



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

January 20, 2011

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DAVID SINAI
5200 E OLYMPIC BLVD
LOS ANGELES, CA 90022

**REGARDING: PROJECT NUMBER R2006-02190
CONDITIONAL USE PERMIT NUMBER 200800089
5200 E OLYMPIC BLVD. East Los Angeles**

Dear Applicant:

The Regional Planning Commission, by its action of January 19, 2011, **DENIED** the above described conditional use permit application. The attached documents contain the Regional Planning Commission's findings relating to the denial.

The applicant or ANY OTHER INTERESTED PERSON may APPEAL the Regional Planning Commission's decision to the Board of Supervisors. To file an appeal, please contact the office of Sachi A. Hamai, Executive Officer, Room 383, Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012, telephone (213) 974-1426. **An appeal must be postmarked or delivered in person by 5:00 PM on February 2, 2011.** If no appeal is filed during the specified period, the Regional Planning Commission action is final.

Sincerely,

Richard J. Bruckner
Director


Maria Masis, Supervising Regional Planner
Zoning Permits East Section

Enclosures: Findings

c: BOS; DPW (Building and Safety); ABC, Testifiers, Sheriff, Applicant's Agent

MM:JN

FINDINGS AND ORDER OF THE REGIONAL PLANNING COMMISSION COUNTY OF LOS ANGELES

**PROJECT NUMBER R2006-02190 – (1)
CONDITIONAL USE PERMIT 200800089**

REQUEST

The applicant, David Sinai, requests a conditional use permit (“CUP”) to authorize the sale of alcoholic beverages, Type 21, consisting of the sale of beer, wine and distilled spirits for off-site consumption incidental to the operation of an existing mini-market and a gas station in the C-3 (Unlimited Commercial) zone.

**REGIONAL PLANNING COMMISSION HEARING DATE: 1/19/11
PROCEEDINGS BEFORE THE REGIONAL PLANNING COMMISSION:**

January 19, 2011

A duly noticed public hearing was held on January 19, 2011, on Conditional Use Permit No. 200800089, before the Regional Planning Commission. Commissioners Valadez, Bellamy, Helsley and Modugno were present.

The applicant’s representative Sherrie Olson and the applicant, David Sinai, testified in favor of the project and presented a security plan to mitigate the negative impacts of the proposed project. The applicant provided a petition with over 300 signatures in favor of the request and answered questions presented by the Commissioners. Additionally, four speakers testified in support of granting the request and three speakers testified in opposition of granting this request. The opposing speakers presented a petition with 544 signatures opposing the proposed project.

There being no further testimony, the Regional Planning Commission closed the public hearing and denied the conditional use permit by a vote of 4-0.

FINDINGS

1. The subject property is located at 5200 E. Olympic Blvd in the community of East Los Angeles, within the East Los Angeles Community Standards District and Eastside Unit No. 1 Zone District.
2. The subject property is zoned C-3 (Unlimited Commercial). The zoning in the area immediately adjacent to the subject property is C-3 (Unlimited Commercial). The C-3 zone extends east and west from the subject property along Olympic Blvd and north and south along Atlantic Blvd. There is R-3 zoning (Limited Multiple Residence) to the north, south east and west of the C-3 zone except further to the east along Goodrich Blvd. which is zoned M-1 (Light Manufacturing). The City of Commerce is located on the east side, bordering with Goodrich Blvd.
3. The current use on the subject property is a mini-market and a gas station.
Surrounding Land uses:

uses, neighborhoods, and the existing character and density of the East Los Angeles Community.”

Although the community plan does not include policies specific to the sale of alcoholic beverages, it does contain policies that are applicable to the proposed project and intended to ensure that the land uses within the Community Plan area are consistent with the character of the community and do not adversely affect the surrounding neighborhoods. As noted above, the Community Plan allows for intensification of uses within the Community Plan area, so long as such intensification does not adversely impact the existing character of the surrounding neighborhoods. The ABC report indicates that there are three licenses allowing for off-site alcohol sales within the Census Tract 5317.02, and three is the maximum number allowed in that census tract without a finding of public convenience and necessity. An additional license will result in an undue concentration within the census tract and therefore an intensification of use of alcohol sales in the subject census tract. Four establishments within 500-feet of the site sell alcoholic beverages:

