

STAFF REPORT
City of Lancaster

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MVB

Date: April 26, 2016

To: Mayor Parris and City Council Members

From: Brian S. Ludicke, Planning Director

Subject: **Appeal of the Planning Commission’s Denial of Conditional Use Permit No. 15-21 (Request for a Type 21 General Off-Sale Alcohol License for an Existing Convenience Market (Ben’s Corner) at 710 West Avenue L)**

Recommendation:

Adopt **Resolution No. 16-17**, upholding the Planning Commission’s decision by denying the appeal for Conditional Use Permit No. 15-21 (a request for a Type 21 alcohol license and to allow a waiver of distance requirements for an existing establishment).

Fiscal Impact:

None.

Background:

The site contains a business (Ben’s Corner) that has operated successfully at this location for many years. The business already holds a Type 20 alcohol license that allows the sale of beer and wine. The establishment sells primarily produce, meat (from a sub-leased space) and a limited number of grocery items.

The applicant filed the conditional use permit application to request the sale of spirits. Although the establishment is currently considered a “convenience market” by the Lancaster Municipal Code (since at least 15% of the floor area is devoted to the sale of meat and produce), selling spirits would re-define the use as a mini-market. A mini-market, defined as “primary seller” by the City’s alcohol regulations, is subject to separation distances as established by Section 17.42.040 of the Lancaster Municipal Code (LMC). This site is located within 300 feet of residential property to the northwest, and, as such, also would require approval of a distance waiver under Section 17.42.040.C of the LMC.

The Planning Commission conducted a public hearing on the request on February 22, 2016, and, by a 0-5-0-1 vote, denied Conditional Use Permit No. 15-21, because it could not make the findings required to grant a distance waiver. Commission members noted specifically that the applicant had not justified the public necessity and convenience of allowing the sale of spirits at this location; further, there were also concerns expressed that allowing the sale of spirits may change the character of the establishment to that of a typical mini-market or liquor store. The applicant appealed the decision on February 29, 2016.

In order to grant a distance waiver for a primary alcohol sales establishment, the City must make two findings under Section 17.42.040.C of the LMC. The first finding is that the alcohol beverage establishment will serve a specific community need, and the second is that the approval of the waiver is not expected to result in an adverse effect on adjacent property, uses, or residents. The applicant, in his appeal filing (see attached), has noted that having the ability to sell spirits along with the existing beer and wine sales would provide greater convenience for his customers, because they would not have to travel to another establishment to purchase. He also notes that the hours of operation of the establishment (8:00 am to 8:00 pm) are not those of a typical mini-market or liquor store, and would, therefore, not bring crime to the area. He further notes that under the proposed conditional use permit, he would be limited to a small overall area for alcohol sales (550 square feet), and would not be permitted the sale of single containers of beer or malt liquor.

As noted in the background section of the report, the City's alcohol ordinance requires a balancing of community benefit (in the form of serving the public necessity and convenience) with the potential adverse effects in considering a waiver request for a primary alcohol sales establishment. In this case, the Commission did not consider those benefits to be sufficiently justified, and that the proposed conditions of operation for the establishment would not adequately address potential effects.

BSL/jr

Attachments:

Resolution No. 16-17

PC Staff Report dated February 22, 2016

Appeal Filed February 29, 2016