



Community & Economic Development Department

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Planning Division

RiversideCA.gov

HEARING DATE: DECEMBER 1, 2016

AGENDA ITEM NO.: 2

PROPOSED PROJECT

Case Numbers	P16-0422 (Conditional Use Permit), P16-0660 (Public Convenience or Necessity), and P16-0696 (Variance)	
Request	To consider a Conditional Use Permit for the off-sale of beer and wine (Type 20 License) in conjunction with an existing market (Los Novillos Market)	
Applicant	Alberto Murillo, representing Los Novillos Market	
Project Location	2650 Main Street, situated east of Main Street and north of Poplar Street	
APN	209-152-008	
Project area	0.375 acres (16,339 sq. ft.)	
Ward	1	
Neighborhood	Downtown Neighborhood	
Specific Plan	Downtown Specific Plan - North Main Street Specialty Services District	
General Plan Designation	Downtown Specific Plan	
Zoning Designation	DSP-NMS-SP—Downtown Specific Plan- North Main Street Specialty Services District	
Staff Planner	Gaby Adame, Assistant Planner; 951-826-5933; gadame@riversideca.gov	

RECOMMENDATIONS

Staff recommends that the Planning Commission:

1. **DETERMINE** that this proposal is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines, as the project constitutes an existing facility; and
2. **APPROVE** Planning Case Numbers: P16-0422 (CUP), P16-0660 (PCRN) and P16-0696 (VR) based on the attached findings and subject to the recommended conditions.

SITE BACKGROUND

The 0.37-acre site is developed with a 4,250 square foot building that was constructed in 1948 and is currently used for a neighborhood market (Los Novillos Market). Records indicate that this building has been continuously used as a market since 1959. The site is bounded by Main Street to the west, auto repair to the north, single-family residences to the east and south.

PROPOSAL

The applicant is requesting approval of a Conditional Use Permit (CUP) with findings of Public Convenience and/or Necessity (PCorN) to obtain a Type 20 license to allow for the sale of beer and wine for off-site consumption ("off-sale") in conjunction with a neighborhood-serving market.

The applicant proposes the off-sale of beer and wine from 7:00 a.m. to 9:00 p.m. seven days a week, consistent with the hours of operation of the store. There are seven full-time employees and three part-time employees. The store will be staffed by at least two people at all times, including at least one person 21 years in age or older. Deliveries will occur between 7:00 a.m. to 2:00 p.m. Monday through Friday.

The applicant proposes to improve the site by restriping the parking lot and removing the chain link fence surrounding the property. A 6 foot high block wall will be constructed along the north property line and surrounding the trash/refuse area at the rear of the building. A 6 foot high combination block wall/wrought-iron fence will be constructed along the rear alley. A 10 foot wide landscape planter will be added to the front of the property in front of the parking lot and a 5 foot wide landscape planter will be added along the north and east property lines.

Access to the site will be provided by a two-way driveway from Main Street and a two-way driveway from the alley. Improvements to accessway for the rear alley will reduce on-site parking spaces from 25 to 19.

PROJECT ANALYSIS

<i>Authorization and Compliance Summary</i>			
	N/A	Consistent	Inconsistent
General Plan 2025 The proposed project is consistent with the underlying General Plan 2025 land use designation of DSP – Downtown Specific Plan, which will further the intent of the General Plan by the diversification of commercial activities in the Downtown neighborhoods (Policy LU-47.1).	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Specific Plan The project site is located within the North Main Street Specialty Services District of the Downtown Specific Plan (DSP) and complies with the intent of the District by providing smaller, commercial services.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Zoning Code Land Use Consistency (Title 19) The underlying DSP-NMS-SP—Downtown Specific Plan- North Main Street Specialty Services District is consistent with the DSP-Downtown Specific Plan General Plan land use designation. Proposed off-sale of alcohol is subject to a Conditional Use Permit.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

COMPLIANCE WITH APPLICABLE DEVELOPMENT STANDARDS

Alcohol Sales Development Standards					
Standard			Proposed	Consistent	Inconsistent
Minimum Parking	1 space/250 square feet of floor area 4,250 square feet/250 square feet = 18 spaces required		19	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Landscape Setbacks	Street Frontages	10 feet	10 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Interior Property Lines	5 feet	5 feet	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Alcohol Sales Development Standards				
Standard		Proposed	Consistent	Inconsistent
<i>Setback From Residential</i>	100 Feet	0 Feet	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<i>Setback From Schools, Religious Facilities, Park Site</i>	600 Feet	855 Feet (Church of Religious Science)	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Setback From Other Off-Sale Licenses and Supportive Housing</i>	1000 Feet	1,121 Feet	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

PROJECT ANALYSIS

The applicant's operation and security plans have been reviewed by the Riverside Police Department (RPD). Security measures include age verification at the time of purchase and enhanced lighting of the parking area. RPD is supportive of the proposal, subject to the attached Conditions of Approval.

