



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: FEBRUARY 27, 2023

ITEM NUMBER:PH-1

SUBJECT: PLANNING APPLICATION 22-43 IS A REQUEST TO MODIFY A CONDITIONAL USE PERMIT FOR AN EXISTING CONVENIENCE STORE TO CHANGE THE TYPE OF OFF-SALE STATE ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE FROM TYPE 20 (BEER AND WINE) TO TYPE 21 (GENERAL) AND TO EXPAND THE APPROVED HOURS OF OPERATION AT 1178 SUNFLOWER AVENUE

**FROM: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/
PLANNING DIVISION**

PRESENTATION BY: JEFFREY RIMANDO, ASSISTANT PLANNER

**FOR FURTHER INFORMATION CONTACT: JEFFREY RIMANDO
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RECOMMENDATION

Staff recommends the Planning Commission adopt a Resolution to:

1. Find that the project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per CEQA Guidelines Section 15301 (Existing Facilities); and
2. Approve Planning Application 22-43, subject to conditions of approval.

APPLICANT OR AUTHORIZED AGENT

The applicant/authorized agent is Rakesh Dadrah, for the property owner, C.J. Segerstrom & Sons.

PLANNING APPLICATION SUMMARY

Location:	1178 Sunflower Avenue	Application Numbers:	PA-22-43
Request:	Planning Application 22-43 for a Conditional Use Permit for an existing convenience store with request to change type of off-sale State Alcoholic Beverage Control (ABC) License from Type 20 (Beer and Wine) to Type 21 (General).		

SUBJECT PROPERTY:

SURROUNDING PROPERTY:

Zone:	C1 (Local Business)	North:	City of Santa Ana - Residential
General Plan:	Neighborhood Commercial	South:	PDR-MD (Planned Development Residential – Medium Density)
Lot Dimensions:	Front = 375 FT Side (Left) = 135 FT Side (Right) = 49 FT Rear = 365 FT	East:	C1
Lot Area:	33,977 SF	West:	C1
Existing Development:	The property is developed with an existing multi-tenant commercial building.		

DEVELOPMENT STANDARDS COMPARISON

Development Standard		Required/Allowed C1 Dev. Standard	Proposed/Provided
Lot Size		12,000 SF	33,977 (Existing, no change)
Minimum Lot Width		60 FT	375 FT (Existing, no change)
Parking		31 Spaces	32 Spaces (Existing, no change)
CEQA Status	Exempt per CEQA Guidelines Section 15301 (Existing Facilities)		
Final Action	Planning Commission		

BACKGROUND

Project Site

The subject property is located at 1178 Sunflower Avenue, northeast of the Sunflower Avenue and Fairview Road intersection. The applicant operates an existing convenience store, which occupies a 2,400-square-foot tenant space. The site consists of a multi-tenant commercial building comprising of five total commercial suites. The site is developed with 32 existing parking spaces, and two points of vehicular ingress/egress on Sunflower Avenue (approximately 280 feet apart). The property is located adjacent to the City's northern boundary that bisects the City of Costa Mesa with the City of Santa Ana.

The subject property is zoned C1 (Local Business), and has a General Plan land use designation of Neighborhood Commercial. The properties to the east and west are also zoned C1. The properties to the south (across Sunflower Avenue) are zoned PDR-MD (Planned Development Residential – Medium Density). The properties to the north are residentially zoned and located within the jurisdiction of Santa Ana.

Approved Entitlements

On April 2, 2001 the Planning Commission approved Planning Application PA-02-08 (see Attachment 6), which included a conditional use permit to allow sale of alcoholic beverages from a re-established convenience store (previously "Circle K"). The aforementioned approval established allowing the sale of beer and wine for off-site consumption in conjunction with a State Alcohol Beverage Control (ABC) License Type 20. The hours of operation, as proposed by the applicant at that time, were limited to 7 a.m. to 9 p.m., Sunday through Thursday and 7 a.m. to 11 p.m., Friday and Saturday.

DESCRIPTION

The existing convenience store operator ("AK Market") is requesting to change the type of off-sale ABC license from a Type 20 (Beer and Wine) to a Type 21 (Off-Sale General) to expand the convenience store's sales to include distilled spirits. The applicant is also requesting to modify the business's operating hours to 6 a.m. to 10 p.m., Sunday through Thursday (an additional hour in the morning and in the evening) and 6 a.m. to 11 p.m., Friday and Saturday (an additional hour in the morning only). No interior or exterior changes are proposed.

