

STAFF REPORT
City of Lancaster

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MVB

Date: April 14, 2015

To: Mayor Parris and Council Members

From: Brian S. Ludicke, Planning Director

Subject: **Appeal of Planning Commission’s Denial of Conditional Use Permit No. 14-14 (A Conditional Use Permit to add Type 21: Off Sale General for Beer, Wine, and Distilled Spirits)**

Recommendation:

Adopt **Resolution No. 15-15**, upholding the Planning Commission’s decision by denying the appeal for Conditional Use Permit No. 14-14 (a request to add alcohol sales (Type 21) and eliminate recommended Condition No. 9 from the conditions list) for a proposed convenience market.

Fiscal Impact:

None.

Background:

On November 17, 2014, Mr. Rami Darghalli, the appellant, submitted a request for a Type 21 (Off-Sale General) Alcoholic Beverage Control (ABC) license for a proposed convenience market on the southwest corner of Avenue K-8 and 20th Street West. As part of the approval process, staff prepared a staff report recommending the approval of Conditional Use Permit (CUP) No. 14-14 subject to certain conditions of approval. Staff’s recommendation was based on consistency of the proposed plan with City code requirements and conditions that are routinely applied to such uses.

During the Planning Commission meeting on February 23, 2015, the applicant expressed that he would adhere to specifications set forth by the Lancaster Municipal Code allocating a maximum of ten percent of his business floor area for the display of alcohol, and a minimum of ten percent of the floor to the sale and display of fresh produce and meats. The applicant also requested a modification to recommended Condition No. 9 which states, “There shall be no single sales of beer in quantities less than 40 ounces. Wine shall not be sold in containers less than 750 milliliters, and wine coolers must be sold in manufacturers pre-packaged multi-unit quantities.” The applicant requested the modification of Condition No. 9, indicating that he would like to provide his customers with the option to purchase single cans of imported craft beer, typically sold in 22 ounce containers, in addition to the standard four packs. The applicant felt that Condition No. 9 would reduce his customer base, as the condition would restrict his customers’ ability to sample more costly specialty craft beers, consequently diminishing the success of his business.

Based upon the presentation and comments of the applicant and his representatives, several Commission members expressed concerns regarding the proposal, to the effect that it gives the “impression of attempting to market a liquor store and disguise it as a convenience market.” The Chairman also expressed the position that he could not support this application based on the sale of distilled spirits that are not controlled by at least the minimal size requirements set forth by Condition No. 9, because allowing the applicant to sell “a single shot container which are usually sold at liquor stores” goes against the intent set forth by the Planning Commission for a convenience market. Staff further clarified that Condition No. 9 is intended to eliminate some of the issues involved with single can sales. In addition, staff noted that approving CUP No. 14-14 with the removal of Condition No. 9 could set a precedent for future applicants requesting similar consideration.

The Commission first considered whether to continue the matter, but this motion failed by a 3-3 vote. The Commission then considered a motion to approved CUP No. 14-14 with the recommended conditions; this motion for approval failed by a 3-3 vote, which constitutes a denial of the request.

Following the Planning Commission’s action denying Conditional Use Permit No. 14-14, on March 2, 2015, Mr. Rami Darghalli filed an appeal with the City of Lancaster. Mr. Darghalli’s appeal is based on his belief that, when he contested Condition No. 9, this created a misunderstanding between the Planning Commissioners about the scope and intent of his CUP request, and, therefore, the project was denied.

Attachments:

Resolution No. 15-15

PC Staff Report dated February 23, 2015

Appeal Filed March 2, 2015