- Lees Market, Type 20 (Off-Sale Beer and Wine)
- Paradise Bar, Type 40 (On-Sale Beer)
- Birrieria Guadalajara, Type 41 (On-Sale Beer and Wine)
- Tamayo Restaurants, Type 47 (On-Sale, General Eating Place); and
- Atlantic Liquor Store Type 21 (Off-Sale General) within 600 feet of the proposed use

As per the Sheriff's report there are forty-one liquor licenses within the three census tracts resulting in problems with alcohol consumption. In addition, stores that sell liquor experience increased criminal activity due to “beer runs” and robberies which are related to incidents where suspects grab alcohol and run out without paying. Therefore, an additional store selling alcoholic beverages will be materially detrimental to the use, enjoyment of nearby residents or the valuation of property located in the vicinity by increasing the crime rates.

10. Neighborhood Impact/Land Use Compatibility:

The property is surrounded by a residential neighborhood including single-family residences, duplexes and triplexes within a 500-foot radius. The existing gas station and mini-market is located within 30 feet of the neighboring residential area, and the subject property is separated from the adjacent residential neighborhood by only an alley without any buffering separating the two land uses on the south-east side. There are also a number of sensitive uses within a short distance of the proposed project.

- *A drug rehabilitation center within a 750-foot radius,*
- *An alcoholic anonymous clinic within a 1500-foot radius,*
- *The Department of Public Social Services within a 2,250-foot radius,*
- *Two schools, (an elementary and a charter high school within a 1350-foot radius),*
- *East Los Angeles Women's Center within a 500-foot radius,*
- *Several nearby churches.*

According to the report submitted by the County Sheriff's Department, off-site alcohol sale in this reporting district is often associated with an increase in criminal activity. Such increased criminal activity in close proximity to residential neighborhoods that are not buffered from the site, as well as in the vicinity of sensitive uses will adversely affect the health, peace, comfort or welfare of persons residing within the nearby residential area as well as affects the persons working of the nearby sensitive uses, as stated above.

The crime statistics reveals that from January of 2005 to December 2010, 120 incidents or approximately 25 percent of the alcohol related incidents occurred on Atlantic Blvd and Olympic Blvd and about 30 percent on Whittier Blvd. The Sheriff's letter states that the proximity of the store to two main streets (Olympic and Atlantic Blvd), could increase the stores chances of falling victim to increased armed robberies, alcohol theft and transient activity who may loiter at the location to buy alcohol and consume near the location. Therefore, the location of the proposed site located on major streets will facilitate the alcohol related incidents.

11. The Sheriff's report indicates 518-alcohol related incidents from 2005 to 2010 (average 86 incidents/year) within Reporting District 286 and includes the following: 252 drunk (alcohol, drugs), 174 drunk driving, and 90 other alcohol related charges such as possession of alcohol by minor, and drinking in vehicle. The Sheriff's letter dated December 3, 2009 states that stores that sell liquor experience increased criminal activity due to "beer runs" and robberies which are related to incidents where suspects grab alcohol and run out without paying. There are several sensitive uses in the proximity to this location and given the location of the gas station close to so many sensitive land uses, this use would not be appropriate for the neighborhood, therefore, it could adversely affect and jeopardize the use and enjoyment or valuation of property of other persons located in the vicinity of the site.
12. The proposed project is not unique in the immediate area and there is one establishment located within 500 feet of the project site, Lees Market, located at 1247 S Atlantic Blvd that sells beer and wine for off-site consumption. In addition, Atlantic Liquor located at 1010 S Atlantic Blvd sells a full line of alcoholic beverages for off-site consumption.
13. The subject property is adjacent to a residential neighborhood and is separated by only an alley from the neighboring residences. The closest house is about 30-feet away from the gas station and mini-market, with only a 20-foot alley located between the residence and the subject property. The alley provides shared access to both the subject property as well as the neighboring residences. The alley is not landscaped and there are no walls or fences on the subject property to buffer the proposed use of the gas station and mini-market for off-site alcohol sales from the nearby residential uses. Because of the close proximity of the gas station and mini-market to the neighboring residential uses, and the fact that there is no buffering provided by either landscaping or walls or fences to minimize the impacts of the proposed sale of a full line of alcoholic beverages at the subject property from the

neighboring residential uses, the requested use is not adequately buffered from the surrounding residential areas.

