

CITY OF SAN BERNARDINO

AGENDA

FOR THE
PLANNING COMMISSION
REGULAR MEETING
DECEMBER 10, 2024

6:00pm

BOARD ROOM • 201 NORTH E STREET, 3RD FLOOR • SAN BERNARDINO, CA 92401 • WWW.SBCITY.ORG

Casey A. Dailey

COMMISSIONER, WARD 1

Amelia S. Lopez

COMMISSIONER, WARD 2

Ivan Garcia

COMMISSIONER, WARD 3

Larry Quiel

COMMISSIONER, WARD 4

Jesus F. Flores

COMMISSIONER, WARD 5



Dolores Armstead

COMMISSIONER, WARD 6

George J. Karaiscos

COMMISSIONER, WARD 7

Lisa Sherrick

COMMISSIONER,
MAYOR'S APPOINTEE

Orlando Garcia

COMMISSIONER,
MAYOR'S APPOINTEE

Gabriel Elliott

STAFF LIAISON

CALL TO ORDER**PLEDGE OF ALLEGIANCE****ROLL CALL****PUBLIC COMMENTS FOR ITEMS LISTED AND NOT LISTED ON THE AGENDA**

A three-minute limitation shall apply to each member of the public who wishes to address the Planning Commission on any item on the agenda, excluding public hearings. There is no limit to the number of items that may be discussed within the three-minute time limit. To be called on by the Chairperson, please turn in individual speaker slips to the Secretary by 6:00 p.m. the day of the meeting. If you wish, you may email your speaking request to CEDPublicComment@sbcity.org by 5pm the day before the meeting. Emailed requests to speak will not be accepted from anyone but the person requesting to speak.

CONSENT CALENDAR

There will be no separate discussion of Consent Calendar items unless a Commissioner requests that the item be considered in its normal sequence on the agenda.

1. Approval of Draft Minutes

Recommendation: Approve the minutes of the Regular Meeting of November 12, 2024.

PUBLIC HEARING**2. Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04**

Subject: A request to allow for an Alcoholic Beverage Control Type 21 (Off-Sale General) License within an existing, approximately 2,072 square foot Gas Station and Convenience Store.

Location:	907 W. Mill Street
Zone:	Commercial General (CG-1)
Environmental Determination:	Categorically Exempt, pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines
Owner:	Babbu Bolewal, LLC
Applicant:	Lucky P.B.G 5, Inc.
APN:	3
Ward:	0141-271-17
Project Manager:	Angelyn Mendoza, Assistant Planner

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-048 approving Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04, based on the Findings of Fact and subject to the recommended Conditions of Approval; and finding the project is subject to a Categorical Exemption under the California Environmental Quality Act.

3. Development Code Amendment 24-06

Subject: A City-initiated amendment to Section 19.02.50 (Basic Provisions - Definitions) of the City of San Bernardino Development Code (SBMC Title 19) to update the definitions of Neighborhood Grocery Stores/Supermarkets to align with state and industry standards.

Environmental Determination: Exempt, pursuant to Section 15061(b)(3) (Review for Exemption) of the State CEQA Guidelines
 Applicant: City of San Bernardino – Community Development and Housing Department
 Ward: All
 Project Manager: Michael Rosales, Senior Planner

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-049 recommendation approval of Development Code Amendment 24-06 to the Mayor and City Council, based on the Findings of Fact; and finding the project is subject to an Exemption under the California Environmental Quality Act.

4. General Plan Amendment 23-01, Specific Plan Amendment 23-01, Subdivision 23-05 (Tentative Tract Map 20595), Subdivision 23-06 (Tentative Tract Map 20596), and Subdivision 23-07 (Tentative Tract Map 20597)

Subject: A request to change the General Plan Land Use Designation from Residential Low, Residential Suburban, and Open Space to University Hills Specific Plan, amend the development standards and guidelines for the development plan of 439 proposed single-family residential lots within the University Hills Specific Plan, and allow for the subdivision of 404.3-acre site into three (3) separate Tentative Tract Maps.

Location: Badger Canyon Road and W. Frontline Road
 Zone: University Hills Specific Plan (SP-UH)
 Environmental Determination: Addendum to Final Environmental Impact Report (California State Clearinghouse No. 2007071155), pursuant to Section 15164(b) (Addendum to an EIR) of the State CEQA Guidelines
 Owner: Encore University Hills, LLC
 Applicant: Julian Nan

APN: 0265-041-12, 0265-051-12, -13, 0265-061-16; 0265-011-06, -07, -08; 0265-051-09, and 0265-021-13
Ward: 5
Project Manager: Travis Martin, Principal Planner

Recommendation: Staff recommends that the Planning Commission continue the public hearing for General Plan Amendment 23-01, Specific Plan Amendment 23-01, Subdivision 23-05 (Tentative Tract Map 20595), Subdivision 23-06 (Tentative Tract Map 20596), and Subdivision 23-07 (Tentative Tract Map 20597) to the next regular meeting scheduled on January 14, 2025.

NON-PUBLIC HEARING

PLANNING COMMISSION REPORTS / ANNOUNCEMENTS

DIRECTOR'S REPORT

ADJOURNMENT

The next regular meeting of the Planning Commission will be held on ***Tuesday, January 14, 2025, at 6:00pm in the Board Room located at 201 North E Street, 3rd Floor***, San Bernardino, California 92401.



City of San Bernardino
 290 North D Street
 San Bernardino, CA 92401
<http://www.sbcity.org>

Chairperson Lisa Sherrick
Vice Chairperson Larry Quiel
Commissioners
Casey Dailey
Jesus Flores
George Karaiscos
Amelia Lopez
Ivan Garcia
Dolores Armstead
Orlando Garcia

MINUTES
 FOR THE
 PLANNING COMMISSION
 OF THE CITY OF SAN BERNARDINO

NOVEMBER 12, 2024
BOARD ROOM, 201 NORTH E STREET, 3RD FLOOR

CALL TO ORDER

The Meeting of the Planning Commission of the City of San Bernardino was called to order by Lisa Sherrick at approximately 6:00 pm on November 12, 2024, in the Board Room, 201 North E Street, San Bernardino, CA.

PLEDGE OF ALLEGIANCE

ROLL CALL

Attendee Name	Title	Status	Arrived
Casey A. Dailey	Commissioner, Ward 1	P	X
Amelia S. Lopez	Commissioner, Ward 2	P	X
Ivan Garcia	Commissioner, Ward 3	P	X
Larry Quiel	Commissioner, Ward 4	P	X
Jesus F. Flores	Commissioner, Ward 5	P	X
Dolores Armstead	Commissioner, Ward 6	P	X
George J. Karaiscos	Commissioner, Ward 7	A	
Lisa Sherrick	Commissioner, Mayor's Appointee	P	X
Orlando Garcia	Commissioner, Mayor's Appointee	P	6:08 PM
Gabriel Elliot	Staff Liaison	P	X

PUBLIC COMMENTS FOR ITEMS LISTED AND NOT LISTED ON THE AGENDA

CONSENT CALENDAR

1. Approval of Draft Minutes

Recommendation: Approve the minutes of the Regular Meeting of October 8, 2024.

RESULT:	APPROVED
MOVER:	Commissioner Armstead
SECONDER:	Commissioner Quiel
ABSTAIN:	None
AYES:	Sherrick, Quiel, Daily, Lopez, I. Garcia, Flores, Armstead
NOES:	None
ABSENT:	Karaiscos, O. Garcia

PUBLIC HEARING

2. Real Property Street Vacation 15.30-442

Subject: A request to allow the vacation of a portion of W. lola Place, containing approximately 3,242 square feet, located east of North D Street, and the reservations of utilities therein.

Location:	N/A
Zone:	N/A
Environmental Determination:	Exempt, pursuant to Section 15061(b)(3) (Review for Exemption) of the State CEQA Guidelines
Owner:	City of San Bernardino
Applicant:	GGF III, LLC
APN:	N/A
Ward:	2
Project Manager:	Joshua Dramitinos, Deputy Director

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-040 forwarding a recommendation to the Mayor and City Council recommending approval of Real Property Street Vacation 15.30-442, based on the Finding of Fact; and finding that the project subject to an Exemption under the California Environmental Quality Act.

RESULT:	APPROVED
MOVER:	Commissioner Daily
SECONDER:	Commissioner Armstead
ABSTAIN:	Commissioner O. Garcia
AYES:	Sherrick, Quiel, Daily, Lopez, I. Garcia, Flores, Armstead
NOES:	None
ABSENT:	Karaiscos

Public Speakers: None

3. Appeal 24-05

Subject: An appeal of the Community Development and Housing Department’s approval of Amendment to Conditions of Approval 23-01 for Administrative Development Permit 22-020, in which conditions of approval numbers twenty (20) through twenty-six (26) were redacted from the original Administrative Development Permit 22-020.

Location: 379 E. Industrial Road
 Zone: Industrial Light (IL)
 Environmental Determination: Exempt, pursuant to Section 15061(b)(3) Section (Review for Exemption) and Categorically Exempt, pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines
 Owner: S & E Investments
 Appellant: Waterman Business Center Association
 Applicant: Adesa International LLC
 APN: 0141-581-03
 Ward: 3
 Project Manager: Michael Rosales, Senior Planner

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-033 denying Appeal 24-05 thereby upholding the Community Development and Housing Department’s approval of Amendment to Conditions of Approval 23-01 for Administrative Development Permit 22-020, in which conditions of approval numbers 20 through 26 were redacted from the original Administrative Development Permit 22-020.

Or

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-034 approving Appeal 24-05 thereby restoring the deleted conditions of approval 20 through 26, included with the Community Development and Housing Department’s approval of Amendment to Conditions of Approval 23-01 for Administrative Development Permit 22-020.

Public Speakers: Scott Furniss (7th Street Development), Craig Furniss (7th Street Development), Billy Pratt 9Family Memorial Mortuary), Kendra Carney Mehr (Attorney for Adesa International, LLC)

RESULT:	APPROVED - Resolution No. 2024-034
MOVER:	Commissioner Daily
SECONDER:	Commissioner Sherrick
ABSTAIN:	Commissioner O. Garcia
AYES:	Sherrick, Daily, Lopez, I. Garcia, Flores, Armstead
NOES:	Quiel
ABSENT:	Karaiscos

4. Development Code Amendment 24-03 and Conditional Use Permit 23-04

Subject: A request to modify Development Code Section 19.06.030(2)(Q) (Neighborhood Grocery Stores) regulating the sale of alcoholic beverages for neighborhood grocery stores; and allow an upgrade of the existing Alcohol Beverage Control Type-20 (Off-Sale Beer and Wine) license to an Alcoholic Beverage Control Type-21 (Off Sale General) license for the neighborhood market "La Cadena".

Location: 1111 West 9th Street
 Zone: Commercial General (CG-1)
 Environmental Determination: Categorical Exempt, pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines
 Owner: Tera Masra Inc.
 Applicant: Tera Masra Inc.
 APN: 0139-243-13
 Ward: 1
 Project Manager: Michael Rosales, Senior Planner

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-041 forwarding a recommendation to the Mayor and City Council recommending approval of Development Code Amendment 24-03 and Conditional Use Permit 23-04, based on the Findings of Fact and subject to the recommended Conditions of Approval; and finding the project is subject to a Categorical Exemption under the California Environmental Quality Act.

Or

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-042 approving Conditional Use Permit 23-04, based on the Findings of Fact.

Public Speakers: Melvin "Dick" Evitt (Applicant) & Gurpreet Singh (Owner)

RESULT:	APPROVED – Resolution No. 2024-041
MOVER:	Commissioner O. Garcia
SECONDER:	Vice Chair Quiel
ABSTAIN:	None
AYES:	Sherrick, Quiel, Daily, I. Garcia, Flores, O. Garcia
NOES:	Lopez, Armstead
ABSENT:	Karaiscos

5. Conditional Use Permit 23-15

Subject: A request to allow the development, establishment, and operation of an approximately 1,200 square foot restaurant with drive-thru (Starbucks) on an approximately 0.59 acre parcel.

Location: 1208 W. Highland Avenue
 Zone: Commercial General (CG-1)
 Environmental Determination: Categorically Exempt, pursuant to Section 15303 (New Construction or Conversion of Small Structures) and Section 15332 (In-Fill Development Projects) of the State CEQA Guidelines

Owner: LandexCorp, LLC
 Applicant: LandexCorp, LLC
 APN: 0148-211-40
 Ward: 2

Project Manager: Elizabeth Mora-Rodriguez, Senior Planner

Presented by Chrisian James Calisaan, Assistant Planner

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-026 approving Conditional Use Permit 23-15, based on the Findings of Fact and subject to the recommended Conditions of Approval; and finding the project is subject to a Categorical Exemption under the California Environmental Quality Act.

Public Speakers: Thomas Driessen (Applicant) and Andrea Verdugo (Project Manager)

RESULT:	APPROVED
MOVER:	Commissioner I. Garcia
SECONDER:	Commissioner Lopez
ABSTAIN:	None
AYES:	Sherrick, Quiel, Daily, Lopez, I. Garcia, Flores, Armstead, O. Garcia
NOES:	None
ABSENT:	Karaiscos

6. Conditional Use Permit 24-05 and Public Convenience or Necessity 24-01

Subject: A request to allow for an Alcoholic Beverage Control Type 20 (Off-Sale Beer & Wine) License within an existing convenience store.

Location:	2742 N. Del Rosa Avenue
Zone:	Commercial General (CG-1)
Environmental Determination:	Categorically Exempt, pursuant to Section 15301 (Existing Facilities) of the State CEQA Guidelines
Owner:	Anil Kumar
Applicant:	Anil Kumar
APN:	0272-132-49
Ward:	7
Project Manager:	George Velarde, Associate Planner

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-036 approving Conditional Use Permit 24-05 and Public Convenience or Necessity 24-01, based on the Findings of Fact and subject to the recommended Conditions of Approval; and finding the project is subject to a Categorical Exemption under the California Environmental Quality Act.

Public Speakers: Michael Ayaz (Applicant)

RESULT:	APPROVED
MOVER:	Commissioner Daily
SECONDER:	Commissioner O. Garcia
ABSTAIN:	None
AYES:	Sherrick, Quiel, Daily, I. Garcia, Flores, O. Garcia
NOES:	Lopez, Armstead
ABSENT:	Karaiscos

7. Conditional Use Permit 24-14

Subject: A request to allow the development, establishment, and operation of a restaurant with drive-thru containing approximately 1,000 square feet on a parcel containing approximately 1.23 acres.

Location: South Side of E. Hospitality Lane; West of S. Tippecanoe Avenue

Zone: Commercial Regional (CR-3) and Transit Overlay District (TOD)

Environmental Determination: Categorically Exempt, pursuant to Section 15303 (New Construction or Conversion of Small Structures) of the State CEQA Guidelines

Owner: John Zachary Bonsall

Applicant: Fransico Hernandez

APN: 0281-361-23

Ward: 3

Project Manager: Chantel Choice, Associate Planner

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-043 approving Conditional Use Permit 24-14, based on the Findings of Fact and subject to the recommended Conditions of Approval; and finding the project is subject to a Categorical Exemption under the California Environmental Quality Act.

Public Speakers: None

RESULT:	APPROVED
MOVER:	Commissioner I. Garcia
SECONDER:	Vice Chair Quiel
ABSTAIN:	None
AYES:	Sherrick, Quiel, Daily, Lopez, I. Garcia, Flores, Armstead, O. Garcia
NOES:	None
ABSENT:	Karaiscos

8. Extension of Time 24-05 (for Conditional Use Permit 22-04)

Subject: A request to allow a one (1) year extension of time for Conditional Use Permit 22-04 involving the development, establishment, and operation of a restaurant with a drive-thru containing approximately 1,008 square feet on a parcel containing approximately 0.53 acres.

