

RESOLUTION NO. 2022-24

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
APPROVING A CONDITIONAL USE PERMIT FOR
OFF-SALE BEER AND WINE (TYPE 20)
AT AN EXISTING CONVENIENCE STORE (REAL STAR MARKET)
TO BE LOCATED AT 925 EAST PLAZA BOULEVARD SUITE 103
CASE FILE NO. 2022-30 CUP
APN: 556-590-63

WHEREAS, the Planning Commission of the City of National City considered a Conditional Use Permit for beer and wine sales (Type 20) at an existing convenience store (Real Star Market) located at 925 East Plaza Boulevard Suite 103, at a duly advertised public hearing held on November 7, 2022, at which time oral and documentary evidence was presented; and,

WHEREAS, at said public hearing the Planning Commission considered the staff report contained in Case File No. 2022-30 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, the testimony and evidence presented to the Planning Commission at the public hearing held on November 7, 2022, support the findings herein, and

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of National City, California, that hereby finds as follows:

1. The proposed use is allowable within the applicable zoning district pursuant to a Conditional Use Permit and complies with all other applicable provisions of the Land Use Code, because the use is allowable within MXD-2 pursuant to a CUP and the proposed use meets the required guidelines in the Land Use Code for alcohol sales. Including distance from sensitive areas and operating requirements.
2. Alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. No specific plan exists for the area.
3. The design, location, size, and operating characteristics of the proposed activity would be compatible with the existing and future land uses in the vicinity, because

no expansion of the building is proposed. The proposal involves an existing commercial building, which was previously analyzed for traffic impacts when the building was constructed.

4. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints, because the proposed alcohol sales outlet would be consistent with other commercial businesses in the area accessory to the existing grocery and retail business.
5. Granting the permit would not constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, the proposed use is subject to conditions below that limit the hours and manner in which alcohol is sold.
6. The proposed project has been reviewed in compliance with the California Environmental Quality Act (CEQA) and has been determined to be categorically exempt from environmental review pursuant to Class 1, Section 15301 (Existing Facilities) for which a Notice of Exemption will be filed subsequent to approval of this Conditional Use Permit. The reason for the exemption is that no expansion of the building is proposed and use would basically be the same as the current use and is similar to other commercial uses in the area, which are permitted by right in the MXD-2 zone and there is no potential for a significant environmental impact.
7. The proposed use is essential and desirable to the public convenience or necessity, because the sale of distilled spirits sales will contribute to the diversity of local commercial offerings in the area, an allowed use in the MXD-2 zone and is in the Low Risk category based on PD's ABC Risk Assessment.
8. Based on findings 1 through 7 above, public convenience and necessity will be served by a proposed use of the property for the on-site sales of alcoholic beverages in accordance with the applicable law and the recommended conditions. Because the proposed and conditioned use will not be a nuisance, will help the already existing business by expanding the variety of products for sale.

BE IT FURTHER RESOLVED that the application for a Conditional Use Permit is approved subject to the following conditions:

General

1. This Conditional Use Permit authorizes the sale of beer and wine for off-site consumption at an existing convenience store (Real Star Market) located at 925 East Plaza Boulevard Suite 103. Plans submitted for permits associated with this project shall conform to Exhibit A, Case File No. 2022-30 CUP, dated 10/04/2022.
2. Before this *Conditional Use Permit* shall become effective, the applicant and the property owner shall both sign and have notarized an Acceptance Form, provided by the Planning Division, acknowledging and accepting all conditions imposed upon the approval of this permit. Failure to return the signed and notarized Acceptance Form within 30 days of its receipt shall automatically terminate the *Conditional Use Permit*. The applicant or owner shall also submit evidence to the satisfaction of the Planning Division that a Notice of Restriction on Real Property is recorded with the County Recorder. The applicant or owner shall pay necessary recording fees to the County. The Notice of Restriction shall provide information that conditions imposed by approval of the *Conditional Use Permit* are binding on all present or future interest holders or estate holders of the property. The Notice of Restriction shall be approved as to form by the City Attorney and signed by the Director of Community Development prior to recordation.
3. This permit shall become null and void if not exercised within one year after adoption of the resolution of approval unless extended according to procedures specified in the Municipal Code.
4. This permit shall expire if the use authorized by this resolution is discontinued for a period of 12 months or longer. This permit may also be revoked, pursuant to provisions of the Land Use Code, if discontinued for any lesser period of time.
5. This *Conditional Use Permit* may be revoked if the operator is found to be in violation of any Conditions of Approval or applicable law.

