



Los Angeles County Department of Regional Planning



Planning for the Challenges Ahead

Richard J. Bruckner
Director

December 20, 2011

Art Rodriguez and Associates
c/o Steve Katigbak
709 E. Colorado Blvd.
Pasadena, CA. 91101

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

**REGARDING: PROJECT NO. 97108-(5)
CONDITIONAL USE PERMIT NO. 200900137
2515 FAIR OAKS AVENUE, ALTADENA CA. 91001**

Dear Applicant:

Hearing Officer, Alex Garcia, by his action of Tuesday, December 20, 2011, **APPROVED** the above described application **Conditional Use Permit for the continued sale of alcohol (beer and wine) at the Baja Ranch Market**. The applicant or and other interested person may appeal the Hearing Officer's decision to the Regional Planning Commission at the office of the Commission secretary, Room 1350, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Please contact the Commission secretary for the appeal procedures and fee at (213) 974-6409. **The appeal period for this project will end at 5:00 p.m. on Tuesday, January 3, 2012.** Any appeal must be delivered in person to the commission secretary by this time. If no appeal is filed during the specified period, the Hearing Officer's action is final.

The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. A Condition requires that the permittee records an affidavit accepting the conditions before the grants becomes effective.

Upon completion of the appeal period, please notarize the attached acceptance forms and **hand deliver** this form and any other required fees or materials to the planner assigned to your case planner. Please **make an appointment** with the case planner to assure that processing will be completed expeditiously.

For further information on appeal procedures or any other matter pertaining to these approvals, please contact Jeff Lemieux of the Special Projects Section at (213) 974-4854 or e-mail at jlemieux@planning.lacounty.gov. Our office hours are Monday through Thursday, 7:30 a.m. to 5:30 p.m. We are closed on Fridays.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner
Director


Samuel Dea, Supervising Regional Planner
Special Projects Section

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)

c: Zoning Enforcement
Owner

SZD:JL:jl

FINDINGS AND ORDER OF THE HEARING OFFICER COUNTY OF LOS ANGELES

**PROJECT NO. 97108-(5)
CONDITIONAL USE PERMIT NO. 200900137**

REQUEST

The applicant is requesting approval of a Conditional Use Permit (CUP) to authorize the continued sale of alcoholic beverages (beer and wine) for off-site consumption incidental to the operation of an existing market (Baja Ranch Market) located at 2515 Fair Oaks Avenue in the unincorporated community of Altadena.

HEARING DATE: December 20, 2011

PROCEEDINGS BEFORE THE HEARING OFFICER:

December 20, 2011 Public Hearing

A duly noted public hearing was scheduled before the Hearing Officer on December 20, 2011. Staff made a presentation and the applicant's consultant, Brett Engstrom, testified in favor of the project. Mr. Engstrom had no further comment and agreed to the recommended conditions of approval. There being no further testimony, the Hearing Officer closed the public hearing and approved the request with the findings and conditions.

FINDINGS

1. The subject property is located at 2515 Fair Oaks Avenue, Altadena, CA 91001.
2. The project site is approximately 36,000 square feet in size, improved with a 13,100 square foot supermarket. The subject market is a two-story detached commercial building.
3. The Altadena Community Plan Land Use designation for the subject property is "CB" – "Commercial/Business". The supermarket is consistent with the Plan. An excerpt of the Plan states "The General Commercial designation is intended to permit a broad range of commercial services, including the traditional concepts of "community", "neighborhood", and "highway oriented" commercial. These may include supermarkets, clothing stores and gift shops, shoe stores, drug stores, etc." The project also falls into the Fair Oaks Commercial Corridor of the Altadena Plan. According to the Plan, commercial uses along Fair Oaks would include both "community" level and "neighborhood" level retail, stores and shops. The market serves as a "community" and "neighborhood" store that provides goods and services for the needs of the community.
4. The subject property is zoned C-3 (Unlimited Commercial). The surrounding properties are zoned as follow:
 - North: C-3 (Unlimited Commercial)
 - East: R-1-7,500 (Single-Family Residential with 7,500 sq ft minimum lot size)

South: C-3 (Unlimited Commercial)

West: R-1-7,500 (Single-Family Residential with 7,500 sq ft minimum lot size)