Location: Southeast corner of E. Highland Avenue and N. Palm Street

Zone: Commercial General (CG-1)

Environmental Determination: Exempt, pursuant to Section 15061(b)(3) (Review for Exemption) and Categorically Exempt, pursuant to Section 15303 (New Construction or Conversion of Small Structures) of the State CEQA Guidelines

Owner: Shuffleboard, LLC

Applicant: John Dodson

APN: 1200-011-24

Ward: 4

Project Manager: Angelyn Mendoza, Assistant Planner

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-044 approving Extension of Time 24-05, based on the Findings of Fact and subject to the recommended Conditions of Approval; and finding the project is subject to a Categorical Exemption under the California Environmental Quality Act.

Public Speakers: John Dodson (Applicant)

RESULT:	APPROVED
MOVER:	Commissioner Daily
SECONDER:	Commissioner O. Garcia
ABSTAIN:	None
AYES:	Sherrick, Quiel, Daily, Lopez, Flores, Armstead, O. Garcia
NOES:	I. Garcia
ABSENT:	Karaiscos

9. Subdivision 23-04 (Tentative Tract Map 20359)

Subject: A request to allow the subdivision (Tentative Tract Map 20359) of a parcel containing approximately 1.42 acres into five (5) single-family lots ranging in size from 7,748 to 13,688 square feet.

Location: Northeast corner of West 27th Street and North D Street

Zone: Residential Suburban (RS)

Environmental Determination: Categorically Exempt, pursuant to Section 15332 (In-Fill Development Projects) of the State CEQA Guidelines

Owner: Appa Investments, LLC

Applicant: Dionisio D. Vallejos

APN: 0149-124-16

Ward: 7

Project Manager: Chantel Choice, Associate Planner

Recommendation: Staff recommends that the Planning Commission adopt Resolution No. 2024-046 approving Subdivision 23-04 (Tentative Parcel Map 20359), based on the Findings of Fact and subject to the recommended Conditions of Approval; and finding the project is subject to a Categorical Exemption under the California Environmental Quality Act.

Public Speakers: Dionisio Vallejos (Property Owner) and John Shollenberger (community member)

RESULT:	APPROVED
MOVER:	Commissioner Daily
SECONDER:	Commissioner Lopez
ABSTAIN:	None
AYES:	Sherrick, Quiel, Daily, Lopez, I. Garcia, Flores, Armstead, O. Garcia
NOES:	None
ABSENT:	Karaiscos

10. Development Code Amendment 24-04

Subject: A City-initiated amendment to Section 19.04.030(2)(P) (Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with recent changes in state law.

Location: N/A
 Zone: N/A
 Environmental Determination: Exempt, pursuant to Section 21080.17 of the California Public Resources Code
 Owner: N/A
 Applicant: City of San Bernardino - Community Development and Housing Department
 APN: N/A
 Ward: All
 Project Manager: Travis Martin, Principal Planner

Recommendation: Staff recommends that the Planning Commission Resolution No. 2024-013 of the Planning Commission of the City of San Bernardino, California, forwarding a recommendation to the Mayor and City Council Recommending approval of Development Code Amendment 24-04 amending Section 19.04.030(2)(P) (Accessory Dwelling Units) of the City of San Bernardino Development Code (SBMC Title 19) in order to update the development standards for Accessory Dwelling Units in compliance with recent changes in state law; and finding that Development Code Amendment 24-04 is exempt from CEQA under Section 21080.17 of the California Public Resources Code.

Public Speakers:

RESULT:	APPROVED
MOVER:	Commissioner Flores
SECONDER:	Commissioner Armstead
ABSTAIN:	None
AYES:	Sherrick, Quiel, Daily, Lopez, I. Garcia, Flores, Armstead, O. Garcia
NOES:	None
ABSENT:	Karaiscos

NON-PUBLIC HEARING**PLANNING COMMISSION REPORTS / ANNOUNCEMENTS**

Commissioner Armstead asked if the General Plan Review had started. Mr. Elliot responded that it has not started but the plan is to start it towards the end of the year. To move forward, the General Plan Action Committee (GPAC) needs to be brought up to date with any changes due to the lag in time since the last meeting. He included that an EIR is also required to go with the General Plan, making it a process that may last until early next year.

Commissioner Ivan Garcia expressed his appreciation for the TV and noise-canceling sound booth for the translators. The commissioners agreed that the large TV made it easier to look at the presentation.

DIRECTOR'S REPORT

Mr. Elliot stated he is unsure when the new council members will be seated, which would mean a change to the Planning Commissioners. Mr. Elliot expressed his gratitude to the commissioners for their time and dedication to the meetings and acknowledged their hard work. He especially thanked those who volunteered to be on the Planning Commission.

ADJOURNMENT

The next regular meeting of the Planning Commission will be held on ***Tuesday, December 10, 2024, at 6:00pm in the Board Room located at 201 North E Street, 3rd Floor***, San Bernardino, California 92401.

By: _____
Alyssa Blancas



Public Hearing: Agenda Item No. 2

**City of San Bernardino
Request for Planning Commission Action**

Date: December 10, 2024
To: Honorable Chairperson and Planning Commissioners
From: Gabriel Elliott, Director of Community Development & Housing
By: Angelyn Mendoza, Assistant Planner
Subject: **Conditional Use Permit 23-09 & Public Convenience or Necessity 23-04**

Applicant

Lucky P.B.G 5, Inc.
c/o Paljatinder Singh
907 W. Mill St.
San Bernardino, CA 92410

Property Owner

Babbu Bolewal LLC
c/o Paljatinder Singh
907 W. Mill St.
San Bernardino, CA 92410

Request

The applicant is requesting the approval of Conditional Use Permit 23-09 and Public Convenience or Necessity 24-04 to allow for an Alcoholic Beverage Control Type 21 (Off-Sale General) License at an existing gas station and convenience store containing approximately 2,072 square feet. The project site is located at 907 West Mill Street.

APN: 0141-271-17
ZONE: Commercial General (CG-1)

Recommendation

The Planning Division of the Community Development and Housing Department recommends that the Planning Commission take the following action:

- 1) Adopt Resolution No. 2024-048 of the Planning Commission of the City of San Bernardino, California, approving Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 allowing an Alcoholic Beverage Control Type 21 (Off-Sale General) License within an existing, approximately 2,072 square-foot Gas Station and Convenience Store located at 907 W. Mill Street (APN: 0141-271-17) within the Commercial General (CG-1) zone; and finding that the project is

subject to a Categorical Exemption under the California Environmental Quality Act (CEQA) (Attachment A).

Public Hearing Noticing

November 20, 2024: Notices were mailed to property owners and residents within 1,000 feet of the exterior boundaries of the subject property, providing the nature of the request, location of the property, the date, time, and place of the Planning Commission meeting of December 10, 2024, Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04.

November 30, 2024: Legal advertisement was published in the San Bernardino Sun Newspaper.

Project Description

Pursuant to the requirements of Chapter 19.36 (Conditional Use Permits) of the City of San Bernardino Development Code, the applicant, Paljatinder Singh, is requesting the approval of Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 to allow for an upgrade from an Alcoholic Beverage Control Type 20 (Off-Sale Beer and Wine) License to an Alcoholic Beverage Control Type 21 (Off-Sale General) License for an existing gas station and convenience store located at 907 W. Mill Street, pursuant to the requirements of Section 19.36 (Conditional Use Permits and Minor Use Permits) of the City of San Bernardino Development Code.

Setting and Site Characteristics

The project site is approximately 0.52 acres located at 907 W. Mill Street on the southeast corner of W. Mill Street and S. I Street (APN: 0141-271-17). The project site is surrounded by commercial and industrial uses.

Table 1 below provides a summary of the surrounding land use characteristics of the subject site and surrounding properties.

TABLE 1: SITE AND SURROUNDING LAND USES

LOCATION	LAND USE	ZONE	GENERAL PLAN DESIGNATION
Site	Shell Gas Station	Commercial General (CG-1)	Commercial
North	General Retail and Automotive-Related Use	Commercial General (CG-1) & Industrial Light (IL)	Commercial and Industrial
South	Funeral Parlors/Mortuaries	Industrial Light (IL)	Industrial
East	Vacant	Industrial Light (IL)	Industrial
West	Self-Storage Facility	Industrial Light (IL)	Industrial

Analysis

The subject site is located within Census Tract No. 0124.00. The California Department of Alcoholic Beverage Control (ABC) reports that Census Tract No. 0124.00 has a population of 3,140 persons and encapsulates approximately 2,173.3 acres. Department of Alcoholic Beverage Control concentration standards allow for a maximum of two (2) off-sale License. There are currently thirteen (13) Off-Sale Licenses within this census tract. The allowance of a Type 21 (Off-Sale General) License upgrade would not increase the number of active Off-Sale Licenses in the subject census tract to fourteen (14). Although the upgrade from a Type 20 (Off-Sale Beer and Wine) License to a Type 21 (Off-Sale General) License would replace the existing License that the site currently holds, current concentration standards report that the subject census tract's off-sale licenses will remain overconcentrated. As such, the applicant requires a Public Convenience or Necessity Letter.

The following are the existing ABC Licenses within Census Tract No. 0124.00 and their approximate distance to the subject site:

Business Name	Address	ABC License Type	Distance (approx.)
Shell (Subject Site)	907 W. Mill Street	Type 20	0 linear feet
G & M Oil	501 Inland Center Drive	Type 20	2,557 linear feet (0.48 miles)
Orange Show Food Mart	520 W. Orange Show Road	Type 20	4,974 linear feet (0.94 miles)
G & M Oil	1930 S. Waterman Avenue	Type 20	11,669 linear feet (2.21 miles)
Shell	1194 S. Waterman Avenue	Type 20	8,237 linear feet (1.56 miles)
7-Eleven	842 S. Inland Center Drive	Type 20	2,435 linear feet (0.46 miles)
7-Eleven	494 W. Orange Show Road	Type 20	5,026 linear feet (0.95 miles)
Chevron	1950 S. Waterman Avenue	Type 20	11,880 linear feet (2.25 miles)
7-Eleven	841 Inland Center Drive	Type 20	2,625 linear feet (0.49 miles)
Ernie's Liquor Mart	539 S. Mount Vernon Avenue	Type 21	2,876 linear feet (0.54 miles)
Target	499 W. Orange Show Road	Type 21	5,386 linear feet (1.02 miles)
El Super	570 S. Mount Vernon Avenue	Type 21	3,083 linear feet (0.58 miles)

Business Name	Address	ABC License Type	Distance (approx.)
La Surtidora II Cash & Carry, Inc.	1375 S. E Street	Type 21	6,758 linear feet (1.28 miles)

Police Department Review

The Police Department has reviewed the application for an allowance of an Alcoholic Beverage Control (ABC) Type 21 (Off-Sale General) License for the existing convenience store and automobile fueling station (Shell) and conducted an investigation based on the information provided and crime statistics within the surrounding area (**Attachment E**).

The Police Department has indicated that there are a total of 219 reporting districts within the City and that there was an average of 70.63 crimes per reporting district during the course of the reporting year. A report was created within a ½ mile radius from the proposed location to identify the number of crimes reported over a twelve (12)-month period. During this period, there were 207 crimes reported and zero (0) of them were alcohol related. However, the Police Department has not provided a recommendation of approval or denial.

In conducting their investigation, the Police Department took into consideration the overconcentration during the reporting period.

General Plan Goals and Policies

The City of San Bernardino General Plan includes goals and policies to guide future development within the City, including the following:

- Land Use Element Policy 2.2.8: Control the location and number of community-sensitive uses, such as alcohol sales, adult bookstores and businesses, game arcades, and similar uses based on proximity to residences, schools, religious facilities, and parks.
- Land Use Element Policy 2.4: Enhance the quality of life and economic vitality in San Bernardino by strategic infill of new development and revitalization of existing development.
- Land Use Element Policy 2.2.9: Require Police Department review of uses that may be characterized by high levels of noise, nighttime patronage, and/or rates of crime; providing for the conditioning or control of use to prevent adverse impacts on adjacent residences, schools, religious facilities, and similar “sensitive” uses.

The proposed project implements the above General Plan goals and policies that the applicant is proposing for Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04. The project also meets the goals and policies governing commercial development within the City of San Bernardino General Plan intended to ensure that there are commercial services and retail in the City that keep pace with new developments.

2020-2025 Key Strategic Targets and Goals

Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 align with the Mayor and City Council 2020-2025 Key Strategic Targets and Goals as follows:

4. Economic Growth and Development. The proposed development will create an economic benefit to the City of San Bernardino as it will increase over all general sales and provide retail sales tax from the sales of alcoholic beverages to the City of San Bernardino.

California Environmental Quality Act

In accordance with Section 15060 (Preliminary Review) of the California Environmental Quality Act (CEQA), the Planning Division conducted an environmental evaluation in connection with proposed Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 and concluded that the proposed project is exempt under CEQA guidelines. Pursuant to Section 15301 (Existing Facilities), a Class 1 Categorical Exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alternation of the existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use. The subject project is currently operating in an existing building and the scope of work upgrades the site's current alcohol license.

Conclusion

The proposed project is consistent with the policies of the City's General Plan and complies with the standards of the City's Development Code. Therefore, staff recommends that the Planning adopt Resolution No. 2024-048 approving Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04; and finding that the project is subject to a Categorical Exemption under the California Environmental Quality Act.

Attachments

Attachment A	Resolution No. 2024-048
Attachment B	Project Justification Letter
Attachment C	Aerial Map
Attachment D	Location/Zoning Map
Attachment E	Police Department Memorandum
Attachment F	Environmental Determination: CEQA Exemption
Attachment G	Powerpoint

RESOLUTION NO. 2024-048 - PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN BERNARDINO, CALIFORNIA APPROVING CONDITIONAL USE PERMIT 23-09 AND PUBLIC CONVENIENCE OR NECESSITY 23-04 TO ALLOW AN ALCOHOLIC BEVERAGE CONTROL TYPE 21 (OFF-SALE GENERAL) LICENSE WITHIN AN EXISTING, APPROXIMATELY 2,072 SQUARE-FOOT CONVENIENCE STORE LOCATED AT 907 W. MILL STREET (APN: 0141-271-17) WITHIN THE COMMERCIAL GENERAL (CG-1) ZONE; AND FINDING THAT THE PROJECT IS SUBJECT TO A CATEGORICAL EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, on July 13, 2023, pursuant to the requirements of §19.36 (Conditional Use Permit) of the City of San Bernardino Development Code, an application for Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 (collectively, the “Project”) was duly submitted by:

Property Owner: Babby Bolewal LLC
c/o Paljatinder Singh
907 W. Mill Street
San Bernardino, CA 92410

Project Applicant: Lucky P.B.G 5, Inc.
c/o Paljatinder Singh
907 W. Mill Street
San Bernardino, CA 92410

Parcel Address: 907 W. Mill Street
APN: 0414-271-17
Lot Area: 0.52 acres

WHEREAS, Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 is a request to allow an Alcoholic Beverage Control Type 21 (Off-Sale General) License within an existing, approximately 2,072 square-foot convenience store on a parcel containing approximately 0.52 acres; and

WHEREAS, the Planning Division of the Community Development and Housing Department has reviewed Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 for consistency with the City of San Bernardino General Plan and compliance with the City of San Bernardino Development Code; and

WHEREAS, pursuant to the requirements of the California Environmental Quality Act (“CEQA”), the Planning Division of the Community Development and Housing Department has evaluated Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 and determined that it is exempt from CEQA pursuant to Categorical Exemption (listed in CEQA

Guidelines Article 19, commencing with Section 15301) and the application of that Categorical Exemption is not barred by one of the exemptions set forth in CEQA Guidelines Section 15300.2; and

WHEREAS, on November 30, 2024, pursuant to the requirements of Section 19.52.020 (Hearings and Appeals – Application Processing) of the City of San Bernardino Development Code, the City gave public notice by advertising in the San Bernardino Sun, a newspaper of general circulation within the City of San Bernardino, and by mailing notices to the owners and tenants of property located within 1,000 feet of the subject property of the holding of a public hearing at which Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 would be considered; and

WHEREAS, on December 10, 2024, pursuant to the requirements of Section 19.52.040 (Hearings – Hearing Procedures) of the City of San Bernardino Development Code, the Planning Commission held the duly-noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to, Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04, and at which meeting the Planning Commission considered Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04; and

WHEREAS, pursuant to the requirements of Chapter 19.36 of the City of San Bernardino Development Code, the Planning Commission has the authority to take action on Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04.

