



THE CITY OF SAN DIEGO

Report to the Hearing Officer

DATE ISSUED: April 19, 2017 REPORT NO. HO-17-027

HEARING DATE: April 26, 2017

SUBJECT: 7-Eleven CUP, Process Three Decision

PROJECT NUMBER: [473225](#)

OWNER/APPLICANT: Las Cumbres Square, Owner, and 7-Eleven, Applicant

SUMMARY:

Issue: Should the Hearing Officer approve an alcoholic beverage outlet allowing the sale of beer and wine for off-site consumption from a 7-Eleven convenience store located at 6110 Friars Road within the Linda Vista Community Plan area?

Community Planning Group Recommendation: On June 3, 2016, the Linda Vista Community Planning Group voted 13-0-0 to recommend denial of the project, with no abstentions.

Environmental Review: The project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301, Existing Facilities, on January 19, 2017. The opportunity to appeal this determination ended February 2, 2017 and no appeal was filed.

BACKGROUND

The project proposes a Conditional Use Permit (CUP) to allow a Type 20, Off-Sale Beer & Wine Alcohol Beverage Control (ABC) license within a new 2,060-square-foot 7-Eleven convenience store to be located within an existing commercial building. The convenience store is a permitted use in the CN-1-2 zone. The 0.68-acre project site is located at 6110 Friars Road, at the northeast corner of Friars Road and Via Las Cumbres, in the CN-1-2 Zone and designated for Neighborhood Commercial Uses in the Linda Vista Community Plan (Attachments 1 and 2).

The building was constructed in 1978 and the site is entitled by Planned Commercial Development Permit (PCD) No. 51, which was approved by the Planning Commission on May 4, 1978. The PCD developed the site with retail-office uses in two buildings, 63 parking spaces, and landscaping. The PCD was later amended to add two ground signs. On January 19, 1999, the site was zoned CN-1-2.

The 7-Eleven tenant space is currently vacant and previously housed a restaurant. A building permit application for the tenant improvement for the new 7- Eleven store was submitted on July 28, 2016 and this permit has been held in abeyance pending a decision on this Conditional Use Permit.

The project site abuts a multi-family residential unit complex to the east, commercial establishments to the west, the Riverwalk Golf Club to the south, and additional multi-family residential unit development to the north.

DISCUSSION

Development Regulations and Location Criteria

This project proposes a CUP for a Type 20 (beer and wine) alcohol license in Census Tract No. 89.01 to allow beer and wine to be sold from the convenience store. A Type 20 license is an “off-sales” license, which prohibits the alcohol sold at the store from being consumed on the premises. The CN-1-2 zone is a neighborhood commercial zone that is intended to provide residential areas with access to a limited number of convenient retail and personal service uses.

The San Diego Municipal Code (SDMC) defines Type 20 licenses as “alcoholic beverage outlets”, which are allowed in the CN-1-2 Zone as a Limited Use subject to the requirements of SDMC [141.0502\(b\)](#). An alcoholic beverage outlet that does not comply with these requirements, including the location criteria per SDMC 141.0502(b)(1), may still be permitted with a Process Three, CUP pursuant to SDMC 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 location criteria set forth in SDMC 141.0502(b)(1), including the crime rate in nearby census tracts, the number of licenses in nearby census tracts, and proximity to residential zoning, 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.

A Census Tract is considered to have “high crime” if the crime rate exceeds 120 percent of the city-wide average. The subject property is in Census Tract No. 89.01, which is bounded by Via Las Cumbres, Linda Vista Road, Ulric Street, and Friars Road. This tract reported a crime rate of 67.3 percent of the city-wide average based on statistics provided by the SDPD. Therefore, the project site is not located within a “high crime” Census Tract.

The project site is located within 600 feet of two other census tracts. Census Tract 89.02, which comprises western Mission Valley between the 5 and 163 freeways, has a crime rate 521.7 percent of the city-wide average. Although this crime rate is high, this Census Tract contains several attractions such as the Fashion Valley mall, and several hotels and retail commercial outlets that attract visitors from outside the community. Such attractions are located at least 2,000 feet away from the project site, on the southern and eastern edges of this large census tract, with Fashion Valley being over a half-mile away. Alcohol-related crime in this tract is 137.2 percent of the city-wide average. Census Tract 91.07, which comprises Linda Vista between Morena Boulevard, Linda Vista Road, Via Las Cumbres, and Friars Road, has a crime rate of 85.5

percent of the city-wide average, with alcohol-related crime at 25.3 percent of the city-wide average.

Because the project site is located within 600 feet of Census Tract 89.02, a Conditional Use Permit (CUP) is required per SDMC [141.0502\(b\)](#).

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. 89.01 which permits a total of three off-sale alcoholic beverage outlets based on California Business and Professional Code Section 23958.4. There is currently one existing off-sale alcoholic beverage outlet within Census Tract 89.01. This project would increase the number of licenses to two and does not exceed the established standard for this Census Tract.

Adjacent census tracts have numbers of alcoholic beverage outlets that exceed recommended allowances. Census Tract 89.02 has three off-sales licenses in an area where ABC recommends one. The closest outlet in this Tract is two-thirds of a mile away. Census Tract 91.07 has three off-sales licenses in an area where ABC recommends two. One of these licenses is located approximately 200 feet west of the proposed project; the others are located some distance away.

Because the project site is located within 600 feet of Census Tracts 89.02 and 91.07, a Conditional Use Permit (CUP) is required per SDMC [141.0502\(b\)](#).

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 uses exist within 600 feet of the project site.

4. Within 100 feet of residentially Zoned property.

The project is within 100 feet of the RM-3-7 zone to the east, and the RS-1-1 zone to the northeast. Because it is located with 100 feet of these zones, a Conditional Use Permit (CUP) is required per SDMC [141.0502\(b\)](#).

Community Plan Consistency

The Linda Vista Community Plan states that "neighborhood commercial sites should permit convenience goods and services for surrounding residential neighborhoods, but regional or community-serving commercial uses should not be permitted."

Neither the City's General Plan nor the Community Plan address hours of operation or beer and wine sales. The proposed sale of beer and wine within a new convenience store is consistent with the Neighborhood Commercial land use designation, and would add to the range of goods available from the convenience store serving the community.

Alcohol Sales - Project Analysis

The proposed alcoholic beverage outlet at this location requires a CUP because the project site does not meet certain location criteria of SDMC Section 141.0502(b)(1). With the approval of this application, the sale of alcohol, limited to beer and wine, would 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. City staff support of the proposed alcoholic beverage outlet at this location is based on the commercial nature of the site and its location within a commercial building within a neighborhood commercial core. The operation of an alcoholic beverage outlet within the new convenience store to provide the sale of beer and wine for consumption off premises is consistent with the Neighborhood Commercial use designated by the Community Plan and permitted by the CN-1-2 Zone. City staff and the SDPD have concluded that if the permit and ABC license were appropriately conditioned, the proposed alcohol sales would not have an adverse impact on the surrounding neighborhood. SDPD has provided conditions for the permit and the ABC license (Attachment 10). The shopping center will maintain the 63 parking spaces required by PCD No. 51, and will be required to designate four spaces specifically for the 7-Eleven store.

