



PLANNING COMMISSION AGENDA REPORT

MEETING DATE: OCTOBER 24, 2022 ITEM NUMBER: PH-1

SUBJECT: PLANNING APPLICATION 22-35 FOR A CONDITIONAL USE PERMIT TO OPERATE A NEW CONVENIENCE STORE WITH SALE OF ALCOHOLIC BEVERAGES AND OFF-SITE CONSUMPTION FOOD ITEMS AT 1500 ADAMS AVENUE SUITE 104A

FROM: ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT/
PLANNING DIVISION

PRESENTATION BY: JEFFREY RIMANDO, ASSISTANT PLANNER

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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 22-35, subject to conditions of approval.

APPLICANT OR AUTHORIZED AGENT

The applicant/authorized agent is Gabrielle Dion, for the property owner, Sparks Enterprises LP.

PLANNING APPLICATION SUMMARY

Location:	1500 Adams Avenue Suite 104A	Application Numbers:	PA-22-35
Request:	Planning Application 22-35 for a Conditional Use Permit to operate a new convenience store with sale of alcoholic beverages and pre-prepared food items for off-site consumption.		

SUBJECT PROPERTY:

SURROUNDING PROPERTY:

Zone:	C1 (Local Business)	North:	C1
General Plan:	General Commercial	South:	C1-S (Shopping Center) & C2 (General Business)
Lot Dimensions: (General)	Front = 547 FT Side (Left) = 276 FT Side (Right) = 276 FT Rear = 625 FT	East:	C1
Lot Area:	172,062 SF	West:	C1
Existing Development:	The property is developed with 54,000 square feet of building floor area housed within four existing multi-tenant commercial buildings.		

DEVELOPMENT STANDARDS COMPARISON

Development Standard	Required/Allowed C1 Dev. Standards	Proposed/Provided
Lot Size	12,000 SF	150,000 SF
Minimum Lot Width	60 FT	315 FT
Parking	240 ¹	273 spaces
¹ Site is legal nonconforming with respect to parking. Since the proposal replaces a medical office use with a retail use and the parking requirements for retail uses are lower than for medical offices, the site's legal nonconforming status for parking remains in effect.		
CEQA Status	Exempt per CEQA Guidelines Section 15301 (Existing Facilities)	
Final Action	Planning Commission	

BACKGROUND

The subject property is located along Adams Avenue, near the corner of Adams Avenue and Harbor Boulevard, with street frontages along Harbor Boulevard, Adams Avenue, and Elm Avenue. The property is zoned C1 (Local Business), and has a General Plan land use designation of General Commercial. The site contains approximately 54,000 square feet of building floor area housed within four buildings. The site is developed with 240 existing parking spaces, and six points of ingress/egress (three on Adams Avenue, two on Elm Avenue, and one on Harbor Boulevard). The surrounding properties are all commercially zoned, with the exception of the residential properties located on the northwestern corner of Elm Avenue and Lemon Street.

The applicant has an existing business located at 3313 Hyland Avenue and intends to relocate to the proposed location. The Planning Commission approved a CUP for this business in 2013 (PA-13-39). The current location operates as a retail store with the sale of glassware and bar accessories and alcoholic beverages. In relocating to the proposed location, the business intends to operate similarly with the addition of sale of pre-prepared food items for off-site consumption.

DESCRIPTION

The proposal is for a new convenience store ("The Mixing Glass") within a 1,400-square-foot tenant space. The applicant is applying for a Type 21 ABC license (Off-Sale General). The business would provide a retail store with sale of curated specialty cocktail and barware, beer, wine and distilled spirits. Additionally, the space consists of a 515-square-foot kitchen area to prepare sandwiches and deli salads, to be packaged onsite and made available for purchase for off-site consumption. The applicant also requests that the Planning Commission make a Finding of Public Convenience or Necessity (PCN) in conjunction with the issuance of a new ABC Type 21 License.

The proposed business will operate from 9 a.m. to 8 p.m. Sunday through Wednesday and 9 a.m. to 10 p.m. Thursday through Saturday. The business' staff will consist of one to three employees on-site at any given time. The applicant is proposing interior tenant improvements to accommodate the project with no expansion of the existing building.

