



CITY OF LONG BEACH

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 5th Floor

Long Beach, CA 90802

(562) 570-6194 FAX (562) 570-6068

May 17, 2012

CHAIR AND PLANNING COMMISSIONERS
City of Long Beach
California

RECOMMENDATION:

Approve a Conditional Use Permit (CUP) request to allow the sale of beer and wine for off-site consumption (Type 20 license), at an existing convenience store located at 1821 Martin Luther King Jr. Avenue within the Single-Family Residential (R-1-N) zone. (District 6)

APPLICANT: Paline Soth
1821 Martin Luther King Jr. Avenue
Long Beach, CA 90806
(Application 1203-09)

DISCUSSION

The subject site is located at 1821 Martin Luther King Jr. Avenue at the southwest corner of Martin Luther King Jr. Avenue and Dayman Street (Exhibit A – Location Map). The site is located within the Single Family Residential (R-1-N) zone and is developed with a 2,678 square foot, 1-story commercial building with no onsite parking provided (Exhibit B – Plans & Photographs). The applicant is seeking approval for a Type 20 alcohol license that would allow PCH Market to sell beer and wine for off-site consumption. No other changes to the operation of the store are proposed.

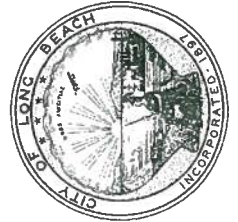
The convenience store has been operating at the subject since 2007 without negative impact to the community. The Police Department has reviewed the request and has no objection to approval, with the incorporated conditions of approval that require security cameras, prevention of loitering and limitation on alcohol sales. In reviewing the application, staff evaluated the number of existing alcohol licenses in the subject Census Tract as well as the number of reported crimes in the subject Police Reporting District, to ensure that the proposed location is not 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 is not located within a high crime area as reported by the Long Beach Police Department (LBPD). The project is not located in a high crime area per LBPD or an over concentrated district for off-site alcohol sales. In the subject census tract (5732.02), four licenses for on-site alcohol sales are allowed and there are currently two existing licenses. One of the two licenses was surrendered on June 11, 2011 (Exhibit C- Existing Licenses). This license will keep the total number of licenses in the census tract at



Exhibit A



Subject Property:
 1821 Martin Luther King Jr. Ave
 Application No. 1203-09
 Council District 6
 Zoning Code : R-1-N



City of Long Beach,
California



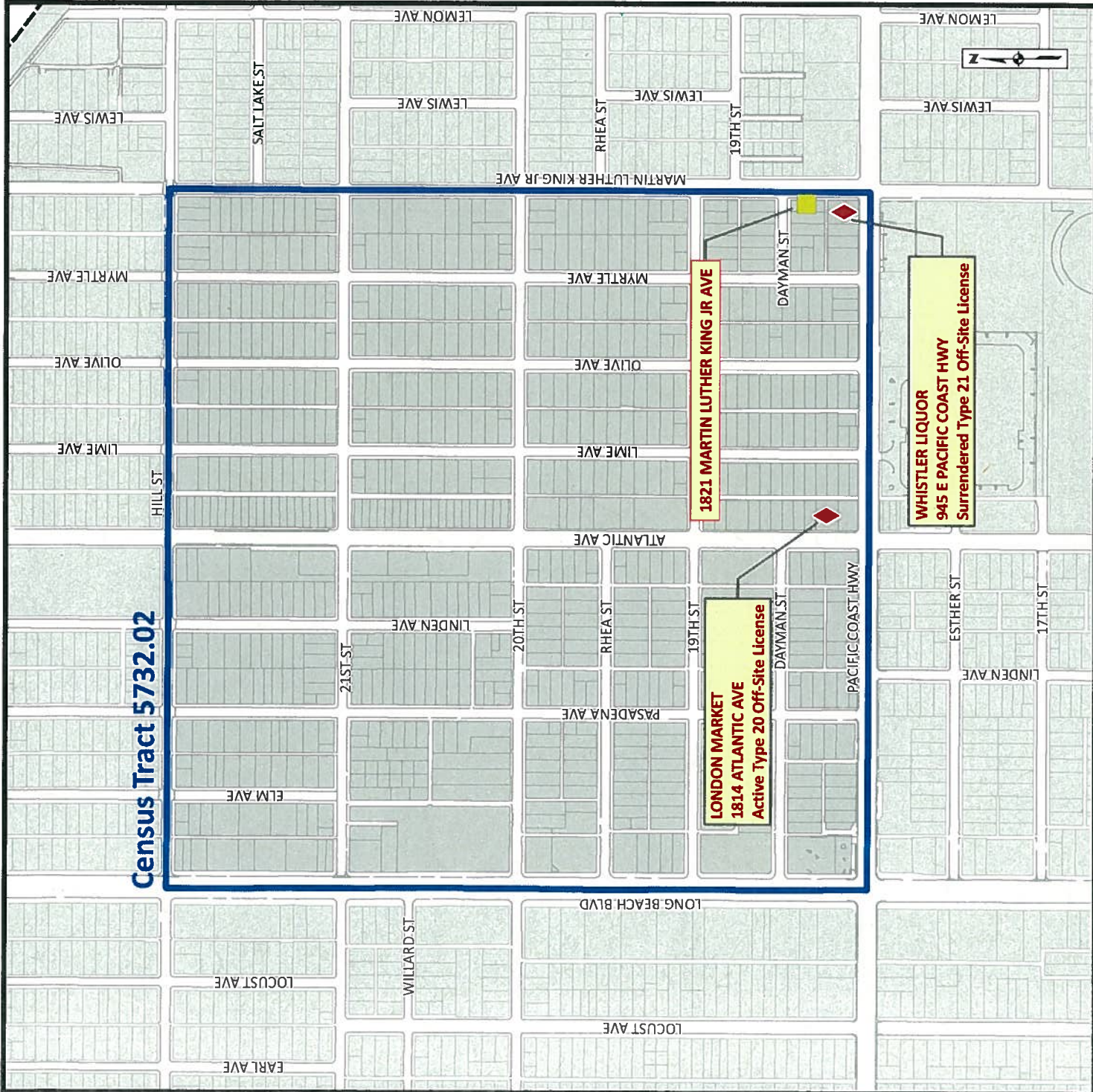
Existing Off-Site Alcohol Licenses for Census Tract 5732.02