A variance is required to allow the sale of alcohol within 100 feet of a residential property. A single-family residence is located immediately south of the property and single-family residences are also located east of the property across an alley. Staff supports the variance because the site is already developed with a neighborhood-serving market and the sale of alcohol would be an incidental part of the business. In addition, the applicant proposes significant site improvements including new block walls, lighting, and landscape setbacks that will improve the operation of the business and provide greater buffering between the market and the residential neighborhood located east of the alley. There are no openings in the building along the southern property line facing the single-family residence and access to the market is provided on the north side of the building.

Public Convenience or Necessity

The subject site is located in Census Tract 301.03. According to the California Department of Alcoholic Beverage Control (ABC), there is one existing off-sale license within the tract (76 service station – 2278 North Main Street). ABC has authorized a maximum of one off-sale license in this census tract. The proposed license would represent the second off-sale license in the tract; therefore, a determination of Public Convenience or Necessity (PCorN) is required pursuant to State law. The request meets the public convenience or necessity findings required by Section 23958.4 of the Business and Professional Codes based on the following: 1) the license will be located on a site with adequate facilities, including parking and security, to serve the use; 2) the business is located in an area where a significant number of existing residents are presently served by limited comparable facilities; and, 3) the sale of alcohol is limited to 7:00 a.m. to 9:00 p.m. As such, the incidental sale of alcohol in conjunction with a market would be a convenience to patrons and area residents.

Conceptual Landscaping

The conceptual landscape plan has been designed to provide additional landscaping throughout the project site, including trees, shrubs, and groundcovers. The proposed 5 foot landscaping planter along the sides and the rear and 10 foot along the front, will serve to enhance the streetscape, the project, and the existing market which abuts Main Street. The design is also consistent with the requirements of the Zoning Code and Citywide Design Guidelines. Staff supports the conceptual landscape plan.

ENVIRONMENTAL REVIEW

This proposal is exempt from California Environmental Quality Act (CEQA) review pursuant to Section 15301, as the project constitutes an existing facility.

NEIGHBORHOOD COMPATIBILITY

The proposed establishment is consistent and compatible with the surrounding land uses within the North Main Street Specialty Services District of the DSP. The project demonstrates consistency with the goals and policies of the DSP by providing a use that caters to residents, workers and visitors within the surrounding neighborhood and the larger Downtown area. Staff has thus determined that the proposed project is compatible with the surrounding neighborhood

PUBLIC NOTICE AND COMMENTS

Public hearing notices were mailed to property owners within 1,000 feet of the site. As of the writing of this report, staff has received one public comment in opposition of the project. The letter stated concern over the type of activities alcohol sales can bring to this location and the surrounding area, and likened it to the recently closed Save-A-Minute. Staff believes that the proposed off-sale of alcohol at this market, as conditioned to require property improvements and maintenance, high definition security cameras, and enhanced lighting, will be compatible with the surrounding area. To note, Save-A-Minute did not have a conditional use permit or conditions of approval that regulated the operation of the business.

APPEAL INFORMATION

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

EXHIBITS LIST

1. Staff Recommended Findings
2. Staff Recommended Conditions of Approval
3. Aerial Photo/Location
4. General Plan Map
5. Zoning Map
6. Project Plans (Site Plan, Floor Plan, Conceptual Landscaping)
7. Existing Site Photos
8. ABC Alcohol License Concentration Map & List
9. Separation Requirements
10. Applicant Prepared Variance Justifications (Spanish/English)
11. Applicant Prepared PCorN Justifications
12. Statement of Operations (Spanish/English)
13. Public Comment Letter

Report and Recommendations Prepared by:
Report and Recommendations Reviewed by:
Report and Recommendations Approved by:

Gaby Adame, Assistant Planner
Patricia Brenes, Principal Planner
Ted White, City Planner



EXHIBIT 1 – STAFF RECOMMENDED FINDINGS

PLANNING CASES: P16-0422 (CUP), P16-0660 (PCRN), P16-0696 (VR)

