



Los Angeles County
Department of Regional Planning

Planning for the Challenges Ahead



Richard J. Bruckner
Director

January 7, 2015

Art Rodriguez & Associates
709 E. Colorado Blvd., Suite 200
Pasadena, CA 91101

**REGARDING: PROJECT NO. R2014-02452-(4)
CONDITIONAL USE PERMIT NO. 201400117
17120 COLIMA RD., HACIENDA HEIGHTS APN #8295-012-159, -158**

Hearing Officer Susie Tae, by her action of **January 6, 2015**, has **APPROVED** the above-referenced project. Enclosed are the Hearing Officer's Findings and Conditions of Approval. Please carefully review each condition. This approval is not effective until the appeal period has ended and the required documents and applicable fees are submitted to the Regional Planning Department (see enclosed Affidavit of Acceptance Instructions).

The applicant or any other interested persons may appeal the Hearing Officer's decision. The appeal period for this project will end at 5:00 p.m. on **January 20, 2015. Appeals must be delivered in person.**

Appeals:

To file an appeal, please contact:
Regional Planning Commission, Attn: Commission Secretary
Room 1350, Hall of Records
320 West Temple Street, Los Angeles, CA 90012
(213) 974-6409

Upon completion of the appeal period, the notarized Affidavit of Acceptance and any applicable fees must be submitted to the planner assigned to your case. In addition, any applicable CEQA fees for the Department of Fish and Wildlife shall be paid, and a Notice of Determination, if applicable, must be filed with the County Clerk according to the instructions on the following page. Please make an appointment to ensure that processing will be completed in a timely manner. Failure to submit these documents and applicable fees within 60 days will result in a referral to Zoning Enforcement for further action.

For questions or for additional information, please contact Steve Mar of the Zoning Permits East Section at (213) 974-6435, or by email at smar@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,
DEPARTMENT OF REGIONAL PLANNING
Richard J. Bruckner


Maria Masis, Supervising Regional Planner
Zoning Permits East Section

Enclosures: Findings, Conditions of Approval, Affidavit of Acceptance (Permittee's Completion)
c: DPW (Building and Safety); Zoning Enforcement

SM:MM

**FINDINGS OF THE HEARING OFFICER
AND ORDER
COUNTY OF LOS ANGELES
PROJECT NO. R2014-02452-(4)
CONDITIONAL USE PERMIT NO. 201400117**

1. The Los Angeles County ("County") Hearing Officer conducted a duly-noticed public hearing in the matter of Conditional Use Permit No. 201400117 ("CUP") on January 6, 2015.
2. The permittee, Tawa Inc. ("permittee"), requests the CUP to authorize a Type 21 alcohol license for full-line alcohol for off-site consumption ("Project") at a new 44,128 sq. ft. market (168 Market) located within an existing shopping center (Bixby Hacienda Shopping Plaza) on a property located at 17120 Colima Road in the unincorporated community of Hacienda Heights ("Project Site") in the C-2 (Neighborhood Business) zone pursuant to Los Angeles County Code ("County Code") Sections 22.28.160 and 22.56.195.
3. The Project Site is 6.9 acres in size and consists of two legal lots. The Project Site is rectangular in shape with flat topography and is developed with a multi-tenant shopping center.
4. The Project Site is located in the Hacienda Heights Zoned District and is currently zoned C-2 (Neighborhood Commercial).
5. The Project Site is located within the CG – General Commercial land use category of the Hacienda Heights Land Use Policy Map.
6. Surrounding Zoning within a 500-foot radius includes:
 - North: C-2 (Neighborhood Business), IT (Institutional), R-A (Residential Agricultural)
 - South: C-2 (Neighborhood Business), R-3 (Limited Multiple Residence), RPD-6000-6U (Residential Planned Development)
 - East: C-2 (Neighborhood Business), O-S (Open Space)
 - West: RPD-6000-20U (Residential Planned Development)
7. Surrounding land uses within a 500-foot radius include:
 - North: Shopping Center, Commercial, Single-family Residences
 - South: Hotel, Multi-unit Senior Living, Single-family Residences
 - East: Medical Offices, Schabarum Regional Park
 - West: Multi-family Residences
8. The Project Site was zoned from A1-10000 to C-3 on June 7, 1968, to C-3-BE on June 15, 1982, and to C-2 on April 1, 2010. On April 28, 2014, Plot Plan No. 201400419 was approved for tenant improvements to a 44,128 sq. ft. retail space due to a change of ownership from Albertson's Supermarket to 168 Market. More than two dozen other Plot Plan cases on the Project Site have been approved for various tenant improvements and signage for businesses located in the shopping center. There are no other existing Conditional Use Permits on the Project Site.
9. The site plan for the Project depicts the 44,128 sq. ft. market located in a tenant space at a shopping center with 492 parking spaces located along Colima Road. The market's shelf plan shows that alcoholic beverages will take up 4.97% of the market's total shelf space.