Map Features

- Existing Locations
- Census Tracts 5732.02
- City Boundary

Sources:
Off-site sales locations provided
by Development Services.
Tract 5732.02 is from 2010 Census.

Department of
Technology Services
GIS



CONDITIONAL USE PERMIT FINDINGS

**1821 Martin Luther King Junior Avenue
Application No. 1203-09
May 17, 2012**

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 #1—Single Family Residential District. LUD #1 was created in response to the majority of the public's preference for single-family homes, and in recognition of reality that a majority of the city contains single-family homes. The existing market is a use that was allowed prior to the creation of the Single Family Residential District. The request to sell alcohol for off-site consumption is considered an expansion and is a use that was allowed prior to the creation of the Single Family Residential District. Therefore the use is considered a legal non-conforming use in the district. To expand on a non-conforming use, a use which was originally established in a zone district by right and reclassified as a discretionary use in that district shall obtain a conditional use permit prior to expansion of the use, subject to the special conditions enumerated in Section 21.52.212 of the Municipal Code. Approval of this project would be consistent with the General Plan and the zoning regulations.

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 applicant is currently operating a retail store within an existing commercial building, which has had no adverse impacts, or calls for service. With the incorporation of conditions of approval, which includes the maintenance of landscaping, improvements to the commercial building and operational conditions, the use will not be detrimental to the surrounding community. Thus, no public health, safety, general welfare, environmental quality, or quality of life impacts are foreseen for this project.

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 existing PCH neighborhood market is approximately 2,678 square feet in size. Per zoning code section 21.41.216, parking for a retail store is at (4) spaces per 1,000 square feet of floor area. Given the current establishment was built without onsite parking and in a manner that does not allow for the incorporation of additional onsite parking, the parking is considered legal non-conforming and no additional parking is required.

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

Staff consulted with the Long Beach Police Department on this application. The LBPD did not have any objections to the request with the incorporated conditions of approval that required security cameras, a limitation on alcohol sales operating hours (8 a.m. to 9 p.m.), limit on the size of alcohol containers/packages, and prevention of loitering.

- 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 #11 requires 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.**

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 in the subject Police Reporting District. Section 21.52.210 of the zoning regulations requires that the use 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 project is not located in a high crime area per LBPD; nor in an area that has an over-concentration of licenses for on-site alcohol sales. In the subject census tract (5732.02), four licenses for on-site alcohol sales are allowed and there are currently two existing license; one of those was recently surrender. The addition of this license will keep the number of licenses in the census tract at two licenses, which is below

the maximum number of license allowed in the census tract and the same that existed before a license was surrendered.

- 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 located within 500 feet of the Poly High school property boundary. However, the school offices and classrooms are more than 1,000 feet away from the entrance to the store and is situated at the northerly corner of the school, away from the entrance to the school. Thus, staff is recommending that Planning Commission waive this finding.

