

STAFF ANALYSIS

PROJECT NUMBER

R2008-00152-(5)

CASE NUMBER

Conditional Use Permit Case No 200800020-(5)

OVERVIEW OF THE PROPOSED PROJECT

The applicant, Mark Jenkins, is requesting a conditional use permit to authorize the sale of beer and wine for off-site consumption on existing convenience store and off-site consumption at an approved fast food restaurant (see restaurant's menu – attachment E) with a proposed outdoor eating area; and the conversion of an office space to a caretaker residential unit. The subject property is currently improved with a convenience store, automotive fueling station and several commercial/office suites.

DESCRIPTION OF SUBJECT PROPERTY

Location

The subject property is located at 22847 West Avenue D, West Lancaster, CA 93536 in the community of Antelope Valley within the Antelope Valley West Zoned District in unincorporated Los Angeles County.

Physical Features

The subject property is comprised of two rectangular parcels (APN No. 3278-025-006 and 3278-025-007) approximately 4.3 acres in size. The property is currently developed as an automotive fueling station, a convenience store, and commercial/office spaces. These facilities are located on the southwestern corner of the property. The convenience store, the commercial/office spaces, and a kitchen are located within the existing building and the fuel pumps are developed west of the building, within a paved area. The site is also improved with four parking spaces and approximately 6,143 square feet of landscaping. The remainder of the property is mainly covered with loose gravel. Four parking spaces are currently provided.

The improvements are located mainly on parcel APN No. 3278-025-006. However, part of the existing building is located on parcel APN No. 3278-025-007.

Access

The subject property has direct access to West Avenue D/SR138, a designated major highway, and 230th Street West, a collector street.

Current Operation

The convenience store and fueling station are currently open from 7:00 a.m. to 8:00 p.m., seven days a week.

The kitchen is not currently operating other than for minor food preparation for the convenience store staff.

Services Available

All required services are in place for the existing uses.

REQUIRED ENTITLEMENTS

Pursuant to Section 22.56.010 of the County Code, the applicant has requested a conditional use permit to authorize the sale of beer and wine for off-site consumption at an existing convenience store and on-site consumption at a approved restaurant with a proposed outdoor eating area; and the conversion of an office space to a caretaker residential unit in the C-2 (Neighborhood Business) zone.

EXISTING ZONING

Subject Property

The subject property is zoned C-2 (Neighborhood Business) and A-1-2 (Light Agricultural – Two acres minimum lot size). Approximately 1.8 acre of the site is zoned C-2, and 2.5 acres are zoned A-1-2. All the existing facilities related to this request are located within portion of the property zoned C-2.

Surrounding Properties

Surrounding zoning consists of:

North: A-1-2 (Light Agricultural – Two acres minimum lot size)

South: A-1-2

East: A-1-2

West: A-2-5 (Heavy Agricultural – Five acres minimum lot size)

EXISTING LAND USES

Subject Property

The subject property is currently developed with an automotive fueling station, and a commercial building consisting of a convenience store and commercial/office spaces.

Surrounding Properties

Surrounding land uses consist of:

North: Single-family residences

South: Vacant agricultural land

East: Vacant agricultural land

West: Vacant agricultural land

ALCOHOL SALES AND SENSITIVE UNSES IN THE VICINITY

As depicted on the land use map attached, there are no establishments licensed to sell alcoholic beverages within 500 feet of the subject property. The two nearest establishments that sell beer and wine are approximately five miles away to the east and west of the subject property.

There are no sensitive uses within 600 feet of the subject property.

PREVIOUS CASES/ZONING HISTORY

CC900954 - Certificate of Compliance for parcel APN No. 3278-025-006

CC900955 - Certificate of Compliance for parcel APN No. 3278-025-007

PP15336 – A Plot Plan was approved on June 29, 1966 for a commercial building (coffee shop, market, curio shop and hardware store) and an automobile fueling station.

A Plot Plan was approved on October 27, 1999 for the installation of a fuel dispensing system for the existing fuel station. The existing building was revised to show the following uses: market, restaurant and office spaces.