5. The existing land use for the subject property is developed as a market with appurtenant parking. The existing land uses for the surrounding properties are as follows:
 - North: Lodge Hall
 - East: Single-Family Residential
 - South: Vacant Land
 - West: Single-Family Residential
6. Pursuant to the provisions of Sections 22.60.174 and 22.60.175 of the County Code, the community was appropriately notified of the public hearing by mail, newspaper and property posting.
7. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Hearing Officer determines that it is necessary to limit the term of the grant to 15 years.
8. There are three (3) sensitive uses within a 600 foot radius of the property. The closest sensitive use is St. Paul Church which is located approximately 75 feet from the subject property and is buffered by a lodge hall. The church is located in a strip mall which also includes Town & Country Liquor Market which sells a full-line of alcohol for off-site consumption. The second sensitive use is the Hillside Church which is located approximately 160 feet from the subject property and is sufficiently buffered by a lodge hall and a strip mall. The third sensitive use is Charles White Park which is located approximately 250 feet from the subject property and is buffered by Ventura Street which is an arterial street approximately 55-60 feet wide. The proposed use would be compatible with the surrounding neighborhood with appropriate conditions. With the recommended conditions of approval, the supermarket, with the off-site sale of alcoholic beverages (beer and wine), should operate without adversely affecting the health, peace, comfort or welfare of persons residing or working in the area, or endangering or otherwise constituting a menace to the public health, safety or general welfare. Therefore, the requested use at the proposed location is sufficiently buffered in relation to sensitive uses within the immediate vicinity so as not to adversely affect said area.
9. There are two (2) establishments that sell alcoholic beverages for off-site consumption within a 500 foot radius of the subject property. They are as follows: Town & Country Liquor Market (full line off-site) and Johnie's Liquor & Grocery (full line off-site). The public convenience or necessity for the existing market selling alcoholic beverages (beer and wine) for off-site consumption outweighs the fact that the proposed use is located within a 500 foot radius of other facilities selling alcoholic beverages for off-site consumption as this is the only market in the vicinity. However, due to the fact that the market is located within proximity of other businesses that sell alcohol for either on-site or off-site consumption, the conditions

of approval will limit the shelving space to display alcoholic beverages to no more than 5% of the total shelf space of the market.

10. The Department of Regional Planning has determined this project to be Categorically Exempt (Class 1 – Existing Facilities) under the California Environmental Quality Act (CEQA) and the Los Angeles County environmental guidelines.
11. The location of the documents and other materials constituting the record of proceedings upon which the Commission's decision is based in this matter is at the Los Angeles County Department of Regional Planning, 13th Floor, Hall of Records, 320 West Temple Street, Los Angeles, CA 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

- A. That the proposed use will be consistent with the adopted Community Plan for the area;
- B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of person residing and working in the surrounding area, will not be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site and will not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare;
- C. That the proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in Title 22 of the County Code or as is otherwise required in order to integrate said use with the uses in the surrounding area;
- D. That the proposed site is adequately served by highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate and by other public or private service facilities as are required;
- E. Compatibility with surrounding land uses will be ensured through the implementation of the attached conditions;
- F. Establishment of the sale of alcoholic beverages (beer and wine) at such location is in the interest of public health, safety and general welfare and in conformity with good zoning practice;

- G. The requested use at the proposed location will not adversely affect the use of a place used exclusively for religious worship, school, park, playground or similar use within a 600 foot radius;
- H. The requested use in the current location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect the same area;
- I. The requested use will not adversely affect the economic welfare of the nearby community;
- J. The requested use at the proposed location will result in an undue concentration of similar premises but the request fulfills a public convenience or necessity for the facility selling alcoholic beverages for off-site consumption and outweighs the fact that it is located within 500 feet of other facilities selling alcoholic beverages for either on-site or off-site consumption; and
- K. The sale of alcoholic beverages (beer and wine) at this location will serve the public convenience or necessity and will not tend to create a law enforcement problem.

THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings for a conditional use permit as set forth in Sections 22.56.040 and 22.56.195, Title 22 of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION

- 1. The Hearing Officer finds that this project is categorically exempt from the provisions of the California Environmental Quality Act.
- 2. In view of the findings of fact and conclusions presented above, Conditional Use Permit No. 200900137 is **APPROVED** subject to the attached conditions.

c: Hearing Officer, Zoning Enforcement, Building and Safety

SD:JL:jl

This grant authorizes the sale of alcoholic beverages (beer and wine) for off-site consumption incidental to the operation of an existing market in the C-3 (Unlimited Commercial) Zone. This approval is subject to the following conditions of approval;

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant and any other person, corporation or other entity making use of this grant.
2. This grant shall not be effective for any purpose and cannot be used until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the Los Angeles County Department of Regional Planning their affidavit stating that they are aware of, and agree to accept, all of the conditions of this grant and that the conditions of the grant have been recorded as required by Condition No. 6, and until all required fees have been paid pursuant to Condition No. 9. Notwithstanding the foregoing, this Condition No. 2, and Condition Nos. 3, 4, and 8 shall be effective immediately upon final approval of this grant by the County.
3. The permittee shall defend, indemnify and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void or annul this permit approval, which action is brought within the applicable time period of Government Code Section 65009. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall cooperate reasonably in the defense. If the County fails to promptly notify the permittee of any claim action or proceeding, or if the County fails to cooperate fully in the defense, the permittee shall not thereafter be responsible to defend, indemnify, or hold harmless the County.
4. In the event that any claim, action, or proceeding as described above is filed against the County, the permittee shall within ten days of the filing pay the Department of Regional Planning an initial deposit of \$5,000, from which actual costs shall be billed and deducted for the purpose of defraying the expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance to permittee or permittee's counsel. The permittee shall also pay the following supplemental deposits, from which actual costs shall be billed and deducted:
 - a. If during the litigation process, actual costs incurred reach 80 percent of the amount on deposit, the permittee shall deposit additional funds sufficient to bring the balance up to the amount of the initial deposit. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.
 - b. At the sole discretion of the permittee, the amount of an initial or supplemental deposit may exceed the minimum amounts defined herein.

The cost for collection and duplication of records and other related documents will be paid by the permittee according to Los Angeles County Code Section 2.170.010.

5. If any provision of this grant is held or declared to be invalid, the permit shall be void and the privileges granted hereunder shall lapse.
6. Prior to the use of this grant, the property owner or permittee shall **record the terms and conditions** of the grant in the office of the County Recorder. In addition, upon any transfer or lease of the property during the term of this grant, the property owner or permittee shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
7. This grant is for a term of up to 15 years and will expire on **December 20, 2026**. Upon the expiration of this grant, the use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning at least six months prior to the expiration date of this grant, whether or not any modification to the use is requested at that time.
8. This grant shall expire unless used within ninety (90) days from the date of final approval by the County. A single thirty (30) day time extension may be requested in writing and with payment of the applicable fee prior to the expiration date.
9. The subject property shall be maintained and operated in full compliance with the conditions of this grant and any law, statute, ordinance, or other regulation applicable to any development or activity on the subject property. Failure of the permittee to cease any development or activity not in full compliance shall be a violation of these conditions. Within 30 days of the effective date of this grant, the permittee shall deposit with the County of Los Angeles the sum of \$1,600.00. These monies shall be placed in a performance fund which shall be used exclusively to compensate the Department of Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval, including adherence to development in accordance with the site plan on file. The fund provides for **eight (8)** biennial inspections. Inspections shall be unannounced.
10. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission or a hearing officer may, after conducting a public hearing, revoke or modify this grant, if the Commission or hearing officer finds that these conditions have been violated or that this grant has been exercised so as to be detrimental to the public's health or safety or so as to be a nuisance.
11. All development pursuant to this grant must be kept in full compliance with the County Fire Code.

12. All requirements of the Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise set forth in these conditions or shown on the approved plans.
14. All structures shall conform with the requirements of the Division of Building and Safety of the Department of Public Works.
15. All structures, walls and fences open to public view shall remain free of extraneous markings, drawings or signage that was not approved by the Department of Regional Planning. These shall include any of the above that do not directly relate to the business being operated on the premises or that do not provide pertinent information about said premises.
16. In the event of graffiti or other extraneous markings occurring, the permittee shall remove or cover said markings, drawings, or signage within 24 hours of such occurrence, weather permitting. Paint utilized in covering such markings shall be of a color that matches, as closely as possible, the color of the adjacent surfaces. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
19. The subject property shall be developed and maintained in substantial compliance with the plans marked Exhibit "A." If changes to the site plan are required as a result of instruction given at the public hearing, a revision to the Exhibit "A" shall be submitted to the Department of Regional Planning within sixty (60) days of the date of approval for the Conditional Use Permit. In the event the subsequent revised plans are submitted, the permittee shall submit three (3) copies of the proposed plans to the director for review and approval. All revised plans must be accompanied by written authorization of the property owner.
20. The sale of beer and wine for off-site consumption as an accessory use with the operation of a market, shall be further subject to all of the following restrictions:
 - a. This grant authorizes the sale of alcoholic beverages (beer and wine) only from 6:00 a.m. to 10:00 p.m. daily;
 - b. No alcoholic beverages shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler;
 - c. No sale of alcoholic beverages shall be made from a drive-up window;
 - d. No display or sale of alcoholic beverages shall be made from an ice tub;
 - e. There shall be no beer sold in containers under one quart or in less than six-pack quantities;

