

PLANNING COMMISSION  
RECOMMENDED CONDITIONS

PLANNING COMMISSION HEARING DATE: OCTOBER 8, 2015

Case Numbers: **P14-0588** (Conditional Use Permit)  
**P15-0483** (Conditional Use Permit)  
**P15-0753** (Variance)  
**P15-0755** (Variance)  
**P15-0756** (Variance)  
**P15-0757** (Findings of Public Convenience or Necessity)

**CONDITIONS**

**Case Specific**

***The applicant is advised that the business or use for which this conditional use permit is granted cannot be legally conducted on the subject property until all conditions of approval have been met to the approval of the Community and Economic Development Department, Planning Division.***

- **Planning**

1. The Planning Commission makes the necessary findings in the applicant's favor to grant the following variance. As justification, the applicant's written justifications and staff's supplemental variance justifications are referenced:
  - a. To allow for an approximately 132-foot separation between the subject site and the Alessandro Shell fuel station, where the Zoning Code requires a minimum separation of 300-feet or greater from any other business with concurrent sale of motor vehicle fuel with alcoholic beverages;
  - b. To allow for an approximately 410-foot separation between the subject site and CVS Pharmacy, where the Zoning Code requires a minimum separation of 1,000-feet from any other business licensed by the State of California for off-sale general alcoholic beverage sales with less than 15,000 square-feet; and
  - c. To allow for an approximately 565-foot separation between the subject site and BevMo, where the Zoning Code requires a minimum separation of 1,000-feet from any other business that sells alcoholic beverages as its principal business, where there is an approximately 565-foot separation.
2. The Planning Commission makes the necessary findings that the issuance of a Type 20 license (off sale beer and wine) meets the public convenience or necessity required by Section 23958.4 of the Business and Professional Codes as justified by the applicant's written findings and staff's supplemental findings included in this report.

3. All conditions of Riverside County Airport Land Use Commission case ZAP1139MA15 shall apply.
4. Should the applicant or designee not obtain necessary Building permits or initiate operation for the drive-thru restaurant, prior to expiration of the CUP, the applicant will be required to physically close the existing drive-thru, to the satisfaction of Planning Staff.
5. Advisory: Signs shall be permitted in accordance with Chapter 19.620 of the Zoning Code. Any new signs shall be subject to separate review and assessment, including any required variances. A separate sign application, including fees and additional sets of plans, will be necessary prior to sign permit issuance.

Prior to Occupancy:

6. All existing drive-thru signage, including but not limited to directional signs, menu board, and order box, shall be removed to the satisfaction of City Planning Division. New or renovated signage associated with the project site and this proposal shall be subject to Planning Division review and approval, pursuant to the Riverside Municipal Code.

Operational Conditions:

7. A copy of the Conditional Use Permit and the final Conditions of Approval shall be available at the site and presented to City staff, including the Police Department and Code Enforcement, upon request. Failure to have the latest approved conditions available upon request will be grounds for revocation.
8. The owner and/or occupant shall be liable for the cost of excessive police service or response in accordance with Chapter 9.60 of the Riverside Municipal Code.
9. All storage and display of merchandise and supplies must be conducted within the fuel station building.
10. No vehicles shall be parked on the premises other than those of persons attending to business on the site, vehicles of employees, and other service vehicles used in the operation of the station. No vehicle may be parked on the premises and offered for sale.
11. The business for which this Conditional Use Permit is granted shall be continually operated in compliance with the definition for Vehicle Fuel Station and Drive-Thru Business, contained in Definitions Section 19.910.020 of the Zoning Code, and all site location, operation and development standards contained in Sections 19.410.040 and 19.475.040 of the Zoning Code. Failure to comply with these requirements will be grounds for Code Enforcement action, revocation or further legal action.
12. Provisions shall be made for regular on-site maintenance and clean-up of the property.

Prior to commencement of alcohol sales:

13. A written security plan shall be submitted and approved by the Riverside Police Department and Planning Division.
14. Outdoor security cameras shall be installed to the satisfaction of Police and Planning Division staff.
15. Security cameras shall be installed above case register areas to monitor transactions.