City staff is recommending approval of the project as conditioned by staff and the SDPD (Attachment 6). The CUP includes conditions that limit the hours of sales, limit advertising, prohibit machines or video game devices on the premises, prohibit loitering and graffiti, and recommends that the Department of Alcoholic Beverage Control define and limit the size, package quantity, and alcohol content of beverages sold.

Community Planning Group Denial

At the June 3, 2016 meeting of the Linda Vista Community Planning Group, the group voted 13-0-0 to recommend that the Hearing Officer deny 7-Eleven's CUP for alcohol sales. The group cited the following reasons for denying the project:

1. Two 7-Eleven stores already operate in the community, one approximately one mile away, and another approximately 1.5 miles away.
2. The parking lot "could prove a challenge" to a 7-Eleven store.
3. The center's location at a busy traffic signal and the configuration of the adjacent intersection will make convenience store traffic difficult.

Convenience stores such as 7-Eleven are a permitted use in the CN-1-2 Zone without a discretionary permit as shown in [SDMC Table 131-05B](#). The 7-Eleven store may occupy the tenant space with approval of a building permit and may choose as a business to not provide consumers with retail alcohol sales inventory or provide alcohol sales inventory with an approved CUP. As noted earlier, the proposed 7-Eleven store is located in an existing neighborhood commercial center with 63 parking spaces, of which four parking spaces will be dedicated to the 7-Eleven store, and driveway access that is conditioned by this CUP to be reconstructed with current ADA Compliant City Standard Driveways.

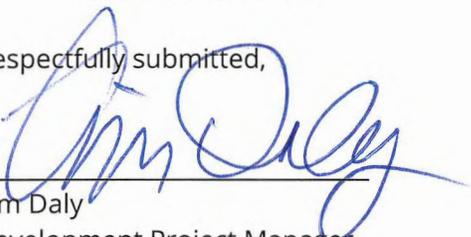
Conclusion

City staff has reviewed the application for the CUP for the off-sale purchase of beer and wine, and has determined that the project complies with all applicable regulations and policy documents. The project is consistent with the recommended land use and the development standards in effect for this site per the adopted Community Plan and the SDMC. Furthermore, the permit has been conditioned to ensure the proposed sale of beer and wine at this location would not be detrimental to the public health, safety and welfare. Therefore, staff recommends the Hearing Officer approve the project.

ALTERNATIVES

1. Approve Conditional Use Permit No. 1681096, with modifications.
2. Deny Conditional Use Permit No. 1681096, if the findings required to approve the project cannot be affirmed.

Respectfully submitted,

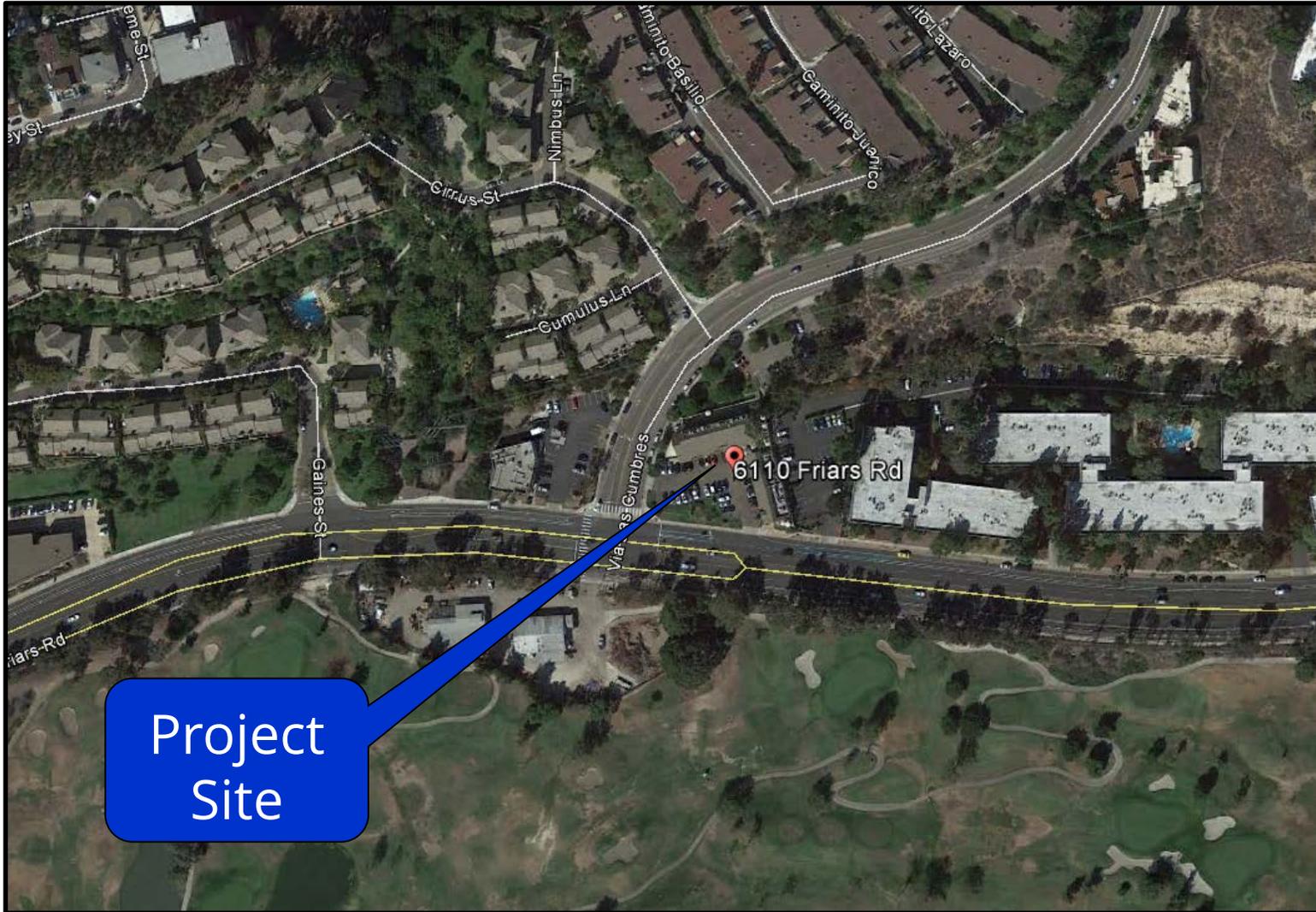


Tim Daly
Development Project Manager

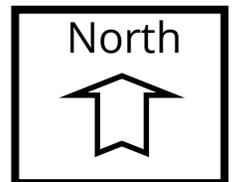
Attachments:

1. Project Location Map
2. Community Plan Land Use Map
3. Aerial Photograph
4. Project Data Sheet
5. Draft Resolution with Findings
6. Draft Permit with Conditions
7. Environmental Exemption
8. Community Planning Group Recommendation
9. Ownership Disclosure Statement
10. San Diego Police Department Recommendation
11. ABC – Existing off-sale licenses in Census Tract
12. Project Plans

