

AGENDA ITEM: 4.

DATE: 11-16-09

STAFF REPORT

CONDITIONAL USE PERMIT NO. 09-06

DATE: November 16, 2009
TO: Lancaster Planning Commission
FROM: Planning Department
APPLICANT: Insite Development, Inc.
LOCATION: 45024 10th Street West Suite 103
REQUEST: A Conditional Use Permit for an incidental off-sale alcoholic beverage establishment (Alcohol Beverage Control Type 20, Off-Sale Beer and Wine) in a 1,620 square-foot convenience market

RECOMMENDATION: Adopt Resolution No. 09-31 approving Conditional Use Permit No. 09-06.

BACKGROUND: There have been no prior hearings before either the City Council or the Planning Commission concerning this property.

GENERAL PLAN DESIGNATION, EXISTING ZONING AND LAND USE: The subject location is designated C (Commercial) by the General Plan and is zoned CPD (Commercial Planned Development), and is currently a vacant 1,620 square-foot suite on the bottom floor of a mixed use building. The General Plan designation, zoning, and land use of the surrounding properties are as follows:

	<u>GENERAL PLAN</u>	<u>ZONING</u>	<u>LAND USE</u>
NORTH	UR	CPD	Vacant
EAST	UR	C	Day Care Center for children
SOUTH	UR	CPD	Senior Living Facility
WEST	UR	CPD	Multiple Family Residences

PUBLIC IMPROVEMENTS: The site is bounded to the south by Jackman Street, which is one-lane in each direction, and to the west by 10th Street West, which is improved with two south bound lanes and three north bound lanes. All utilities are available to serve the site.

ENVIRONMENTAL REVIEW: The proposed project is not subject to the California environmental Quality Act (CEQA) per Section 15061(b)(3), which states that “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”. As the proposed project is a use permit for the sale of alcohol at an existing facility, no impacts on environmental resources would be expected to occur.

LEGAL NOTICE: Notice of Public Hearing was mailed to all property owners within a 500-foot radius of the project, posted in three places, posted on the subject property, and noticed in a newspaper of general circulation per prescribed procedure.

ANALYSIS: The applicant, Insite Development Inc., is requesting a conditional use permit for off-site sales of alcohol, in a proposed convenience market, on the bottom floor of an existing mixed use building. A conditional use permit is required for off-sale of beer and wine (Lancaster Municipal Code Section 17.42.030). The applicant has requested a Type 20 license for off-site sale beer and wine from the California State Department of Alcoholic Beverage Control (ABC).

The proposed business would be located within a mixed use building, at the Arbor Grove Complex, 45024 10th Street West, in Suite 103. Based on the floor plan and discussions with the applicant, the proposed project meets the definition of a “convenience market” as established by the Municipal Code Section 17.42.020. The floor plan indicates 9 percent or 144 square feet of the sales floor area will be used for the sale and display of alcoholic beverages for consumption off the premises, which is less than the 10 percent allowed under the ordinance. The floor plan indicates 16 percent or 252 square feet of the sales floor area will be used for the sale and display of fresh meats and produce, which is more than the 10 percent required under the ordinance. The sale of alcoholic beverages is being requested between the hours of 10:00 a.m. and 10:00 p.m., and the hours of operation of the market would be between the hours of 6:00 a.m. to 10:00 p.m..

Incidental off-sale alcoholic beverage establishments are exempt from the City’s alcohol ordinance distance requirements (Section 17.42.040). In addition, the proposed convenience store is exempt from the distance requirement (Section 17.42.040.D), since it is located within a mixed use development. The ordinance states that “distance requirements shall not be applicable to an alcoholic beverage establishment located within a mixed use development or a mixed use district”, such as the Arbor Grove Complex. However, the proposed project must comply with a list of standard conditions from the alcohol ordinance (Section 17.42.080).

In analysis of the conditional use for alcohol sales, staff reviewed factors regarding public convenience and necessity. The convenience store is a much needed asset to the immediate neighborhood because of the recent closure of surrounding grocery stores (i.e. Vallarta, and Grocery Warehouse), the recent opening of the Arbor Grove Complex, the adjacent Arbor Senior Housing,

and to the overall revitalization efforts of downtown Lancaster. The addition of a convenience store to the Arbor Grove Complex will contribute to its function as being a mixed use complex.

The Los Angeles County Sheriff's Department (Lancaster Station) was not opposed to the issuance of the conditional use permit, based on a conducted investigation and the applicant's agreement to the conditions.

The project has been conditioned to comply with operating conditions of Section 17.42.080. with some modifications to apply to the unique circumstances of this proposal. Staff has recommended additional conditions of approval to ensure the compatibility of the use with nearby uses by restricting the container type and size on beer and wine products. Also, the Planning Director has the discretion to require on-site security in the future, if necessary.

The proposed project meets the requirements of the zone, and will not adversely affect nearby residences or businesses. The conditions of approval have been included which would ensure that the safety and general welfare of the surrounding area would be maintained. The alcohol sales are related to the proposed use, and the convenience store would fulfill the mixed use function of the Arbor Grove Complex. Staff believes the Planning Commission could make a favorable determination in support of the proposal.

