



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

May 18, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Terry Solomon
18348 West Avenue D
Lancaster, CA 93536

**REGARDING: PROJECT NUMBER 97149-(5)
CUP NUMBER 201000029
18348 West Avenue D, Lancaster, CA 93536**

Dear Applicant:

Hearing Officer, Paul McCarthy, by his action of May 17, 2011, **APPROVED** the above-described project and entitlements. The attached documents contain the Hearing Officer's findings and conditions relating to the approval. Please carefully review each condition. Condition No. 2 requires that the permittee file an affidavit accepting the conditions before the grants becomes effective.

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 the 5:00 p.m. on May 31, 2011.** 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.

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. 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 Anthony Curzi of the Zoning Permits North Section at (213) 974-6461 or e-mail at acurzi@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,

Richard J. Bruckner
Director

Susan Tae, AICP, Supervising Regional Planner
Zoning Permits North Section

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

c: DPW (Building and Safety)

ST/amc

FINDINGS AND ORDER OF THE HEARING OFFICER COUNTY OF LOS ANGELES

**PROJECT NUMBER NO. 97149-(5)
CONDITIONAL USE PERMIT NO. 201000029**

REQUEST:

The applicant is requesting a Conditional Use Permit (CUP) to authorize the continued sale of alcoholic beverages (ABC Type 20 beer and wine) for off-site consumption at an existing convenience market located at a previously authorized mobilehome park.

HEARING DATE: May 17, 2011

PROCEEDINGS BEFORE THE HEARING OFFICER:

A duly noticed public hearing occurred before the Hearing Officer. Staff presented the case and one person, the applicant, testified. The applicant requested that alcohol sales not be limited to a further restriction from 8:00 a.m. to 12:00 a.m. The Hearing Officer agreed to that request and allowed the sale of alcohol to occur from 6:00 a.m. to 2:00 a.m., although the applicant plans on closing the store at 8:00 p.m.

Findings

1. The applicant is requesting a Conditional Use Permit (CUP) to authorize the continued sale of alcoholic beverages (ABC Type 20 beer and wine) for off-site consumption at an existing convenience market located at a previously authorized mobilehome park.
2. The project site is located at 18348 West Avenue D, Lancaster, CA 93536, in the unincorporated community of Fairmont (APN: 3238-005-029).
3. The convenience market, located at the mobilehome park, is located on a rectangular, 32.48-acre lot in a rural area of the west Antelope Valley. It is flat and is surrounded by vacant parcels with vegetation typical of a dry, arid, high desert landscape.
4. The site plan depicts the property—333 feet wide by 1,319 feet deep—with four main uses: (1) convenience market, (2) mobilehome park, (3) storage areas, and (4) Recreational Vehicle (RV) parking. The northern end of the property contains eight standard size parking spaces and two disabled size spaces. Located immediately south of these parking spaces are 31 mobilehome pads. Located between pad #s 8 and 9 is a water storage tank. South of the mobilehome pads is the storage area, and south of that is the RV parking. The RV parking area is enclosed by a 5-foot-tall barbed-wire fence. The floor plan of the convenience market depicts a kitchen; a freezer; restrooms; refrigerators for beer, wine, and soft

drinks; a hallway; storage rooms; racks; another set of freezers; tables; and shelves. In the center of the market are six display racks for the sale of goods.

5. Hours of operation for the convenience market are from 6:00 a.m. to 8:00 p.m. daily and alcohol sales have been previously allowed during these hours. The convenience market is an accessory use to the previously authorized mobilehome park.
6. The subject property is in the A-2-5 (Heavy Agricultural – 5-acre minimum lot size development standard) zone.
7. Zone Exception Case (ZEC) No. 7923 on March 15, 1966 established the mobilehome park and convenience market located on site. Conditional Use Permit 97-149-(5) on February 17, 1998 authorized the sale of alcoholic beverages (ABC Type 20 – beer and wine) for a ten- (10-) year grant term.
8. The subject property is located in the Non-Urban 1 (0.5 dwelling units per acre) land use plan category of the Antelope Valley Areawide General Plan (Plan) and is consistent with the goals and policies set forth in the Plan.
9. Surrounding properties are located in the following zones:
North: A-2-5 (Heavy Agricultural – 5-acre minimum lot size development standard)
East: A-2-5
South: A-2-5
West: A-2-5
10. Surrounding land uses within 600 feet include:
North: Vacant Land
East: Vacant Land
South: Vacant Land
West: Vacant Land
11. The convenience market located at the mobilehome park has existed at the site for 46 years and has provided a service to the residents of the mobilehome park and to motorists travelling along West Avenue D (Highway 138). The sale of alcoholic beverages (beer and wine) for off-site consumption has existed at this site for 13 years without any complaint from the surrounding community.
12. There are no sensitive uses or places of worship, schools, public playgrounds, parks, hospitals, and youth centers within a 600-foot radius.
13. The requested use at the proposed location will not adversely affect the economic welfare of the nearby community because it will provide a public convenience by offering the sale of alcoholic beverages (beer and wine) at an existing convenience market.

