



## AGENDA ITEM

# CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5<sup>th</sup> Floor Long Beach, CA 90802 (562) 570-6194 FAX (562) 570-6068

August 20, 2009

### CHAIR AND PLANNING COMMISSIONERS

City of Long Beach  
California

### RECOMMENDATION:

Approve a Conditional Use Permit to allow the sale of beer and wine (Type 20 license) for off-site consumption in conjunction with a full-service market at 450 The Promenade North. (District 1)

APPLICANT: Fresh & Easy Neighborhood Market  
2120 Park Place, Suite 200  
El Segundo, CA 90245  
(Application No. 0906-09)

### DISCUSSION

The subject site is located within the CityPlace Development, on a 1.9-acre lot bounded by 5<sup>th</sup> Street on the north, 4<sup>th</sup> Street on the south, Long Beach Boulevard on the east and The Promenade on the west (Exhibit A – Location map). The site is located in the Downtown Core subarea of PD-30 (Downtown Long Beach Planned Development District) and contains a commercial building that is divided into nine tenant spaces. The subject tenant space totals 16,247 square feet in area including a 4,840-square-foot warehouse (Exhibit B – Plans and photos).

Fresh & Easy is requesting approval of a Type 20 license to allow the sale of beer and wine for off-site consumption in conjunction with their operation of a full-service neighborhood market.

The zoning code typically requires that the proposed use shall not be in a reporting district with an over-concentration of alcohol sales uses, as recommended by Alcoholic Beverage Control, and that the use shall not be in a reporting district with a high crime rate as reported by the Long Beach Police Department. In this case, the proposed use is both within an over-concentrated district for alcohol sales and within a district with a crime rate higher than the high crime threshold. However, Section 21.52.201(D) of the Long Beach Municipal Code (special conditions for alcoholic beverage sales) specifically exempts projects located within the greater downtown area from this requirement. The reasoning is

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that the downtown area is recognized as an entertainment district by the City, and due to the concentration of restaurants and nightclubs, these requirements were waived by the City Council.

This full-service neighborhood market will add a convenient option for the neighborhood residents, and staff believes that approval of this CUP will have no negative effects upon the surrounding area. Also, in conjunction with operation of the business, the applicant will make a number of upgrades and improvements to the building that includes remodeling of the building's façade. Conditions of approval also will require the submittal of architectural, landscaping, and lighting drawings for the review and approval of a security plan by the Chief of Police prior to the issuance of a building permit. For these reasons, staff recommends the Planning Commission approve the Conditional Use Permit (Exhibit C – Findings and Conditions of Approval).

**PUBLIC HEARING NOTICE**

Public hearing notices were distributed on August 4, 2009, as required by the Long Beach Municipal Code, and no responses were received.

**ENVIRONMENTAL REVIEW**

In accordance with the Guidelines for Implementation of the California Environmental Quality Act, a Categorical Exemption (CE 09-041) was issued for the proposed project (Exhibit D).