Aerial Photo

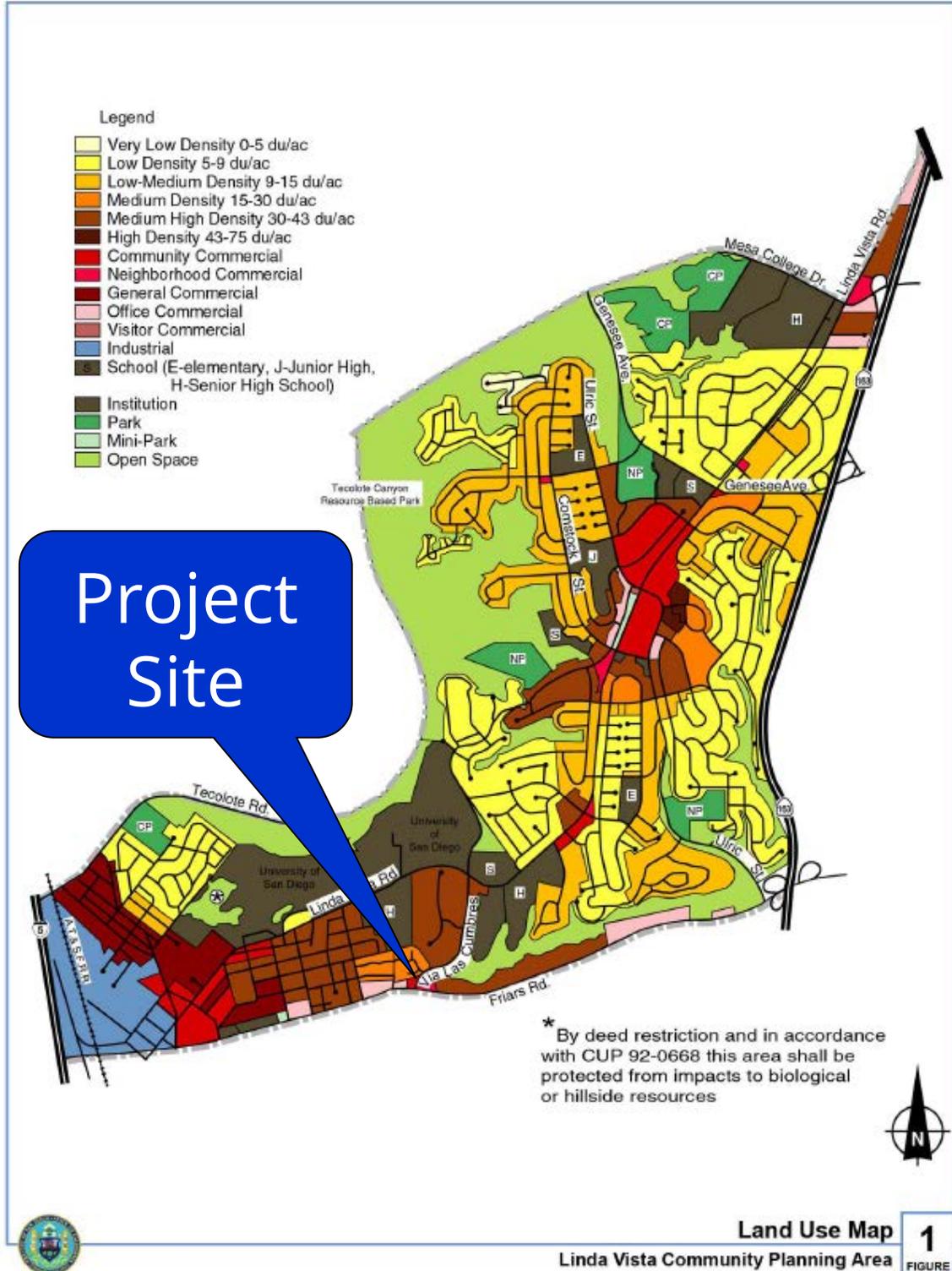


7-11 CUP, Project Number 473225
6110 Friars Road



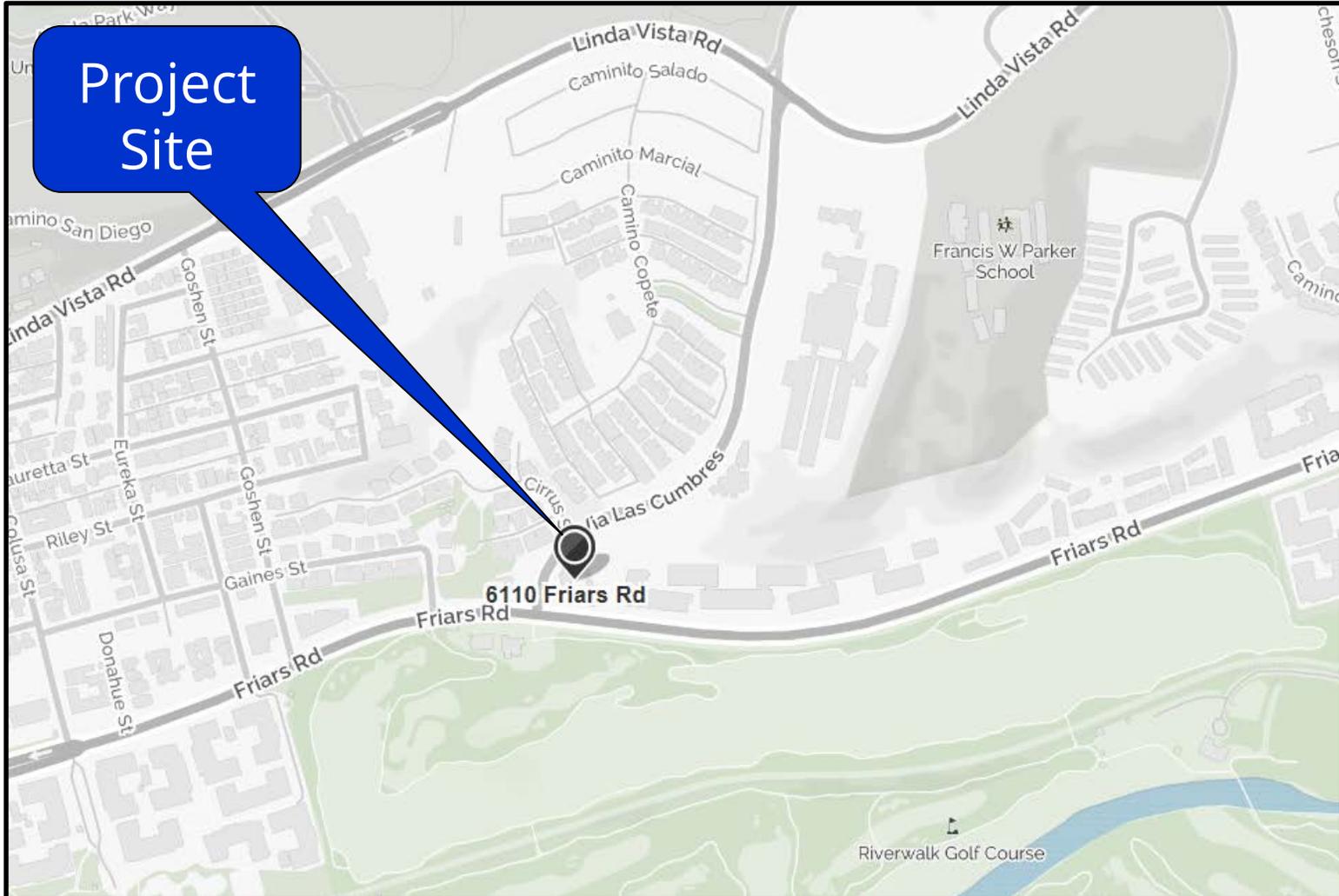


Community Plan

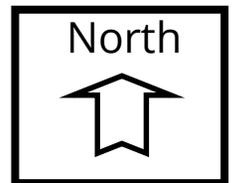


7-11 CUP, Project Number 473225
6110 Friars Road

Project Location Map



7-11 CUP, Project Number 473225
6110 Friars Road



PROJECT DATA SHEET		
PROJECT NAME:	7-Eleven CUP, PTS No. 473225	
PROJECT DESCRIPTION:	Conditional Use Permit for an Alcoholic Beverage Outlet	
COMMUNITY PLAN AREA:	Linda Vista	
DISCRETIONARY ACTIONS:	Conditional Use Permit (CUP)	
COMMUNITY PLAN LAND USE DESIGNATION:	Neighborhood Commercial	
ZONING INFORMATION:		
ZONE: CN-1-2		
LOT SIZE: 0.64 acres		
ADJACENT PROPERTIES:	LAND USE DESIGNATION & ZONE	EXISTING LAND USE
NORTH:	Medium Density Residential; RM-2-5	Multiple-unit residential
SOUTH:	Multi-Use, MVPD-MV-M/SP	Friars Road, Riverwalk Golf Club
EAST:	High Density Residential, RM-3-7, OR-1-1, and RS-1-1	Multiple-unit residential
WEST:	Neighborhood Commercial, CN-1-2	Neighborhood Commerical
DEVIATION REQUESTED:	None requested	
COMMUNITY PLANNING GROUP RECOMMENDATION:	On July 1, 2016, the Linda Vista Community Planning Group voted 0-13-0 to recommend denial of the project, with no abstentions.	

HEARING OFFICER RESOLUTION NO. XXXXXXXX
CONDITIONAL USE PERMIT NO. 1681096
7-ELEVEN CUP, PROJECT NO. 473225

WHEREAS, Las Cumbres Square, Owner, and 7-Eleven, Permittee, filed an application with the City of San Diego to operate an alcoholic beverage outlet, which will be contingent on the issuance of a license (Type 20 Beer and Wine License for the sale of alcoholic beverages for off-site consumption) from the State Department of Alcoholic Beverage Control (ABC) and subject to the City's land use regulations (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 1681096), on portions of a 0.68-acre site; and

WHEREAS, the project is located at 6110 Friars Road in the CN-1-2 Zone and the Linda Vista Community Plan area; and

WHEREAS, the project site is legally described as: Parcel 1 of Parcel Map 7648 in the City of San Diego, County of San Diego, State of California; and

WHEREAS, the project was determined to be exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301 (Existing Facilities) on January 19, 2017, and the opportunity to appeal this decision ended February 2, 2017 and no appeal was filed; and

WHEREAS, on April 26, 2017, the Hearing Officer of the City of San Diego considered Conditional Use Permit No. 1681096 pursuant to the Land Development Code of the City of San Diego; NOW THEREFORE

BE IT RESOLVED by the Hearing Officer of the City of San Diego as follows:

That the Hearing Officer adopts the following written Findings, dated April 26, 2017.

Conditional Use Permit Findings - Section 126.0305:

1. The proposed development will not adversely affect the applicable land use plan.

The project proposes a Conditional Use Permit (CUP) for the operation of an alcoholic beverage outlet within a 2,078-square-foot 7-Eleven convenience store. Implementation of an approved CUP is contingent on the California Department of Alcoholic Beverage Control (ABC)'s issuance of a Type 20 license allowing for the sale of beer and wine for off-site consumption. The Linda Vista Community Plan designates the site for neighborhood commercial use. The proposed commercial land use is consistent with the permitted uses in the CN-1-2 zone and does not conflict with applicable policies in the Community