NOW THEREFORE, the Planning Commission of the City of San Bernardino does hereby resolve, determine, find, and order as follows:

SECTION 1. ENVIRONMENTAL DETERMINATION:

As the decision-making body for the Project, the Planning Commission has reviewed and considered the information contained in the administrative record for Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission finds, as follows:

(1) The administrative record has been completed in compliance with CEQA, the State CEQA Guidelines, and the City’s Local CEQA Guidelines, and

(2) In accordance with Section 15301 (Existing Facilities) of the CEQA Guidelines, the Planning Commission has determined that consideration of Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 is exempt from CEQA Guidelines; and

(3) The application of the categorical exemption is not barred by one of the exceptions set forth in the CEQA Guidelines Section 15300.2; and

(4) The determination of CEQA exemption reflects the independent judgement of the Planning Commission.

SECTION 2. FINDINGS FOR CONDITIONAL USE PERMIT 23-09 AND PUBLIC CONVENIENCE OR NECESSITY 23-04:

Pursuant to Section 19.36.050 (Findings) and Section 19.06.030(2)(B) of the City of San Bernardino Development Code, Conditional Use Permit applications are required to meet certain findings prior to their approval by the Planning Commission. Accordingly, the following findings are provided in support of the recommendation by the Planning Commission for the approval of Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04:

Finding No. 1: The proposed alcoholic beverage sales activity establishment is located in a zoning district in which the establishment is a permitted use.

Finding of Fact: The request to allow a license upgrade to an Alcoholic Beverage Control Type 21 (Off-Sale General) License in conjunction with the existing convenience store, subject to the approval of a Conditional Use Permit (CUP) with the appropriate Conditions of Approval and CEQA determination. The project site is located in the Commercial General (CG-1) zone and is substantially surrounded by existing commercial uses. The proposed development complies with all applicable Development Code standards, such as parking, landscaping, building setbacks and height, etc. Therefore, the project would not impair the integrity and character of the subject land use district or be detrimental to surrounding properties.

Finding No. 2: Finding of Public Convenience or Necessity (Business and Professions Code Section 23958.4(b)(2)), if the activity will be located in an area that has been determined by the State of California Department of Alcoholic Beverage Control to have an undue concentration of licenses as defined in Business and Professions Code Section 23958.4(a).

Finding of Fact: The subject site is located within Census Tract 0124.00. The California Department of Alcoholic Beverage Control (ABC) reports that Census Tract No. 0124.00 has a population of 3,140 persons and encapsulates approximately 2,171.8 acres. Department of ABC license concentration standards allow for a maximum of two (2) off-sale licenses. Currently there are thirteen (13) existing active off-sale licenses within the subject census tract, including the applicant's existing Type 20 (Off-Sale Beer & Wine) License. Although the license upgrade would replace the site's existing Type 20 License with the proposed Type 21 (Off-Sale General) License – and would therefore not increase the number of off-sale licenses – the subject census tract remains over-concentrated with an overage of eleven (11) licenses. As such, the applicant requires a Public Convenience or Necessity Letter.

The proposed scope of work at this development will create an economic benefit to the City of San Bernardino as it will increase overall general sales and provide retail sales tax revenue from the sales of alcoholic beverages to the City of San Bernardino.

Finding No. 3: A finding that the alcoholic beverage sales activity will not aggravate existing problems in the neighborhood created by the sales of alcohol such as loitering, public drunkenness, alcoholic beverage sales to minors, noise and littering.

Finding of Fact: The approval of the license upgrade from a Type 20 (Off-Sale Beer & Wine) License to a Type 21 (Off-Sale General) proposed with Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 for the existing convenience store and service station will implement Conditions of Approval to alleviate any concerns of loitering, public drunkenness, alcoholic beverage sales to minors, noise, and littering. Therefore, the approval of Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 will not aggravate any existing problems within the proposed subject census tract.

Finding No. 4: The proposed establishment will not detrimentally affect nearby neighborhoods considering the distance of the alcohol establishment to residential buildings, schools, parks, playgrounds or recreational uses, nonprofit youth facilities, places of worship, hospitals, alcohol or other drug abuse recovery or treatment facilities, county social service offices, or other alcoholic beverage sales activity establishments.

Finding of Fact: The approval of a Type 21 (Off-Sale General) License for the subject site will not detrimentally affect nearby neighborhoods. The site has held a Type 20 License since 2001, and there have been no alcohol related issues or problems. Since the license upgrade will replace the site's existing license, staff does not anticipate any negative impacts from this upgrade. As such, approval of the request in Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 will not add another license or use to the area and will not increase crime or police calls for service.

Finding No. 5: The proposed establishment will otherwise be compatible with existing and potential uses within the general area.

Finding of Fact: The proposed license upgrade to a Type 21 (Off-Sale General) License proposed by Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 is in compliance with the City of San Bernardino Development Code requirements that are applicable to compatibility with the surrounding community. Therefore, the establishment of the project will not create any significant noise, traffic, or other conditions that would be detrimental or objectionable to other uses in the vicinity or adverse to the public health, safety, convenience, or welfare of the City.

Finding No. 6: The proposed establishment is not located in what has been determined to be a high-crime area or where a disproportionate number of police service calls occur.

Finding of Fact: The Police Department has reviewed the application for the proposed ABC Type 21 (Off-Sale General) License for the proposed project, and conducted an investigation based on the information provided. The report shows that there was zero (0) alcohol related crimes reported during the reporting period, within the subject site reporting district, and within a half mile of the reporting district. The Police Department has not recommended approval nor denial of the request to approve Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 and typically does not provide such recommendation. The proposed project will be appropriately conditioned to ensure that it will not be detrimental to the surrounding area.

Finding No. 7 The use of the proposed establishment is consistent with the General Plan.

Finding of Fact: The City of San Bernardino General Plan includes goals and polices to guide future developments within the City, including the following:

- ✓ Land Use Element Policy 2.2.8: Control the location and number of community-sensitive uses, such as alcohol sales, adult bookstores and businesses, game arcades, and similar uses based on proximity to residences, schools, religious facilities, and parks.
- ✓ Land Use Element Policy 2.4: Enhance the quality of life and economic vitality in San Bernardino by strategic infill of new development and revitalization of existing development.
- ✓ Land Use Element Policy 2.2.9: Require Police Department review of uses that may be characterized by high levels of noise, nighttime patronage, and/or rates of crime; providing for the conditioning or control of use to prevent adverse impacts on adjacent residences, schools, religious facilities, and similar “sensitive” uses.

Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04, which is a request for an Alcoholic Beverage Control Type 21 (Off-Sale General) License for an existing convenience store and service station has been analyzed by the City of San Bernardino Police Department. As such, the project is consistent with the General Plan.

SECTION 3. CONDITIONS OF APPROVAL

The approval of Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 shall be subject to the following Conditions of Approval:

1. This approval is to allow an Alcoholic Beverage Control Type 21 (Off-Sale General) license within an existing, approximately 2,072 square-foot convenience store. The project site is located at 907 W. Mill Street (APN: 0141-271-17), within the Commercial General (CG-1) zone.
2. The Project site shall be developed and maintained in accordance with: (i) the plans stamped December 10, 2024 (EXHIBIT A), approved by the City, which includes a site plan, floor plan, exterior-elevations plan, and conceptual-landscaping plan on file with the Planning Division;

(ii) the Conditions of Approval contained herein; and (iii) the City’s Municipal Code regulations.

3. Within two (2) years of the approval of the Conditional Use Permit, the commencement of construction shall have occurred, or the permit/approval shall become null and void. In addition, if at any time after the commencement of construction, work is discontinued for a period of one (1) year, then the permit/approval shall become null and void. However, approval of the Conditional Use Permit does not authorize the commencement of construction. All necessary permits must be obtained prior to the commencement of specified construction activities included in the Conditions of Approval.

EXPIRATION DATE: December 10, 2026

4. The review authority may grant a time extension, for good cause, not to exceed twelve (12) months. The applicant must file an application, the processing fees, and all required submittal items thirty (30) days prior to the expiration date. The review authority shall ensure that the project complies with all Development Code provisions in effect at the time of the requested extension.
5. In the event this approval is legally challenged, the City will promptly notify the applicant of any claim, action, or proceeding and will fully cooperate in the defense of this matter. Once notified, the applicant agrees to defend, indemnify, and hold harmless the City of San Bernardino (“City”), any departments, agencies, divisions, boards, and/or commissions of the City, and any predecessors, successors, assigns, agents, directors, elected officials, officers, employees, representatives, and attorneys of the City from any claim, action, or proceeding against any of the foregoing persons or entities. The applicant further agrees to reimburse the City for any costs or attorneys’ fees, which the City may be required by a court to pay as a result of such action, but such participation shall not relieve applicant of his or her obligation under this condition.

The costs, salaries, and expenses of the City Attorney and employees of his office shall be considered “attorneys’ fees” for purposes of this condition. As part of the consideration for issuing this Conditional Use Permit, this condition shall remain in effect if the Conditional Use Permit is rescinded or revoked, whether or not at the request of applicant.

Planning Division

6. Construction-related activities may not occur between the hours of 8:00 pm and 7:00 am. No construction vehicles, equipment, or employees may be delivered to, or arrive at, the construction site before 7:00 am or leave the site after 8:00 pm.
7. If the colors of the buildings or other exterior finish materials are to be modified beyond the current proposal and improvement requirements, the revised color scheme and/or finish materials shall be reviewed and approved by the Planning Division prior to the commencement of work.

8. The project landscape plans shall be in substantial compliance with the Conceptual Landscape plan and prepared in accordance with the Development Code, section 19.28.120 (Water Efficient Landscaping Standards).
9. Minor modifications to the plans shall be subject to approval by the Director through the Minor Modification Permit process. Any modification that exceeds 10% of the allowable measurable design/site considerations shall require the re-filing of the original application.
10. The project shall comply with all applicable requirements of the Building and Safety Division, Police Department, Municipal Water Department, Public Services Department, and the City Clerk's Office/Business Registration Division.
11. This approval shall comply with the requirements of other outside agencies (i.e., San Bernardino County Health Department, Division of Environmental Health Services, San Bernardino County Consolidated Fire District, and California Board of Equalization), as applicable.
12. The facility operator and property owner shall be responsible for regular maintenance of the project site. The site shall be maintained in a clean condition and free of litter or any other undesirable material(s). Vandalism, graffiti, trash, and other debris shall be removed and cleaned up within twenty-four (24) hours of being reported.
13. Signs are not approved as part of this permit. Prior to establishing any new signs, or to replacing existing signs, the applicant shall submit an application and receive approval for a Sign Permit from the Planning Division. Banners, flags, pennants, and similar signs are prohibited unless a Temporary Sign Permit is obtained.
14. All exterior lighting shall be contained within property lines and be energy efficient, with the option to lower or reduce usage when the facility is closed.
15. Submittal requirements for permit applications (site improvements, landscaping, etc.) to Building Plan Check and/or Land Development must include all Conditions of Approval issued with this approval, printed on the plan sheets.
16. Every six (6) months, over two (2) years from the issuance of the Certificate of Occupancy, the Planning Division shall conduct an inspection of the business operations and property to ensure compliance with the Conditions of Approval to the satisfaction of the Community Development Director. In the event that an unresolved issue continues to exist, the applicant shall submit an application, along with the appropriate fee, for Reconsideration by the Planning Commission.
17. The project must comply with the requirements of the California Department of Alcoholic Beverage Control.
18. The convenience store shall maintain a minimum of two (2) employees on-site during any hour in which alcoholic beverages are sold.

19. The convenience store shall install a security system capable of directly contacting the Police Department in the event of an emergency.
20. Adequate Lighting. 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 and exterior of the premises. Additionally, lights shall be installed and shall operate on each side of the exterior of the building. The position of all such lighting shall not disturb the normal privacy and use of any neighboring residences. These lights shall be maintained in good working order and shall remain on during darkness anytime the establishment is open.
21. Capacity. The venue capacity established for the premises by the San Bernardino County Fire Department shall not be exceeded at any time.
22. Complaints. A “complaint response community relations” program will be established and maintained by the owner. This program will include the following:
 - a. Posting a permanent sign at the entry of the establishment listing the telephone number for the San Bernardino Police Department.
 - b. Coordinating efforts with the Police Department to monitor community complaints about the activities of the establishment.
 - c. Having a representative of the establishment reasonably available to meet with neighbors or the applicable neighborhood association on a regular basis or at their request to resolve any neighborhood complaints regarding the establishment.
23. Compliance with Law. The owners, managers, renters, and every other person in charge of the premises or any event thereon must comply with all City, County, and State building, fire, zoning, and health regulations; all State and local noise and nuisance laws and ordinances; and all provisions of California law, the San Bernardino Municipal Code, and the San Bernardino City Charter.
24. Drug Paraphernalia. The sale of drug paraphernalia products as defined in Health and Safety Code sections 11014.5 and 11364.5 shall be prohibited. “Drug Paraphernalia” means all equipment, products and materials of any kind that are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the California Uniform Controlled Substances Act commencing with California Health and Safety Code section 11000.
25. Exterior Signage. The following signs shall be required to be prominently posted in a readily visible manner on an exterior wall or fixture on each side of the building (not on windows) in English, Spanish and the predominant language of the patrons: “No Loitering,” “No Drinking,” “No panhandling or soliciting,” and “It is illegal to possess an open container of alcohol in the vicinity of this establishment.”
26. Extraordinary Law Enforcement Services. The owner shall be responsible for reimbursement costs to the City of San Bernardino for “Extraordinary” police services on the premises.

Extraordinary police services are those defined under San Bernardino Municipal Code Section 8.82.010.

