

STAFF ANALYSIS
PROJECT NUMBER R2006-01156- (1)
NON CONFORMING REVIEW 200600003 – (1)

ENTITLEMENT REQUEST

The request is to continue the use of a community market in conjunction with two single family residences in the R-2 zone.

PROJECT DESCRIPTION

The applicant requests to continue the use of an existing market of approximately 1,067 square feet in area with an existing warehouse of about 400 square feet. The subject market is a convenience store and sells soda, beer and wine, ice cream, medicine, newspapers, potato chips etc. The subject lot contains two single family dwellings to the east and west of the market place.

ISSUES

The property had some violations due to the construction of several structures not permitted. The Department of Building and Safety has inspected the site on December 8, 2008 and determined that all violations have been cleared. As a result, the illegal single-unit with separate restrooms for the market on the north side, additions to the warehouse and to the single-family house on the east side were removed. Also, the 20 year approval for the previous non-conforming review terminated and the Department of Regional Planning advised the applicant to apply for entitlements to use the property subject to the current regulations in effect or to a non-conforming use.

As per previous records the market was established in 1961 and the use is non-conforming. The Department of Alcohol and Beverage Control's records indicates that beer and wine license on the subject property has been in existence since 1989 or perhaps prior to 1989. The alcohol beverage sale ordinance took effect in 1992. Therefore, the approval of off site sale for beer and wine is concurrent with the approval of the non-conforming use.

LOCATION

The subject property is identified by three different addresses; 4750 and 4754 E 6th Street and 605 S Fetterly, located within the East Los Angeles Community Standards District in the Eastside Unit A Zoned District. The property has access from 6th Street and South Fetterly.

Site Description

The site plan depicts four separate structures on the site. A single family dwelling of 962 square feet with a 210 square feet garage with access from South Fetterly, the market of about 1,068 square feet, a warehouse of about 400 square feet and a single family dwelling of about 814 square feet to the east both with access from 6th Street.

Off-Site Beer and Wine

The applicant provided data showing that the alcoholic products are confined to three compartment doors of five compartment door refrigerator. The total alcoholic product display is 43.20 linear feet of shelving. The store has 870 feet plus linear feet of food display. Tom's Market place has a fictitious business license and off-site license for beer and wine from the State of California Department of Alcoholic Beverage Control.

EXISTING ZONING

Subject Property

The subject property is zoned R-2 - Two- Family Residence and is within the East Los Angeles Community Standards District.

Surrounding Properties

The site is surrounded by R-2 - Two Family Residence to the north, east, west and south.

EXISTING LAND USES

Subject Property

The subject site is mix use containing the market and two single family dwellings.

Surrounding Properties

North: Duplex

East: Single Family Dwelling

West: Single Family Dwelling

South: Triplex

There are two existing religious establishments within 500 foot radius. Staff has not received any comments opposing the proposal.

Environmental Determination

The Department of Regional Planning has determined that a Categorical Exemption, Class 1 – Existing Facilities, is the appropriate environmental documentation under California Environmental Quality Act (CEQA) reporting requirements.

LEGAL NOTIFICATION AND PUBLIC OUTREACH

Pursuant to the provisions of Sections 22.60.174 of the County Code, the Notice of Public Hearing was advertised in the "East La Tribune" and "La Opinion" on January 7, 2009. A total of 126 public hearing notices regarding the subject application were mailed out to the owners of properties located within the 500-foot radius on January 8, 2009. Two notices were sent to the local community groups and residents on the Zoned District courtesy list and four notices to the public agencies.

Case information materials, including the Notice of Public Hearing and Factual Sheet were sent to the East Los Angeles Library, County of Los Angeles located at 4837 E 3rd

Street, Los Angeles CA 90022 on January 9, 2009. The same information was posted on the Department of Regional Planning's Website.

Pursuant to the Section 22.60.175 of the County Code, the applicant must post the public hearing notice on the property no less than 30 days prior to the public hearing date. Staff received photos and the Certificate of Posting stating that the Notice of Public Hearing was posted on January 12, 2009 from the applicant's agent.

PREVIOUS CASES/ZONING HISTORY

Non-Conforming Review 86-285 was approved on September 10, 1986 to continue the use of the existing market and two single family residence. The grant had a length of twenty-year and terminated on September 10, 2006.

Zoning Conforming Review 200700221 or R2007-00684 was filed on March 7, 2007

East Los Angeles Community Standards District

The community standards district is established to provide a means of implementing special development standards contained in the East Los Angeles Community Plan.

Fences-As per Section 22.44.118-C.1.a requires chain link style fences not exceeding four feet in height shall be permitted.

The single family dwellings have chain linked fences of about 3 feet high.