**CONDITIONAL USE PERMIT
CONDITIONS OF APPROVAL**

1821 Martin Luther King Junior Avenue

Application No. 1203-09

Date: May 17, 2012

1. The use permitted on the subject site, in addition to the other uses permitted in the R-1-N zoning district, shall be to allow the sale of beer and wine for off-site consumption (Type 20 License) at a neighborhood market located at 1821 Martin Luther King Junior Avenue.
2. This permit and all development rights hereunder shall terminate one year 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 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 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. No publicly accessible telephones shall be maintained on the exterior of the premises. Any existing publicly accessible telephones shall be removed.
5. The windows of the store 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.
6. 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.
7. Installation of any exterior newsstands and vending machines shall be prohibited.
8. Video or coin operated games and the like shall be prohibited on site so as to discourage loitering on the premises.
9. 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.

10. The beer and wine sales shall be limited to one cooler and shall not be expanded.
11. 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.
12. If the owner wishes to upgrade the existing alcohol license such as (beer, wine, and distilled spirits), they will be required to apply for a new Conditional Use Permit.
13. No alcoholic beverages shall be consumed on the property, or on adjacent properties under control of the licensee.
14. No sales to any person appearing to be or actually being intoxicated shall be allowed.
15. Licensee shall take all reasonable measures to prohibit and prevent any loitering on the premises.
16. 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 purchaser to ensure no sales to intoxicated persons.
17. No beer or malt beverages shall be sold, regardless of container size, in packages of less than three per sale.
18. No pay phone shall be maintained on the interior and exterior of the premises.
19. The sale of beer or malt beverages in quantities of quarts, 22 oz, 32 oz, 40 oz or similar size is prohibited.
20. Wine shall not be sold in bottles or containers smaller than 750 ml. other than dessert wines in 375 ml. bottles.
21. Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited.
22. The operator shall install exterior video security cameras at the front and rear of the business with full view of the public right-of-way and shall install exterior security video cameras that provide full view of any areas where operator provides parking for its patrons. 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 to view live and recorded video from the cameras over the Internet are also required. All video security cameras shall be installed to the satisfaction of the Police Chief, Director of Technology Services, and Director of Development Services.

23. 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 service at the business may lead to revocation of the Conditional Use Permit.
24. The hours of operation for alcohol sales shall be limited to 8 a.m. to 9 p.m. Monday through Sunday.
25. The sale of fortified wines with an alcohol content of greater than 15% is prohibited.

Standard Conditions:

26. 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.
27. 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.
28. 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).
29. 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.
30. The Director of Development Services is authorized to make minor

modifications to the approval design plans or 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.

31. 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).
32. Any graffiti found on site must be removed within 24 hours of its appearance.
33. 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.



NOTICE of EXEMPTION from CEQA

DEPARTMENT OF DEVELOPMENT SERVICES
333 W. OCEAN BLVD., 5TH FLOOR, LONG BEACH, CA 90802
(562) 570-6194 FAX: (562) 570-6068
lbs.longbeach.gov

TO: Office of Planning & Research
1400 Tenth Street, Room 121
Sacramento, CA 95814

FROM: Department of Development Services
333 W. Ocean Blvd, 5th Floor
Long Beach, CA 90802

L.A. County Clerk
Environmental Fillings
12400 E. Imperial Hwy. 2nd Floor, Room 2001
Norwalk, CA 90650

Categorical Exemption CE- 12-081

Project Location/Address: 1821 MARTIN L. KING JR. AVE., LONG BEACH, CA 90806

Project/Activity Description: BEER AND WINE OFF SALE PERMIT

Public Agency Approving Project: **City of Long Beach, Los Angeles County, California**

Applicant Name: PHIK CHENG LIN

Mailing Address: 1821 MARTIN L. KING JR. AVE., LONG BEACH CA 90806

Phone Number: (562) 599-7190

Applicant Signature: *Phik Cheng Lin*

BELOW THIS LINE FOR STAFF USE ONLY

Application Number: 1203-09 Planner's Initials: SV

Required Permits: CUP

THE ABOVE PROJECT HAS BEEN FOUND TO BE EXEMPT FROM CEQA IN ACCORDANCE WITH STATE GUIDELINES SECTION 15301, Class 1, Existing Facilities

Statement of support for this finding: Land use alteration to existing commercial land use

Contact Person: Craig Chalfant

Contact Phone: 562-570-6368

Signature: *Craig Chalfant*

Date: 5/2/12