Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead

Richard J. Bruckner
Director of Planning

March 1, 2011

Mr. Matt Dzurec
Armbruster, Goldsmith & Delvac
10940 Wilshire Blvd., #2100
Los Angeles, CA 90024

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

PROJECT NO. R2010-00672-(5)
CONDITIONAL USE PERMIT NO. 2010 00060
6325 Rosemead Blvd, South Santa Anita – Temple City Zoned District

Dear Applicant/Agent:

On March 1, 2011, the Hearing Officer **APPROVED** the above described application. The applicant or any other interested person may appeal the Hearing Officer's decision to the Regional Planning Commission at the office of the commission's secretary, Room 1350, Hall of Records, 320 West Temple Street, Los Angeles, California 90012. Please contact the commission's 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 March 15, 2011.** Appeals must be delivered by this date. If an appeal is not filed, the Hearing Officer's action is final.

The attached documents contain the Hearing Officer's findings and conditions of approval. Please carefully review each condition. The conditions require that the permittee record the affidavit accepting the conditions. Upon completion of the appeal period, please notarize the attached acceptance forms. Please make an appointment to hand deliver the recorded affidavit and fees to the assigned planner.

For further information, please contact Phillip Estes at (213) 974-6435 or by e-mail at pestes@planning.lacounty.gov. Office hours are Monday through Thursday, 7:30 AM to 5:30 PM. The Department of Regional Planning is closed on Fridays.

Sincerely,

DEPARTMENT OF REGIONAL PLANNING

Richard J. Bruckner
Director of Planning

Mark Child, AICP
Supervising Regional Planner
Zoning Permit North

Enclosures: Findings and Conditions, Affidavit (Permittee's Completion)
CC: Zoning Enforcement, RPC

FINDINGS AND ORDER OF THE HEARING OFFICER
COUNTY OF LOS ANGELES

PROJECT NO.: R2010-00672-(5)

CONDITIONAL USE PERMIT NO.: 2010 00060

REQUEST: To authorize a conditional use permit (CUP) for the sale of alcoholic beverages (beer and wine) for off-site consumption at an existing pharmacy, located in the C-2 (Neighborhood Business) zone, South Santa Anita – Temple City Zoned District.

HEARING DATE: March 1, 2011.

PROCEEDINGS BEFORE THE HEARING OFFICER:
March 1, 2011 Public Hearing
A duly noticed public hearing was held on March 1, 2011 and was conducted by Hearing Officer Paul McCarthy.

Phillip Estes, Principal Regional Planner, gave a brief presentation of the proposed project and applicant's request. Staff's analysis concluded that the applicant had satisfied the required burden of proof.

The applicant's representative testified in favor of the proposed project and agreed to the draft conditions of approval.

The Hearing Officer, hearing no further testimony, closed the public hearing and approved Conditional Use Permit 2010 00060, subject to the conditions presented by staff.

Findings

1. The subject property is located at 6325 Rosemead Blvd., Unincorporated Temple City, South Santa Anita – Temple City Zoned District.

2. The Assessor's parcel numbers are 5381-035-028.

3. The subject property is located in the C-2 (Neighborhood Business) zone. A pharmacy is a permitted use in the C-2 zone.

4. The proposed use is consistent with the designated land use plan category of the General Plan.

5. The applicant requested a CUP to authorize the sale of alcoholic beverages (beer and wine) for off-site consumption, pursuant to Sec. 22.28.260.

6. The property is in substantial compliance with applicable development standards.

7. The property is developed with a pharmacy, which was authorized by Plot Plan 13852.

8. No construction is proposed with this permit.

9. The proposal does not conflict with surrounding land uses.

10. Surrounding properties are located in the following zones:
    North: C-2, R-3 (Limited Multiple Residence)
    East: Temple City
    South: Temple City
    West: R-3

11. Surrounding land uses within 500 ft. include:
    North: Residential
    East: Commercial
    South: Residential
    West: Residential

12. There are no sensitive land uses, religious facilities or other similar uses located within a 600 ft. radius, as indicated on the applicant's land use map.

13. There are three establishments that sell alcoholic beverages located within 500 ft. of the subject property, as indicated on the applicant's land use map.

14. The public convenience and necessity for an additional facility selling alcoholic beverages for on-site consumption, outweighs the fact that the subject property is located within 500 ft. of other facilities selling alcoholic beverages for on-site consumption.

15. 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.

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

17. The site is consistent with the exterior appearance of existing commercial structures located within the adjacent area. For this reason, the project will not cause blight, deterioration, or substantially diminish or impair property values within the area.

18. The project is Categorically Exempt Class 1 (Existing Facilities) under the California Environmental Quality Act (CEQA) reporting requirements.

19. Pursuant to Sections 22.60.174 and 22.60.175 of Title 22, the community was adequately notified of the public hearing by mail, newspaper advertisement, hearing notice sign, library package and the Dept. of Regional Planning website posting.

20. To assure continued compatibility between the use of the subject property allowed by this grant and surrounding land uses, the Hearing Officer determined that it is necessary to limit the term of the grant to fifteen (15) years with biannual inspections.

21. The location of the documents and other materials constituting the record of proceedings upon which the decision is based in this matter is located at the Department of Regional Planning, 320 W. Temple St., Los Angeles, CA 90012. The custodian of such documents and materials shall be the Director of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES:

CONDITIONAL USE PERMIT – Burden of Proof

1. The proposed use is consistent with the adopted general plan for the area;

2. 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 areas, and 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 and general welfare;

3. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking, landscaping and other development features;

4. The proposed site is adequately served by highways of sufficient width, and improved as necessary to carry the kind of traffic such use would generate and by other public or private facilities as are required.

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, 22.56.090, Title 22, of the Los Angeles County Code (Zoning Ordinance).