Plan. The sale of alcoholic beverages is not addressed in the City's General Plan or the Community Plan; however, one Community Plan goal is to "permit convenience goods and services for surrounding residential neighborhoods." The sale of alcohol products is defined as a commercial retail use in the Land Development Code and permitted with the approval of a CUP. The Linda Vista Community Plan recommends that the site can be used for commercial development; therefore, the CUP to allow the sale of alcohol would not adversely affect the applicable land use plan.

2. The proposed development will not be detrimental to the public health, safety, and welfare.

The project proposes a CUP for the operation of an alcohol beverage outlet within a 2,078-square-foot 7-Eleven convenience store. The applicant must also obtain a Type 20 license allowing for the sale of beer and wine for off-site consumption from the state Department of Alcoholic Beverage Control (ABC).

Separate from the ABC license, this CUP places restrictions on the 7-Eleven convenience store which relate to the sale of alcohol. Approval of this CUP would include conditions so that the alcohol sales would not have a negative impact on the surrounding neighborhood. The project will have to comply with all the regulations listed in [SDMC 141.0502\(b\)\(3\) through 141.0502\(b\)\(12\)](#) which would limit the square footage of alcohol advertising, provide for a well-lighted area, and prohibit specific on-site activities with the objective of reducing the likelihood of loitering and other criminal activity on the property. Additionally, the CUP includes conditions regulating the type, size, and quantities of the beverages. The conditions would also limit the hours of alcohol beverage sales from 10:00 a.m. to Midnight. Advertising will be limited and "No Loitering" signs would be required to be prominently displayed on the premises.

The proposed 7-Eleven will be consistent with the recommended commercial land use and does not represent a conflict with the current development pattern in the neighborhood. The project was determined to be exempt pursuant to California Environmental Quality Act CEQA Guidelines Section 15301, Existing Facilities.

Both City staff and the San Diego Police Department have concluded that the CUP as conditioned would not have a negative impact on the surrounding neighborhood. Therefore, with the proposed conditions regulating the sale of alcoholic beverages, the proposed development will not be detrimental to the public's health, safety or welfare.

3. The proposed development will comply with the regulations of the Land Development Code including any allowable deviations pursuant to the Land Development Code.

The purpose of the CN zoning designation is to provide residential areas with access to a limited number of convenient retail and personal service uses. The CN zones are intended to provide areas for small scale, low intensity developments that are consistent with the character of the surrounding residential areas. The proposed alcohol sales are an allowed use with a Conditional Use Permit pursuant to San Diego Municipal Code Section 141.0502. The project complies with the applicable regulations of the Land Development Code including parking and floor area ratio, and no deviations are requested as a part of this application. Therefore, the proposed development will comply with the regulations of the Land Development Code.