Respectfully submitted,

Christopher Aune, Assistant Planner

cc: Applicant
Engineer

RESOLUTION NO. 09-31

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF LANCASTER, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT NO. 09-06

WHEREAS, a conditional use permit has been requested by Insite Development Inc. for the incidental off-sale of alcohol beverages (Alcohol Beverage Control Type 20, Off-Sale Beer and Wine License) in a 1,620 square-foot convenience market, located at 45024 10th Street West, in the CPD Zone, as shown on the attached site map; and

WHEREAS, an application for the above-described conditional use permit has been filed pursuant to the regulations contained in Article I of chapter 17.32 and chapter 17.42 of the Lancaster Municipal Code; and

WHEREAS, a notice of intention to consider the granting of a Conditional Use Permit has been given as required in Article V of Chapter 17.32 of the Lancaster Municipal Code and in Section 65905 of the Government Code of the State of California; and

WHEREAS, staff has performed necessary investigations, prepared a written report, and recommended approval of this conditional use application, subject to conditions; and

WHEREAS, public notice was provided as required by law and a public hearing was held on November 16, 2009; and

WHEREAS, the proposed project is not subject to the California Environmental Quality Act (CEQA) per Section 15061(b)(3) which states that “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA”. As the proposed project is a use permit for the sale of alcohol at an existing facility, no impacts on environmental resources would be expected to occur.

WHEREAS, this Commission hereby adopts the following findings in support of approval of this application:

1. The proposed use of off-site alcoholic sales would be located in a 1,620 square-foot convenience market, in an existing mixed use building and will be in conformance with the General Plan land use designation of (CPD) Commercial Planned Development.
2. The requested alcohol use at the location proposed will not:
 - a. Adversely affect the health, peace, comfort, or welfare of persons residing or working in the surrounding area, because the existing structure is a mixed use building and the proposed use will enhance the intended use of the building.
 - b. Be materially detrimental to the use, enjoyment, or valuation of property of other persons located in the vicinity of the site, because City development standards will be met, and adequate parking will be provided.

- c. Jeopardize, endanger or otherwise constitute a menace to the public health, safety, or general welfare, because adequate sewer, water, drainage, and improvements will be part of the project.
3. The proposed site is adequately served:
 - a. By 10th Street West and Jackman Street, which is of sufficient width and improved to carry the anticipated daily vehicle trips such use would generate; and
 - b. By other public or private service facilities, including sewer, water, fire, and police services are required.
4. The proposed use will not result in a significant effect on the environment because all potential impacts have been found to not be significant as noted in the environmental review section of the staff report prepared for this project.
5. The proposed 1,620 square-foot convenience market is adequate in size and shape to accommodate the development features prescribed in the Zoning Ordinance, or as otherwise required in order to integrate said use with the use in the surrounding areas.

WHEREAS, this Commission hereby adopts the following Conditional Use Permit findings per Section 17.42.050 in support of approval of this application:

1. The proposed convenience market is located in the CPD zone which permits alcoholic beverages to be sold, served or given away for on-sale or off-sale consumption with a conditional use permit.
2. The proposed use will not adversely affect the nearby residents and facilities primarily devoted to use by children, families, and the general public, after giving consideration to the distance or proximity of the proposed alcoholic beverage establishment because incidental off-sale of alcoholic beverage establishments are limited to a maximum of 10 percent of sales floor area for the sale and display of alcoholic beverages. In addition, the proposed incidental off-sale of alcoholic beverage establishment is located in a mixed use building and is therefore, exempt from the established distance requirements.
3. The proposed convenience market serves the public convenience and necessity based upon all factors outlined in Chapter 17.42.060 of Lancaster's Municipal Code.

NOW, THEREFORE, BE IT RESOLVED:

This Commission hereby approves Conditional Use Permit No. 09-06, subject to the conditions attached hereto and incorporated herein.

PASSED, APPROVED and ADOPTED this 16th day of November 2009, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

JAMES D. VOSE, Chairman
Lancaster Planning Commission

ATTEST:

BRIAN S. LUDICKE, Planning Director
City of Lancaster

ATTACHMENT TO PC RESOLUTION NO. 09-31
CONDITIONAL USE PERMIT NO. 09-06
CONDITIONS LIST
November 16, 2009

GENERAL ADVISORY

1. All standard conditions as set forth in Planning Commission Resolution Number 06-16 for Conditional Use Permits shall apply except for Condition No. 5, 7-9, 11-24, 29, 31, 32, 37-39.

ALCOHOL CONDITIONS

2. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishment, and be presented to the City of Lancaster of Los Angeles County Sherriff's personnel upon request.
3. Per the direction of the Planning Director, the applicant shall comply with Chapter 17.42 and Section 17.42.080 (Conditions of Approval for Off-Sale Alcoholic Beverage Establishments) except for Section 17.42.42.080.F to be replaced with, "The sale of alcoholic beverages shall be from 10:00 a.m. to 10:00 p.m., Sunday through Saturday." Any reference to beer and wine shall apply to all alcoholic beverages. In addition, Section 17.42.080.K shall be replaced with, "No sales of separated packages of alcoholic beverages (i.e. individual containers, cans or bottles) shall be allowed.
4. Delivery hours shall be limited to between 7:00 a.m. and 8:00 p.m.
5. The applicant shall limit the floor area for the display and sales of alcoholic beverages to a maximum of 10% of sales floor area.
6. The City reserves the right to review the Conditional Use Permit (CUP) one year from the date the CUP was first approved, and at one-year intervals thereafter.
7. No video or other coin-operated games shall be permitted on the premises.
8. The use shall be operated in conformance with the conditions as listed in Section 17.42.080 of the Lancaster Municipal Code except for 17.42.080.F (modified by Condition Nos. 3 and 4), 17.42.080.J (modified by Condition No. 7), and 17.42.080.K (modified by Condition No. 3).