

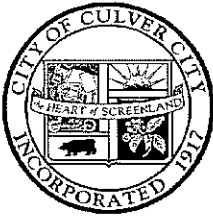
MEETING DATE: **04.20.09**

AGENDA ITEM: **Consideration of Initiation of Appeal of the Director's
Decision Granting an Administrative Use Permit for the
Off-Sales of Beer and Wine Incidental to a Proposed
New 7-Eleven Convenience Store Located at 5900-5902
Washington Boulevard**

ATTACHMENTS

1. April 3, 2008 AUP Decision Letter

Pages
1 - 5



THOMAS GORHAM
DEPUTY COMMUNITY
DEVELOPMENT DIRECTOR

Culver CITY

PLANNING DIVISION

ATTACHMENT 1

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9770 CULVER BOULEVARD, CULVER CITY, CALIFORNIA 90232-0507

April 3, 2009

Anil Ali
2637 33rd Street
Santa Monica, CA 90405

NOTICE OF DECISION: ADMINISTRATIVE USE PERMIT, AUP P-2009009

5900-5902 Washington Boulevard in the East Washington Overlay (EWO) zone and the Industrial General (IG) zone.

Dear Mr. Anil:

This letter is to inform you that we have approved your Administrative Use Permit, AUP P-2009009, subject to conditions of approval for the off-sales of beer and wine incidental to a proposed new 7-Eleven convenience store located at 5900-5902 Washington Boulevard within a retail center.

Request and Background

Culver City Municipal Code (CCMC) Title 17 - Zoning, Section 17.400.015 requires an Administrative Use Permit (AUP) to sell alcoholic beverages incidental to a convenience store that is located in the Industrial General Zoning District and within 300 feet of residentially zoned property. The underlying EWO and IG zone standards and general regulation standards apply.

On February 26, 2009, notification of the administrative pending decision of this application for beer and wine sales incidental to a 7-Eleven convenience store, and invitation to submit comments was sent to property owners and occupants within 500-feet of the proposed convenience store.

Several comments were received expressing concern regarding the number of existing businesses that sale alcohol in the area. Business license and Alcoholic Beverage Control records show that there are currently four convenience/liquor stores on Washington Boulevard between National Boulevard and Fairfax Avenue that sell alcohol. This does not include restaurants or bars. Other comments received were related to potential crime and loitering in the proposed convenience store parking lot. The Culver City Police Department reviewed the application and had no objections or comments. In addition, there have not been verified nuisances related to alcohol sales at the two existing 7-Eleven convenience

stores in the city and conditions have been placed on the proposed operation to address loitering in the parking lot of the retail center and noise impacts to the neighbors.

Alcoholic beverages (beer and wine) are typical products sold at 7-Eleven convenience stores along with packaged groceries, prepared food, and essential products used for daily living. Conditions of Approval contained herein will ensure that the applicant conducts the use with due regard to the character of the neighborhood. In addition, the conditions contain provisions for revocation or modification of the permit if unexpected problems linked to the proposed use occur.

The administrative decision herein was reached after closure of the comment period.

Findings

The following necessary findings for an AUP have been made pursuant to Zoning Code Section 17.530.020:

- 1. The proposed use is allowed within the subject zoning district with the approval of an Administrative Use Permit and complies with all other applicable provisions of this Title and the CCMC.**

The primary convenience store use is a permitted use in the EWO and IG zone. The proposed use, off-sales of beer and wine incidental to a convenience store, is allowed within the subject zoning district with the approval of an Administrative Use Permit (AUP) subject to required findings. The required findings to approve the AUP have been made herein. The proposed use as conditioned will comply with all other applicable Provisions of Title 17- Culver City Zoning Code and the Municipal Code.

- 2. The proposed use is consistent with the General Plan and any applicable Specific Plan.**

The proposed use, off-sales of beer and wine incidental to a convenience store, is consistent with the General Corridor General Plan designation which promotes small commercial establishment that serve the community. The proposed use will provide basic shopping opportunities for the nearby commercial tenants, commuters and the nearby residential neighborhood. There is no Specific Plan for this area.

- 3. The design, location, size, and operating characteristics of the proposed use are compatible with the existing and future land uses in the vicinity of the subject site.**

There is a variety of commercial uses surrounding the project site and within the retail center that the project is located. The subject site does not immediately abut any residential properties and does not have direct access to any residential neighborhoods. The closest residential uses are over 300 feet away to the west across Ballona Creek. The project has been conditioned to ensure compatibility with the neighborhood and future land uses in the vicinity of the subject site. Should unexpected negative impacts arise from the conduct of the proposed use, this Administrative Use Permit may be subject to revocation or modification as deemed necessary. Improvements to the site including landscaping,

parking, and façade were previously approved through a building permit. The interior improvements for the convenience store will be reviewed through a building permit and will meet all current building, zoning, and fire codes.

4. The subject site is physically suitable for the type and intensity of use being proposed, including access, compatibility with adjoining land uses, shape, size, provision of utilities, and the absence of physical constraints.