14. No new construction is proposed or associated with this permit.
15. The Los Angeles County Sheriff's Department has requested additional conditions of approval, which include the following:
 - i) This grant authorizes the sale of alcoholic beverages from 8:00 a.m. to 12:00 a.m. (midnight).
 - ii) No beer or wine shall be displayed within five (5) feet of the cash register or the front door unless it is in a permanently affixed cooler.
 - iii) The sale of alcoholic beverages shall be made only to persons who are within the licensed premises and not through a drive-up window, pass-out, or slide-out tray to the exterior of the premises.
 - iv) No malt beverage products shall be sold, regardless of individual container size, in quantities of less than six per sale, except in manufacturers' pre-packaged four-packs.
 - v) There shall be no singles sales of beer in quantities less than 40 ounces. Wine shall not be sold in containers smaller than 750 milliliters, and wine coolers must be sold in manufacturers' pre-packaged, multi-unit quantities.
 - vi) There shall be no coin-operated games or video machines maintained on the premises.
 - vii) There shall be no sales or rentals of any adult magazines, videos, tapes, discs, films, or any other harmful material as described in Penal Code Section 313.
 - viii) Signs shall be posted with current language of the Penal Code, Business & Professions Code, and Los Angeles County Code, regarding the prohibition of loitering, open containers, and consumption of alcoholic beverages at the premises.
16. The Hearing Officer has agreed to applicant's request to continue alcohol sales from 6:00 a.m. to 8:00 p.m., coterminous with store hours, because the use has been operating for many years without serious incident.
17. 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.
18. The project is Categorically Exempt Class 1 (Existing Facilities) under the California Environmental Quality Act (CEQA) reporting requirements because the entitlement requested is a Conditional Use Permit to continue the sale of alcoholic beverages (beer and wine) from an existing convenience market located at a previously authorized mobilehome park.
19. The request to continue to sell alcoholic beverages (beer and wine) does not conflict with surrounding residential area because there are no other similar establishments within 600 feet of the subject property.

20. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, staff recommends a fifteen- (15-) year grant term.
21. 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 North 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 general plan for the area;
- B. That the requested use at the proposed location will not adversely affect the health, peace, comfort, or welfare of persons 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 use 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 used 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 adversely affect the same area;
- I. The requested use will not adversely affect the economic welfare of the nearby community;
- J. That while the requested use is in an area with an undue concentration of off-site alcohol sales, it is located at a considerable distance from other locations selling alcoholic beverages for either on-site or off-site consumption, and it will provide a public convenience for the residents of the mobilehome park.
- 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.

HEARING OFFICER ACTION:

1. The Hearing Officer finds that the project is Categorically Exempt - Class 1 (Existing Facilities) under the California Environmental Quality Act (CEQA) reporting requirements.
2. In view of the findings of fact and conclusions presented above, CUP 201000029 is APPROVED subject to the attached conditions.

c: Hearing Officer, Building and Safety

MC:amc
May 17, 2011

**CONDITIONS OF APPROVAL
DEPARTMENT OF REGIONAL PLANNING
PROJECT NO. 97149-(5)
CONDITIONAL USE PERMIT NO. 201000029**

PROJECT DESCRIPTION

The project is a request for a Conditional Use Permit (CUP) to authorize the continued sale of alcoholic beverages (ABC Type 20 for beer and wine) for off-site consumption at an existing convenience market located at a previously authorized mobilehome park, subject to the following conditions of approval:

1. Unless otherwise apparent from the context, the term "permittee" shall include the applicant, owner of the property, and any other person, corporation, or other entity making use of this grant.
2. This grant shall not be effective for any purpose 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 ("County") Department of Regional Planning ("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. 7, and until all required monies have been paid pursuant to Condition Nos. 10. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4, 5, and 9, shall be effective immediately upon final approval of this grant by the County.
3. Unless otherwise apparent from the context, the term "date of final approval" shall mean the date the County's action becomes effective pursuant to Section 22.60.260 of the County Code.
4. 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 fully cooperate 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.
5. 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 make an initial deposit with Regional Planning in the amount of up to \$5,000.00, from which actual costs and expenses shall be billed and deducted for the purpose of defraying the costs or expenses involved in the department's cooperation in the defense, including but not limited to, depositions, testimony, and other assistance provided to permittee or permittee's counsel.

If during the litigation process, actual costs or expenses 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 \$5,000.00. There is no limit to the number of supplemental deposits that may be required prior to completion of the litigation.