4. The proposed use is appropriate at the proposed location.

The project proposes a CUP for the operation of an alcohol beverage within a 2,078-square-foot, 7-Eleven convenience store, specifically for a Type 20 license allowing for the sale of beer and wine for off-site consumption. The project is within a commercial zone adjacent to commercial, retail services, and residential uses.

Separate from the Alcoholic Beverage Control (ABC), this CUP places restrictions on the 7-Eleven convenience store which relate to the sale of alcohol. Approval of the CUP as conditioned would not have a negative impact on the surrounding neighborhood. The CUP includes a number of conditions that would limit the hours of sales, regulate advertising, provide for a well-lighted, cleaner site and prohibit specific on-site activities with the objective of reducing the likelihood of loitering and other criminal activity on the property.

Both City staff and the San Diego Police Department have concluded that the CUP as conditioned does not have a negative impact on the surrounding neighborhood. Therefore, the proposed use is appropriate at the proposed location.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Hearing Officer, Conditional Use Permit No. 1681096 is hereby GRANTED by the Hearing Officer to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit No. 1681096, a copy of which is attached hereto and made a part hereof.

Tim Daly
Development Project Manager
Development Services

Adopted on: April 26, 2017

IO#: 24006499

RECORDING REQUESTED BY
 CITY OF SAN DIEGO
 DEVELOPMENT SERVICES
 PERMIT INTAKE, MAIL STATION
 501

WHEN RECORDED MAIL TO
PROJECT MANAGEMENT
 PERMIT CLERK
 MAIL STATION 501

INTERNAL ORDER NUMBER: 24006499

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CONDITIONAL USE PERMIT NO. 1681096
7-ELEVEN CUP, PROJECT NO. 473225
 HEARING OFFICER

This Conditional Use Permit No. 1681096 is granted by the Hearing Officer of the City of San Diego to Las Cumbres Square, Owner, and 7-Eleven, Permittee, pursuant to San Diego Municipal Code [SDMC] section 141.0502(c). The 0.68-acre site is located at 6110 Friars Road in the CN-1-2 zone of the Linda Vista Community Plan. The project site is legally described as: Parcel 1 of Parcel Map 7648 in the City of San Diego, County of San Diego, State of California.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to operate an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control and subject to the City's land use regulations, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated April 26, 2017, on file in the Development Services Department.

The project shall include:

- a. Operation of an alcoholic beverage outlet conditioned upon the issuance of a license from the State Department of Alcoholic Beverage Control;
- b. Sixty-three (63) off-street parking spaces, of which four (4) shall be designated for use by the 7-Eleven store; and
- c. Public and private accessory improvements determined by the Development Services Department to be consistent with the land use and development standards for this site in accordance with the adopted community plan, the California Environmental Quality Act [CEQA] and the CEQA Guidelines, the City Engineer's requirements, zoning regulations, conditions of this Permit, and any other applicable regulations of the SDMC.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six (36) months after the date on which all rights of appeal have expired. If this permit is not utilized in accordance with Chapter 12, Article 6, Division 1 of the SDMC within the 36 month period, this permit shall be void unless an Extension of Time has been granted. Any such Extension of Time must meet all SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker. This permit must be utilized by May 15, 2020.
2. This Conditional Use Permit [CUP] and corresponding use of this site shall expire on April 26, 2027. The Owner/Permittee may request that the expiration date be extended in accordance with SDMC section 141.0502(c) (7).
3. The utilization of this CUP is contingent upon the approval of a license to sell alcohol at this location by the California Department of Alcoholic Beverage Control [ABC]. The issuance of this CUP does not guarantee that the ABC will grant an alcoholic beverage license for this location.
4. No permit for the construction, occupancy, or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
5. While this Permit is in effect, the subject property shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the appropriate City decision maker.
6. This Permit is a covenant running with the subject property and all of the requirements and conditions of this Permit and related documents shall be binding upon the Owner/Permittee and any successor(s) in interest.
7. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
8. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this Permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
9. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial building modifications and site improvements may be required to comply with applicable building, fire, mechanical, and plumbing codes, and State and Federal disability access laws.

10. Construction plans shall be in substantial conformity to Exhibit "A." Changes, modifications, or alterations to the construction plans are prohibited unless appropriate application(s) or amendment(s) to this Permit have been granted.

11. All of the conditions contained in this Permit have been considered and were determined necessary to make the findings required for approval of this Permit. The Permit holder is required to comply with each and every condition in order to maintain the entitlements that are granted by this Permit.

If any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo, and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

12. The Owner/Permittee shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify Owner/Permittee of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the Owner/Permittee shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, Owner/Permittee shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Owner/Permittee regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Owner/Permittee shall not be required to pay or perform any settlement unless such settlement is approved by Owner/Permittee.

13. The Owner/Permittee shall comply with conditions of Planned Commercial Development Permit No. 51, unless specifically modified herein this Permit.

ENGINEERING REQUIREMENTS:

14. Prior to the issuance of any construction permits, the Owner/Permittee shall assure, by permit and bond, to reconstruct all driveways with current ADA Compliant City Standard Driveways, adjacent to the site on Friars Road and Via Las Cumbres.

15. Prior to the issuance of any construction permit the Permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in the City's Storm Water Standards.

LANDSCAPE REQUIREMENTS:

16. The Owner/Permittee shall replace in-kind or re-plant the existing single tree, to be removed to install three additional parking spaces as shown on approved Exhibit "A", in the permanent parking and vehicle use area on the upper portion of Via Las Cumbres. The new location of the tree shall be within 5 feet of the edge of the parking and vehicular use area and within the same vicinity as the existing tree. Replacement shall be a 36-inch box tree of the same species as the existing tree.

17. Prior to issuance of any construction permits for structures or grading, complete landscape and irrigation construction documents consistent with the Landscape Standards shall be submitted to the Development Services Department for approval.

18. Construction plans shall take into account a 40 square-foot area around each tree which is unencumbered by hardscape and utilities as set forth under SDMC 142.0403(b)5.

19. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is damaged or removed during demolition or construction, it shall be repaired and/or replaced in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or a Final Landscape Inspection.

20. All required landscape shall be maintained in a disease, weed and litter free condition at all times. Severe pruning or "topping" of trees is not permitted unless specifically noted in this Permit.

PLANNING/DESIGN REQUIREMENTS:

21. The Owner/Permittee shall maintain a minimum of 63 off-street parking spaces on the property at all times in the approximate locations shown on the approved Exhibit "A." Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the appropriate City decision maker in accordance with the SDMC.

22. Prior to the issuance of construction permits, the Owner/Permittee shall display and number on the site plan four (4) parking spaces reserved for the 7-Eleven store to show compliance with SDMC 142.0510.

23. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.

24. The sale of alcoholic beverages shall be accessory and limited to a maximum of 35 square feet and/or 1.7 percent of the floor area of the market as shown on Exhibit "A".

