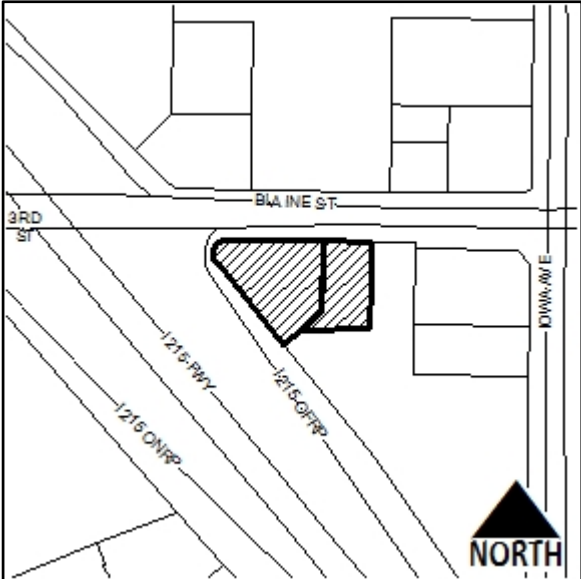




**PLANNING COMMISSION HEARING DATE: JULY 25, 2019
AGENDA ITEM NO.: 3**

PROPOSED PROJECT

| | | |
|---------------------------------|--|--|
| <i>Case Numbers</i> | P18-0492 (Conditional Use Permit) P18-0590 (Public Convenience or Necessity) P18-0591 (Variance) P18-0592 (Variance) P18-0593 (Variance) | |
| <i>Request</i> | To consider the following entitlements to permit a Type 20 Alcohol License (Off-Sale Beer and Wine) in conjunction with an existing gas station convenience store: 1) Conditional Use Permit for alcohol sales; 2) Determination of Public Convenience or Necessity to allow the off-sale of beer and wine in an over concentrated census tract; and 3) Variances to allow reduced separation requirements from an assemblies of people – non-entertainment, an existing business with the concurrent sale of vehicle fuel with alcoholic beverages, and an existing business licensed for off-sale general alcoholic beverage sales with less than 15,000 square feet of floor area. | |
| <i>Applicant</i> | Surinder Pal Singh of Gurkirpa Properties, Inc. | |
| <i>Project Location</i> | 1340 and 1360 Blaine Street, on the southeast corner of Blaine Street and Interstate 215 |  |
| <i>APNs</i> | 250-150-013 and 250-150-002 | |
| <i>Project Area</i> | 0.84 acres | |
| <i>Ward</i> | 1 | |
| <i>Neighborhood</i> | University | |
| <i>Specific Plan</i> | N/A | |
| <i>General Plan Designation</i> | C – Commercial | |
| <i>Zoning Designation</i> | CR – Commercial Retail Zone | |
| <i>Staff Planner</i> | Candice Assadzadeh, Senior Planner 951-826-5667 cassadzadeh@riversideca.gov | |

RECOMMENDATIONS

Staff recommends that the Planning Commission:

1. **DETERMINE** that the project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines, as the project will not have a significant effect on the environment; and
2. **APPROVE** Planning Cases P18-0492 (Conditional Use Permit), P18-0590 (Public Convenience or Necessity), P18-0591 (Variance), P18-0592 (Variance), P18-0593 (Variance) based on the findings outlined in the staff report and summarized in the attached findings and subject to the recommended conditions (Exhibits 1 and 2).

SITE BACKGROUND

The subject site consists of 0.84-acres, currently developed with a service station comprised of ten fuel dispensers, convenience store, and an automated car wash on the ground floor of a two-story building that also includes a manager's office. The gas station and convenience store operate 24 hours a day, seven day a week. Surrounding lands uses include commercial uses to the north across Blaine Street, commercial uses to the south and east, and Interstate 215 to the west (Exhibit 3).

As a matter of information, on September 7, 2017, the City Planning Commission approved a Conditional Use Permit and Design Review (Planning Cases P16-0082 and P16-0083) to permit the expansion of the existing service station.

PROPOSAL

The applicant is requesting approval of a Conditional Use Permit to permit a Type 20 Alcohol License (Off-Sale Beer and Wine) in conjunction with an existing gas station convenience store and a Determination of Public Convenience or Necessity to allow the off-sale of beer and wine in an over concentrated census tract. Variances are requested to allow reduced separation requirements from: 1) an assemblies of people – non-entertainment; 2) an existing business with the concurrent sale of vehicle fuel with alcoholic beverages; and 3) an existing business licensed for off-sale general alcoholic beverage sales with less than 15,000 square feet of floor area. No physical improvements are proposed to the building in conjunction with this request.