ANALYSIS

Conditional Use Permit

Pursuant to Table 13-30 under the Costa Mesa Municipal Code (CMMC) Section 13-30, the CMMC requires approval of a Conditional Use Permit (CUP) for a convenience store use. Additionally, the CMMC defines a "convenience store" as:

“A retail store, generally less than ten thousand (10,000) square feet in area, that sells a variety of convenience foods, beverages and non-food items. Fresh dairy products, produce and/or meat may be offered on a limited basis.”

The proposed use is categorized as a “convenience store” because it is a retail store less than 10,000 square feet in an area that sells a variety of convenience foods, beverages and non-food items. The applicant is also proposing the sale of beer, wine and distilled spirits. In addition, specialty cocktail and barware will be sold including wine and beer from local producers. Food items such as sandwiches and deli salads will also be pre-prepared in the kitchen area to be available for off-site consumption. The business will consist of a retail area, a kitchen, a storage area and a restroom. No live entertainment is proposed nor will indoor seating be provided for on-site consumption of food or alcohol.

Pursuant to the CMMC, the approval of a CUP requires that the Planning Commission make specific findings related to neighborhood compatibility, health and safety, and land use compatibility. The analysis regarding CUP findings is provided later in this report. In addition to the City’s Conditional Use Permit findings and standard conditions of approval, convenience stores are also subject to CMMC Section 13-200.72. Section 13-200.72 indicates that the Planning Commission may use the following standards in review of new conditional use permits to impose conditions of approval on the use to ensure compliance with the findings contained in Chapter III, Planning Applications:

1. Alcoholic beverage sales from drive through or walk-up service windows shall be prohibited;
2. Wine, beer and other distilled spirit shall be sold in the factory manufactured packages for retail sales. Factory multiple-packed bottles or cans shall not be unpackaged to be sold individually. This restriction is not intended to prohibit the sale of beverages in a single container packaged by the manufacturer for individual sale;
3. Beer or wine shall not be displayed or sold from an ice tub or any other type of portable refrigerated unit; and
4. The business shall be conducted, at all times, in a manner that will allow the quiet enjoyment of the surrounding neighborhood. The business shall institute whatever security measures are necessary to comply with this requirement.

The aforementioned conditions have been added to the Resolution – Exhibit B (Conditions of Approval).

Sale of Alcoholic Beverages (Type 21 Off-Sale ABC License) and PCN

Section 23958.4 of the California Business & Professions Code, also known as the California Alcoholic Beverage Control Act, establishes the criteria under which off-sale alcoholic beverage licenses may be issued by ABC, which includes the ratio of off-sale retail ABC licenses to population in the census tract in which the proposed business is located; when this number is exceeded, it is commonly referred to as “overconcentration”

or “undue concentration.” ABC defines an “undue concentration” of off-sale alcoholic beverages licenses as the following:

- The area is located in a crime reporting district that has a 20 percent or greater number of reported crimes than the City average; or
- The ratio of off-sale retail licenses to population within the census tract exceeds the ratio of license to population in the county as a whole.

Pursuant to State Law, the ABC cannot approve the issuance of a license unless the City’s legislative body or its designated subordinate officer or body, makes a finding that public convenience or necessity would be served by the issuance of the license. In accordance with City Council Policy 500-8, most recently revised and updated November 17, 2009, the Planning Commission may make a PCN finding for the requested license type.

In this case, the ratio of off-sale ABC licenses to population (one license per 2,914 people) in census tract 638.02 exceeds the countywide ratio, resulting in a determination of “undue concentration.” Specifically, the State requirements limit the census tract 638.02 to one off-sale license. Pursuant to State records, two off-sale licenses already exist within the census tract (see Table 1 below). If the applicant’s request is approved, the number of off-sale licenses within the census tract would increase to three.

ABC License	Business Name	Address
Type 21 (General)	Tokyo Central	2975 Harbor Blvd
Type 21 (General)	7 Eleven	1548 Adams Ave Ste A

Source: www.abc.ca.gov

Although there is an over concentration of off-sale licenses in this census tract, the addition of this license would add a local business to the area, without negatively impacting other businesses or the surrounding neighborhood.