Signs-Section 22.44.118 part 3 states the following:

- b. Sign areas shall comply with the following requirements:
 - i. The total permitted sign area of all signs on a building or site is 10 percent of the building face (not to exceed 240 square feet).
 - ii. Outdoor advertising signs with less than 100 square feet of sign area shall be at least 1,500 feet from one another.
 - iii. The sign area of outdoor advertising signs shall not exceed 200 square feet.
 - iv. All lighted outdoor advertising signs shall be illuminated in a way so that adjacent properties and activity are not disturbed.

The site currently has one business sign indicating "Tom's Market." The remaining advertising displayed on the glass door has been removed recently.

Non-Conforming Use

The Zoning Code allows continued operation of nonconforming uses as long as no expansion is proposed. The applicant had some illegal additions that have been demolished. The existing market is a non conforming use and has been in existence since there were no restrictions to build commercial structures within the residential areas.

General Plan Consistency

The project site is within the East Los Angeles Community Plan and the Plan designation for the site is MD-Medium Density Residential or 30 dwelling units per net acre. The area is suited for predominantly apartments and multi-family housing, generally not exceeding three stories or 35 feet in height.

The subject lot has 8050 square feet in area and contains 2 single family residential dwellings and the market place. The height of the buildings is about 16 feet.

Zoning Ordinance and Development Standards Compliance

The subject property is in R-2 (Two Family Residence). The subject lot has 2 single family dwellings built in 1948 and 1922 and the Community Market place built in 1926.

The zone requires a maximum of 35 feet in height and a minimum of 1 1/2 covered parking plus 1/2 uncovered parking spaces per unit for each family residence. A front yard setback of 20 feet and rear yard of 15 feet or 20% of average depth of shallow lot but not less than 10 feet, side yards at 5 feet or 10% of average width of narrow lot but not less than 3 feet and for corner lot is 5 feet. As per assessor's record the improvement 1 (Single Family) was build in 1948 and improvement 2 between 1926 and 1932 and improvement 3 between 1922 and 1928 and the standards do not conform to the current zoning requirements.

FEATURES	Required		Existing		
	SFR #1	SFR#2	SFR #1	SFR #2	MARKET/Warehouse
Front setback	20'	20'	11'	21'	0'
Rear setback	15'	15'	16'	13'	3'
Side setback	5'	5'	2'	2'	12'
Height	35'	35'	16'	16'	17'6"
Parking	2	2	2	2	No parking

The landscaping requirement for the site as per 22.44.118 part D.2.b is identical with landscaping requirements for R-1 zone.

Burden of Proof

The applicant is required to substantiate the following facts identified by Section 22.56.1550 of the Los Angeles County Code.

1. That to require cessation of such use, building or structure would impair the property rights of any person to such an extent as to be an unconstitutional taking of property; and/or
2. In addition to the information required in the application, the applicant shall substantiate to the satisfaction of the hearing board the following facts:

- i. That to require cessation of such use, building or structure would impair the property rights of any person to such an extent as to be an unconstitutional taking of property; and/or
- ii. That such use, building or structure does not now and will not during the extension period requested:
 - a. Adversely affect the health, peace or welfare of persons residing or working in the surrounding area, or
 - b. Be materially detrimental to the use, enjoyment or valuation of the property of other persons located in the vicinity of the site, or
 - c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a Non-Conforming Review as set forth in Section 22.56.1550 of the Los Angeles County Code.

The Burden of Proof with applicant's responses is attached. Staff is of the opinion that the applicant has met the burden of proof.

COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS

Department of Public Health

Department of Health required that an on site handicapped bathroom is necessary. The owner has already met this requirement.

Fire Department

Staff received clearance letter from the Fire Department of Regional Planning stating that the access to the site and Fire Flow performed by the California Water Service company on June 18, 2008 is adequate for the project.

Public Works

Staff received clearance letter from Public Works on December 8, 2008, stating that the project is clear and all the unpermitted structures have been removed.

PUBLIC COMMENTS

Staff has not received any public comments on this project.

SITE VISIT AND EVALUATION

Staff visited the site and attached are photos showing the existing facilities and structures that have been removed. The subject property is developed with a community market and two single family dwellings. The market is a convenience store and sells beer and wine and it appears that they sell individual bottles of alcohol. Staff suggests conditioning the approval to sell beer in no less than 1 quart

containers. Also, the backyard area was full of trash and card board boxes, staff advised to maintain the area clean and free of all trash and debris.

Fees/deposits

If approved, fees identified in the attached project conditions will apply unless modified by the Hearing Officer.

Staff Recommendation

The following recommendation is made prior to the public hearing and is subject to change based upon testimony and/or documentary evidence presented at the public hearing:

Staff recommends Approval of project number R2006-01156, Non-Conforming Review 200600003, subject to the attached conditions.

Attachments:

Draft Conditions of Approval
Applicant's Burden of Proof statement
Environmental Document
Site Photographs
Site Plan
Land Use Map

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