

CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 3rd Floor Long Beach, CA 90802 (562) 570-5237 Fax: (562) 570-6205

May 5, 2015

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive the supporting documentation into the record and adopt findings in response to the March 24, 2015 decision of the City Council to sustain the appeals from Laurie Angel and Chuck Fowler, overturning the January 15, 2015 decision of the Planning Commission to accept a Categorical Exemption (CE 14-114), and approve a Conditional Use Permit (Application No. 1409-13) to allow the sale of beer and wine for off-site consumption at an existing gas station convenience store located at 5740 Atlantic Avenue in the Commercial Neighborhood Pedestrian (CNP) zoning district. (District 8)

DISCUSSION

On March 24, 2015, a motion was made by Councilmember Austin, seconded by Councilmember Richardson, to sustain the appeals from Laurie Angel and Chuck Fowler in response to the January 15, 2015 decision of the Planning Commission to accept a Categorical Exemption (CE 14-114) and approve a Conditional Use Permit (Application No. 1409-13) to allow the sale of beer and wine for off-site consumption at an existing gas station convenience store (Exhibit A – Council Letter of March 24, 2015). The motion to sustain the appeals passed 8-0. As directed, new findings have been prepared to reflect denial of the requested Conditional Use Permit (Exhibit B – Denial Findings).

This matter was reviewed by Assistant City Attorney Mike Mais on April 15, 2015, and by Budget Management Officer Victoria Bell on April 17, 2015.

TIMING CONSIDERATIONS

Section 21.21.504 of the Long Beach Municipal Code requires City Council action within 60 days of receiving an application for appeal. In order to comply with this requirement, the item was heard on March 24, 2015.

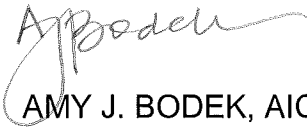
FISCAL IMPACT

There is no fiscal or local job impact as a result of the recommended action.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:


PATRICK H. WEST
CITY MANAGER

AJB:LT:JW:MH
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Attachments: Exhibit A: Council Letter of March 24, 2015
Exhibit B: Denial Findings



CITY OF LONG BEACH

Exhibit A

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 3rd Floor Long Beach, CA 90802 (562) 570-5237 Fax: (562) 570-6205

March 24, 2015

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Receive the supporting documentation into the record, conclude the public hearing, consider the appeals from Laurie Angel and Chuck Fowler, and uphold the decision of the Planning Commission to approve a Categorical Exemption (CE 14-114) and Conditional Use Permit to allow the sale of beer and wine for off-site consumption at an existing gas station convenience store located at 5740 Atlantic Avenue in the Commercial Neighborhood Pedestrian (CNP) zoning district. (District 8)

DISCUSSION

On January 15, 2015, the City Planning Commission conducted a public hearing on a Conditional Use Permit request to allow the sale of beer and wine for off-site consumption (under an ABC Type 20 license) at an existing gas station convenience store. (Exhibit A – Plans and Photographs). After considering staff's findings and testimony from the public and applicant, the Planning Commission received the supporting documentation into the record, concluded the hearing, and voted 3-1 to accept the Categorical Exemption (CE: 14-114) (Exhibit B – Categorical Exemption) and approve the Conditional Use Permit, subject to conditions (Exhibit C – Findings and Conditions of Approval). An appeal of the Planning Commission's approval action was filed on January 23, 2015, within the 10-day appeal period (Exhibit D – Application for Appeal). The appellants cite three reasons for the appeal filing: the project site's location within a designated high crime area; the concentration of alcohol sales uses in proximity to the project site; and the project site's location at a major school-travel intersection. Staff recommends that the City Council deny the appeal and uphold the Planning Commission's decision.

The subject site consists of a 12,813-square-foot parcel located at the southeast corner of Atlantic Avenue and South Street in the Commercial Neighborhood Pedestrian (CNP) zoning district (Exhibit E- Location Map). The site is currently developed with a two-canopy gas station, an accessory 1,700-square-foot convenience store, and five on-site parking

stalls. The applicant is seeking approval of a Conditional Use Permit (CUP) that would grant the convenience store beer and wine sales privileges for off-site customer consumption.

The convenience store has been in operation at the site since 2001. The property owner recently purchased a Type 20 beer and wine license from a stand-alone market located two blocks south, at 5498 Linden Avenue, in an adjacent census tract. This license, if introduced to the census tract of the subject site, would not result in an overconcentration of off-site licenses according to figures provided by the California Department of Alcohol Beverage Control (ABC) (Exhibit F – Map of Existing ABC Licenses).

The site also conforms to the City's 500-foot public school and public park buffer for new alcohol-sales uses. The nearest school, Lindbergh Middle School, is located approximately 2,050 feet from the site, and the nearest public park, Houghton Park, is located approximately 2,800 feet away.