The Public Convenience or Necessity can be determined because the operation of the convenience store would be consistent with the requirements of the Zoning Code and the conditions included within this application. The Police Department has also reviewed the request and has no objections. Additionally, the license provides a convenience to customers without impacting the surrounding uses. Lastly, the applicant is relocating their business and therefore approval of the use would result in an additional off-site alcohol sales license in the City; however, the existing location’s census tract does not exceed the State ratio of licenses to be considered over concentrated.

Parking

Regarding parking, as noted in the table above, the site was approved and originally built with 240 parking spaces (current Code requires 273 spaces); therefore, the site is legal nonconforming with respect to parking. The tenant space was previously occupied by a medical office use. Pursuant to Table 13-89 under CMMC Section 13-89, the parking ratio for medical offices is six spaces per 1,000 square feet of gross floor area whereas the

parking ratio for retail is four spaces per 1,000 square feet. Since the proposed use replaces a medical office use with a retail use, which is a less intensive use in terms of parking requirements, the site's legal nonconforming status for parking remains in effect and no further parking is required.

GENERAL PLAN CONFORMANCE

Conformance with the City of Costa Mesa General Plan

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 following analysis evaluates the proposed project's consistency with specific policies and objectives of the 2015-2035 General Plan.

1. **Policy LU-1.1:** *Provide for the development of a mix and balance of housing opportunities, commercial goods and services, and employment opportunities in consideration of the needs of the business and residential segments of the community.*

Consistency: The relocated convenience store would add to the variety of commercial services and goods in the neighborhood by providing a service to meet the needs of businesses and residents of the community.

2. **Policy LU-3.1:** *Protect existing stabilized residential neighborhoods, including mobile home parks (and manufactured housing parks), from the encroachment of incompatible or potentially disruptive land uses and/or activities.*

Consistency: The proposed use would be conditioned so that all uses shall be conducted within the tenant space (underroof). Furthermore, conditions of approval ensure the proposed use will operate with minimal impacts to the adjacent properties and in accordance with the limitations set forth in CMMC Section 13-200.72.

3. **Policy LU-6.1:** *Encourage a mixed of land uses that maintain and improve the City's long-term fiscal health.*

Consistency: The existing center consists of a mixture of office, restaurant and retail uses. The proposed convenience store would continue a diverse and comprehensive supply of services for the retail markets within the community to assist in retaining existing and attracting new businesses.

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

Consistency: The applicant currently maintains an existing business of a similar use in 3313 Hyland Avenue with the intent to relocate into the proposed location. 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 proposed use would be compatible with commercial developments in the same general area and would not be materially detrimental to the nearby residential properties in that conditions of approval have been included to avoid potential noise, trash and light disturbances. The existing center contains a mix of uses including restaurants, offices and other retail uses.
- *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. The subject property is located within 60 feet from the closest residential use to the rear. Residential uses would be protected from any noise or nuisance associated with the convenience store because all uses would be conducted indoors. 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 proposed convenience store is conditionally permitted in the C1 (Local Business) zone. The General Plan land use designation of the property is General Commercial. The proposed convenience store use is an

appropriate retail use for the General Commercial land use designation. Furthermore, the proposed project is consistent with General Plan Land Use Policies LU-1.1, LU-3.1, LU-6.1 and LU-6.7 in that the proposed project would provide a new entrepreneurial business and provide new employment opportunities in the community. Compliance with the proposed conditions of approval would ensure compatibility with the nearby residential neighborhood.

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 exemption applies to minor alterations to existing facilities or structures involving negligible or no expansion of the existing use. The project falls within this exemption because it involves minor interior alterations and the change of use is considered negligible. As conditioned and proposed, the project will have little or no impact on the surrounding area. The project involves tenant improvements to convert an existing medical office space into convenience store. There will be no resulting increase in the existing floor area of the tenant space.

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, no 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 establishment of a 1,400-square-foot convenience store with the sale of alcohol for off-site consumption in conjunction with a State Alcoholic Beverage Control (ABC) License Type 21. 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 to the conditions of approval contained in the attached resolution (Attachment 2).