- f. No wine shall be sold with an alcoholic content greater than 15% by volume. Wine shall not be sold in bottles or containers smaller than 750 ml and wine coolers shall not be sold in units of less than a four (4) pack;
- g. The shelf space devoted to alcoholic beverages shall be limited to not more than five (5) percent of the total shelf space in the establishment;
- h. The permittee shall display alcoholic beverages (beer and wine) only in the cooler or shelving designated for storage of said beverages as depicted on the "shelf plan" labeled Exhibit "A". No additional display of alcoholic beverages shall be provided elsewhere on the premises;
- i. No malt liquor/beverages or other fortified beer or fortified wine shall be sold on the premises;
- j. There shall be no empty cups, glasses, or small receptacles commonly used for the drinking of beverages, constructed of paper, plastic, Styrofoam or other similar material, sold at the premises in quantities of less than twenty-four (24), excepting individual glass, ceramic and durable plastic glasses, cups and mugs sold in the housewares aisle. Cups used in conjunction with a coffee or soda fountain purchase must be filled with coffee or soda from a soda fountain at the time of purchase;
- k. No ice in quantities of less than five (5) pounds shall be sold or furnished. No ice in any quantity shall be given away free;
- l. No single cigarettes shall be sold;
- m. The consumption of alcoholic beverages shall be prohibited on the subject property. The permittee shall post signage on the premises prohibiting consumption of alcoholic beverages on the premises;
- n. The permittee shall be responsible for maintaining, free of litter, the area adjacent to the premises over which he/she has control;
- o. The licensed premises shall have no coin-operated amusement devices such as pool tables, juke boxes, video games, small carousel rides or similar riding machines at any time, with the exception of official State Lottery machines;
- p. The premises shall not advertise the sale of alcoholic beverages on the exterior of any structure on the subject property including windows, walls, fences or other similar structures;

- q. The parking area of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking area;
- r. Lighting in the parking area of the premises shall be shielded and directed downward in such a manner as to prevent direct illumination and glare to neighboring properties;
- s. The permittee or designated employee shall regularly inspect the area under his/her control in an effort to prevent loitering of persons about the premises as per ABC-253 dated December 3, 1999;
- t. All regulations of the State of California prohibiting the sale of alcoholic beverages to minors shall be strictly enforced;
- u. The permittee shall post a current contact name, address, and phone number with the Department of Regional Planning at all times in the window near the exit of the market;
- v. The conditions of this grant shall be retained on the premises at all times and shall be immediately produced upon request of any County Sheriff, Zoning Inspector or Department of Alcoholic Beverage agent. The manager and all employees of the facility shall be knowledgeable of the condition herein;
- w. Loitering shall be prohibited on the subject property, including loitering by employees of the subject property. Signage in compliance with Section 22.52 Part 10 of the County Code shall be placed on the premises indicating said prohibition. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary;
- x. The permittee, and all managers and designated employees of the establishment, who directly serve or are in the practice of selling alcoholic beverages, shall participate in the LEAD (Licensee Education on Alcohol and Drugs) Program provided by the State of California Department of Alcoholic Beverage Control. All new designated employees shall be required to attend. The licensee shall display a certificate or plaque in a publicly accessible area of the establishment indicating they have participated in this program. Proof of completion of the facilities' training program by employees, the licensee and all managers shall be available upon request and;
- y. The permittee shall post or otherwise provide the telephone numbers of local law enforcement agencies and taxicab companies at or near the cashier, or similar public service area. Such telephone numbers shall be visible by and available to the general public.