27. Graffiti. Any graffiti painted, drawn, marked, etched, or otherwise placed upon the premises or on any area under the control of the owner shall be removed or painted over within 48 hours.
28. Hours of Operation. The sale and service of alcoholic beverages shall be permitted only between the hours of 6:00 a.m. and 2:00 a.m. Monday to Sunday.
29. Information to Police Department. Upon demand, the owner, manager, and employees must make available to any police official the current names and addresses of persons who are in the management or operation of the establishment. Additionally, the owner shall keep copies of all permits and licenses issued to the establishment readily available for inspection at the premises upon demand by any police official.
30. Interior Signage. The following signs shall be required to be prominently posted in a readily visible manner on an interior wall or fixture (not on windows) in English, Spanish and the predominant language of the patrons: "California State Law prohibits the sale of alcoholic beverages to persons under 21 years of age."
31. Litter. The premises, parking lots, any area adjacent to the premises over which the owner of the establishment has control, and any area adjacent to the premises occupied or used by the establishment's patrons shall be kept free of litter and debris. These areas shall be cleaned of any litter upon the close of business each day. The owner shall be responsible for the posting of signs prohibiting litter around the exterior of the premises and in adjacent parking areas.
32. Loitering. The establishment's owner, manager, employees, and security officers shall be required to discourage loiterers and ask persons loitering longer than fifteen minutes to leave the area and contact the Police Department for enforcement of applicable trespassing and loitering laws if persons requested to leave fail to do so.
33. Mitigating Alcohol-Related Problems. Whenever alcohol is sold, furnished, or consumed on the premises, the establishment shall be required to mitigate alcohol-related problems that negatively impact those individuals living or working in the neighborhood and surrounding community. To that end, the following conditions relating to alcohol shall be imposed:
 - a) No alcohol sales are permitted inside or outside the premises without a license issued by the Department of Alcoholic Beverage Control.
 - b) No alcohol will be sold or furnished to minors (anyone under the age of 21).
 - c) No alcohol may be sold at any time to any patron appearing to be intoxicated.
 - d) No wine sales shall be permitted in bottles or containers of less than 750 milliliters, unless sold in their original manufacturer multi-packs.
 - e) No malt beverages shall be sold with an alcohol content greater than five- and one-half percent by volume.
 - f) The sale of wine with an alcohol content greater than fourteen (14) percent by volume shall be prohibited unless in corked or screw capped bottles and aged at least two (2) years.
 - g) Beer or malt liquor sold individually in containers of 40 ounces or less is prohibited.

- h) No containers of beer shall be sold which are not in their original manufacturer multi-packs.
 - i) No cooler products, either wine or malt beverage based, shall be sold unless in their original manufacturer multi-packs.
 - j) No persons shall be permitted to congregate outside the building or in the parking lots or other areas under the control of the owner.
 - k) No violence, drunkenness, public urination, solicitation, drug dealing, drug use, loud noise or litter shall be allowed on the premises, in the parking lots, on the streets surrounding the premises, in any area controlled by the owner of the premises or in any area occupied or used by patrons of the premises.
 - l) No alcoholic beverages shall be consumed on any property adjacent to the licensed premises or under the control of the licensee with the exception of other establishments licensed by the Department of Alcoholic Beverage Control. No alcoholic beverages shall be consumed along the exterior of the establishment, in any parking area, or on any adjacent city street or alleyway.
 - m) The owners and all employees of establishments involved in the sale of alcoholic beverages shall complete an approved course in Licensee Education on Alcohol and Drugs (LEAD), or other "Responsible Beverage Service" (RBS) training within sixty (60) days of the date of this Conditional Use Permit, or within sixty (60) days of hire for employees hired after that date. To satisfy this requirement, the RBS course must be recognized by the California Department of Alcoholic Beverage Control. The RBS course shall include at a minimum the following: a review of ABC laws and regulations; administrative, criminal and civil liabilities; acceptable forms of identification; and how to identify minors and persons already intoxicated.
34. Noise. No music or other noise originating from the premises may extend beyond the property boundaries of the establishment. Business activities shall not have a negative impact on the operation of neighboring businesses and residences. Music shall not be audible outside the premises, in adjacent attached businesses, or any neighboring residences.
35. Posting. A copy of these conditions for approval, any applicable ABC or City operating conditions, and any training requirements shall be posted in at least one prominent place within the interior of the establishment where it will be readily visible and legible to the employees and patrons of the establishment.
36. Prohibited Vegetation. Exterior vegetation shall not be planted, maintained, or allowed to grow on the premises that could be used as a hiding place for persons. Exterior vegetation shall be planted and maintained in a manner that minimizes its use as a hiding place.
37. Public Phones. If public telephones are installed on the premises, they shall be installed inside the building and programmed for outgoing calls only.
38. Security Cameras. Security cameras are required to be installed on the premises. All criminal and suspicious activities recorded by or viewed on such surveillance equipment must be reported to local law enforcement. To the extent allowed by law, the establishment owner, manager, and employees are required to provide any footage, tapes, or other recording media

from the security cameras to the Police Department. A minimum of two (2) 24-hour time-lapse security cameras shall be provided on-site.

39. Window Obstructions. No more than 25 % of windows or clear doors shall bear advertising of any sort, and all advertising signage shall be placed and maintained in a manner that ensures that law enforcement personnel have a clear and unobstructed view of the interior of the premises, including the area in which the cash registers are maintained, from the exterior public sidewalk or entrance.
40. All ice shall be sold at or about prevailing prices in the area and in quantities of not less than 5 lbs. and shall not be given away for free.
41. All conditions of the Public Works Department shall be met to the satisfaction of the City Engineer.
42. All Conditions of Approval and Standard Requirements shall be implemented and/or completed prior to final inspection and/or issuance of a Certificate of Occupancy.

SECTION 4. PLANNING COMMISSION ACTION:

The Planning Commission hereby takes the following action:

1. Adoption of Planning Commission Resolution No. 2024-048 - PC:
 - a. **Finding** the Categorical Exemption, pursuant to Section 15301 (Existing Facilities) for Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 in accordance with the California Environmental Quality Act, and directing the Planning Commission Secretary to prepare and file with the Clerk of the County of San Bernardino a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062; and
 - b. **Approving** Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 based on the Findings of Fact and subject to the recommended Conditions of Approval.

SECTION 6. SEVERABILITY:

If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Resolution are declared to be severable.

SECTION 7. CUSTODIAN OF RECORDS.

The location and custodian of the documents and any other material, which constitute the record of proceedings upon which the Planning Commission based its decision, is as follows: Genoveva Rocha, City Clerk, 201 North E Street (Building A), 909-384-5002.

PASSED, APPROVED, AND ADOPTED this 10th day of December 2024.

Lisa Sherrick, Chairperson
San Bernardino Planning Commission

ATTEST:

Gabriel Elliott, Planning Commission Secretary
City of San Bernardino, California

CERTIFICATION:

I, Alyssa Blancas, Recording Secretary of the Planning Commission of the City of San Bernardino, California, do hereby certify that the foregoing Resolution No. 2024-048 - PC, was duly adopted by the Planning Commission of the City of San Bernardino, California, at a regular meeting thereof held on the 10th day of December 2024, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Alyssa Blancas, Recording Secretary
City of San Bernardino, California

EXHIBIT A
APPROVED PLANS

REVISION TABLE	DESCRIPTION	DATE	BY
TBD			

CLIENT INFORMATION:
 SAN BERNARDINO, CA 924
 907 W. MILL ST.
 90725-0222

DESIGNER INFORMATION:
 DALE CUMMINS, CSA
 690925-0222
 DALEC@CUMMINSARCHITECTURE.COM
 CUMMINS ARCHITECTURE

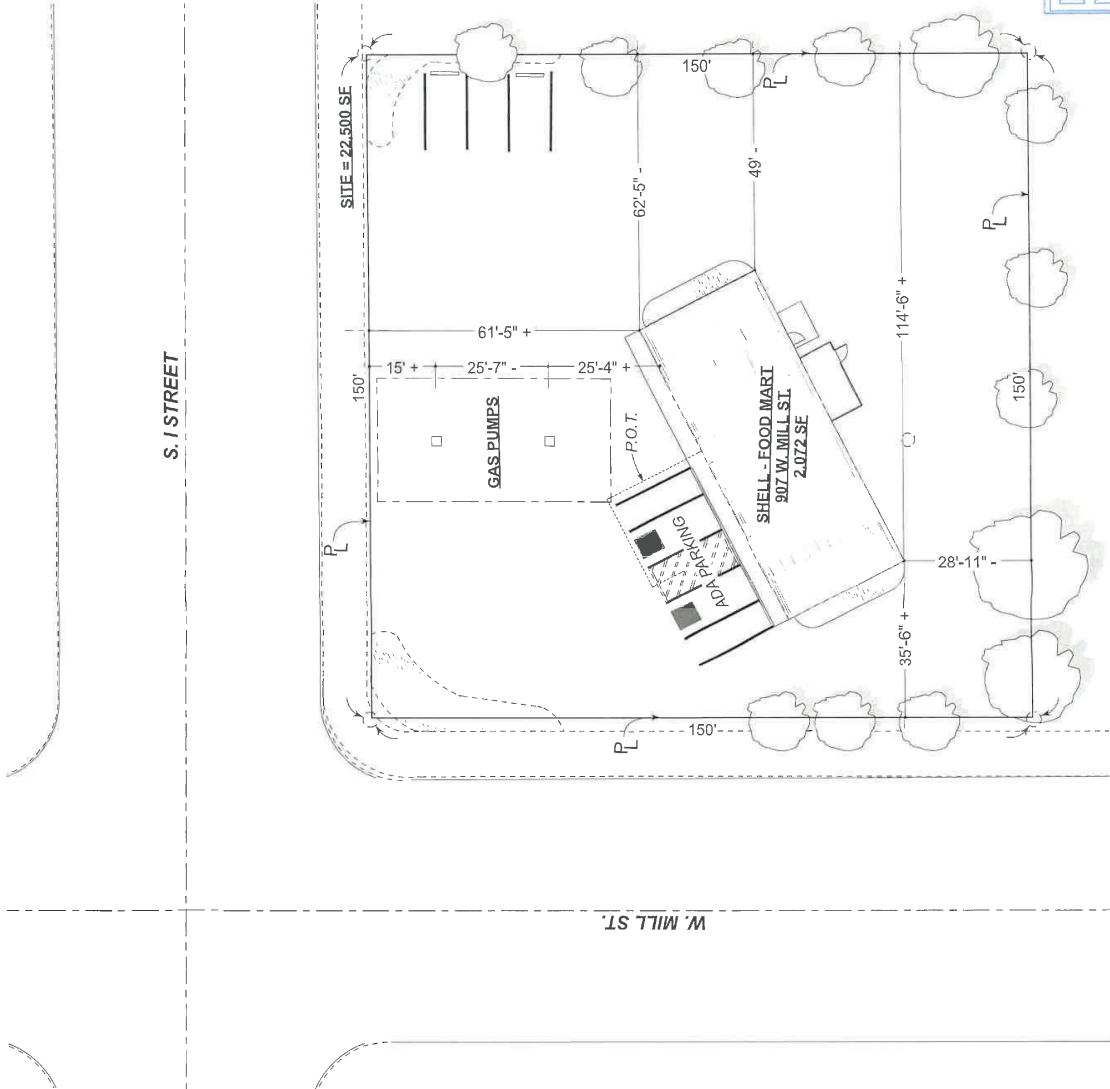


DATE APPROVED: **A1**
 SHEET NO.

RECEIVED
JUL 13 2023
 BY: CUP 2303A ; PCN 2304

PROPERTY INFORMATION
 LOT NO: 1017 (ACRE: 22.500 SF)
 ZONING: M-1 (1017 ACRES: 22.500 SF)
 TOTAL ACRES: 22.500 SF

(N) (E) SITE PLAN
1 IN = 10 FT



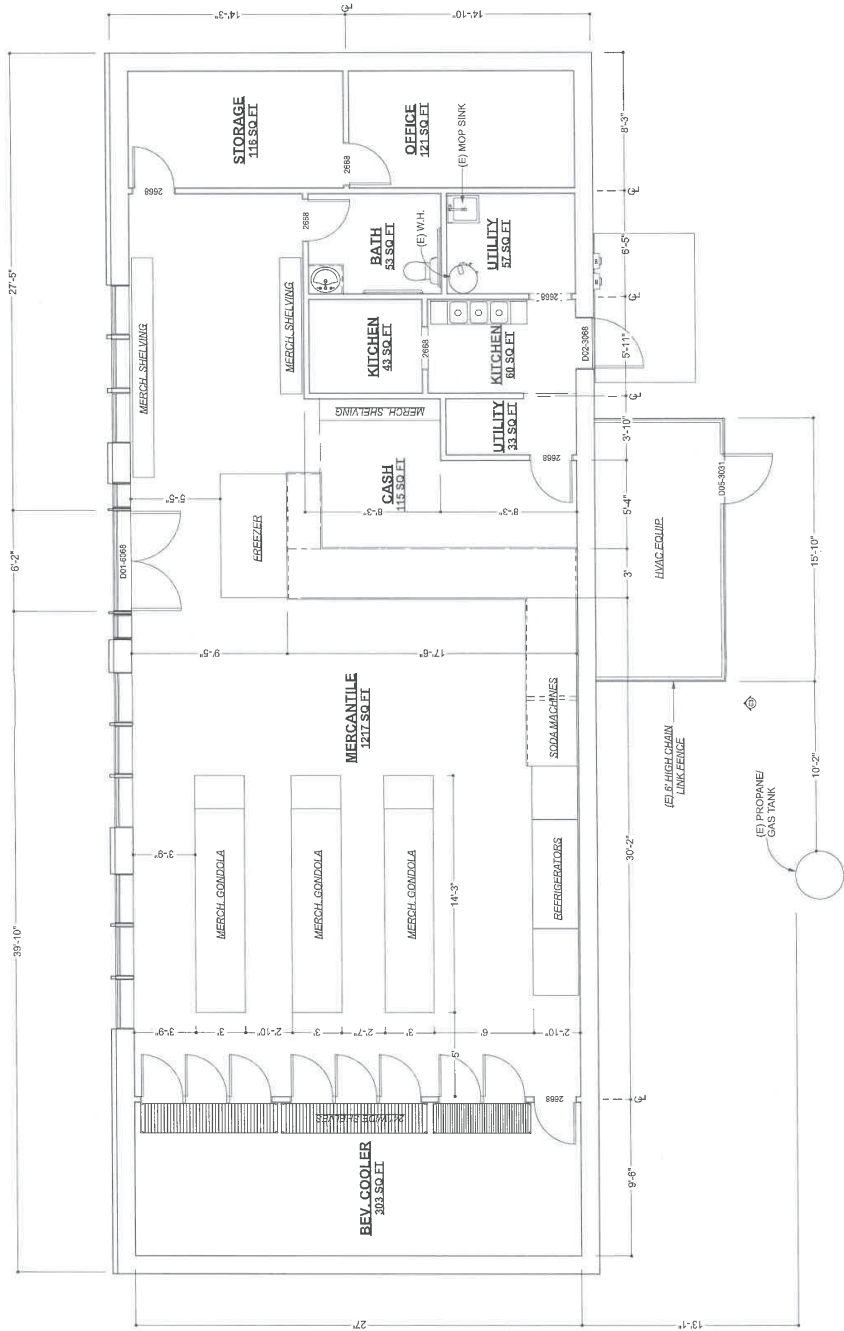
REVISION TABLE	NUMBER	DATE	REVISOR	DESCRIPTION

CLIENT INFORMATION:
 TBO
 907 W. MILL ST.
 SAN BERNARDINO, CA 924

DESIGNER INFORMATION:
 DALE GIMMINS, CSA
 1909225-0322
 DALG@DUMMINSARCHITECTURE.COM



DATE: 5/10/2017
 FLOOR PLAN
 A2



(N) FLOOR PLAN
 3/8" IN = 1 FT

PROPERTY INFORMATION

LOT	100
ZONING	OSB17(2016) (20, 200 SQ FT)
TOTAL SQ. FT.	2,002 SQ FT



SOLOMON SALTSMAN & JAMIESON
A Partnership of Professional Corporations
426 Culver Boulevard | Playa Del Rey, CA 90293
Telephone: 310.822.9848 | Facsimile: 310.822.3512
Toll Free: 800.405.4222
www.ssjlaw.com

Ralph B. Saltsman
Partner
email: rsaltsman@ssjlaw.com

June 19, 2023

Via Mail Only:

City of San Bernardino Planning Commissioners
201 North E Street, 3rd Floor
San Bernardino, CA 92401

Re: Shell Service Station and Convenience Market – 907 W. Mill St., San Bernardino, CA 92410. Application for Conditional Use Permit to upgrade from a Type 20 ABC license to Type 21 ABC license

Dear Honorable City Planning Commissioners:

Our office represents the Applicant, Lucky P.B.G.5, Inc., and submits this Project Justification Letter for a Conditional Use Permit (“CUP”) to upgrade from a Type 20 (off-sale beer and wine) ABC license to a Type 21 (off-sale beer, wine, and distilled spirits) ABC license in conjunction with an existing Shell service station and convenience market, located at 907 W. Mill St., San Bernardino, CA 92410. In conjunction with the CUP application, the Applicant is also requesting a Determination of Public Convenience or Necessity (“PC or N”) from the Commission pursuant to Business and Professions Code section 23958.4.