GENERAL PLAN CONSISTENCY

The land use category of the subject property is designated as N1 (Non Urban 1) in the Antelope Valley Areawide General Plan (AVAGP). Although the N1 is primary a residential land use designation since it represents the dominant use of the area, the AVAGP allows local and highway oriented commercial uses to serve the needs of local residents and travelers in non-urban areas. However, such development is subject to the following applicable General Conditions for Development of Non-Residential Uses in Non-Urban Areas (Chapter VI (Policy Maps) Section D.3 of the Antelope Valley Area Plan, page VI-24/25):

a) Location

- (1) The proposed use should be located and designed so as not to conflict with established community land use and circulation patterns.

The commercial use of the subject property has been established in 1966 through an approved plot plan for the construction of a commercial building and an automotive fueling station. The commercial establishment has been in operation without conflict with the existing community. The site is appropriate for commercial development since it fronts an improved major highway. The proposal is to allow the sales of beer and wine for off-site consumption at the established convenience store and on-site consumption at the approved restaurant. The restaurant is currently closed. An outdoor eating area is also proposed to be located on the patio enclosed by a fence. No changes on the existing access and circulation pattern are proposed. The conversion of an office space into a caretaker residence will not include any exterior modification to the building and circulation pattern. In addition, the caretaker residence can provide additional security and oversight to subject property with minimum impact to surrounding uses.

- (2) The necessary public services and infrastructure should be readily available.

The convenience store is currently operational. The restaurant was approved by a plot plan in 1999 but it is not currently open. The addition of the sales of beer and wine for on-site and off-site consumption will not require any additional service or infra-structure beyond of what is currently available and approved. The proposed caretaker residential unit will replace an office space

which has a bathroom. Access to this unit is provided from the back of the building.

- (3) The proposed use should be located and designed so as to provide an appropriate buffer between potentially disruptive, polluting or hazardous uses and other existing development.
The sales of beer and wine for on-site and off-site consumption and the conversion of an office space to a caretaker residence are not potentially polluting or hazardous uses. The nearest residence is located approximately 350 feet north of the building that accommodates the proposed uses and it is buffered by a parking area, vacant land and a line of trees. The subject property is surrounded by vacant agricultural land to the south, east and west.
- (4) The proposed use shall be located and designed so as to minimize the scenic, noise, and odor impacts on adjacent neighborhoods and other adjacent land uses.
No odor will be generated as a result of the sale of beer and wine and the addition of the caretaker residential unit. Although the sale of beer and wine is incidental to the on-site consumption of food, the request to allow eating area with consumption of beer and wine can potentially generate noise impact to the existing neighborhood. If on-site consumption of beer and wine is restricted to the interior of the building, consequently, potential noise impact can be minimized and not likely to negatively impact adjacent and surrounding uses. Allowing an outdoor eating area on a property fronting a major highway would not be compatible and may pose noise impact to the nearby residential uses.
- (5) The proposed use shall be located in areas deemed suitable from an ecologic, geologic and topographic standpoint.
The applicant is not proposing any grading or change to the topography of the property. Currently, the property has limited native vegetation with the majority of the subject site remaining undeveloped and covered with loose gravel. A total of 29 parking spaces are proposed and the parking area will be covered with loose gravel. 1,741 square feet of new landscaping is also proposed.

B) Access

- (1) Access, egress and on-site parking should be provided in a manner which maximizes safety and convenience, and minimizes adverse impacts on surrounding land use patterns.
Access to the site is provided through SR138/West Avenue D, an improved and designated major highway, and 230th Street West, a collector street. No change in existing access is proposed. Additional parking is proposed to accommodate the customers, employees and caretaker pursuant to Title 22 requirements.

- (2) The design and location of the project should insure that the transport of toxic, explosive, or hazardous substances will avoid existing residential communities.

No toxic, explosive or hazardous substances are contemplated to be transported as part of this request.

C) Design

- (1) The proposed site should be appropriately landscaped such that the development blends into the surrounding landscape as much as possible. Appropriate landscaping should include, whenever practical, materials appropriate to desert environs.