10. The Project Site is accessible via Colima Road to the north. Primary access to the Project Site will be via an entrance/exit on Colima Road. Secondary access to the Project Site will be via an entrance/exit on S. Azusa Avenue.
11. The County of Los Angeles Sheriff's Department, Industry Station, researched the subject property's calls for service history for the past five years from September 10, 2009 to October 15, 2014. The Sheriff's Department noted that there is an issue of transients on the property, but they are, for the most part, not drunk and just panhandling. More recently, there have been calls due to alarm activations, but these calls occurred while the previous Albertson's store located on the property was boarded up.

The Sheriff's Department had no further issues regarding the proposed project.

12. Statistical data from the California Department of Alcoholic Beverage Control (ABC) report that the subject property is located in a high crime reporting district. The subject property is in Reporting District 1470. The average number of offenses reported per district (out of 557 total reporting districts) is 85.7 and the actual number of crimes reported for District 772 is 147.

The subject property lies within Census Tract 4086.28. There are currently four existing alcohol licenses in this census tract and only three licenses are allowed. Therefore an undue concentration of alcoholic beverage licenses exists within Census Tract 4086.28.

13. Prior to the Hearing Officer's public hearing on the Project, Regional Planning staff determined that the Project qualified for a Class 1, Existing Facilities, categorical exemption from the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA"), the State CEQA Guidelines, and the Environmental Document Reporting Procedures and Guidelines for the County, because the Project involved the sale of alcoholic beverages at a new market in a retail space previously occupied by another market, with negligible or no expansion of use beyond that which was previously existing.
14. Pursuant to the provisions of sections 22.60.174 and 22.60.175 of the Zoning Code, the community was appropriately notified of the Project's public hearings by mail, newspaper, and property posting.
15. The Hacienda Heights Improvement Association reviewed the project at its October 20, 2014 meeting and voted unanimously to support the project.
16. A duly noticed public hearing was held on January 6, 2015, before the Hearing Officer. Hearing Officer Susan Tae was in attendance for the Public Hearing. The applicant's representative, Daniel Le, was available to answer questions from the Hearing Officer. Mr. Le requested that Condition #21 (Condition #22 in the approved draft) be modified to allow the applicant to participate in the California ServeSMART Responsible Beverage Service program in lieu of the LEAD Program. The Hearing Officer granted this request. There being no further testimony, Ms. Tae closed the public hearing and approved the applicant's request with findings and conditions for approval.
17. The Hearing Officer finds that the project site is located within the CG – General Commercial land use category of the Hacienda Heights Community Plan. This land use designation is intended for lands suitable for a variety of retail, offices, restaurants, businesses, and service establishments that meet the needs of residential neighborhoods. The proposed

sale of full-line alcohol for off-site consumption at a market provides a retail service to the nearby residential community and is therefore consistent with the permitted uses of the underlying land use category.