CONDITIONAL USE PERMIT – Alcoholic Beverage Sales Burden of Proof

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; and

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; and

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

4. 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.

AND, THEREFORE, the information submitted by the applicant and presented at the public hearing substantiates the required findings and burden of proof for a Conditional Use Permit for alcohol sales as set forth in Sec. 22.56.195 of the Los Angeles County Code (Zoning Ordinance).

HEARING OFFICER ACTION:

1. I have considered the Categorical Exemption Class 1 for this project and certify that it is consistent with the finding by the State Secretary for Resources or by local guidelines that this class of projects does not have a significant effect on the environment.

2. In view of the findings of fact and conclusions presented above, Conditional Use Permit 2010 00060 is **APPROVED** subject to the attached conditions.

cc: Zoning Enforcement, ABC

MC:PE
3/1/11

This grant authorizes the sale of alcoholic beverages (beer and wine only) for off-site consumption, 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 until the permittee, and the owner of the subject property if other than the permittee, have filed at the office of the 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 Number 7, and until all required monies have been paid pursuant to Condition Number 10.

   Notwithstanding the foregoing, this condition No. 2, and Condition Nos. 3, 4, and 9 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.

5. 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.

6. 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.

7. 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.

8. **This grant will terminate on March 1, 2026**. Entitlement to use of the property thereafter shall be subject to the regulations then in effect. At least six (6) months prior to the expiration of this permit and in the event that the permittee intends to continue operations after such date, a new Conditional Use Permit application shall be filed with the Department of Regional Planning. The application shall be a request for continuance of the use permitted under this grant, whether including or not including modification to the use at that time.

9. This grant will expire unless used within 2 years from the date of approval. A single, one-year time extension may be requested in writing and with payment of the applicable fee prior to such expiration date. Submittal of the recorded affidavit and payment of all required fees shall constitute use of the permit.

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. The permittee shall deposit with the County of Los Angeles the sum of **1,400.00**. The deposit 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. The deposit provides for **seven (7)** biannual inspections. Inspections may be unannounced.

11. 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 the Department of Regional Planning for all additional enforcement efforts necessary to bring the subject property into compliance. Inspections shall be made to ensure compliance with the conditions of this grant as well as adherence to development in accordance with the approved site plan on file. The amount charged for additional inspections shall be $200.00 per inspection, or the current recovery cost, whichever is greater.

12. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is 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.

13. All structures shall conform to the requirements of the Los Angeles County Fire Department, as required.

14. All requirements of Title 22 the County Code ("Zoning Ordinance") shall be complied with unless otherwise set forth in these conditions or shown on the approved plan.

15. All structures shall conform to the requirements of the Division of Building and Safety of the Department of Public Works, as required.

16. 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.

17. 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.

18. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain all areas free of litter and debris on the premises over which the permittee has control.

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 Revised 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.

20. 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 employees of the facility shall be knowledgeable of the conditions herein;

21. Loitering shall be prohibited on the subject property. Signage in compliance with Section 22.52 Part 10 of the County Code shall be placed and visible on the premises indicating said prohibition. Employees shall be instructed to enforce these regulations and to call local law enforcement if necessary;

22. Designated employees of the establishment, who directly serve or are in the practice of selling alcoholic beverages, shall participate in State of California mandated alcoholic beverage education programs, as applicable. All new designated employees shall be required to attend said programs. The licensee shall display a certificate or plaque in a publicly accessible area of the establishment, indicating participation in said program. Proof of completion said program shall be available upon request;

23. 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;

24. All regulations of the State of California prohibiting the sale of alcoholic beverages to minors shall be enforced;

25. 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;

26. The consumption of alcoholic beverages shall be prohibited on the subject property. The permittee shall post at least one publicly visible sign on the premises stating that the consumption of alcoholic beverages on the premises is prohibited;

27. Alcohol sales shall be prohibited from 2:00 AM to 6:00 AM, pursuant to California state law;

28. There shall be no beer sold in containers under one quart or in less than six-pack quantities;

29. The sale or display of alcoholic beverages from an ice tub is prohibited;

30. The permittee may display alcoholic beverages only in the cooler or shelving area designated for storage of said alcoholic beverages as depicted on the "shelf plan" labeled on the approved Exhibit 'A'. No other display of alcoholic beverages shall be permitted;

31. The licensed premises shall have no coin operated amusements, such as pool tables, juke boxes, video games, carousel rides or other similar riding machines, with the exception of official lottery machines;

32. Designated employees who sell alcoholic beverages, shall be at least 21 years of age, pursuant to Title 22;

33. No alcoholic beverages shall be displayed within five feet of the cash register or the front door unless located within permanently installed refrigerated cooler;

34. No alcoholic beverage "miniatures" may be sold. Wine coolers not be sold in less than four-pack quantities;

35. The sale of malt liquors or malt-based products with alcoholic content greater than five percent by volume is prohibited;

36. The sale of "fortified" wine is prohibited;

37. The permittee shall provide adequate lighting above all entrances and exits to the premises, parking areas and walkways under control of the permittee or required as a condition of this grant;

38. All lighting required by this grant shall be of sufficient power to illuminate and make easily discernable the appearance and conduct of all persons within lighted areas during operating hours and shall be designed so as to direct light and glare only onto the facility premises. Said lighting and glare shall be deflected, shaded and focused away from all adjoining properties;

39. All parking lot and other exterior lighting shall be hooded and directed away from neighboring residences to prevent direct illumination and glare, and shall be turned off within thirty minutes after conclusion of activities, with the exception of sensor-activated security lights and/or low level lighting along all pedestrian walkways leading to and from the parking lot;

40. All litter and trash shall be regularly collected from the premises and the adjacent sidewalks or right-of-way.

MC:PE
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