According to Long Beach Police Department (LBPD) staff, the subject site is located within a high crime reporting district. LBPD staff, however, stated no objection to the request for alcohol sales at the site; instead, they have provided staff with a number of conditions of approval intended to mitigate potential negative impacts associated with the introduction of the alcohol sales use. These conditions, incorporated in full, cover sales restrictions, site security, and general nuisance abatement. With these operational conditions incorporated, staff believes the proposed CUP for Type 20 alcohol sales at the subject site will not cause substantial adverse affects on surrounding land uses or the community at large.

This matter was reviewed by Deputy City Attorney Amy Webber on March 3, 2015 and by Budget Management Officer Victoria Bell on February 26, 2015.

TIMING CONSIDERATIONS

Section 21.21.504 of the Long Beach Municipal Code requires City Council action within 60 days of receiving an application for appeal. In order to comply with this requirement, the item must be heard on or before March 24, 2015.

FISCAL IMPACT


There is no fiscal or local job impact as a result of the recommended action.

HONORABLE MAYOR AND CITY COUNCIL
March 24, 2015
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SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



AMY J. BODEK, AICP
DIRECTOR OF DEVELOPMENT SERVICES

APPROVED:



PATRICK H. WEST
CITY MANAGER

AJB:JW:MH
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Attachments: Exhibit A: Plans and Photographs
Exhibit B: Categorical Exemption
Exhibit C: Findings and Conditions of Approval
Exhibit D: Application for Appeal
Exhibit E: Location Map
Exhibit F: Map of Existing ABC Licenses

CONDITIONAL USE PERMIT FINDINGS

5740 Atlantic Avenue
Application No. 1409-13
May 5, 2015

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 subject property is located in General Plan Land Use District (LUD) #8P, Pedestrian-Oriented Retail Strip, and the Commercial Neighborhood Pedestrian (CNP) zoning district. LUD #8P is established to provide small-scale shops, services, and restaurants to neighborhood users in a pedestrian-friendly setting. The CNP zone echoes this intent in calling for similar small-scale, pedestrian-serving, neighborhood-compatible uses.

The retail convenience store at the subject site is a legal, permitted use dating back to July 2001, when a Certificate of Occupancy was granted for the conversion of auto repair bays into the retail store that exists today. Adding the sale of beer and wine to a retail store's existing selection of goods requires approval of a Conditional Use Permit (CUP).

2. THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE SURROUNDING COMMUNITY INCLUDING PUBLIC HEALTH, SAFETY, GENERAL WELFARE, ENVIRONMENTAL QUALITY OR QUALITY OF LIFE;

The addition of Type 20 sales privileges to the site's existing retail operations could prove detrimental to the surrounding community. Based on written testimony filed by the appellants, there are a total of 17 existing ABC licenses within one-half mile of the subject site. This proliferation of alcohol-related uses poses an elevated risk to sensitive land uses in the area, which include residential neighborhoods, a number of nearby schools and churches, and the forthcoming North Branch Library, which is to be built on the block immediately north of the subject site. Crime, underage drinking, blight, and other social issues that are often related to alcohol-selling businesses would have detrimental impacts on these uses.

Because of the concentration of these uses and the number of sensitive receptors in the area, alcohol-related CUP requests have generated high levels of interest and concern amongst the North Long Beach community. In recognition of these issues, the City chose North Long Beach as the first target area for its recently adopted Alcohol Nuisance Abatement Ordinance. This ordinance sought to alleviate

nuisance activities associated with businesses that sell alcohol. Given the success and positive community response generated by the program, the introduction of alcohol sales at one of the area's busiest, most visible intersections could potentially undermine these efforts.

3. THE APPROVAL IS IN COMPLIANCE WITH THE SPECIAL CONDITIONS FOR THE USE ENUMERATED IN CHAPTER 21.52.

- A. 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 nonconforming rights;**

The subject site is improved with a three-pump-island fueling station and an accessory 1,700-square-foot retail convenience store. Per Table 41-1C of the Zoning Regulations, one parking stall is required for each per pump island, plus four parking stalls for each 1,000 square feet of accessory retail or office area. Thus a total of 10 on-site parking stalls would be required to meet current code standards. There are currently five on-site parking stalls on the property, and no additional stalls are proposed as part of this CUP request.

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

Not applicable, as these findings are for permit denial.

- 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;**

Not applicable, as these findings are for permit denial.

- D. The use shall not be in a reporting district with more than the recommended maximum concentration of the applicable on or off-premises 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) locations in the greater downtown area; or (2) stores of more than twenty thousand (20,000) square feet of floor area, and also providing fresh fruit, vegetables and meat, in addition to canned goods; and**

The subject property is located in a census tract with two (2) off-site licenses, which is one less than the State of California Alcohol Beverage Control Board recommended maximum (3) for the subject site's census tract. A third off-site

license would thus not result in an overconcentration. The subject property is, however, located in an LBPD-designated high crime area.

- E. The use shall not be located within five hundred feet (500') of a public school, or public park, except: (1) locations in the greater downtown area; or (2) stores of more than twenty thousand (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 approximately 2,050 feet north of Lindbergh Middle School, the nearest public school, and approximately 2,800 square feet south of Houghton Park, the nearest public park.