18. The Hearing Officer finds that the Project complies with the zoning and development standards prescribed in the C-2 Zone. The selling of alcoholic beverages at a market on the subject property is compatible with the surrounding neighborhood and provides a retail service to the community. The selling of alcoholic beverages is a permitted use in the C-2 Zone and the market is consistent with the scale of surrounding development.
19. The Hearing Officer finds that the property is located in an existing shopping plaza zoned for commercial use. The proposed 168 Market will be located in a space that was previously an Albertson's Market which also provided the sale of full-line alcohol for off-site consumption. Therefore, the project will not add any new adverse impacts to the neighborhood and will operate in a manner that is sensitive to the neighborhood.
20. The Hearing Officer finds that the new market will be located in a tenant space that was previously used by another market. The project is not proposing any new changes or intensification of use and is not proposing any exterior changes to the site. The shopping center adhered to the development standards as prescribed in Title 22 at the time it was built.
21. The Hearing Officer finds that the site is close to the Pomona Freeway SR-60 and is located at the corner of two major arterial streets, Colima Road and Azusa Avenue. The streets are sufficient to carry the kind of traffic generated by the market.
22. The Hearing Officer finds that there are two sensitive uses within 600 ft. of the project site (C2 Education Center and Schabaram Regional Park). Since the subject market is in an existing shopping plaza and the former market it replaces previously operated as such, the off-site sale of alcoholic beverages will not bring any additional adverse effects to these sensitive uses. The applicant will operate in a responsible manner to avoid detrimental effects.
23. The Hearing Officer finds that the market is located in a commercially zoned area and is mostly surrounded by other commercial uses. The project site is buffered from adjacent residences by concrete block walls on the western and southern property lines. Residences to the north are buffered by Colima Road and concrete block sound walls.
24. The Hearing Officer finds that there are eight (8) establishments within 500 ft. of the project site that sell alcoholic beverages (two off-sale and six on-sale). Therefore, an undue concentration of establishments that sell alcoholic beverages exists near the project site. The sale of full-line alcohol for off-site consumption at the new market would be a service that is comparable with other markets in the area and would serve as a public convenience and necessity to the neighborhood. The market's shelf space that would be devoted to the display of alcoholic beverages would be 4.97% of the market's total shelf space.
25. The Hearing Officer finds that the market will provide goods and services to the surrounding community and will add to the economic welfare of the community.
26. The Hearing Officer finds that the market will ensure that any changes to the façade will match the surrounding uses and structures. The market will not diminish or impair property values in the neighborhood.

27. The Hearing Officer finds that to ensure continued compatibility between the Project and the surrounding land uses, it is necessary to limit the Conditional Use Permit to 15 years.
28. The Hearing Officer finds that pursuant to sections 22.60.174 and 22.60.175 of the County Code, the community was properly notified of the public hearing by mail, newspaper, and property posting. Additionally, the Project was noticed and case materials were available on Regional Planning's website and at libraries located in the vicinity of the Hacienda Heights community. On November 26, 2014, a total of 318 Notices of Public Hearing were mailed to all property owners as identified on the County Assessor's record within a 500-foot radius from the Project Site, as well as four notices to those on the courtesy mailing list for the Hacienda Heights Zoned District and to any additional interested parties.
29. The location of the documents and other materials constituting the record of proceedings upon which the Hearing Officer'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, California 90012. The custodian of such documents and materials shall be the Section Head of the Zoning Permits East Section, Department of Regional Planning.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES THAT:

- A. The proposed use with the attached conditions will be consistent with the adopted General Plan.
- B. The proposed use at the site will not 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 not jeopardize, endanger or otherwise constitute a menace to the public health, safety or general welfare.
- C. 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. 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 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.
- F. 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.
- G. 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.

- H. The requested use at the proposed location will not adversely affect the economic welfare of the surrounding community.
- 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 said neighborhood.

THEREFORE, THE HEARING OFFICER:

1. Finds that the Project is exempt from the California Environmental Quality Act pursuant to section 15301 of the State CEQA Guidelines (Class 1, Existing Facilities categorical exemption); and
2. Approves Conditional Use Permit No. 201400117, subject to the attached conditions.

