



AGENDA ITEM No. 3

# 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

November 5, 2015

## CHAIR AND PLANNING COMMISSIONERS

City of Long Beach  
California

### RECOMMENDATION:

Approve a Conditional Use Permit (CUP) to allow the sale of beer, wine and distilled spirits for off-site consumption (Type 21 License) and accept Categorical Exemption 15-032, in conjunction with a convenience market located at 146 Linden Avenue, within the first floor commercial space of the historic landmark Lafayette Building, and within the Downtown Plan Development District (PD-30). (District 2)

APPLICANT: LBC Beverages, Inc.  
Mark Dana  
803 E. Broadway  
Long Beach, CA 90802  
(Application 1503-08)

### DISCUSSION

The subject site is located at 146 Linden Avenue, on the southwest corner of Linden Avenue and Broadway within the Downtown Plan Development District (PD-30) (Exhibit A – Location Map). The surrounding land uses are also within PD-30 and are mixed-use, commercial, and residential. The applicant is seeking approval of a Conditional Use Permit (CUP) for a Type 21 alcohol license that would allow the sale of beer, wine and distilled spirits for off-site consumption in conjunction with a convenience market, “Wabi-Sabi Village Market”.

The market will be located in a tenant space located on the first floor of the landmark Lafayette Building. The Lafayette is one of part of three mid-rise buildings ranging in height from six to eight stories high that were built between 1928 and 1952. Currently, the buildings house residential condominiums above the first floor commercial uses. The convenience market has a gross floor area of 1,516 square feet and no exterior improvements are proposed (Exhibit B – Plans and Photos). The market will include a service counter for made to order coffee, tea, and prepared cold and hot foods (Exhibit C – Menu). As part of this approval, the owner will be required to provide products

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consisting of more than 50 percent produce and grocery items (vegetables, packaged meat, dairy, condiments, spices, baby diapers, personal care and household goods, etc.) to ensure that the business operates as a continual market and not a liquor store over time, even if the ownership changes.

In considering a CUP application for the off-sale of beer, wine and distilled spirits, zoning regulation Section 21.52.201 requires that a new CUP for alcohol sales not be in a reporting district that is within a high crime area per the Long Beach Police Department (LBPd); nor can it be in an over-concentrated census tract for off-site alcohol sales based on population figures determined by the California State Department of Alcoholic Beverage Control (ABC).

