



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

January 15, 2015

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 5740 Atlantic Avenue within the Commercial Neighborhood Pedestrian (CNP) district and accept Categorical Exemption 14-114. (District 8)

APPLICANT: Mark Kelishadi
5740 Atlantic Avenue
Long Beach, CA 90805
(Application 1409-13)

DISCUSSION

The subject site, a 12,813-square-foot parcel located at the southeast corner of Atlantic Avenue and South Street, has a zoning designation of Commercial Neighborhood Pedestrian (CNP) and a General Plan Land Use designation of Pedestrian-Oriented Retail Strip (LUD 8P) (Exhibit A – Location Map). Improvements on the site consist of a two-canopy gas station, an accessory 1,700-square-foot convenience store, and five on-site customer parking stalls (Exhibit B – Plans & Photos). The applicant is seeking approval of a Conditional Use Permit (CUP) that would grant the convenience store beer and wine sales privileges (under a Type 20 ABC license) for off-site consumption.

Per Section 21.52.201 of the Zoning Regulations, applications for alcoholic beverage sales uses shall not be in a reporting district with more than the maximum concentration of the applicable on or off-premises sales use, as recommended by the State of California Alcoholic Beverage Control (ABC) Board. According to ABC staff, the subject site is located in a census tract (5706.01) that currently does not have an undue concentration of Type 20 licenses (three licenses allowed; two licenses existing), meaning approval of the requested CUP would not result in an overconcentration of Type 20 licenses in the census tract (Exhibit C – Map of Existing ABC Licenses).

The aforementioned code section also states that alcoholic beverage sales uses shall not be located within a district with a high crime rate, as reported by the Long Beach Police Department (LBPD). According to LBPD staff, the subject site is located within a high crime reporting district. LBPD staff, however, stated no objection to the proposed alcohol sales

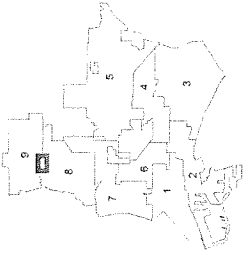
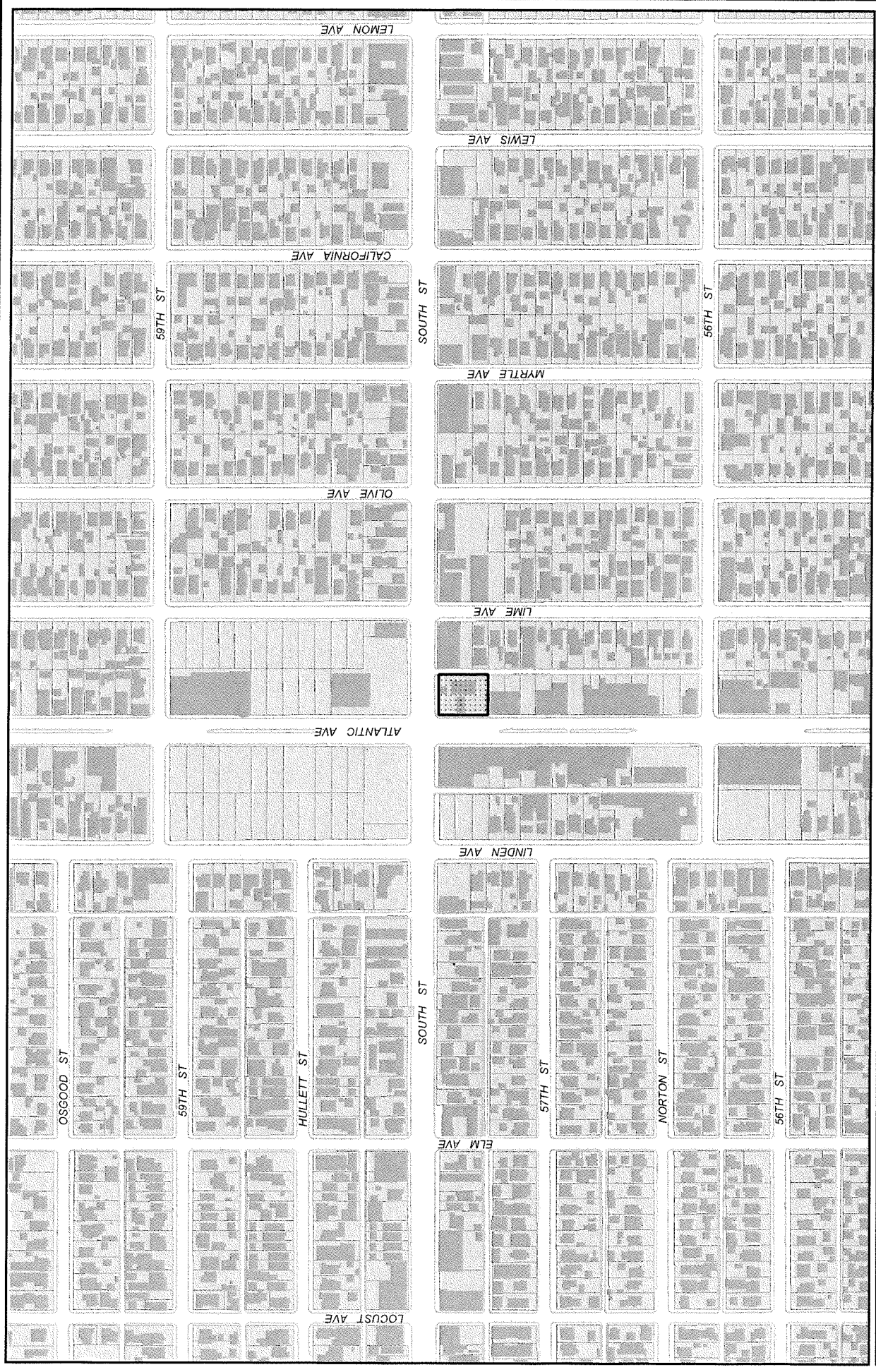
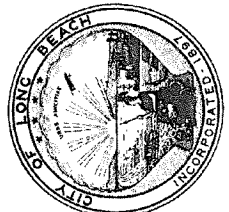