The 7-Eleven convenience store will be located in a small retail center that includes Pizza Hut, an optometry office, and a salon which are uses commonly found in a small retail center. The proposed convenience store will occupy approximately 2,500 square feet of tenant space and tenant improvements for the space will be reviewed separately. The retail center requires 20 on-site parking spaces pursuant to the Zoning Code and 28 on-site parking spaces are being provided. The project site is compatible with surrounding commercial uses and is found to be physically suitable for the proposed use subject to compliance with the conditions of approval contained herein.

5. The establishment, maintenance or operation of the proposed use will not be detrimental to the public interest, health, safety, or general welfare, or injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

The applicant is requesting to sale alcohol (beer and wine) incidental to a convenience store that would serve those who live and work nearby and permit them to patronize a neighborhood establishment rather than driving elsewhere. The convenience store will also offer packaged groceries, prepared food, and essential products used for daily living.

The proposed use will serve the public convenience and welfare and as cited is compatible with the character of the surrounding uses. The conditions of approval will ensure that the operation of the convenience store including off-sales of beer and wine will not be detrimental to the public interest, health, safety, or general welfare, or injurious to persons, property, or improvements in the vicinity and zoning district in which the property is located.

Conditions of Approval

Planning

Based upon the above findings, and on authority found in Zoning Code Section 17.530.025, Administrative Use Permit, AUP P2009009, is hereby approved, subject to the following conditions:

1. The proposed use shall comply with all applicable provisions of the Culver City Zoning Ordinance and the Culver City Municipal Code (CCMC).
2. This Administrative Use Permit shall be valid for beer and wine sales only incidental to the convenience store. There shall be no sale of hard liquor.

3. The convenience store shall operate with regard for the character of the surrounding neighborhood, and the right is reserved to the Deputy Community Development Director to impose additional corrective conditions, if, in the Deputy Community Development Director's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent properties.
4. All graffiti on site shall be removed or painted within over to match the color of the surface to which it is applied within 24 hours of its occurrence.
5. Consumption of alcohol on the premises shall be strictly prohibited. Signage shall be posted at the project site prohibiting alcohol consumption on the premises and shall be visible to the public.
6. There shall be no exterior advertising or sign of any kind, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
7. Beer and wine may only be sold daily between the hours of 6:00 a.m. and 2:00 a.m.
8. The applicant shall be responsible for discouraging loitering on the subject property.
9. Any new sign(s) shall comply with the provisions of Zoning Code Section 17.330 and shall be approved by the Planning Division.
10. All windows shall be maintained reasonably free of signs and other material which would inhibit views into the facility.
11. The subject facility, including the parking lot, shall be maintained in an attractive condition and be kept free of trash and debris at all times.
12. Exterior lighting on the building shall be maintained and provide sufficient illumination of the immediate vicinity so as to render objects or persons clearly visible. Said lighting shall be directed in such a manner so as to not illuminate any nearby properties.
13. Electronic age verification device(s) shall be installed on the premises which are used to determine the age of any individual attempting to purchase alcohol. These devices shall be maintained in an operational condition and all employees shall be instructed in their use.
14. At any time during the period of validity of this permit, should documented evidence be submitted showing continued violation of any condition of this permit, resulting in an unreasonable level of disruption or nuisance to the neighboring properties, the Deputy Community Development Director reserves the right to revoke or modify the Administrative Use Permit as outlined in the Culver City Municipal Code Section 17.660.015 A.

15. A Covenant and Agreement shall be signed and notarized prior to the business tax certificate issuance certifying the property owner acknowledges and agrees the covenant and agreement shall run with the land and shall be binding on any subsequent owners, heirs or assigns.
16. The project shall comply with all applicable CCMC noise regulations.
17. These conditions of approval shall be retained on the property at all times and shall be produced immediately upon the request of the Planning Division, Police Department, Code Enforcement Division, Building Safety Division or any other enforcement agency.
18. This Administrative Use Permit will expire if not used within one year after the date it becomes effective, unless the applicant submits an extension request in writing, and is granted the said extension by the Deputy Community Development Director. If the sale of alcohol ceases for one year or more after this Administrative Use Permit becomes effective, then this AUP will become null and void.
19. The applicant and property owner shall indemnify, defend and hold harmless the City, and the City's elected and appointed officials, officers, employees, agents, contractors and consultants from and against any and all claims, demands, lawsuits, judgments, liability, injury or damage which may result from or arise in connection with third party challenges to the City's approval of the project. Said indemnification shall be set forth in a written instrument acceptable to the City Attorney.

Appeal

This administrative decision may be appealed in accordance with Title 17, Article 17.640, Appeals, by any interested person, within 15 calendar days of approval, or by 5:30 P.M., on April 20, 2009. If no appeal is filed by that date, the decision shall be final. If a timely appeal is filed, we will notify you. If you have any questions, please contact Christina Rios, Assistant Planner, at (310) 253-5756.

Sincerely,



Thomas Gorham
Deputy Community Development Director/Planning Manager

Copy: Decision Letter Binder
Case File