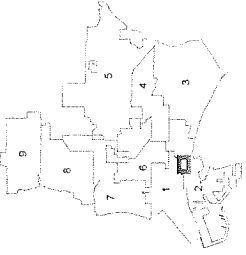
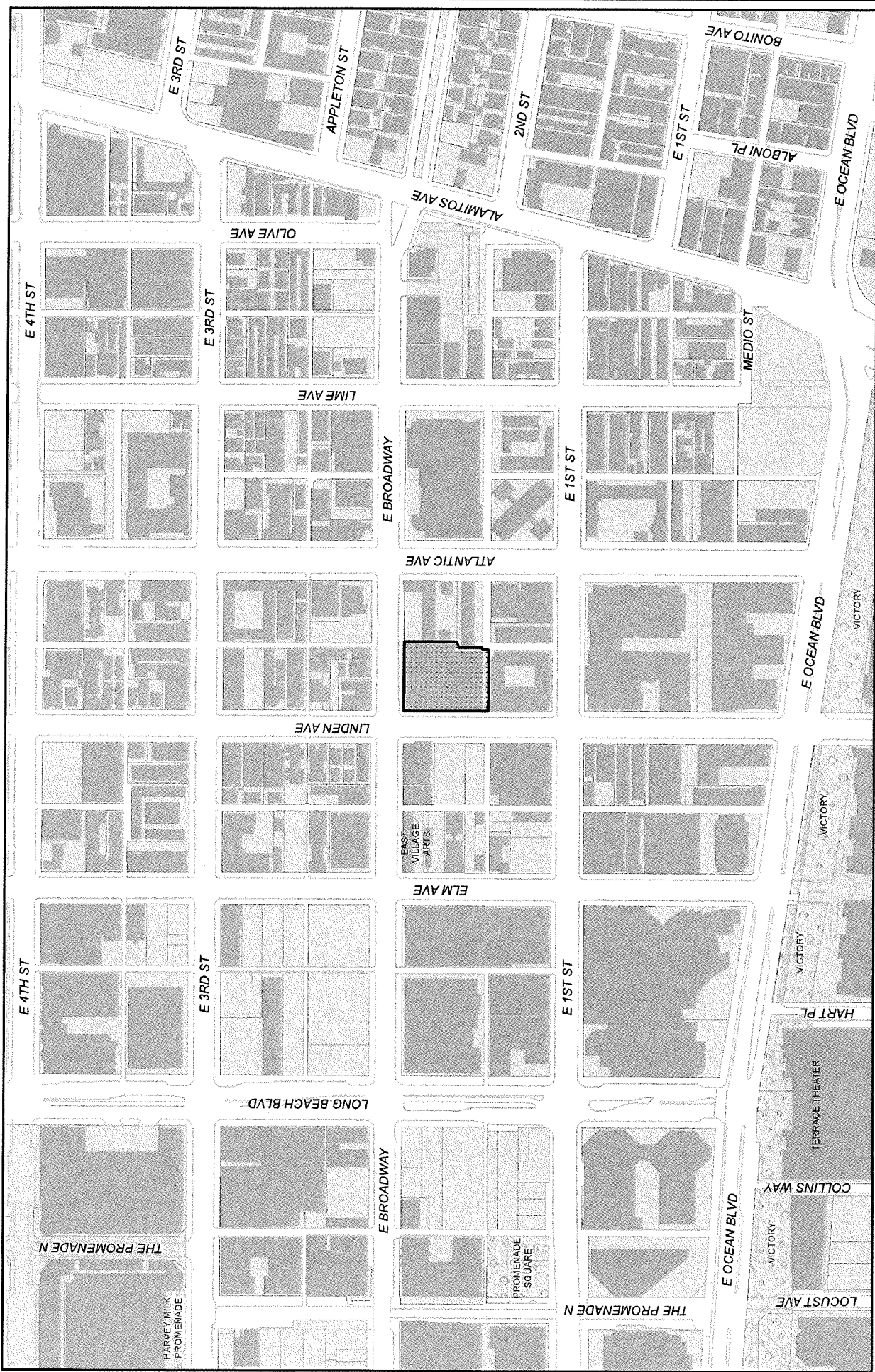
The subject property is within Census Tract 5760.01, which is not located in a high crime area per the LBPd; however, the district has an over-concentration of off-site licenses. There are currently six Type 21 licenses and only three are permitted within this census tract (Exhibit D – Map of Existing Alcohol License). The LBPd has reviewed the CUP request for this location and has no objection to its approval. Staff is requesting that the Planning Commission waive the condition for over-concentration since the site has a low history of offenses. It has been common practice to approve alcohol licenses within an over-concentrated area when the location has a low history of offenses and is in the Downtown area (Arts District), which is known to promote pedestrian vitality during the day and also night life activities. Staff believes the proposed use is appropriate since it is ancillary to a market.

Staff also believes that approval of this application will not result in adverse effects to the community and that the additional license will have minimal impacts on the surrounding land uses. The proposed conditions of approval require appropriate measures for the prevention of nuisances and other potential negative effects. As part of the recommended conditions the hours of alcohol sales will be restricted from 8:00 AM to 10:00 PM Monday through Thursday and 8:00 AM to 11:00 PM Friday through Sunday. Each employee is required to complete 5.5 hours of "Evening Jurisdictional Safe Alcohol Service Training" which promotes proper alcohol sales per ABC standards. The market will provide interior and exterior monitoring surveillance cameras seven days a week. Staff has prepared findings (Exhibit E – Findings and Conditions) and recommends that the Planning Commission conditionally approve a CUP to allow the sale of beer, wine and distilled spirits for off-site consumption in conjunction with a convenience market.

### **PUBLIC HEARING NOTICE**

Public hearing notices were distributed on October 20, 2015, in accordance with the provision of the Zoning Ordinance. No comments have been received as of the preparation of this report.