The proposed project includes a display area for the beer and wine that is approximately 48 square feet and located within four refrigerated coolers (Exhibit 6). The display areas constitutes approximately 2 percent of the total store area.

PROJECT ANALYSIS

Authorization and Compliance Summary

| | Consistent | Inconsistent |
|---|-------------------------------------|--------------------------|
| <p><i>General Plan 2025</i></p> <p>The proposed project is consistent with the underlying General Plan 2025 land use designation of C – Commercial, which will further the intent of the General Plan by facilitating retail, sales, and service and uses that serve multiple neighborhoods within the City (Exhibit 4).</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <p><i>Zoning Code Land Use Consistency (Title 19)</i></p> <p>The project site is zoned CG – Commercial General Zone, which permits the sale of alcoholic beverages subject to the approval of a Conditional Use Permit and compliance with Site Location, Development, and Operational Standards (Exhibit 5).</p> <p>The proposal is generally consistent with the applicable development standards of the Zoning Code with the exception of three separation requirements for the off-sale of alcoholic beverages. The Zoning Code allows for consideration of Variances to deviate from the development standards. The Applicant is requesting Variances to facilitate implementation of this project (Exhibit 7).</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <p><i>Compliance with Citywide Design & Sign Guidelines</i></p> <p>No physical improvements are proposed to the building in conjunction with the Conditional Use Permit. Any future site modifications will be subject to consistency with the applicable provisions of the Citywide Design and Sign Guidelines for commercial development.</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <p><i>Riverside County Airport Land Use Compatibility Plan</i></p> <p>The project is located in Zone E (Other Airport Environs) of the March Air Reserve Base Land Use Compatibility Plan (MARB LUCP). This zone is identified as having a low safety risk level and a low noise impact level, and contains no restrictions on development. The project was analyzed for consistency with Zone E and staff concluded that the proposed project is consistent.</p> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

COMPLIANCE WITH APPLICABLE DEVELOPMENT STANDARDS

| Chapter 19.450 Concurrent Sale of Motor Vehicle Fuel with Alcoholic Beverages Sales | | | | | |
|--|---|------------|---|-------------------------------------|-------------------------------------|
| Standard | | | Proposed | Consistent | Inconsistent |
| Setbacks | Residential Zone or Use | 100 feet | MU-V – Mixed-Use Village Zone: 155 feet | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | Schools, Assemblies of People-Non Entertainment Facilities, Public Park | 600 feet | Church In Riverside (3340 Iowa Avenue): 502 feet John W. North High School (1550 3 rd Street): 794 feet Patterson Park (1846 Linden Street): 3,030 feet | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | Other Business with Concurrent Sale of Motor Vehicle Fuel with Alcoholic Beverage | 300 feet | UCR Shell (3261 Iowa Avenue): 294 feet | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | Other Off-Sale General Licenses | 1,000 feet | Campus Liquor (3375 Iowa Avenue): 50 feet | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| | Existing Parolee/Probationer Home, Emergency Shelter, and Supportive Housing | 1,000 feet | Path of Life Ministries (2880 Hulen Place): 3,350 feet | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

PUBLIC CONVENIENCE OR NECESSITY DETERMINATION

| California Department of Alcoholic Beverage Control (Census Tract 422.09) Off-Sale Alcohol Licenses | | | | | | |
|---|---|-------------------|-------------------|--|--------------------------|-------------------------------------|
| Standard | | Existing Licenses | Proposed Licenses | Total Number of Existing and Proposed Licenses | Consistent | Inconsistent |
| Maximum Number of Off-sale Licenses | 2 | 9 | 1 | 10 | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

The subject site is located in Census Tract 422.09. Per the California Department of Alcoholic Beverage Control (ABC), there are nine existing off-sale licenses within the tract, where two off-sale licenses are permitted (Exhibit 8). The proposed license would be the tenth off-sale license in the tract requiring a determination of Public Convenience or Necessity 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 sale of beer and wine will be clearly incidental as evidenced by the small display area for beer and wine;
2. Given the wide array of general and convenience merchandise sold at this facility, off-sale of beer and wine is anticipated to amount to a small percentage of gross sales at this facility; and
3. The alcohol license will be located on a site with adequate parking and lighting. As such, the incidental sale of beer and wine in conjunction with the vehicle service station would be a convenience to patrons and area residents.

FINDINGS SUMMARY

Conditional Use Permit

The proposed off-sale of beer and wine, concurrent with the sale of motor vehicle fuel, is an appropriate use for the interchange of Blaine Street and SR-60/I-215. The proposed project will provide convenient and accessible goods and services to neighborhood residents.