**CONDITIONS OF APPROVAL
COUNTY OF LOS ANGELES
PROJECT NO. R2014-02452-(4)
CONDITIONAL USE PERMIT NO. 201400117**

PROJECT DESCRIPTION

The project is a Conditional Use Permit (CUP) for a Type-21 alcohol license for full-line alcohol for off-site consumption at a new market in the C-2 (Neighborhood Business) Zone subject to the following conditions of approval:

GENERAL CONDITIONS

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 No. 10. Notwithstanding the foregoing, this Condition No. 2 and Condition Nos. 4, 5, and 9 shall be effective immediately upon the date of 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 or any other applicable limitations period. The County shall promptly notify the permittee of any claim, action, or proceeding and the County shall reasonably 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 reasonably 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 Regional Planning'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 Registrar-Recorder/County Clerk ("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 January 6, 2030.** 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 two (2) years from the date of final approval of the grant. A single one-year time extension may be requested in writing and with the payment of the applicable fee prior to such expiration date.
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 fund 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. Notice is hereby given that any person violating a provision of this grant is guilty of a misdemeanor. Notice is further given that the Regional Planning Commission ("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, or as otherwise authorized pursuant to Chapter 22.56, Part 13 of the County Code.
12. All development pursuant to this grant must be kept in full compliance with the County Fire Code to the satisfaction of said department.
13. All development pursuant to this grant shall conform with the requirements of the County Department of Public Works to the satisfaction of said department.
14. All development pursuant to this grant shall comply with the requirements of Title 22 of the County Code and of the specific zoning of the subject property, unless specifically modified by this grant, as set forth in these conditions, including the approved Exhibit "A," or a revised Exhibit "A" approved by the Director of Regional Planning ("Director").
15. The permittee shall maintain the subject property in a neat and orderly fashion. The permittee shall maintain free of litter all areas of the premises over which the permittee has control.
16. 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.

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.

17. 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.
18. In the event that subsequent revisions to the approved Exhibit "A" are submitted, the permittee shall submit **three (3) copies** of the proposed plans to the Director for review and approval. All revised plans must be accompanied by the written authorization of the property owner(s) and applicable fee for such revision.

PERMIT SPECIFIC CONDITIONS - CONDITIONAL USE PERMIT (SALE OF ALCOHOLIC BEVERAGES)

19. This grant allows the sale of full line alcohol for off-site consumption at a new supermarket (168 Market).

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 all employees of the facility shall be knowledgeable of the conditions herein;
21. 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;
22. 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 California ServeSMART Responsible Beverage Service Program, or other similar program approved 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;
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 strictly enforced;
25. The permittee shall abide by all requirements, licensing or otherwise, established for the sale of alcoholic beverages by the State Department of Alcoholic Beverage Control;
26. This grant authorizes the sale of alcoholic beverages from 9:00 a.m. to 9:00 p.m., seven days a week;
27. The consumption of alcoholic beverages shall be prohibited on the subject property. The permittee shall post signage on the premises prohibiting consumption of alcoholic beverages on the premises;
28. The permittee shall display alcoholic beverages only in the cooler or shelving designated for storage of said beverages as depicted on the "shelf plan" labeled Exhibit 'A'. No additional display of alcoholic beverages shall be provided elsewhere on the premises. The shelf space devoted to the display of alcoholic beverages shall be no more than 4.97% of the store's total shelf space as depicted in the approved shelf plan;
29. No sale of alcoholic beverages shall be made from a drive-in window;
30. No display of alcoholic beverages shall be made from an ice tub;
31. The permittee shall display alcoholic beverages only in the cooler or shelving designated for storage of said beverages as depicted on the "shelf plan" labeled Exhibit 'A'. No additional display of alcoholic beverages shall be provided elsewhere on the premises;
32. The licensed premises shall have no coin operated amusements, such as pool tables, juke boxes, video games, small carousel rides or similar riding machines, with the exception of official State Lottery machines;

33. No alcoholic beverages shall be displayed within five feet of the cash register or the front door unless it is in a permanently affixed cooler;
34. No malt liquors and/or malt based products with alcoholic content greater than five percent by volume shall be sold;
35. There shall be no wine, with the exception of wine coolers, sold in containers of less than 750 milliliters. No miniatures of any type may be sold. Wine coolers shall not be sold in less than four-pack quantities;
36. There shall be no beer sold in containers under one quart or in less than six-pack quantities;
37. The permittee shall provide adequate lighting above all entrances and exits to the premises;
38. The permittee shall provide adequate lighting in all parking areas and walkways under control of the permittee or required as a condition of this grant;
39. 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;