25. Pool or billiard tables, foosball or pinball games, arcade style video and electronic games, or coin-operated amusement devices are not permitted on the premises.
26. Exterior public pay phones that permit incoming calls are not permitted on the premises, adjacent public sidewalks, or areas under the control of the owner or operator.
27. The Owner/Permittee shall provide illumination, at a minimum level of 0.4 foot candles per square foot, on the exterior of the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. The illumination shall be in operation during all hours of darkness while the outlet is open for business so that persons standing on or near the premises at night are identifiable by law enforcement personnel. The required illumination shall be shielded and directed so that it does not shine on adjacent properties.
28. The sign area pertaining to or referencing alcoholic sales or beverages shall not exceed 630 square inches.
29. A maximum of 33 percent of the square footage of the windows and doors of the premises may bear advertising or signs of any sort, and all advertising and signs shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the outlet.
30. The Owner/Permittee of the alcoholic beverage outlet shall post a prominent, permanent sign or signs stating, "No loitering, consumption of alcoholic beverages, or open alcoholic beverage containers are allowed inside the premises, in the parking area, or on the public sidewalks adjacent to the premises."
31. The Owner/Permittee shall list a business address and telephone number in the Pacific Bell/San Diego telephone directory or other similarly distributed directory.
32. The Owner/Permittee shall provide trash receptacles, conveniently located for use by patrons, inside and outside the alcoholic beverage outlet, including adjacent public sidewalks and areas under the control of the owner or operator. At least one 13-gallon trash receptacle shall be located inside the *premises*. At least one 32-gallon trash receptacle shall be located outside the alcoholic beverage outlet, and at least one additional 32-gallon trash receptacle shall be located in the parking areas under the control of the owner or operator.
33. The Owner/Permittee shall maintain the premises, adjacent public sidewalks, and areas under the control of the owner or operator, free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris. The owner or operator shall eliminate graffiti within 48 hours of application.
34. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

POLICE DEPARTMENT REQUIREMENTS:

35. The sales of alcoholic beverages shall be permitted between the hours of 10:00 a.m. and 12:00 midnight, each day of the week.

36. Exterior advertising of alcoholic beverages, or interior advertising of alcoholic beverages that is visible from the exterior of the premises shall be prohibited. Interior displays which are clearly visible from the outside shall constitute a violation of this prohibition.

POLICE DEPARTMENT RECOMMENDATIONS FOR ABC LICENSE:

- Wine shall not be sold in containers of less than 750 milliliters, with the exception of wine coolers sold in four-pack containers or more per sale.
- Malt beverages shall not be sold in less than six-pack containers per sale.
- Wine shall not be sold with an alcoholic content greater than 15 percent by volume.
- The sale of beer or malt beverages in quantities of quarts, 40 oz., or similar size containers shall be prohibited.
- Beer, malt beverages, or wine cooler products, regardless of container size, must be sold in manufacturer pre-packaged multi-unit quantities.

INFORMATION ONLY:

- The issuance of this discretionary permit alone does not allow the immediate commencement or continued operation of the proposed use on site. Any operation allowed by this discretionary permit may only begin or recommence after all conditions listed on this permit are fully completed and all required ministerial permits have been issued and received final inspection.
- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this Permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code-section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the Hearing Officer of the City of San Diego on April 26, 2017 and resolution No. XXXXXXXXX.

Permit Type/PTS Approval No.: CUP No. 1681096

Date of Approval: April 26, 2017

AUTHENTICATED BY THE CITY OF SAN DIEGO DEVELOPMENT SERVICES DEPARTMENT

Tim Daly
Development Project Manager

**NOTE: Notary acknowledgment
must be attached per Civil Code
section 1189 et seq.**

The undersigned Owner/Permittee, by execution hereof, agrees to each and every condition of
this Permit and promises to perform each and every obligation of Owner/Permittee hereunder.

Las Cumbres Square
Owner

By _____
NAME
TITLE

7-Eleven
Permittee

By _____
NAME
TITLE

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1189 et seq.**

NOTICE OF EXEMPTION

(Check one or both)

TO: Recorder/County Clerk
 P.O. Box 1750, MS A-33
 1600 Pacific Hwy, Room 260
 San Diego, CA 92101-2400

FROM: City of San Diego
 Development Services Department
 1222 First Avenue, MS 501
 San Diego, CA 92101

Office of Planning and Research
 1400 Tenth Street, Room 121
 Sacramento, CA 95814

Project No.: 473225

Project Title: 7-Eleven CUP

Project Location-Specific: 6110 Friars Road, San Diego, California 92108

Project Location-City/County: San Diego/San Diego

Description of nature and purpose of the Project: This project proposes a CONDITIONAL USE PERMIT for the sale of alcoholic beverages for off-site consumption from an existing 2,060 square-foot retail store. The 0.68 acre site is located at 6110 Friars Road in the CN-1-2 zone of the Linda Vista Community Plan area. Additionally the project site is located within the FAA Part 77 Noticing area and Very High Fire Hazard Severity Zones.

Name of Public Agency Approving Project: City of San Diego

Name of Person or Agency Carrying Out Project: Frank A. Sipe
 3883 Ruffin Road Suite B
 San Diego, California 92123
 (619) 995-9506

Exempt Status: (CHECK ONE)

- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269 (b)(c))
- Categorical Exemption: 15301 (Existing Facilities)
- Statutory Exemptions:

Reasons why project is exempt: The City of San Diego conducted an environmental review which determined the project would not have the potential for causing a significant effect on the environment in that the project is consistent with the community plan and the applicable zone. The project would not result in any significant environmental impacts. The project meets the criteria set forth in CEQA Section 15301 (Existing Facilities) which allows for the interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. Furthermore, the exceptions listed in 15300.2 would not apply.

Lead Agency Contact Person: Morgan Dresser

Telephone: (619) 446-5404

If filed by applicant:

1. Attach certified document of exemption finding.
2. Has a notice of exemption been filed by the public agency approving the project? Yes No

ATTACHMENT 7

It is hereby certified that the City of San Diego has determined the above activity to be exempt from CEQA



Signature/Title

Sr. Planner

February 3, 2017

Date

Check One:

Signed By Lead Agency

Signed by Applicant

Date Received for Filing with County Clerk or OPR:



City of San Diego
 Development Services
 1222 First Ave., MS-302
 San Diego, CA 92101