The project is located in an arid environment with sparse vegetation. The project applicant has proposed 1,741 square feet of additional landscaped area for a total of 7,884 square feet of landscaped area on the site.

- (2) The proposed site should be appropriately fenced, if necessary.

No fences are proposed around the property as part of this request and the nature of the use would not require fencing.

- (3) Consideration should be given to appropriate hours of operation.

The applicant is proposing that the sale of beer and wine be concurrent with the proposed hours of operation for the convenience store and the restaurant as follows:

- ***Convenience store and fueling station hours of operation: 7:00 a.m. to 11:00 p.m. Monday through Sunday.***
- ***Restaurant hours of operation: 11:00 a.m. to 10:00 p.m. Monday through Sunday.***

Two other commercial establishments that sells beer and wine for off-site consumption were identified five miles away from the subject property. The hours of operation of one of the establishments are from 7 a.m. to 8 p.m. Monday through Sunday. The recommended conditions of approval will require similar hours of operation.

- (4) Outdoor advertising should be designed in such a way as to minimize negative impacts on adjacent properties.

No outdoor advertising is proposed by the project applicant at this time.

SITE PLAN

The site plan depicts the existing 5,145 square feet "U" shaped one-story building and fueling pumps as approved by Plot Plan No. 15336. The building is depicted at the southeastern portion of the property with 29 parking spaces located to the northwest and south of the building including one handicapped parking space. Parking area is covered with loose gravel, and wheel stoppers will indicate the individual parking spaces. Elevation drawings of the facility depict the maximum height of the building as 13'6". A total of 7,884 square feet of landscaping is shown including existing and proposed landscaped areas.

The building floor plan depicts a 930 square foot convenience store, with 300 square feet of dry storage area and a 300 square foot management office; the 1,230 square foot fast food restaurant includes a kitchen, a 560 square foot indoor eating area (occupancy load of 37 persons) and a 400 square foot outdoor eating area (occupancy load of 28 persons), and two restrooms to serve the restaurant and the store. The existing kitchen is located behind the counter at the convenience store. The indoor eating area is located adjacent to the convenience store but separated by a wall. Access from the convenience store to the eating area is provided through an existing uncovered patio area. The applicant proposed to use this patio for outdoor dining. The caretaker unit is 493 square feet in size and includes a bathroom. Two office suites, 568 and 613 square feet in size, and a 546 square feet retail area are also depicted as part of the building. The applicant is not proposing any expansion to the building.

Compliance with Applicable Development Standards

Although the subject property is zoned C-2 (Neighborhood Business) and A-1-2 (Light Agricultural – Two acres minimum lot size), the development is completely located within the portion of the subject property that is zoned C-2. Therefore, for the purpose of assessing the applicant's request, the C-2 development standards are applicable.

- Pursuant to section 22.28.160 of the County Code, a caretaker unit, sales of beer and wine for either on-site or off-site consumption are uses subject to permit in the C-2 zone.
- Unless specifically modified by a conditional use permit during the discretionary review process, premises in Zone C-2 shall be subject to the following development standards per Section 22.28.170 of the County Code:
 - A. The area occupied by buildings shall not exceed 90 percent of the net area of the property. Landscaped area shall occupy a minimum of 10 percent of the net area.

The existing 5,145 square foot building occupies approximately seven percent of the portion of the property that is zoned C-2 (1.8 acres) area and three percent of the entire property (4.3 acres).

The property currently has 6,143 square feet of landscaping. The site plan depicts an additional 1,741 square feet of new landscaping. The total of 7,884 square feet of landscaping meets the requirement of 10 percent of the net area of the project site in the C-2 zone (78,238 square feet in size).
 - B. Parking: Per Section 22.52.1100 of the County Code, one automobile parking space shall be provided per each 250 square feet of commercial floor area or for each 400 square feet of office space. Per Section 22.52.1110 of the County Code, one parking space shall be provided for each three persons in a structure used for drinking, eating or entertainment, based on the occupant load as determined by the county engineer.