PART I: CONDITIONAL USE PERMIT

Issue:

The business is an existing Shell service station with a convenience market located on the southwest corner of West Mill Street and South I Street in the CG-1 (General Commercial) Zone of the City. The business has been operating and selling alcoholic beverages at this location for over 30 years since 1990. Shell currently offers a variety of goods and services that customers expect at a full service “one stop shop” market, including basic grocery needs, medicines, household goods, childcare products and many more everyday household items, and is requesting approval for the upgrade in ABC license type to continue providing this appropriate shopping option to the surrounding community. The continued operation of this store will continue to provide a retail service that is beneficial and convenient to the community. There are no physical or other changes proposed with this application.

Information:

This market currently operates 24 hours daily, with alcohol sales limited from 6 a.m. to 2 a.m., per State law. The Applicant is not requesting any changes to its operations as part of this request for a Type 21 ABC license. The Shell has approximately 3 employees and is part of a nationally recognized brand of service stations in conjunction with a market operating with adherence to strict store policies to ensure the responsible retailing of alcoholic beverages. The Applicant is an existing, local retail business that will continue to serve the needs of local residents while also fostering the economic vitality of the neighborhood. Therefore, the use, as described and conditionally approved, will not be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City, as a result of the Applicants continued exemplary management and company policies. The subject store and the approval of this CUP to expand upon the products offered will continue to serve the local population. The availability of an incidental amount of a full line of alcoholic beverages at a business that is already offering beer and wine sales will remain a desired amenity for this community.

Findings:

- 1. The proposed use is conditionally permitted within, and would not impair the integrity and character of the subject land use district and complies with all of the applicable provisions of this Development Code;**

The proposed use is conditionally permitted within the CG-1 zone pursuant to San Bernardino Municipal Code section 19.06.020. The proposed use will not impair the integrity and character of the subject land use district as it is the intent of the CG-1 zone to “provide for the continued use, enhancement, and new development of retail, personal service, entertainment, office and related commercial uses along major transportation corridors and centers.”

The Applicant is currently operating with a “deemed approved” status for its Type 20 ABC license. Pursuant to San Bernardino Municipal Code Article III, Section IV-Standards and Procedures for Existing Deemed Approved Alcoholic Beverage Sales Activities, if an existing alcoholic beverage sales activity changes its ABC license type, then the “deemed approved” status shall terminate and an issuance of a Conditional Use Permit is required in order to continue the alcoholic beverage sales activity. As a result, the Applicant submits this CUP application to request authorization of the continued sale of alcoholic beverages at this subject site.

In addition, the Applicant recognizes that there are locational restrictions for new alcoholic beverage sales establishments set forth in Chapter 19.06, Section III (A) of the Municipal Code. However, pursuant to subsection (F), an automobile service station convenience store that meets the locational criteria of Section 19.06.030(2)(U) may be exempted from these locational restrictions, subject to evaluation of site-specific conditions through the Conditional Use Permit review process and considering recommendations from the Police Department.

Furthermore, pursuant to San Bernardino Municipal Code section III (I), the location is not located within 500 feet from any existing alcoholic beverage sales activities nor would the

establishment of this site lead to the grouping of more than four alcoholic beverage sales activities within 1,000 foot radius from the new alcoholic beverage sales activity.

For the foregoing reasons, the proposed use is conditionally permitted within, will not impair the integrity and character of the subject land use district, and complies with all of the applicable provisions of this Development Code.

2. The proposed use is consistent with the General Plan;

The proposed use is consistent with the General Plan as the intended uses within a CG-1 Zone are “[l]ocal and regional serving retail, personal service, entertainment, office, related commercial uses...”

The proposed use is consistent with and enhances the following land use goals and visions set forth in the General Plan:

- Ensure compatibility among land uses;
- Achieve a revitalized and economically vibrant community;
- 2.2 Promote development that integrates with and minimizes impacts on surrounding land use
- 2.5 Enhance the aesthetic quality of land uses and structures in San Bernardino

In addition to the land use goals and visions of the General Plan, the proposed use is also consistent with the following economic development goals of the Plan:

- Goal 4.1 Encourage economic activity that capitalizes upon the transportation and locational strengths of San Bernardino
- Goal 4.9 Prevent retail sales leakage and recapture regional retail expenditure through key sectors
- Goal 4.11 Ensure fiscal viability in order to provide a high level of services to community and finance capital projects

Specifically, the subject site is located near the 215 North and South Freeway and is the only service station with convenience store within proximity of the freeway. The business will continue to operate in harmony with the local community and will continue to have a positive economic impact on the surrounding neighborhood, as it has had for over 30 years. In the time that Shell has co-existed in this location, it has shown that the business is proper in relation to the adjacent uses and development of the community. There is no reason to expect that with the addition of an incidental amount of distilled spirits for off-site sale the business will not continue to operate as the responsible and trusted community-oriented local business that this community has come to expect and rely on.

The subject site is not situated near any sensitive uses (i.e., residences, parks, schools) aside from the Victory Outreach San Bernardino Church located to the northwest of the Site. However, as stated previously, given the fact that Shell has been operating at this location for over 30 years without negatively impacting the church, there is no reason to believe that this request to upgrade

from a Type 20 ABC license to a Type 21 ABC license will change the way the business has been operating for the past three decades. In addition, the two uses are well separated and buffered by a four lane road (i.e., West Mill Street) as well as with the landscaping around the businesses.

3. The approval of the Conditional/Minor Use Permit for the proposed use is in compliance with the requirements of the California Environmental Quality Act and Section 19.20.030(6) of the Development Code;

There are no physical changes or modifications to the site proposed with this Application. The only change proposed with this application is the upgrade of an ABC license. Therefore, the subject business is and will remain in compliance with the applicable provisions of both State and local CEQA Guidelines.

4. There will be no potentially significant negative impacts upon environmental quality and natural resources that could not be properly mitigated and monitored;

Again, there are no physical changes or modifications to the site proposed with this Application. The only change proposed with this application is the upgrade of an ABC license. Therefore, there is no potential significant negative impacts upon the environmental quality and natural resources associated with this proposal.

5. The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public, health, safety convenience, or welfare of the City;

The location, size, design, and operating characteristics of the proposed use are compatible with the existing and future land uses within the general area. The business has operated at this location for over three decades and the addition of an incidental amount of distilled spirits to this location will not create significant noise, traffic, other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity or adverse to the public, health, safety convenience, or welfare of the City.

6. The subject site is physically suitable for the type and density/intensity of use being proposed; and

The subject site is physically suitable for the type and density/intensity of the use being proposed. There is no physical changes proposed in the CUP application. Therefore, there is no reason to expect a change in the density/intensity of the current use.

- 7. There are adequate provisions for public access, water, sanitation, and public utilities and services to ensure that the proposed use would not be detrimental to public health and safety. MC 888 1-6-94**

As previously stated, there is no physical changes proposed with this CUP application. The Site currently and will continue to provide adequate provisions for public access, water, sanitation, and public utilities and services to ensure that the business would not be detrimental to public health and safety.

PART II: **PUBLIC CONVENIENCE OR NECESSITY FINDING**

In addition to the CUP application required, the Applicant also submits this request for a Public Convenience or Necessity finding pursuant to Business and Professions Code section 23958.4. It is to be understood that the Applicant is requesting for an upgrade in its ABC license type and that there would be no addition of an alcoholic beverage license in the census tract as a result of this approval.

A determination from the City of Grand Terrace, pursuant to Business and Professions Code section 23958.4, that the public convenience or necessity will be served by issuance of a Type 21 beer, wine, and distilled spirits license at the subject site is required. Business and Professions Code section 23958.4 is sometimes misconstrued as permitting only a certain number of Alcoholic Beverage Control (“ABC”) licenses in a particular area, but such construction ignores the fact that a condition of undue concentration may exist, as in this case, because of good planning and zoning, not in spite of it. The term “undue concentration” is specifically defined in Business and Professions Code section 23958.4 as simply a ratio of licenses in this census tract compared to the average number of licenses in the county as a whole. It does not mean that this particular census tract necessarily has too many licenses for the needs or convenience of the community.

In this case, both commercial and residential zones are within the census tract and neighborhood. It makes sense that stores that sell alcoholic beverages are located in zones that are in locations that are convenient for the community. But, because the number of people living in that census tract determines the undue concentration statistics, the undue concentration ratio is often exceeded by just a handful of businesses selling alcoholic beverages in census tracts like this one. Specifically, in this case, Census Tract 124 allows for two (2) off-sale licenses and currently thirteen (13) off-sale licenses exist. Once again, the Applicant is requesting for an upgrade in its ABC license type and will replace its current ABC license with the Type 21 upgraded license. Thus, determining that the public convenience or necessity will be served through the issuance of this license will not result in an undue concentration of licenses in this census tract.

The Applicant respectfully requests that the City of San Bernardino find that the Public Convenience or Necessity (“PC or N”) will be served by the issuance of a Type 21 beer, wine, and distilled spirits license at this location for the reasons contained herein.

The business will provide products and services that are different and unique to the area. There are no existing businesses selling alcohol within 1,000 feet of the subject site. The Shell station is located within close proximity of the 215 Freeway and as it is located in an area convenient for the community.

The location currently exists as a “one-stop” shopping experience, enabling customers to purchase everyday essential grocery items, and is requesting approval for the addition of an incidental amount of distilled spirits to further the convenience provided to the surrounding community. In order to provide all of the items that its customers want, and to keep them coming back, it is necessary to provide a full complement of items, including distilled spirits. Furthermore, by offering the section, customers can now shop at Shell without going to a typical liquor store. This addition will allow the customers to find all of their shopping needs in one local store.

The Applicant is not proposing any physical changes to the subject site. The site has been kept as a Shell service station with convenience market for over 30 years. The site has been maintained at pristine condition over the three decades: the existing building is well painted with no graffiti or markings on the exterior, there are minimal signage on-site to allow for a clear visibility into the store, there is landscaping all around the premises, separating the use from its neighboring businesses, and the parking area is litter free.

The approval of the Type 21 ABC license application along with a PC or N determination will not contribute to or aggravate existing problems in the area. Shell is a nationally recognized brand of service stations, and this store has been successfully operating at this location for over three decades. The Applicant has always taken its role as a responsible retailer of alcoholic beverages very seriously. The operator has well-established and very detailed procedures in place as they have been selling beer and wine with a high degree of responsibility for over three decades. To that end, initial and continued training of both management and staff is an important and fundamental element necessary to operate the store in a safe and trustworthy manner. The Applicant has training segments on security, safety, deterrent strategies to discourage loitering, facility maintenance and operations, responsible sales of age-restricted products, accident prevention, and workplace safety, which all employees are required to complete. These strictly implemented store policies require that employees request an identification from any person who appears 30 or under if that person is attempting to purchase an age-restricted product. Training segments also include identifying acceptable forms of identification and identifying false identifications. Further, the cash registers are programmed to identify age-restricted products, like alcohol, and require the employee to check identification and enter a date of birth or scan the identification of the purchaser before completing the sale. Management also trains its employees to monitor the interior and exterior of the premises. As part of this training policy, employees are expected to conduct regular site walks and inspections of the premises throughout the day in order to clean up any trash or debris as well as promptly deter any loitering, panhandling or other objectionable activity. Further, the premise is equipped with digital surveillance cameras that monitor both the interior and exterior of the building.

Conditional Use Permit Findings for PC or N:

- 1. The proposed alcoholic beverage sales activity establishment is located in a zoning district in which the establishment is a permitted use.**

The proposed use is conditionally permitted within the CG-1 zone pursuant to San Bernardino Municipal Code section 19.06.020. And thus, the Applicant is submitting this CUP application for consideration by the City.

- 2. A finding of "public convenience and necessity" (Business and Professions Code Section 23958.4(b) (2)), if the activity will be located in an area that has been determined by the state of California Department of Alcoholic Beverage Control to have an undue concentration of licenses as defined in Business and Professions Code Section 23958.4(a).**

For reasons stated above, the Applicant respectfully requests that the City of San Bernardino make a finding that issuance of a Type 21 off-site beer, wine, and distilled spirits license to Lucky P.B.G. 5 will serve the Public Convenience or Necessity. Once again, there is no additional alcoholic beverage license that will be added to the existing census tract as a result of this request. The Applicant will cancel and replace its existing Type 20 ABC license with the requested Type 21 ABC license upon issuance.

- 3. A finding that the alcoholic beverage sales activity will not aggravate existing problems in the neighborhood created by the sale of alcohol such as loitering, public drunkenness, alcoholic beverage sales to minors, noise and littering.**

The alcoholic beverage sales activity will not aggravate existing problems in the neighborhood. The Applicant has always taken its role as a responsible retailer of alcoholic beverages very seriously. The operator has well-established and very detailed procedures in place as they have been selling beer and wine with a high degree of responsibility for over three decades. As stated previously, the operator has strict operating policies and guidelines for its employees to ensure that problems such as loitering, public drunkenness, alcoholic beverage sales to minors, noise and littering do not occur at this site. Furthermore, the store has sold alcoholic beverages at this site for over three decades without any issues. There is no reason to believe that the addition of an incidental amount of liquor to the store will change the nature of the operation.

- 4. The proposed establishment will not detrimentally affect nearby neighborhoods considering the distance of the alcohol establishment to residential buildings, schools, parks, playgrounds or recreational areas, nonprofit youth facilities, places of worship, hospitals, alcohol or other drug abuse recovery or treatment facilities, county social service offices, or other alcoholic beverages sales activity establishments.**

The location of the site and its proposed use will not detrimentally affect nearby neighborhoods considering the distance of the alcohol establishment to nearby sensitive uses. First, the store is not located within proximity of any residential buildings, schools, parks, playgrounds or

recreational areas, nonprofit youth facilities, hospitals, alcohol or other drug abuse recovery or treatment facilities, or county social service offices. Most importantly, the site is not within 1000 feet of any other alcoholic beverage sales establishments.

The Applicant recognizes the distance of its business to the Victory Outreach San Bernardino Church. However, as stated previously, given the fact that Shell has been operating at this location for over 30 years without negatively impacting the church, there is no reason to believe that this request to upgrade from a Type 20 ABC license to a Type 21 ABC license will change the way the business has been operating for the past three decades. In addition, the two uses are well separated and buffered by a four-lane road (i.e., West Mill Street) as well as with the landscaping around the businesses.

5. The proposed establishment will otherwise be compatible with existing and potential uses within the general area.

The proposed establishment is compatible with the existing and future land uses within the general area. The business has operated at this location for over three decades and the addition of an incidental amount of distilled spirits to this location will allow Shell to continue to offer a variety of goods and services that customers expect at a full service “one stop shop” market, including basic grocery needs, medicines, household goods, childcare products and many more everyday household items. The continued operation of this store will continue to provide a retail service that is beneficial and convenient to the general area.