The Riverside Police Department reviewed the proposed project, including the Security Plan (Exhibit 9). There is no objection to the proposed project, provided that the operator complies with the recommended conditions of approval. Staff can support the proposed Conditional Use Permit and recommends approval of the proposed project.

Variances

The Zoning Code establishes the minimum separation requirements for concurrent sale of motor vehicle fuel with alcohol beverages. The applicant is requesting the following Variances:

- To allow off sale of beer and wine within 600 feet of an assemblies of people – non-entertainment;
- To allow off sale of beer and within 300 feet of another business with concurrent sale of motor vehicle fuel with alcoholic beverages; and
- To allow off sale of beer and wine within 1,000 feet of another business licensed for off-sale general alcoholic beverage sales that sells alcoholic beverage as its principal business.

The applicant provided justifications in support of the Variance requests (Exhibit 10). Staff is able to make the necessary findings in support of the Variances to allow the reduced separation requirements for the off-sale of alcoholic beverages. The sale of beer and wine will be incidental to the primary use and will provide an additional convenience for the customers. The General Plan designates the majority of the properties fronting Blaine Street for commercial, mixed-use, and high-density residential uses, which creates a unique and harmonious development and synergy of uses in the neighborhood. Staff can support the proposed Variances and recommends approval of the proposed project.

ENVIRONMENTAL REVIEW

This proposed project is exempt from California Environmental Quality Act (CEQA) review pursuant to Section 15301 (Existing Facilities) of the CEQA Guidelines, as the project will not have a significant effect on the environment.

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, no responses have been received by staff regarding this project.

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. Location Map
4. General Plan Map
5. Zoning Map
6. Project Plans (Site Plan, Floor Plan)
7. Distance Requirements Map
8. ABC Alcohol License Census Tract Concentration Map
9. Public Convenience or Necessity Request and Security Plan
10. Applicant Prepared Variance Justifications
11. Existing Site Photos

Prepared by: Candice Assadzadeh, Senior Planner
Reviewed by: Patricia Brenes, Principal Planner
Approved by: Mary Kopaskie-Brown, City Planner



EXHIBIT 1 – FINDINGS

PLANNING CASES: **P18-0492** (Conditional Use Permit)
 P18-0590 (Public Convenience or Necessity)
 P18-0591 (Variance)
 P18-0592 (Variance)
 P18-0593 (Variance)

A. Conditional Use Permit Findings Pursuant to Chapter 19.760.040

1. The proposed project 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;
2. The proposed project 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; and
3. The proposed project 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.

B. Variance Justification Findings Pursuant to Chapter 19.720.040

Variance A: To allow alcohol sales within 600 feet of an assemblies of people – non-entertainment use.

Variance B: To allow alcohol sales within 300 feet from another business with concurrent sale of motor vehicle fuel with alcoholic beverages.

Variance C: To allow alcohol sales within 1,000 feet from another business licensed for off-sale general alcoholic beverage sales that sells alcoholic beverage as its principal business.

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.*

Variances A, B & C: The proposed project **complies** with this finding. Strict application of the Zoning Code would require a minimum 600 foot separation from an assemblies of people – non-entertainment use, 300 foot separation from another business with concurrent sale of motor vehicle fuel with alcoholic beverages, and 1,000 foot separation from any businesses licensed by the State of California for off-sale general alcoholic beverage sales that sells alcoholic beverages as its principal business as measured from the outside walls of the convenience store building to the nearest property line of the subject location. The request complies with the purpose and intent of alcohol sales development standards (Chapter 19.450) of the Zoning Code, which regulates the sale of alcohol to ensure compatibility with surrounding uses and properties, and any associated impacts are avoided.

In this instance, the exterior wall of the convenience store building is approximately 502 feet to the nearest property line of an assembly of people – non-entertainment (Church In Riverside, located at 3340 Iowa Avenue); 294 feet from another business with concurrent sale of motor vehicle fuel with alcoholic beverages (UCR Shell, located 3261 Iowa Avenue); and 50 feet from another business licensed for off-sale general alcoholic beverage sales that sells alcoholic beverages as its principal business (Campus Liquor, located 3375 Iowa Avenue). To meet the minimum required separation, the proposed off-sale establishment would need to be moved more than 800 feet to the northwest, placing it in closer proximity to John W. North High School to the west, contrary to the purposes of the Zoning Code. The strict application of the provision of the Zoning Code would preclude the off-sale of beer and wine on this site and result in a practical difficulty or unnecessary hardship in the development of this property.