**Community Planning
 Committee
 Distribution Form Part 2**

Project Name: 7-Eleven - CUP		Project Number: 473225	Distribution Date: 03/21/2016	
Project Scope/Location: LINDA VISTA (Process 3) Conditional Use Permit for the sale of alcoholic beverages for off-site consumption from a 2,060 square-foot retail store. The 0.68-acre site is located at 6110 Friars Road in the CN-1-2 zone(s) of the Linda Vista Community Plan area within Council District 7.				
Applicant Name:			Applicant Phone Number:	
Project Manager: Sandra Teasley	Phone Number: (619) 446-5271	Fax Number: (619) 446-5245	E-mail Address:	
Committee Recommendations (To be completed for Initial Review): <i>Linda Vista Planning Group voted unanimously against the CUP application</i>				
<input checked="" type="checkbox"/> Vote to Approve	Members Yes 0	Members No 13	Members Abstain	
<input type="checkbox"/> Vote to Approve With Conditions Listed Below	Members Yes	Members No	Members Abstain	
<input type="checkbox"/> Vote to Approve With Non-Binding Recommendations Listed Below	Members Yes	Members No	Members Abstain	
<input checked="" type="checkbox"/> Vote to Deny	Members Yes 13	Members No 0	Members Abstain	
<input type="checkbox"/> No Action (Please specify, e.g., Need further information, Split vote, Lack of quorum, etc.)			<input type="checkbox"/> Continued	
CONDITIONS:				
NAME: <i>Noli Zosa</i>		TITLE: <i>Chairman</i>		
SIGNATURE: <i>[Signature]</i>		DATE: <i>7/1/16</i>		
<i>Attach Additional Pages If Necessary.</i>		Please return to: Project Management Division City of San Diego Development Services Department 1222 First Avenue, MS 302 San Diego, CA 92101		
Printed on recycled paper. Visit our web site at www.sandiego.gov/development-services . Upon request, this information is available in alternative formats for persons with disabilities.				

LINDA VISTA COMMUNITY

DEVELOPMENT CORPORATION

July 8, 2016

Development Services Dept.
Project Management Division
City of San Diego
1222 First Avenue, MS-302
San Diego, CA 92101 **Attn: Sandra Teasley**

Re: **Project No. 473225**, CUP for 7-Eleven Store

At the June 3, 2016 Board of Director's meeting of the Linda Vista Community Development Corporation (LVCDC), the Board voted unanimously to not support the CUP moving forward. Mr. Jose Gandara with EBI Consulting for Southland Corp., provided a thorough explanation of the project at this meeting, which was appreciated.

The LVCDC would like to recommend a 7-Eleven location in the Mesa College area along Linda Vista Road, Mesa College Drive or Ashford Street.

After discussion, the negative items cited were:

- 2 successful 7-Eleven stores operate in the community, 1 mile and 1-1/2 miles from the proposed site at Via Las Cumbres and Friars Road.
- A sloping parking lot in a small but active commercial center could prove a challenge to a 7-Eleven store. 2 restaurants, cleaners, hair salon, workout studio and a coffee shop take up parking spaces.
- The center is located at a busy traffic signal. Convenience store traffic is quick, in-and-out, which will be difficult in the current configuration at Friars Road and Via Las Cumbres.

Please address any questions you may have to: **carrie500@email.com**.
Thank you.

Sincerely,



Carrie O. Beinert
President, LVCDC

cc; N.Zosa
T. Kaye
District 7



City of San Diego
Development Services
1222 First Ave., MS-302
San Diego, CA 92101
(619) 446-5000

Ownership Disclosure Statement

Approval Type: Check appropriate box for type of approval (s) requested: Neighborhood Use Permit Coastal Development Permit
 Neighborhood Development Permit Site Development Permit Planned Development Permit Conditional Use Permit
 Variance Tentative Map Vesting Tentative Map Map Waiver Land Use Plan Amendment • Other _____

Project Title **Project No. For City Use Only**
7Eleven Alcohol CUP 473225.

Project Address:
6110 Friars Road Suite 100 San Diego, CA 92108

Part I - To be completed when property is held by Individual(s)

By signing the Ownership Disclosure Statement, the owner(s) acknowledge that an application for a permit, map or other matter, as identified above, will be filed with the City of San Diego on the subject property, with the intent to record an encumbrance against the property. Please list below the owner(s) and tenant(s) (if applicable) of the above referenced property. The list must include the names and addresses of all persons who have an interest in the property, recorded or otherwise, and state the type of property interest (e.g., tenants who will benefit from the permit, all individuals who own the property). A signature is required of at least one of the property owners. Attach additional pages if needed. A signature from the Assistant Executive Director of the San Diego Redevelopment Agency shall be required for all project parcels for which a Disposition and Development Agreement (DDA) has been approved / executed by the City Council. Note: The applicant is responsible for notifying the Project Manager of any changes in ownership during the time the application is being processed or considered. Changes in ownership are to be given to the Project Manager at least thirty days prior to any public hearing on the subject property. Failure to provide accurate and current ownership information could result in a delay in the hearing process.

Additional pages attached Yes No

<p>Name of Individual (type or print): <u>JOSEPH A. BALLA, TRUSTEE</u> <u>OF TRUST DATED 2/1981 DBA LAS CUMBRES SQUARE</u></p> <p><input checked="" type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <input type="checkbox"/> Redevelopment Agency</p> <p>Street Address: <u>990 HIGHLAND DRIVE STE 303</u></p> <p>City/State/Zip: <u>SOLANA BEACH CA 92075</u></p> <p>Phone No: <u>858 752 3434</u> Fax No: _____ DATE: <u>2/12/16</u></p> <p>Signature: <u>Joseph A. Balla TTE</u> Date: _____</p>	<p>Name of Individual (type or print): _____</p> <p><input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <input type="checkbox"/> Redevelopment Agency</p> <p>Street Address: _____</p> <p>City/State/Zip: _____</p> <p>Phone No: _____ Fax No: _____</p> <p>Signature: _____ Date: _____</p>
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<p>Name of Individual (type or print): _____</p> <p><input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <input type="checkbox"/> Redevelopment Agency</p> <p>Street Address: _____</p> <p>City/State/Zip: _____</p> <p>Phone No: _____ Fax No: _____</p> <p>Signature: _____ Date: _____</p>	<p>Name of Individual (type or print): _____</p> <p><input type="checkbox"/> Owner <input type="checkbox"/> Tenant/Lessee <input type="checkbox"/> Redevelopment Agency</p> <p>Street Address: _____</p> <p>City/State/Zip: _____</p> <p>Phone No: _____ Fax No: _____</p> <p>Signature: _____ Date: _____</p>
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**SAN DIEGO POLICE DEPARTMENT
CONDITIONAL USE PERMIT RECOMMENDATION**

PREMISE ADDRESS: 6110 Friars Rd

TYPE OF BUSINESS: 7-11 Store (Type-20 Off Sales Beer and Wine License #5668100)

FEDERAL CENSUS TRACT: 89.01

NUMBER OF ALCOHOL LICENSES ALLOWED: 3

NUMBER OF ALCOHOL LICENSES EXISTING: 1

CRIME RATE IN THIS CENSUS TRACT: 67.3%
(Note: Considered High Crime If Exceeds 120% of City-wide Average)

THREE OR MORE REPORTED CRIMES AT THIS PREMISE WITHIN PAST YEAR YES NO

IS THE PREMISE WITHIN 600 FEET OF INCOMPATIBLE FACILITY YES NO

IS THE PREMISE WITHIN 100 FEET OF RESIDENTIALLY ZONED PROPERTY YES NO

ABC LICENSE REVOKED AT THIS PREMISE WITHIN PAST YEAR YES NO

HAS APPLICANT BEEN CONVICTED OF ANY FELONY YES NO

WILL THIS BUSINESS BE DETRIMENTAL TO THE PUBLIC HEALTH, SAFETY, AND WELFARE OF THE COMMUNITY AND CITY YES NO

COMMENTS/OTHER FACTORS CONSIDERED: This report has been amended to include 2016 statistics. The crime rate for census tract 89.01 is 67.3% in 2016. A crime rate above 120% is considered high. The alcohol related crime rate is 21.7%. The concentration level for On-sale licenses is one (1) in a census tract that allows three (3). This shows the area is not over concentrated with off sale licenses. There were three (3) crime cases taken at this location and forty-nine (49) crime cases taken within .2 mile area in 2015. There were no (0) arrests at this location and ten (10) arrests in a .2 mile area in 2015. There are apartments directly east of the business.

