



AGENDA REPORT

Department: Planning
Prepared by: Martin Reeder, AICP – Asst. Director of Community Development
Meeting Date: Tuesday, November 19, 2024
Approved by: Benjamin A. Martinez, City Manager

SUBJECT:

Conditional Use Permit for the Sale of Beer, Wine, and Distilled Spirits (ABC Type-21) at an Existing Grocery Store (Manolo Farmers Market) located at 303 Highland Avenue.

RECOMMENDATION:

Staff Recommends Adoption of the Resolution Entitled, “Resolution of the City Council of the City of National City, California, Approving a Conditional Use Permit for the Sale of Beer, Wine, and Distilled Spirits (ABC Type-21) at an Existing Grocery Store (Manolo Farmers Market) Located at 303 Highland Avenue.”

BOARD/COMMISSION/COMMITTEE PRIOR ACTION:

The Planning Commission held a public hearing on October 7, 2024 and recommended approval of the CUP by unanimous vote of those members present. Two commissioners abstained due to proximity to the project location and one commissioner was absent.

EXPLANATION:

Executive Summary

The applicant (Manolo Farmers Market) proposes to upgrade their existing ABC Type-20 license (off-sale beer and wine) to an ABC Type-21 (off-sale beer, wine, and distilled spirits). Existing and proposed hours of alcohol sales are 7:00 a.m. to 10:00 p.m. daily.

Planning Commission Action

The Planning Commission held a public hearing on October 7, 2024. Six community members spoke in opposition to the project, with three more registering their position, but not wishing to speak. One written public comment was included with the Planning Commission staff report, with another submitted prior to the meeting. All comments are attached as Exhibit I. Ultimately, the Planning Commission recommended approval of the CUP by unanimous vote of those members present (four). Two commissioners abstained due to their properties being within 500 feet of the project area and one commissioner was absent.

Site Characteristics

Manolo Farmers Market is an existing 27,000 square-foot grocery store located on the east side of Highland Avenue between East 2nd Street and East 4th Street in the Minor Mixed-Use Corridor

(MXC-1) zone. The grocery store is located on its own parcel. The site is surrounded by various commercial and residential uses.

The location was previously approved for the sale of beer and wine for off-site consumption within a retail grocery store in 1990 and received an additional CUP approval for extended hours in 2000.

Proposed Use

The business is proposing to sell distilled spirits in addition to the currently-licensed beer and wine for off-site consumption (ABC Type-21 alcohol license). The applicant is proposing to add a distilled spirits shelf located behind the front counter, where only employees will be able to access it. Staff is recommending the distilled spirits be secured in addition to being behind the employee counter (condition of approval).

The location currently has an approved Conditional Use Permit and ABC license for the sale of beer and wine. The previously approved hours for alcohol sales were 7:00 a.m. to 11:00 p.m. daily. The applicant's request for the proposed hours of 7:00 a.m. to 10:00 p.m. daily reflect the current hours of operation at the store. Per the applicant's floor plan, the area dedicated to alcohol sales is approximately 408 square feet with only one additional fixture (64 square feet) proposed for the sale of distilled spirits. This represents approximately 1.7% of the floor area of the grocery store.

Analysis

Section 18.30.050 of the Land Use Code allows for alcohol sales for off-site consumption with an approved Conditional Use Permit (CUP). Additional requirements for alcohol CUPs include expanded notification, a community meeting, and distance requirements. City Council Policy 707 also regulates alcohol sales in the city.

Hours of Operation for Alcohol Sales

Conditions of approval for alcohol sales reflect what the applicant has requested (7:00 a.m. to 10:00 p.m. daily).

Mailing

All property owners and occupants within a distance of 660 feet are required to be notified of a public hearing for alcohol-related CUP applications. Notice of this public hearing was sent to 737 occupants and owners.

Community Meeting

Pursuant to Section 18.30.050 (C) of the Land Use Code, a community meeting was held on Monday, July 8, 2024 at 12:00 p.m. at the store. The meeting advertisement is attached (Attachment 8). There were no community members in attendance.

Alcohol Sales Concentration/Location

According to the California Department of Alcoholic Beverage Control (ABC), there are currently four off-sale licenses in census tract 118.02, where a maximum of four are recommended. The applicant holds one of the existing licenses. The census tract is not considered over concentrated with off-site alcohol sales outlets by ABC. No increase in the amount of licenses would occur.

Many of the issues related to off-sale licenses are related to the availability of smaller quantities and cheaper products, most of which are related to businesses not originally subject to a CUP (legal nonconforming). However, businesses with CUPs are limited to the quantity and size of beer bottles (e.g., no sale of single cans or bottles) and the size of wine bottles and their alcoholic content (e.g., containers less than 750 milliliters nor greater than 15% content by volume). Because the subject business has an existing CUP, it is already subject to standard conditions related to alcohol.

