

**CONDITIONAL USE PERMIT
FINDINGS
707 E. Ocean Blvd, Unit A
Application No. 1902-14 (CUP19-007)
June 6, 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 along with staff analysis are presented below 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 site is in the General Plan Land Use District Mixed Use and within the Downtown Plan Development District (PD-30), Height Incentive Area. The Conditional Use Permit (CUP) for alcohol sales is consistent with the purpose of the General Plan Mixed Use District (LUD 7) to bring together, "a careful blending of different types of uses to vitalize a site..." Furthermore, the proposed use itself is not exclusively for alcohol sale but includes food sales and wine tasting contributing to the diversity of business types within the downtown. The Downtown Plan allows Type 21, off-site sale of beer, wine and distilled spirits subject to the approval of a Conditional Use Permit. Type 42, on sale beer and wine and Type 86, instructional tasting are allowed by right within PD-30, Height Incentive Area. A Conditional Use Permit is consistent with and 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.

No specific plan applies to the subject site; nor is the site within the Local Coastal Program area. The Land Use Element designation of Mixed-Use District is created to accommodate commercial uses. The Conditional Use Permit process for sale of beer, wine and distilled spirits for off-site consumption is appropriate, as it provides alcohol sales in conjunction with retail market within a commercial area.

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 19-046) was prepared for this project and is attached for your review. The proposed use will be established within an existing commercial space of 1,254 square feet. The site will be equipped with a surveillance system to deter criminal activity and promote safety. The proposed use as conditioned would not be detrimental to the community.

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

In addition to the above findings, Section 21.52.201 states that the following Conditions shall apply to all alcoholic Beverages sales use requiring a Conditional Use Permit:

- A. The business operator 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 proposed use is located within an existing commercial space of 1,254 square feet. Within PD-30, projects under 6,000 square feet are exempt from parking.

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

Staff consulted with the Long Beach Police Department (LBPD) on this application. The LBPD had no objections to the request provided that the conditions of approval that require security cameras and the to limit hours of operation.

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

Conditions of Approval numbers 24 and 33 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.**

The subject property is within Census Tract 5760.01 which is currently designated as a high crime area per the LBPD. There are currently three Type 21 licenses for off-premise sales, and only three are permitted within this census tract (Exhibit C – Map of Existing Alcohol License). Adding a fourth Type 21 license at this location will create an over concentration of off-site sales within the census tract. However, pursuant to LBMC Section 21.52.201, the restriction on alcohol sale uses within areas designated as high crime and/or over concentration are not applicable within the Downtown area. The Downtown area is exempt from the criteria to foster the creation a mixed-area with a range of business and entertainment uses within a small geographic area. The Police Department reviewed the CUP request for this location and has no objection to its approval provided the use includes security and operational standards as part of the conditions of approval. To ensure the use operates in a manner compatible with the surroundings, staff has incorporated additional conditions of approval which includes a maximum floor area for off-premise alcoholic beverage sales and mandatory staff training (Exhibit D – Findings & Conditions of Approval). Staff recommends that the Planning Commission approve the CUP subject to conditions of approval.

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 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. The subject site is located within 500 feet of Victory Park, located on the south of Ocean Boulevard. However, the propose location is in the greater downtown area, and the proximity of the park is not applicable.

4. The related development approval, if applicable, is consistent with the green building standards for public and private development, as listed in Section 21.45.400.

Section 21.45.400 specifies specific types of projects that require compliance with green building standards. The proposed use is not one of the types of projects that require compliance Section 21.45.400, and therefore, this section of the Municipal Code would not be applicable to the proposed use.

**CONDITIONAL USE PERMIT
CONDITIONS OF APPROVAL
Application No. 1902-14 (CUP19-007)
707 E. Ocean Blvd, Unit A
June 6, 2019**

1. A conditional Use Permit to allow on and off-site alcohol sales (Type 21), On Sale Beer and Wine (Type 42), and Instructional Tasting (Type 86) in conjunction with a convenience food market, totaling up to 1,254 square-feet of retail space, located at 707 E. Ocean Blvd – Unit A, within the Downtown Plan Development District (PD-30).
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 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 beer, wine and distilled spirits sales shall be limited within the floor area of the market as indicated on the approved plans.
5. The proposed project shall be constructed and operated as shown on plans reviewed by the Planning Commission on June 6, 2019 and attached Exhibit B of the staff report; except as modified by the conditions of approval
6. No alcohol sales shall be displayed within 5 feet of any window unless it is being served within the beverage tasting area.
7. Alcohol display for off-site sales shall not exceed ~~260-300~~ square feet of the total floor area of Unit A. This area includes floor displays, cabinet displays, and beer coolers areas and does not include back of house storage or walk-in cooler.-
8. No publicly accessible telephones shall be maintained on the exterior of the premises. Any existing publicly accessible telephones shall be removed.
9. The windows of the market 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.