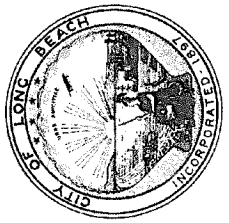




# Exhibit A



**Subject Property:**  
 146 Linden Ave  
 Application No. 1503-08  
 Council District 2  
 Zoning Code : PD-30



# EXHIBIT C

Wabi Sabi Village Market tentative menu:

Examples of menu items:

Salad:

Smoked albacore tuna with anchovy dressing, artichoke hearts, red potatoes, plum tomatoes, Sicilian greens and olives all on a dressed bed a bibb lettuce.

Sandwiches:

Roasted seasonal vegetables with shredded Romaine and creamy feta on Ezekiel bread;

Polynesian slow roasted pork with Asian coleslaw, crushed wontons and peanut-pineapple aoli on a Kaiser roll;

Flatbreads:

Italian sausage, artichokes, firework tomatoes and Cypress Grove goat cheese:

Sweet potato, arugula and sheep's milk ricotta;

Pork belly, butternut squash, crispy kale and smoked mozzarella.

Breakfast:

Greek yogurt bowl topped with seasonal fruit, organic hemp seed granola and wild mountain honey.

Breakfast tacos:

Cottage bacon and potato with and anchor chili salsa;

Chorizo and sweet potato with avocado radish salsa (soyrizo available);

Turkey and black bean with sweet baby grilled tomato salsa (Vegan/Soy "Chicken" available);

Fresh baked bagel of your choice with herb cream cheese apple wood smoked pepper bacon and heirloom tomato.

## CONDITIONAL USE PERMIT CONDITIONS OF APPROVAL

Application No. 1503-08

146 Linden Avenue

November 5, 2015

1. The use permitted on the subject site, in addition to the other uses permitted in the Downtown Plan Development District, shall allow the sale of beer, wine and distilled spirits for off-site consumption (Type 21 License) at the proposed convenience market located at 146 Linden 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 21.21.06 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. No publicly accessible telephones shall be maintained on the exterior of the premises. Any existing publicly accessible telephones shall be removed.
5. The window of the market shall be maintained free of signage or other obstruction 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 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 Conditional Use Permit, or Alcoholic Beverage Control license, the more stringent regulation shall apply.

10. No alcoholic beverages shall be consumed on the property, or on adjacent properties under control of the licensee.
11. No sales to any persons appearing to be or actually being intoxicated shall be permitted.
12. 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.
13. There shall be no single sales of beer or malt beverage products, except that of micro-brews and specialty malt products sold under such designations as Stout, Porter, India Pale Ale (IPA) and English Special Bitters (ESB), which are sold as singles by the supplier.
14. The sale of beer or malt beverages in quantities of quarts, 22 oz. 32 oz., or 40 oz., or similar size container is prohibited. No beer or malt beverage products shall be sold, regardless of container size, in packages of less than three per sale, except those specifically listed above.
15. The convenience market shall provide an assortment of "Healthy Food" products at all times or be consistent with the City of Long Beach programs as recommended by the Long Beach Health Department. In addition, more than 50 percent of the products for sale shall consist of grocery and produce items.
16. The beer, wine and distilled spirits shall be limited within the market as indicated on the approved plans dated September 10, 2015. In addition, the market will be limited to one cooler for alcohol use at any time.
17. Sale of delivery services of alcohol shall adhere to requirements set forth by the California Department of Alcoholic Beverage Control.
18. Wine shall not be sold in bottles or containers smaller than 750 ml. other than dessert wines in 375 ml. Wine coolers shall not be sold in quantities of less than four per sale.
19. The hours of alcohol sales shall be limited from 8:00 AM to 10:00 PM Monday – Thursday and 8:00 AM to 11:00 PM Friday – Sunday. This condition may be modified at staff level one year from the date shown on the Notice of Final Action, with an approved modification.
20. The address number shall be located at the front of the market, to the satisfaction of the Long Beach Police Department and Historic Preservation Bureau.

21. Exterior security bars and roll-up doors applied to windows and pedestrian building entrances shall be prohibited.
22. The operator shall install a cooler monitor and 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 the LBPD to view live and recorded video from the cameras over the Internet are also required. All video from the cameras shall be installed to the satisfaction of the Chief of Police, 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 the 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 result in revocation of the Conditional Use Permit.
24. The applicant shall obtain a building permit for a tenant improvement prior to issuance of a business license.
25. Shelving within in the market shall not exceed 4-foot in height with the exception of wall shelving.
26. Any and all employees hired to sell alcoholic beverages shall provide evidence that they have either:
  - a. Completed training from the 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 adults of legal age.
27. 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 Bureau each required LEAD Program Certificate evidencing completion of said course.