Respectfully submitted,

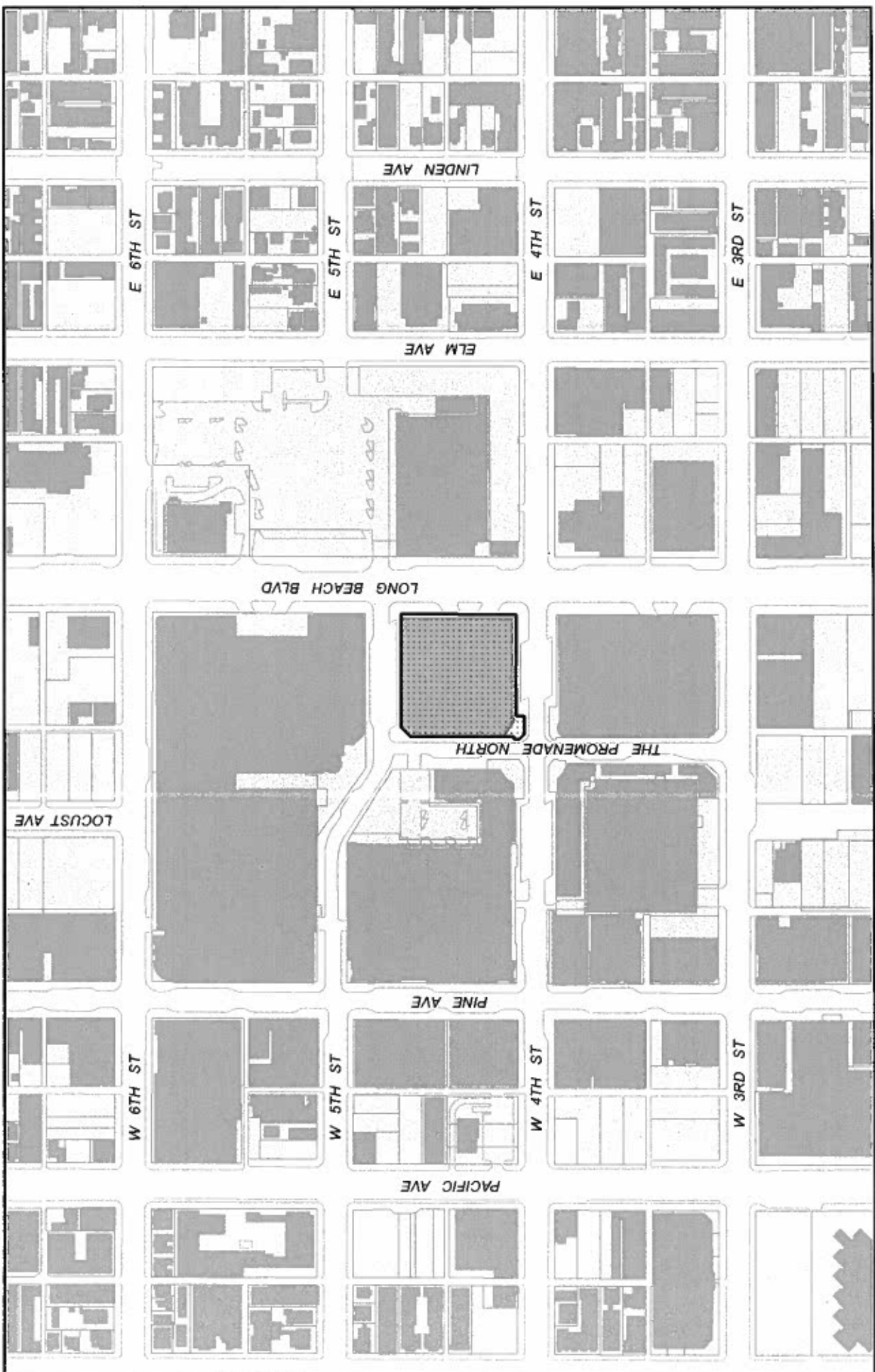


CRAIG BECK for  
DIRECTOR OF DEVELOPMENT SERVICES

CB:DB:JW

**Exhibits**

- A. Location map
- B. Plans and photos
- C. Findings and Conditions of Approval
- D. Categorical Exemption CE 09-041



**Subject Property:**  
 450 The Promenade North  
 Application No. 0906-09  
 Council District 1  
 Zoning Code : PD-30

**Exhibit A**



## CONDITIONAL USE PERMIT FINDINGS

450 The Promenade North

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- 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 subject site is located within General Plan Land Use District #7 (Mixed Use) and the Promenade District of PD-30 (Downtown Long Beach Planned Development District). PD-30 allows off-site sales 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 LUD#7 references a careful blending of different types of land uses that will benefit the community by their presence and thereby offer residents of the area a reduction in time, energy and transportation while obtaining normal useful goods and services. This proposal is consistent with the General Plan as a retail use that serves the community.

- 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 09-041) was prepared for this project and is attached for your review.

With the conditions of approval incorporated, the use will not be detrimental to the surrounding community. The conditions of approval incorporate a number of operational requirements that address potential negative impacts from the proposed use. Approval of the requested Conditional Use Permit will enable the City to enforce these approval conditions and address potential nuisances that may arise in the future.

The addition of beer and wine sales for this new full-service neighborhood market is not likely to create any issues related to public health, safety or general welfare, environmental quality or quality of life to the surrounding community.

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

In addition to the above general findings, the following specific conditions pursuant to Zoning Code Section 21.52.201 apply to all alcoholic beverage sales requiring a Conditional Use Permit:

- 1. The operator of the use shall provide parking for the use equivalent to the parking required for new construction regardless of the status of the previous use as to legal non-conforming rights.**

The project meets all current parking requirements by its location in the CityPlace Development. The parking structures and parking area in CityPlace is adequate for the needs of a Fresh & Easy store.

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

Night lighting and security measures are currently present on the site. This requirement has also been incorporated as a condition of approval. (Condition #16)

- 3. The operator of the use shall prevent loitering or other activity in the parking lot that could be a nuisance to adjacent uses and/or residential neighborhoods.**

This requirement has been incorporated as a condition of approval for the proposed project. (Condition #15)

- 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 State of California Alcoholic Beverage Control Board, nor with a high-crime rate as reported by the Long Beach Police Department, except: (1) location in the greater downtown area; or (2) stores of more than twenty-thousand square feet of floor area, and also providing fresh fruit, vegetables and meat, in addition to canned goods.**

The Fresh & Easy Market is located in the greater downtown area and, due to the increase in popularity and the number of dwelling units in the Downtown Core subarea of PD-30, full-service neighborhood markets are a desirable and welcome addition to the community. Therefore, it is appropriate that this type of full-service market be permitted to add beer and wine to provide a more comprehensive range of goods available to its customers.