6. The proposed establishment is not located in what has been determined to be a high-crime area or where a disproportionate number of police service calls occur.

The operator has well-established and very detailed procedures in place as they have been selling beer and wine with a high degree of responsibility for over three decades. To that end, initial and continued training of both management and staff is an important and fundamental element necessary to operate the store in a safe and trustworthy manner. The Applicant has training segments on security, safety, deterrent strategies to discourage loitering, facility maintenance and operations, responsible sales of age-restricted products, accident prevention, and workplace safety, which all employees are required to complete. These strictly implemented store policies require that employees request an identification from any person who appears 30 or under if that person is attempting to purchase an age-restricted product. Training segments also include identifying acceptable forms of identification and identifying false identifications. Further, the cash registers are programmed to identify age-restricted products, like alcohol, and require the employee to check identification and enter a date of birth or scan the identification of the purchaser before completing the sale. Management also trains its employees to monitor the interior and exterior of the premises. As part of this training policy, employees are expected to conduct regular site walks and inspections of the premises throughout the day in order to clean up any trash or debris as well as promptly deter any loitering, panhandling or other objectionable activity. Further, the premise is equipped with digital surveillance cameras that monitor both the interior and exterior of the building.

7. The use of the proposed establishment is consistent with the General Plan.

The proposed use is consistent with the General Plan as the intended uses within a CG-1 Zone are “[l]ocal and regional serving retail, personal service, entertainment, office, related commercial uses...”

The proposed use is consistent with and enhances the following land use goals and visions set forth in the General Plan:

- Ensure compatibility among land uses;
- Achieve a revitalized and economically vibrant community;
- 2.2 Promote development that integrates with and minimizes impacts on surrounding land use
- 2.5 Enhance the aesthetic quality of land uses and structures in San Bernardino

In addition to the land use goals and visions of the General Plan, the proposed use is also consistent with the following economic development goals of the Plan:

- Goal 4.1 Encourage economic activity that capitalizes upon the transportation and locational strengths of San Bernardino
- Goal 4.9 Prevent retail sales leakage and recapture regional retail expenditure through key sectors
- Goal 4.11 Ensure fiscal viability in order to provide a high level of services to community and finance capital projects

Specifically, the subject site is located near the 215 North and South Freeway and is the only service station with convenience store within proximity of the freeway. The business will continue to operate in harmony with the local community and will continue to have a positive economic impact on the surrounding neighborhood, as it has had for over 30 years. In the time that Shell has co-existed in this location, it has shown that the business is proper in relation to the adjacent uses and development of the community. There is no reason to expect that with the addition of an incidental amount of distilled spirits for off-site sale the business will not continue to operate as the responsible and trusted community-oriented local business that this community has come to expect and rely on.

The subject site is not situated near any sensitive uses (i.e., residences, parks, schools) aside from the Victory Outreach San Bernardino Church located to the northwest of the Site. However, as stated previously, given the fact that Shell has been operating at this location for over 30 years without negatively impacting the church, there is no reason to believe that this request to upgrade from a Type 20 ABC license to a Type 21 ABC license will change the way the business has been operating for the past three decades. In addition, the two uses are well separated and buffered by a four-lane road (i.e., West Mill Street) as well as with the landscaping around the businesses.

THE ACTION(S) SOUGHT:

Based on the foregoing reasons, it is respectfully requested that the City of San Bernardino make a finding that issuance of a Type 21 off-site beer, wine, and distilled spirits license to Lucky P.B.G. 5 will serve the Public Convenience or Necessity and approve the Conditional Use Permit application.

Should you have any questions or if there is any additional information we can provide, please do not hesitate to call or email our offices. Thank you.

Very truly yours,

SOLOMON SALTSMAN & JAMIESON

Ralph B. Saltzman

Ralph B. Saltzman
Licensed in California

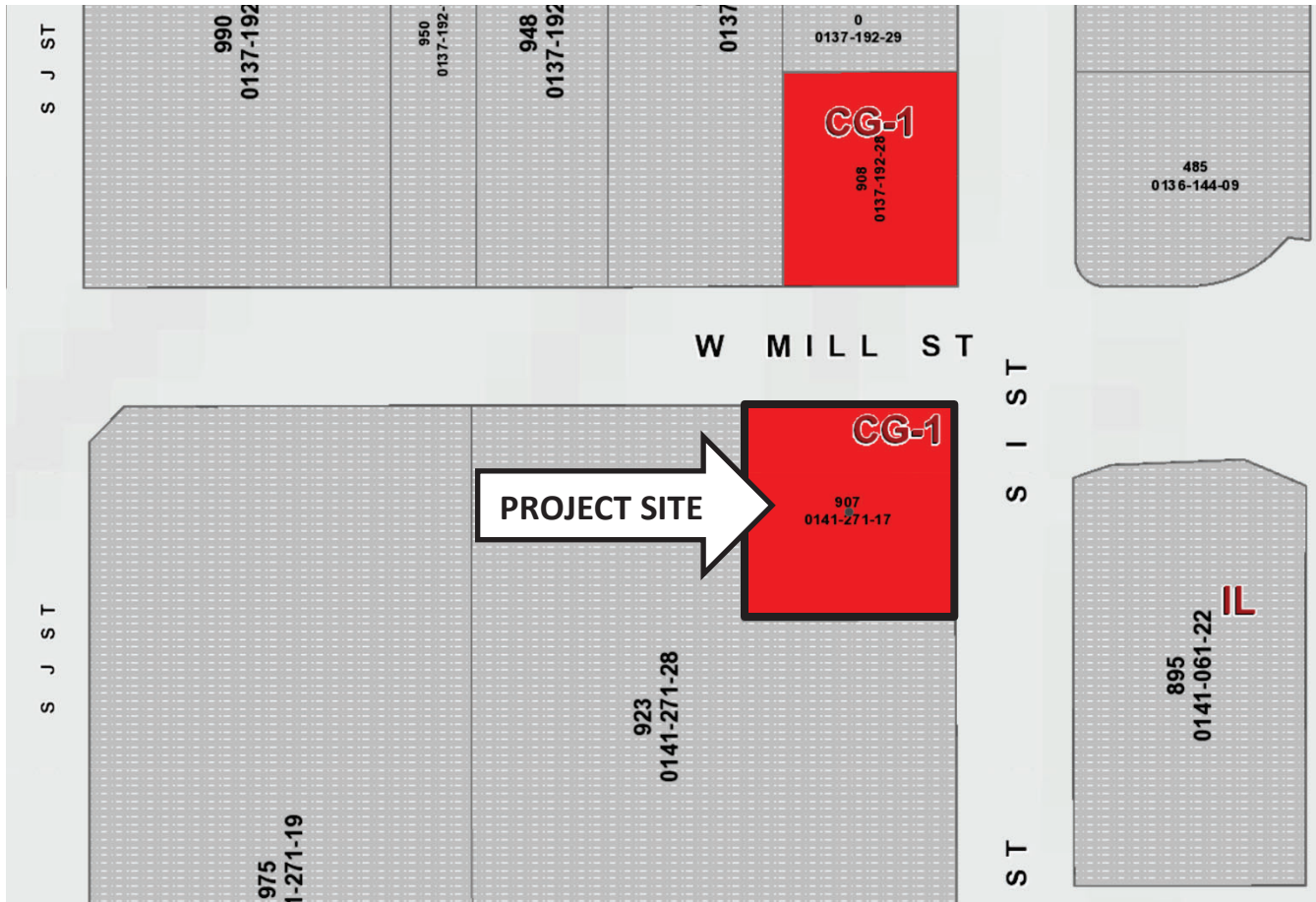
ATTACHMENT C – AERIAL MAP

CITY OF SAN BERNARDINO
PLANNING DIVISION
PROJECT: CUP 23-09 & PCN 23-04
AERIAL MAP
HEARING DATE: DECEMBER 10, 2024



ATTACHMENT D – LOCATION/ZONING MAP

CITY OF SAN BERNARDINO
PLANNING DIVISION
PROJECT: CUP 23-09 & PCN 23-04
LOCATION/ZONING MAP
HEARING DATE: DECEMBER 10, 2024





**CITY OF SAN BERNARDINO
POLICE DEPARTMENT
INTEROFFICE MEMORANDUM**

TO: Lt. Jason King, Special Investigation Bureau

FROM: Darlena Mayberry, CIO, Vice Unit

SUBJECT: Conditional Use Permit (CUP 23-09) and Public Convenience or Necessity letter (PCN 23-04)

COPIES: Elizabeth Mora-Rodriguez, Community Development Department Planning

PROBLEM:

On August 10, 2023, I received by e-mail a project review routing and Planning permit application from the City of San Bernardino Community Development Department, Planning Division, Associate Planner, Elizabeth Mora-Rodriguez

The completed paperwork was returned to the City of San Bernardino Community Development Department, Planning Division, Project Planner, Elizabeth Mora-Rodriguez on August 28, 2023.

On March 18, 2024, I received by e-mail a project review routing and Planning permit application from the City of San Bernardino Community Development Department, Planning Division, Project Planner, Chantel Choice. She requested that the completed paperwork be updated and returned by March 26, 2024.

The request from Planning contained attachments for Police Department review and comments. The applicant proposes to allow the establishment and operation of an ABC type 21 license, off-sale general. The Business already has an ABC Type 20 license, off-sale beer, and wine. The business is an existing gas station and convenience store, Shell, that is approximately 2,072 square feet, within the Commercial General (CG-1) zone. The market is located at 907 W. Mill Street, San Bernardino, Ca 92410. They are open 24 hours daily, Monday to Sunday. Per State Law, alcohol will not be sold between 2:00a.m. to 6:00a.m. They have approximately 3 employees with 3 shifts.

I received the project review routing form, planning permit application, property owner's authorization form, ABC supplemental application, ABC Off-Sale license conditions, to be completed by the Police Department and a PCN findings, a Justification letter completed by the applicant and a map.

FINDINGS:

The Conditional Use Permit (CUP 23-09) includes a request to upgrade the ABC type 20 license, off-sale beer, and wine they currently have to an ABC type 21 license, off-sale general. The applicant is Lucky P.B.G. 5, Inc, c/o Paljatinder Singh. the property owner per the planning permit application is Babbu Bolewal, LLC c/o, Paljatinder Singh. The representative is Solomon, Saltsman & Jamieson c/o Ralph B. Saltsman. The current ABC type 20 license, number 596631, is currently active and expires 09/30/2023. The current license does not have any operating restrictions or disciplinary actions. The license owner is Lucky P.B.G. 5, Inc., P.B.G. 5, Inc. is in good standing according to the California secretary of state website.

It should be noted that I used the address of 907 W. Mill Street for the Police Review Worksheet (see attached).

The existing project site APN #0141-271-170000. The business is in reporting district S3120. There were 43 part I crimes in this reporting district between August 1, 2022, and August 1, 2023. There were 136 part I crimes within a ½ mile radius of this location during the same period.

There were 56 part-II crimes in this reporting district between August 1, 2022, and August 1, 2023, with 0 of those being alcohol related. There were 71 part-II crimes within a ½ mile radius of this location between during the same period with 0 of those being alcohol related. There are a total of 219 reporting districts in the city.

The above crime stats reflect the number of part I and part II crimes in the S3120 reporting district. The crime stats in the reporting district are compared against the total number of crimes in a calendar year for all reporting districts.

The above crime statistics were obtained utilizing the crime View Dashboard database. These are not UCR verified statistics and may not reflect what is reported to the California State Department of Justice.

On July 13, 2023, I generated a one-year Incident Analysis Report for 907W. Mill Street, in San Bernardino. Between August 1, 2022, and August 1, 2023, there was 15 calls for service and 2 reports were required.

The project site is in Census Tract 124.00. There are 12 active existing Off-Sale ABC licenses in this census tract with an allowance for 2, with an overage of 10 ABC licenses in this census tract. This projected license will not increase active licenses since the business is requesting to upgrade their current license.

There are 23 active existing On-Sale ABC licenses in this census tract with an allowance for 2, with an overage of 21 ABC licenses in this census tract.

FINDINGS CONTINUED:

During the review, it was determined that there was a total of 15,468 Part I and Part II crimes in the city from August 1, 2022, and August 1, 2023, when divided by a total of 219 reporting districts. This translates to the general crime rate of 70.630 part I and part II crimes per reporting district within the course of the period reviewed. The proposed location within the reporting district saw a total of 99 crimes during the reviewed period. The 99 crimes in this location when compared with the 70.630 average crimes per reporting district exceeds the average by 40.17%.

This was done in accordance with City Municipal Code, Chapter 19.06, Section III, Locational Restrictions.

(F) The following location conditions will be considered in the review of Conditional Use Permit applications, and may be grounds for denial based on potential adverse effects to the public interest, health, safety, or convenience:

- 1. A location within a crime reporting district, or within 500 feet of a crime reporting district, where the general crime rate exceeds the city-wide general crime rate by more than 20 percent.*
- 2. A location where the new alcoholic beverage sales activity would be within 500 feet from an existing alcoholic beverage sales activity or would lead to the grouping of more than four alcoholic sales activities within a 1,000-foot radius from the new alcoholic beverage sales activity.*

The San Bernardino Police Department is following ABC best practices with reviewing the crime rate in both the property location and the entire City. This was done in accordance with City Municipal Code, Chapter 19.06, Section III, Locational Restrictions (I) 1. Commercial Zones Ch. 19.06 26-46 Rev. Oct. 2019.

The applicant has not yet completed the process for issuance of the updated ABC license and may not do so until the Conditional Use Permit is approved.

RECOMMENDATIONS:

Based on my findings, I recommend this staff study and accompanying documentation be forwarded to the Special Investigations Bureau, Lieutenant J. King, for his review and comments. Lt. King recommends that this application be forwarded to Community & Economic Development for their review and final recommendation. **The Police Department neither approves nor denies this application request.**

ATTACHMENTS:

1. Project Review Routing, Planning permit application,
2. ABC Off-Sale conditions, ABC supplemental application
3. Justification letter
4. Police Concerns worksheet
5. Incident Analysis Report
6. Maps

POLICE REVIEW

Location	907 W. Mill street	
C.U.P. #		
RD	S3120	
Report Date	4/3/2024	

STATS (Previous 12 months)

Part I Crimes	Proposed Location		1/2 mile radius		1st quarter		2nd quarter		3rd quarter		4th quarter		Total Crimes	
	RD	1/2 mile radius	All City	All City	All City	All City	All City	All City	All City	All City	All City	All City	All City	All City
Persons	10	26	604	507	493	724	2328							
Property	33	111	1632	1766	1595	1569	6562							
Total	43	136	2236	2273	2088	2293	8890							

Part II Crimes	RD	1/2 mile radius	1st quarter	2nd quarter	3rd quarter	4th quarter	Total Crimes
Arrests	56	71	1829	1662	1611	1476	6578
Alcohol Related	0	0	2	2	2	0	6
%	0%	0%	0%	0%	0%	0%	0%

ABC Census Tract 124

Grand Total Part I and Part II Crimes (citi-wide crime) 15468

Average # of crimes per RD 70.63013699

Total Part I/Part II crimes this RD % of crime above Stat Avg for all RD's 99

40.17%

	On Sale	Off Sale
Existing	23	12
Allowed	2	2
	-21	-10

*measurements are approximate, obtained point-to-point, using Google Earth



Shell ABC Type 21 License CEQA Exemption

Conditional Use Permit 23-09 & Public Convenience or Necessity 23-04

December 10, 2024

Lead Agency:

City of San Bernardino

201 North "E" Street

San Bernardino, CA 92418

Angelyn Mendoza, Assistant Planner

(909) 384-7272, Ext. 3541

Shell ABC Type 21 License

CEQA Review

Introduction

Pursuant to the requirements of the California Environmental Quality Act (CEQA) Guidelines, a Notice of Exemption (NOE) may be filed if the City of San Bernardino, in its capacity as the lead agency, determines that a proposed action or project is exempt from the environmental review requirements of CEQA. According to the CEQA Guidelines, a NOE must contain the following:

- ✓ A brief description of the proposed action or project;
- ✓ A finding that the proposed action or project is exempt, including a citation to the State CEQA Guidelines section or statute under which the project is found to be exempt; and,
- ✓ A brief statement in support of the finding.