Operational Conditions – Alcohol Sales:

16. Approval of this request is limited to the off-sale of beer and wine only.
17. The minimum enclosed retail sales area for store products shall be 1,500 square feet.
18. The minimum inventory level shall be \$15,000 retail value excluding beer, wine, fuel and automotive products.
19. The maximum percentage of beer and wine sales to total store sales shall be 30% percent on a retail basis during any consecutive twelve-month period.
20. The management at each location of off-sale of alcoholic beverages pursuant to this section shall be responsible for educating the public regarding drunken driving laws and the related penalties for breaking those laws. (This includes minimum age law, open container law and driving while intoxicated law.) This can be accomplished by posting prominent signs, decals or brochures at the point of purchase and providing adequate training for employees.
21. No displays of beer or wine shall be located within five feet of the store's entrance or checkout counter.
22. Cold beer or wine shall be sold from, or displayed in permanently affixed electrical coolers only.
23. No beer or wine advertising shall be located on gasoline islands; no advertising for beer or wine shall be located on buildings or in windows.
24. Employees on duty between the hours of 10 p.m. and 2 a.m. shall be at least 21 years of age to sell beer and wine.
25. No sale of alcoholic beverages shall be made from a drive-thru window.
26. The premises on which the business is located shall be posted to indicate that it is unlawful for any person to drink or consume any alcoholic beverage in any public place or posted premises in accordance with Section 9.05.020 of the Municipal Code.
27. A sign shall be posted in the front of the business indicating that no loitering is permitted per the Riverside Municipal Code.

28. Outside security bars on windows shall not be permitted.

- **Riverside Police Department**

Alcohol:

29. The business shall follow the guidelines of the Alcohol Beverage Control (ABC) requirements for acting as an off-sale premise. (Compliance with Section 23038 of the Business and Professions Code).

30. There shall be no consumption of alcoholic beverages on the store property and this requirement will be prominently posted throughout the property.

31. No cold single units of beer or fortified wine/liquor shall be allowed to be sold.

32. No displays of beer or wine/liquor shall be located within five feet of the store's entrance, windows or checkout counter.

33. The subject's alcoholic beverage license shall not be exchanged for a public premises type license or operated as a public premise. All alcoholic beverages sold shall be for consumption off the premises.

34. No alcohol shall be sold between the hours of 2:00 a.m. and 6:00 a.m.

Security:

35. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easy discernment of the appearance and conduct of all persons on or about the parking lot.

36. The business windows shall not be tinted or obscured in any way, including by temporary or painted window signs, and the interior lighting of the building shall remain at adequate levels to clearly see into the business from the exterior of the business.

37. A security camera surveillance system shall be in constant use and made available for review by members of the Riverside Police Department.

38. Management shall actively participate in Business Watch through the Riverside Police Department.

Entertainment:

39. There shall be no illegal gambling devices, such as coin-pushers or video slot machines, etc., maintained upon the premises at any time.

40. Any adult-oriented magazines, video tapes and other similar materials shall be displayed in an area portioned off from, and not visible to, the general public or minors and shall be labeled "Adults Only".

Grounds:

41. The licensee shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control.
42. The applicant shall be responsible for maintaining free from graffiti, the area adjacent to the premises over which they have control.
43. No loitering shall be permitted on any property adjacent to the licensed premises and under the control of the licensee.
44. No pay phones shall be installed or maintained outside the building.

Compliance:

45. The licensee/employees shall attend a 4-hour LEAD (License, Education, Alcohol and Drugs) class presented by the Riverside Office of the Alcoholic Beverage Control within 90 days of obtaining the license upgrade.
46. The required Conditional Use Permit is subject to a mandatory six-month review by the Planning Division. In addition to any other stipulations, three or more sustained complaints to the Riverside Police Department within any 12-month period regarding disturbances caused by patrons or staff at the site shall be grounds for revocation proceedings.

- **Fire Department**

CONTACT MARGARET ALBANESE AT 951-826-5455 FOR QUESTIONS REGARDING FIRE CONDITIONS OR CORRECTIONS.