Police Department (PD)

The ABC Risk Assessment provided by PD allocated a total of 11 points, which places it in the Low Risk category (Low Risk is considered 12 points or less). The risk assessment is included as Exhibit F.

Institute for Public Strategies (IPS)

Comments were received from IPS with the following considerations:

1. Require in-person Responsible Beverage Sales and Service (RBSS) training for all staff.
2. Require daily litter removal and timely graffiti removal from areas under control of the licensee.
3. Post in English and Spanish a notice that state law prohibits sales of alcoholic beverages to persons under age 21.
4. Post and maintain signage stating that no open alcoholic beverage containers are allowed on the premises and no loitering is allowed on or in front of the premises.

Staff has included conditions of approval in the attached draft resolution pertaining to all of the above recommendations. IPS comments are included as Exhibit G.

Findings for Approval

The following are the required findings in the attached resolution:

1. Allowable Use: Alcohol sales in conjunction with a grocery store are allowable within the Minor Mixed-Use Corridor zone, pursuant to a CUP, and the proposed use meets the required guidelines in the Land Use Code (LUC) for alcohol sales, as discussed in the staff report. Sales will be incidental to the existing grocery store in a commercial area.
2. General Plan Consistency: Alcohol sales are permitted, subject to a CUP, by the Land Use Code, which is consistent with the General Plan. In addition, a grocery store with alcohol sales is consistent with the Minor Mixed-Use Corridor zone land use designation contained in the Land Use Code and Community Character element of the General Plan.
3. Compatibility, LUC, and Traffic: No expansion of the building is proposed. The proposal involves an existing commercial space, which was previously analyzed for traffic impacts when it was constructed. The site is physically suitable for the type, density, and intensity of use being proposed, including access, utilities, and the absence of physical constraints. The proposed uses would be incidental to the primary use of a grocery store.

4. No Nuisance: The proposed use will be subject to conditions that limit hours and the manner in which alcohol is sold. In addition, all staff members serving alcohol are required to receive RBSS training.
5. California Environmental Quality Act (CEQA): 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 the use is proposed within an existing commercial building, and the use is similar to other commercial uses in the area, which are permitted in the Minor Mixed-Use Corridor zone.
6. Public Convenience and Necessity: The grocery store, a permitted use in the Minor Mixed-Use Corridor zone, will benefit from the sale of alcohol. The sale of beer, wine, and distilled spirits will contribute to a diversity of local commercial offerings in the area.

Findings for Denial

The following are findings for denial due to nearby businesses that offer off-sale beer, wine, and distilled spirits together:

1. The proposed use is not deemed essential to the public necessity, as there are already four retail outlets in the same census tract that sell alcohol, including the existing license on site.
2. Based on the above finding, public convenience and necessity will not be served by a proposed use of the property for off-site sales of alcoholic beverages pursuant to law.

Conditions of Approval

Standard Conditions of Approval have been included with this permit as well as conditions specific to off-site alcohol sales per Council Policy 707 (hours of operation, employee training, and accessory sales, etc.).

Summary

The proposed use is consistent with the General Plan due to alcohol sales for off-site consumption being a conditionally-allowed use in the Minor Mixed-Use Corridor zone. The addition of distilled spirits to the sale of beer and wine at an existing grocery store will contribute to the diversity of commercial offerings in the area. Conditions requiring compliance with City Council Policy 707 are intended to alleviate concerns relate to area impacts should the CUP be approved.

Options

1. Approve 2024-11 CUP subject to the conditions included in the Resolution and based on the findings included in the Resolution, or findings to be determined by the City Council; or,
2. Deny 2024-11 CUP based on the attached findings, or findings to be determined by the City Council; or,
3. Continue the item to a specific date in order to obtain additional information.

FINANCIAL STATEMENT:

An application fee of \$3,700 was paid with the submittal of the subject CUP. Fees are anticipated to cover the cost of staff review time and processing of the permit.

RELATED CITY COUNCIL 2020-2025 STRATEGIC PLAN GOAL:

Balanced Budget and Economic Development

ENVIRONMENTAL REVIEW:

This is a project under CEQA subject to a Categorical Exemption. Existing Facilities. CCR 15301(c).

PUBLIC NOTIFICATION:

The Agenda Report was posted within 72 hours of the meeting date and time in accordance with the Ralph M. Brown Act.

ORDINANCE:

Not Applicable

EXHIBITS:

Exhibit A – Resolution

Exhibit B – Overhead

Exhibit C – Applicants Plans

Exhibit D – Public Hearing Notice

Exhibit E – Census Tract & Police Beat Maps

Exhibit F – Police Department Risk Assessment

Exhibit G – IPS Comments

Exhibit H – Community Meeting Information

Exhibit I – Public Comment presented at October 7, 2024 Planning Commission meeting

Exhibit J – Planning Commission Resolution 2024-14