



Date: March 29, 2011
To: Chair and Planning Commissioners
From: Amy J. Bodek, *AJBodek* Director of Development Services
Subject: Revision of Findings – Application No. 1002-12 – 5400 Cherry Avenue

Attached are revised findings for a Planning Commission agenda item dated March 17, 2011. The Planning Commission has denied a Conditional Use Permit request for alcohol at 5400 Cherry Avenue. Findings have been revised to reflect negative impacts to the surrounding community.

CONDITIONAL USE PERMIT FINDINGS

5400 Cherry Avenue

Case No. 1002-12

Date: March 17, 2011

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 site is located in Land Use District #9R (Restricted Industry) and within the IL (Light Industrial) zone. The IL zone allows the on-site sale of beer and wine 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.

The Land Use Element designation of LUD #9R is intended to accommodate industrial, manufacturing, research and development, warehousing, and large scale wholesale facilities and industrial-support office development. Non-industrial uses which are necessary or desirable for support of employment centers are also permitted at scales and intensities intended to serve nearby industrial businesses. Such supporting uses include restaurants, personal and financial services, retail uses related to the industrial uses, and medical clinics. The current use on the subject property is a Walgreen's retail store and Pharmacy, which does fit in as a supporting commercial use for industrial businesses. The proposed sale of beer and wine for off-site consumption would not be inappropriate, as it is a continuation of retail sales within an established retail use.

- 2. THE PROPOSED USE WILL NOT BE DETRIMENTAL TO THE SURROUNDING COMMUNITY INCLUDING PUBLIC HEALTH, SAFETY, 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 10-011) was prepared for this project and is attached for your review.

The use has the potential to be detrimental to the surrounding community even though the site is currently developed with a 13,600 square foot Walgreen's and

no new construction is proposed. The property is very well maintained but the sale of off-site beer and wine sales would add another establishment within the immediate area. Conditions of approval typically incorporate several operational requirements that address potential negative impacts from the proposed use such as allowable hours of alcohol sales, compliance with the City's Noise Ordinance, and the requirement that the owner takes measures to prevent loitering. Approval of such requested Conditional Use Permits enables the City to enforce these conditions and address potential nuisances that may come in the future.

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

In addition to the above general findings, the following specific conditions pursuant to Zoning Code Section 21.52.201 apply to alcoholic beverage sales use:

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.

There is no proposal for any construction or site expansion. The required parking ratio for retail is 4 spaces per 1,000 square feet of gross floor area. The subject site consists of a 13,600-square-foot retail/pharmacy building and 55 on-site spaces which does meet the required parking standard.

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

The requirement for night lighting and security measures has been incorporated as a condition of approval for the proposed project (condition #7).

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.

This requirement has been incorporated as a condition of approval for the proposed project (condition #13).

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 floor area, and also providing fresh fruit, vegetables, and meat, in addition to canned goods.

The subject site is located in Census Tract 5706.03, in which a maximum of three (3) establishments is recommended by the Department of Alcoholic Beverage Control. Approval of the proposed license for off-site beer and wine sales would result in the 4th establishment of alcohol sales in the Census Tract. This would create an overcrowded condition both within the tract and within the immediate vicinity of the subject site. The site is located within Crime Reporting District 524, which is considered a high-crime area. The location of establishments serving alcohol within high crime areas is undesirable and could potentially contribute to crime related activity and diminish the overall value of the area. Places selling alcoholic beverages have the potential to create adverse effects such as loitering, inappropriate behavior, noise and vandalism. Although conditions of approval could be incorporated to address certain adverse effects, staff believes that approval of this request within an overcrowded, high crime area would create a negative precedent of waiving important code requirements.

- 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 or public park.