14. The granting of an additional license will result in two kinds of “undue concentration” as defined by ABC and Regional Planning.
 1. The ABC report indicates that there are three existing off-sale licenses and three are allowed, therefore an additional license will result in undue concentration in the census tract pursuant to ABC regulations. In order to be approved, a finding of public convenience and necessity would be required from the County. However, given the large number of uses selling alcohol within the census tract and within close proximity to the subject property, a finding of public convenience or necessity cannot be supported.
 2. The Code Section 22.56.195.B.3 states that an undue concentration of establishments offering alcohol for sale for off-site consumption exists if there are other establishments selling alcohol for on-site or off-site consumption within 500 feet of the proposed use. In order for a CUP to be approved when there is an undue concentration of alcohol sales in the area, a finding of public convenience and necessity would be required and the shelf space devoted to alcoholic beverages for off-site consumption would be limited to 5 percent of the total shelf space. There are three locations currently offering alcohol for sale for off-site consumption, including one existing market, Lees Market, within 500 feet of the subject property. Atlantic Liquor is located within a 600-foot radius, and Vic’s Liquor is within a 1200-foot radius of the subject property. Further, the applicant proposes that a total of 10 percent of the total shelf space be devoted to alcoholic beverages, although the Code limits the shelf space to a maximum of 5 percent. There is currently an undue concentration and Lees Market provides off-site sales within a 500 foot radius and an additional license will not provide public convenience.
15. The requested use will not adversely affect the economic welfare of the nearby community, as the project site provides employment opportunities to community members.
16. There is no construction or renovation to the exterior of the building proposed, therefore the exterior appearance of the existing mini-market will remain unchanged, and as such, the proposed project will not affect property values in the area.
17. Staff received a letter from the Sheriff’s Department dated December 3, 2009 addressing concerns regarding higher than average number of alcohol related incidents in the area.
18. Staff received one call from a person residing in the adjacent residential area opposing the project. The concern was high crime related to drugs and alcohol beverages within the area. In addition, staff received a letter signed by eleven residents opposing the project.

19. 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 East Section, Los Angeles County Department of Regional Planning.

BASED ON THE FOREGOING, THE REGIONAL PLANNING COMMISSION CONCLUDES:

- A. That the proposed use will **not** be consistent with the adopted general plan for the area;
- B. That the requested use at the location proposed **will** adversely affect the health, peace, comfort or welfare of persons residing or 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 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 this Title 22, 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. The requested use at the proposed location **will** adversely affect the use of a place used exclusively for religious worship, school, park, playground or any similar use within a 600-foot radius;
- F. The requested use at the proposed location is not sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area;
- G. The requested use at the proposed location will result in an undue concentration of similar premises, and that the public convenience for an additional facility selling alcoholic beverages for off-site consumption **does not** outweigh the fact that it is located within a 500-foot radius of any other facility selling alcoholic beverages for either on-site or off-site consumption;
- H. The requested use at the proposed location will not adversely affect the economic welfare of the nearby community; and

- I. The exterior appearance of the structure will not be inconsistent with the exterior appearance of commercial structures already constructed or under construction within the immediate neighborhood so as to cause blight, deterioration, or substantially diminish or impair property values within the neighborhood.

THEREFORE, the information submitted by the applicant and presented at the public hearing does not substantiate the required findings for a conditional use permit as set forth in Sections 22.56.090 and 22.56.195, Title 22, of the County Code.

REGIONAL PLANNING COMMISSION ACTION

1. In view of the findings of fact and conclusions presented above, Conditional Use Permit Case No. 200800089 is **DENIED**.

VOTE: 4-0

Concurring: Valadez, Bellamy, Helsley, Modugno

Dissenting:

Abstaining:

Absent:

Action Date: January 19, 2011

MM: JN
January 10, 2011

c: Each Commissioner, Zoning Enforcement, Building and Safety