An Occupant Load approved by the Division of Building and Safety on October 16, 2008 defined the following capacity per area:

- **Indoor restaurant eating area: 37 persons**
- **Outdoor restaurant eating area: 28 persons**
- **Restaurant kitchen: 3 persons**
- **Convenience Store: 16 persons**
- **Storage: 1 person**
- **Manager Office: 3 persons**

Total occupant load is 88 persons: 29.3 parking spaces required

Other spaces within the building are:

- **Caretaker: 1 parking space required**
- **Office: 2.96 parking spaces required**
- **Commercial: 2.18 parking spaces required**
- **Handicapped: 1 parking space required**

A total of 37 (36.4) parking spaces is required by the Code. However, staff is not recommending approval of the outdoor eating area which requires 9.3 parking spaces. Without the outdoor eating area, the number of required parking spaces is 28. The site plan depicts 29 parking spaces. Therefore, the site plan is consistent with the parking requirement if the outdoor eating area is excluded from the occupant load.

- C. Height: A building or structure shall not exceed a height of 35 feet above grade, excluding signs, chimneys, and rooftop antennas (Section. **The existing building is 13'6" in height. The applicant is not proposing to alter the height of the building.**
- D. Outside Display: Except for the following uses, all display in this zone shall be located entirely within an enclosed building unless authorized by a temporary use permit: Automobile sales; automobile service stations; temporary carnivals; sales of Christmas trees; field crops; electric substations; gas metering and control stations; parking lot; restaurant and other eating establishments including food take-out; and signs and outdoor advertising.
No outside display is proposed.
- E. Outside Storage: No outside storage shall be permitted.
No outside storage is proposed.
- Per section 22.28.160 of the County Code, the sale of beer and wine in conjunction with motor vehicle fuel are subject to the requirements of Sections 22.56.195 and 22. 56.245.
 - Per Section 22.56.245 of the County Code, sale of beer and wine in conjunction with sale of motor vehicle fuel shall follow the following additional conditions:

- A. No beer or wine shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler.
As depicted on the site plan, the beer and wine coolers are located approximately forty feet away from the cash register and the front door.
- B. No advertisement of alcoholic beverages shall be displayed at a motor fuel island.
The recommended conditions of approval will prohibit the advertisement of alcoholic beverages at the motor fuel island.
- C. No sale of alcoholic beverages shall be made from a drive-in window.
The recommended conditions of approval will prohibit the sale of alcoholic beverages from a drive-in window.
- D. No sale of alcoholic beverages shall be made from an ice tub.
The recommended conditions of approval will prohibit the sale of alcoholic beverages from an ice tub.
- E. No beer or wine advertising shall be located on motor fuel islands and no self-illuminated advertising for beer or wine shall be located on building or windows.
The recommended conditions of approval will prohibit beer or wine advertising on motor fuel island and self-illuminated advertising of beer or wine on building or windows.
- F. If the sale of alcoholic beverages between the hours of 10:00 p.m. and 2:00 a.m. is granted as part of the conditional use permit, employees on duty shall be at least 21 years of age in order to sell beer or wine.
The conditions of approval will prohibit the sales of alcoholic beverages after 10:00 p.m.
- Per Section 22.56.195 (B) of County Code, the following findings must be made for the approval of a conditional use permit for alcoholic beverage sales:
 1. 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 any similar use within a 600-foot radius.
There are no schools, parks, playgrounds, places used exclusively for religious worship or other similar uses within 600' of the project site.
 2. The requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area.
The nearest single-family dwelling is located 350 feet northwest from the building that contains the convenience store and restaurant. A line of trees along the northern property line and a parking area north of the building serves as a buffer between the two uses. With the exception of the single-family dwelling, the project site is surrounded by vacant agricultural land.

Existing access to the building is located at the southern facade of the building, opposite to the direction of the single-family dwelling. The outdoor eating area is also located on the southern portion of the building.