ANALYSIS

Conditional Use Permit

Pursuant to Costa Mesa Municipal Code (CMMC) Section 13-30, Liquor stores, convenience stores and mini markets are permitted uses with the approval of a Conditional Use Permit (CUP), and are subject to the provisions of Article 16. The purpose of Article 16 is to promote the public health, safety, and general welfare of the

City by regulating and providing development standards for liquor stores, convenience stores, and mini-markets. The Article 16 provisions are also intended to reduce problems associated with liquor stores, convenience stores, and mini-markets such as littering, loitering, graffiti, noise and interference with the quiet enjoyment of surrounding properties and uses.

As previously indicated, the applicant is requesting to change their off-sale ABC license from a Type 20 to a Type 21. Pursuant to CMMC Article 16, Section 13-200.71(b), the Code requires approval of a Conditional Use Permit (CUP) for any change in the type of off-sale ABC license for an existing convenience store. Although the CMMC does not regulate the required hours of operation for convenience stores in the City, the original Market entitlement (PA-02-08, Condition No. 18 of Exhibit B) specifies that:

“Hours of operation are limited to 7 a.m. to 9 p.m., Sunday through Thursday, and 7 a.m. to 11 p.m. Friday and Saturday. Expansion beyond these hours will require approval of an amendment to this conditional use permit.”

Therefore, the requested change in ABC license and “expansion” in hours of operation require Planning Commission approval of a CUP amendment.

The applicant has provided several letters of support and a petition signed by residents in the vicinity supporting the existing convenience store’s request for CUP amendment (see Attachment 2).

Lastly, the City’s Police Department has reviewed the request for the convenience store expanded alcohol sales and hours, and has no concerns.

Finding of Public Necessity or Convenience

Pursuant to the California Department of Beverage Control (ABC), a Finding of Public Necessity or Convenience is not necessary for a change in license type. In addition, the subject property is located in Census Tract No. 741.06 and according to the ABC, three (3) off-sale licenses are allowed and only two (2) active off-sale licenses (including the subject business) currently operate within this Census Tract (see the below table).

ABC License	Business Name	Address
Type 20 (Beer & Wine)	AK Market	1178 Sunflower Ave
Type 21 (General)	Circle K	2413 S Fairview St Ste A, Santa Ana

Source: www.abc.ca.gov

Although Census Tract No. 741.06 currently does not have an overconcentration of “off-sale” licenses; in 2001, when this project was originally approved, Census Tract No. 741.06 was over concentrated with four businesses with “off sale” licenses. However, two of these businesses have since ceased operation.

GENERAL PLAN CONFORMANCE

The Costa Mesa General Plan establishes the long-range planning and policy direction that guides change and preserves the qualities that define the community. The 2015-2035 General Plan sets forth the vision for Costa Mesa through 2035. This vision focuses on protecting and enhancing Costa Mesa's diverse residential neighborhoods, accommodating an array of businesses that serve both local needs and attract regional international spending, and providing cultural, educational, social, and recreational amenities that contribute to the quality of life in the community. Over the long term, General Plan implementation will ensure that development decisions and improvements to public and private infrastructure are consistent with the goals, objectives, and policies contained in this Plan.

The proposed convenience store use is in conformance with the General Plan land use designation for the property. The following analysis evaluates the proposed project's consistency with specific policies and objectives of the 2015-2035 General Plan.

1. **Policy LU-6.7:** *Encourage new and retain existing businesses that provide local shopping and services.*

Consistency: The proposed application will result in retaining an existing business that provides retail opportunities for local businesses and residents.

FINDINGS

Pursuant to Title 13, Section 13-29(g), Conditional Use Permit Findings, of the Costa Mesa Municipal Code, in order to approve the request, the Planning Commission shall find that the evidence presented in the administrative record substantially meets specified findings as follows:

- **The proposed development or use is substantially compatible with developments in the same general area and would not be materially detrimental to other properties within the area.** The convenience store has been in operation since 2001. The proposed project is to change the State ABC license type from Type 20 to Type 21 to include the sale of distilled spirits, and increase the hours of operation to 6 a.m. to 10 p.m., Sunday through Thursday (an additional hour in the morning and in the evening) and 6 a.m. to 11 p.m., Friday and Saturday (an additional hour in the morning only). The proposed intensification in operations would be compatible with commercial developments in the same general area and would not be materially detrimental to the nearby residential properties in that the conditions of approval have been included to avoid potential noise, trash and light disturbances. In addition, the original conditions of approval, as applicable, have also been included. The existing center contains a mix of uses including a laundromat, nail salon and other retail/service uses. Staff has received a letter from one of the adjacent tenants supporting the current application request.