The two neighboring census tracts have a crime rates of 521.7% (census tract 89.02) and 85.5% (census tract 91.07). Both neighboring census tracts have alcohol crime rates of 137.2% (census tract 89.02) and 25.3% (census tract 91.07). Census tract 89.02 has three Off-Sales license in an area that ABC recommends one. Census tract 91.07 has three Off-Sales licenses in an area that ABC recommends two.

The proposed license has off-sale incorporated into it. Thus the Police Department would have concerns with noise and alcohol related crimes in the area.

SUGGESTED CONDITIONS: The San Diego Police Department agrees to the issuance of this license providing the following conditions are included in the Alcoholic Beverage Control License:

1. Sales and service of alcoholic beverages shall be permitted only between the hours of 10:00 AM and 12:00 AM each day of the week.
2. Wine shall not be sold in bottles or containers smaller than 750 ml.
3. The sales of beer or malt beverages in quantities of quarts, 40 oz., or similar size containers are prohibited.
4. No wine shall be sold with an alcohol content of greater than 15% by volume except for "Dinner Wines".
5. The petitioner(s) shall post and maintain a professional quality sign facing on the front of the premises that reads as the follows: NO LOITERING, NO LITTERING, NO DRINKING OF ALCOHOLIC BEVERAGES. VIOLATORS ARE SUBJECT TO ARREST. The sign shall be at least two feet square with two inch block lettering. The sign shall be in English and Spanish.
6. No loitering shall be allowed on the premises. If it necessary, a licensed security guard shall be present to control enforcement of this provision.
7. Any graffiti painted or marked upon the premises or on any adjacent area under the control of the licensee(s) shall be removed or painted over within 48 hours of being applied.
8. Beer, malt beverages or wine cooler products, regardless of container size, must be sold in manufacturer pre-packaged multi-unit quantities.
9. There shall be no exterior advertising or sign of any kind, including advertising, directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages which are clearly visible from the exterior shall constitute a violation of this conditions.
10. There shall be no amusement machines or video game devices on the premises at any time.

SAN DIEGO POLICE DEPARTMENT RECOMMENDATION:

APPROVE X

DENY _____

ROBERT STANSON
Name of SDPD Vice Sergeant (Print)

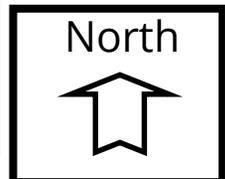
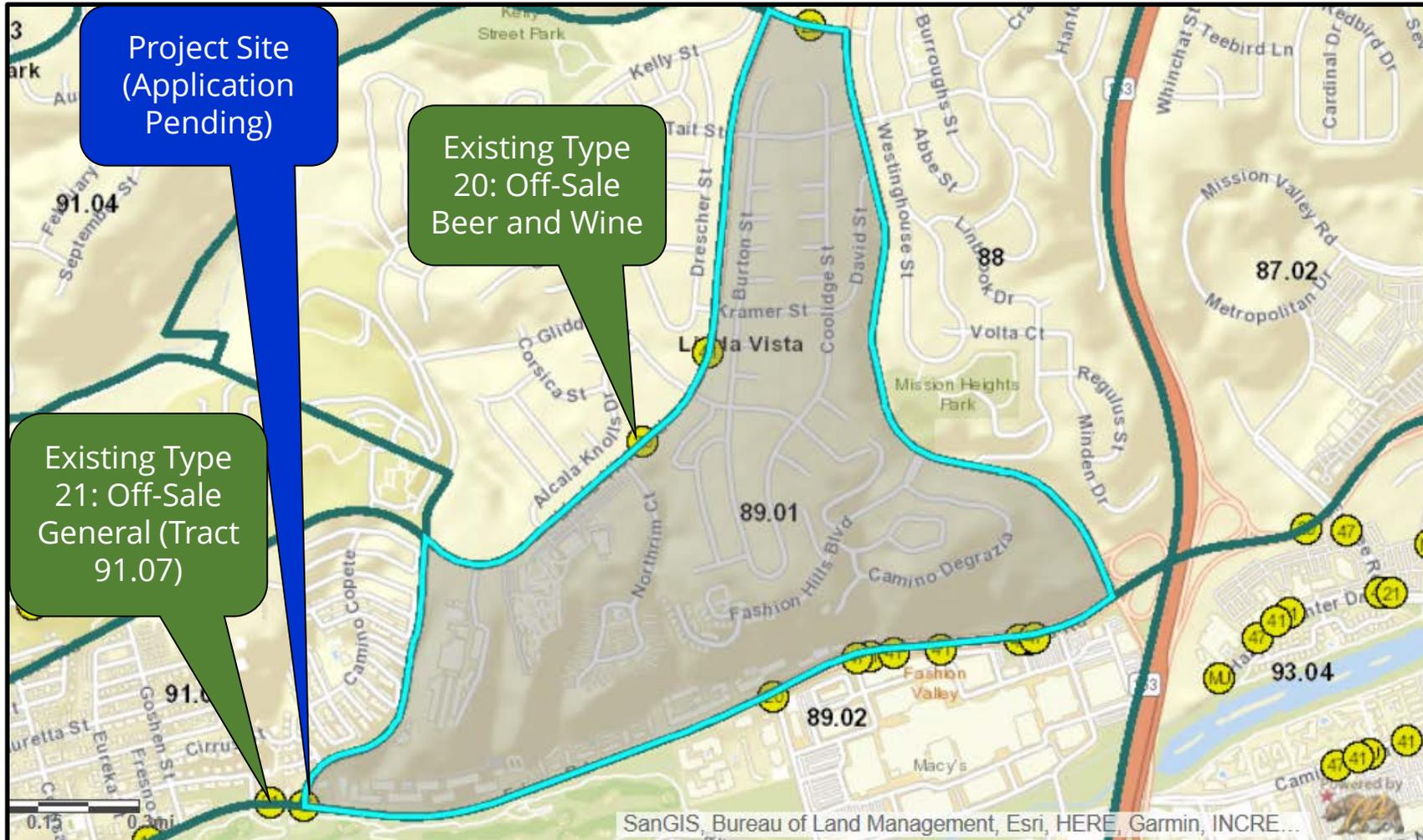
619-531-2369
Telephone Number

[Signature]
Signature of SDPD Vice Sergeant

3/17/17
Date of Review



ABC License Map – Census Tract 89.01



7-11 CUP, Project Number 473225
6110 Friars Road