THE FOLLOWING TO BE MET PRIOR TO CONSTRUCTION PERMIT ISSUANCE:

47. Requirements for construction shall follow the currently adopted California Building Code and California Fire Code with City of Riverside amendments.
48. Construction plans shall be submitted and permitted prior to construction.

- **Public Utilities – Water**

49. Advisory: Water utility provisions to the specifications of the Western Municipal Water District of Riverside County.

- **Public Works**

50. No comments.

- **Park and Recreation**

51. No comments.

## **Standard Conditions**

### **• Planning**

52. The Project must be completed per the Site Plan Review and Design Review approved by the Planning Commission, including all conditions listed in this report. Any substantial changes to the Project must be approved by the Planning Commission or minor modifications by Design Review Staff. Upon completion of the Project, a Design Review Staff inspection must be requested, and **UTILITIES** will not be released until it is confirmed that the approved plans and all conditions have been implemented.
53. Within 30 days of approval of this case by the City, the developer shall execute an agreement approved by the City Attorney's Office to defend, indemnify, including reimbursement, and hold harmless the City of Riverside, its agents, officers and employees from any claim, action, or proceeding against the City of Riverside, its agents, officers, or employees to attack, set aside, void, or annul, an approval by the City's advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Section 66499.37 of the Government Code. The City will promptly notify the developer of any such claim; action or proceeding and the City will cooperate in the defense of the proceeding.
54. This approval is for design concept only, and does not confirm the project has been thoroughly checked for compliance with all requirements of law. As such, it is not a substitute for the formal building permit plan check process, and other changes may be required during the plan check process.
55. There is a 24 month time limit on this approval. Should the applicant or designee not obtain necessary Building permits or initiate operation within 24 months following the CUP approval date, the CUP shall become null and void.
56. This Project shall fully and continually comply with all applicable conditions of approval, State, Federal and local laws in effect at the time the permit is approved and exercised and which may become effective and applicable thereafter, and in accordance with the terms contained within the staff report and all testimony regarding this case. Failure to do so will be grounds for Code Enforcement action, revocation or further legal action.
57. This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to public safety, property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
58. The applicant shall comply with all federal, state and local laws and shall cooperate with the Riverside Police Department (RPD) in the enforcement of all laws relating to this permit. Material violation, as determined by the City Planning Commission, of any laws in connection with this use or failure to cooperate with RPD will be cause for revocation of this permit.
59. This permit is issued based upon the business operations plan and information submitted by the applicant, which has been used as the basis for evaluation of the proposed use in this staff report and for the conditions of approval herein. Permittee shall notify Community and Economic Development Department, Planning Division, of any change in operations and

such change may require a revision to this permit. Failure to notify the city of any change in operations is material grounds for revocation of this conditional use permit.

60. The applicant herein of the business subject to this conditional use permit acknowledges all of the conditions imposed and accepts this permit subject to those conditions and with the full awareness of the provisions of Title 19 of the Riverside Municipal Code. The applicant shall inform all its employees and future operators of the business subject to this permit of the restrictions and conditions of this permit as they apply to the business operations.
61. Failure to abide by all conditions of this permit shall be cause for revocation.
62. The plans shall be submitted for plan check review to assure that all required conditions have been met prior to exercising of this permit.
63. The subject property shall be developed and operated substantially as described in the text of this report and as shown on the plot plan on file with this case except for any specific modifications that may be required by these conditions of approval.
64. The applicant shall continually comply with all applicable rules and regulations in effect at the time permit is approved and exercised and which may become effective and applicable thereafter.
65. Enumeration of the conditions herein shall not exclude or excuse compliance with all applicable rules and regulations in effect at the time this permit is exercised.
66. A copy of the Conditional Use Permit and the final Conditions of Approval shall be available at the site and presented to City staff, including the Police Department and Code Enforcement, upon request. Failure to have the latest approved conditions available upon request will be grounds for revocation.

#### **GENERAL INFORMATION NOTES**

##### Appeal Information

- a. Actions by the City Planning Commission, including any environmental finding, may be appealed to the City Council within ten calendar days after the decision.
- b. Appeal filing and processing information may be obtained from the Planning Department Public Information Section, 3<sup>rd</sup> Floor, City Hall.