28. Deliveries shall be limited to non-peak hours, generally between 9:00 AM and 6:00 PM on no more than two occasions per week. The use of 18-wheel trucks for deliveries is prohibited.
29. All commercial vehicle delivery trucks must use commercial streets for deliveries.
30. There shall be no cups, glasses, or similar receptacles commonly used for drinking beverages, sold, furnished, or given away at the applicant's premises in quantities of less than their original multi-container package, unless such items have been prepackaged for sale in combination with other items (i.e., picnic packs/gift baskets).
31. All beverages offered for sale at the premises shall be displayed and available for convenient inspection and purchase within the premises by the general public.
32. All sales of alcoholic beverages shall be made within the premises.
33. There shall be no amplified music on the premises at any time.
34. Trash shall not be emptied into outside trash containers between the hours of 10:00 PM and 7:00 AM.
35. 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.
36. 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.
37. 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.

### **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 design 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.

**CONDITIONAL USE PERMIT  
FINDINGS  
146 Linden Avenue  
Application No. 1503-08  
November 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 along with staff analysis are presented below for consideration, adoption and incorporation into the record of proceedings:

**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 located in the General Plan Land Use District Mixed Use and within the Downtown Plan Development District. The Downtown Plan Development District allows the off-site sale of beer, wine and distilled spirits 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.

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

**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 15-032) was prepared for this project and is attached for your review.

The subject property is not within in a high crime district but is located within an area "over-concentrated" for alcohol licenses for off-site consumption. However, the property is located within an Art District area promoting pedestrian vitality during the day and night life, and the proposed use is appropriate since it is ancillary to a market. The site is equipped with a surveillance system to deter criminal activity and promote safety. Conditions for the market will be placed on the project to address security and lighting.

**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 21.52.210 states that the following conditions shall apply to all alcoholic beverage sales uses 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 market is not proposing to expand and the use will be maintained within an existing commercial use area in the Lafayette historic landmark building and no additional parking is required per the zoning code.

- 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 conditions of approval be incorporated requiring security cameras and limiting the hours of alcohol sales.

- 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 22 and 23 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 not located in a high crime area per the LBPD; however, the district has an over-concentration of off-site licenses, there are currently six Type 21 licenses and only three are allowed (Exhibit D – Map of Existing Alcohol License). The LBPD has reviewed the CUP request for this location and has no objection to its approval. Staff is requesting that the Planning Commission waive the condition for over-concentration since the site has a low history of offenses in the Downtown Plan Development District.

- 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 not located within 500 feet of a public school. The subject site is located within 500 feet of the East Village Art Park, located on the west side of Elm Street between Broadway and 1st Street. Staff is requesting that the Planning Commission waive this requirement since no negative impacts are expected do to

the small scale of the park size and hours of use. The East Village Art Park is .1-acre of open space that is open to the public on Tuesdays and Thursdays from 3:00 pm to 6:00 pm only. This park is secured by an 8-foot-tall chain-link perimeter fence during non-open hours.



NOTICE of EXEMPTION from CEQA

DEPARTMENT OF DEVELOPMENT SERVICES | PLANNING BUREAU
333 W. OCEAN BLVD., 5TH FLOOR, LONG BEACH, CA 90802
(562) 570-6194 FAX: (562) 570-6068
lbsds.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

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

Categorical Exemption CE- 15-032

Project Location/Address: 146 LINDEN LONG BEACH
Project/Activity Description: Type 21 License for off-site
consumption of beer and wine at retail market

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

Applicant Name: MARK DANA

Mailing Address: 3635 E. 5th Street

Phone Number: 562-436-8762 Applicant Signature: [Signature]

562 212 1600

BELOW THIS LINE FOR STAFF USE ONLY

Application Number: 1503-08 Planner's Initials: SV

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: Land use alterations
to existing commercial use

Contact Person: Monica Derforyan Contact Phone: (562) 570-6134

Signature: [Signature] Date: 10/21/15