This NOE provides a description of the proposed Shell ABC Type 21 License (the “Project”), indicates the applicable sections of CEQA that support the findings for a CEQA Exemption, and discusses the City of San Bernardino’s findings that are applicable to the proposed Project.

Background & Project Description

Project Title

Shell ABC Type 21 License

Lead Agency Name and Address

City of San Bernardino
Community Development and Housing Department – Planning Division
201 North E Street
San Bernardino, CA 92401

Project Manager and Phone Number

Angelyn Mendoza, Assistant Planner
(909) 384-7272 Ext. 3541
mendoza_an@sbcity.org

Project Applicant’s/Sponsor’s Name and Address

Paljatinder Singh
907 W. Mill Street
San Bernardino, CA 92410

Brief Project Description

The property is located at 907 W. Mill Street (APN: 0141-271-17), within a previously approved 2,072 square-foot building.

The applicant is requesting the approval of Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 to allow a new Alcoholic Beverage Control Type 21 (Off-Sale General) License in conjunction with a previously approved Service Station/Convenience Store containing approximately 2,072 square-feet on a parcel containing a total of approximately 0.52 acres.

Environmental Setting

Project Location

907 W. Mill Street (APN: 0141-271-17)

Project/Surrounding Setting

Table 1 below provides a summary of the surrounding land use characteristics of the subject site and surrounding properties.

TABLE 1: SITE AND SURROUNDING LAND USES

LOCATION	LAND USE	ZONE	GENERAL PLAN DESIGNATION
Site	Shell	Commercial General (CG-1)	Commercial
North	General Retail and Automotive-Related Use	Commercial General (CG-1) & Industrial Light (IL)	Commercial and Industrial
South	Funeral Parlors/Mortuaries	Industrial Light (IL)	Industrial
East	Vacant	Industrial Light (IL)	Industrial
West	Self-Storage Facility	Industrial Light (IL)	Industrial

Table 2 below provides a site design analysis that illustrates the consistency of the project with the Development Code and General Plan.

TABLE 2: DEVELOPMENT CODE AND GENERAL PLAN CONSISTENCY

	PROPOSAL	DEVELOPMENT CODE	GENERAL PLAN
Land Use	Alcoholic Beverage Control Type 21 (Off-Sale General)	Permitted Subject to the Approval of a CUP	Permitted subject to the requirements of the Development Code

General Plan Designation

Current: Commercial
Proposed: Commercial

Zoning Designation

Current: Commercial General (CG-1)
Proposed: Commercial General (CG-1)

Project Approvals

Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04

Applicable CEQA Exemption

Class 1 Exemption (Existing Facilities)

The Community Development Department – Planning Division of the City of San Bernardino has reviewed the proposed Project and has determined that it is categorically exempt and qualifies for a Class 1 Existing Facilities (CEQA Guidelines Section 15301). The Class 1 exemption consists of projects characterized as the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency’s determination.

The key consideration is whether the project involves negligible or no expansion of an existing use. Examples of this exemption include but are not limited to:

- ✓ Licensing of a private structure.

Findings Supporting the Applicable CEQA Exemption

The City of San Bernardino determined, following a preliminary evaluation of the Alcoholic Beverage Control Type 21 (Off-Sale General) License, that the proposed Project would not result in any significant effects on the environment. This determination is based on the following:

Shell ABC Type 21 License

City of San Bernardino

- a. The City of San Bernardino is generally characterized as an urbanized community and the subject Project site is located at 907 W. Mill Street which is a commercialized area within the city.
- b. The upgraded Alcoholic Beverage Control Type 21 (Off-Sale General) License will be in conjunction with a previously approved and operating 2,072 square-foot building. Operation with an Alcoholic Beverage Control Type 21 (Off-Sale General) License is conditionally permitted within the Commercial General (CG-1) zone subject to a Conditional Use Permit with appropriate Conditions of Approval and CEQA Determination.
- c. The proposed Project is consistent with the commercial General Plan land use designation and all applicable General Plan policies, as well as with applicable Commercial Zoning District classification and regulations.
- d. Conditions of Approval will be imposed on the proposed Project to alleviate any potential impacts.

Reviewed and Approved By:



Travis Martin
Principal Planner

PLANNING COMMISSION

December 10, 2024

Item 2 Conditional Use Permit 23-09 & Public
 Convenience or Necessity 23-04



Community Development and Housing Department

PROPOSED PROJECT:

- A request to allow for an upgrade from an Alcoholic Beverage Control Type 20 (Off-Sale Beer and Wine) License to an Alcoholic Beverage Control Type 21 (Off-Sale General) License for an existing gas station and convenience store
- 907 West Mill Street
- Southwest corner of West Mill Street and South I Street
- 0.52 acres
- Commercial General (CG-1)

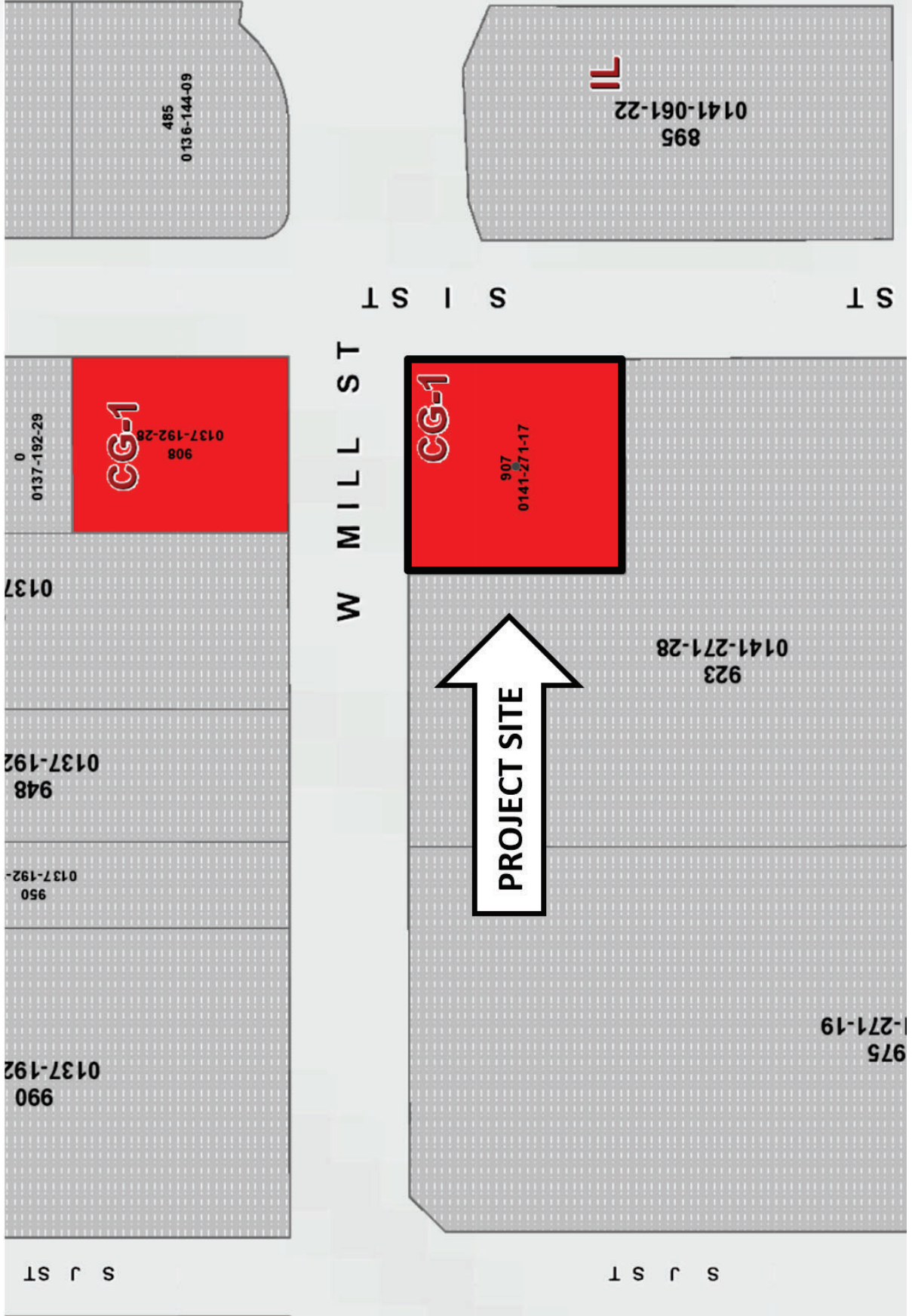


Community Development and Housing Department

AERIAL MAP:



ZONING MAP:



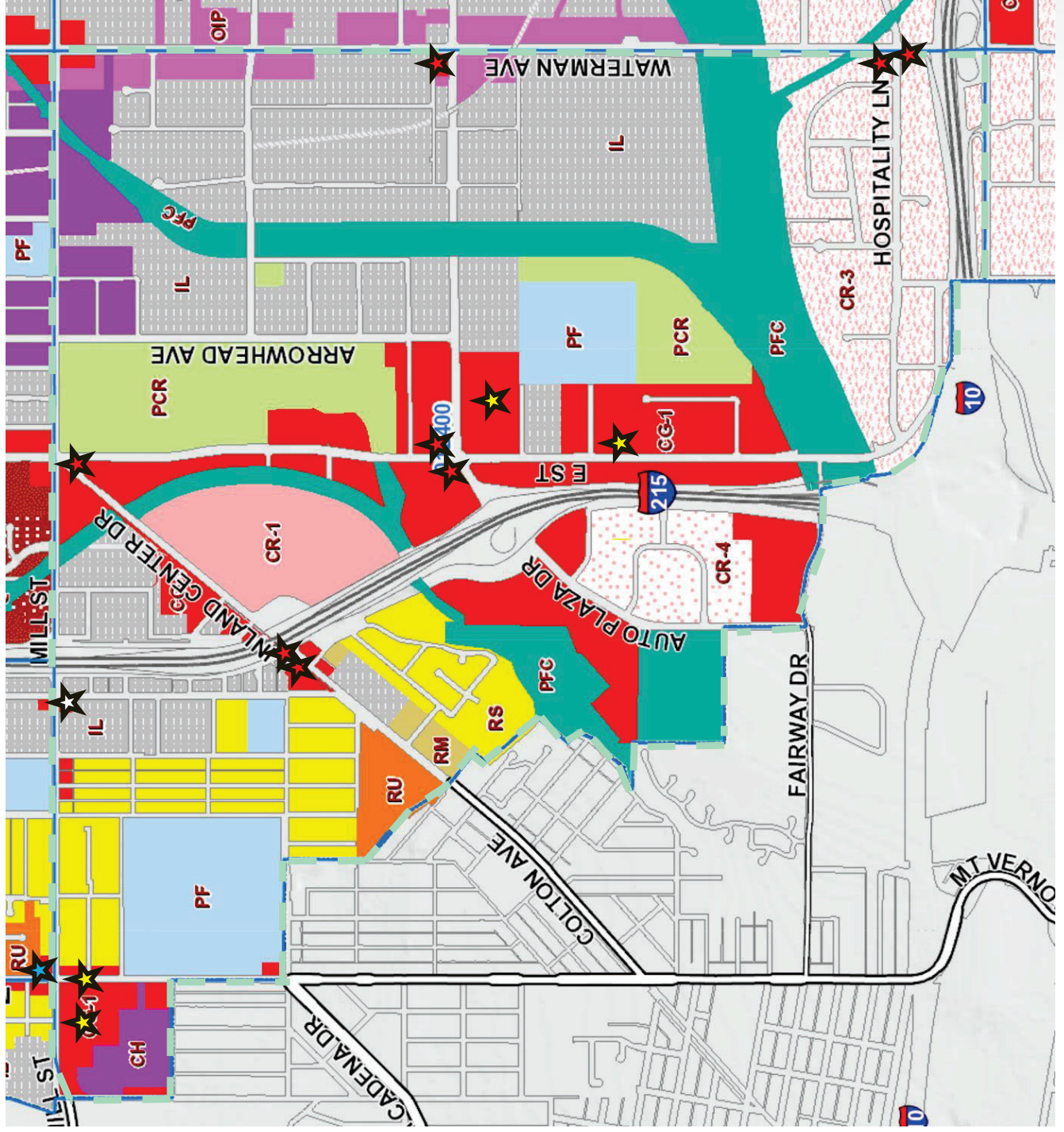
EXISTING SITE



ANALYSIS:

- Census Tract 0124.00 has thirteen (13) active off-sale licenses.
- Census Tract 0124.00 allows for two (2) off-sale licenses.
- S3120: The average crime rate for all Reporting Districts is 70.63. The subject site saw a total of 15 calls for service during the reporting period and none were alcohol related.

ANALYSIS:



Census Tract 49.01

★ Type 20
(Beer & Wine)

Census Tract 124.00

★ Type 20
(Beer & Wine)

★ Type 21
(General)

RECOMMENDATION:

The Planning Commission adopt Resolution No. 2024-048:

1. **Finding** that the project is subject to a Categorical Exemption pursuant to Section 15301 (Existing Facilities) under the California Environmental Quality Act (CEQA); and
2. **Approving** Conditional Use Permit 23-09 and Public Convenience or Necessity 23-04 based on the Findings of Fact and subject to the recommended Conditions of Approval.



Community Development and Housing Department



Public Hearing: Agenda Item No. 3

City of San Bernardino Request for Planning Commission Action

Date: December 10, 2024
To: Honorable Chairperson and Planning Commissioners
From: Gabriel Elliott, Director of Community Development and Housing
By: Michael Rosales, Senior Planner
Subject: **Development Code Amendment 24-06**

Applicant

City of San Bernardino – Community Development and Housing Department
201 North E Street, 3rd Floor
San Bernardino, CA 92401

Request

A City-initiated amendment to Section 19.02.50 (Basic Provisions - Definitions) of the City of San Bernardino Development Code (SBMC Title 19) to update the definitions of Neighborhood Grocery Stores/Supermarkets to align with state and industry standards.

Public Hearing Noticing

November 30, 2024: Display advertisement was published in the San Bernardino Sun Newspaper.

Recommendation

The Planning Division of the Community Development and Housing Department recommends that the Planning Commission take the following action:

- 1) Adopt Resolution No. 2024-049 of the Planning Commission of the City of San Bernardino, California, recommending approval of Development Code Amendment 24-06 to the Mayor and City Council to update the definitions for Neighborhood Grocery Stores/Supermarkets to align with state and industry standards ; and finding that Development Code Amendment 24-06 is Exempt from review under the California Environmental Quality Act (CEQA) (Attachment A).

Background

The City of San Bernardino Development Code Section 19.02.50, defines a Supermarket or Full-Service Grocery Store as a full-service, self-service retail store, larger than 15,000 square feet in gross floor area, which sells food and household supplies.

This definition does not align with the industry’s definition nor the state definition for a Neighborhood Grocery Store/Supermarket, which defines a grocery store as a store primarily engaged in the retail sale of sundry items that is at least 10,000 square feet in size.