3. The requested use at the proposed location will not result in an undue concentration of similar premises.

According to the California Alcoholic Beverage Control (ABC), there is one establishment within the subject property's census tract which currently sell alcoholic beverages (beer and wine) for on-site consumption. There are four (4) existing establishments that sell alcoholic beverages for off-site consumption (three licenses for beer and wine and one for full line of alcoholic beverages). The maximum number of licenses permitted within the census tract is two for on-site consumption and one for off-site consumption. The ABC report (Attachment C) has noted that the subject property is not located in a high crime area and considers this area to have an over-concentration of alcoholic beverage licenses for off-site consumption. While there is an undue concentration of premises that sell alcohol for off-site consumption within the subject property's census tract, the two nearest establishments that sell alcohol in the area for off-site consumption are approximately five miles east and west of the subject property. The subject census tract is relatively large in size but small in population containing approximately 160,000 acres with a population of 1,482 persons. A query from the ABC website) shows that of the five existing establishments that sell alcoholic beverages in the census tract, three are located in Gorman and two in Lancaster, approximately 19 and 5 miles away respectively.

4. The requested use at the proposed location will not adversely affect the economic welfare of the nearby community.

The addition of the sale of beer and wine at the convenience store and restaurant for off-site and on-site consumption, respectively, would not impact the economic welfare of the nearby community. The site has been operating without any apparent adverse affects on the nearby community while providing convenience services to local residents and travelers. The sales of beer and wine for off-site consumption will be limited from 7:00 a.m. to 8:00 p.m. and for on-site consumption from 11:00 a.m. to 8:00 p.m. Beer and wine will be available at the restaurant for on-site consumption with the purchase of food only. However, staff is concerned that the lack of oversight between the kitchen/counter area of the restaurant, which is located in the convenience store, and the indoor eating area will compromise the applicant's ability to enforce the requirement that restricts the on-site consumption of alcoholic beverages to restaurant customers only. In this respect, staff determines that beer and wine for on-site consumption should only be served by an employee of the restaurant. A visual contact should be established between the kitchen/counter area of

the restaurant and the indoor eating area through either a video monitoring system or a physical opening on the wall between the convenience store and indoor eating area. In addition, staff determines that the proposed outdoor restaurant eating area is inconsistent with the community character and inappropriate at this location due to the patio's proximity to residential development and West Avenue D/SR138.

5. 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.
The design of the existing one-story building is similar to the appearance of a single-family house and consistent with the rural character of the community. The applicant is proposing to add an outdoor eating area for the restaurant at the existing patio.

BURDENS OF PROOF

Conditional Use Permit

As required by Section 22.56.040 of the Los Angeles County Code, in addition to the information required in the permit application, the applicant shall substantiate to the satisfaction of the Hearing Officer and/or the Commission, the following facts:

- A. That the requested use at the location proposed will not:
 1. Adversely affect the health, peace, comfort or welfare of persons residing or working in the surrounding area, or
 2. Be materially detrimental to the use, enjoyment or valuation of property of other persons located in the vicinity of the site, or
 3. Jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- B. 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, of as is otherwise required in order to integrate said use with the uses in the surrounding area.
- C. That the proposed site is adequately served:
 1. By highways or streets of sufficient width and improved as necessary to carry the kind and quantity of traffic such use would generate, and
 2. By other public or private service facilities as are required.

Alcohol Sales

Pursuant to Section 22.56.195 of the County Code, in addition to the findings required for every Conditional Use Permit, the applicant is also required to substantiate the following burden of proof for requests for alcohol sales:

- A. 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 any similar use within a 600-foot radius; and
- B. The requested use at the proposed location is sufficiently buffered in relation to any residential area within the immediate vicinity so as not to adversely affect said area; and
- C. The requested use at the proposed location will not result in an undue concentration of similar premises; a separation of not less than 500 feet shall not be construed as undue concentration; provided, however, that the planning agency may find that the public convenience or necessity for an additional facility selling alcoholic beverages for off-site consumption, outweighs 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, in which case the shelf space devoted to alcoholic beverages shall be limited to not more than five percent of the total shelf space in the establishment; and
- D. The requested use at the proposed location will not adversely affect the economic welfare of the nearby community; and
- E. 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.

The applicant's Burden of Proof responses are attached to this document (Attachment A).