Exhibit A



Subject Property:
 5740 Atlantic Ave
 Application No. 1409-13
 Council District 8
 Zoning Code : CNP



CONDITIONAL USE PERMIT CONDITIONS OF APPROVAL

5740 Atlantic Avenue
Application No. 1409-13
January 15, 2015

1. The approved Conditional Use Permit shall allow for the sale of beer and wine for off-site consumption (under a Type 20 ABC License) at an existing gas station convenience store.
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. Off-premise alcohol sales shall end at 11:00 PM, Monday through Sunday.
5. The sale of beer or malt beverage products in quantities of quarts, 32 ounces, 40 ounces, or greater shall be prohibited.
6. The sale of wine shall be restricted to bottles and container sizes 750ml or greater. Dessert wines may be sold in bottles and containers 375ml or greater.
7. The sale of beer, malt beverage, or wine cooler products shall be restricted, regardless of container size, to packages of four or more per sale.
8. Exterior lighting shall 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 should be positioned to discourage homeless people from sleeping on the premises.
9. The property's address shall be clearly posted on the west side of the convenience store building, visible from Atlantic Avenue.
10. A video surveillance system shall be installed to assist with monitoring the property on both the interior and exterior. A Digital Video Recorder (DVR),

capable of exporting images in TIFF, BMP, or JPG format, shall be used. Recording shall be retained for no less than 30 days.

11. There shall be no exterior advertising or sign of any kind or type, including advertising directed to the exterior from within the convenience store, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute violation of this condition.
12. Windows shall not be obscured by placement of signs, shelving, racks, coolers or similar obstructions.
13. No alcoholic beverages shall be consumed on any property adjacent to the premises under the control of the licensee.
14. Possession of alcoholic beverages in open containers and the consumption of alcoholic beverages shall be prohibited on or around the subject site.
15. Installation of exterior newsstands or vending machines shall be prohibited.
16. Video or coin operated games and the like shall be prohibited on site so as to discourage loitering on the premises.
17. The operator of the approved use shall prevent loitering, loud noises and nuisance activity around the project site, and in all parking areas serving the use, during hours of operation.
18. No publicly accessible telephones shall be maintained on the exterior of the premises. Any existing publicly accessible telephones shall be removed.
19. No sales to any person appearing to be or actually being intoxicated shall be allowed.
20. 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.

Standard Conditions:

21. 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.

22. 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.
23. 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).
24. 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.
25. The Director of Development Services is authorized to make minor modifications to the approval design plans or the 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.
26. 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).
27. Any graffiti found on site must be removed within 24 hours of its appearance.
28. 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

Conditions of Approval
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harmless the City of Long Beach.

CONDITIONAL USE PERMIT FINDINGS

5740 Atlantic Avenue
Application No. 1409-13
January 15, 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;

With staff's standard conditions and those recommended by the Long Beach Police Department (LBPD) incorporated, approval of a Type 20 license at the subject site will not figure to be detrimental to the surrounding community.

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 proposed project does not expand the size of the existing retail convenience store. As such, the current off-street parking provided at the subject property meets the requirements of the proposed use.

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

Per LBPD's recommended condition, exterior lighting that clearly illuminates the common areas surrounding the building (specifically entrances, exits, and building address) shall be installed. Additional security measures recommended by LBPD will also be conditioned, such as installation of a video surveillance system (including a DVR), advertising/window coverage restrictions, and graffiti prevention measures.

- 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;**

A standard condition prohibiting loitering and other nuisance parking lot activities has been included in the project conditions of approval.

- 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**

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 (5752.01) as well as the total number of reported crimes in the subject Police Reporting District. 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. Adding a third off-site license would thus not result in an overconcentration. The subject property, however, is located in an LBPD-designated high crime area. That said, the LBPD has not objected to the subject request; instead they've recommended a series of conditions tied to project approval that would, in their judgment and the judgment of staff, mitigated potential impacts to a level less than significant.

- 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.



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- 14-114

Project Location/Address: 5740 Atlantic Blvd, Long Beach, CA 90805

Project/Activity Description: To permit the sale of beer and wine only for off-site consumption; in conjunction with an existing 1,700 square foot 76 convenience market;

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

Applicant Name: 76 Market Mark Kelishadi

Mailing Address: 5740 Atlantic Ave, Long Beach, CA 90805

Phone Number: 818-705-4270

Applicant Signature:

[Handwritten signature]

BELOW THIS LINE FOR STAFF USE ONLY

Application Number: 1409-13 Planner's Initials: MK

Required Permits: CONDITIONAL USE PERMIT

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: Minor land use alteration for existing market.

Contact Person: Craig Chalfant

Contact Phone: 562-570-6368

Signature: [Handwritten signature]

Date: 12/31/14