Conditional Use Permit Findings pursuant to Chapter 19.760

- a. The proposed off-sale of alcohol in conjunction with an existing market is consistent with the General Plan 2025 and the intent and purpose of the DSP- Downtown Specific Plan land use designation;
- b. The proposed off-sale of alcohol in conjunction with an existing market will not have substantial adverse effects on the surrounding property or uses, and will be compatible with the existing and planned land use character of the surrounding area;
- c. The proposed off-sale of alcohol in conjunction with an existing market use is substantially compatible with other existing and proposed uses in the area, including factors relating to the nature of its location, operation, building design, site design, traffic characteristics and environmental impacts;
- d. The proposed off-sale of alcohol in conjunction with an existing market use will not be materially detrimental to the health, safety and general welfare of the public or otherwise injurious to the environment or to the property or improvements within the area, with implementation of the recommended conditions of approval;
- e. The proposed off-sale of alcohol in conjunction with an existing market use will be consistent with the purposes of the Zoning Code and the application of any required development standards is in the furtherance of a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest; and
- f. The proposed off-sale of alcohol in conjunction with an existing market is compliant with the majority of the standards applicable to the proposed development.

Variance Findings

1. *The strict application of the provisions of the Zoning Code would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the Zoning Code.*

The proposal complies with this finding. The subject site is a local family market that is seeking to meet the demand of the neighborhood. Additionally, the request complies with the purpose of Alcohol Sales in Chapter 19.450 of the Zoning Code, which is to regulate the sale of alcohol in such a way that compatibility with surrounding uses and properties will be ensured and any associated impacts are avoided. Unlike a bar, which typically serves alcohol until two in the morning, the project site will only be open until 7:00 a.m. to 9:00 p.m. seven days a week.

2. *There are special circumstances or conditions applicable to the property involved or to the intended use or development of the property that do not apply generally to other property in the vicinity and under the identical zoning classification.*

The proposal complies with this finding. This project site complies with the intent of the separation requirements, which is to prevent nuisance or undesirable situations from entering neighborhoods. The restaurant will not be open later than 9:00 p.m. Monday through Sunday.

3. *The granting of such variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located.*

The proposal complies with this finding. The applicant is improving the site by restriping the parking lot, adding ADA access, updating lighting, and landscaping, which the site does not currently have. The applicant has also proposed to install security cameras in compliance with Riverside Police Department's request.

4. *The granting of the variance will not be contrary to the objectives of any part of the General Plan*

Based on the scope of the requested variance, the granting of this request will not be contrary to the objectives of the General Plan 2025.



EXHIBIT 2 – STAFF RECOMMENDED CONDITIONS OF APPROVAL

RECOMMENDED CONDITIONS & GENERAL INFORMATION NOTES

PLANNING CASES: P16-0422 (CUP), P16-0660 (PCRN), P16-0696 (VR)

Case Specific

Planning

1. The conditional use permit is subject to mandatory six-month review (after commencement of alcohol sales). In addition to any other stipulations made by the Planning Division, three or more verified complaints within any 12-month period received by the Riverside Police Department regarding disturbances caused at the site by patrons or staff shall be grounds for revocation proceedings.

Operational Conditions

2. All storage and display of merchandise and supplies must be conducted within the convenience store building.
3. The off-sale of beer and wine shall be limited to 7:00 a.m. to 9:00 p.m.
4. 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.
5. 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.
6. Provisions shall be made for regular on-site maintenance and clean-up of the property.
7. No displays of beer or wine shall be located within five feet of the store's entrance, windows or checkout counter.
8. Only employees age 21 or over shall be permitted to engage in the sale of alcohol.

Riverside Police Department

Alcohol

9. 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).

10. 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 Riverside Municipal Code.
11. No cold single units of beer or fortified wine shall be allowed to be sold.
12. No displays of alcohol shall be located within five feet of the store's entrance, windows or checkout counter.
13. 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.

Security

14. Installation of a security camera surveillance system consisting of the latest high definition video technologies with the minimum requirement of having the ability to save recorded video for a 14 day period and which shall also be made available to the Riverside Police Department upon request within 24 hours. An on-site manager shall have working knowledge on how to retrieve video when requested by Riverside Police Department.
15. 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.
16. 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.
17. Management shall actively participate in Business Watch through the Riverside Police Department.

Entertainment

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

Grounds

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

Compliance

23. 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.

Standard Conditions

24. There shall be a two-year time limit in which to commence the project beginning the day following approval by the Planning Commission unless a public hearing is held by City Council; in that event the time limit begins the day following City Council approval.
25. 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.
26. The Project must be completed per the Conditional Use Permit 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. Upon completion of the Project, a 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.
27. 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.
28. 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 satisfaction of the Planning Division.
29. 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.
30. 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.
31. 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.

32. 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 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.
33. 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.
34. Failure to abide by all conditions of this permit shall be cause for revocation.
35. The plans shall be submitted for plan check review to assure that all required conditions have been met prior to exercising of this permit.
36. 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.
37. 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.