



THE CITY OF SAN DIEGO

## Report to the Hearing Officer

DATE ISSUED: July 20, 2016 REPORT NO. HO-16-046

HEARING DATE: July 27, 2016

SUBJECT: 120 West Calle Primera Off-Premise Alcohol Sales CUP. Process Three Decision

PROJECT NUMBER: [452425](#)

OWNER/APPLICANT: Douglas, Qasawadish, DKHM Inc.

### SUMMARY:

Issue: Should the Hearing Officer approve a Conditional Use Permit to allow for a Type 21 General Liquor License for the sale of alcoholic beverages, for off-site consumption, in an existing 1,526-square-foot service station mini-market located at 120 West Calle Primera, within the San Ysidro Community Plan Area?

Staff Recommendation: APPROVE Conditional Use Permit No. 1591999.

Community Planning Group Recommendation: On November 16, 2015, the San Ysidro Community Planning Group voted 9-3-1 to recommend approval of the proposed project without recommendations (Attachment 7).

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities). This project is not pending an appeal of the environmental determination. The environmental exemption determination for this project was made on June 2, 2016, and the opportunity to appeal that determination ended June 16, 2016.

### BACKGROUND

The existing 1,526-square-foot service station mini-market currently sells snacks, drinks and gas. The original gas station was constructed in 1969. The 0.46-acre site is located at 120 West Calle Primera, in the CSF-2 Zone of the San Ysidro Planned District, within the San Ysidro Community Plan Area, Redevelopment District, Parking Impact Overlay Zone. The site is surrounded by commercial uses (Attachment 3).

The project proposes a Conditional Use Permit (CUP) to allow for a Type 21 General Liquor License for the sale of alcoholic beverages for off-site consumption. The project proposes interior

improvements to an existing building that does not expand the floor area. The site is currently developed with a service station mini-market under Conditional Use Permits No. 91-0520 and No. 87-0373. The CSF Zone is intended to allow for commercial strip development with parking in the front or side of the building. These zones are applied to accommodate existing development patterns or encourage patterns that are deemed to be appropriate because of the urban design features anticipated for the area. The focus is on automobile-oriented establishments where the primary commercial function is geared to a single stop activity.

## DISCUSSION

### Development Regulations and Location Criteria

A Type 21 ABC license is defined as “off-sales,” which does not allow the alcohol sold at the store to be consumed on the premises. The underlying CSF-2 Zone is intended to accommodate development with high intensity, strip commercial characteristics and allows alcoholic beverage outlets as a Limited Use subject to regulations set forth in [San Diego Municipal Code \(SDMC\) Section 141.0502\(b\)](#). An alcoholic beverage outlet that does not comply with these requirements, including certain location criteria per [SDMC Section 141.0502\(b\)\(1\)](#), may still be permitted with a Process Three CUP pursuant to [SDMC Section 141.0502\(c\)](#), and requires a recommendation from the San Diego Police Department (SDPD). The proposed alcoholic beverage outlet at this location requires a CUP because the project site does not meet the locational criteria set forth in SDMC Section 141.0502(b)(1) as explained below:

- 1. Within a census tract, or within 600 feet of a census tract, where the general crime rate exceeds the citywide average general crime rate by more than 20 percent.**

The subject property is in Census Tract No. 100.09, which reported a crime rate of 211.0 percent of the city-wide average based on the statistics provided by the SDPD (Attachment 9). The project site is located within a “high crime” Census Tract. According to SDPD data, the majority of the crime in the area consists of narcotics, prostitution and violence. A Census Tract is considered to have “high crime” if the crime rate exceeds 120 percent of the city-wide average; therefore the project does not meet this locational criteria and a Conditional Use Permit is required.
- 2. Within a Census Tract, or within 600 feet of a Census Tract, where the ratio of alcoholic beverage outlets exceeds the standards established by the California Business and Professional Code Section 23958.4.**

The subject property is in Census Tract No. 100.09, which based on the California Business and Professional Code Section 23958.4 permits a total of four off-sale alcoholic beverage outlets. Currently there is only one existing off-sale alcoholic beverage outlets within Census Tract 100.09. This project would increase the number of licenses to two; therefore the project meets this locational criteria.
- 3. Within 600 feet of a public or private accredited school, a public park, playground or recreational area, church, hospital or a San Diego County Welfare District Office.**

No such institutions are within 600 feet of the project site; therefore the project meets this locational criteria.

**4. Within 100 feet of residentially zoned property.**

The project site is not within 100 feet of residentially zoned properties; therefore the project meets this locational criterion.

Community Plan Consistency

The San Ysidro Community Plan designates the site for Community Commercial land use. One of the overriding objectives for long-range commercial development in the community is to provide adequate commercial facilities within the areas designated for commercial use to meet the needs of both residences and visitors (page 58). The proposed sale of distilled spirits, beer and wine within an existing service station mini-market is consistent with the underlying CSF-2 Zone, the Community Commercial land use designation, and would add to the range of goods available within the community.

Alcohol Sales-Project Analysis

The proposed alcoholic beverage outlet at this location requires a Conditional Use Permit because the project site does not meet the locational criteria of SDMC Section 141.0502(b)(1). Approval of this application would allow the sale of alcohol, including distilled spirits, beer and wine, to be conditioned so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The project has been reviewed by City staff and the SDPD for conformance to the applicable development regulations and land use policies. Staff support of the proposed alcoholic beverage outlet at this location is based on the commercial nature of the primary use of the site, and its location within the Community Commercial land use designation. The operation of an alcoholic beverage outlet within the service station mini-mart to provide the sale of distilled spirits beer and wine for consumption off premises is consistent with the commercial use designated by the San Ysidro Community Plan and permitted by the underlying CSF-2 Zone. Furthermore, both staff and SDPD concluded that if the permit were appropriately conditioned, the proposed alcohol sales would not have an adverse impact on the surrounding neighborhood. SDPD has provided conditions for the permit (Attachment 10). The conditions would limit the hours of alcohol beverage sales from 10:00 a.m. to midnight.

Staff is recommending approval of the project as conditioned by staff and the SDPD (Attachment 6). The Conditional Use Permit includes conditions that limit the hours of sales; regulate the type, volume, and alcohol content of the beverages; limit advertising, address loitering and graffiti through immediate corrective action, with the objective to reduce the potential for loitering and criminal activity on the property. Additionally, the Conditional Use Permit includes a 10-year expiration date. The permit could be extended through the appropriate review and decision process and may be subject to additional conditions at that time.

ALTERNATIVES

1. Approve Conditional Use Permit, No. 1591999, with modifications.

2. Deny Conditional Use Permit, No. 1591999, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

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Derrick Johnson (DJ), Development Project Manager

Attachments:

1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Draft Resolution with Findings
5. Draft Permit with Conditions
6. Environmental Exemption
7. Community Planning Group Recommendation
8. Ownership Disclosure Statement
9. Copy of PNC from SDPD
10. Project Plans