ENVIRONMENTAL DETERMINATION

This project has been determined to be Categorically Exempt from the California Environmental Quality Act and Environmental Guideline of Los Angeles County pursuant to the Class 3 Categorical Exemption (conversion of small structures) (Attachment B).

OTHER AGENCIES COMMENTS AND RECOMMENDATIONS

Alcohol Beverage Control – Van Nuys District Office (Attachment C)

Report received by fax on January 8, 2009, states that the Census Tract in which the subject property is located (number 9012.03, with population of 1,482 persons) has undue concentration of licenses for off-site sale but not for on-site sale. The number of licenses allowed for the sale of alcoholic beverages for on-site consumption in this area is two and one license currently exists. One license is allowed for off-site consumption of alcoholic beverages for this area and four licenses have been issued.

Crime report data for the year of 2007 was provided indicating that the total number of offences in the district was 38 and that the location is not within a high crime reporting district.

Los Angeles Sheriff's Department – Lancaster (Attachment D)

An e-mail from Deputy Michael L. Kuper, Special Assignment Officer, was received by staff on January 28, 2009 and states that there were three calls for service at the subject location during the past five years but none of the calls were serious. Two were medical and one was for repossession. The Los Angeles County Sheriff's Department does not oppose the issuance of a Conditional Use Permit to allow the sale of alcoholic beverages at this location.

LEGAL NOTIFICATION AND PUBLIC OUTREACH

Pursuant to County policy, the legal notification process for public hearings involves mailing of notices to all property owners within 500 feet of the subject property and others requesting notification for projects in the area; placement of a legal advertisement in the local newspaper; posting of a sign on the subject property; and placement of material in the local public library, 30 days prior to the date of the hearing. For this request, a total of 35 notices were mailed on April 7, 2009. Advertisements were published on April 4, 2009 in the Antelope Valley Press and on April 7, 2009 in La Opinion. Case materials were available for public review at the Quartz Hill County Library beginning on April 13, 2009. The Notice of Public Hearing was posted on the site on April 9, 2009.

PUBLIC COMMENTS

One phone call was received regarding this case from a resident who lives north of the subject property. The resident opposes to the sale of beer and wine for on-site consumption. She has the following concerns regarding the sale of beer and wine for on-site consumption:

- She claims that the restaurant currently does not serve food and that it would become a bar type of establishment with drunk people driving and walking through the neighborhood.
- Potential increase in accidents on the highway since SR138 (West Avenue D) has heavy truck traffic.
- Currently police coverage for this area is based from Santa Clarita and it takes approximately 45 minutes to respond to a call. The lack of police enforcement and late police response could put the neighbors in jeopardy in case of a dangerous situation created by customers at the establishment.

STAFF EVALUATION

The applicant is requesting the sale of beer and wine for off-site consumption at an existing convenience store and on-site consumption at an approved fast food restaurant with a proposed outdoor eating area; and the conversion of an office space to a caretaker residential unit in the C-2 zone.

The property is designated as Non-Urban 1 in the Antelope Valley Areawide General Plan and the request will not conflict with the provisions of the AVAGP. The nearest residence is located approximately 350 feet north of the building that accommodates the

proposed uses and it is buffered by a parking area, vacant land and a line of trees which provides buffer to minimize potential impacts to the nearby residence. The subject property is surrounded by vacant agricultural land to the south, east and west.

Staff determined that the addition of the caretaker residential unit is incidental to the existing commercial development and justified by the remote location of the property. The business could benefit from having an on-site caretaker responsible for the property operation and maintenance.

