability of beer, wine or other alcoholic beverages.
10. Prior to commencement of alcohol service, the Applicant shall submit a plan for approval by the Director of Development Services regarding an employee alcohol awareness training program and policies. The plan shall outline a mandatory alcohol awareness training program for all employees having contact with the public and shall state management's policies addressing alcohol consumption and inebriation. The program shall require all employees having contact with the public to complete a California Department of Alcoholic Beverage Control (ABC) sponsored alcohol training program (e.g., "Leadership and Education in Alcohol and Drugs" (LEAD)) within 90 days of the effective date of the Conditional Use Permit. In the case of new employees, the employee shall attend and complete the alcohol awareness program within 90 days of hiring. In the event ABC no longer sponsors an alcohol training program, all employees having contact with the public shall complete an alternative program as approved by the Director of Development Services. The Applicant shall provide the City with an annual report regarding compliance with this condition. This project shall be subject to any future City-wide alcohol awareness training program condition affecting similar establishments.
11. The operator shall maintain full compliance with all applicable laws, Alcohol Beverage Control 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.
12. 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.
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. The sales of beer or malt beverages in quantities of quarts, 22oz., 33oz., or 40oz., or similar size containers are prohibited.
15. 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 prepackaged for sale in combination with other items (i.e., picnic packs/gift baskets).
16. 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.

17. All sales of alcoholic beverages shall be made within the premises.

### **Security Conditions**

18. The operator shall provide exterior video security cameras of all entries and exits into the building and full camera coverage of all public rights-of-way and private parking areas provided by the business. Cameras must record in color with output of at least four hundred eighty (480) lines resolution. Recordings shall be retained for no less than (30) days on an IP-configurable Digital Video Recorder (DVR) or digital storage setup with a public IP address. The surveillance system username and password shall be provided to the Long Beach Police Department.

### **Standard Conditions**

19. The convenience store shall be established and operate in accordance with the Site Plan submitted and approved by the Planning Commission as part of the CUP application and dated 5-23-2017, as attached hereto as "Exhibit A" and incorporated herein by reference as though set forth in full.
20. No publicly accessible telephones shall be maintained on the exterior of the premises. Any existing publicly accessible telephones shall be removed.
21. Installation of any exterior newsstands and vending machines shall be prohibited.
22. The operator of the approved use shall prevent loitering along the sidewalk area including landscaping areas serving the use during and after hours of operation. The operator shall clean the sidewalk areas of trash and debris on a daily basis.
23. The operation shall at all times be conducted in a manner not detrimental to surrounding properties or residents by reason of lights, noise, activities, parking (if any) or other actions. Applicant shall prevent loitering in the parking area (if any).
24. Minor amendments to any Plans referenced in these Conditions of Approval shall be subject to the approval of the Director of Development Services. Any significant change, as determined in the sole discretion of the Director of Development Services, in the approved Plans or concept shall be subject to Planning Commission review. No expansion or reconfiguration shall occur without the prior approval of the City.
25. Applicant shall defend, indemnify, and hold harmless, the City and its boards,

- commissions, agents, officers, and employees (collectively "City") from any claims, actions, or proceedings (individually referenced as "Claim" and collectively referred to as "Claims") filed against the City to attack, set aside, void, or annul the approval of the subject CUP or related entitlements, or any Claims brought against the City due to acts or omissions in any way connected to the Applicant's project. City shall promptly notify the Applicant of any Claim and shall cooperate in the defense of the Claim. Applicant shall be responsible to pay any and all costs of defending any claims brought against the City including any and all costs, including attorney's fees, incurred by the City in defense of the Claim or Claims.
26. Any graffiti found on site must be removed within 24 hours of its appearance.
  27. 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.