- 5. The use shall not be located within five hundred feet of a public school or public park, except: (1) locations in the greater downtown area; or (2) stores of more than twenty-thousand square feet of floor area, and also providing fresh fruit, vegetables and meat in addition to canned goods.**

The project is located within the greater downtown area and is not within five hundred feet of a public school or a public park.

**Conditional Use Permit  
Conditions of Approval  
No. 0906-09  
Date: August 20, 2009**

1. The use permitted on the subject site, in addition to the other uses permitted in the Promenade District of PD-30, shall be off-site sales of beer and wine at a full-service market.
2. This permit and all development rights hereunder shall terminate one year from the effective date (final action date or, if in the appealable area of the Coastal Zone, 21 days after the local final action 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 21.21.406 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). Prior to the issuance of a building permit, the applicant shall submit a revised set of plans reflecting all of the design changes set forth in the Conditions of Approval to the satisfaction of the Zoning Administrator.

**Special Conditions:**

4. Prior to issuance of a business license, the applicant or operator shall comply with the following conditions. Those conditions applying to the continuing operation of the site shall remain in effect after business license issuance.
  - a. All existing publicly accessible telephones shall be removed. Publicly accessible telephones shall be prohibited on the exterior of the premises.
  - b. The windows of the store shall be maintained free of signage or other obstructions in excess of 10% of each window area. Window signs displaying prices shall be prohibited. Any existing violations of this condition shall be remedied.

- c. The sale of malt liquor beer and fortified wines shall be prohibited.
- d. The market shall provide a substantial portion of the product display area for the sale of fresh fruits, vegetables and meat, and canned goods to the satisfaction of the Director of Development Services.

**Standard Conditions:**

- 5. 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.
- 6. 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.
- 7. This approved land use is required to comply with these Conditions of Approval as long as the use is on the subject site. As such, the site shall be available for periodic re-inspections, conducted 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 the City Council.
- 8. All operational Conditions of Approval for this permit must be posted in a location visible to the public in such a manner as to be readable when the use is open for business.
- 9. All Conditions of Approval must be printed verbatim on all plans submitted for plan review to the Development Services Department. These conditions must be printed on the site plan or a subsequent reference page.
- 10. The Director of 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. No substantial changes shall be made without the prior written approval of the Site Plan Review Committee and/or Planning Commission.
- 11. Site development, including landscaping, shall conform to the approved plans on file in the Department of Planning and Building. At least one set of

approved plans containing Planning, Building, Fire, and, if applicable, Redevelopment and Health Department stamps shall be maintained at the job site, at all times for reference purposes during construction and final inspection.

12. 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).
13. Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited.
14. Any graffiti found on site must be removed within 24 hours of its appearance.
15. The operator of the approved use shall prevent loitering and loud noises around the project site, and in all parking areas serving the use during and after hours of operation. No loitering signs shall be posted around the property to the satisfaction of the Long Beach Police Department. 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, additional lighting, private security guards and/or alteration of business hours.
16. The operator of the use shall provide night lighting and other security measures to the satisfaction of the Chief of Police. Prior to the issuance of a building permit, the applicant shall submit architectural, landscaping and lighting drawings for the review and approval of the Police Department for their determination of compliance with Police Department security recommendations. For additional information, contact Sgt. Scott Minikus at (562) 570-5767.
17. The operator of the approved use shall remove all litter and debris from the public sidewalk abutting the subject site, and from the parking lot on the site, on a daily basis to the satisfaction of the Director of Planning and Building.
18. Energy conserving equipment, lighting and construction features shall be utilized on the buildings.
19. An adequately sized trash enclosure shall be designed and provided for this project as per Section 21.45.167 of the Long Beach Municipal Code. The designated trash area shall not abut a street or public walkway and shall be placed at an inconspicuous location on the property to the satisfaction of the Director of Planning and Building.



20. All structures shall conform to the Long Beach Building Code requirements. Notwithstanding this subject permit, all other required permits from the Building Bureau must be secured.
21. Separate building permits are required for any signs, fences, retaining walls, trash enclosures, flagpoles, pole-mounted yard lighting foundations and planters, as applicable.
22. Approval of this project is expressly conditioned upon payment (prior to building permit issuance or prior to Certificate of Occupancy, as specified in the applicable Ordinance or Resolution for the specific fee) of impact fees, connection fees and other similar fees based upon additional facilities needed to accommodate new development at established City service level standards, including, but not limited to, sewer capacity charges, Park Fees and Transportation Impact Fees.
23. Demolition, site preparation, and construction activities are limited to the following (except for the pouring of concrete which may occur as needed):
  - a. Weekdays and federal holidays: 7:00 a.m. to 7:00 p.m.;
  - b. Saturday: 9:00 a.m. - 6:00 p.m.; and
  - c. Sundays: not allowed
24. 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.