The request is appropriate at this location since the sale of beer and wine is incidental to the operation of the convenience store and restaurant and offers the nearby residents in the community the option of purchasing beer and wine in a convenient location. In addition, the sale of beer and wine at an eating establishment could be considered a public convenience as it is served with the purchase of food exclusively. Due to the project site's proximity to single-family residences and major thoroughfare, staff determined that the outdoor eating area is not consistent with the community character and should not be allowed in conjunction with the sale of beer and wine for on-site consumption. In addition, the restriction of on-site consumption of beer and wine to the interior of the building can minimize potential noise impact to adjacent and surrounding neighborhoods. Staff is concerned that the lack of oversight between the kitchen/counter area of the restaurant, which is located in the convenience store, and the indoor eating area will compromise the applicant's ability to enforce the requirement that restricts the on-site consumption of alcoholic beverages to restaurant customers only. In this respect, staff determines that beer and wine for on-site consumption should only be served by an employee of the restaurant. A visual contact should be established between the kitchen/counter area of the restaurant and the indoor eating area through either a video monitoring system or a physical opening on the wall between the convenience store and indoor eating area.

According to ABC, the nearest establishment within the census tract that sells beer and wine for on-site consumption is approximately 19 miles away from the subject property. The additional establishment authorized to sell beer and wine will not adversely affect nearby community since the census tract is not located in a high crime area; the existing convenience store has been operating since 1966 with no apparent conflict with the surrounding uses; sufficient buffer is provided between the commercial facilities and the nearby residences; and no sensitive land uses are located within a 600-foot radius from the property.

According to ABC the addition of one license for sale of beer and wine for off-site consumption would result in over concentration within the census tract. However, considering the size of the tract (approximately 160,000 acres), its population size (1,400 persons) and the location of the existing ABC licenses within the tract boundaries (two in Gorman and two in Lancaster), staff determined that the additional license will not create an undue concentration of similar uses at this location. The closest establishment that sells beer and wine for off-site consumption is approximately five miles away from the subject property.

Staff recommends that the sales of beer and wine for off-site consumption be limited from 7:00 a.m. to 8:00 p.m. and for on-site consumption from 11:00 a.m. to 10:00 p.m. This recommendation is based on the General Conditions for Development of Non-Residential Uses in Non-Urban Areas of the Antelope Valley Area Plan which states that consideration should be given to appropriate hours of operation. The welfare of the surrounding neighborhood will also be ensured by limitations imposed by ABC and the conditions for approval for the CUP.

According to the County Code, 37 parking spaces are required to meet the existing and proposed uses. However, staff determined that the proposed outdoor eating area for the restaurant is not appropriated at this location. Consequently, the number of required parking spaces would be reduced to 28. The site plan depicts 29 parking spaces which is sufficient to meet the requirement.

The applicant has satisfied the required Burdens of Proof findings for a conditional use permit to authorize the conversion of an existing office space to a caretaker residential unit and the sale of beer and wine for off-site and on-site consumption in association with an existing convenience store and approved restaurant. Staff has determined that the proposed project, with the recommended conditions, will not adversely affect the health, peace, comfort or welfare of persons residing and working in the surrounding area, or, be materially detrimental to the use, enjoyment or valuation of other individuals' properties located in the vicinity of the site, or jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.

If approved, staff recommends a ten (10) year term for the requested Conditional Use Permit. This is based on the need to reevaluate the compatibility of the project with the surrounding community. Staff also recommends that the project be inspected annually for compliance with the final conditions of approval.

FEES/DEPOSITS

If approved as recommended by staff, the following will apply:

Zoning Enforcement

1. Inspection fees of \$1,500.00 to cover the costs of 10 annual zoning enforcement inspections.

STAFF RECOMMENDATIONS

Approval

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 Conditional Use Permit Case No. 200800020-(5), subject to the attached draft conditions.

SUGGESTED MOTION

"I MOVE THE PUBLIC HEARING BE CLOSED AND THAT THE REGIONAL PLANNING COMMISSION APPROVE CONDITIONAL USE PERMIT CASE NO. 200800020-(5) WITH THE ATTACHED FINDINGS AND CONDITIONS, AND ADOPT THE CATEGORICAL EXEMPTION."

Report prepared by Carolina Santoro Blengini, Regional Planning Assistant II
Reviewed by Samuel Dea, Section Head of Special Projects Section.

Attachments:

Burdens of Proof
Environmental Documentation
Correspondence
Restaurant Menu
Draft Findings and Conditions
Vicinity Map
Land Use Map
Site Plan

SD:CB:cb