



Date: June 7, 2012
To: Chair and Planning Commissioners
From: Amy J. Bodek, Director of Development Services *DB*
Subject: Revision of Findings – Application No. 1203-09 – 1821 Martin Luther King Junior Avenue

At the May 17, 2012 hearing, the Planning Commission directed staff to prepare findings for denial for a Conditional Use Permit request to allow the sale of beer and wine for off-site consumption (Type 20 license) at an existing convenience store. Attached are findings that have been revised to reflect the negative impacts that the proposal will have on the surrounding community.

CONDITIONAL USE PERMIT FINDINGS

**1821 Martin Luther King Junior Avenue
Application No. 1203-09
June 7, 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. The existing convenience store is a legal nonconforming use located in a single family residential zone (R-1-N). Per Section 21.27.060 of the zoning regulations, a nonconforming use may not be expanded or altered in any way so as to increase that nonconformity. Therefore the addition of off-site sales of beer and wine would be considered an expansion of a nonconforming use and would not be consistent with the General Plan or 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

In accordance with the California Environment Quality Act (CEQA) and the CEQA Guidelines, a Categorical Exemption (CE 12-081) was prepared for this project and is attached for your review.

The addition of off-site beer and wine sales at an existing convenience store could be detrimental to the surrounding community. With the proximity of Long Beach Polytechnic High School approximately 400 feet away from the proposed site, the potential exists for sales of beer and wine to students who are under age, potentially creating a health and safety problem to the surrounding community.

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 licenses; one of these was recently surrendered. 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 licenses 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 Long Beach Polytechnic High School campus boundaries. With the proximity of the school the opportunity exists for sales of beer and wine to students who are under age to drink, thus potentially creating a higher risk of health and safety problems to the surrounding community.