The applicant will continue to occupy the existing tenant space and does not propose an expansion to the interior square footage. There are also no proposed exterior modifications or site improvements. The convenience store will continue to serve the surrounding neighborhood as it has over the past 20 plus years with no anticipated operational issues.

- **Granting the conditional use permit will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to property or improvements within the immediate neighborhood.** The proposed use, as conditioned, would not generate adverse noise, traffic, or parking impacts that are unusual for commercially-zoned properties. Furthermore, conditions of approval require the use be conducted in a manner that would allow for the quiet enjoyment of the surrounding neighborhood. The Police Department has reviewed the proposed use and has no objections to the approval of the application.
- **Granting the conditional use permit will not allow a use, density or intensity which is not in accordance with the General Plan designation and any applicable specific plan for the property.** The existing convenience store is conditionally permitted in the C1 (Local Business) zone. The General Plan land use designation of the property is Neighborhood Commercial. The existing convenience store use is an appropriate retail use for the Neighborhood Commercial land use designation. The proposed project would allow for the sales of distilled spirits and does not change the primary use which is a neighborhood serving convenient store. Furthermore, the proposed project is consistent with General Land Use Policy LU-6.7 in that the proposed project would retain the existing retail business and continue to provide retail opportunities for local businesses and residents.

ENVIRONMENTAL DETERMINATION

The project is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15301 (Class 1), Existing Facilities. The Class 1 exemptions applies to minor alterations to existing facilities or structures involving negligible or no expansion of the existing use. The project involves no exterior alterations or additions to an existing commercial building. As conditioned and proposed, the project will have little or no impact on the surrounding area. There will be no resulting increase in the existing floor area of the tenant space. Furthermore, none of the exceptions that bar the application of a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies. The Project would not result in a cumulative impact; would not have a significant effect on the environment due to unusual circumstances; would not result in damage to scenic resources; is not located on a hazardous site or location, and would not impact any historic resources.

ALTERNATIVES

The Planning Commission has the following alternatives:

1. Approve the project. The Planning Commission may approve the project as proposed, subject to the conditions outlined in the attached Resolution.
2. Approve the project with modifications. The Planning Commission may suggest specific changes that are necessary to alleviate concerns. If the requested changes are substantial, the item should be continued to a future meeting to allow a redesign or additional analysis. In the event of significant modifications to the proposal, staff will return a revised Resolution incorporating new findings and/or conditions.
3. Deny the project. If the Planning Commission believes that there are insufficient facts to support the findings for approval, the Planning Commission must deny the application, provide facts in support of denial, and direct staff to incorporate the findings for denial into a Resolution. If the project is denied, the applicant could not submit substantially the same type of application for at least six months.

LEGAL REVIEW

The draft Resolution has been approved as to form by the City Attorney's Office.

PUBLIC NOTICE

Pursuant to Title 13, Section 13-29(d), of the Costa Mesa Municipal Code, three types of public notification have been completed no less than 10 days prior to the date of the public hearing:

1. **Mailed notice.** A public notice was mailed to all property owners and occupants within a 500-foot radius of the project site. The required notice radius is measured from the external boundaries of the property. (See attached Notification Radius Map).
2. **On-site posting.** A public notice was posted on each street frontage of the project site.
3. **Newspaper publication.** A public notice was published once in the Daily Pilot newspaper.

As of the date of this report, five written public comments have been received. Any public comments received prior to the Planning Commission meeting will be forwarded separately to the Planning Commission.

CONCLUSION

Approval of the project will allow the existing convenience store to expand from the sale of only beer and wine to a full line of alcoholic beverages including distilled spirits, and increase the hours of operation to 6 a.m. to 10 p.m., Sunday through Thursday (an additional hour in the morning and in the evening) and 6 a.m. to 11 p.m., Friday and Saturday (an additional hour in the morning only). The project is consistent with the General Plan, Zoning Code and with developments in the general neighborhood. Therefore, staff recommends approval of the proposed project, subject the conditions of approval contained in the attached resolution (Attachment 1).