Planning

6. The sale of alcoholic beverages shall be limited to between the hours of 9:00 am to 9:00 pm daily.
7. No display of alcohol within 20 feet of the exit is permitted.
8. The sale of beer or malt beverages in quantities of quarts, 22 ounce, 32 ounce, 40 ounce, or similar size containers is prohibited.
9. No beer products shall be sold of less than manufacturer's pre-packaged three-pack quantities of 24 ounce cans per sale. There shall be no sale of single cans or bottles.
10. Wine shall not be sold in containers of less than 750 milliliters. The sale of wine with an alcoholic content greater than 15% by volume is prohibited.
11. Flavored malt beverages, also known as premium malt beverages and flavored malt coolers, and sometimes commonly referred to as wine coolers, may be sold only by four-pack or other manufacturer's pre-packaged multi-unit quantities.

12. The consumption of alcoholic beverages is prohibited on the subject premises, and on all parking lots and outbuildings and any property or adjacent property under the control of the Permittee.
13. All cups and containers shall be sold at or above prevailing prices and in their original multi-container packages of no fewer than 12, and no cups and containers shall be given free of charge.
14. Ice may be sold only at or about prevailing prices in the area and in quantities of not less than three pounds per sale. Ice shall not be provided free of charge.
15. The display of alcoholic beverages shall be limited to an area in substantial conformance with Exhibit A, Case File No. 2022-30 CUP, dated 10/04/2022.
16. The Permittee shall post signs in compliance with the requirements and specifications of subsection B of section 10.30.070 on each exterior wall of the licensed premises that faces a vehicle parking lot, to read as follows:

“WARNING

It is unlawful to drink an alcoholic
beverage or to possess an open alcoholic
beverage container in public or in a public parking lot.
NCMC 10.30.050 and 10.30.060.”

17. Containers of alcoholic beverages may not be stored on the premises, after being sold to patrons, for the purpose of later consumption.
18. Exterior advertising and signs of all types, promoting or indicating the availability of alcoholic beverages, including advertising/signs directed to the exterior from within, are prohibited. Interior displays of alcoholic beverages and signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
19. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of all other commodities during the same period. The applicant shall at all times keep records which reflect separately the gross sales of alcoholic beverages and the gross sales of all other items. Said records shall be kept no less frequently than on a quarterly basis and shall be made available to the City Finance Department and any Peace Officer of the California Department of Alcoholic Beverage Control upon demand.
20. Every employee of the Permittee, including ownership and management, shall receive Responsible Beverage Service and Sales (RBSS) training, including all owners, and managers. The RBSS training must be certified by the Department of Alcoholic Beverage Control (ABC). Proof of completion of an approved RBSS program must be provided prior to commencing alcohol sales. As part of the RBSS training, the Permittee shall make available a domestic violence training session as provided by the Institute of Public Strategies.
21. The operator of the business shall maintain an active business license and ensure that the business license is renewed annually.

Police

22. Permittee shall comply with all applicable law, including, but not limited to all regulatory provisions of the Business and Professions Code that pertain to the sale, display and marketing or merchandising of alcoholic beverages.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

CERTIFICATION:

This certifies that the Resolution was adopted by the Planning Commission at their meeting of November 7, 2022, by the following vote:

AYES:

NAYS:

ABSENT:

ABSTAIN:

CHAIRPERSON

RESOLUTION NO. 2022-24

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF NATIONAL CITY, CALIFORNIA
DENYING A CONDITIONAL USE PERMIT FOR
OFF-SALE BEER AND WINE (TYPE 20)
AT AN EXISTING CONVENIENCE STORE (REAL STAR MARKET)
TO BE LOCATED AT 925 EAST PLAZA BOULEVARD SUITE 103
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WHEREAS, at said public hearing the Planning Commission considered the staff report contained in Case File No. 2022-30 CUP maintained by the City and incorporated herein by reference along with evidence and testimony at said hearing; and,

WHEREAS, the testimony and evidence presented to the Planning Commission at the public hearing held on November 7, 2022, support the findings herein, and

WHEREAS, this action is taken pursuant to all applicable procedures required by State law and City law.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission of the City of National City, California, that hereby finds as follows:

1. If the proposed use is not essential nor desirable to the public convenience and welfare, because there are other off-sale alcohol license outlets within half-mile of the site.
2. Granting the permit would constitute a nuisance or be injurious or detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone in which the property is located, because the census tract in which the subject property is located is currently over-concentrated with regard to off-sale alcohol outlets because eight off-sale outlets are permitted where four are recommended by the California Department of Alcoholic Beverage Control.

3. Based on findings 1 and 2 above, public convenience and necessity will not be served by an additional off-sale beer and wine alcohol license in the proposed location.

BE IT FURTHER RESOLVED that copies of this Resolution be transmitted forthwith to the applicant and to the City Council.

BE IT FINALLY RESOLVED that this Resolution shall become effective and final on the day following the City Council meeting where the Planning Commission resolution is set for review, unless an appeal in writing is filed with the City Clerk prior to 5:00 p.m. on the day of that City Council meeting. The City Council may, at that meeting, appeal the decision of the Planning Commission and set the matter for public hearing.

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CHAIRPERSON