At the sole discretion of the permittee, the amount of an initial or any supplemental deposit may exceed the minimum amounts defined herein. Additionally, the cost for collection and

duplication of records and other related documents shall be paid by the permittee according to County Code Section 2.170.010.

6. If any material provision of this grant is held or declared to be invalid by a court of competent jurisdiction, the permit shall be void and the privileges granted hereunder shall lapse.
7. Prior to the use of this grant, the permittee, or the owner of the subject property if other than the permittee, shall **record the terms and conditions** of the grant in the office of the County Recorder ("Recorder"). In addition, upon any transfer or lease of the property during the term of this grant, the permittee, or the owner of the subject property if other than the permittee, shall promptly provide a copy of the grant and its conditions to the transferee or lessee of the subject property.
8. **This grant shall terminate on May 17, 2026.** Entitlement to use of the property thereafter shall be subject to the regulations then in effect. If the permittee intends to continue operations after such date, whether or not the permittee proposes any modifications to the use at that time, the permittee shall file a new Conditional Use Permit application with Regional Planning, or shall otherwise comply with the applicable requirements at that time. Such application shall be filed at least six (6) months prior to the expiration date of this grant and shall be accompanied by the required fee. In the event that the permittee seeks to discontinue or otherwise change the use, notice is hereby given that the use of such property may require additional or different permits and would be subject to the then-applicable regulations.
9. This grant shall expire unless used within ninety (90) days from the date of final approval of the grant. A single thirty- (30-) day time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date. For the purposes of this provision, continued operation of the convenience market located at the previously authorized mobilehome park and satisfaction of Condition No. 2 shall be considered use of this grant.
10. 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. Inspections shall be made to ensure compliance with the conditions of this grant as well as to ensure that any development undertaken on the subject property is in accordance with the approved site plan on file. The permittee shall deposit with the County the sum of **\$1,600.00**. The deposit shall be placed in a performance fund, which shall be used exclusively to compensate Regional Planning for all expenses incurred while inspecting the premises to determine the permittee's compliance with the conditions of approval. The deposit provides for eight (8) biennial (one every other year) inspections. Inspections shall be unannounced.

If additional inspections are required to ensure compliance with the conditions of this grant, or if any inspection discloses that the subject property is being used in violation of any one of the conditions of this grant, the permittee shall be financially responsible and shall reimburse Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. The amount charged for additional inspections shall be 200.00 per inspection, or the current recovery cost at the time any additional inspections are required, whichever is greater.

11. All development pursuant to this grant must be kept in full compliance with the County Fire Code.
12. All requirements of Title 22 of the County Zoning Ordinance and of the specific zoning of the subject property must be complied with unless otherwise modified as set forth in these conditions or as shown on the approved plans.
13. All development pursuant to this grant shall conform with the requirements of County Department of Public Works.
14. All structures, walls and fences open to public view shall remain free of graffiti or other extraneous markings, drawings, or signage that was not approved by 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. The only exceptions shall be seasonal decorations or signage provided under the auspices of a civic or non-profit organization.
15. 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 notification 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.
16. 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, **three (3) copies of** a modified Exhibit "A" shall be submitted to Regional Planning within sixty (60) days of the date of final approval.
17. 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 Control agent. The manager and all employees of the facility shall be knowledgeable of the conditions herein.
18. 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.
19. 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 (insert other State mandated program if applicable) 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 such as the lobby, 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.

20. The permittee shall not advertise the sale of alcoholic beverages on the exterior of any structure on the subject property including windows, walls, fences or similar structures.
21. All regulations of the State of California prohibiting the sale of alcoholic beverages to minors shall be strictly enforced.
22. The permittee shall post or otherwise provide 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.
23. No beer or wine shall be displayed within five (5) feet of the cash register or the front door unless it is in a permanently affixed cooler.
24. The sale of alcoholic beverages will be made only to persons who are within the licensed premises, and not through a drive-up window, pass-out, or slide-out tray to the exterior of the premises.
25. No malt beverage products shall be sold, regardless of individual container size, in quantities of less than six per sale, except in manufactures' pre-packaged four-packs.
26. There shall be no singles sales of beer in quantities less than 40 ounces. Wine shall not be sold in containers smaller than 750 milliliters, and wine coolers must be sold in manufacturers' pre-packaged, multi-unit quantities.
27. There shall be no coin-operated games or video machines maintained on the premises.
28. There shall be no sales or rentals of any adult magazines, videos, tapes, discs, films or any other harmful matter as described in Penal Code Section 313.
29. Signs shall be posted with current language of the Penal Code, Business & Professions Code, and Los Angeles County Code, regarding the prohibition of loitering, open containers, and consumption of alcoholic beverages at the premises.