2. *There are exceptional circumstances or conditions applicable to this property or to the intended use or development of this property which do not apply generally to other property in the same zone or neighborhood.*

Variances A, B & C: The proposed project **complies** with this finding. The project site is located on Blaine Street, designated in the General Plan as a 120-foot arterial. Blaine Street provides connections between many neighborhoods and business centers, feeding into local streets. The General Plan designates the majority of the properties fronting Blaine Street for commercial, mixed-use, and high-density residential uses, which creates a unique and harmonious development and synergy of uses in the neighborhood. Mixed-use development has organically occurred over time and created special circumstances for the project, in that it is adjacent to an existing assembly of people – non-entertainment, near another business with concurrent sale of motor vehicle fuel with alcoholic beverages, and near another business licensed for general off-sale of alcoholic beverages. These conditions constitute an exceptional circumstance not generally applicable to similar properties in the CR – Commercial Retail Zone or neighborhood.

3. *Granting this request will not prove materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood in which the property is located.*

Variances A, B & C: The proposed project **complies** with this finding. The sale of beer and wine will be incidental to the primary use and provide an additional convenience for the customers. The Riverside Police Department has no objections to this proposed project subject to conditions of approval requiring the use of security cameras, the continued upkeep of the property, and the prohibition of loitering. A public notice was sent to property owners within 1,000 feet of the project site and no responses have been received regarding this request. Granting the Variance will not have a detrimental impact on the neighborhood.

4. *Granting the request will not be contrary to the objectives of the General Plan.*

Variances A, B & C: The proposed project **complies** with this finding. Based on the scope of the requested variance, granting this request will not be contrary to the objectives of the General Plan 2025.



CITY OF RIVERSIDE

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

PLANNING DIVISION

EXHIBIT 2 – STAFF RECOMMENDED CONDITIONS OF APPROVAL

PLANNING CASES: **P18-0492** (Conditional Use Permit)
 P18-0590 (Public Convenience or Necessity)
 P18-0591 (Variance)
 P18-0592 (Variance)
 P18-0593 (Variance)

Planning Division

1. All applicable Conditions of Approval of Planning Cases P16-0082 (Conditional Use Permit) and P16-0083 (Design Review) shall apply.

Operational Conditions:

2. The subject property shall be 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.
3. The display of beer and wine shall be limited to a maximum 48 square feet, located within four refrigerated coolers. No outdoor display of alcohol shall be permitted.
4. 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.
5. Cold beer or wine shall be sold from, or displayed in, permanently affixed electrical coolers only.
6. No beer or wine advertising shall be located on gasoline islands, no lighted advertising for beer or wine shall be located on buildings or in windows.
7. Employee on duty between the hours of 10:00 p.m. and 2:00 a.m. shall be at least 21 years of age to sell beer and wine.
8. A copy of the Conditional Use Permit and the final Conditions of Approval shall be available at the site and presented to any 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.
9. 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.
10. 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.
11. All operations shall be in compliance of the Riverside Municipal Code including, but not limited to, Title 7 (Noise Control).

Standard Conditions:

12. There shall be a one-year time limit on this approval 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.

13. 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.
14. The Conditional 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.
15. 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.
16. 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. The Applicant 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.
17. The Applicant 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.
18. Failure to abide by all conditions of this Conditional Use Permit shall be cause for revocation.
19. 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.
20. 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.
21. 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.

Police Department

Operational Conditions:

Alcohol

22. The business shall follow the guidelines of the Alcohol Beverage Control (ABC) requirements for acting as an off-sale premise.
23. There shall be no consumption of alcoholic beverages on the property and this requirement will be prominently posted throughout the property.
24. No single units of beer or fortified wine/liquor shall be allowed to be sold. Beer shall only be sold in three packs or larger pre-packaged lots.
25. No displays of beer or wine/liquor shall be located within five feet of the store's entrance, windows or checkout counter.
26. 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

27. The parking lot of the premises shall be equipped with lighting of sufficient power to illuminate and make easily discernible the appearance and conduct of all persons on or about the parking lot.
28. 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.
29. A security camera surveillance system shall be in constant use and made available for review by members of the Riverside Police Department.
30. Management shall actively participate in Business Watch through the Riverside Police Department.

Entertainment

31. There shall be illegal gambling devices, such as coin-pushers or video slot machines, etc. maintained upon the premises at any time.
32. Any adult-oriented magazines, video tapes and other similar materials shall be displayed in an area partitioned off from, and not visible to, the general public or minors and shall be labeled "Adults Only."

Grounds

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

Compliance

37. 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.

38. The required conditional use permit is subject to a mandatory six-month review by the Planning Division and the Riverside Police Department. 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.