Discussion

The average size of a grocery store has decreased over the years from approximately 40,000 square feet, to about 12,000 to 20,000 square feet which is reflected in some popular outlets like Trader Joe's and Aldi. (see references).

According to Health and Safety Code Section 113948 (e)(3), a grocery store is defined as a store primarily engaged in the retail sale of sundry items, including any area within the store that is not a separate business within the store, where food is prepared and served, such as a bakery, deli, and meat/seafood counter (see references).

Per Senate Bill 1383, a grocery store is defined as a food service distributor that is at least 10,000 square feet. These operators are subject to a robust food recovery program, mandated to send the maximum amount of edible food they would otherwise dispose of, to food recovery organizations, or face fines and penalties. If the State recognizes anything over 10,000 square feet as a full-service grocery store subject to penalties and fines, then the City of San Bernardino Development Code should align with these standards (see references).

The City of San Bernardino Development Code classifies Neighborhood Grocery Stores as those between 5,001 and 15,000 square feet and anything over 15,000 square feet as a full-service Supermarket/Grocery Store. However, the industry standard for a grocery store or supermarket is typically 10,000 square feet and above. This discrepancy means that operators of stores between 10,000 and 15,000 square feet in San Bernardino are disadvantaged compared to competitors in other jurisdictions that follow the industry standard, due to the outdated land use definitions. Approving Development Code Amendment 24-06 would align the city's regulations with industry standards, allowing these operators to compete on equal footing and helping retain viable businesses within San Bernardino. The Table below shows an outline of comparisons:

Category	City Of San Bernardino Definition	Industry Standard
Neighborhood Grocery Store	5,001 - 15,000 square feet	Under 10,000 square feet
Supermarket/Grocery Store	Over 15,000 square feet	10,001 square feet and above
Discrepancy Impact	Operators of stores between 10,000 and 15,000 square feet are disadvantaged	None
Proposed Development Code Amendment 24-06	Aligns with industry standards	Aligns with industry standards
Expected Benefit	Allows operators to compete on equal footing, helps retain viable businesses within San Bernardino	Attracts more viable business

Proposed Amendment

Development Code Amendment 24-06 proposes to modify the definitions for Neighborhood Grocery Stores and Supermarkets as follows:

Neighborhood Grocery Stores. A full-service grocery store ranging in size from 5,001 to ~~45,000~~ 10,000 square feet in gross floor area, that sells fresh fruit, vegetables, meat and fish, has food prepared on-site, and which may or may not sell alcohol.

Supermarket. A full-service, self-service retail store, larger than ~~45,000~~ 10,000 square feet in gross floor area, which sells food and household supplies.

General Plan Goals and Policies

The City of San Bernardino General Plan includes goals and policies to guide future development within the City, including the following:

- 2.10 Actively apply, enforce, and utilize the General Plan in the day-to-day activities of the City. By adopting Development Code Amendment 24-06 the General Plan definition for a Supermarket/Grocery Store would be updated to align with Industry and State standards.

Mayor and City Council 2020-2025 Key Strategic Targets and Goals

Development Code Amendment 24-06 aligns with Key Target Goal No. 4(b): Update the General Plan and Development Code. Specifically, the amendment to the City of San Bernardino Development Code for Chapter 19.02 (Definitions) proposed under Development Code Amendment 24-06 will ensure that the City's Development Code is consistent with the City's General Plan.

California Environmental Quality Act

The Planning Division conducted an environmental evaluation in connection with proposed Development Code Amendment 24-06 and concluded that it is exempt from CEQA under Section 15061(B)(3) (Review for Exemption) of the CEQA Guidelines due to the fact that the proposed Development Code Amendment will not create significant effects on the environment as it modifies land use definitions as it does not authorize any specific development.

Conclusion

Development Code Amendment 24-06 establishes compliance with state and industry standards by updating the definitions for Neighborhood Grocery Stores/Supermarkets within the City of San Bernardino Development Code. Therefore, staff recommends the Planning Commission:

- 1) Adopt Resolution No. 2024-049 of the Planning Commission of the City of San Bernardino, California, recommending approval of Development Code Amendment 24-06 to the Mayor and City Council to update the definitions for Neighborhood Grocery Stores/Supermarkets to align with state and industry standards; and finding that Development Code Amendment 24-06 is Exempt from review under the California Environmental Quality Act (Attachment A).

Attachments

Attachment A Resolution No. 2024-049
Attachment B Powerpoint

References: LED, n.d.:
<https://www.led.com/inspiration/how-is-the-grocery-store-footprint-changing#:~:text=While%20the%20average%20size%20of,regularly%20measuring%20closer%20to%2012%2C000.>
SB 1383 handout and charts:
<2022Dec15IdentifyingT1&2Grtr.pdf>.
Leginfo.legislature.ca.gov (California Legislative Information):
https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?lawCode=HSC&division=104.&title=&part=7.&chapter=3.&article=2.
Law insider:
<https://www.lawinsider.com/dictionary/grocery-store-and-supermarket.>

RESOLUTION NO. 2024-049 - PC

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SAN BERNARDINO, CALIFORNIA, RECOMMENDING APPROVAL OF DEVELOPMENT CODE AMENDMENT 24-06 TO THE MAYOR AND CITY COUNCIL TO UPDATE THE DEFINITIONS FOR NEIGHBORHOOD GROCERY STORES/SUPERMARKETS TO ALIGN WITH STATE AND INDUSTRY STANDARDS; AND FINDING THAT DEVELOPMENT CODE AMENDMENT 24-06 IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

WHEREAS, the last comprehensive update to the City's Development Code (Title 19) was adopted in May 1991; and

WHEREAS, Development Code Amendment 24-06 is a City-initiated amendment to Section 19.02.50 (Basic Provisions - Definitions) of the City of San Bernardino Development Code (SBMC Title 19) to update the definitions of Neighborhood Grocery Stores/Supermarkets to align with state and industry standards; and

WHEREAS, the Planning Division of the Community Development and Housing Department has reviewed Development Code Amendment 24-06 for consistency with the City of San Bernardino General Plan, and compliance with the City of San Bernardino Development Code; and

WHEREAS, pursuant to the requirements of Section 15060(c) of the California Environmental Quality Act (“CEQA”), the Planning Division of the Community Development and Housing Department has evaluated Development Code Amendment 24-06; and

WHEREAS, on November 27, 2024, pursuant to the requirements of Section 19.52.020 (Hearings and Appeals – Application Processing) of the City of San Bernardino Development Code, the City gave public notice by advertising in The San Bernardino Sun, a newspaper of general circulation within the City of San Bernardino, and by mailing notices to the property owners within 1,000 feet of the subject property of the holding of a public hearing at which Development Code Amendment 24-06 would be considered; and

WHEREAS, on December 10, 2024, pursuant to the requirements of Section 19.52.040 (Hearings and Appeals – Hearing Procedures) of the City of San Bernardino Development Code, the Planning Commission held the duly-noticed public hearing at which interested persons had an opportunity to testify in support of, or opposition to Development Code Amendment 24-06, and at which meeting the Planning Commission considered Development Code Amendment 24-06; and

WHEREAS, pursuant to the requirements of Section 19.42.030 (Development Code Amendments – Commission Action on Amendments) of the City of San Bernardino Development Code, the Planning Commission has the authority to recommend to the Mayor and City Council the approval of the Development Code Amendment 24-06.

NOW THEREFORE, the Planning Commission of the City of San Bernardino does hereby resolve, determine, find, and order as follows:

SECTION 1. ENVIRONMENTAL DETERMINATION:

The Planning Commission has reviewed and considered the information contained in the administrative record for Development Code Amendment 24-06. Based upon the facts and information contained in the administrative record, including all written and oral evidence presented to the Planning Commission, the Planning Commission hereby recommends that the Mayor and City Council find as follows:

(1) The administrative record has been completed in compliance with the California Environmental Quality Act (“CEQA”), the State CEQA Guidelines, and the City’s Local CEQA Guidelines;

(2) Development Code Amendment 24-06 is not a project within the meaning of Section 15378 of the State CEQA Guidelines, because it has no potential for resulting in physical change in the environment, directly or indirectly. Development Code Amendment 24-06 does not authorize any specific development within the City’s boundaries. Development Code Amendment 24-06 is exempt from CEQA because the adoption of the Development Code Amendment is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment (State CEQA Guidelines, Section 15061(b)(3)). The proposed Development Code Amendment will not create significant effects on the environment as it consists of updates to the City of San Bernardino Development Code; and

(3) The determination of CEQA exemption reflects the independent judgment of the Mayor and City Council.

SECTION 2. FINDINGS FOR DEVELOPMENT CODE AMENDMENT 24-06

Section 19.74.050 (Findings) of the City of San Bernardino Development Code requires that Development Code Amendment applications meet certain findings prior to their approval by the Mayor and City Council. Accordingly, the following findings are provided in support of the recommendation by the Planning Commission for the approval of Development Code Amendment 24-06

Finding No. 1: The proposed amendment is consistent with the General Plan.

Finding of Fact: General Plan Goals and Policy 2.10 States “Actively apply, enforce, and utilize the General Plan in the day-to-day activities of the City.” By adopting Development Code Amendment 24-06 the definition for a Neighborhood Grocery Store/Supermarket would be updated to align with Industry and State standards.

Finding No. 2: The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

Finding of Fact: The proposed amendment will not be detrimental to the public interest, health, safety, convenience, or welfare of the City in that the proposed amendment is operational in procedure and would allow operators of stores within the City of San Bernardino containing 10,000 square feet or more, the same opportunities as a competitor in a different jurisdiction that would follow the modern industry standards definition for a Neighborhood Grocery Store/Supermarket.

SECTION 4. DEVELOPMENT CODE AMENDMENT 24-06

Section 19.02.050 (Basic Provisions - Definitions) of Title 19 (Development Code) of the City of San Bernardino Municipal Code is hereby amended as follows:

Neighborhood Grocery Stores. A full-service grocery store ranging in size from 5,001 to ~~15,000~~ 10,000 square feet in gross floor area, that sells fresh fruit, vegetables, meat and fish, has food prepared on-site, and which may or may not sell alcohol.

Supermarket. A full-service, self-service retail store, larger than ~~15,000~~ 10,000 square feet in gross floor area, which sells food and household supplies.

SECTION 4. PLANNING COMMISSION ACTION:

The Planning Commission hereby takes the following action:

1. Adoption of Planning Commission Resolution No. 2024-049 - PC forwarding a recommendation that the Mayor and City Council:
 - a. **Find:** Development Code Amendment 24-06 is not a project within the meaning of State CEQA Guidelines Section 15378, and is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b)(3) in accordance with the California Environmental Quality Act, and directing the Director of Community Development and Housing to prepare and file with the Clerk of the County of San Bernardino a Notice of Exemption as provided under Public Resources Code Section 21152(b) and CEQA Guidelines Section 15062; and
 - b. **Approve:** Development Code Amendment 24-06 based on the Findings of Fact.

SECTION 5. SEVERABILITY:

If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications, and to this end the provisions of this Resolution are declared to be severable.

SECTION 6. CUSTODIAN OF RECORDS.

The location and custodian of the documents and any other material, which constitute the record of proceedings upon which the Planning Commission based its decision, is as follows: Genoveva Rocha, City Clerk, 201 North E Street (Building A), 909-384-5002.

PASSED, APPROVED, AND ADOPTED this 10th day of December 2024.

Lisa Sherrick, Chairperson
San Bernardino Planning Commission

ATTEST:

Gabriel Elliott, Planning Commission Secretary
City of San Bernardino, California

CERTIFICATION:

I, Alyssa Blancas, Recording Secretary of the Planning Commission of the City of San Bernardino, California, do hereby certify that the foregoing Resolution No. 2024-049 - PC, was duly adopted by the Planning Commission of the City of San Bernardino, California, at a regular meeting thereof held on the 10th day of December 2024, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Alyssa Blancas, Recording Secretary
City of San Bernardino, California

PLANNING COMMISSION

December 10, 2024

Item 3

Development Code Amendment 24-06



Community Development & Housing Department

Request:

A City-initiated amendment to Section 19.02.50 (Basic Provisions - Definitions) of the City of San Bernardino Development Code (SBMC Title 19) to update the definitions of Neighborhood Grocery Stores/Supermarkets to align with the industry standards



Community Development & Housing Department

Background:

The City of San Bernardino Development Code defines a Neighborhood Grocery Store as A full-service grocery store ranging in size from 5,001 to 15,000 square feet in gross floor area, that sells fresh fruit, vegetables, meat and fish, has food prepared on-site, and which may or may not sell alcohol.

A Supermarket or Full-Service Grocery Stores is defined as a full-service, self-service retail store, larger than 15,000 square feet in gross floor area, which sells food and household supplies.

These definitions do not align with the industry standard definition nor the States definition for the size of a Neighborhood Grocery Store/Supermarket.



Discussion

- Recent past
- Health and Safety Code Section 113948 (e)(3)
- Senate Bill 1383
- Industry standard



Discussion:

Category	City Of San Bernardino Definition	Industry Standard
Neighborhood Grocery Store	5,001 - 15,000 square feet	Under 10,000 square feet
Supermarket/Grocery Store	Over 15,000 square feet	10,001 square feet and above
Discrepancy Impact	Operators of stores between 10,000 and 15,000 square feet are disadvantaged	None
Proposed Development Code Amendment 24-06	Aligns with industry standards	Aligns with industry standards
Expected Benefit	Allows operators to compete on equal footing, helps retain viable businesses within San Bernardino	Attracts more viable business



RECOMMENDATION:

The Planning Commission Adopt Resolution No. 2024-049 of the Planning Commission of the City of San Bernardino, California, recommending approval of Development Code Amendment 24-06 to the Mayor and City Council to update the definitions for Neighborhood Grocery Stores/Supermarkets to align with state and industry standards.



Community Development & Housing Department



Public Hearing: Agenda Item No. 4

**City of San Bernardino
Request for Planning Commission Action**

Date: December 10, 2024

To: Honorable Chairperson and Planning Commissioners

From: Gabriel Elliott, Director of Community Development and Housing

By: Travis Martin, Principal Planner

Subject: General Plan Amendment 23-01, Specific Plan Amendment 23-01, Subdivision 23-05 (Tentative Tract Map 20595), Subdivision 23-06 (Tentative Tract Map 20596), and Subdivision 23-07 (Tentative Tract Map 20597)

Applicant

Julian Nan
770 Tamalpais Drive, Suite 401B
Corte Madera, CA 94925

Property Owner

Encore University Hills, LLC
770 Tamalpais Drive, Suite 401B
Corte Madera, CA 94925

Request

A request to allow the development, establishment, and operation of a restaurant with drive-thru (Starbucks) containing approximately 1,263 square feet on a parcel containing a total of approximately 0.59 acres. The project site is located at 1208 W. Highland Avenue.

APN(s): 0265-041-12; 0265-051-12, -13; 0265-061-16; 0265-011-06, -07, -08, 0265-051-09, and 0265-021-13

Zone: University Hills Specific Plan (SP-UH)

Recommendation

By request of the applicant, Staff is requesting a continuance of this item. Therefore, the Planning Division of the Community Development and Housing Department recommends that the Planning Commission take the following action:

- 1) Continue the public hearing for General Plan Amendment 23-01, Specific Plan Amendment 23-01, Subdivision 23-05 (Tentative Tract Map 20595), Subdivision 23-06 (Tentative Tract Map 20596), and Subdivision 23-07 (Tentative Tract Map 20597) to the next regular meeting scheduled on January 14, 2025.