10. There shall be no exterior advertising or sign of any kind of type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages.
11. Installation of any exterior newsstands and vending machines shall be prohibited.
12. Video or coin operated games and the like shall be prohibited on site so as to discourage loitering on the premises.
13. The permittee shall maintain full compliance with all applicable laws, Alcoholic Beverage Control (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.
14. No sales to any persons 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 licensee, aged at least 21 years, including inspection of identification to verify age of purchaser, and observation of purchase to ensure no sales to intoxicated person.
16. There shall be no single sales of beer or malt beverage products, except those of micro-brews, craft beer, and specialty malt or imported products sold under such designations as Stout, Porter, India Pale Ale (IPA) and English Special Bitters (ESB), which are sold as singles at the licensed premises.
17. The sales of beer or malt beverages in quantities of 32oz., or 40oz., or similar size container are prohibited. No beer or malt beverage products shall be sold, regardless of container size, in packages of less than three per sale, except that of micro-brews or craft beer and those specifically listed in #16 above.
18. The convenience food market shall provide an assortment of "Healthy Food" products at all times or be consistent with the City of Long Beach programs as recommend by the Long Beach Health Department.
19. Sale of delivery serives of alcohol shall adhere to requirements set forth by the Department of California State Alcohol Beverage Control.
20. Wine shall not be sold in bottle or containers smaller than 375 ml, except for that of boutique or independently owned or regional wineries. Wine coolers shall not be sold in quantities of less than four per sale.
21. Hours of alcohol sales shall be limited from 8:00am to 12:00am Mondays –

- Saturday, and 10:00am to 10:00pm, Sunday. Tasting hours will be limited to 10:00am to 9:00pm, Monday – Sunday.
22. A numbering address shall be located at the front of the market, to the satisfaction of the Long Beach Police Department.
 23. Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited.
 24. The operator shall install a cooler monitor, exterior video security cameras at the front and rear of the business with full view of the public right-of-way. 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 LBPd the view live and recorded video from the cameras over the Internet are also required. All video from the cameras shall be installed and maintained in good working order, to the satisfaction of the Police Chief, Director of Technology Services, and Director of Development Services.
 25. 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 services at the business may result in revocation of the Conditional Use Permit.
 26. The applicant shall obtain a building permit for a tenant improvement prior to issuance of a business license.
 27. 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 ensure proper distribution of beer, wine distilled spirits, tobacco, and inhalants to adults of legal age.
 28. The ABC-licensed proprietors shall have confirmed with the Development Services Department within 15 days of the final approval of the Conditional Use Permit or within 15 days of the opening to the public of a new market, 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 within 30 days of taking said course the employee(s) or responsible employer shall deliver to the Planning Department each required LEAD Program Certificate evidencing completion of said course.
29. Deliveries shall be limited to non-peak hours, generally between 9:00am and 6:00pm on no more than two occasions per week. The use of 18-wheel trucks for deliveries is prohibited.
 30. All beverages offered for sale shall be displayed and available for convenient inspection and purchase within the premises by the general public.
 31. All sales of alcoholic beverages shall be made within the premises.
 32. There shall be no amplified music on the premises at any time.
 33. Trash shall not be emptied into outside trash containers between the hours of 10:00pm and 7:00am.
 34. 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 in such a way to discourage loitering or sleeping in the parking lot.
 35. 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.
 36. At no time shall alcohol be consumed outside the store. No alcoholic beverages shall be consumed on any property adjacent to the premises under the control of the licensee or outside of the tasting area boundary.
 37. This approval is required to comply with these conditions of approval as long as the use is on the subject site. As such, the business owner 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)

Standard Conditions

38. 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.

39. 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.
40. 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 subsequent reference page.
41. 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).
42. The Director of Long Beach Development Services is authorized to make minor modifications to the approved 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.
43. 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).
44. 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.